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Leto XII

80. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Irske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in dobička iz kapitala (BIEDOU)

Na podlagi druge alineje prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z

O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO IRSKE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN DOBIČKA IZ KAPITALA (BIEDOU)

Razlašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Irske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in dobička iz kapitala (BIEDOU), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. oktobra 2002.

Št. 001-22-140/02
Ljubljana, 5. novembra 2002

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N

O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO IRSKE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN DOBIČKA IZ KAPITALA (BIEDOU)

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Irske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in dobička iz kapitala, podpisana v Ljubljani dne 12. marca 2002.

2. člen

Konvencija se v izvorniku v slovenskem in angleškem jeziku glasi:

K O N V E N C I J A MED VLADO REPUBLIKE SLOVENIJE IN VLADO IRSKE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN DOBIČKA IZ KAPITALA

Vlada Republike Slovenije in Vlada Irske sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in dobička iz kapitala, sporazumeli, kot sledi:

C O N V E N T I O N BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS

The Government of the Republic of Slovenia and the Government of Ireland, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains, have agreed as follows:

1. člen

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

Ta konvencija se uporablja za osebe, ki so rezidenti ene ali obeh držav pogodbenic.

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

1. Ta konvencija se uporablja za davke od dohodka in dobička iz kapitala, ki se uvedejo v imenu pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

2. Za davke od dohodka in dobička iz kapitala se štejejo vsi davki, uvedeni na celoten dohodek ali na sestavne dohodka, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin.

3. Obstoječi davki, za katere se uporablja konvencija, so:

- a) v Sloveniji:
 - i) davek od dobička pravnih oseb in
 - ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, dobičkom iz kapitala in dohodkom iz nepremičnin in premičnin (v nadaljevanju "slovenski davek");
- b) na Irskem:
 - i) davek od dohodka;
 - ii) davek od dobička pravnih oseb in
 - iii) davek od dobička iz kapitala (v nadaljevanju "irski davek").

4. Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. Za namene te konvencije, razen če sobesedilo zahteva drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, ozemlje Slovenije, vključno z morskim območjem, morskim dnem in podzemljem ob teritorialnem morju, če Slovenija lahko nad takim morskim območjem, morskim dnem in podzemljem izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz "Irska" vključuje katero koli območje zunaj teritorialnega morja Irske, ki je bilo ali se lahko v prihodnje po zakonodaji Irske o epikontinentalnem pasu v skladu z mednarodnim pravom določi kot območje, na katerem lahko Irska izvaja svoje pravice v zvezi z morskim dnem in podzemljem ter naravnimi viri v njih;

c) izrazi "država pogodbenica", "ena od držav pogodbenic" in "druga država pogodbenica" pomenijo, kot zahteva sobesedilo, Slovenijo ali Irsko, izraz "državi pogodbenici" pa pomeni Slovenijo in Irsko;

d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;

e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;

f) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital gains imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Convention shall apply are:

- a) in the case of Slovenia:
 - (i) the tax on profits of legal persons; and
 - (ii) the tax on income of individuals, including wages and salaries, income from agricultural activities, income from business, capital gains and income from immovable and movable property; (hereinafter referred to as "Slovenian tax");
- b) in the case of Ireland:
 - (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax; (hereinafter referred to as "Irish tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

a) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia, including the sea area, sea-bed and subsoil adjacent to the territorial sea, if Slovenia may exercise its sovereign rights and jurisdiction over such sea area, sea-bed and subsoil in accordance with its domestic legislation and international law;

b) the term "Ireland" includes any area outside the territorial waters of Ireland which, in accordance with international law, has been or may hereafter be designated under the laws of Ireland concerning the Continental Shelf, as an area within which the rights of Ireland with respect to the sea bed and subsoil and their natural resources may be exercised;

c) the terms "a Contracting State", "one of the Contracting States" and "the other Contracting State" mean Slovenia or Ireland, as the context requires; and the term "Contracting States" means Slovenia and Ireland;

d) the term "person" includes an individual, a company and any other body of persons;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

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) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo ali letalom, ki ga opravlja podjetje države pogodbenice, razen če ladja ali letalo opravlja prevoze samo med kraji v drugi državi pogodbenici;

h) izraz "pristojni organ" pomeni:

i) v Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;

ii) na Irskem Davčno upravo ali pooblaščenega predstavnika te uprave;

i) izraz "državljan" pomeni:

i) za Slovenijo katerega koli posameznika, ki ima državljanstvo Slovenije, in katero koli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v Sloveniji;

ii) za Irsko katerega koli posameznika, ki ima državljanstvo Irske, in katero koli pravno osebo, osebno družbo, združenje ali drug subjekt, katerih status izhaja iz veljavne zakonodaje Irske.

2. Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer kateri koli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

4. člen

REZIDENT

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, sedeža uprave ali katerega koli drugega podobnega merila. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi.

2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

a) šteje se samo za rezidenta države, v kateri ima na razpolago stalno prebivališče; če ima stalno prebivališče na razpolago v obeh državah, se šteje za rezidenta države, s katero ima tesnejše osebne in ekonomske odnose (središče življenjskih interesov);

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;

c) če ima običajno bivališče v obeh državah ali v nobeni od njiju, se šteje samo za rezidenta države, katere državljan je;

d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je samo rezident države, v kateri ima sedež dejanske uprave.

5. člen

STALNA POSLOVNA ENOTA

1. Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

h) the term "competent authority" means:

(i) in the case of Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorised representative;

(ii) in the case of Ireland: the Revenue Commissioners or their authorised representative;

i) the term "national" means:

(i) in relation to Slovenia, any individual possessing the nationality of Slovenia and any legal person, partnership or association deriving its status as such from the laws in force in Slovenia;

(ii) in relation to Ireland, any citizen of Ireland and any legal person, partnership, association or other entity deriving its status as such from the laws in force in Ireland.

2. As regards the application of the Convention 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 Convention 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 Convention, 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. But this term 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 his 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 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 has not 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 an habitual abode;

c) if he 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 Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. Izraz "stalna poslovna enota" še posebej vključuje:

- a) sedež uprave,
- b) podružnico,
- c) pisarno,
- d) tovarno,
- e) delavnico in
- f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3. Šteje se, da oseba, ki izvaja eksteritorialno dejavnost v državi pogodbenici v zvezi z raziskovanjem ali izkoriščanjem morskega dna in podzemlja ter naravnih virov v tej državi pogodbenici, posluje prek stalne poslovne enote v tej državi pogodbenici.

4. Gradbišče ali projekt gradnje ali montaže je stalna poslovna enota samo, če traja več kot dvanajst mesecev.

5. Ne glede na prejšnje določbe tega člena se šteje, da izraz "stalna poslovna enota" ne vključuje:

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

6. Ne glede na določbe prvega in drugega odstavka, kadar oseba ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi odstavek deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti te osebe omejene na tiste iz petega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

7. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

8. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A person carrying on activities offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated in that Contracting State shall be deemed to be carrying on a business through a permanent establishment in that Contracting State.

4. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

5. 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 of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

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.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 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.

7. 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.

8. 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.

6. člen

DOHODEK IZ NEPREMIČNIN

1. Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom iz kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje, čolni in letala se ne štejejo za nepremičnine.

3. Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

7. člen

POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kot je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripiše tej stalni poslovni enoti.

2. Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3. Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4. Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5. Stalni poslovni enoti se ne pripiše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.

6. Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če je upravičen in zadosten razlog za nasprotno.

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 determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes 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.

4. Insofar 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 by 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. Kadar dobiček vključuje dohodkovne postavke ali dobiček iz kapitala, ki je posebej obravnavan v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

8. člen

LADIJSKI IN LETALSKI PREVOZ

1. Dobiček, ki ga podjetje države pogodbenice doseže iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu, se obdavči samo v tej državi.

2. Če je sedež dejanske uprave ladjarskega podjetja na ladji, se šteje, da je v državi pogodbenici, v kateri ima ladja matično pristanišče, ali če nima takega matičnega pristanišča, v državi pogodbenici, katere rezident je ladijski prevoznik.

3. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevoznici agenciji.

9. člen

POVEZANA PODJETJA

1. Kadar:

a) je podjetje države pogodbenice neposredno ali posredno udeleženo pri upravljanju, nadzoru ali v kapitalu podjetja druge države pogodbenice ali

b) so iste osebe neposredno ali posredno udeležene pri upravljanju, nadzoru ali v kapitalu podjetja države pogodbenice in podjetja druge države pogodbenice

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2. Kadar država pogodbenica v dobiček podjetja te države vključuje in ustrezno obdavči dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključen dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

10. člen

DIVIDENDE

1. Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik dividend, tako obračunani davek ne presega:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima neposredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;

7. Where profits include items of income or gains which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship 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 ENTERPRISES

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 shall 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 Convention 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 recipient is the beneficial owner of the dividends 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 directly at least 25 per cent of the capital of the company paying the dividends;

b) 15 odstotkov bruto zneska dividend v vseh drugih primerih.

Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe teh omejitev.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3. Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi kakršen koli dohodek ali delitev dobička, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države pogodbenice, katere rezident je družba, ki plačuje dividende ali dohodek ali deli dobiček.

4. Ne glede na tretji odstavek izraz "dividende" ne vključuje obresti, ki se zaradi dejstva, da so bile izplačane nerezidenčni družbi, po notranji zakonodaji države pogodbenice obravnavajo kot dividende, če takšne obresti ne presegajo zneska, ki bi bil izplačan med neodvisnimi osebami, ki so med seboj nepovezane.

5. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

11. člen OBRESTI

1. Obresti, ki nastanejo v državi pogodbenici in se izplačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik obresti, tako zaračunani davek ne presega 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici in jih prejme in je njihov upravičeni lastnik vlada druge države pogodbenice, vključno z njenimi političnimi enotami ali lokalnimi oblastmi, ali njena centralna banka ali katera koli ustanova, za katero se vsakokrat dogovorita državi pogodbenici, oproščene davka v prvi omenjeni državi.

b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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, and includes any income or distribution assimilated to income from shares under the taxation laws of the Contracting State of which the company paying dividends or income or making the distribution is a resident.

4. Notwithstanding paragraph 3, the term "dividends" shall not include interest which, by reason of the fact that it was paid to a non-resident company, is treated as a dividend under the domestic laws of a Contracting State, to the extent that such interest does not exceed the amount which would be expected to be paid between independent parties dealing at arm's length.

5. 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 that 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. 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 insofar as such dividends are paid to a resident of that other State or insofar 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 the company's 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 recipient is the beneficial owner of the interest, the tax so charged shall not exceed 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived and beneficially owned by a Government of the other Contracting State including political subdivisions or local authorities or by a Central Bank thereof, or any institutions as may be agreed from time to time between the Contracting States, shall be exempt from tax in the first mentioned State.

4. Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam ali zadolžnicam, kakor tudi vsak dohodek, ki se po zakonodaji države pogodbenice, v kateri takšen dohodek nastane, obravnava kot dohodek od denarnih posojil, ne vključuje pa dohodka, ki se v skladu z 10. členom obravnava kot dividende. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6. Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik ta država, politična enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.

7. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. člen

LICENČNINE IN AVTORSKI HONORARJI

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik licenčnin in avtorskih honorarjev, tako zaračunani davek ne presega 5 odstotkov bruto zneska licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo (vključno s kinematografskimi filmi ter filmi, posnetki na trakovih ali drugih medijih za televizijsko in radijsko predvajanje ali drugimi sredstvi za reprodukcijo ali prenos), katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

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 as well as all other income assimilated to income from money lent by the laws of the State in which the income arises but does not include any income which is treated as a dividend under Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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 Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or 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 or fixed base 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 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 Convention.

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 if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 5 per cent of the gross amount of such royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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 motion pictures or films, recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission), any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik ta država, politična enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take licenčnine in avtorski honorarji nastali v državi pogodbenici, v kateri je stalna poslovna enota ali stalna baza.

6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

13. člen DOBIČEK IZ KAPITALA

1. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Za namene prvega odstavka dobiček iz odtujitve nepremičnin, ki so v drugi državi pogodbenici, vključuje dobiček iz deležev (vključno z delnicami in kakršnimi koli vrednostnimi papirji), razen delnic, ki kotirajo na borzi, katerih večji del vrednosti izhaja neposredno ali posredno iz nepremičnin v tej drugi državi.

3. Dobiček, razen dobička iz drugega odstavka, iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

4. Dobiček, ki ga podjetje države pogodbenice doseže z odtujitvijo ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se obdavči samo v tej državi.

5. Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prejšnjih odstavkih tega člena, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

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 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base 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, 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 Convention

Article 13 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. For the purposes of paragraph 1, gains from the alienation of immovable property situated in the other Contracting State shall include gains from shares (including stock and any security), other than shares quoted on a stock exchange, deriving the greater part of their value directly or indirectly from immovable property situated in that other State.

3. Gains, other than those dealt with in paragraph 2, from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

6. Določbe petega odstavka ne vplivajo na pravico države pogodbenice, da v skladu s svojo zakonodajo obdavči dobiček iz odtujitve kakršnega koli premoženja, ki ga doseže posameznik, ki je rezident druge države pogodbenice in je bil rezident prve omenjene države kadar koli v treh letih neposredno pred odtujitvijo premoženja, če je posameznik imel premoženje, preden je postal rezident te druge države.

14. člen

SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga dobi rezident države pogodbenice iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripiše tej stalni bazi.

2. Izraz "poklicne storitve" vključuje še posebej samostojne znanstvene, literarne, umetniške, izobraževalne ali pedagoške dejavnosti kot tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

15. člen

ODVISNE OSEBNE STORITVE

1. V skladu z določbami 16., 18., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

- a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v zadevnem davčnem letu te druge države, in
- b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu in
- c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, lahko obdavči v tej državi pogodbenici.

16. člen

PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

6. The provisions of paragraph 5 shall not affect the right of a Contracting State to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the three years immediately preceding the alienation of the property if the property was held by the individual before he became a resident of that other State.

Article 14

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 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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 the fiscal year concerned of that other State, 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 or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

Article 16

DIRECTORS' FEES

Directors' fees and other 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 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, 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 a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Kadar se dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne pripíše samemu nastopajočemu izvajalcu ali športniku osebno, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek, dosežen z dejavnostmi nastopajočega izvajalca ali športnika v državi pogodbenici, če se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi ene ali obeh držav pogodbenic ali njenih političnih enot ali lokalnih oblasti. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

18. člen

POKOJNINE IN ANUITETE

1. V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, in kakršne koli anuitete, ki se izplačujejo takemu rezidentu za preteklo zaposlitev, obdavčijo samo v tej državi.

2. Izraz "anuiteta" pomeni določen znesek, ki se redno plačuje ob določenem času vse življenje ali v določenem ali ugotovljivem časovnem obdobju, z obveznostjo izvršitve plačila za primerno in celotno nadomestilo v denarju ali denarni vrednosti.

19. člen

DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

- i) je državljan te države ali
- ii) ni postal rezident te države samo za namen opravljanja storitev.

2. a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

b) Taka pokojnina pa se obdavči samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

3. Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 18

PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such a resident in consideration of past employment shall be taxable only in that 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.

Article 19

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 15, 16, 17 and 18 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 political subdivision or a local authority thereof.

20. člen

PROFESORJI IN UČITELJI

1. Profesor ali učitelj, ki obišče eno od držav pogodbenic za obdobje, ki ne presega dveh let, samo z namenom poučevanja ali izpopolnjevanja (vključno z raziskovanjem) na univerzi, višji oziroma visoki šoli ali drugi priznani raziskovalni ustanovi ali drugi visokošolski ustanovi v tej državi pogodbenici in ki je bil tik pred tem obiskom rezident druge države pogodbenice, je v prvi omenjeni državi pogodbenici v obdobju, ki ne presega dveh let od datuma prvega obiska te države pogodbenice v ta namen, oproščen davka na kakršne koli prejemke za tako poučevanje ali raziskovanje. Posameznik ima pravico do ugodnosti iz tega člena samo enkrat.

2. Prejšnje določbe tega člena se ne uporabljajo za prejemke, ki jih profesor ali učitelj prejme za raziskave, če se raziskave izvajajo predvsem v zasebno korist določene osebe ali oseb.

21. člen

ŠTUDENTI

Plačila, ki jih študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoč samo z namenom svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

22. člen

DRUGI DOHODKI

1. Deli dohodka rezidenta države pogodbenice, ki nastanejo kjer koli in ki niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

2. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

23. člen

METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

1. Kadar rezident Slovenije dobi dohodek, ki se v skladu z določbami te konvencije lahko obdavči na Irskem, Slovenija dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu na Irskem. Tak odbitek pa ne sme presegati tistega dela davka od dohodka, ki je bil izračunan pred odbitkom, pripisanim dohodku, ki se lahko obdavči na Irskem.

2. V skladu z določbami irske zakonodaje o znižanju irskega davka za davek, ki se plača zunaj ozemlja Irske (kar ne vpliva na splošno načelo):

Article 20

PROFESSORS AND TEACHERS

1. A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the sole purpose of teaching or carrying out advanced study (including research) at a university, college or other recognised research institute or other establishment for higher education in that Contracting State and who was immediately before that visit a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that Contracting State for such purpose. An individual shall be entitled to the benefits of this Article only once.

2. The preceding provisions of this Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

Article 21

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, 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 the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. Where a resident of Slovenia derives income which, in accordance with the provisions of this Convention, may be taxed in Ireland, Slovenia shall allow as a deduction from the tax on the income of that resident, an amount equal to the Irish tax paid in respect of that income. Such deduction shall not, however, exceed that portion of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in Ireland.

2. Subject to the provisions of the laws of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland (which shall not affect the general principle hereof):

a) se slovenski davek, ki se po slovenski zakonodaji in v skladu s to konvencijo plača bodisi neposredno ali kot odbitek od dobička, dohodka ali dobička iz kapitala iz virov v Sloveniji (razen davka na dividende, ki se plača od dobička, iz katerega se plačajo dividende), dovoli kot znižanje kakršnega koli irskega davka, izračunanega za isti dobiček, dohodek ali dobiček iz kapitala, za katerega je bil izračunan slovenski davek;

b) kadar dividende plača družba, ki je rezident Slovenije, družbi, ki je rezident Irske in neposredno ali posredno nadzira najmanj 10 odstotkov glasovalnih pravic v družbi, ki dividende plačuje, se za znižanje upošteva slovenski davek, ki ga družba plača od dobička, iz katerega se plačajo dividende (poleg kakršnega koli slovenskega davka, ki se odbije v skladu z določbami pododstavka a)).

3. Za namene prvega in drugega odstavka se šteje, da so bili dobiček, dohodek in dobiček iz kapitala v lasti rezidenta države pogodbenice, ki se v skladu s to konvencijo lahko obdavčijo v drugi državi pogodbenici, doseženi iz virov v tej drugi državi pogodbenici.

4. Kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident države pogodbenice, oproščen davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka takega rezidenta vseeno upošteva oproščeni dohodek.

5. Kadar je v skladu s katero koli določbo te konvencije dohodek ali dobiček iz kapitala v celoti ali delno oproščen davka v državi pogodbenici in po veljavni zakonodaji druge države pogodbenice, se v zvezi s tem dohodkom ali dobičkom iz kapitala posameznik lahko obdavči za znesek, ki je bil nakazan ali prejet v tej drugi državi, in ne za celotni znesek; olajšava, ki je po tej konvenciji dovoljena v prvi omenjeni državi, velja samo za takšen znesek dohodka ali dobička iz kapitala, kot je bil nakazan ali prejet v tej drugi državi.

24. člen

ENAKO OBRAVNAVANJE

1. Državljan države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

2. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

3. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države.

a) Slovenian tax payable under the laws of Slovenia and in accordance with this Convention, whether directly or by deduction, on profits, income or gains from sources within Slovenia (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Irish tax computed by reference to the same profits, income or gains by reference to which Slovenian tax is computed;

b) in the case of a dividend paid by a company which is a resident of Slovenia to a company which is a resident of Ireland and which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Slovenian tax creditable under the provisions of subparagraph (a)) Slovenian tax payable by the company in respect of the profits out of which such dividend is paid.

3. For the purposes of paragraphs 1 and 2, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to be derived from sources in that other Contracting State.

4. Where in accordance with any provisions of this Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

5. Where, under any provision of this Convention, income or gains is or are wholly or partly relieved from tax in a Contracting State and under the laws in force in the other Contracting State, an individual in respect of the said income or gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is remitted to or received in that other State.

Article 24

NON-DISCRIMINATION

1. 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. This provision shall not 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.

3. 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.

4. Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve do drugih podobnih podjetij prve omenjene države.

5. Določbe tega člena se uporabljajo samo za davke iz te konvencije.

25. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 24. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

2. Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4. Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, da bi dosegla dogovor v smislu prejšnjih odstavkov.

26. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,

4. Enterprises of a 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 the first-mentioned State are or may be subjected.

5. The provisions of this Article shall apply only to taxes covered by this Convention.

Article 25

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 Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he 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 the Convention.

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 a satisfactory 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 Convention. 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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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 administrative practice of that or of the other Contracting State;

b) da priskrbi informacije, ki jih ni mogoče dobiti po zakonski ali običajni upravni poti te ali druge države pogodbenice,

c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

27. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN
KONZULATOV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih predstavništav ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

28. člen

ZAČETEK VELJAVNOSTI

1. Vsaka država pogodbenica drugo pisno obvesti, da je končan postopek, ki je po njeni zakonodaji potreben za začetek veljavnosti te konvencije.

2. Ta konvencija začne veljati na datum prejema kasnejšega od uradnih obvestil in se nato uporablja:

a) v Sloveniji:

i) v zvezi z davki, zadržanimi pri viru, za zneske, plačane ali pripisane prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija;

ii) v zvezi z drugimi davki od dohodka in dobička iz kapitala za katero koli davčno leto z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija;

b) na Irskem:

i) v zvezi z davki od dohodka in dobička iz kapitala za katero koli leto odmere z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem začne veljati konvencija;

ii) v zvezi z davkom od dobička pravnih oseb za katero koli poslovno leto z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem začne veljati konvencija.

29. člen

PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je država pogodbenica ne odpove. Vsaka država pogodbenica lahko konvencijo odpove kadar koli po petih letih od datuma začetka veljavnosti konvencije pod pogojem, da najmanj šest mesecev pred tem po diplomatski poti da obvestilo o odpovedi.

V takem primeru se ta konvencija preneha uporabljati:

a) v Sloveniji:

i) v zvezi z davki, zadržanimi pri viru, za zneske, plačane ali pripisane prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem poteče rok, določen v obvestilu o odpovedi;

ii) v zvezi z davki od dohodka in dobička iz kapitala za katero koli davčno leto z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem poteče rok, določen v obvestilu o odpovedi;

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 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR
POSTS

Nothing in this Convention 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 28

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Convention.

2. This Convention shall enter into force on the date of receipt of the later of these notifications and thereupon have effect:

a) In Slovenia:

(i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

(ii) in respect of other taxes on income and on capital gains, for any tax year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

b) In Ireland:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after the first day of January in the year next following the year in which the Convention enters into force;

(ii) in respect of corporation tax, for any financial year beginning on or after the first day of January in the year next following the year in which the Convention enters into force.

Article 29

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after five years from the date on which the Convention enters into force provided that at least six months prior notice of termination has been given through diplomatic channels.

In such event, this Convention shall cease to have effect:

a) In Slovenia:

(i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January in the calendar year next following the year in which the period specified in the said notice of termination expires;

(ii) in respect of other taxes on income and on capital gains, for any tax year beginning on or after the first day of January in the calendar year next following the year in which the period specified in the said notice of termination expires;

b) na Irskem:

i) v zvezi z davki od dohodka in dobička iz kapitala za katero koli leto odmere z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem poteče rok, določen v obvestilu o odpovedi;

ii) v zvezi z davkom od dobička pravnih oseb za katero koli poslovno leto z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem poteče rok, določen v obvestilu o odpovedi.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

Sestavljeno v dveh izvornikih v Ljubljani dne 12. 3. 2002 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za Vlado Republike Slovenije
Darko Končan l. r.

Za Vlado Irske
Gary Ansbro l. r.

b) In Ireland:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after the first day of January in the year next following the year in which the period specified in the said notice of termination expires;

(ii) in respect of corporation tax, for any financial year beginning on or after the first day of January in the year next following the year in which the period specified in the said notice of termination expires.

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

DONE in duplicate at Ljubljana this 12 March 2002 in the Slovenian and English languages, both texts being equally authentic.

For the Government of
the Republic of Slovenia
Darko Končan, (s)

For the Government
of Ireland
Gary Ansbro, (s)

3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

4. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 432-01/02-24/1
Ljubljana, dne 25. oktobra 2002

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

81. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Latvije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BLADOU)

Na podlagi druge alineje prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z**O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE LATVIJE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BLADOU)**

Razglašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Latvije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BLADOU), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. oktobra 2002.

Št. 001-22-141/02
Ljubljana, 5. novembra 2002

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N**O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE LATVIJE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BLADOU)**

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Republike Latvije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom, podpisana v Ljubljani 17. aprila 2002.

2. člen

Konvencija s protokolom se v izvirniku v slovenskem in angleškem jeziku glasi:*

K O N V E N C I J A**MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE LATVIJE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA**

Vlada Republike Slovenije in Vlada Republike Latvije sta se

v želji, da skleneta konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, sporazumeli, kot sledi:

1. člen

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

Ta konvencija se uporablja za osebe, ki so rezidenti ene ali obeh držav pogodbenic.

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

1. Ta konvencija se uporablja za davke od dohodka in premoženja, ki so uvedeni v imenu države pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

C O N V E N T I O N**BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE REPUBLIC OF LATVIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of Slovenia and the Government of the Republic of Latvia,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

* Besedilo konvencije s protokolom v latvijskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

2. Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premoženja ali nepremičnin ter davki na zvišanje vrednosti kapitala.

3. Obstoječi davki, za katere se uporablja konvencija, so zlasti:

a) v Sloveniji:

(i) davek od dobička pravnih oseb,

(ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, dobičkom iz kapitala in dohodkom iz nepremičnin in premoženja (dohodnina),

(iii) davek od premoženja,

(iv) posebni davek na bilančno vsoto bank in hranilnic

(v nadaljevanju "slovenski davek");

b) v Latviji:

(i) davek od dohodka podjetij (uzņçmumu ienākuma nodoklis),

(ii) davek od osebnega dohodka (iedzīvotāju ienākuma nodoklis),

(iii) davek na nepremičnine (nekustamā īpašuma nodoklis)

(v nadaljevanju "latvijski davek").

4. Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. Za namene te konvencije, razen če sobesedilo zahteva drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, ozemlje Slovenije, vključno z morskim območjem, morskim dnem in podzemljem ob teritorialnem morju, če Slovenija lahko nad takim morskim območjem, morskim dnem in podzemljem izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz "Latvija" pomeni Republiko Latvijo, in ko se uporablja v zemljepisnem smislu, ozemlje Republike Latvije in vsako drugo območje ob teritorialnem morju Republike Latvije, na katerem se lahko po zakonodaji Latvije in v skladu z mednarodnim pravom izvajajo pravice Latvije v zvezi z morskim dnem in njegovim podzemljem ter z njenimi naravnimi viri;

c) izraza "država pogodbenica" in "druga država pogodbenica" pomenita, kot zahteva sobesedilo, Latvijo ali Slovenijo;

d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;

e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;

f) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in Slovenia:

(i) the tax on profits of legal persons (davek od dobička pravnih oseb);

(ii) the tax on income of individuals, including wages and salaries, income from agricultural activities, income from business, capital gains and income from immovable and movable property (dohodnina);

(iii) the tax on property (davek na premoženje);

(iv) special tax on the assets of banks and saving banks (posebni davek na bilančno vsoto bank in hranilnic);

(hereinafter referred to as "Slovenian tax").

b) in Latvia:

(i) the enterprise income tax (uzņçmumu ienākuma nodoklis);

(ii) the personal income tax (iedzīvotāju ienākuma nodoklis);

(iii) the immovable property tax (nekustamā īpašuma nodoklis);

(hereinafter referred to as "Latvian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

a) the term "Slovenia" means the Republic of Slovenia and when used in a geographical sense, means the territory of Slovenia, including the sea area, sea bed and sub-soil adjacent to the territorial sea, if Slovenia may exercise its sovereign rights and jurisdiction over such sea area, sea bed and sub-soil in accordance with its domestic legislation and international law;

b) the term "Latvia" means the Republic of Latvia and, when used in the geographical sense, means the territory of the Republic of Latvia and any other area adjacent to the territorial sea of the Republic of Latvia within which under the laws of Latvia and in accordance with international law, the rights of Latvia may be exercised with respect to the sea bed and its sub-soil and their natural resources;

c) the terms "a Contracting State" and "the other Contracting State" mean Latvia or Slovenia, as the context requires;

d) the term "person" includes an individual, a company and any other body of persons;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

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) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo ali letalom, ki ga opravlja podjetje države pogodbenice, razen če ladja ali letalo opravlja prevoze samo med kraji v drugi državi pogodbenici;

h) izraz "pristojni organ" pomeni:

(i) v Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;

(ii) v Latviji Ministrstvo za finance ali pooblaščenega predstavnika tega ministrstva;

i) izraz "državljan" pomeni:

(i) katerega koli posameznika, ki ima državljanstvo države pogodbenice;

(ii) katero koli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v državi pogodbenici.

2. Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer kateri koli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

4. člen REZIDENT

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave, kraja ustanovitve ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna v tej državi plačevati davke samo v zvezi z dohodki iz virov v tej državi ali od premoženja v njej.

2. Kadar je zaradi določb prvega odstavka tega člena posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

a) šteje se samo za rezidenta države, v kateri ima na razpolago stalno prebivališče; če ima stalno prebivališče na razpolago v obeh državah, se šteje samo za rezidenta države, s katero ima tesnejše osebne in ekonomske odnose (središče življenjskih interesov);

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;

c) če ima običajno bivališče v obeh državah ali v nobeni od njiju, se šteje samo za rezidenta države, katere državljan je;

d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka tega člena oseba, ki ni posameznik, rezident obeh držav pogodbenic, si pristojna organa držav pogodbenic prizadevata vprašanje rešiti s skupnim dogovorom. Če takega dogovora za namene te konvencije ne moreta doseči, oseba ni upravičena zahtevati ugodnosti iz te konvencije.

g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State except when the ship or aircraft is operated solely between places in the other Contracting State;

h) the term "competent authority" means:

(i) in Slovenia, the Ministry of Finance of the Republic of Slovenia or its authorized representative;

(ii) in Latvia, the Ministry of Finance or its authorized representative;

i) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Convention 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 Convention 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 Convention, 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, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or 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 or capital situated therein.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his 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 has not 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 an habitual abode;

c) if he 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 of this Article a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such agreement, for the purposes of the Convention, the person shall not be entitled to claim any benefits provided by this Convention.

5. člen

STALNA POSLOVNA ENOTA

1. Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

2. Izraz "stalna poslovna enota" še posebej vključuje:

- a) sedež uprave,
- b) podružnico,
- c) pisarno,
- d) tovarno,
- e) delavnico in
- f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3. a) Gradbišče, projekt gradnje, montaže ali postavitve ali dejavnost nadzora v zvezi z njimi je stalna poslovna enota samo, če tako gradbišče, projekt ali dejavnost traja več kot devet mesecev.

b) Šteje se, da se dejavnosti, ki se pred obalo države pogodbenice v tej državi opravljajo v zvezi z raziskovanjem ali izkoriščanjem morskega dna in podzemlja ter njihovih naravnih virov, opravljajo prek stalne poslovne enote v tej državi, če se take dejavnosti izvajajo v obdobju ali obdobjih, ki skupno trajajo več kot 30 dni v katerem koli obdobju dvanajstih mesecev.

4. Ne glede na prejšnje določbe tega člena se šteje, da izraz "stalna poslovna enota" ne vključuje:

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

5. Ne glede na določbe prvega in drugega odstavka tega člena, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek tega člena – deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti te osebe omejene na tiste iz četrtega odstavka tega člena, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. a) A building site, a construction, assembly or installation project or a supervisory activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period more than nine months.

b) Activities carried on offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that State shall be deemed to be carried on through a permanent establishment situated in that State, if such activities are carried on for a period or periods exceeding in the aggregate 30 days in any twelve month period.

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 of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

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 of this Article, where a person – other than an agent of an independent status to whom paragraph 6 of this Article applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 of this Article 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. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

7. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

6. člen

DOHODEK IZ NEPREMIČNIN

1. Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom iz kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, vsako opcijo ali podobno pravico pridobiti nepremičnine, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva, pravico do sredstev, pridobljenih z raziskovanjem ali izkoriščanjem morskega dna in podzemlja ter njenih naravnih virov, vključno s pravico do deležev v teh sredstvih ali do koristi iz njih. Ladje in letala se ne štejejo za nepremičnine.

3. Določbe prvega odstavka tega člena se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

4. Kadar ima zaradi lastništva delnic ali drugih korporacijskih pravic v družbi lastnik takih delnic ali korporacijskih pravic v družbi pravico do uživanja nepremičnin družbe, se lahko dohodek iz neposredne uporabe, dajanja v najem ali vsake druge oblike uporabe take pravice do uživanja obdavči v državi pogodbenici, v kateri je nepremičnina.

5. Določbe prvega, tretjega in četrtega odstavka tega člena se uporabljajo tudi za dohodek iz nepremičnin podjetja in za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

7. člen

POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kot je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, ki se pripiše tej stalni poslovni enoti. Šteje se, da se dobiček od prodaje dobrin ali blaga, ki je enako ali podobno, kot se prodaja prek stalne poslovne enote, ali od drugih poslovnih dejavnosti, ki so enake ali podobne, kot se opravljajo prek stalne poslovne enote, lahko pripiše tej stalni poslovni enoti, če se ugotovi, da je bila taka prodaja ali dejavnost organizirana na način, namenjen izogibanju obdavčenju v državi, v kateri je stalna poslovna enota.

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, any option or similar right to acquire immovable property, 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, rights to assets to be produced by the exploration or exploitation of the sea bed and sub-soil and their natural resources, including rights to interests in or to the benefit of such assets. Ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1, 3 and 4 of this Article 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. However, profits derived from the sale of goods or merchandise of the same or similar kind as those sold, or from other business activities of the same or similar kind as those effected, through that permanent establishment may be considered attributable to that permanent establishment if it is established that such sales or activities were structured in a manner intended to avoid taxation in the State where the permanent establishment is situated.

2. Ob upoštevanju določb tretjega odstavka tega člena, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3. Pri določanju dobička stalne poslovne enote je v državi pogodbenici dovoljeno odšteti stroške (razen stroškov, ki jih ne bi bilo mogoče odšteti, če bi bila ta stalna poslovna enota ločeno podjetje te države pogodbenice), ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4. Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tega člena tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5. Stalni poslovni enoti se ne pripiše dobiček samo zato, ker ta stalna poslovna enota nakupuje dobrine ali blago za podjetje.

6. Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če je upravičen in zadosten razlog za nasprotno.

7. Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

8. člen

LADIJSKI IN LETALSKI PREVOZ

1. Dobiček, ki ga podjetje države pogodbenice doseže iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu, se obdavči samo v tej državi.

2. Določbe prvega odstavka tega člena se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevoznici.

9. člen

POVEZANA PODJETJA

1. Kadar:

a) je podjetje države pogodbenice neposredno ali posredno udeleženo pri upravljanju, nadzoru ali v kapitalu podjetja druge države pogodbenice ali

b) so iste osebe neposredno ali posredno udeležene pri upravljanju, nadzoru ali v kapitalu podjetja države pogodbenice in podjetja druge države pogodbenice

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2. Subject to the provisions of paragraph 3 of this Article, 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 determining the profits of a permanent establishment, in a Contracting State there shall be allowed as deductions expenses (other than expenses which would not be deductible if that permanent establishment were a separate enterprise of that Contracting State) which are incurred for the purposes 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.

4. Insofar 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 of this Article 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 by 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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. The provisions of paragraph 1 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

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. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključeni dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, se pristojna organa držav pogodbenic lahko med seboj posvetujeta, da bi dosegla soglasje o prilagoditvi dobička v obeh državah pogodbenicah.

3. Država pogodbenica ne sme spremeniti dobička podjetja v primerih iz prvega odstavka tega člena po preteku rokov, določenih v njeni notranji zakonodaji, in v nobenem primeru po petih letih od konca leta, v katerem podjetju te države priraste dobiček, ki bi se lahko tako spremenil. Ta odstavek se ne uporablja v primeru goljufije ali namerne kršitve.

10. člen DIVIDENDE

1. Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne presega:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima neposredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;

b) 15 odstotkov bruto zneska dividend v vseh drugih primerih.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3. Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih pravic, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

4. Določbe prvega in drugega odstavka tega člena se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of that 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 the competent authorities of the Contracting State may consult together with a view to reach an agreement on the adjustments of profits in both Contracting States.

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 of this Article after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of that State. This paragraph shall not apply in the case of fraud or wilful default.

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 directly at least 25 per cent of the capital of the company paying the dividends;

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 rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 of this Article 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 that 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 case the provisions of Article 7 or Article 14, 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 insofar as such dividends are paid to a resident of that other State or insofar 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 the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

11. člen
OBRESTI

1. Obresti, ki nastanejo v državi pogodbenici in se izplačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako zaračunani davek ne presega 10 odstotkov bruto zneska obresti.

3. Ne glede na določbe drugega odstavka tega člena so obresti, ki nastanejo v državi pogodbenici ter jih prejme in je njihov upravičeni lastnik vlada druge države pogodbenice, vključno z njenimi lokalnimi oblastmi in političnimi enotami, centralna banka, državna delniška družba "Latvijski izvozni krediti" (Latvijas eksportkredits), Slovenska izvozna družba, ali obresti od posojil, za katera jamči družba "Latvijski izvozni krediti" ali Slovenska izvozna družba, oproščene davka v prvi omenjeni državi.

4. Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami za takšne vrednostne papirje, obveznice ali zadolžnice. Izraz "obresti" pa ne vključuje nobenega dohodka, ki se v skladu z določbami 10. člena obravnava kot dividende. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. Določbe prvega, drugega in tretjega odstavka tega člena se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6. Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.

7. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatve, za katere se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. člen
LICENČNINE IN AVTORSKI HONORARJI

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

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 of this Article interest arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State, including its local authorities and political subdivisions, the Central Bank, the State Joint Stock Company "Latvian Export Credit" (Latvijas eksportkredits), Slovene Export Company (Slovenska izvozna družba), or interest derived on loans guaranteed by the "Latvian Export Credit" or the Slovene Export Company shall be exempt from tax in the first-mentioned State.

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. The term "interest" shall not include any income which is treated as a dividend under the provisions of Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 of this Article 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 Article 14, 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 or fixed base 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 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 Convention.

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. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako zaračunani davek ne presega 10 odstotkov bruto zneska licenčnin in avtorskih honorarjev.

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi in filmi ali trakovi ali drugimi sredstvi za reprodukcijo slike ali zvoka za radijsko ali televizijsko predvajanje, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4. Določbe prvega in drugega odstavka tega člena se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take licenčnine in avtorski honorarji nastali v državi, v kateri je stalna poslovna enota ali stalna baza.

6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

13. člen KAPITALSKI DOBIČKI

1. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, ali deležev v družbi, katere premoženje v glavnem predstavljajo take nepremičnine, se lahko obdavči v tej drugi državi.

2. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

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 if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of such 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 or tapes or other means of image or sound reproduction for radio and television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this Article 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 14, 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 in connection with which the liability to pay the royalties was incurred, 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 or fixed base 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, 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 Convention.

Article 13 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State or shares in a company the assets of which consist mainly of such property may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Dobiček, ki ga podjetje države pogodbenice, ki opravlja ladijske ali letalske prevoze v mednarodnem prometu, doseže z odtujitvijo ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premočnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se lahko obdavči samo v tej državi.

4. Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prvem, drugem in tretjem odstavku tega člena, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

14. člen

SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga dobi posameznik, ki je rezident države pogodbenice, iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namene opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripíše tej stalni bazi. Zato se šteje, da ima posameznik, ki je rezident države pogodbenice in biva v drugi državi pogodbenici v obdobju ali obdobjih, ki trajajo skupno več kot 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem davčnem letu, stalno bazo, ki mu je redno na voljo v tej drugi državi, in se dohodek, ki ga doseže iz zgoraj omenjenih dejavnosti v tej drugi državi, pripíše tej stalni bazi.

2. Izraz "poklicne storitve" vključuje še posebej samostojne znanstvene, literarne, umetniške, izobraževalne ali pedagoške dejavnosti kot tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

15. člen

ODVISNE OSEBNE STORITVE

1. V skladu z določbami 16., 18., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

2. Ne glede na določbe prvega odstavka tega člena se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

- a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem davčnem letu, in
- b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu in
- c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, lahko obdavči v tej državi.

3. Gains derived by an enterprise of a Contracting State operating ships or aircraft in international traffic from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is 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. For this purpose, where an individual who is a resident of a Contracting State stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be 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 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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 of this Article, 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 the 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 or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

16. člen

PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila ali prejemki, ki jih dobi rezident države pogodbenice kot član upravnega odbora ali kakršnega koli drugega podobnega organa družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

2. Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne priraste samemu nastopajočemu izvajalcu ali športniku osebno, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3. Določbe prvega in drugega odstavka tega člena se ne uporabljajo za dohodek, dosežen z dejavnostmi nastopajočega izvajalca ali športnika v državi pogodbenici, če se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi ene ali obeh držav pogodbenic ali njenih političnih enot ali lokalnih oblasti. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

18. člen

POKOJNINE

V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

19. člen

DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali politično enoto ali lokalno oblast, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

(i) je državljan te države ali

(ii) ni postal rezident te države samo za namen opravljanja storitev.

2. a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

b) Taka pokojnina pa se obdavči samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

3. Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, 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 a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 15, 16, 17 and 18 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 political subdivision or a local authority thereof.

20. člen

PROFESORJI IN RAZISKOVALCI

1. Posameznik, ki obišče državo pogodbenico zaradi poučevanja ali raziskovanja na univerzi, višji ali visoki šoli ali drugi priznani izobraževalni ali znanstveni ustanovi v tej državi pogodbenici in ki je ali je bil tik pred tem obiskom rezident druge države pogodbenice, je v prvi omenjeni državi pogodbenici oproščen davka na prejemke za tako poučevanje ali raziskovanje v obdobju največ dveh let od datuma prvega obiska s tem namenom.

2. Določbe prvega odstavka tega člena se za dohodek od raziskav ne uporabljajo, če se raziskava ne opravlja v javnem interesu, ampak predvsem v zasebno korist določene osebe ali oseb.

21. člen

ŠTUDENTI

1. Plačila, ki jih študent, pripravnik ali vajenec, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoč samo z namenom svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

2. Glede plačil, ki jih ne opredeljuje prvi odstavek tega člena, in prejemkov za odvisne osebne storitve, opravljene med takim izobraževanjem ali usposabljanjem, je študent, pripravnik ali vajenec upravičen do enakih oprostitvev, odbitkov ali znižanj za davke od dohodka kot rezidenti države pogodbenice, v kateri je na obisku.

22. člen

DRUGI DOHODKI

1. Deli dohodka rezidenta države pogodbenice, ki nastanejo kjer koli in niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

2. Določbe prvega odstavka tega člena se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

23. člen

PREMOŽENJE

1. Premoženje, ki ga predstavljajo nepremičnine iz 6. člena v lasti rezidenta države pogodbenice in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premoženje, ki ga predstavljajo premičnine, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnine v zvezi s stalno bazo, ki so na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

Article 20

PROFESSORS AND RESEARCHERS

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at a university, college or other recognised educational or scientific institution in that Contracting State and who is or was immediately before that visit a resident of the other Contracting State, shall be exempted from taxation in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of his first visit for that purpose.

2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 21

STUDENTS

1. Payments which a student, an apprentice or a trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. In respect of the payments not covered by paragraph 1 of this Article, and remuneration for dependent personal services rendered during such education or training, a student, an apprentice or a trainee shall be entitled to the same exemptions, reliefs or reductions in respect of taxes on income as are available to the residents of the Contracting State he is visiting.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, 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 the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Premoženje, ki ga predstavljajo ladje ali letala, s katerimi podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, in premoženje v zvezi z opravljanjem prevozov s takimi ladjami in letali, se obdavči samo v tej državi.

4. Vsi drugi elementi premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

24. člen

METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi takole:

1. V Sloveniji:

a) kadar rezident Slovenije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Latviji, Slovenija dovoli:

(i) kot odbitek od davka od dohodka takega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Latviji;

(ii) kot odbitek od davka od premoženja takega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Latviji.

Tak odbitek pa v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v Latviji;

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga rezident Slovenije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Sloveniji, lahko Slovenija pri izračunu zneska davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

2. V Latviji:

a) kadar rezident Latvije dobi dohodek ali ima v lasti premoženje, ki se v skladu s to konvencijo lahko obdavči v Sloveniji, Latvija dovoli, če v njeni domači zakonodaji ni predvidena ugodnejša obravnava:

(i) kot odbitek od davka od dohodka takega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Sloveniji;

(ii) kot odbitek od davka od premoženja takega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Sloveniji.

Tak odbitek pa v Latviji v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v Sloveniji;

b) kadar družba, ki je rezident Latvije, prejme dividendo od družbe, ki je rezident Slovenije, v kateri ima v lasti najmanj 10 odstotkov delnic s polno glasovalno pravico, plačani davek v Sloveniji za namene pododstavka a) vključuje poleg davka, plačanega na dividendo, tudi ustrezen delež davka, plačanega na dobiček družbe, iz katere je bila dividenda plačana.

25. člen

ENAKO OBRAVNAVANJE

1. Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In Slovenia:

a) Where a resident of Slovenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Latvia, Slovenia shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Latvia;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Latvia.

Such deduction in either case shall not, however, exceed that portion of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Latvia.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Slovenia is exempt from tax in Slovenia, Slovenia may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In Latvia:

a) Where a resident of Latvia derives income or owns capital which, in accordance with this Convention, may be taxed in Slovenia, unless more favourable treatment is provided in its domestic law, Latvia shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Slovenia;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in Slovenia;

Such deduction in either case shall not, however, exceed that part of the income tax or the capital tax in Latvia, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Slovenia.

b) For the purposes of sub-paragraph a) where a company that is a resident of Latvia receives a dividend from a company that is a resident of Slovenia in which it owns at least 10 per cent of its shares having full voting rights, the tax paid in Slovenia shall include not only the tax paid on the dividend, but also the appropriate portion of the tax paid on the underlying profits of the company out of which the dividend was paid.

Article 25

NON-DISCRIMINATION

1. 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. Osebe brez državljanstva, ki so rezidenti države pogodbenice, ne smejo biti v nobeni državi pogodbenici zavezane kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te države v enakih okoliščinah, še zlasti glede rezidentstva.

3. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

4. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri določanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot če bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.

5. Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve do drugih podobnih podjetij prve omenjene države.

6. Določbe tega člena se uporabljajo ne glede na določbe 2. člena za davke vseh vrst in opisov.

26. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 25. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

2. Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. 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. This provision shall not 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.

4. 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

5. Enterprises of a 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 the first-mentioned State are or may be subjected.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26

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 Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he 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 the Convention.

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 a satisfactory 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 Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti vse težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4. Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, da bi dosegla dogovor v smislu prejšnjih odstavkov, vključno prek skupne komisije, ki jo sestavljata sama ali njuni predstavniki.

27. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njeni podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka tega člena ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

- a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,
- b) da priskrbi informacije, ki jih ni mogoče dobiti po zakonski ali običajni upravni poti te ali druge države pogodbenice,
- c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

28. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih predstavništva ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

29. člen

ZAČETEK VELJAVNOSTI

1. Vladi držav pogodbenic druga drugo uradno obvestita, ko so izpolnjene ustavne zahteve za začetek veljavnosti te konvencije.

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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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 27

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws 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 the Convention. 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 of this Article be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and 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 28

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Convention 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 29

ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other when the constitutional requirements for the entry into force of this Convention have been complied with.

2. Konvencija začne veljati na datum zadnjega uradnega obvestila iz prvega odstavka tega člena in njene določbe se uporabljajo v obeh državah pogodbenicah:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, dobljen prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, odmerjene za katero koli davčno leto, ki se začne prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

30. člen

PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je ena od držav pogodbenic ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta. V takem primeru se konvencija v obeh državah pogodbenicah preneha uporabljati:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, dobljen prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, odmerjene za katero koli davčno leto, ki se začne prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi.

V dokaz navedenega sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

Sestavljeno v dveh izvornikih v Ljubljani dne 17. aprila 2002 v slovenskem, latvijskem in angleškem jeziku, pri čemer so vsa tri besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Darko Končan l. r.

Za Vlado
Republike Latvije
Māris Riekštiņš l. r.

PROTOKOL

Ob podpisu Konvencije med Vlado Republike Slovenije in Vlado Republike Latvije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (v nadaljevanju "konvencija") sta se strani sporazumeli o naslednjih določbah, ki so sestavni del konvencije.

1. V zvezi s tretjim odstavkom 4. člena

Kadar je oseba, ki ni posameznik, rezident obeh držav pogodbenic in si pristojna organa držav pogodbenic prizadevata njen status določiti s skupnim dogovorom, pri tem upoštevata takšne dejavnike, kot sta sedež dejanske uprave, kraj, kjer je oseba registrirana ali drugače ustanovljena, in vse druge ustrezne dejavnike.

2. The Convention shall enter into force on the date of the later of notifications referred to in paragraph 1 of this Article and its provisions shall have effect in both Contracting States:

a) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

b) in respect of other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

Article 30

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to have effect in both Contracting States:

a) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;

b) in respect of other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Ljubljana this 17th day of April 2002, in the Latvian, Slovenian and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For the Government
of the Republic of Slovenia
Darko Končan, (s)

For the Government
of the Republic of Latvia
Māris Riekštiņš, (s)

PROTOCOL

at the signing of the Convention between the Government of the Republic of Slovenia and the Government of the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital (hereinafter referred to as "the Convention") both sides have agreed upon the following provisions which form an integral part of the Convention:

1. In respect to Article 4 (3)

Where a person other than an individual is a resident of both Contracting States and the competent authorities of the Contracting States endeavour to determine its status by mutual agreement, they shall have regard to such factors as the place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors.

2. V zvezi s 6. in 13. členom

Razume se, da se lahko v skladu z določbami 13. člena obdavčita celoten dohodek in dobiček iz odtujitve nepremičnin, ki so omenjene v 6. členu in so v državi pogodbenici.

V dokaz navedenega sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala ta protokol.

Sestavljeno v dveh izvornikih v Ljubljani dne 17. aprila 2002 v slovenskem, latvijskem in angleškem jeziku, pri čemer so vsa tri besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Darko Končan l. r.

Za Vlado
Republike Latvije
Māris Riekštiòs l. r.

2. In respect to Article 6 and Article 13

It is understood that all income and gains from the alienation of immovable property referred to in Article 6 and situated in a Contracting State may be taxed in accordance with the provisions of Article 13.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Ljubljana this 17th day of April 2002, in the Slovenian, Latvian and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For the Government
of the Republic of Slovenia
Darko Končan, (s)

For the Government
of the Republic of Latvia
Māris Riekštiòs, (s)

3. člen

Za izvajanje konvencije s protokolom skrbi Ministrstvo za finance.

4. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 432-01/02-25/1

Ljubljana, dne 25. oktobra 2002

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

82. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Romunijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BRODOU)

Na podlagi druge alineje prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z**O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN ROMUNIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BRODOU)**

Razglašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Romunijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BRODOU), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. oktobra 2002.

Št. 001-22-139/02
Ljubljana, 5. novembra 2002

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N**O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN ROMUNIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BRODOU)**

1. člen

Ratificira se Konvencija med Republiko Slovenijo in Romunijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, podpisana v Bukarešti 8. julija 2002.

2. člen

Konvencija se v izvorniku v slovenskem in angleškem jeziku glasi:*

K O N V E C I J A
MED REPUBLIKO SLOVENIJO IN ROMUNIJO O
IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN
PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z
DAVKI OD DOHODKA IN PREMOŽENJA

C O N V E N T I O N
BETWEEN THE REPUBLIC OF SLOVENIA AND
ROMANIA FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES
ON INCOME AND ON CAPITAL

Republika Slovenija in Romunija sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja,

sporazumeli, kot sledi:

1. člen

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

Ta konvencija se uporablja za osebe, ki so rezidenti ene ali obeh držav pogodbenic.

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

1) Ta konvencija se uporablja za davke od dohodka in premoženja, ki se uvedejo v imenu države pogodbenice ali njenih političnih enot ali lokalnih oblasti (v primeru Slovenije) ali njenih lokalnih oblasti ali upravnoozemeljskih enot (v primeru Romunije), ne glede na način njihove uvedbe.

The Republic of Slovenia and Romania, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

(1) This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities (in the case of Slovenia) or of its local authorities or administrative - territorial units (in the case of Romania), irrespective of the manner in which they are levied.

* Besedilo konvencije v romunskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

2) Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin ter davki na zvišanje vrednosti premoženja.

3) Obstoječi davki, za katere se uporablja konvencija, so zlasti:

a) za Slovenijo:

- i) davek od dobička pravnih oseb;
- ii) davek od dohodka posameznikov, vključno z dohodkom iz zaposlitve, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, kapitalskimi dobički in dohodkom iz nepremičnin in premičnin;
- iii) davek od premoženja (v nadaljevanju "slovenski davek");

b) za Romunijo:

- i) davek od dohodka;
- ii) davek od dobička;
- iii) davek od dohodka iz kmetijskih dejavnosti;
- iv) davek od premoženja (v nadaljevanju "romunski davek").

4) Konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Na koncu vsakega leta pristojna organa držav pogodbenic drug drugega uradno obvestita o kakršnih koli spremembah njunih davčnih zakonodaj.

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1) Za namene te konvencije, razen če sobesedilo zahteva drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, ozemlje Republike Slovenije, vključno s teritorialnim morjem, morskim dnem in podzemljem ob teritorialnem morju, če Slovenija lahko nad takim teritorialnim morjem, morskim dnem in podzemljem izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz "Romunija" pomeni državno ozemlje Romunije, vključno z njenim teritorialnim morjem in zračnim prostorom nad ozemljem in teritorialnim morjem, nad katerim Romunija izvaja suverenost, kakor tudi zunanji pas, epikontinentalni pas in izključno ekonomsko cono, nad katerimi Romunija izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo zakonodajo ter s pravili in načeli mednarodnega prava;

c) izraza "država pogodbenica" in "druga država pogodbenica" pomenita, kot zahteva sobesedilo, Slovenijo ali Romunijo;

d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;

e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;

f) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes to which the Convention shall apply are in particular:

a) in Slovenia:

- (i) the tax on profits of legal persons;
- (ii) the tax on income of individuals, including income from employment, income from agricultural activities, income from business, capital gains and income from immovable and movable property;
- (iii) the tax on property; (hereinafter referred to as "Slovenian tax");

b) in Romania:

- (i) the tax on income;
- (ii) the tax on profit;
- (iii) the tax on agricultural income;
- (iv) the tax on property; (hereinafter referred to as "Romanian tax").

(4) The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

(1) For the purposes of this Convention, unless the context otherwise requires:

a) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of the Republic of Slovenia, including the territorial sea, sea bed and subsoil adjacent to the territorial sea to the extent the Republic of Slovenia exercises its sovereign rights or jurisdiction over such territorial sea, sea area, sea bed and subsoil in accordance with its domestic legislation and international law;

b) the term "Romania" means the state territory of Romania, including its territorial sea and air space over the territory and the territorial sea over which Romania exercises sovereignty, as well as the contiguous zone and the continental shelf and the exclusive economic zone over which Romania exercises, in accordance with its legislation and with the rules and principles of international law, sovereign rights and jurisdiction;

c) the terms "a Contracting State" and "the other Contracting State" mean Slovenia or Romania as the context requires;

d) the term "person" includes an individual, a company and any other body of persons;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

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) izraz "pristojni organ" pomeni:

i) za Slovenijo Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;

ii) za Romunijo Ministrstvo za finance Romunije ali pooblaščenega predstavnika tega ministrstva;

h) izraz "državljan" pomeni:

i) za Slovenijo katerega koli posameznika, ki ima državljanstvo Republike Slovenije, in katero koli pravno osebo, osebno družbo in združenje, katerih status izhaja iz veljavnih zakonov v Republiki Sloveniji;

ii) za Romunijo katerega koli posameznika, ki ima državljanstvo Romunije, in katero koli pravno osebo, osebno družbo in združenje, katerih status izhaja iz veljavnih zakonov v Romuniji;

i) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo, letalom, železniškim ali cestnim vozilom, ki ga opravlja podjetje, ki ima sedež dejanske uprave v državi pogodbenici, razen če ladja, letalo, železniško ali cestno vozilo opravlja prevoze samo med kraji v drugi državi pogodbenici.

2) Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer kateri koli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

4. člen REZIDENT

1) Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave, kraja registracije ali katerega koli drugega podobnega merila, in tudi vključuje to državo, njene politične enote ali lokalne oblasti (v primeru Slovenije) in njene lokalne oblasti ali upravnozemeljske enote (v primeru Romunije). Ta izraz pa ne vključuje katere koli osebe, ki je dolžna v tej državi plačevati davke samo v zvezi z dohodki iz virov v tej državi ali od premoženja v njej.

2) Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

a) šteje se samo za rezidenta države, v kateri ima na razpolago stalno prebivališče; če ima stalno prebivališče na razpolago v obeh državah, se šteje samo za rezidenta države, s katero ima tesnejše osebne in ekonomske odnose (središče življenjskih interesov);

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;

c) če ima običajno bivališče v obeh državah ali v nobeni od njiju, se šteje samo za rezidenta države, katere državljan je;

d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

g) the term "competent authority" means:

(i) in Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorized representative;

(ii) in Romania: the Ministry of Finance of Romania or its authorized representative;

h) the term "national" means:

(i) in the case of Slovenia any individual possessing the nationality of the Republic of Slovenia and any legal person, partnership and association deriving its status as such from the laws in force in the Republic of Slovenia;

(ii) in the case of Romania any individual possessing the citizenship of Romania and any legal person, partnership and association deriving its status as such from the laws in force in Romania;

i) the term "international traffic" means any transport by a ship, aircraft, railway or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft, railway or road vehicle is operated solely between places in the other Contracting State.

(2) As regards the application of the Convention 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 Convention 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 Convention, 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, place of registration or any other criterion of a similar nature, and also includes that State, its political subdivisions or local authorities (in the case of Slovenia) and its local authorities or administrative - territorial units (in the case of Romania) 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 or capital situated therein.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his 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 has not 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 an habitual abode;

c) if he 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) Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je samo rezident države, v kateri ima sedež dejanske uprave.

5. člen

STALNA POSLOVNA ENOTA

1) Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

2) Izraz "stalna poslovna enota" še posebej vključuje:

- a) sedež uprave;
- b) podružnico;
- c) pisarno;
- d) tovarno;
- e) delavnico in
- f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3) Gradbišče ali projekt gradnje ali montaže je stalna poslovna enota samo, če traja več kot dvanajst mesecev.

4) Ne glede na prejšnje določbe tega člena se šteje, da izraz "stalna poslovna enota" ne vključuje:

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, ki se razstavlja na gospodarskem sejmu ali razstavi in ki ga podjetje na koncu takega sejma ali razstave proda;

e) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga ali zbiranja informacij za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za namen izvajanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

g) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do f), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

5) Ne glede na določbe prvega in drugega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek – deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti te osebe omejene na tiste iz četrtega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

(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 Convention, 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" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve 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 stock of goods or merchandise belonging to the enterprise, which is exhibited at a trade fair or exhibition, and which is sold by the enterprise at the end of such fair or exhibition;

e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

f) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

g) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (f), 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 - other than an agent of an independent status to whom paragraph 7 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person 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) Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

7) Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

6. člen

DOHODEK IZ NEPREMIČNIN

1) Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom iz kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2) Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje, čolni, letala, železniška in cestna vozila se ne štejejo za nepremičnine.

3) Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

4) Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

7. člen

POSLOVNI DOBIČEK

1) Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje posluje v drugi državi pogodbenic prek stalne poslovne enote v njej. Če podjetje posluje, kot je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripiše tej stalni poslovni enoti.

2) Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

(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, aircraft, railway and road vehicles 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) Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4) Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5) Stalni poslovni enoti se ne pripiše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.

6) Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če obstaja upravičen in zadosten razlog za nasprotno.

7) Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

8. člen

MEDNARODNI PROMET

1) Dobiček iz prevozov z ladjami, letali, železniškimi ali cestnimi vozili v mednarodnem prometu, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

2) Če je sedež dejanske uprave ladjarskega podjetja na krovu ladje, se šteje, da je v državi pogodbenici, v kateri ima ladja matično pristanišče, ali če nima takega matičnega pristanišča, v državi pogodbenici, katere rezident je ladijski prevoznik.

3) Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevozni agenciji.

9. člen

POVEZANA PODJETJA

1) Kadar:

a) je podjetje države pogodbenice neposredno ali posredno udeleženo pri upravljanju, nadzoru ali v kapitalu podjetja druge države pogodbenice ali

b) so iste osebe neposredno ali posredno udeležene pri upravljanju, nadzoru ali v kapitalu podjetja države pogodbenice in podjetja druge države pogodbenice

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes 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.

(4) Insofar 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 by 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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

INTERNATIONAL TRAFFIC

(1) Profits from the operation of ships, aircraft, railway or road 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, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship 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 ENTERPRISES

(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) Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je že bilo obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključeni dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država lahko ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

10. člen DIVIDENDE

1) Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2) Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne presega 5 odstotkov bruto zneska dividend. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3) Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic, rudniških delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih pravic v družbi, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

4) Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5) Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

(2) Where a Contracting State includes in the profits of an enterprise of the 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 Convention 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 5 per cent of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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, mining shares, founders' 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 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 that 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 case the provisions of Article 7 or Article 14, 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 insofar as such dividends are paid to a resident of that other State or insofar 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 the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

11. člen
OBRESTI

1) Obresti, ki nastanejo v državi pogodbenici in se izplačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2) Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3) Ne glede na določbe drugega odstavka:

a) so obresti, ki nastanejo v Sloveniji in se plačajo vladi Romunije, vključno z njenimi lokalnimi oblastmi ali upravnoozemeljskimi enotami, Narodno banko Romunije, Banco de Export-Import a Romaniei – S.A. (Eximbank), in obresti, ki se plačajo v zvezi s posojilom, za katero je dala garancijo Banca de Export-Import a Romaniei – S.A. (Eximbank), oproščene slovenskega davka;

b) so obresti, ki nastanejo v Romuniji in se plačajo vladi Slovenije, vključno z njenimi političnimi enotami ali lokalnimi oblastmi, Banko Slovenije, Slovensko izvozno družbo, ali obresti, ki se plačajo v zvezi s posojilom, za katero je dala garancijo Slovenska izvozna družba, oproščene romunskega davka.

4) Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam ali zadolžnicam. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5) Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6) Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi pogodbenici, v kateri je stalna poslovna enota ali stalna baza.

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 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

(3) Notwithstanding the provisions of paragraph 2,

a) interest arising in Slovenia and paid to the Government of Romania, including its local authorities or administrative - territorial units, the National Bank of Romania, the Banca de Export-Import a Romaniei - S.A. (Eximbank) and interest paid in consideration of a loan guaranteed by the Banca de Export-Import a Romaniei - S.A. (Eximbank) shall be exempt from Slovenian tax;

b) interest arising in Romania and paid to the Government of Slovenia, including its political subdivisions or local authorities, the Bank of Slovenia, the Slovene Export Company (Slovenska Izvozna Družba) or interest paid in consideration of a loan guaranteed by the Slovene Export Company (Slovenska Izvozna Družba) shall be exempt from Romanian tax.

(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.

(5) The provisions of paragraphs 1, 2 and 3 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 Article 14, 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 Contracting State in which the permanent establishment or fixed base is situated.

7) Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. člen

LICENČNINE IN AVTORSKI HONORARJI

1) Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2) Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3) Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4) Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5) Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take licenčnine in avtorski honorarji nastali v državi pogodbenici, v kateri je stalna poslovna enota ali stalna baza.

(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 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 Convention.

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 if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

(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, any patent, trade mark, design or model, plan, secret formula or process, or for the use or for the right to use of any industrial, commercial or scientific equipment, 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 14, 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6) Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek licenčnih in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

13. člen

KAPITALSKI DOBIČEK

1) Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu, in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2) Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

3) Dobiček iz odtujitve ladij, letal, železniških ali cestnih vozil, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami, letali, železniškimi ali cestnimi vozili, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4) Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo delnic ali primerljivih pravic v družbi, katere sredstva v celoti sestavljajo nepremičnine v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

5) Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prvem do četrtem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

14. člen

SAMOSTOJNE OSEBNE STORITVE

1) Dohodek, ki ga dobi rezident države pogodbenice iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripiše tej stalni bazi.

2) Izraz "poklicne storitve" vključuje še posebej samostojne znanstvene, literarne, umetniške, izobraževalne ali pedagoške dejavnosti kot tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

(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, 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 Convention.

Article 13

CAPITAL GAINS

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

(3) Gains from the alienation of ships, aircraft, railway or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft, railway or road vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests in a company, the assets of which consist wholly of immovable property situated in the other Contracting State, may be taxed in that other State.

(5) Gains from the alienation of any property other than that referred to in paragraphs 1 to 4 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

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.

15. člen

ODVISNE OSEBNE STORITVE

1) V skladu z določbami 16., 18., 19., 20. in 21. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

2) Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem koledarskem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu in

c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3) Ne glede na prejšnje določbe tega člena se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve na ladji, letalu, železniškem ali cestnem vozilu, s katerim se opravljajo prevozi v mednarodnem prometu, lahko obdavči v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

16. člen

PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. člen

UMETNIKI IN ŠPORTNIKI

1) Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

2) Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne pripíše samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3) Ne glede na določbe prvega in drugega odstavka tega člena pa se dohodek, ki ga rezident države pogodbenice dobi iz osebnih storitev kot nastopajoči izvajalec ali športnik, obdavči samo v prvi omenjeni državi pogodbenici, če storitve v drugi državi pogodbenici izvaja v okviru programa kulturne ali športne izmenjave, ki ga odobrita državi pogodbenici.

Article 15

DEPENDENT PERSONAL SERVICES

(1) Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 months period commencing or ending in the calendar 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 by a resident of a Contracting State in respect of an employment exercised aboard a ship, aircraft, railway or road 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 16

DIRECTORS' FEES

Directors' fees and other 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 17

ARTISTES AND SPORTSMEN

(1) Notwithstanding the provisions of Articles 14 and 15, 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 a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

(3) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, however, income derived from personal activities by a resident of a Contracting State in his capacity of a performer or sportsman shall be taxable only in the first-mentioned Contracting State if the activities have been performed in the other Contracting State within the scope of cultural or sports exchange program approved by both Contracting States.

18. člen

POKOJNINE IN ANUITETE

1) V skladu z določbami drugega odstavka 19. člena se pokojnine, anuitete in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

2) Ne glede na določbe prvega odstavka tega člena se pokojnine in druga podobna plačila, ki se plačujejo v skladu z zakonodajo države pogodbenice o socialni varnosti, obdavčijo samo v tej državi.

3) Izraz "anuiteta" pomeni določen znesek, ki se redno plačuje ob določenem času vse življenje ali v določenem ali ugotovljivem časovnem obdobju, z obveznostjo izvršitve plačil za primerno in celotno nadomestilo v denarju ali denarni vrednosti.

19. člen

DRŽAVNA SLUŽBA

1) a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačujejo država pogodbenica, njene politične enote ali lokalne oblasti (v primeru Slovenije) in njene lokalne oblasti ali upravnozemeljske enote (v primeru Romunije) posamezniku za storitve, ki jih opravi za to državo ali politično enoto ali oblast ali upravnozemeljsko enoto, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

- i) je državljan te države ali
- ii) ni postal rezident te države samo za namen opravljanja storitev.

2) a) Vsaka pokojnina, plačana iz skladov države pogodbenice, njenih političnih enot ali lokalnih oblasti (v primeru Slovenije) in njenih lokalnih oblasti ali upravnozemeljskih enot (v primeru Romunije) posamezniku za storitve, opravljene za to državo ali politično enoto ali oblast ali enoto, se obdavči samo v tej državi.

b) Taka pokojnina pa se obdavči samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

3) Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli, ki jih opravljajo država pogodbenica, njene politične enote ali lokalne oblasti (v primeru Slovenije) in njene lokalne oblasti ali upravnozemeljske enote (v primeru Romunije).

20. člen

PROFESORJI IN RAZISKOVALCI

1) Oseba, ki je ali je bila tik pred obiskom druge države pogodbenice rezident države pogodbenice in ki je na povabilo univerze, višje ali visoke šole, šole ali druge podobne neprofitne izobraževalne ustanove, ki jo priznava vlada te druge države pogodbenice, navzoča v tej drugi državi pogodbenici v obdobju, ki ni daljše od dveh let od datuma prvega prihoda v to drugo državo pogodbenico samo za namen poučevanja ali raziskovanja ali obojega v taki izobraževalni ustanovi, je v tej drugi državi pogodbenici oproščena davka na prejemke za tako poučevanje ali raziskovanje.

Article 18

PENSIONS AND ANNUITIES

(1) Subject to the provisions of paragraph 2 of Article 19, pensions, annuities and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph 1 of this Article pensions and other similar payments made under the social security legislation of a Contracting State shall be taxable only in that State.

(3) The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under a commitment with an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19

GOVERNMENT SERVICE

(1) a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State, its political subdivisions or local authorities (in the case of Slovenia) and its local authorities or administrative - territorial units (in the case of Romania) thereof to an individual in respect of services rendered to that State or political subdivision or authority or unit 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, its political subdivisions or local authorities (in the case of Slovenia) and its local authorities or administrative - territorial units (in the case of Romania) thereof to an individual in respect of services rendered to that State or political subdivision or authority or unit 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 15, 16, 17 and 18 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, its political subdivisions or local authorities (in the case of Slovenia) and its local authorities or administrative - territorial units (in the case of Romania) thereof.

Article 20

PROFESSORS AND RESEARCHERS

(1) An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of any university, college, school or other similar non-profitable educational institution, which is recognised by the Government of that other Contracting State, is present in that other Contracting State for a period not exceeding 2 years from the date of his first arrival in that other Contracting State, solely for the purpose of teaching or research or both, at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for teaching or research.

2) Določbe prvega odstavka tega člena se ne uporabljajo za prejemke za raziskave, če se take raziskave ne izvajajo v javno korist, ampak v zasebno korist določene osebe ali oseb.

21. člen

ŠTUDENTI IN PRIPRAVNIKI

1) Plačila, ki jih študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoč samo z namenom svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

2) Študent na univerzi ali drugi visokošolski ustanovi v državi pogodbenici ali pripravnik ali praktikant v trgovini, industriji, kmetijstvu ali gozdarstvu, ki je ali je bil tik pred obiskom druge države pogodbenice rezident prve omenjene države in je v drugi državi pogodbenici navzoč nepretrgoma v obdobju, ki ni daljše od 5 let, se v tej drugi državi ne obdavči za prejemke za storitve, ki jih opravi v tej državi, pod pogojem, da so storitve povezane s študijem ali usposabljanjem in da plačila pomenijo dohodek, potreben za njegovo vzdrževanje.

22. člen

DRUGI DOHODKI

1) Deli dohodka rezidenta države pogodbenice, ki nastanejo kjer koli in ki niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

2) Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

23. člen

PREMOŽENJE

1) Premoženje, ki ga predstavljajo nepremičnine iz 6. člena v lasti rezidenta države pogodbenice in so v drugi državi pogodbenici, se lahko obdavčijo v tej drugi državi.

2) Premoženje, ki ga predstavljajo premičnine, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnine v zvezi s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

3) Premoženje, ki ga predstavljajo ladje, letala, železniška in cestna vozila, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnine v zvezi z opravljanjem prevozov s takimi vozili, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

(2) The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

Article 21

STUDENTS AND BUSINESS APPRENTICES

(1) Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

(2) A student at a university or other institution for higher education in a Contracting State, or an apprentice or business, technical, agricultural or forestry trainee, who is or was immediately before visiting the other Contracting State a resident of the first-mentioned State and who is present in the other Contracting State for a continuous period not exceeding 5 years, shall not be taxed in that other State in respect of remuneration for services rendered in that State, provided that the services are in connection with studies or training and the remuneration constitutes earnings necessary for his maintenance.

Article 22

OTHER INCOME

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, 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 the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 as the case may be, shall apply.

Article 23

CAPITAL

(1) Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

(2) Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

(3) Capital represented by ships, aircraft, railway and road vehicles operated in international traffic, and by movable property pertaining to the operation of such means of transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4) Vsi drugi elementi premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

24. člen

ODPRAVA DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi, kot sledi:

1) v Sloveniji:

a) kadar rezident Slovenije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Romuniji, Slovenija dovoli:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Romuniji;

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Romuniji.

Tak odbitek v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvsnno od primera, ki se lahko obdavči v Romuniji;

b) kadar je v skladu s katero koli določbo konvencije dohodek, ki ga rezident Slovenije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Sloveniji, lahko Slovenija pri izračunu zneska davka od preostalega dohodka ali premoženja tega rezidenta vseeno upošteva oproščeni dohodek ali premoženje;

2) v Romuniji:

a) kadar rezident Romunije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Sloveniji, Romunija dovoli:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Sloveniji;

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Sloveniji.

Tak odbitek v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvsnno od primera, ki se lahko obdavči v Sloveniji.

25. člen

ENAKO OBRAVNAVANJE

1) Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

2) Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

(4) All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

(1) In Slovenia:

a) Where a resident of Slovenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Romania, Slovenia shall allow:

i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Romania;

ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Romania.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Romania.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Slovenia is exempt from tax in Slovenia, Slovenia may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

(2) In Romania:

Where a resident of Romania derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Slovenia, Romania shall allow:

i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Slovenia;

ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Slovenia.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Slovenia.

Article 25

NON-DISCRIMINATION

(1) 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. This provision shall not 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.

3) Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri določanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot če bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.

4) Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve do drugih podobnih podjetij prve omenjene države.

5) Določbe tega člena se uporabljajo ne glede na določbe 2. člena za davke vseh vrst in opisov.

26. člen

POSTOPEK SKUPNEGA DOGOVORA

1) Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 25. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

2) Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

3) Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4) Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, da bi dosegla dogovor v smislu prejšnjih odstavkov. Kadar se za doseglo dogovora zdi priporočljiva ustna izmenjava mnenj, lahko taka izmenjava poteka prek komisije, ki jo sestavljajo predstavniki pristojnih organov držav pogodbenic.

(3) 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

(4) Enterprises of a 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 the first-mentioned State are or may be subjected.

(5) The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26

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 Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25 to that of the Contracting State of which he 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 the Convention.

(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 a satisfactory 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 Convention. 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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

27. člen

IZMENJAVA INFORMACIJ

1) Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2) V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,

b) da priskrbi informacije, ki jih ni mogoče dobiti po zakonski ali običajni upravni poti te ali druge države pogodbenice,

c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

28. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih predstavništva in konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

29. člen

ZAČETEK VELJAVNOSTI

1) Ta konvencija začne veljati trideseti dan po zadnjem uradnem obvestilu, s katerim državi pogodbenici druga drugo obvestita, da so izpolnjene notranjepravne zahteve za začetek veljavnosti te konvencije, in njene določbe se uporabljajo:

i) v zvezi z davki, zadržanimi pri viru, za dohodke, dobljene prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija; in

ii) v zvezi z drugimi davki za dobiček, dohodek in premoženje, dobljeno prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

Article 27

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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 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 28

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 29

ENTRY INTO FORCE

(1) This Convention shall enter into force on the thirtieth day of the latter of the notification through which the Contracting States shall notify to each other that the domestic requirements for the entry into force of this Convention have been complied with and its provisions shall have effect:

(i) in respect of taxes withheld at source to the income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force; and

(ii) in respect of other taxes on profit, income and on capital derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

2) Konvencija med Socialistično federativno republiko Jugoslavijo in Socialistično republiko Romunijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja, ki je bila podpisana 29. aprila 1986 v Beogradu, med Republiko Slovenijo in Romunijo preneha veljati za davke, za katere se v skladu z določbami prvega odstavka uporablja ta konvencija.

30. člen

PRENEHANJE VELJAVNOSTI

Ta konvencija velja za nedoločen čas, vendar jo lahko vsaka država pogodbenica odpove po petih letih od datuma začetka veljavnosti konvencije pod pogojem, da najmanj šest mesecev pred tem po diplomatski poti da obvestilo o odpovedi. V takem primeru se ta konvencija preneha uporabljati:

- i) v zvezi z davki, zadržanimi pri viru, za dohodke, dobljene prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi, in
- ii) v zvezi z drugimi davki za dobiček, dohodek in premoženje, dobljeno prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

SESTAVLJENO v dveh izvornikih v Bukarešti dne 8. julija 2002 v slovenskem, romunskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj pri razlagi prevlada angleško besedilo.

ZA REPUBLIKO SLOVENIJO
dr. Dimitrij Rupel l. r.

ZA ROMUNIJO
Mircea Geoana l. r.

(2) The Convention between the Socialist Federal Republic of Yugoslavia and Socialist Republic of Romania for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital signed at Beograd on 29th April 1986 shall cease to have effect in relation between the Republic of Slovenia and Romania as regards the taxes to which this Convention applies in accordance with the provisions of paragraph 1.

Article 30

TERMINATION

This Convention shall remain in force indefinitely, but either Contracting State may terminate the Convention after five years from the date on which the Convention enters into force provided that at least six months prior a written notice of termination has been given through diplomatic channels. In such event, this Convention shall cease to have effect:

- (i) in respect of taxes withheld at source to the income derived on or after the first day of January in the calendar year next following the year in which the notice of termination is given; and
- (ii) in respect of other taxes on profit, income and on capital derived on or after the first day of January in the calendar year next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE in duplicate, at Bucharest this 8th day of July 2002, each in the Slovenian, Romanian and English languages, all the texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE REPUBLIC OF SLOVENIA FOR ROMANIA
Dr Dimitrij Rupel, (s) Mircea Geoana, (s)

3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

4. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 432-01/02-23/1
Ljubljana, dne 25. oktobra 2002

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

83. Uredba o ratifikaciji Dodatnega protokola št. 1 k Sporazumu o prosti trgovini med Republiko Slovenijo in Republiko Hrvaško

Na podlagi tretje alineje petega odstavka 75. člena Zakona o zunanjih zadevah (Uradni list RS, št. 45/01) izdaja Vlada Republike Slovenije

U R E D B O
O RATIFIKACIJI DODATNEGA PROTOKOLA ŠT. 1 K SPORAZUMU O PROSTI TRGOVINI MED
REPUBLIKO SLOVENIJO IN REPUBLIKO HRVAŠKO

1. člen

Ratificira se Dodatni protokol št. 1 k Sporazumu o prosti trgovini med Republiko Slovenijo in Republiko Hrvaško, podpisan v Ljubljani 9. maja 2002.

2. člen

Dodatni protokol se v izvirniku v slovenskem in angleškem jeziku glasi*:

DODATNI PROTOKOL ŠT. 1
K SPORAZUMU O PROSTI TRGOVINI
MED REPUBLIKO SLOVENIJO IN
REPUBLIKO HRVAŠKO

Republika Slovenija in Republika Hrvaška (v nadaljevanju pogodbenici) sta se

ob upoštevanju Sporazuma o prosti trgovini med Republiko Slovenijo in Republiko Hrvaško, podpisanega 12. decembra 1997 v Zagrebu, še posebej določb 12. člena;

glede na to, da obstaja močan interes obeh pogodbenic za večjo medsebojno zunanjetrgovinsko menjavo tudi na področju trgovine s kmetijskimi in živilskimi izdelki;

trdno prepričani, da bo ta dodatni protokol spodbudil intenzivnejše medsebojno koristne trgovinske odnose med njima in prispeval k procesu povezovanja v Evropi, in

v skladu z določbami 38. člena Sporazuma o prosti trgovini med Republiko Slovenijo in Republiko Hrvaško

odločili:

1. člen

Protokol 2 iz prvega odstavka 12. člena Sporazuma o prosti trgovini med Republiko Slovenijo in Republiko Hrvaško se nadomesti z novim Protokolom 2, ki je sestavni del tega dodatnega protokola.

2. člen

Ta dodatni protokol je sestavni del Sporazuma o prosti trgovini med Republiko Slovenijo in Republiko Hrvaško.

ADDITIONAL PROTOCOL No. 1
TO THE FREE TRADE AGREEMENT BETWEEN
THE REPUBLIC OF SLOVENIA AND
THE REPUBLIC OF CROATIA

The Republic of Slovenia and the Republic of Croatia (hereinafter "the Parties"),

Taking into account the Free Trade Agreement between the Republic of Slovenia and the Republic of Croatia signed on December 12, 1997 in Zagreb, in particular the provisions of Article 12;

Considering the strong interest of both Parties to increase mutual foreign trade also in the field of trade with agricultural and food products;

Firmly convinced that this Additional Protocol will foster the intensification of mutually beneficial trade relations between the Parties and contribute to the process of integration in Europe;

In accordance with the provisions of Article 38 of the Free Trade Agreement between the Republic of Slovenia and the Republic of Croatia;

Have decided as follows:

Article 1

Protocol 2 referred to in paragraph 1 of Article 12 of the Free Trade Agreement between the Republic of Slovenia and the Republic of Croatia shall be replaced with new Protocol 2, which shall constitute an integral part of this Additional Protocol.

Article 2

This Additional Protocol shall constitute an integral part of the Free Trade Agreement between the Republic of Slovenia and the Republic of Croatia.

* Besedilo dodatnega protokola v hrvaškem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

3. člen

Ta dodatni protokol začne veljati na dan prejema zadnjega uradnega obvestila o izpolnitvi notranjepravnih pogojev za začetek veljavnosti in se začasno uporablja od prvega dne drugega meseca po njegovem podpisu.

V POTRDITEV TEGA sta podpisana pooblaščenca, ki sta bila za to pravilno pooblaščenca, podpisala ta dodatni protokol.

Sestavljeno v Ljubljani dne 9. maja 2002 v dveh izvodih v slovenskem, hrvaškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Ob različnih razlagah je odločilno angleško besedilo.

Za Republiko Slovenijo
Renata Vitez l. r.

Za Republiko Hrvaško
Olgica Spevec l. r.

PROTOKOL 2

(omenjen v prvem odstavku 12. člena)

**IZMENJAVA KMETIJSKIH UGODNOSTI
MED REPUBLIKO SLOVENIJO IN
REPUBLIKO HRVAŠKO**

1. Carine pri uvozu, ki se v Republiki Hrvaški uporabljajo za izdelke s poreklom iz Republike Slovenije, in carine pri uvozu, ki se v Republiki Sloveniji uporabljajo za izdelke s poreklom iz Republike Hrvaške, ki so naštetih v Prilogi A k temu protokolu, se odpravijo na dan začetka uporabe tega dodatnega protokola.

2. Carine pri uvozu, ki se v Republiki Hrvaški uporabljajo za izdelke s poreklom iz Republike Slovenije, in carine pri uvozu, ki se v Republiki Sloveniji uporabljajo za izdelke s poreklom iz Republike Hrvaške, ki so naštetih v Prilogi B k temu protokolu, se znižajo na raven, kot jo določa ta priloga, od dneva začetka uporabe tega dodatnega protokola.

3. Carine pri uvozu, ki se uporabljajo v Republiki Hrvaški za izdelke s poreklom iz Republike Slovenije, ki so naštetih v Prilogi C k temu protokolu, se znižajo ali odpravijo v mejah kvot, določenih v tej prilogi, na raven, kot jo določa ta priloga, od dneva začetka uporabe tega dodatnega protokola.

4. Carine pri uvozu, ki se uporabljajo v Republiki Sloveniji za izdelke s poreklom iz Republike Hrvaške, ki so naštetih v Prilogi D k temu protokolu, se znižajo ali odpravijo v mejah kvot, določenih v tej prilogi, na raven, kot jo določa ta priloga, od dneva začetka uporabe tega dodatnega protokola.

5. Pogodbenici za postavke, vključene v Priloge B, C in D, uporabljata carinsko stopnjo MFN, kadar je ta nižja kot je carinska stopnja, določena v omenjenih prilogah.

Article 3

This Additional Protocol shall enter into force on the day of the receipt of the last notification confirming that the respective internal legal requirements for the entry into force have been fulfilled, and shall be applied provisionally from the first day of the second month following its signing.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed this Additional Protocol.

Done at Ljubljana, this 9th day of May 2002 in duplicate copies in the Slovenian, Croatian and English languages, all texts being equally authentic. In case of divergences in interpretation the English text shall prevail.

For the Republic of Slovenia For the Republic of Croatia
Renata Vitez (s) **Olgica Spevec** (s)

PROTOKOL 2

(referred to in paragraph 1 of Article 12)

**EXCHANGE OF AGRICULTURAL CONCESSIONS
BETWEEN THE REPUBLIC OF SLOVENIA AND
THE REPUBLIC OF CROATIA**

1. Customs duties on imports applicable in the Republic of Croatia to products originating in the Republic of Slovenia and customs duties on imports applicable in the Republic of Slovenia to products originating in the Republic of Croatia listed in Annex A to this Protocol shall be abolished on the date of application of this Additional Protocol.

2. Customs duties on imports applicable in the Republic of Croatia to products originating in the Republic of Slovenia and customs duties on imports applicable in the Republic of Slovenia to products originating in the Republic of Croatia listed in Annex B to this Protocol shall be reduced to the level set out in this Annex as from the date of application of this Additional Protocol.

3. Customs duties on imports applicable in the Republic of Croatia to products originating in the Republic of Slovenia listed in Annex C to this Protocol shall be reduced or abolished within the limits of quotas specified in this Annex to the level set out in this Annex as from the date of application of this Additional Protocol.

4. Customs duties on imports applicable in the Republic of Slovenia to products originating in the Republic of Croatia listed in Annex D to this Protocol shall be reduced or abolished within the limits of quotas specified in this Annex to the level set out in this Annex as from the date of application of this Additional Protocol.

5. The Parties shall apply MFN duty rate for items included in Annexes B, C and D when this is lower than the duty rate specified in the respective Annexes.

PRILOGA A K PROTOKOLU 2
(OZNAKA HS 2002)

0101	0712 90 19	1203	1522
0102 10	0712 90 30	1204	1603
0103 10	0712 90 50	1205 10 10	1605
0104	0712 90 90	1206 00 10	1702 20
0106	0713	1207 10	1704
0204	0714	1207 20	1801
0205	0801	1207 30	1802
0206	0802	1207 40	1803
0208	0803	1207 50	1804
0301 10	0804	1207 60	1805
0301 91	0805	1207 99	1902 40
0301 92	0806 20	1208	1903
0301 99	0807 20	1209	1905 31
0302	0808 20	1210	1905 32
0303	0810 40	1211	1905 40
0304	0810 50	1212 10	1905 90
0305	0810 60	1212 20	2003 20
0306	0810 90	1212 30	2005 70
0307	0812	1212 99	2008 11
0501	0813	1213	2008 19
0502	0814	1214	2008 20
0503	0901	1301	2008 30
0504	0902	1302	2009 11
0505	0903	1401	2009 12
0506	0904	1402	2009 19
0507	0905	1403	2009 21
0508	0906	1404	2009 29
0509	0907	1501	2009 31
0510	0908	1502	2009 39
0511	0909 10	1503	2009 41
0601	0909 20	1504	2009 49
0602	0909 50	1505	2101 11
0604	0910	1506	2101 12
0701 10	1001 10	1507	2101 20
0709 10	1005 10	1508	2103 10
0709 30	1006	1510	2301
0709 40	1007	1511	2302
0709 52	1008	1512 21	2303
0711	1102 30	1512 29	2304
0712 31	1103 19 50	1513	2305
0712 32	1106	1515	2306
0712 33	1107	1518	2307
0712 39	1201	1520	2308
0712 90 11	1202	1521	2309

ANNEX A TO PROTOCOL 2
(HS CODE 2002)

0101	0712 90 19	1203	1522
0102 10	0712 90 30	1204	1603
0103 10	0712 90 50	1205 10 10	1605
0104	0712 90 90	1206 00 10	1702 20
0106	0713	1207 10	1704
0204	0714	1207 20	1801
0205	0801	1207 30	1802
0206	0802	1207 40	1803
0208	0803	1207 50	1804
0301 10	0804	1207 60	1805
0301 91	0805	1207 99	1902 40
0301 92	0806 20	1208	1903
0301 99	0807 20	1209	1905 31
0302	0808 20	1210	1905 32
0303	0810 40	1211	1905 40
0304	0810 50	1212 10	1905 90
0305	0810 60	1212 20	2003 20
0306	0810 90	1212 30	2005 70
0307	0812	1212 99	2008 11
0501	0813	1213	2008 19
0502	0814	1214	2008 20
0503	0901	1301	2008 30
0504	0902	1302	2009 11
0505	0903	1401	2009 12
0506	0904	1402	2009 19
0507	0905	1403	2009 21
0508	0906	1404	2009 29
0509	0907	1501	2009 31
0510	0908	1502	2009 39
0511	0909 10	1503	2009 41
0601	0909 20	1504	2009 49
0602	0909 50	1505	2101 11
0604	0910	1506	2101 12
0701 10	1001 10	1507	2101 20
0709 10	1005 10	1508	2103 10
0709 30	1006	1510	2301
0709 40	1007	1511	2302
0709 52	1008	1512 21	2303
0711	1102 30	1512 29	2304
0712 31	1103 19 50	1513	2305
0712 32	1106	1515	2306
0712 33	1107	1518	2307
0712 39	1201	1520	2308
0712 90 11	1202	1521	2309

PRILOGA B K PROTOKOLU 2
(OZNAKA HS 2002)

Oznaka HS	Carinska stopnja (%)
0102 90	15
0103 91	10
0103 92	15
0105 12	9
0105 19	9
0105 92	10
0105 93	10
0105 99	10
0207 12	28
0207 14 10	28
0207 14 20	28

ANNEX B TO PROTOCOL 2
(HS CODE 2002)

HS Code	Duty rate (%)
0102 90	15
0103 91	10
0103 92	15
0105 12	9
0105 19	9
0105 92	10
0105 93	10
0105 99	10
0207 12	28
0207 14 10	28
0207 14 20	28

Oznaka HS	Carinska stopnja (%)	HS Code	Duty rate (%)
0207 14 30	28	0207 14 30	28
0207 14 40	28	0207 14 40	28
0207 14 50	28	0207 14 50	28
0207 14 60	28	0207 14 60	28
0207 14 70	28	0207 14 70	28
0207 14 91	10	0207 14 91	10
0207 14 99	28	0207 14 99	28
0207 27 91	10	0207 27 91	10
0207 36 81	10	0207 36 81	10
0207 36 85	10	0207 36 85	10
0207 36 89	10	0207 36 89	10
0301 93	5	0301 93	5
0402 10	37	0402 10	37
0402 21	37	0402 21	37
0402 91	37	0402 91	37
0402 99	37	0402 99	37
0404 10	14	0404 10	14
0404 90	14	0404 90	14
0704 20	10	0704 20	10
0704 90	10	0704 90	10
0705 19	10	0705 19	10
0705 21	10	0705 21	10
0705 29	10	0705 29	10
0706 10	10	0706 10	10
0708 20	10	0708 20	10
0708 90	10	0708 90	10
0709 20	5	0709 20	5
0709 70	10	0709 70	10
0710 22	7	0710 22	7
0710 29	7	0710 29	7
0710 30	7	0710 30	7
0710 40	7	0710 40	7
0710 90	7	0710 90	7
0809 10	8	0809 10	8
0809 30	9	0809 30	9
0810 30	9	0810 30	9
0811 10	9	0811 10	9
0909 30	4	0909 30	4
0909 40	4	0909 40	4
1001 90	15	1001 90	15
1003	18	1003	18
1004	15	1004	15
1102 20	15	1102 20	15
1102 90	15	1102 90	15
1103 13	15	1103 13	15
1103 19 10	15	1103 19 10	15
1103 19 30	15	1103 19 30	15
1103 19 90	15	1103 19 90	15
1103 20	15	1103 20	15
1104 19	15	1104 19	15
1104 23	15	1104 23	15
1104 29	15	1104 29	15
1602 10	15	1602 10	15
1602 20	15	1602 20	15
1602 31	15	1602 31	15
1602 32	15	1602 32	15
1602 39	15	1602 39	15
1602 42	15	1602 42	15
1602 49	15	1602 49	15
1602 50	18	1602 50	18
1702 11	20	1702 11	20
1702 19	20	1702 19	20
1703	14	1703	14

Oznaka HS	Carinska stopnja (%)
1806 10	12
1806 20	10
1904 20 10	6
1904 30	7
1904 90	7
1905 10	7
1905 20	7
2001 10	15
2001 90 93	15
2002 90	11
2005 10	15
2005 20	20
2005 40	15
2005 51	7
2005 59	7
2005 60	5
2005 90 75	17
2008 40	4
2008 50	6
2008 60	6
2008 70	6
2008 80	6
2008 91	7
2008 92	6
2008 99	4
2009 61	4
2009 69	4
2102 30	7
2104 10	4
2104 20	4
2106 10	7
2202 10	19

HS Code	Duty rate (%)
1806 10	12
1806 20	10
1904 20 10	6
1904 30	7
1904 90	7
1905 10	7
1905 20	7
2001 10	15
2001 90 93	15
2002 90	11
2005 10	15
2005 20	20
2005 40	15
2005 51	7
2005 59	7
2005 60	5
2005 90 75	17
2008 40	4
2008 50	6
2008 60	6
2008 70	6
2008 80	6
2008 91	7
2008 92	6
2008 99	4
2009 61	4
2009 69	4
2102 30	7
2104 10	4
2104 20	4
2106 10	7
2202 10	19

PRILOGA C K PROTOKOLU 2
(OZNAKA HS 2002)

Oznaka HS	Carinska stopnja (%)	Količina (v tonah)
0201	0	500
0203	10	100
0207	0	300
0209	0	20
0210	0	450
0401 10 90	0	12.500
0401 20 19		
0401 20 99		
0401 30 19		
0401 30 39		
0401 30 99		
0401 20 11	0	1.000
0402	0	250
0403	0	900
0405	0	150
0406	0	1.150
od tega:		
0406 90		850
0409 00	0	20

ANNEX C TO PROTOCOL 2
(HS CODE 2002)

HS Code	Duty rate (%)	Quota (tons)
0201	0	500
0203	10	100
0207	0	300
0209	0	20
0210	0	450
0401 10 90	0	12.500
0401 20 19		
0401 20 99		
0401 30 19		
0401 30 39		
0401 30 99		
0401 20 11	0	1.000
0402	0	250
0403	0	900
0405	0	150
0406	0	1.150
out of which:		
0406 90		850
0409 00	0	20

Oznaka HS	Carinska stopnja (%)	Količina (v tonah)
0701 90	0	1.000
0808 10 ¹	0	12.000
0810 10 ²	0	250
1101 00	0	500
1103 11	0	150
1103 13	0	100
1512 19	0	2.000
1514 19	0	100
1514 99		
1601 00	10	2.100
1602	10	1.200
Od tega:		350
1602 31		
1602 32		
1602 39		
1604 13	0	250
1604 15	0	250
1604 20	0	50
1806	0	900
1901	0	700
1902 11	10	1.400
190219	10	600
1902 20		
1902 30		
1904 10	0	75
2001	0	300
2002 90	0	150
2003 10	0	20
2003 90		
2005 20	0	30
2005 90	0	200
2007 99	0	300
2008 60	0	50
2009	0	2.500
od tega:		1.400
2009 71		
2009 79		
2009 80		
2009 90		
2102	0	500
2103 30	0	150
2103 90 ³	0	1.000

¹Količina 12.000 ton se razdeli po teh časovnih obdobjih:

1. januar – 31. januar	1.500 ton,
1. februar – 28. februar	1.500 ton,
1. marec – 31. marec	2.000 ton,
1. april–31. avgust	7.000 ton.

Preferencialna carinska stopnja se od 1. januarja do 28. februarja ne uporablja za jabolka sorte Idared.

²Preferencialna carinska stopnja se od 15. maja do 30. junija ne uporablja za izdelke, uvožene v Republiko Hrvaško.

³Od tega je 300 ton majoneze in 700 ton drugih izdelkov.

HS Code	Duty rate (%)	Quota (tons)
0701 90	0	1.000
0808 10 ¹	0	12.000
0810 10 ²	0	250
1101 00	0	500
1103 11	0	150
1103 13	0	100
1512 19	0	2.000
1514 19	0	100
1514 99		
1601 00	10	2.100
1602	10	1.200
out of which:		350
1602 31		
1602 32		
1602 39		
1604 13	0	250
1604 15	0	250
1604 20	0	50
1806	0	900
1901	0	700
1902 11	10	1.400
190219	10	600
1902 20		
1902 30		
1904 10	0	75
2001	0	300
2002 90	0	150
2003 10	0	20
2003 90		
2005 20	0	30
2005 90	0	200
2007 99	0	300
2008 60	0	50
2009	0	2.500
out of which:		1.400
2009 71		
2009 79		
2009 80		
2009 90		
2102	0	500
2103 30	0	150
2103 90 ³	0	1.000

¹ Quota 12.000 tons shall be allocated in accordance with the following timetable:

1 January – 31 January	1.500 tons,
1 February – 28 February	1.500 tons,
1 March – 31 March	2.000 tons,
1 April – 31 August	7.000 tons.

Within the period 1 January – 28 February the preferential duty rate shall not be applied for the species Idared.

² The preferential duty rate shall not be applied for products imported into the Republic of Croatia within the period 15 May – 30 June.

³ Out of which 300 tons shall be mayonnaise and 700 tons other products.

Oznaka HS	Carinska stopnja (%)	Količina (v tonah)
2104 10	0	250
2105 00	0	500
2106 90	0	1.000
2201 10	0	9.000
2202 10	0	4.500
2202 90	0	1.000
2203	0	6.000
2204 10	0	100
2204 21	0	800
2204 29	0	800
2208 70	0	200
2208 90	0	400

HS Code	Duty rate (%)	Quota (tons)
2104 10	0	250
2105 00	0	500
2106 90	0	1.000
2201 10	0	9.000
2202 10	0	4.500
2202 90	0	1.000
2203	0	6.000
2204 10	0	100
2204 21	0	800
2204 29	0	800
2208 70	0	200
2208 90	0	400

PRILOGA D K PROTOKOLU 2
(OZNAKA HS 2002)

Oznaka HS	Carinska stopnja (%)	Količina (v tonah)
0201	0	100
0203	10	100
0207	0	225
0210	0	100
0401 20 11	0	500
0401 20 91	0	500
0402	0	50
0403	0	1.000
0405	0	150
0406 20	0	50
0406 30	0	350
0406 40	0	100
0406 90	0	300
0701 90	0	1.000
0702	0	300
0705	0	500
0707	0	350
0709 51	0	15
0709 59		
0709 60	0	200
0808 10	0	1.000
0810 10 ¹	0	250
1001 90	0	6.500
1005 90	0	28.000
1101	0	500
1103 11	0	150
1103 13	0	100
1517 10	0	1.800
1601	10	50
1602	10	1.400
1604 13	0	500
1604 20	0	50
1806	0	950

ANNEX D TO PROTOCOL 2
(HS CODE 2002)

HS Code	Duty rate (%)	Quota (tons)
0201	0	100
0203	10	100
0207	0	225
0210	0	100
0401 20 11	0	500
0401 20 91	0	500
0402	0	50
0403	0	1.000
0405	0	150
0406 20	0	50
0406 30	0	350
0406 40	0	100
0406 90	0	300
0701 90	0	1.000
0702	0	300
0705	0	500
0707	0	350
0709 51	0	15
0709 59		
0709 60	0	200
0808 10	0	1.000
0810 10 ¹	0	250
1001 90	0	6.500
1005 90	0	28.000
1101	0	500
1103 11	0	150
1103 13	0	100
1517 10	0	1.800
1601	10	50
1602	10	1.400
1604 13	0	500
1604 20	0	50
1806	0	950

¹ Preferencialna carinska stopnja se od 15. maja do 30. junija ne uporablja za izdelke, uvožene v Republiko Slovenijo.

¹ The preferential duty rate shall not be applied for products imported into the Republic of Slovenia within the period 15 May – 30 June.

Oznaka HS	Carinska stopnja (%)	Količina (v tonah)
1901	0	1.900
od tega:		
1901 10		1.050
1902 11	10	150
1902 19		
1902 20		
1902 30		
1904 10	0	75
2001	0	300
2002 90	0	150
2003 10	0	20
2003 90		
2005 20	0	30
2005 90	0	200
2007 99	0	300
2008 60	0	50
2009 71	0	1.100
2009 79		
2009 80		
2009 90		
2101 30	0	450
2102	0	1.000
2103 30	0	150
2103 90 ²	0	1.400
2104 10	0	250
2105	0	500
2106 90	0	1.250
2201 10	0	3.500
2202 10	0	4.500
2202 90	0	2.000
2203	0	6.000
2204 21	0	220
2207 10	0	1.000
2208 20	0	450
2208 50	0	50
2208 60	0	300
2208 70	0	250
2208 90	0	400
2402 20	10	250

HS Code	Duty rate (%)	Quota (tons)
1901	0	1.900
out of which:		
1901 10		1.050
1902 11	10	150
1902 19		
1902 20		
1902 30		
1904 10	0	75
2001	0	300
2002 90	0	150
2003 10	0	20
2003 90		
2005 20	0	30
2005 90	0	200
2007 99	0	300
2008 60	0	50
2009 71	0	1.100
2009 79		
2009 80		
2009 90		
2101 30	0	450
2102	0	1.000
2103 30	0	150
2103 90 ²	0	1.400
2104 10	0	250
2105	0	500
2106 90	0	1.250
2201 10	0	3.500
2202 10	0	4.500
2202 90	0	2.000
2203	0	6.000
2204 21	0	220
2207 10	0	1.000
2208 20	0	450
2208 50	0	50
2208 60	0	300
2208 70	0	250
2208 90	0	400
2402 20	10	250

3. člen

Vlada Republike Slovenije lahko predpiše način izvajanja dodatnega protokola ter postopek in pogoje razdeljevanja kvot za kmetijske in živilske izdelke, določene v dodatnem protokolu.

4. člen

Za izvajanje dodatnega protokola skrbijo Ministrstvo za gospodarstvo, Ministrstvo za kmetijstvo, gozdarstvo in prehrano ter Ministrstvo za finance.

5. člen

Ta uredba začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 333-00/2000-14

Ljubljana, dne 5. novembra 2002

Vlada Republike Slovenije

dr. Janez Drnovšek l. r.
Predsednik

² Od tega 200 ton majoneze in 1.200 ton drugega (kar se dodeli predvsem izdelkom, imenovanim "Vegeta", in nato drugim izdelkom).

² Out of which 200 tons mayonnaise and 1.200 tons other (which shall primarily be allocated to products named "Vegeta" and then to the other products).

- **Obvestilo o začetku veljavnosti mednarodnih pogodb**

O B V E S T I L O **o začetku veljavnosti mednarodnih pogodb**

Dne 5. novembra 2001 je začela veljati Konvencija o boju proti podkupovanju tujih javnih uslužbencev v mednarodnem poslovanju, podpisana v Parizu dne 17. decembra 1997 in objavljena v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 1/01 (Uradni list Republike Slovenije, št. 1/01).

Dne 11. oktobra 2002 je začel veljati Sporazum o vojaškem sodelovanju med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za nacionalno obrambo Hellenške republike, podpisan 15. julija 1999 v Atenah in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 21/99 (Uradni list Republike Slovenije, št. 78/99).

Ministrstvo za zunanje zadeve
Republike Slovenije

VSEBINA

- | | | |
|-----|--|------|
| 80. | Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Irske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in dobička iz kapitala (BIE-DOU) | 1001 |
| 81. | Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Latvije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BLADOU) | 1017 |
| 82. | Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Romunijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BRODOU) | 1034 |
| 83. | Uredba o ratifikaciji Dodatnega protokola št. 1 k Sporazumu o prosti trgovini med Republiko Slovenijo in Republiko Hrvaško | 1051 |
| - | Obvestilo o začetku veljavnosti mednarodnih pogodb | 1059 |

