



# international relations & cooperation

Department:  
International Relations and Cooperation  
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE CHIEF STATE LAW ADVISER (INTERNATIONAL LAW)  
Private Bag x 152, PRETORIA, 0001 Tel: +27 12 351 0857 Fax: +27 12 329 1271

10gcz0141103A  
29/2/OMN  
RO 353/10

For Attention: Mr M Slabber  
Route: FBA 000

## SUPPLEMENTARY PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE SULTANATE OF OMAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, WITH PROTOCOL

1. Your request for legal advice received on 2 November 2010 refers.
2. The State Law Advisers (IL) have scrutinised the aforementioned Supplementary Protocol to the Double Taxation Agreement from an international law perspective.
3. We have noted the comments made by the Department of Justice and Constitutional Development (DOJCD) and are in concurrence therewith. We wish to comment as follows:
4. It is understood that Double Taxation Agreements and Protocols thereto, are customarily submitted for Parliamentary approval in terms of Section 231 (2) of the Constitution of the Republic of South Africa, 1996 and provisions of the Income Tax Act, 1962. We are of the view that this Supplementary Protocol to the Double Taxation Agreement can be signed and submitted to Parliament for approval in accordance with the aforementioned legislation.
5. Presidential approval to sign will be required in terms of Section 231 (1) of the Constitution. In order to obtain Presidential approval the Supplementary Protocol needs to be certified by this Office. The documentation required for certification consists of:
  - two copies of the President's Minute;
  - two copies of the Explanatory Memorandum setting out the purpose of the Supplementary Protocol and proposed date of signature;
  - two copies of the finally agreed text of the Protocol;
  - two copies of the legal opinions from the State Law Advisers at the DOJCD and this Office;
  - Completed certification checklist (attached herewith); and
  - all documentation in folder Z137.
6. Once the President has signed the Minute, the Supplementary Protocol cannot be amended in any way.
7. The Supplementary Protocol needs to be bound as soon as the President's approval had been obtained. You are invited to make an appointment for this purpose as soon as you have received the President's Minute with Mrs R van der Walt at 012 351 0872.

### CONFIDENTIALITY NOTE:

This legal opinion might contain information that is privileged and confidential. If the reader is not the intended recipient, or the employee or agent responsible for delivering the opinion to the intended recipient you are hereby notified that any dissemination, distribution, or copying the documentation is strictly prohibited. If you have received this communication in error, please notify the Office of the Chief State Law Adviser (IL) immediately by telephone, and return the original message to the Office of the Chief State Law Adviser (IL).

8. The originally signed Supplementary Protocol must be deposited with the Treaty Section for safekeeping immediately after signature.
9. Finally, you are reminded that the Supplementary Protocol, once signed, needs to be tabled in Parliament for information purposes within a reasonable time by the responsible line function department.
10. Subject to these comments the Supplementary Protocol would be acceptable from an international law point of view and not in conflict with South Africa's other international obligations.
11. We trust that our comments will be of assistance to you.

**T NAIDU**  
**STATE LAW ADVISER (IL)**

**PRETORIA**  
**3 NOVEMBER 2010**