

## **SPAIN**

### **AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF SPAIN FOR THE AVOIDANCE OF DOUBLE TAXATION ON INCOME DERIVED FROM THE OPERATION OF SHIPS OR AIRCRAFT IN INTERNATIONAL TRAFFIC**

*[Proclamation R33 of 1974]*

Under the powers vested in me by section 108(2) of the Income Tax Act, 1962 (Act 58 of 1962), I do hereby declare that the Agreement set out in the Schedule to this Proclamation has, under section 108(1) of the said Act, been entered into between the Government of the Republic of South Africa and the Government of Spain.

#### **ARTICLE 1**

(1) The expression 'operation of ships or aircraft' means the business of transporting by sea or by air, persons, goods, livestock, fish and mail, carried on by the owner or charterer of ships or aircraft.

(2) (i) The expression 'enterprise of the Republic' means an enterprise carried on by the Government of the Republic of South Africa, any corporation or partnership established under the laws of and managed and controlled in the Republic of South Africa and any natural person resident in the Republic of South Africa for the purposes of South African tax and who is not resident in Spain for the purposes of Spanish tax.

(ii) The term 'Republic of South Africa' includes all areas in which the taxation laws of the Republic of South Africa are applicable.

(3) The expression 'Spanish enterprise' means an enterprise carried on by the Spanish State, any corporation or partnership established under the laws of and managed and controlled in Spain and any natural person resident in Spain for the purposes of Spanish tax and who is not resident in South Africa for the purposes of South African tax.

#### **ARTICLE 2**

(1) The Government of the Republic of South Africa shall exempt all income derived by a Spanish enterprise from the operation of ships or aircraft in international traffic from income tax and all other taxes on income which are chargeable in the Republic of South Africa.

(2) The Government of Spain shall exempt all income derived by any enterprise of the Republic of South Africa from the operation of ships or aircraft in international traffic from income tax and all other taxes on income which are chargeable in Spain.

### ARTICLE 3

This Agreement shall have effect as respects all income derived during and after the calendar year in which this Agreement comes into force.

### ARTICLE 4

This Agreement shall continue in force indefinitely, but either of the Governments may, at least six months before the end of any calendar year, give to the other Government, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to be effective in regard to income earned in the immediately following calendar year.

If the foregoing proposals are acceptable to the Government of the Republic of South Africa, I suggest that this Note and your confirmatory reply be regarded as constituting an Agreement between our two Governments on this matter, which shall come into force on the date of the exchange of notes.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

THE COUNT OF PENARRUBIAS, Ambassador of Spain.

His Excellency  
Dr The Honourable H. Muller  
Minister of Foreign Affairs  
Pretoria

Ministry of Foreign Affairs  
Pretoria  
16 October 1973

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of today's date the text of which reads as follows:

(Here follows the terms of the Agreement.)

In reply, I inform Your Excellency that the Government of the Republic of South Africa considers as acceptable the terms of the above transcribed note, which together with this confirmatory reply are regarded as constituting an Agreement between our two Governments on this matter.

Please accept Your Excellency the assurance of my highest consideration.

H MULLER, Minister of Foreign Affairs.

His Excellency  
The Count of Penarrubias  
Ambassador Extraordinary and Plenipotentiary of Spain  
Pretoria

The Agreement between Spain and South Africa to prevent double taxation on income derived from the operation of ships or aircraft in international traffic on a mutual basis, was concluded by exchange of notes on 16 October 1973.