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RO 337/2011

For Attention: N. Ngubane
Route: KAB 104

DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
AND THE GOVERNMENT OF GIBRALTAR FOR THE EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS

1. Your request for legal advice received on 04 October 2011 pertaining to the abovementioned matter refers.

2. We had an opportunity to scrutinise the draft Agreement and took note of the comments by the Department of Justice and Constitutional Development and South African Revenue Service.

4. We are, therefore, of the view that this instrument is consistent with international law and South Africa's international obligations. This Office is of the view that this draft Agreement falls under the ambit of section 231(2) of the Constitution, which requires Parliamentary approval to be binding on the Republic of South Africa. However, the line function department is better placed to decide as to whether or not this draft Agreement falls within the ambit of section 231(2) or (3).

5. The Desk is also reminded that the Agreement needs to be bound before signature. An appointment for this purpose must be made with the Treaty Section, at (012) 351 0872/0851/0837. Furthermore, the originally signed Agreement must be deposited with the Treaty Section for safekeeping immediately after signature.

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CONFIDENTIALITY NOTE.

MR. MICHAEL KABAI
ASSISTANT STATE LAW ADVISER (IL)
PRETORIA
25 OCTOBER 2011

7. Kind regards,
6. Please do not hesitate to contact our Office for further details concerning this matter.