

Government Notice No. 52 of 2012

THE INCOME TAX ACT

**Regulations made by the Minister under section 76
of the Income Tax Act**

1. These regulations may be cited as the Double Taxation Avoidance Agreement (Republic of Zambia) Regulations 2012.
2. In these regulations –
“Agreement” means the agreement entered into with the Government of the Republic of Zambia in pursuance of section 76 of the Income Tax Act and set out in the Schedule to these regulations.
3. The Agreement shall come into operation on such date as may be specified by the Minister in a notice to be published in the *Government Gazette*.

Made by the Minister on 4 April 2012.



SCHEDULE

[Regulation 2]

The Government of the Republic of Mauritius and the Government of the Republic of Zambia,

Desiring to promote and strengthen the economic relations between the two countries through the avoidance of double taxation with respect to taxes on income,

Have agreed as follows:

ARTICLE 1**PERSONS COVERED**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2**TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income.
3. The existing taxes to which this Agreement shall apply are in particular:
 - (a) in Mauritius, the income tax;
(hereinafter referred to as "Mauritius tax")
 - (b) in Zambia:
 - (i) the income Tax;
 - (ii) the mineral royalty; and
 - (iii) the personal levy
(hereinafter referred to as "Zambian tax").

4. This Agreement shall apply also to any other taxes of a substantially similar character which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes.
5. The competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws, and if it seems desirable to amend any Article of this Agreement, without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an Exchange of Notes.

ARTICLE 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a) the term "Mauritius" means the Republic of Mauritius and includes:
 - (i) all the territories and islands which, in accordance with the laws of Mauritius, constitute the State of Mauritius;
 - (ii) the territorial sea of Mauritius; and
 - (iii) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius, as an area, including the Continental Shelf, within which the rights of Mauritius with respect to the sea, the sea-bed and sub-soil and their natural resources may be exercised;
 - (b) the term "Zambia" means the Republic of Zambia or any area within which Zambia, in accordance with international law, may exercise sovereign rights or jurisdiction;

- (c) the terms “a Contracting State” and the other “Contracting State” mean Mauritius or Zambia, as the context requires;
- (d) the term “company” means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term “competent authority” means:
 - (i) in Mauritius, the Commissioner of Income Tax or his authorised representative; and
 - (ii) in Zambia, the Commissioner General of the Zambia Revenue Authority or his authorised representative;
- (f) the terms “enterprise of a Contracting State” and “enterprise of the other “Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term “international traffic” means any transport by a ship, aircraft or rail or road transport vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or rail or road transport vehicle is operated solely between places in the other Contracting State;
- (h) the term “national” means any individual having the citizenship of a Contracting State any legal person, partnership (société) or association deriving its status as such from the laws in force in a Contracting State;
- (i) the term “person” includes an individual, a company, a trust and any other body of persons which is treated as an entity for tax purposes; and

- (j) the term “tax” means Mauritius tax or Zambian tax, as the context requires.
- 2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4

RESIDENT

- 1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes that State and any local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.
- 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this status shall be determined as follows:
 - (a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

- (b) if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has a habitual abode;
 - (c) if the individual has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” shall include:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a warehouse, in relation to a person providing storage facilities for others;

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- (g) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources; and
 - (h) an installation or structure used for the exploration for natural resources.
3. The term “permanent establishment” likewise encompasses a building site or construction, installation or assembly project, or supervisory activities in connection therewith only if the site, project or activity lasts more than 9 months.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
- (a) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise.
 - (e) the maintenance of a fixed place of business solely for the purpose advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise; and

- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 6 applies of this Article applies) notwithstanding that he has no fixed place of business in the first-mentioned State shall be deemed to be a permanent establishment in that State if he has, and habitually exercises, a general authority in the first-mentioned State to conclude contracts in the name of the enterprise, unless his activities are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent

establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, but this does not include any expenses which, under the law of that State would not be allowed to be deducted by an enterprise of that State.
4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase of that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

INTERNATIONAL TRAFFIC

1. Profits of an enterprise from the operation or rental of ships, aircraft, rail or road transport vehicles in international traffic and rental of containers and related equipment which is incidental to the operation ships, aircraft, rail or road transport vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint-business or an international operating agency.

ARTICLE 9
ASSOCIATED ENTERPRISE

1. Where:

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State-and taxes accordingly-profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State may make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 25 per cent of the capital of the company paying the dividends; or
 - (b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein,

or performs in the other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 13, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the government of the other Contracting State or local authority thereof, the Central bank

of the other Contracting State, or any agency wholly owned by that Government or local authority shall be exempt from tax in the first-mentioned Contracting State. The competent authorities of the Contracting States may determine by mutual agreement any other government institutions to which this paragraph may apply.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term "interest" shall not include any item which is treated as a dividend under the provisions of Article 10 of this Agreement.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or 13, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the

indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trade mark, design or mode, computer programme, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 13, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13**INDEPENDENT PERSONAL SERVICES**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 14**DEPENDENT PERSONAL SERVICES**

1. Subject to the provisions of Articles 15, 17, 18 and 19 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

- (b) the remuneration is paid by, or on behalf of an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or rail or road transport vehicle operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 15

DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 16

ENTERTAINERS AND ATHLETES

- 1. Notwithstanding the provisions of Articles 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
- 2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not

to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities, referred to in paragraph 1, performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of either Contracting State, a local authority or public institution thereof.

ARTICLE 17

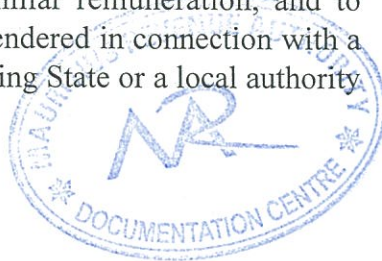
PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration and annuities arising in a Contracting State and paid in consideration of past employment to a resident of the other Contracting State, shall be taxable only in that other State.
2. The term “annuity” means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.
3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a local authority thereof shall be taxable only in that State.

ARTICLE 18

GOVERNMENT SERVICE

1. (a) Salaries, wages, and other similar remuneration, other than a pension, paid by a Contracting State or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or body shall be taxable only in that State.
- (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a local authority or statutory body thereof to an individual in respect of services rendered to that State or authority or body shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a local authority or a statutory body thereof.



ARTICLE 19**PROFESSORS AND TEACHERS**

1. Notwithstanding the provisions of Article 14, a professor or teacher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching or carrying out research at a university, college, school or other educational institution in that State and who is, or immediately before such visit was, a resident of the other Contracting State shall, in respect of remuneration for such teaching or research, be exempt from tax in the first-mentioned State, provided that such remuneration is derived by him from outside that State.
2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or person.

ARTICLE 20**STUDENTS, APPRENTICES AND BUSINESS TRAINEES**

A student, apprentice or business trainee who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purposes of the student's maintenance, education or training.

ARTICLE 21**OTHER INCOME**

1. Subject to the provisions of paragraph 2 of this Article, items of income of a resident of a Contracting State, wherever arising,

not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and a right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 13, as the case may be, shall apply.

ARTICLE 22

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In the case of Mauritius:
 - i Where a resident of Mauritius derives income from Zambia the amount of tax on that income payable in Zambia in accordance with the provisions of this Agreement may be credited against the Mauritius tax imposed on that resident.
 - ii Where a company which is a resident of Zambia pays a dividend to a resident of Mauritius who controls, directly or indirectly, at least 5% of the capital of the company paying the dividend, the credit shall take into account (in addition to any Zambian tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Zambian tax payable by the first-mentioned company in respect of the profits out of which such dividends is paid.

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Mauritius tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Zambia.

2. In the case of Zambia:
 - (a) Where a resident of Zambia derives income from Mauritius which may be taxed in Mauritius in accordance with the provisions of this Agreement, the amount of the foreign tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of Zambian tax which is appropriate to that income.
3. For the purposes of allowance as a credit the tax payable in Mauritius or Zambia, as the context requires, shall be deemed to include the amount of tax which is otherwise payable in either of the two Contracting States but has been reduced or waived by either State in order to promote its economic development.

ARTICLE 23

NONDISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Enterprises of Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
4. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
5. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
6. In this Article the term "taxation" means taxes which are subject of this Agreement.

ARTICLE 24**MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which he is a resident or, if the case comes under paragraph 1 of Article 23, to that of the Contracting State of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information so exchanged shall be treated as secret in the same manner as information obtained under the domestic law of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

ARTICLE 26**MEMBERS OF THE DIPLOMATIC MISSIONS AND
CONSULAR POSTS**

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 27**ENTRY INTO FORCE**

1. Each of the Contracting Parties shall notify to the other the completion of the procedures required by its law for the entering into force of this Agreement. The Agreement shall enter into force on the date of receipt of the later of these notifications.
2. The provisions of this Agreement shall apply:
 - (a) in Mauritius, on income for any income year beginning on or after the first day of July next following the date upon which this Agreement enters into force: and
 - (b) in Zambia,
 - (i) with regard to other taxes withheld at source, in respect of amounts paid or credited on or after the first day of the second month next following the date upon which the Agreement enters into force.
 - (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of the second month next following the date upon which the Agreement enters into force.

ARTICLE 28
TERMINATION

1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement through diplomatic channels, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Agreement entered into force.
2. In such event the Agreement shall cease to have effect:
 - (a) in Mauritius, on income for any income year beginning on or after the first day of July next following the calendar year in which such notice is given: and
 - (b) in Zambia,
 - (i) with regard to other taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and
 - (ii) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at Lusaka, Zambia in two originals, this 26th day of January of the year two thousand and eleven.

H. E. Mr. George Alain Laridon
High Commissioner

Dr. Situmbeko Musokotwane
Minister of Finance and
National Planning

FOR THE GOVERNMENT OF
THE REPUBLIC OF MAURITIUS

FOR THE GOVERNMENT OF
THE REPUBLIC OF ZAMBIA

