

**39. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Indije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka s protokolom (BINIDO)**

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 INDIJE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA S PROTOKOLOM (BINIDO)**

Razglašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Indije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka s protokolom (BINIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 5. aprila 2004.

Št. 001-22-53/04  
Ljubljana, dne 13. aprila 2004

Predsednik  
Republike Slovenije  
**dr. Janez Drnovšek** l. r.

### Z A K O N

#### **O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE INDIJE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA S PROTOKOLOM (BINIDO)**

##### 1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Republike Indije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka s protokolom, podpisana v Ljubljani 13. januarja 2003.

##### 2. člen

Besedilo konvencije s protokolom se v izvirniku v slovenskem in angleškem jeziku glasi:\*

#### **K O N V E N C I J A M E D V L A D O R E P U B L I K E S L O V E N I J E I N V L A D O R E P U B L I K E I N D I J E O I Z O G I B A N J U D V O J N E G A O B D A V Č E V A N J A I N P R E P R E Č E V A N J U D A V Č N I H U T A J V Z V E Z I Z D A V K I O D D O H O D K A**

#### **C O N V E N T I O N B E T W E E N T H E G O V E R N M E N T O F T H E R E P U B L I C O F S L O V E N I A A N D T H E G O V E R N M E N T O F T H E R E P U B L I C O F I N D I A F O R T H E A V O I D A N C E O F D O U B L E T A X A T I O N A N D T H E P R E V E N T I O N O F F I S C A L E V A S I O N W I T H R E S P E C T T O T A X E S O N I N C O M E**

Vlada Republike Slovenije in Vlada Republike Indije sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, ter z namenom spodbujanja gospodarskega sodelovanja med državama

sporazumeli, kot sledi:

The Government of the Republic of Slovenia and the Government of the Republic of India, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and with a view to promoting economic cooperation between the two countries,

have agreed as follows:

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

## 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, ki se uvedejo v imenu države pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

2. Za davke od dohodka se štejejo vsi davki, uvedeni na celoten dohodek ali na sestavine dohodka, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin ter davki na skupne zneske mezd ali plač, ki jih plačujejo podjetja.

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, kapitalskimi dobički in dohodkom iz nepremičnin in premičnin

(v nadaljevanju "slovenski davek");

b) v Indiji:

davek od dohodka, vključno s kakršnim koli dodatnim davkom na ta dohodek

(v nadaljevanju "indijski 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, pomeni 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 "Indija" pomeni ozemlje Indije in vključuje teritorialno morje in zračni prostor nad njim kot tudi vsako drugo morsko območje, na katerem Indija v skladu z indijskim pravom in v skladu z mednarodnim pravom, vključno s Konvencijo ZN o pomorskem mednarodnem pravu, izvaja svoje suverene pravice, druge pravice in jurisdikcijo;

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

d) izraz "oseba" vključuje posameznika, družbo, telo, ki združuje več oseb, in kateri koli drug subjekt, ki se po veljavni davčni zakonodaji v obeh državah pogodbenicah šteje za davčnega zavezanca;

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

## 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 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 all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

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 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 India:

the income tax, including any surcharge thereon;

(hereinafter referred to as »Indian 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 "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea;

c) the terms »Contracting State« and »the other Contracting State« mean the Republic of Slovenia or the Republic of India as the context requires;

d) the term »person« includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;

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

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;

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 Indiji upravno vodstvo Ministrstva za finance (Davčna uprava) 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. Ko država pogodbenica uporablja konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima po pravu te države v zvezi z davki, za katere se konvencija uporablja.

#### 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 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 za rezidenta države, v kateri ima na razpolago stalno prebivališče; če ima na razpolago stalno prebivališče 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 za rezidenta države, v kateri ima običajno bivališče;

c) če ima običajno bivališče v obeh državah ali v nobeni od njiju, se šteje 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 rezident države, v kateri ima sedež dejanske uprave. Če ni mogoče opredeliti države, v kateri ima sedež dejanske uprave, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

f) the terms »enterprise of a Contracting State« and »enterprise of the other Contracting State« mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

g) the term »international traffic« means any transport by a ship 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 India: the Central Government in the Ministry of Finance (Department of Revenue) or their 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 by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

#### 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 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 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 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 of the State in which its place of effective management is situated. If the State in which its place of effective management is situated cannot be determined, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

## 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,
- f) prodajalno,
- g) skladišče v povezavi z osebo, ki drugim zagotavlja skladiščne prostore,
- h) posestvo, plantažo ali drug kraj, na katerem se izvajajo kmetijske, gozdarske, plantažne ali sorodne dejavnosti, in
- i) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3. Gradbišče ali projekt gradnje, montaže ali postavitve 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 stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga za podjetje 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, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi odstavek – v državi pogodbenici deluje v imenu podjetja druge države pogodbenice, se za to podjetje šteje, da ima v prvi omenjeni državi pogodbenici stalno poslovno enoto v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, če taka oseba:

a) ima in običajno uporablja v tej državi pooblastilo za sklepanje pogodb v imenu podjetja, razen če so dejavnosti take 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, ali

b) nima takega pooblastila, pač pa v prvi omenjeni državi običajno vzdržuje zaloge dobrin ali blaga, iz katerih redno dobavlja dobrine ali blago v imenu podjetja;

c) v prvi omenjeni državi običajno pridobiva naročila izključno ali skoraj izključno za to podjetje.

## 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,
- f) a sales outlet,
- g) a warehouse in relation to a person providing storage facilities for others,
- h) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on, and
- i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction, installation or assembly 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 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, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

a) has and habitually exercises in that State an authority to conclude contracts in the name of 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, or

b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or

c) habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself.

6. Ne glede na predhodne določbe tega člena se za zavarovalnico države pogodbenice, razen v zvezi s pozavarovanjem, šteje, da ima stalno poslovno enoto v drugi državi pogodbenici, če na ozemlju te druge države prek osebe, ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi odstavek, pobira premije ali zavaruje za nevarnosti, ki obstajajo v tej drugi državi.

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. Kadar pa so dejavnosti takega zastopnika namenjene izključno ali skoraj izključno temu podjetju, se ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka, razen če gre za posle med nepovezanimi osebami.

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.

#### 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 zadevna 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.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph unless the transactions are at arm's length.

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.

#### 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. 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 nastanejo bodisi v državi, v kateri je stalna poslovna enota, ali drugje, v skladu z določbami in ob upoštevanju omejitev davčne zakonodaje te države.

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

5. 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.

6. 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

##### POMORSKI 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 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. Za namene tega člena dobiček iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu pomeni dobiček, ki ga podjetje iz prvega odstavka doseže pri prevozu potnikov, živine ali dobrin po morju ali zraku.

4. Dobiček podjetja iz prvega odstavka vključuje tudi dobiček iz uporabe, vzdrževanja ali najema zabojnikov, ki se uporabljajo za prevoz dobrin ali blaga v mednarodnem prometu.

5. Za namene tega člena se obresti na denarna sredstva v zvezi z opravljanjem ladijskih ali letalskih prevozov v mednarodnem prometu štejejo kot dobiček iz opravljanja takih ladijskih ali letalskih prevozov, če nastane v okviru opravljanja takih storitev, in določbe 11. člena za take obresti ne veljajo.

6. 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.

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, in accordance with the provisions of and subject to the limitations of the tax laws of that State.

4. 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.

5. 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.

6. 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 derived by 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 harbor of the ship is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship is a resident.

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall mean the profits derived by an enterprise referred to in paragraph 1 from transportation by sea or air of passengers, livestock or goods.

4. Profits derived by an enterprise referred to in paragraph 1 shall also include profits from the use, maintenance or rental of containers used for the transport of goods or merchandise in international traffic.

5. For the purposes of this Article interest on funds connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft if they are incidental to the carrying on of such business, and the provisions of Article 11 shall not apply in relation to such interest.

6. 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 bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi in je tako vključen dobiček, ki bi pri rastel 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 davki ne presega:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima neposredno v lasti najmanj 10 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 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 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 10 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 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 prejemnik upravičeni lastnik obresti, tako zaračunani davek ne presega 10 odstotkov bruto zneska obresti.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici, oproščene davka v tej državi pod pogojem, da jih dobi in je njihov upravičeni lastnik vlada druge države pogodbenice, vključno z njenimi političnimi enotami in lokalnimi oblastmi, centralna banka, Slovenska izvozna družba in Izvozno-uvozna banka Indije.

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 in zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam in zadolžnicam. 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 TER  
HONORARJI ZA STROKOVNE STORITVE

1. Licenčnine in avtorski honorarji ter honorarji za strokovne storitve, 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 recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State, provided that it is derived and beneficially owned by the Government of the other Contracting State, including its political subdivisions or local authorities, the Central Bank, Slovene Export Company and Export-Import Bank of India.

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 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 AND FEES FOR TECHNICAL SERVICES

1. Royalties and fees for technical services 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 ter honorarji za strokovne storitve 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 ter honorarjev za strokovne storitve, tako zaračunani davek ne presega 10 odstotkov bruto zneska takih licenčnin in avtorskih honorarjev ter honorarjev za strokovne storitve.

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 ali filmi ali trakovi za televizijske ali radijske oddaje, kakršnega 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. Izraz "honorarji za strokovne storitve", kot je uporabljen v tem členu, pomeni plačila kakršnega koli zneska, razen plačil iz 14. in 15. člena te konvencije, za poslovodske, strokovne ali svetovalne storitve, vključno z zagotavljanjem storitev tehničnega ali drugega osebja.

5. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev ali honorarjev za strokovne storitve, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji ali honorarji za strokovne storitve nastanejo, prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji ali honorarji za strokovne storitve plačajo, dejansko povezano 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 so licenčnine in avtorski honorarji ter honorarji za strokovne storitve 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 ali honorarje za strokovne storitve, 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 ali honorarjev za strokovne storitve ter take licenčnine in avtorske honorarje ali honorarje za strokovne storitve krije taka stalna poslovna enota ali stalna baza, se šteje, da so take licenčnine in avtorski honorarji ter honorarji za strokovne storitve nastali 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 licenčnin in avtorskih honorarjev ali honorarjev za strokovne storitve 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. However, such royalties and fees for technical services 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 and fees for technical services, the tax so charged shall not exceed 10 per cent of the gross amount of such royalties and fees for technical services.

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 or films or tapes used for television or radio 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 term "fees for technical services" as used in this Article means payments of any amount, other than those mentioned in Articles 14 and 15 of this Convention, in consideration for the services of managerial, technical or consultancy nature, including the provision of services of technical or other personnel.

5. The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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 or fees for technical services 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. Royalties and fees for technical services 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 or fees for technical services, 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 or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services 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 royalties or fees for technical services, 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. Dobiček iz odtujitve premočnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premočnin, 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 ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premočnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

4. Dobiček iz odtujitve deležev v osnovnem kapitalu družbe, katere premoženje neposredno ali posredno v glavnem predstavljajo nepremičnine v državi pogodbenici, se lahko obdavči v tej državi.

5. Dobiček iz odtujitve deležev družbe, ki je rezident države pogodbenice, razen deležev iz četrtega odstavka, se lahko obdavči v tej državi.

6. Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, omenjeno v prvem, drugem, tretjem, četrtem in petem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

#### 14. člen

##### SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga posameznik, ki je rezident države pogodbenice, dobi iz poklicnih storitev ali drugih podobnih samostojnih dejavnosti, se obdavči samo v tej državi, razen v naslednjih primerih, ko se tak dohodek lahko obdavči tudi v drugi državi pogodbenici:

a) če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti; v takem primeru se v tej drugi državi lahko obdavči samo toliko dohodka, kolikor se lahko pripiše tej stalni bazi, ali

b) če biva v drugi državi pogodbenici v obdobju ali obdobjih, ki trajajo do ali ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev; v takem primeru se v tej drugi državi lahko obdavči samo toliko dohodka, kot ga je ustvaril s svojimi dejavnostmi v tej drugi državi.

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

#### 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 pridobljeni 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:

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 or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the alienator is a resident.

4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

5. Gains from the alienation of shares other than those mentioned in paragraph 4 in a company which is a resident of a Contracting State may be taxed in that State.

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5, 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 from the performance of professional services or other independent activities of a similar character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:

a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or

b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any period of 12 – months; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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, surgeons, dentists and accountants.

#### 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) 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, oziroma 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.

#### 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 priraste 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. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek, dosežen z dejavnostmi nastopajočega izvajalca ali športnika v državi pogodbenici, če se dejavnosti pretežno financirajo z javnimi sredstvi ene ali obeh držav pogodbenic ali njunih 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 plačujejo 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 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:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12 – 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.

#### 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 SPORTSPERSONS

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 sportsperson, from 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 sportsperson in capacity as such accrues not to the entertainer or sportsperson 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 sportsperson are exercised.

3. The provisions of paragraphs 1 and 2, shall not apply to income from activities performed in a Contracting State by entertainers or sportspersons if the visit to that State are substantially supported by public funds of one or both of the Contracting States or of 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 sportsperson 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) 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.

## 20. člen

## PROFESORJI, UČITELJI IN RAZISKOVALCI

1. Profesor, učitelj ali raziskovalec, ki je ali je bil rezident države pogodbenice tik pred obiskom druge države pogodbenice z namenom poučevanja ali raziskovanja ali obojega na univerzi, višji oziroma visoki šoli, šoli ali drugi priznani ustanovi v tej drugi državi pogodbenici, je v tej drugi državi v obdobju, ki ne presega dveh let od datuma njegovega prihoda v to drugo državo, oproščen davka na kakršne koli prejemke za tako poučevanje ali raziskovanje.

2. Ta člen se ne uporablja za dohodek iz raziskav, če se raziskave izvajajo predvsem v zasebno korist določene osebe ali oseb.

3. Za namene prvega odstavka izraz "priznana ustanova" pomeni ustanovo, ki jo je za tako priznal pristojni organ zadevne države.

## 21. člen

## ŠTUDENTI

1. Študent ali pripravnik, ki je ali je bil rezident ene države pogodbenice tik pred obiskom druge države pogodbenice in je v tej drugi državi pogodbenici navzoč samo za namen svojega izobraževanja ali usposabljanja, je v tej drugi državi oproščen plačila davka od:

a) zneskov, ki mu jih za njegovo vzdrževanje, izobraževanje ali usposabljanje izplačajo osebe, ki prebivajo zunaj te druge države, in

b) prejemkov, ki jih dobi iz zaposlitve v drugi državi pogodbenici v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, če je zaposlitev neposredno povezana z njegovim študijem ali pripravništvom.

2. Ugodnosti tega člena trajajo samo toliko časa, kot je razumno ali običajno potrebno za dokončanje izobraževanja ali usposabljanja, v nobenem primeru pa posameznik ne more ugodnosti iz tega člena uživati več kot pet zaporednih let, šteto od datuma prvega prihoda v to drugo državo.

## 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.

(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.

## Article 20

## PROFESSORS, TEACHERS AND RESEARCH SCHOLARS

1. A professor, teacher or research scholar who is or was a resident of the Contracting State immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college, school or other approved institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that other State.

2. This Article shall not apply to income from research, if such research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purposes of paragraph 1 "approved institution" means an institution which has been approved in this regard by the competent authority of the concerned State.

## Article 21

## STUDENTS

1. A student or business apprentice who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State and who is present in that other State solely for the purpose of his education or training, shall be exempt from tax in that other State on:

a) payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; and

b) remuneration which he derives from an employment which he exercises in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any period of twelve months if the employment is directly related to his studies or apprenticeship.

2. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article, for more than five consecutive years from the date of his first arrival in that other 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. 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 opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s to stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

3. Če rezident države pogodbenice prejme dohodek iz virov v drugi državi pogodbenici, kot so loterija, križanke, dirke, vključno s konjskimi dirkami, igre s kartami in druge igre ali kakršne koli igre na srečo ali stave, se dohodek ne glede na določbe prvega odstavka lahko obdavči v drugi državi pogodbenici.

## 23. člen

## METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi, kot sledi:

## 1. V Sloveniji:

a) kadar rezident Slovenije dobi dohodek, ki se v skladu z določbami te konvencije lahko obdavči v Indiji, Slovenija dovolj kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Indiji.

Tak odbitek pa ne sme presegati tistega dela davka od dohodka, ki je bil izračunan pred odbitkom, pripisanim dohodku, odvisno od primera, ki se lahko obdavči v Indiji;

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident Slovenije, oproščen davka v Sloveniji, lahko Slovenija pri izračunu zneska davka od preostalega dohodka tega rezidenta vseeno upošteva oproščeni dohodek.

## 2. V Indiji:

a) kadar rezident Indije dobi dohodek, ki se v skladu z določbami te konvencije lahko obdavči v Sloveniji, Indija dovolj kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Sloveniji.

Tak odbitek pa ne sme presegati tistega dela davka od dohodka, ki je bil izračunan pred odbitkom, pripisanim dohodku, odvisno od primera, ki se lahko obdavči v Sloveniji;

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident Indije, oproščen davka v Indiji, lahko Indija pri izračunu davka od preostalega dohodka tega rezidenta vseeno upošteva oproščeni dohodek.

## 24. 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. 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.

3. Notwithstanding the provisions of paragraph 1, if a resident of a Contracting State derives income from sources within the other Contracting State in form of lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any nature whatsoever, such income may be taxed in the other Contracting State.

## Article 23

## METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

## 1. In Slovenia:

a) Where a resident of Slovenia derives income which, in accordance with the provisions of this Convention, may be taxed in India, Slovenia shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in India.

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

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

## 2. In India:

a) Where a resident of India derives income which, in accordance with the provisions of this Convention, may be taxed in Slovenia, India shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Slovenia.

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

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

## 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. 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 priznava 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 sedmega 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.

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.

#### 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 ta oseba 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. Kadar se za dosego dogovora zdi priporočljiva ustna izmenjava mnenj, taka izmenjava lahko poteka prek komisije, ki jo sestavljajo predstavniki pristojnih organov držav pogodbenic.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably 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 7 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. 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 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 endeavor, 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 endeavor 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.

## 26. člen

## IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije (vključno z dokumenti ali overjenimi prepisi dokumentov), 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,

b) da priskrbi informacije (vključno z dokumenti ali overjenimi prepisi dokumentov), 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

## DIPLOMATSKI PREDSTAVNIKI IN KONZULARNI USLUŽBENCI

Nič v tej konvenciji ne vpliva na davčne ugodnosti diplomatskih predstavnikov ali konzularnih uslužbencev po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

## 28. člen

## ZAČETEK VELJAVNOSTI

1. Ta konvencija se ratificira in listini o ratifikaciji se izmenjata, kakor hitro je to mogoče, v New Delhiju.

2. Konvencija začne veljati na datum izmenjave listin o ratifikaciji in njene določbe se uporabljajo:

a) v Sloveniji za dohodek, nastal v katerem koli davčnem letu, ki se začne prvi dan januarja ali po prvem januarju, ki sledi koledarskemu letu, v katerem sta bili izmenjani listini o ratifikaciji;

b) v Indiji za dohodek, nastal v katerem koli davčnem letu, ki se začne prvi dan aprila ali po prvem aprilu, ki sledi koledarskemu letu, v katerem sta bili izmenjani listini o ratifikaciji.

## 29. člen

## PRENEHANJE VELJAVNOSTI

Ta konvencija velja za nedoločen čas, s tem da lahko katera koli država pogodbenica na trideseti dan junija ali pred njim katerega koli koledarskega leta, ki se začne po izteku petletnega obdobja od datuma začetka veljavnosti konvencije, drugi državi pogodbenici da pisno obvestilo o odpovedi po diplomatski poti; v takem primeru se ta konvencija preneha uporabljati:

## Article 26

## EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents or certified copies of the documents) 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 (including documents or certified copies of the documents) 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

## DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

## Article 28

## ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at New Delhi as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

a) in Slovenia, in respect of income arising in any fiscal year beginning on or after the first day of January next following the calendar year in which the exchange of instruments of ratification takes place;

b) in India, in respect of income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which the exchange of instruments of ratification takes place.

## Article 29

## TERMINATION

This Convention shall remain in force indefinitely but either of the Contracting States may on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:

a) v Sloveniji za dohodek, nastal v katerem koli davčnem letu, ki se začne prvi dan januarja ali po prvem januarju, ki sledi koledarskemu letu, v katerem je bilo dano obvestilo o odpovedi;

b) v Indiji za dohodek, nastal v katerem koli davčnem letu, ki se začne prvi dan aprila ali po prvem aprilu, ki sledi koledarskemu letu, v katerem je bilo dano obvestilo o odpovedi.

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

Sestavljeno v dveh izvornikih v Ljubljani dne 13. januarja 2003 v slovenskem, hindujskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj med besedili se uporablja angleško besedilo.

Za Vlado Republike Slovenije:  
Darko Končan l. r.

Za Vlado Republike Indije:  
Gingee N. Ramachandran l. r.

a) in Slovenia, in respect of income arising in any fiscal year beginning on or after the first day of January next following the calendar year in which the notice of termination is given;

b) in India, in respect on income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which the notice of termination is given.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorized thereto, have signed this Convention.

DONE in duplicate at Ljubljana on this 13th day of January, 2003, in the Slovenian, Hindi and English languages, all the texts being equally authentic. In case of divergence among the texts, the English text shall be the operative one.

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

For the Government of the  
Republic of India:  
Gingee N Ramachandran, (s)

## PROTOKOL

Ob podpisu Konvencije med Vlado Republike Slovenije in Vlado Republike Indije o izogibanju dvojnega obdavčenja in preprečevanju davčnih utaj v zvezi z davki od dohodka sta se pooblaščenca držav pogodbenic, ki sta bila za to pravilno pooblaščenca, sporazumela, da so sestavni del konvencije naslednje določbe:

Zakonodaja, ki velja v posamezni državi pogodbenici, bo še naprej urejala obdavčevanje dohodka v tej državi pogodbenici, razen če ta konvencija določa drugače.

### 1. V zvezi s 3. in 23. členom:

a) Izraz "davek" pomeni, kot zahteva sobesedilo, slovenski ali indijski davek in ne vključuje nobenega zneska, ki se plača zaradi zamude ali neplačila davkov, za katere se uporablja ta konvencija, ali ki predstavlja kazni ali globo, naloženo v zvezi s temi davki.

b) Izraz "davčno leto" pomeni:

i) za Slovenijo koledarsko leto;

ii) za Indijo finančno leto, ki se začne prvega aprila.

### 2. V zvezi s 6. in 13. členom:

V zvezi s prvim odstavkom 6. in 13. člena se razume, da se v primeru Indije dohodek od nepremičnin oziroma kapitalski dobiček iz odtujitve nepremičnin lahko obdavči v obeh državah pogodbenicah s pridržkom določb 23. člena.

### 3. V zvezi z 20. členom:

Za namene 20. člena se šteje, da je posameznik rezident države pogodbenice, če je rezident te države v davčnem letu, v katerem obiše drugo državo pogodbenico, ali v davčnem letu tik pred tem.

## PROTOCOL

At the moment of signing the Convention between the Government of the Republic of Slovenia and the Government of the Republic of India for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, the Plenipotentiaries of the two Contracting States, duly authorized thereto, have agreed that the following provisions shall form an integral part of the Convention:

The laws in force in either of the Contracting States will continue to govern the taxation of income in the respective Contracting States except where the provisions to the contrary are made in this Convention.

### 1. With reference to Article 3 and 23:

a) The term "tax" means Slovenian or Indian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Convention applies or which represents a penalty or fine imposed relating to those taxes.

b) The term "fiscal year" means:

(i) in the case of Slovenia: the calendar year;

(ii) in the case of India: "financial year beginning on the 1st day of April".

### 2. With reference to Article 6 and Article 13:

With reference to paragraphs 1 of Article 6 and 13 it is understood that in case of India income from immovable property and capital gains on alienation of immovable property respectively may be taxed in both Contracting States subject to the provisions of Article 23.

### 3. With reference to Article 20:

For the purposes of Article 20, an individual shall be deemed to be a resident of a Contracting State if he is resident in that State in the fiscal year in which he visits the other Contracting State or in the immediately preceding fiscal year.



**4. V zvezi s 24. členom:**

Razume se, da se določbe drugega odstavka 24. člena ne razlagajo tako, kot da državi pogodbenici preprečujejo, da bi dobiček stalne poslovne enote, ki jo ima podjetje druge države pogodbenice v prvi omenjeni državi, obdavčila po davčni stopnji, ki je višja od davčne stopnje, ki se uporablja za dobiček podobnega podjetja prve omenjene države pogodbenice, ali da so v nasprotju z določbami tretjega odstavka 7. člena. Vendar pa razlika v davčni stopnji ne sme presežati 15 odstotnih točk.

V DOKAZ NAVEDENEGA sta pooblaščenca držav pogodbenic, ki sta bila za to pravilno pooblaščenca, podpisala ta protokol.

Sestavljeno v dveh izvornikih v Ljubljani dne 13. januarja 2003 v slovenskem, hindujskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj med besedili se uporablja angleško besedilo.

Za Vlado Republike Slovenije:  
**Darko Končan** l. r.

Za Vlado Republike Indije:  
**Gingee N. Ramachandran** l. r.

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

For the Government of the  
Republic of India:  
**Gingee N Ramachandran**, (s)

**3. člen**

Za izvajanje konvencije s protokolom skrbi Ministrstvo za finance.

**4. člen**

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

Št. 432-01/04-35/1  
Ljubljana, dne 5. aprila 2004  
EPA 1175-III

Predsednik  
Državnega zbora  
Republike Slovenije  
**Borut Pahor** l. r.

**40. Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Uzbekistan o vzajemnem spodbujanju in zaščiti naložb (BUZVSN)**

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 SPORAZUMA MED REPUBLIKO SLOVENIJO IN REPUBLIKO UZBEKISTAN O VZAJEMNEM SPODBUJANJU IN ZAŠČITI NALOŽB (BUZVSN)**

Razglašam Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Uzbekistan o vzajemnem spodbujanju in zaščiti naložb (BUZVSN), ki ga je sprejel Državni zbor Republike Slovenije na seji 5. aprila 2004.

Št. 001-22-52/04  
Ljubljana, 13. aprila 2004

Predsednik  
Republike Slovenije  
dr. Janez Drnovšek l. r.

**Z A K O N****O RATIFIKACIJI SPORAZUMA MED REPUBLIKO SLOVENIJO IN REPUBLIKO UZBEKISTAN O VZAJEMNEM SPODBUJANJU IN ZAŠČITI NALOŽB (BUZVSN)**

## 1. člen

Ratificira se Sporazum med Republiko Slovenijo in Republiko Uzbekistan o vzajemnem spodbujanju in zaščiti naložb, podpisan v Taškentu 7. oktobra 2003.

## 2. člen

Besedilo sporazuma se v izvirniku v slovenskem in angleškem jeziku glasi:\*

**S P O R A Z U M****MED REPUBLIKO SLOVENIJO IN REPUBLIKO UZBEKISTAN O VZAJEMNEM SPODBUJANJU IN ZAŠČITI NALOŽB**

Republika Slovenija in Republika Uzbekistan, v nadaljevanju pogodbenici, sta se v želji, da okrepiata gospodarsko sodelovanje med državama,

z namenom, da spodbudita in ustvarita ugodne razmere za naložbe vlagateljev ene pogodbenice na ozemlju druge pogodbenice na podlagi enakopravnosti in obojestranske koristi,

ob spoznanju, da bosta vzajemno spodbujanje in zaščita naložb na podlagi tega sporazuma spodbujala poslovne pobude,

sporazumeli, kot sledi:

## 1. člen

**Pomen izrazov**

Za namen tega sporazuma:

1. Izraz »naložba« pomeni vsako vrsto premoženja, ki ga vlagatelj ene pogodbenice vložijo na ozemlju druge pogodbenice v skladu z zakoni in predpisi slednje, in vključuje zlasti, vendar ne izključno:

a) premičnine in nepremičnine kot tudi katere koli druge stvarne pravice, kot so hipoteka, zaseg, zastava in podobne pravice;

b) deleže, delnice, zadolžnice in kakršno koli drugo obliko upravičenja v družbi;

**A G R E E M E N T****BETWEEN THE REPUBLIC OF SLOVENIA AND THE REPUBLIC OF UZBEKISTAN ON THE MUTUAL PROMOTION AND PROTECTION OF INVESTMENTS**

The Republic of Slovenia and the Republic of Uzbekistan, hereinafter referred to as the "Contracting Parties", Desiring to intensify the economic co-operation between the two States,

Intending to encourage and create favourable conditions for investments made by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit,

Recognising that the mutual promotion and protection of investments on the basis of this Agreement will stimulate business initiative,

Have agreed as follows:

## Article 1

**Definitions**

For the purpose of this Agreement:

1. The term "investment" shall mean every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter including, in particular, though not exclusively:

a) movable and immovable property as well as any other rights in rem, such as mortgages, liens, pledges and similar rights;

b) shares, stocks, debentures and any other form of interest in a company;

\* Besedilo sporazuma v uzbeškem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

c) denarne terjatve ali zahtevke za katere koli storitve, ki imajo ekonomsko vrednost in so povezane z naložbo;

d) pravice intelektualne lastnine, ki vključujejo zlasti varstvo avtorskih in naveznih pravic, računalniške programe, patente, industrijske vzorce, blagovne in storitvene znamke, geografske označbe, vključno z označbami porekla, topografije integriranih vezij in nerazkrite informacije o know-howu;

e) koncesije, vključno s koncesijami za iskanje, raziskovanje in izkoriščanje naravnih virov, ki jih z zakonom bodisi po pogodbi ali upravnem aktu podeljuje pristojni državni organ.

Kakršna koli sprememba oblike, v kateri se premoženje investira ali reinvestira, ne vpliva na njegovo naravo kot naložbo pod pogojem, da je taka sprememba v skladu z zakoni in predpisi pogodbenice, na katere ozemlju je bila naložba izvedena.

2. Izraz »dohodek« pomeni zneske, ki jih prinašajo naložbe, in vključuje zlasti, vendar ne izključno, dobiček, dividende, obresti, avtorske honorarje ali druge oblike dohodka, povezanega z naložbami, vključno s honorarji za tehnično pomoč.

3. Izraz »vlagatelj« pomeni:

a) fizične osebe, ki so državljani ene ali druge pogodbenice v skladu z njeno zakonodajo, in

b) pravne osebe, vključno s korporacijami, gospodarskimi ali drugimi družbami ali združenji, ki imajo sedež na ozemlju ene pogodbenice in so registrirana ali ustanovljena po zakonu te pogodbenice.

4. Izraz »državno ozemlje« pomeni za vsako pogodbenico ozemlje pod njeno suverenostjo, vključno z zračnim prostorom in morskimi območji, nad katerimi pogodbenica izvaja suverenost ali jurisdikcijo v skladu z notranjim in mednarodnim pravom.

## 2. člen

### Spodbujanje in zaščita naložb

1. Vsaka pogodbenica na svojem ozemlju spodbuja in pospešuje, kolikor je mogoče, naložbe vlagateljev druge pogodbenice in sprejema take naložbe na svoje ozemlje v skladu s svojimi zakoni in predpisi.

2. Vsaka pogodbenica trajno zagotavlja naložbam vlagateljev druge pogodbenice pošteno in pravično obravnavo.

3. Naložbe vlagateljev ene ali druge pogodbenice uživajo popolno zaščito in varnost na ozemlju druge pogodbenice. Nobena pogodbenica z neupravičenimi, samovoljnimi ali diskriminacijskimi ukrepi na svojem ozemlju na noben način ne ovira vlagateljev druge pogodbenice pri upravljanju, vzdrževanju, uporabi in uživanju naložb ali razpolaganju z njimi.

4. Če pogodbenica po tem sporazumu sprejme naložbe na svoje ozemlje, v skladu s svojimi zakoni izda vsa potrebna dovoljenja, povezana s temi naložbami.

## 3. člen

### Nacionalna obravnava in obravnava po načelu države z največjimi ugodnostmi

1. Naložbam vlagateljev ene pogodbenice na ozemlju druge pogodbenice ali z njimi povezanemu dohodku se zagotovi obravnava, ki je poštena in pravična in ni manj ugodna od tiste, ki jo ta druga pogodbenica zagotavlja naložbam in dohodku svojih vlagateljev ali vlagateljev katere koli tretje države.

c) claims to money or to any performance having an economic value and associated with an investment;

d) intellectual property rights including in particular protection of copyright and neighbouring rights, including computer programmes, patents, industrial designs, trademarks and service marks, geographical indications, including appellations of origin, topographies of integrated circuits as well as undisclosed information on know-how;

e) concessions conferred by law, either under a contract or an administrative act, by a competent state authority including concessions for prospecting, research and exploitation of natural resources.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investments, provided that such alteration is in accordance with the laws and regulations of the Contracting Party in whose territory the investment has been made.

2. The term "returns" shall mean the amounts yielded by investments and in particular, though not exclusively, shall include profits, dividends, interests, royalties or other forms of income related to the investments including technical assistance fees.

3. The term "investor" shall mean:

a) natural persons having the nationality of either Contracting Party, in accordance with its laws, and

b) legal persons, including corporations, commercial companies or other companies or associations, which have their seat in the territory of one Contracting Party and are incorporated or constituted in accordance with the law of that Contracting Party.

4. The term »national territory« shall mean with respect to each Contracting Party the territory under its sovereignty, including air space and maritime areas, over which the Party concerned exercises its sovereignty or jurisdiction, in accordance with internal and international law.

## Article 2

### Promotion and Protection of Investments

1. Each Contracting Party shall promote and encourage, as far as possible, within its territory investments made by investors of the other Contracting Party and shall admit such investments into its territory in accordance with its laws and regulations.

2. Each Contracting Party shall accord at all times fair and equitable treatment to investments of investors of the other Contracting Party.

3. Investments made by investors of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable, arbitrary or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.

4. If a Contracting Party under present Agreement admits investments in its territory, it shall in accordance with its laws issue all necessary permissions, related to such investments.

## Article 3

### National and Most Favoured Nation Treatment

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party, or returns related thereto, shall be accorded treatment which is fair and equitable and not less favourable than the latter Contracting Party accords to the investments and returns of its own investors or to investors of any third State.

2. Vlagateljem ene pogodbenice druga pogodbenica glede upravljanja, vzdrževanja, uporabe in uživanja naložb ali razpolaganja z njimi zagotavlja obravnavo, ki je poštena in pravična in ni manj ugodna od tiste, ki jo ta druga pogodbenica zagotavlja svojim vlagateljem ali vlagateljem katere koli tretje države.

3. Določbe tega člena se ne smejo razlagati tako, da obvezujejo eno pogodbenico, da podeli vlagateljem druge pogodbenice ali njihovim naložbam kakršno koli obravnavo, ugodnost ali privilegij na podlagi:

a) katerega koli obstoječega ali prihodnjega prostotrgovinskega območja, carinske unije, skupnega trga ali drugih podobnih mednarodnih sporazumov, vključno z drugimi oblikami regionalnega gospodarskega sodelovanja in mednarodnih sporazumov za lajšanje obmejne trgovine, katerih članica je ali lahko postane ena ali druga pogodbenica, in

b) katerega koli mednarodnega sporazuma, ki se v celoti ali pretežno nanaša na obdavčevanje.

#### 4. člen

##### Razlastitev

1. Naložbe vlagateljev ene pogodbenice se na ozemlju druge pogodbenice ne smejo razlastiti, nacionalizirati ali se v zvezi z njimi sprejeti kakršen koli drug ukrep z enakovrednim učinkom, kot ga ima razlastitev ali nacionalizacija (v nadaljevanju »razlastitev«), razen v javnem interesu, na nediskriminacijski podlagi, v skladu z zakonitim postopkom in za takojšnje, učinkovito in ustrezno nadomestilo.

2. Nadomestilo iz prvega odstavka tega člena se izračuna na podlagi tržne vrednosti naložbe, neposredno preden je razlastitev ali nameravana razlastitev postala javno znana, kar koli je prej. Nadomestilo se izvede brez odlašanja in vključuje obresti po običajni komercialni obrestni meri ali se obračuna na podlagi LIBOR od datuma razlastitve do datuma plačila. Nadomestilo mora biti prosto prenosljivo in dejansko izplačljivo v skladu z veljavnimi deviznimi predpisi pogodbenice, na katere ozemlju je bila naložba izvedena.

3. Vlagatelj, katerega naložbe so razlašene, ima po pravu pogodbenice, ki je naložbo razlastila, pravico zahtevati, da sodni ali drug pristojni organ te pogodbenice nemudoma pregleda njegov primer in vrednotenje njegovih naložb v skladu z načeli, določenimi v tem členu.

#### 5. člen

##### Nadomestilo za izgube

Vlagateljem ene pogodbenice, pri naložbah katerih so nastale izgube zaradi vojne ali drugega oboroženega spopada, revolucije, narodne vstaje, izrednega stanja ali kakega podobnega dogodka na ozemlju druge pogodbenice, ta druga pogodbenica zagotovi glede ukrepov, ki jih sprejme v zvezi s takšnimi izgubami, vključno z nadomestilom, odškodnino ali vrnitvijo v prejšnje stanje, obravnavo, ki ni manj ugodna od tiste, ki jo ta pogodbenica zagotavlja svojim vlagateljem ali vlagateljem katere koli tretje države.

#### 6. člen

##### Prenosi

1. Vsaka pogodbenica jamči vlagateljem druge pogodbenice prost prenos sredstev v zvezi z njihovimi naložbami in zlasti, vendar ne izključno:

a) začetnega kapitala in dodatnih prispevkov za vzdrževanje ali razvoj naložb;

b) dohodka, opredeljenega v drugem odstavku 1. člena tega sporazuma;

2. Investors of one Contracting Party shall be accorded by the other Contracting Party, as regards the management, maintenance, use, enjoyment or disposal or their investments, treatment which is fair and equitable and not less favourable than the latter Contracting Party accords its own investors or to investors of any third State.

3. The provisions of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege by virtue of:

a) any existing or future free trade area, customs union, common market or other similar international agreements including other forms of regional economic co-operation and international agreements to facilitate frontier trade to which either of the Contracting Party is or may become a Party, and

b) any international agreement relating wholly or mainly to taxation.

#### Article 4

##### Expropriation

1. Investments made by investors of either Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalised or subject to any other measure having effect equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation") except for a public purpose, on a non-discriminatory basis, under due process of law and against prompt, effective and adequate compensation.

2. The compensation referred to in paragraph 1 of this Article shall be computed on the basis of the market value of the investment immediately before the expropriation or impending expropriation became public knowledge, whichever is earlier. The compensation shall be made without delay and shall include interest at the usual commercial rate or it is calculated on the LIBOR basis from the date of expropriation to the date of payment. Compensation shall be freely transferable and effectively realisable in accordance with foreign exchange regulations in force on the Contracting Party in whose territory the investment has been made.

3. The investor whose investments are expropriated, shall have the right under the law of expropriating Contracting Party the prompt review by a judicial or other competent authority of that Contracting Party of its case and of valuation of its investments in accordance with the principles set out in this Article.

#### Article 5

##### Compensation for Losses

Investors of one Contracting Party whose investments have suffered losses owing to war or other armed conflict, revolution, national uprising, state of emergency or any similar event in the territory of the other Contracting Party shall be accorded by the latter Contracting Party treatment, as regards measures it adopts in relation to such losses, including compensation, indemnification and restitution, no less favourable than that which the latter Contracting Party accords to its own investors or investors of any third State.

#### Article 6

##### Transfers

1. Each Contracting Party shall guarantee investors of the other Contracting Party the free transfer of funds related to their investments and in particular, though not exclusively:

a) initial capital and additional contributions for the maintenance or development of the investments;

b) returns defined in Paragraph 2, Article 1 of this Agreement;

- c) sredstev za odplačilo posojil, povezanih z naložbo;
- d) izkupička od celotne ali delne prodaje ali likvidacije naložbe;
- e) kakršnega koli nadomestila ali drugega plačila iz 4. in 5. člena tega sporazuma;
- f) zaslužkov in drugih prejemkov osebja iz tujine, zaposlenega v zvezi z naložbo.

2. Prenosi iz tega člena se izvedejo brez omejitev ali odlašanja po tržnem menjalnem tečaju, ki velja na datum prenosa, in v prosto zamenljivi valuti po deviznih predpisih pogodbenice, na katere ozemlju je bila naložba izvedena.

#### 7. člen

##### Subrogacija

Če pogodbenica ali agencija, ki jo ta določi, opravi plačilo svojemu vlagatelju na podlagi danega jamstva v zvezi z naložbo na ozemlju druge pogodbenice, ta druga pogodbenica prizna prenos vseh pravic in zahtevkov vlagatelja na prvo pogodbenico. Subrogirana pravica ali zahtevak ne sme biti večji od prvotne pravice ali zahtevka vlagatelja.

#### 8. člen

##### Reševanje sporov med pogodbenicama

1. Spori med pogodbenicama v zvezi z razlago in uporabo tega sporazuma se, kolikor je le mogoče, rešujejo s pogajanjem po diplomatski poti.

2. Če pogodbenici ne rešita spora v šestih (6) mesecih po začetku pogajanj, se spor na zahtevo ene ali druge pogodbenice predloži arbitražnemu sodišču v skladu z določbami tega člena.

3. Tako arbitražno sodišče se ustanovi za vsak posamezen primer na naslednji način. V dveh mesecih od prejema zahtevka za arbitražo imenuje vsaka pogodbenica enega člana arbitražnega sodišča. Ta dva člana nato izbereta državljana tretje države, ki je po odobritvi obeh pogodbenic imenovan za predsednika arbitražnega sodišča. Predsednik je imenovan v treh (3) mesecih od datuma, ko sta bila imenovana druga dva člana.

4. Če potrebna imenovanja niso bila opravljena v rokih, določenih v tretjem odstavku tega člena, lahko ena ali druga pogodbenica, če ni dogovorjeno drugače, zaprosi predsednika Meddržavnega sodišča, naj opravi potrebna imenovanja. Če je predsednik državljan ene ali druge pogodbenice ali če omenjene naloge ne more opraviti iz kakšnega drugega razloga, je zaprosen podpredsednik, da opravi potrebna imenovanja. Če je podpredsednik državljan ene ali druge pogodbenice ali če omenjene naloge ne more opraviti, je zaprosen po funkciji naslednji najstarejši član Meddržavnega sodišča, ki ni državljan ene ali druge pogodbenice, da opravi potrebna imenovanja.

5. Predsednik arbitražnega sodišča mora biti državljan tretje države, s katero imata pogodbenici diplomatske odnose.

6. Arbitražno sodišče odloča z večino glasov. Odločitve arbitražnega sodišča so za pogodbenici dokončne in zavezujoče. Vsaka pogodbenica krije stroške svojega člana arbitražnega sodišča in svojega zastopstva v arbitražnem postopku. Stroške predsednika in preostale stroške krijeta pogodbenici v enakih delih. Glede delitve stroškov lahko arbitražno sodišče odloči drugače. O vseh drugih zadevah arbitražno sodišče samo določi svoj poslovnik.

- c) funds in repayment of loans related to an investment;
- d) proceeds from the sale or liquidation of all or part of an investment;
- e) any compensation or other payment referred to in Articles 4 and 5 of this Agreement;
- f) earnings and other remuneration of nationals engaged from abroad in connection with the investment.

2. The transfers referred to in this Article shall be made without restriction or delay at the exchange rate applicable on the date of transfer and shall be made in convertible currency according to the exchange regulations of the Contracting Party in whose territory the investment has been made.

#### Article 7

##### Subrogation

If a Contracting Party or its designated agency makes a payment to its investor under an indemnity given in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognise the assignment to the first Contracting Party of all rights and claims of the investor. The subrogated right or claim shall not be greater than the original right or claim of the investor.

#### Article 8

##### Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement should, as far as possible, be settled by negotiations through diplomatic channels.

2. If the Contracting Parties fail to reach a settlement within six (6) months after the beginning of negotiations, the dispute shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal, in accordance with the provisions of this Article.

3. Such an Arbitral Tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within three (3) months from the date of appointment of the other two members.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or is prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

5. The Chairman of the Arbitral Tribunal shall be a national of a third State with which both Contracting Parties maintain diplomatic relations.

6. The Arbitral Tribunal shall rule according to majority vote. The decisions of the Tribunal shall be final and binding on both Contracting Parties. Each Contracting Party shall be responsible for the costs of its own member and of its representatives at the arbitral proceedings. Both Contracting Parties shall assume an equal share of the cost of the Chairman, as well as any other costs. The Tribunal may make a different decision regarding costs. In all other respects, the Tribunal court shall define its own rules of procedure.

## 9. člen

**Reševanje sporov med pogodbenico in vlagateljem druge pogodbenice**

1. Kakršen koli spor, ki lahko nastane med pogodbenico in vlagateljem druge pogodbenice v zvezi z naložbo tega vlagatelja na ozemlju prve pogodbenice, se rešuje prijateljsko s pogajanj.

2. Če takega spora ni mogoče rešiti v šestih (6) mesecih od datuma zahteve za rešitev, lahko zadevni vlagatelj spor predloži:

a) pristojnemu sodišču pogodbenice, na katere ozemlju je bila naložba izvedena,

b) ad hoc arbitražnemu sodišču, ki se, če se stranki v sporu ne dogovorita drugače, ustanovi po Arbitražnih pravilih Komisije Združenih narodov za mednarodno trgovinsko pravo (UNCITRAL), ali

c) v spravo ali arbitražo Mednarodnemu centru za reševanje investicijskih sporov (ICSID), ustanovljenemu na podlagi Konvencije o reševanju investicijskih sporov med državami in državljani drugih držav, ki je bila dana na voljo za podpis v Washingtonu D.C. 18. marca 1965.

3. Vsaka pogodbenica soglaša s predložitvijo investicijskega spora mednarodni spravi ali arbitraži.

4. Nobena pogodbenica ne sme po diplomatski poti posredovati v kateri koli zadevi, predloženi v arbitražo, dokler se postopki ne končajo in druga pogodbenica ne upošteva odločbe, ki jo izda Mednarodni center za reševanje investicijskih sporov, ali ne ravna v skladu z njo.

5. Arbitražna odločba je dokončna in zavezujoča za stranki v sporu.

## 10. člen

**Uporaba drugih pravil**

Če bi zakonske določbe ene ali druge pogodbenice ali obstoječe ali prihodnje obveznosti med pogodbenicama po mednarodnem pravu poleg tega sporazuma vsebovale splošno ali posebno ureditev, ki bi naložbam vlagateljev druge pogodbenice zagotavljala ugodnejšo obravnavo, kot jo predvideva ta sporazum, take določbe v obsegu, kolikor so ugodnejše, prevladajo nad tem sporazumom.

## 11. člen

**Uporaba sporazuma**

Ta sporazum se uporablja za vse naložbe vlagateljev ene pogodbenice na ozemlju druge pogodbenice v skladu z njenimi zakoni in predpisi, ki so obstajale ob začetku njegove veljavnosti ali so bile izvedene po njem.

## 12. člen

**Posvetovanja**

Predstavniki pogodbenic se po potrebi posvetujejo o kateri koli zadevi, ki vpliva na izvajanje tega sporazuma. O kraju in času teh posvetovanj se na predlog ene ali druge pogodbenice dogovori po diplomatski poti.

## 13. člen

**Začetek veljavnosti in trajanje**

1. Ta sporazum začne veljati dan po prejemu zadnjega od uradnih obvestil, s katerima se pogodbenici uradno obvestita, da so dokončani njihovi notranjepravni postopki.

## Article 9

**Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. Any dispute which may arise between one Contracting Party and an investor of the other Contracting Party concerning an investment of that investor in the territory of the former Contracting Party shall be settled amicably through negotiations.

2. If such a dispute cannot be settled within a period of six (6) months from the date of request for settlement, the investor concerned may submit the dispute to:

a) the competent court of the Contracting Party in whose territory the investment has been made;

b) an ad-hoc tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or

c) the International Center for the Settlement of Investments Disputes (ICSID) through conciliation or arbitration, established under the Convention on the Settlement of Investments Disputes between States and Nationals of other States, opened for signature in Washington D.C., on March 18, 1965.

3. Each Contracting Party hereby consents to the submission of an investment dispute to international conciliation or arbitration.

4. Neither Contracting Party shall pursue through diplomatic channels any matter referred to arbitration until the proceedings have terminated and a Contracting Party has failed to abide by or to comply with the award rendered by the International Center for the Settlement of Investments Disputes.

5. The award shall be final and binding on both parties to the dispute.

## Article 10

**Application of other Rules**

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments made by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such provisions shall, to the extent that they are more favourable, prevail over this Agreement.

## Article 11

**Application of the Agreement**

This Agreement shall apply to all investments made by investors from one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations existing at or made after its entry into force.

## Article 12

**Consultations**

Representatives of the Contracting Parties shall, whenever necessary, hold consultations on any matter affecting the implementation of this Agreement. These consultations shall be held, on the proposal of either Contracting Party, at a place and a time to be agreed upon through diplomatic channels.

## Article 13

**Entry into force and Duration**

1. This Agreement shall enter into force the day after the latter written notification with which the Contracting Parties notify each other that their respective internal legal procedures have been fulfilled.

2. Ta sporazum velja za začetno obdobje desetih (10) let in se šteje, da je podaljšan pod istimi pogoji za obdobje desetih (10) let in tako naprej, razen če najmanj dvanajst (12) mesecev pred iztekom njegove veljavnosti ena ali druga pogodbenica pisno ne obvesti druge o svoji nameri, da ga odpove.

3. Za naložbe, ki so bile izvedene pred datumom prenehanja veljavnosti tega sporazuma, veljajo določbe od 1. do 12. člena še za nadaljnje obdobje desetih (10) let od datuma prenehanja veljavnosti tega sporazuma.

V DOKAZ TEGA sta podpisana predstavnika, ki sta bila za to pravilno pooblaščenca, podpisala ta sporazum.

Sestavljeno v dveh izvodih v Taškentu dne 7. oktobra 2003 v slovenskem, uzbeškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

Za Republiko Slovenijo  
**Dimitrij Rupel** l. r.

Za Republiko Uzbekistan  
**Sadik Safajev** l. r.

2. This Agreement shall remain in force initially for a period of ten (10) years and shall be considered as renewed on the same terms for a period of five years and so forth, unless twelve (12) months before its expiration either Contracting Party notifies the other in writing of its intention to terminate the Agreement.

3. In respect of investment made prior to the date of termination of this Agreement the provisions of Articles 1 to 12 shall remain in force for a further period of ten (10) years from the date of termination of this Agreement.

IN WITNESS WHEREOF, the undersigned representatives, duly authorised thereto, have signed the present Agreement.

Done in duplicate at Tashkent on October 7<sup>th</sup>, 2003 in the Slovene, Uzbek and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Republic of Slovenia  
**Dimitrij Rupel**, (s)

For the Republic of Uzbekistan  
**Sadik Safajev**, (s)

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za gospodarstvo.

4. člen

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

Št. 410-01/04-40/1  
Ljubljana, dne 5. aprila 2004  
EPA 1174-III

Predsednik  
Državnega zbora  
Republike Slovenije  
**Borut Pahor** l. r.

**41. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Moldove o vzajemnem spodbujanju in zaščiti naložb (BMDVSN)**

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 SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE MOLDOVE O VZAJEMNEM SPODBUJANJU IN ZAŠČITI NALOŽB (BMDVSN)**

Razgllašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Moldove o vzajemnem spodbujanju in zaščiti naložb (BMDVSN), ki ga je sprejel Državni zbor Republike Slovenije na seji 5. aprila 2004.

Št. 001-22-54/04  
Ljubljana, 13. aprila 2004

Predsednik  
Republike Slovenije  
**dr. Janez Drnovšek** l. r.

**Z A K O N****O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE MOLDOVE O VZAJEMNEM SPODBUJANJU IN ZAŠČITI NALOŽB (BMDVSN)**

## 1. člen

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Republike Moldove o vzajemnem spodbujanju in zaščiti naložb, podpisan v Ljubljani 10. aprila 2003.

## 2. člen

Besedilo sporazuma se v izvorniku v slovenskem in angleškem jeziku glasi:\*

**S P O R A Z U M  
MED  
VLADO REPUBLIKE SLOVENIJE  
IN  
VLADO REPUBLIKE MOLDOVE  
O VZAJEMNEM SPODBUJANJU IN ZAŠČITI  
NALOŽB****A G R E E M E N T  
BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF  
SLOVENIA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF  
MOLDOVA  
ON THE MUTUAL PROMOTION AND  
PROTECTION OF INVESTMENTS**

Vlada Republike Slovenije in Vlada Republike Moldove, v nadaljevanju pogodbenici, sta se

v želji, da okrepiata gospodarsko sodelovanje med državama,

z namenom, da spodbudita in ustvarita ugodne razmere za naložbe vlagateljev ene pogodbenice na ozemlju druge pogodbenice na podlagi enakopravnosti in obojestranske koristi,

ob spoznanju, da bosta vzajemno spodbujanje in zaščita naložb na podlagi tega sporazuma spodbujala poslovne pobude,

sporazumeli, kot sledi:

The Government of the Republic of Slovenia and the Government of the Republic of Moldova, hereinafter referred to as the "Contracting Parties,"

Desiring to intensify economic co-operation between the two States,

Intending to encourage and create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit,

Recognising that the mutual promotion and protection of investments on the basis of this Agreement will stimulate business initiative,

Have agreed as follows:

\* Besedilo sporazuma v moldavskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.



## 1. člen

**Pomen izrazov**

Za namen tega sporazuma:

1. Izraz »vlagatelj« pomeni:

a) fizične osebe, ki so državljani ene ali druge pogodbenice v skladu z njeno zakonodajo,

b) pravne osebe, vključno s korporacijami, gospodarskimi in drugimi družbami, združenji, ali katere koli druge subjekte, ki imajo sedež na ozemlju ene ali druge pogodbenice in so registrirani ali ustanovljeni po zakonu te pogodbenice,

ki izvajajo ali so izvedli naložbo na ozemlju druge pogodbenice.

2. Izraz »naložba« pomeni vsako vrsto premoženja, ki ga vlagatelj ene pogodbenice vložijo na ozemlju druge pogodbenice v skladu z zakoni in predpisi slednje, in vključuje zlasti, vendar ne izključno:

a) premočnine in nepremičnine kot tudi katere koli stvarne pravice, kot so hipoteka, zaseg, zastava in podobne pravice;

b) deleže, delnice in druge oblike kapitalske udeležbe v družbi ter pravice, ki iz njih izhajajo;

c) obveznice, zadolžnice in druge oblike dolga ter pravice, ki iz njih izhajajo;

d) denarne terjatve ali zahtevke za katere koli storitve, ki imajo ekonomsko vrednost in so povezane z naložbo;

e) pravice na področju intelektualne lastnine;

f) koncesije, vključno s koncesijami za iskanje, pravljanje, črpanje ali izkoriščanje naravnih virov, ki jih z zakonom, upravnim aktom ali po pogodbi podeljuje pristojni organ.

Kakršna koli sprememba oblike, v kateri se premoženje investira ali reinvestira, ne vpliva na njegovo naravo kot naložbo pod pogojem, da je taka sprememba v skladu z zakoni in predpisi pogodbenice, na katere ozemlju je bila naložba izvedena.

3. Izraz »dohodek« pomeni zneske, ki jih prinašajo naložbe, in vključuje zlasti, vendar ne izključno, dobiček, dividende, obresti, avtorske honorarje, kapitalski dobiček ali druge oblike dohodka, povezanega z naložbami.

4. Izraz »ozemlje« pomeni za eno ali drugo pogodbenico ozemlje pod njeno suverenostjo, vključno z zračnim prostorom in morskimi območji, nad katerimi pogodbenica izvaja suverenost ali jurisdikcijo v skladu z notranjim in mednarodnim pravom.

## 2. člen

**Spodbujanje in zaščita naložb**

1. Vsaka pogodbenica na svojem ozemlju spodbuja naložbe vlagateljev druge pogodbenice in sprejema take naložbe na svoje ozemlje v skladu s svojimi zakoni in predpisi.

2. Vsaka pogodbenica zagotavlja naložbam vlagateljev druge pogodbenice na svojem ozemlju pošteno in pravično obravnavo ter popolno in trajno zaščito in varnost.

3. Nobena pogodbenica z neupravičenimi, samovoljnimi ali diskriminacijskimi ukrepi na svojem ozemlju ne ovira vlagateljev druge pogodbenice pri upravljanju, vzdrževanju, uporabi in uživanju naložb ali razpolaganju z njimi.

4. Vsaka pogodbenica v okviru svoje zakonodaje z naklonjenostjo obravnava vloge vlagateljev za potrebna dovoljenja v zvezi z naložbami na svojem ozemlju, vključno z dovoljenji za zaposlovanje vodilnega poslovodnega in strokovnega osebja, po njihovi izbiri ne glede na njegovo državljanstvo.

## Article 1

**Definitions**

For the purpose of this Agreement:

1. The term "investor" shall mean:

a) natural persons having the nationality of either Contracting Party in accordance with its laws,

b) legal persons, including corporations, commercial or other companies, associations, or any other entities which have their seat in the territory of either Contracting Party and are incorporated or constituted under the law of that Contracting Party,

making or having made an investment in the other Contracting Party's territory.

2. The term "investment" shall mean every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter including, in particular, though not exclusively:

a) movable and immovable property as well as any rights *in rem* such as mortgages, liens, pledges and similar rights;

b) shares, stocks and other forms of equity participation in a company, and rights derived therefrom;

c) bonds, debentures and other forms of debt, and rights derived therefrom;

d) claims to money or to any performance having an economic value and associated with an investment;

e) rights in the field of intellectual property;

f) concessions conferred by law, by administrative act or under a contract, by a competent authority, including concessions to search for, develop, extract or exploit natural resources.

Any alteration in the form in which assets are invested or reinvested shall not affect their character as investments, provided that such alteration is in accordance with the laws and regulations of the Contracting Party in whose territory the investment has been made.

3. The term "returns" shall mean the amounts yielded by investments and in particular, though not exclusively, shall include profits, dividends, interests, royalties, capital gains or other forms of income related to the investments.

4. The term "territory" shall mean, with respect to either Contracting Party, the territory under its sovereignty, including air space and maritime areas, over which the Contracting Party concerned exercises sovereignty or jurisdiction, in accordance with internal and international law.

## Article 2

**Promotion and Protection of Investments**

1. Each Contracting Party shall promote investments by investors of the other Contracting Party and shall admit such investments into its territory in accordance with its laws and regulations.

2. Each Contracting Party shall accord to investments of investors of the other Contracting Party in its territory fair and equitable treatment and full and constant protection and security.

3. Neither Contracting Party shall impair by unreasonable, arbitrary or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments of investors of the other Contracting Party in its territory.

4. Each Contracting Party shall, within the framework of its legislation, give sympathetic consideration to applications of investors for necessary permits in connection with the investments in its territory, including authorisations for engaging top managerial and technical personnel of their choice, regardless of their nationality.

5. Vsaka pogodbenica spoštuje kakršno koli obveznost, ki jo je sprejela v zvezi s posebnimi naložbami vlagateljev druge pogodbenice.

### 3. člen

#### Nacionalna obravnava in obravnava po načelu države z največjimi ugodnostmi

1. Vsaka pogodbenica zagotovi vlagateljem druge pogodbenice in njihovim naložbam obravnavo, ki ni manj ugodna od tiste, ki jo zagotavlja svojim vlagateljem in njihovim naložbam ali vlagateljem katere koli tretje države in njihovim naložbam glede upravljanja, obratovanja, vzdrževanja, uporabe, uživanja, prodaje in likvidacije naložbe, kar je za vlagatelja ugodnejše.

2. Določbe tega člena se ne smejo razlagati tako, da obvezujejo eno pogodbenico, da podeli vlagateljem druge pogodbenice ali njihovim naložbam kakršno koli obravnavo, ugodnost ali privilegij na podlagi:

a) katerega koli obstoječega ali prihodnjega članstva v prostotrgovinskem območju, carinski uniji ali organizaciji za regionalno gospodarsko povezovanje ali katerega koli mnogostranskega sporazuma o naložbah;

b) katerega koli mednarodnega sporazuma, ki se v celoti ali pretežno nanaša na obdavčevanje.

3. Da bi se izognili dvomu, se potrjuje, da se obravnava, določena v prvem in drugem odstavku tega člena, uporablja za določbe od 1. do 15. člena tega sporazuma.

### 4. člen

#### Preglednost

1. Vsaka pogodbenica nemudoma objavi ali kako drugače omogoči javno dostopnost do svojih zakonov, predpisov, postopkov in mednarodnih sporazumov, ki lahko vplivajo na izvajanje sporazuma.

2. Vsaka pogodbenica z naklonjenostjo obravnava določena vprašanja in na zahtevo drugi pogodbenici zagotovi informacije o zadevah iz prvega odstavka.

3. Pogodbenici ni treba priskrbeti informacij o določenih vlagateljih ali naložbah ali omogočiti dostopa do takih informacij, katerih razkritje bi oviralo uveljavitev zakonov ali bilo v nasprotju z njenimi zakoni in predpisi, ki varujejo zaupnost.

### 5. člen

#### Razlastitev

1. Naložbe vlagateljev ene pogodbenice se na ozemlju druge pogodbenice ne smejo razlastiti, nacionalizirati ali se v zvezi z njimi sprejeti kakršen koli drug ukrep z enakovrednim učinkom, kot ga ima razlastitev ali nacionalizacija (v nadaljevanju »razlastitev«), razen v javnem interesu, na nediskriminacijski podlagi, v skladu z zakonitim postopkom in za takojšnje, ustrezno in učinkovito nadomestilo.

2. Tako nadomestilo je enako pošteni tržni vrednosti razlašene naložbe, neposredno preden je razlastitev postala javno znana (v nadaljevanju »datum vrednotenja«).

3. Ta poštena tržna vrednost je izražena v prosto zamenljivi valuti na podlagi tržnega menjalnega tečaja, ki velja za to valuto na datum vrednotenja. Nadomestilo vključuje tudi obresti po komercialni meri, določeni na tržni podlagi ali pa po londonski medbančni obrestni meri (LIBOR) od datuma razlastitve do datuma dejanskega plačila, kar je za vlagatelja ugodnejše.

5. Each Contracting Party shall observe any obligation it may have entered into with regard to specific investments by investors of the other Contracting Party.

### Article 3

#### National Treatment and Most Favoured Nation Treatment

1. Each Contracting Party shall accord to investors of the other Contracting Party and to their investments treatment no less favourable than that it accords to its own investors and their investments or to investors of any third State and their investments with respect to the management, operation, maintenance, use, enjoyment, sale and liquidation of an investment, whichever is more favourable to the investor.

2. The provisions of this Article shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party or to their investments the benefit of any treatment, preference or privilege by virtue of:

a) any existing or future membership in a free trade area, customs union or regional economic integration organisation or any multilateral agreement on investment,

b) any international agreement relating wholly or mainly to taxation.

3. For the avoidance of doubt, it is confirmed that the treatment provided for in paragraphs 1 and 2 of this Article shall apply to the provisions of Articles 1 to 15 of this Agreement.

### Article 4

#### Transparency

1. Each Contracting Party shall promptly publish, or otherwise make publicly available, its laws, regulations, procedures as well as international agreements which may affect the operation of the Agreement.

2. Each Contracting Party shall give sympathetic consideration to specific questions and provide, upon request, information to the other Contracting Party on matters referred to in paragraph 1.

3. No Contracting Party shall be required to furnish or allow access to information concerning particular investors or investments the disclosure of which would impede law enforcement or would be contrary to its laws and regulations protecting confidentiality.

### Article 5

#### Expropriation

1. Investments of investors of a Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalised or subject to any other measure having effect equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation"), except for a public purpose, on a non-discriminatory basis, under due process of law and against prompt, adequate and effective compensation.

2. Such compensation shall amount to the fair market value of the expropriated investment at the time immediately before the expropriation became publicly known (hereinafter referred to as the "valuation date").

3. Such fair market value shall be expressed in a freely convertible currency on the basis of the market rate of exchange existing for that currency on the valuation date. Compensation shall also include interest at a commercial rate established on a market basis or at the London Inter-Bank Offered Rate (LIBOR) from the date of expropriation until the date of actual payment, whichever is more favourable to the investor.

4. Vlagatelj, katerega naložbe so razlaščene, ima pravico zahtevati, da sodni ali drug pristojni organ te pogodbenice nemudoma pregleda njegov primer in vrednotenje njegovih naložb v skladu z načeli, določenimi v tem členu.

## 6. člen

**Nadomestilo za izgube**

1. Vlagateljem ene pogodbenice, pri naložbah katerih so nastale izgube zaradi vojne ali drugega oboroženega spopada, revolucije, narodne vstaje, izrednega stanja ali kakega podobnega dogodka na ozemlju druge pogodbenice, ta druga pogodbenica zagotovi glede ukrepov, ki jih sprejme v zvezi s takšnimi izgubami, vključno z nadomestilom, odškodnino ali vrnitvijo v prejšnje stanje, obravnavo, ki ni manj ugodna od tiste, ki jo ta pogodbenica zagotavlja svojim vlagateljem ali vlagateljem katere koli tretje države, kar je za vlagatelja ugodnejše. Kakršno koli plačilo, opravljeno na podlagi tega člena, je takoj unovčljivo in prosto prenosljivo.

2. Brez poseganja v prvi odstavek tega člena vlagatelju pogodbenice, ki je zaradi katerega koli dogodka iz prvega odstavka utrpel izgubo, ki je nastala zaradi:

- a) zaplembe njegove naložbe ali njenega dela, ki so jo izvedle sile ali organi druge pogodbenice, ali
- b) uničenja njegove naložbe ali njenega dela, ki so ga povzročile sile ali organi druge pogodbenice in ga ni narekovala nujnost razmer,

druga pogodbenica v vsakem primeru zagotovi vrnitev v prejšnje stanje ali nadomestilo, ki je v obeh primerih takojšnje, ustrezno in učinkovito, nadomestilo pa je v skladu z drugim, tretjim in četrtem odstavkom 5. člena.

## 7. člen

**Prenosi**

1. Vsaka pogodbenica jamči vlagateljem druge pogodbenice prost prenos sredstev v zvezi z njihovimi naložbami in zlasti, vendar ne izključno:

- a) začetnega kapitala in dodatnih prispevkov za vzdrževanje ali razvoj naložb;
- b) dohodka;
- c) sredstev za odplačilo posojil, povezanih z naložbo;
- d) izkupička od celotne ali delne prodaje ali likvidacije naložbe;
- e) kakršnega koli nadomestila ali drugega plačila iz 5. in 6. člena tega sporazuma;
- f) plačil, ki izhajajo iz rešitve spora;
- g) zaslužkov in drugih prejemkov osebja iz tujine, zaposlenega v zvezi z naložbo.

2. Prenosi iz tega člena se izvedejo brez omejitev ali odlašanja po tržnem menjalnem tečaju, ki velja na datum prenosa, in v prosto zamenljivi valuti.

3. Če ni trga tujega denarja, se za tečaj uporabi zadnji menjalni tečaj za menjavo valut v posebne pravice črpanja.

4. Ne glede na prvi, drugi in tretji odstavek lahko pogodbenica prepreči prenos s pravično, nediskriminacijsko in dobronamerno uporabo svoje zakonodaje, ki se nanaša na:

- a) stečaj, plačilno nesposobnost ali varstvo pravic upnikov;
- b) izdajanje vrednostnih papirjev, trgovanje ali poslovanje z njimi;

4. The investor whose investments are expropriated shall have the right to prompt review by a judicial or other competent authority of that Contracting Party of its case and of valuation of its investments in accordance with the principles set out in this Article.

## Article 6

**Compensation for Losses**

1. Investors of one Contracting Party whose investments have suffered losses owing to war or other armed conflict, revolution, national uprising, state of emergency or any similar event in the territory of the other Contracting Party shall be accorded by the latter Contracting Party, as regards measures it adopts in relation to such losses, including compensation, indemnification or restitution, treatment no less favourable than that which the latter Contracting Party accords to its own investors or investors of any third State, whichever is more favourable to the investor. Any payment made under this Article shall be immediately realisable and freely transferable.

2. Without prejudice to paragraph 1, an investor of a Contracting Party which in any of the events referred to in that paragraph suffers a loss resulting from:

- a) requisitioning of its investment or part thereof by the forces or authorities of the other Contracting Party; or
- b) destruction of its investment or part thereof by the forces or authorities of the other Contracting Party, which was not required by the necessity of the situation,

shall in any case be accorded by the latter Contracting Party restitution or compensation which in either case shall be prompt, adequate and effective and, with respect to compensation, shall be in accordance with paragraphs 2 to 4 of Article 5.

## Article 7

**Transfers**

1. Each Contracting Party shall guarantee investors of the other Contracting Party the free transfer of funds related to their investments and in particular, though not exclusively:

- a) initial capital and additional contributions for the maintenance or development of the investments;
- b) returns;
- c) funds in repayment of loans related to an investment;
- d) proceeds from the sale or liquidation of all or part of an investment;
- e) any compensation or other payment referred to in Articles 5 and 6 of this Agreement;
- f) payments arising out of the settlement of a dispute;
- g) earnings and other remuneration of nationals engaged from abroad in connection with the investment.

2. The transfers referred to in this Article shall be made without restriction or delay at the market rate of exchange applicable on the date of transfer and shall be made in a freely convertible currency.

3. In the absence of a market for foreign exchange, the rate to be used shall be the most recent exchange rate for conversion of currencies into Special Drawing Rights.

4. Notwithstanding paragraphs 1 to 3, a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

- a) bankruptcy, insolvency or the protection of the rights of creditors;
- b) issuing, trading or dealing in securities;

c) kazniva dejanja ali  
 d) zagotavljanje spoštovanja odredb ali sodb v sodnih postopkih,  
 pod pogojem, da se taki ukrepi in njihova uporaba ne uporabljajo kot sredstvo za izogibanje zavezam ali obveznostim pogodbenice po tem sporazumu.

## 8. člen

**Subrogacija**

Če pogodbenica ali agencija, ki jo ta določi, opravi plačilo na podlagi danega jamstva, garancije ali pogodbe o zavarovanju v zvezi z naložbo vlagatelja na ozemlju druge pogodbenice, ta druga pogodbenica prizna prenos vseh pravic in zahtevkov tega vlagatelja na prvo pogodbenico ali agencijo, ki jo ta določi, da ta pogodbenica ali agencija, ki jo ta določi, na podlagi subrogacije uresničuje kakršno koli pravico in zahtevek v enakem obsegu kot njen pravni predhodnik.

## 9. člen

**Odrekanje ugodnosti**

Pogodbenica lahko vlagatelju druge pogodbenice in njegovim naložbam odredi ugodnosti po tem sporazumu, če imajo vlagatelji nepogodbenice v lasti ali pod nadzorom tega vlagatelja in ta vlagatelj nima pomembnejše poslovne dejavnosti na ozemlju pogodbenice, po katere zakonu je ustanovljen ali organiziran.

## 10. člen

**Reševanje sporov med vlagateljem in pogodbenico**

1. Kakršen koli spor, ki lahko nastane med vlagateljem ene pogodbenice in drugo pogodbenico v zvezi z domnevno kršitvijo obveznosti slednje po tem sporazumu in povzroči vlagatelju ali njegovi naložbi izgubo ali škodo, se rešuje prijateljsko s pogajanjem.

2. Če takega spora ni mogoče rešiti v treh (3) mesecih od datuma pisne zahteve za rešitev, lahko zadevni vlagatelj spor predloži:

a) pristojnemu sodišču pogodbenice ali  
 b) v spravo ali arbitražo prek Mednarodnega centra za reševanje investicijskih sporov (»Center«), ustanovljenega na podlagi Konvencije o reševanju investicijskih sporov med državami in državljani drugih držav, ki je bila dana na voljo za podpis v Washingtonu D.C. 18. marca 1965 (»konvencija ICSID«), ali  
 c) Centru po pravilih, ki urejajo Dodatni dogovor o postopkih, ki jih vodi Sekretariat Centra (»Pravila o dodatnem dogovoru«), če je vlagateljova pogodbenica ali pogodbenica, ki je stranka v sporu, vendar ne obe, članica konvencije ICSID;

d) ad hoc arbitražnemu sodišču, ki se, če se stranki v sporu ne dogovorita drugače, ustanovi po Arbitražnih pravilih Komisije Združenih narodov za mednarodno trgovinsko pravo (UNCITRAL).

3. Vsaka pogodbenica brezpogojno soglaša s predložitvijo investicijskega spora mednarodni spravi ali arbitraži.

c) criminal or penal offences; or  
 d) ensuring compliance with orders or judgements in adjudicatory proceedings;  
 provided that such measures and their application shall not be used as a means of avoiding the Contracting Party's commitments or obligations under this Agreement.

## Article 8

**Subrogation**

If a Contracting Party or its designated agency makes a payment under an indemnity, guarantee or contract of insurance given in respect of an investment of an investor in the territory of the other Contracting Party, the latter Contracting Party shall recognise the assignment to the former Contracting Party or its designated agency of all rights and claims of such investor which that Contracting Party or its designated agency shall be entitled to exercise by virtue of subrogation to the same extent as its predecessor in title.

## Article 9

**Denial of Benefits**

A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party and to its investments, if investors of a Non-Contracting Party own or control the first mentioned investor and that investor has no substantial business activity in the territory of the Contracting Party under whose law it is constituted or organised.

## Article 10

**Settlement of Disputes between an Investor and a Contracting Party**

1. Any dispute which may arise between an investor of one Contracting Party and the other Contracting Party concerning an alleged breach of an obligation of the latter under this Agreement which causes loss or damage to the investor or its investment shall be settled amicably through negotiations.

2. If such a dispute cannot be settled within a period of three (3) months from the date of the written request for settlement, the investor concerned may submit the dispute to:

a) the competent court of the Contracting Party; or  
 b) conciliation or arbitration through the International Centre for the Settlement of Investment Disputes ("the Centre"), established under the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington D.C., on March 18, 1965 (the "ICSID Convention"); or  
 c) the Centre, under the rules governing the Additional Facility for the Administration of Proceedings by the Secretariat of the Centre (the "Additional Facility Rules"), if the Contracting Party of the investor or the Contracting Party, party to the dispute, but not both, is a party to the ICSID Convention.

d) an ad-hoc tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. Each Contracting Party hereby consents unconditionally to the submission of an investment dispute to international conciliation or arbitration.

4. Pravna oseba, ki je ustanovljena ali organizirana po pravu pogodbenice, ki je stranka v sporu, in je bila pred nastankom spora med njo in to pogodbenico pod nadzorom vlagateljev druge pogodbenice, se za namen točke b) drugega odstavka 25. člena konvencije ICSID obravnava kot »državljan druge države članice« ter se za namen šestega odstavka 1. člena Pravil o dodatnem dogovoru obravnava kot »državljan druge države«.

5. Pogodbenica ne uveljavlja kot obrambo, protizahtev, pravico do pobota ali iz katerega koli drugega razloga tega, da je bila ali bo prejeta na podlagi jamstva, garancije ali pogodbe o zavarovanju odškodnina ali drugo nadomestilo za vso domnevno škodo ali njen del.

6. Nobena pogodbenica v zvezi s katerim koli sporom, predloženim v arbitražo po tem členu, ne prizna diplomatske zaščite ali vloži mednarodnega zahtevka, razen če druga pogodbenica ne upošteva odločbe, izdane v takem sporu, ali ne ravna v skladu z njo.

7. Arbitražna odločba je dokončna in zavezujoča za stranki v sporu ter se prizna in izvrši v skladu z notranjim in mednarodnim pravom.

#### 11. člen

### Reševanje sporov med pogodbenicama

1. Spori med pogodbenicama v zvezi z razlago in uporabo tega sporazuma naj se, kolikor je le mogoče, rešujejo prijateljsko s pogajanjem po diplomatski poti.

2. Če spora tako ni mogoče rešiti v treh (3) mesecih po datumu, ko je ena ali druga pogodbenica takšna pogajanja pisno zahtevala, se spor na zahtevo ene ali druge pogodbenice predloži arbitražnemu sodišču.

3. Tako arbitražno sodišče se ustanovi za vsak posamezen primer na naslednji način. V dveh (2) mesecih od prejema zahtevka za arbitražo imenuje vsaka pogodbenica enega člana arbitražnega sodišča. Ta dva člana nato izbereta državljana tretje države, ki je po odobritvi obeh pogodbenic imenovan za predsednika arbitražnega sodišča. Predsednik je imenovan v treh (3) mesecih od datuma, ko sta bila imenovana druga dva člana.

4. Če potrebna imenovanja niso bila opravljena v rokih, določenih v tretjem odstavku tega člena, lahko ena ali druga pogodbenica, če ni dogovorjeno drugače, zaprosi predsednika Meddržavnega sodišča, naj opravi potrebna imenovanja. Če je predsednik državljan ene ali druge pogodbenice ali če omenjene naloge ne more opraviti iz kakšnega drugega razloga, je zaprosen po funkciji naslednji najstarejši član Meddržavnega sodišča, ki ni državljan ene ali druge pogodbenice ali če omenjene naloge ne more opraviti iz kakšnega drugega razloga, da opravi potrebna imenovanja.

5. Arbitražno sodišče odloča z večino glasov. Odločitve arbitražnega sodišča so za pogodbenici dokončne in zavezujoče.

6. Vsaka pogodbenica krije stroške člana, ki ga imenuje, in svojega zastopstva v arbitražnem postopku. Stroške predsednika in vse druge stroške prevzame pogodbenici v enakih delih. Glede delitve stroškov lahko arbitražno sodišče odloči drugače.

7. O vseh drugih zadevah arbitražno sodišče samo določi svoj poslovnik.

4. A legal person which is constituted or organised under the law of the Contracting Party, party to the dispute, and which, before a dispute between it and that Contracting Party arises, is controlled by investors of the other Contracting Party, shall for the purpose of Article 25(2)(b) of the ICSID Convention be treated as a "national of another Contracting State" and shall for the purpose of Article 1(6) of the Additional Facility Rules be treated as a "national of another State".

5. A Contracting Party shall not assert as a defence, counter-claim, right of set-off or for any other reason, that indemnification or other compensation for all or part of the alleged damages has been received or will be received pursuant to an indemnity, guarantee or contract of insurance.

6. Neither Contracting Party shall give diplomatic protection or bring an international claim in respect of any dispute referred to arbitration under this Article, unless the other Contracting Party shall have failed to abide by or comply with the award rendered in such a dispute.

7. The award shall be final and binding on both parties to the dispute and shall be recognised and enforced in accordance with internal and international law.

#### Article 11

### Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement should, as far as possible, be settled amicably by negotiations through diplomatic channels.

2. If the dispute cannot thus be settled within three (3) months of the date on which such negotiations were requested in writing by either Contracting Party, it shall at the request of either Contracting Party be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two (2) months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed chairman of the tribunal. The chairman shall be appointed within three (3) months from the date of appointment of the other two members.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party or is otherwise prevented from discharging the said function, shall be invited to make the necessary appointments.

5. The arbitral tribunal shall reach its decision by a majority of votes. The decisions of the tribunal shall be final and binding on both Contracting Parties.

6. Each Contracting Party shall bear the costs of the member appointed by that Contracting Party, and of its representation at the arbitral proceedings. Both Contracting Parties shall assume an equal share of the cost of the chairman, as well as any other costs. The tribunal may make a different decision regarding the sharing of the costs.

7. In all other respects, the arbitral tribunal shall determine its own rules of procedure.

## 12. člen

**Uporaba drugih pravil**

Če bi zakonske določbe ene ali druge pogodbenice ali obstoječe ali prihodnje obveznosti med pogodbenicama po mednarodnem pravu poleg tega sporazuma vsebovale splošno ali posebno ureditev, ki bi naložbam vlagateljev ene ali druge pogodbenice zagotavljala ugodnejšo obravnavo, kot jo predvideva ta sporazum, take določbe v obsegu, kolikor so ugodnejše, prevladajo nad tem sporazumom.

## 13. člen

**Uporaba sporazuma**

Ta sporazum se uporablja za vse naložbe vlagateljev ene pogodbenice na ozemlju druge pogodbenice v skladu z njenimi zakoni in predpisi, ki so obstajale ob začetku njegove veljavnosti ali so bile izvedene po njem.

## 14. člen

**Splošne izjeme**

1. Nič v tem sporazumu se ne razume, kot da pogodbenici preprečuje kakršno koli ukrepanje v skladu z njenimi mednarodnimi obveznostmi za ohranjanje mednarodnega miru in varnosti ali ga šteje za potrebno za zaščito svojih temeljnih varnostnih interesov.

2. Ob upoštevanju zahteve, da se taki ukrepi ne uporabljajo na način, ki bi pomenil sredstvo samovoljne ali neutemeljene diskriminacije s strani pogodbenice ali prikrito omejevanje naložb, se nič v tem sporazumu ne razume, kot da preprečuje pogodbenici, da sprejme kateri koli potreben ukrep za ohranjanje javnega reda.

3. Določbe tega člena se ne uporabljajo za 5. člen, 6. člen ali točko e) prvega odstavka 7. člena.

## 15. člen

**Posvetovanja**

Vsaka pogodbenica lahko po potrebi predlaga posvetovanja o kateri koli zadevi, ki vpliva na izvajanje tega sporazuma. O kraju in času teh posvetovanj se dogovori po diplomatski poti.

## 16. člen

**Začetek veljavnosti, trajanje in prenehanje veljavnosti**

1. Ta sporazum začne veljati prvi dan naslednjega koledarskega meseca po mesecu prejema zadnjega od uradnih obvestil, s katerima se pogodbenici uradno obvestita, da so izpolnjene zahteve njune notranje zakonodaje za začetek veljavnosti sporazuma.

2. Ta sporazum velja za začetno obdobje petih (5) let in se šteje, da je podaljšan pod istimi pogoji za obdobje petih (5) let in tako naprej, razen če najmanj dvanajst (12) mesecev pred iztekom njegove veljavnosti ena ali druga pogodbenica pisno ne obvesti druge o svoji nameri, da ga odpove.

3. Za naložbe, ki so bile izvedene pred datumom prenehanja veljavnosti tega sporazuma, veljajo določbe od 1. do 15. člena še za nadaljnje obdobje petih (5) let od datuma prenehanja veljavnosti tega sporazuma.

## Article 12

**Application of other Rules**

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments of investors of either Contracting Party to a treatment more favourable than is provided for by this Agreement, such provisions shall, to the extent that they are more favourable, prevail over this Agreement.

## Article 13

**Application of the Agreement**

This Agreement shall apply to all investments made by investors from one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations existing at or made after its entry into force.

## Article 14

**General Exceptions**

1. Nothing in this Agreement shall be construed so as to prevent a Contracting Party from taking any action in pursuance of its international obligations for the maintenance of international peace and security or which it considers necessary for the protection of its essential security interests.

2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination by a Contracting Party, or a disguised investment restriction, nothing in this Agreement shall be construed to prevent a Contracting Party from taking any measure necessary for the maintenance of public order.

3. The provisions of this Article shall not apply to Article 5, Article 6 or paragraph 1(e) of Article 7.

## Article 15

**Consultations**

Each Contracting Party may propose to hold, whenever necessary, consultations on any matter affecting the implementation of this Agreement. These consultations shall be held at a place and a time to be agreed upon through diplomatic channels.

## Article 16

**Entry into Force, Duration and Termination**

1. This Agreement shall enter into force on the first day of the next calendar month following the month of receipt of the latter of the notifications with which the Contracting Parties notify each other that the requirements of their national legislation for the entry into force of the Agreement have been fulfilled.

2. This Agreement shall remain in force initially for a period of five (5) years and shall be considered as renewed on the same terms for a period of five (5) years and so forth, unless at least twelve (12) months before its expiration either Contracting Party notifies the other in writing of its intention to terminate the Agreement.

3. In respect of investments made prior to the date of termination of this Agreement the provisions of Articles 1 to 15 shall remain in force for a further period of five (5) years from the date of termination of this Agreement.

V DOKAZ TEGA sta podpisana predstavnika, ki sta bila za to pravilno pooblaščenata, podpisala ta sporazum.

Sestavljeno v dveh izvodih v Ljubljani dne 10. aprila 2003 v slovenskem, moldavskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

Za Vlado  
Republike Slovenije  
**Tea Petrin** l. r.

Za Vlado  
Republike Moldove  
**Stefan Odagiu** l. r.

IN WITNESS WHEREOF, the undersigned representatives, duly authorised thereto, have signed the present Agreement.

Done in duplicate at Ljubljana on 10<sup>th</sup> April 2003 in the Slovenian, Moldavian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of  
the Republic of Slovenia  
**Tea Petrin**, (s)

For the Government of  
the Republic of Moldova  
**Stefan Odagiu**, (s)

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za gospodarstvo.

4. člen

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

Št. 410-01/04-41/1  
Ljubljana, dne 5. aprila 2004  
EPA 1176-III

Predsednik  
Državnega zbora  
Republike Slovenije  
**Borut Pahor** l. r.

## VSEBINA

- |     |   |      |
|-----|---|------|
| 39. | Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Indije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka s protokolom (BINIDO) | 3841 |
| 40. | Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Uzbekistan o vzajemnem spodbujanju in zaščiti naložb (BUZVSN)   | 3858 |
| 41. | Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Moldove o vzajemnem spodbujanju in zaščiti naložb (BMDVSN)  | 3864 |

