

Uradni list Republike Slovenije



Mednarodne pogodbe

Internet: <http://www.uradni-list.si>

e-pošta: info@uradni-list.si

Št. 19 (Uradni list RS, št. 110) Ljubljana, četrtek 26. 10. 2006 ISSN 1318-0932 Leto XVI

107. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Bosno in Hercegovino o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BBHIDO)

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

U K A Z

O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN BOSNO IN HERCEGOVINO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BBHIDO)

Razglašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Bosno in Hercegovino o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BBHIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 29. septembra 2006.

Št. 001-22-140/06
Ljubljana, dne 9. oktobra 2006

dr. Janez Drnovšek l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN BOSNO IN HERCEGOVINO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BBHIDO)

1. člen

Ratificira se Konvencija med Republiko Slovenijo in Bosno in Hercegovino o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, podpisana 16. maja 2006 v Ljubljani.

2. člen

Konvencija se v angleškem jeziku in prevodu v slovenskem jeziku glasi:

C O N V E N T I O N

BETWEEN THE REPUBLIC OF SLOVENIA
AND BOSNIA AND HERZEGOVINA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND ON
CAPITAL

The Republic of Slovenia and Bosnia and Herzegovina, desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital,

Have agreed as follows:

K O N V E N C I A

MED REPUBLIKO SLOVENIJO IN
BOSNO IN HERCEGOVINO O IZOGIBANJU
DVOJNEGA OBDAVČEVANJA IN
PREPREČEVANJU DAVČNIH UTAJ V ZVEZI
Z DAVKI OD DOHODKA IN PREMOŽENJA

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

CHAPTER I SCOPE OF THE CONVENTION

Article 1 PERSONS COVERED

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

I. POGLAVJE PODROČJE UPORABE KONVENCIJE

1. člen
OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA
Ta konvencija se uporablja za osebe, ki so rezidenti ene ali obeh držav pogodbenic.

Article 2

TAXES COVERED

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

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

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

a) in Slovenia:

- (i) the tax on income of legal persons;
 - (ii) the tax on income of individuals;
 - (iii) the tax on property;
- (hereinafter referred to as "Slovenian tax");

b) in Bosnia and Herzegovina:

- (i) the taxes on income;
 - (ii) the tax on profit;
 - (iii) the tax on property;
- (hereinafter referred to as "Bosnia and Herzegovina tax").

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

CHAPTER II

DEFINITIONS

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;

b) the term "Bosnia and Herzegovina" means State Bosnia and Herzegovina;

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

d) the term "political subdivision" in case of Bosnia and Herzegovina means the entities: Federation of Bosnia and Herzegovina and Republika Srpska, and the Brčko District of Bosnia and Herzegovina;

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

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

g) the term "enterprise" applies to the carrying of any business;

h) 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;

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

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

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

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

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

a) v Sloveniji:

- (i) davek od dohodkov pravnih oseb,
 - (ii) dohodnina,
 - (iii) davek od premoženja
- (v nadaljevanju »slovenski davek«);

b) v Bosni in Hercegovini:

- (i) davek od dohodka,
 - (ii) davek od dobička,
 - (iii) davek od premoženja
- (v nadaljevanju »davek Bosne in Hercegovine«).

4. Konvencija se uporablja tudi za enake ali vsebinsko podobne davke, ki se po datumu podpisa konvencije uvedejo poleg obstoječih davkov ali namesto njih. Pristojna organa držav pogodbenic druga drugega uradno obvestita o vseh bistvenih spremembah njunih davčnih zakonodaj.

II. POGLAVJE

OPREDELITEV IZRAZOV

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne zahteva drugače:

a) izraz »Slovenija« pomeni Republiko Slovenijo;

b) izraz »Bosna in Hercegovina« pomeni državo Bosno in Hercegovino;

c) izraza »država pogodbenica« in »druga država pogodbenica« pomenita, kot zahteva sobesedilo, Slovenijo ali Bosno in Hercegovino;

d) izraz »politična enota« v Bosni in Hercegovini pomeni entitete: Federacijo Bosno in Hercegovino in Republiko Srbsko ter Okrožje Brčko v Bosni in Hercegovini;

e) izraz »oseba« vključuje posameznika, družbo ali katero koli drugo telo, ki združuje več oseb;

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

g) izraz »podjetje« se nanaša na kakršno koli poslovanje;

h) 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;

i) izraz »mednarodni promet« pomeni prevoz z ladjo, letalom ali cestnim vozilom, ki ga opravlja podjetje s sedežem dejanske uprave v državi pogodbenici, razen če se z ladjo, letalom ali cestnim vozilom ne opravljajo prevozi samo med kraji v drugi državi pogodbenici;

j) the term "competent authority" means:

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

(ii) in Bosnia and Herzegovina: the Ministry of Finance and Treasury or its authorised representative;

k) the term "national", in relation to a Contracting State, means:

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

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

l) the term "business" includes the performance of professional service and of other activities of an independent character.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;

j) izraz »pristojni organ« pomeni:

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

(ii) v Bosni in Hercegovini Ministrstvo za finance in zakladništvo ali pooblaščenega predstavnika tega ministrstva;

k) izraz »državljan« v zvezi z državo pogodbenico pomeni:

(i) posameznika, ki ima državljanstvo države pogodbenice, in

(ii) pravno osebo, osebno družbo ali združenje, katerega status izhaja iz veljavne zakonodaje države pogodbenice;

l) izraz »poslovanje« vključuje opravljanje poklicnih storitev in drugih samostojnih dejavnosti.

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

4. člen

REZIDENT

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

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

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

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

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

d) če je državljan obeh držav ali nobene od njiju, prisotna 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 samo za rezidenta države, v kateri je sedež njene dejanske uprave.

5. člen

STALNA POSLOVNA ENOTA

1. V tej konvenciji izraz »stalna poslovna enota« pomeni stalno mesto poslovanja, prek katerega v celoti ali delno poteka poslovanje podjetja.

2. Izraz »stalna poslovna enota« še posebej vključuje:

- a) sedež uprave,
- b) podružnico,

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

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith, constitutes a permanent establishment only if such site, project or activity lasts in the territory of a Contracting State for a period of 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 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 purposes 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 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III TAXATION OF INCOME

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.

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

3. Gradbišče, projekt gradnje, montaže ali postavitve ali dejavnost nadzora v zvezi z njimi je stalna poslovna enota samo, če tako gradbišče, projekt ali dejavnost na ozemlju države pogodbenice 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 skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljala ali pomožna.

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

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

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

III. POGLAVJE OBDAVČEVANJE DOHODKA

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. 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 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.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses (other than expenses which would not be deductible if that permanent establishment were a separate enterprise of a Contracting State) which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributable to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8

INTERNATIONAL TRANSPORT

1. Profits from the operation of ships, aircraft or road transport vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. Izraz »nepremičnina« ima pomen, ki ga ima po zakonodaji države pogodbenice, v kateri je ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo 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 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.

7. člen

POSLOVNI DOBIČEK

1. Dobíček podjetja države pogodbenice se obdavci samo v tej državi, razen če podjetje ne posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kot je prej omenjeno, se lahko dobíček podjetja obdavci v drugi državi, vendar samo toliko dobíčka, 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 dobíček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3. Pri določanju dobíčka stalne poslovne enote je dovoljeno odštetiti tiste stroške (razen stroškov, ki jih ne bi bilo mogoče odštetiti, če bi bila stalna poslovna enota ločeno podjetje države pogodbenice), ki nastanejo za namene stalne poslovne enote, vključno s poslovodnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali druge.

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

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

6. Za namene prejšnjih odstavkov se dobíček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če ni upravičenega in zadostnega razloga za nasprotno.

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

8. člen

MEDNARODNI PREVOZ

1. Dobíček iz ladijskih, letalskih ali cestnih prevozov v mednarodnem prometu se obdavci samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

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

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

Article 9 ASSOCIATED ENTERPRISES

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

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

Article 10 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;

b) 10 per cent of the gross amount of the dividends in all other cases.

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

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

3. The term "dividends" as used in this Article means income from shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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

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

9. člen POVEZANA PODJETJA

1. Kadar:

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

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

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

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

10. člen DIVIDENDE

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

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

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

b) 10 odstotkov bruto zneska dividend v vseh drugih primerih.

Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe takih omejitvev.

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, ustanoviteljskih delnic ali drugih pravic do udeležbe pri dobičku, ki niso terjatve, in tudi dohodek iz drugih korporacijskih pravic, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 7 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

a) the payer of the interest is the Government of that Contracting State or a political subdivision or a local authority or Central Bank thereof;

b) the interest is paid to the Government of the other Contracting State or a political subdivision or a local authority or Central Bank thereof;

c) the interest is paid in respect of a loan made, approved, guaranteed or insured by institution which is authorised in accordance with internal law on insurance and financing of international business transactions thereof.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

4. Določbe prvega in drugega odstavka se ne uporablja-jo, 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 in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto. V takem primeru se uporablja določbe 7. člena.

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 v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

11. člen

OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne presega 7 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe take omejitve.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici, oprošcene davka v tej državi, če:

a) je plačnik obresti vlada države pogodbenice ali njena politična enota ali lokalna oblast ali centralna banka;

b) se obresti plačajo vladi druge države pogodbenice ali njeni politični enoti ali lokalni oblasti ali centralni banki;

c) se obresti plačajo za posojilo, ki ga je dala, odobrila, zanj dala poroštvo ali ga zavarovala ustanova, ki je po notranjem pravu pooblaščena za zavarovanje in financiranje mednarodnih poslov.

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 pri dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. Določbe prvega, drugega in tretjega odstavka se ne uporablja, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej in je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto. V takem primeru se uporablja določbe 7. člena.

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

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

Article 12 ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is the resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of such royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid if effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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.

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

12. člen LICENČNINE IN AVTORSKI HONORARJI

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in katerih upravičeni lastnik je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne presega 5 odstotkov bruto zneska takih licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe take omejitve.

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

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

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

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

13. člen KAPITALSKI DOBIČKI

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

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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

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

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

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 16, 18 and 19 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road transport vehicle operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15

DIRECTORS' FEES

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

Article 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Article 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

2. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem), se lahko obdavči v tej drugi državi.

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

4. Dobiček iz odtujitve premoženja, ki ni premoženje, omenjeno v prvem, drugem in tretjem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuje premoženje.

14. člen

DOHODEK IZ ZAPOSЛИTVE

1. Ob upoštevanju določb 15., 16., 18. in 19. 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 ne izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

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

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

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

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

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

15. člen

PLAČILA DIREKTORJEM

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

16. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 7. in 14. člena se lahko 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, obdavči v tej drugi državi.

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

3. Notwithstanding the provisions of paragraphs 1 and 2, income mentioned in this Article shall be exempt from tax in the Contracting State in which the activity of the entertainer or sportsman is exercised provided that this activity is wholly or mainly supported out of public funds of this State or a political subdivision or a local authority thereof or of the other State or a political subdivision or a local authority thereof or the activity is exercised under a cultural agreement or within the framework of a cultural or sports exchange programme approved by both Contracting States. In such a case, the income is taxable only in the Contracting State in which the entertainer or sportsman is a resident.

Article 17

PENSIONS

Subject to the provisions of paragraph 2 of Article 18, 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 18

GOVERNMENT SERVICE

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

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19

PROFESSORS AND RESEARCHERS

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at a university, college, school or other similar institution, situated in that State and recognized by the Government of that State and who is or was immediately before that visit a resident of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of his first arrival in the first-mentioned Contracting State for that purpose, provided that such remuneration arise from sources outside that State.

2. No exemption shall be granted under paragraph 1 with respect to any remuneration for research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

3. Ne glede na določbe prvega in drugega odstavka se dohodek iz tega člena ne obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika, če se tako dejavnost v celoti ali pretežno finančira z javnimi sredstvi te države ali njene politične enote ali lokalne oblasti ali druge države ali njene politične enote ali lokalne oblasti ali poteka na podlagi kulturnega sporazuma ali po programu kulturne ali športne izmenjave, ki ga odobrila državi pogodbenici. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

17. člen

POKOJNINE

Ob upoštevanju določb drugega odstavka 18. člena se pokojnine in drugi podobni prejemki, ki se plačajo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

18. člen

DRŽAVNA SLUŽBA

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

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

(i) je državljan te države ali

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

2. a) Vsaka pokojnina, ki jo plača država pogodbenica ali njena politična enota ali lokalna oblast ali ki se plača iz njihovih skladov 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 14., 15., 16. in 17. 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.

19. člen

PROFESORJI IN RAZISKOVALCI

1. Posameznik, ki obišče državo pogodbenico zaradi poučevanja ali raziskovanja na univerzi, višji ali visoki šoli, šoli ali drugi podobni ustanovi, ki je v tej državi in jo priznava vlada te države, in ki je ali je bil pred tem obiskom rezident druge države pogodbenice, je v prvi omenjeni državi pogodbenici oproščen davka od prejemka za tako poučevanje ali raziskovanje za obdobje največ dveh let od dneva prvega obiska v prvi omenjeni državi pogodbenici s tem namenom, če taki prejemki nastanejo iz virov zunaj te države.

2. Izjema po prvem odstavku za prejemke za raziskovanje se ne prizna, če se takšno raziskovanje ne izvaja v javno korist, ampak v zasebno korist določene osebe ali oseb.

**Article 20
STUDENTS**

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

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice referred to in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, relieves or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

**Article 21
OTHER INCOME**

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

**CHAPTER IV
TAXATION OF CAPITAL**

**Article 22
CAPITAL**

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

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other Contracting State.

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

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

**CHAPTER V
METHODS FOR ELIMINATION OF DOUBLE TAXATION**

**Article 23
ELIMINATION OF DOUBLE TAXATION**

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned Contracting State shall allow:

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

**20. člen
ŠTUDENTI**

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

2. Za podpore, štipendije in prejemke iz zaposlitve, ki niso zajeti v prvem odstavku, ima študent ali pripravnik iz prvega odstavka med takim izobraževanjem ali usposabljanjem pravico do enakih oprostitev, olajšav ali znižanj pri davkih, kot jih imajo rezidenti države pogodbenice, v kateri je na obisku.

**21. člen
DRUGI DOHODKI**

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

2. Določbe prvega odstavka 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 in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.

**IV. POGLAVJE
OBDAVČEVANJE PREMOŽENJA**

**22. člen
PREMOŽENJE**

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

2. Premoženje, ki ga sestavljajo premičnine in so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

3. Premoženje, ki ga sestavljajo ladje, letala in cestna vozila, s katerimi se opravlja prevozi v mednarodnem prometu, in premičnine v zvezi z opravljanjem prevozov s takimi ladnjami, letali in cestnimi vozili, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4. Vse druge sestavine premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

**V. POGLAVJE
METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA**

23. člen

ODPRAVA DVOJNEGA OBDAVČEVANJA

1. Kadar rezident države pogodbenice dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v drugi državi pogodbenici, prva omenjena država pogodbenica dovoli:

a) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v tej drugi državi;

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

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

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

CHAPTER VI SPECIAL PROVISIONS

Article 24

NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status of family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall apply to the taxes referred to in Article 2 of this Convention.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by

b) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v tej drugi državi.

Tak odbitek pa v nobenem primeru ne sme presegati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v tej drugi državi.

2. Kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident države pogodbenice, ali premoženje, ki ga ima v lasti, opršeno davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva opršeni dohodek ali premoženje.

VI. POGLAVJE POSEBNE DOLOČBE

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. 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 razлага, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

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

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

5. Določbe tega člena se uporabljajo za davke iz 2. člena te konvencije.

25. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zaanj za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki jih omogoča domače pravo teh držav,

the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting state, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceeding or in the judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

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 ugovor upravičen 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 domačem pravu držav pogodbenic.

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

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

26. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjava take informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njunih političnih enot ali lokalnih oblasti, če obdavčevanje na tej podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega stavka. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v sodnih postopkih ali sodnih odločitvah.

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

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

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

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

27. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nobena določba te konvencije ne vpliva na davčne ugodnosti članov diplomatskih predstavništev ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

CHAPTER VII FINAL PROVISIONS

Article 28

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the date of receipt of the last notification.

2. This Convention shall be applicable:

a) in respect of taxes withheld at source, to income derived on or after the first day of the third month next following the date on which the Convention enters into force;

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

Article 29

TERMINATION

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect:

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

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

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

DONE at Ljubljana this 16th day of May 2006, in two originals in the English language.

For the
Republic of Slovenia
Andrej Bajuk (s)

For
Bosnia and Herzegovina
Mirsad Kebo (s)

VII. POGLAVJE KONČNE DOLOČBE

28. člen

ZAČETEK VELJAVNOSTI

1. Državi pogodbenici druga drugo po diplomatski poti pisno obvestita, da so končani postopki, ki so po njuni zakonodaji potrebni za začetek veljavnosti te konvencije. Konvencija začne veljati na datum prejema zadnjega uradnega obvestila.

2. Ta konvencija se uporablja:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, dosežen prvi dan ali po prvem dnevu tretjega meseca po datumu, ko začne veljati ta konvencija;

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

29. člen

PRENEHANJE VELJAVNOSTI

1. Ta konvencija velja, dokler je država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po petih letih od datuma začetka veljavnosti konvencije. V tem primeru se konvencija preneha uporabljati:

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

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

V DOKAZ NAVDENEGA sta podpisana, ki sta bila za to pravilno pooblaščena, podpisala to konvencijo.

Sestavljeno v Ljubljani dne 16. maja 2006 v dveh izvirnikih v angleškem jeziku.

Za
Republiko Slovenijo
Andrej Bajuk l.r.

Za
Bosno in Hercegovino
Mirsad Kebo l.r.

3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/06-45/1
Ljubljana, dne 29. septembra 2006
EPA 1007-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

- 108.** Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Moldove o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom (BMDIDO)

Na podlagi druge alinee 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 MOLDOVE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA, S PROTOKOLOM (BMDIDO)

Razglasjam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Moldove o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom (BMDIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 29. septembra 2006.

Št. 001-22-142/06
Ljubljana, dne 9. oktobra 2006

dr. Janez Drnovšek l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE MOLDOVE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA, S PROTOKOLOM (BMDIDO)

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Republike Moldove o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom, podpisana 31. maja 2006 v Ljubljani.

2. člen

Konvencija s protokolom se v izvirniku v slovenskem in angleškem jeziku glasi¹:

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

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

Vlada Republike Slovenije in Vlada Republike Moldove

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

I. POGLAVJE PODROČJE UPORABE KONVENCIJE

1. člen

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

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

CHAPTER I SCOPE OF THE CONVENTION

Article 1

PERSONS COVERED

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

¹ Besedilo konvencije s protokolom v moldovskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunane zadeve.

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

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

2. Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin, davki na skupne zneske mezd ali plač, ki jih izplačujejo podjetja, ter davki na zvišanje vrednosti kapitala.

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

a) v Sloveniji:

- (i) davek od dohodka pravnih oseb,
- (ii) dohodnina,
- (iii) davek od premoženja,
- (v nadaljevanju besedila: »slovenski davek«);

b) v Moldovi:

- (i) davek od dohodka,
- (ii) davek od nepremičnin,
- (v nadaljevanju besedila: »moldovski davek«).

4. Konvencija se uporablja tudi za enake ali vsebinsko podobne davke, ki se po datumu podpisa konvencije uvedejo poleg obstoječih davkov ali namesto njih. Pristojna organa držav pogodbenic druga drugega uradno obvestita o vseh bistvenih spremembah njunih davčnih zakonodaj.

II. POGLAVJE OPREDELITEV IZRAZOV

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne zahteva drugače:

a) izraza »država pogodbenica« in »druga država pogodbenica« pomenita Republiko Slovenijo ali Republiko Moldovo, kakor zahteva sobesedilo;

b) izraz »Slovenija« pomeni Republiko Slovenijo, in ko se uporablja v geografskem pomenu, ozemlje Slovenije, vključno z morskim območjem, morskim dnem in podzemljem ob teritorialnem morju, na katerem lahko Slovenija izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo domačo zakonodajo in mednarodnim pravom;

c) izraz »Moldova« pomeni Republiko Moldovo, kadar pa se uporablja v geografskem pomenu, pomeni ozemlje znotraj njenih meja, ki ga sestavljajo kopno, podzemlje, vode in zračni prostor nad kopnim in vodami, na katerem Republika Moldova izvaja svojo popolno in izključno suverenost in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

d) izraz »oseba« vključuje posameznika, družbo ali katero koli drugo telo, ki združuje več oseb;

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

f) izraz »podjetje« se uporablja za opravljanje kakršne koli dejavnosti;

g) izraza »podjetje države pogodbenice« in »podjetje druge države pogodbenice« pomenita podjetje, ki ga upravlja rezident države pogodbenice, oziroma podjetje, ki ga upravlja rezident druge države pogodbenice;

h) izraz »mednarodni promet« pomeni prevoz z ladjo ali letalom, ki ga opravlja podjetje države pogodbenice, razen če ladja ali letalo ne opravlja prevoz sam med kraji v drugi državi pogodbenici;

Article 2

TAXES COVERED

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

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

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

a) in Slovenia:

- (i) the tax on income of legal persons;
- (ii) the tax on income of individuals;
- (iii) the tax on property;

(hereinafter referred to as "Slovenian tax");

b) in Moldova:

- (i) the income tax;
- (ii) the tax on immovable property;

(hereinafter referred to as "Moldovan tax").

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

CHAPTER II DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

a) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Slovenia or the Republic of Moldova, as the context requires;

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

c) the term "Moldova" means the Republic of Moldova and, when used in a geographical sense, means its territory within its borders, consisting of soil, sub-soil, waters and aerial space above soil and waters, over which the Republic of Moldova exercises its absolute and exclusive sovereignty and jurisdiction, in accordance with its internal legislation and international law;

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

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

f) the term "enterprise" applies to the carrying of any business;

g) 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;

h) 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;

i) izraz »pristojni organ« pomeni:

(i) v Sloveniji: Ministrstvo za finance Republike Slovenije ali njegovega pooblaščenega predstavnika;

(ii) v Moldovi: Ministrstvo za finance Republike Moldove ali njegovega pooblaščenega predstavnika;

j) izraz »državljan« pomeni:

(i) posameznika, ki ima državljanstvo države pogodbenice;

(ii) pravno osebo, osebno družbo ali združenje, katerega status izhaja iz veljavne zakonodaje v državi pogodbenici;

k) izraz »dejavnost« vključuje opravljanje poklicnih storitev in drugih samostojnih dejavnosti.

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

4. člen

REZIDENT

1. V tej konvenciji izraz »rezident države pogodbenice« pomeni osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, kraja registracije, sedeža uprave ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njen politično enoto ali lokalno oblast. Ta izraz pa ne vključuje osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi ali premoženja v njej.

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

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

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

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

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

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

5. člen

STALNA POSLOVNA ENOTA

1. V tej konvenciji izraz »stalna poslovna enota« pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

2. Izraz »stalna poslovna enota« vključuje zlasti:

- a) sedež uprave,
- b) podružnico,
- c) pisarno,

i) the term "competent authority" means:

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

(ii) in Moldova: the Ministry of Finance of the Republic of Moldova or its authorised representative;

j) 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;

k) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of registration, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;

d) tovarno,
e) delavnico in
f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3. Gradbišče, projekt gradnje, montaže ali postavitve ali dejavnost nadzora ali svetovanja v zvezi z njimi je stalna poslovna enota samo, če tako gradbišče, projekt ali dejavnost traja na ozemlju pogodbenice več kakor dvanajst mesecev.

4. Izraz »stalna poslovna enota« zajema tudi storitve, vključno svetovalne ali poslovodne, ki jih podjetje države pogodbenice opravlja prek zaposlenih delavcev ali drugih oseb, ki jih uporabi za ta namen, kadar take dejavnosti (za isti ali z njim povezani projekt) potekajo na ozemlju druge države pogodbenice več kakor šest mesecev ali več obdobjij, ki v dvanajstih mesecih skupaj znašajo več kakor šest mesecev.

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

a) uporabe prostorov samo za skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

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

7. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, če te osebe delujejo v okviru svojega rednega poslovanja. Kadar pa so dejavnosti takega zastopnika v celoti ali skoraj v celoti namenjene temu podjetju in med podjetjem in zastopnikom v njunih komercialnih ali finančnih odnosih obstajajo ali se vzpostavijo pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se ta ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka.

8. Ne glede na prejšnje določbe tega člena se razen pri pozavarovanjih šteje, da ima zavarovalnica države pogodbenice stalno poslovno enoto v drugi državi pogodbenici, če pobira zavarovalne premije na ozemlju te druge države ali če nevarnosti v njej zavaruje prek osebe, ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi odstavek.

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

3. A building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith, constitutes a permanent establishment only if such site, project or activity lasts in the territory of a Contracting State for a period of more than twelve months.

4. The term "permanent establishment" shall also include the furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, where activities of that nature continue (for the same or connected project) in the territory of the other Contracting State for a period or periods aggregating more than six months within any twelve-month period.

5. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

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

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

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. Notwithstanding the preceding provisions of this Article, an insurance company of a Contracting State shall, except the cases of reinsurance, be considered as having a permanent establishment in the other Contracting State if it collects insurance premiums on the territory of that other State or insures risks situated therein through a person who is not an agent of an independent status to whom paragraph 7 applies.

9. 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.

III. POGLAVJE OBDAVČEVANJE DOHODKA

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 so te nepremičnine. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo 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.

7. člen

POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje ne posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kakor je prej navedeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripisuje 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 pripisuje dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

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

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

9. 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.

CHAPTER III TAXATION OF INCOME

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.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses (other than expenses which would not be deductible if that permanent establishment were a separate enterprise of a Contracting State) which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributable to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

6. Za namene prejšnjih odstavkov se dobiček, ki se pripisuje stalni poslovni enoti, vsako leto ugotavlja po isti metodi, razen če ni upravičenega in zadostnega razloga za nasproto.

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

8. člen

LADIJSKI IN LETALSKI PREVOZ

1. Dobiček podjetja države pogodbenice od ladijskih ali letalskih prevozov v mednarodnem prometu se obdavči samo v tej državi.

2. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe pri interesnem združenju, mešanem podjetju ali mednarodni prevozni agenciji.

9. člen

POVEZANA PODJETJA

1. Kadar:

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

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

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

2. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključeni dobiček dobiček, ki bi prirasel 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 obračuna od tega dobička, če meni, da je prilagoditev upravičena. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

10. člen

DIVIDENDE

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

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

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

b) 10 odstotkov bruto zneska dividend v vseh drugih primerih.

5. No profits shall be attributed to a permanent establishment by reason of mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8

SHIPPING AND AIR TRANSPORT

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

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

Article 9

ASSOCIATED ENTERPRISES

1. Where:

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;

b) 10 per cent of the gross amount of the dividends in all other cases.

Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe teh omejitve.

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

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

4. Določbe prvega in drugega odstavka 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 in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto. V takem primeru se uporablja določba 7. člena.

5. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uesti 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 v tej drugi državi, niti ne sme uesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

11. člen

OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne presega 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe te omejitve.

3. Ne glede na določbe drugega odstavka se obresti iz prvega odstavka obdavčijo samo v državi pogodbenici, katere rezident je prejemnik, če je ta prejemnik upravičeni lastnik obresti in če take obresti prejme ali če je posojilo, za katero se obresti plačajo, dala, dala poroštvo zanj ali ga zavarovala:

- a) vlada države pogodbenice, vključno z njenimi političnimi enotami ali lokalnimi oblastmi,
- b) centralna banka države pogodbenice,
- c) Slovenska izvozna družba ali Moldovska organizacija za pospeševanje izvoza ali

d) vsaka druga ustanova ali agencija, ki je v celoti ali delno v lasti vlade države pogodbenice, o čemer se lahko sproti dogovorita pristojna organa držav pogodbenic.

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 pri dolžnikovem dobičku, posebno pa dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

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

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

3. The term "dividends" as used in this Article means income from shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest mentioned in paragraph 1 shall be taxable only in the Contracting State of which the recipient is a resident, if such recipient is the beneficial owner of the interest and if such interest is paid to, or the loan in respect of which the interest is paid, is made, guaranteed or insured by:

- a) the Government of a Contracting State, including its political subdivisions or local authorities,
- b) the Central Bank of a Contracting State,
- c) the Slovene Export Company or the Moldovan Export Promotion Organisation, or

d) any other institution or statutory body wholly or mainly owned by the Government of a Contracting State, as may be agreed from time to time between the competent authorities of the Contracting States.

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. Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej in je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto. V takem primeru se uporablja določba 7. člena.

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

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

12. člen

LICENČNINE IN AVTORSKI HONORARJI

1. Licensnine in avtorski honorarji, ki nastanejo v državi pogodbenici in je njihov upravičeni lastnik rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take licensnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne presega 5 odstotkov bruto zneska teh licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe te omejitve.

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

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licensnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej in je pravica ali premoženje, v zvezi s katerim se licensnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto. V takem primeru se uporablja določba 7. člena.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

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

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is the resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

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

13. člen

KAPITALSKI DOBIČKI

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

2. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo delnic ali kakršnega koli primerljivega deleža, katerega vrednost v več kot 50 odstotkih neposredno ali posredno izhaja iz nepremičnine, ki je v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

3. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem), se lahko obdavči v tej drugi državi.

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

5. Dobiček iz odtujitve premoženja, ki ni premoženje, navedeno v prvem, drugem, tretjem in četrtem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuje premoženje.

14. člen

DOHODEK IZ ZAPOSЛИTVE

1. V skladu z določbami 15., 17., 18. in 19. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen pri zaposlitvi v drugi državi pogodbenici. Pri taki zaposlitvi se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

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

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

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

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

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

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

Article 13

CAPITAL GAINS

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

2. Gains derived by a resident of a Contracting State from the alienation of shares or of a comparable interest of any kind deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

3. 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

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

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

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) the remuneration is not borne by a permanent establishment 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.

15. člen

PLAČILA DIREKTORJEM

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

16. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 7. in 14. člena se lahko dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, 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. in 14. člena lahko obdavči v državi pogodbenici, v kateri potekajo dejavnosti nastopajočega izvajalca ali športnika.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek iz dejavnosti, ki jih nastopajoči izvajalec ali športnik izvaja v državi pogodbenici, če se gostovanje v tej državi v celoti ali pretežno krije iz javnih sredstev druge države pogodbenice ali njene politične enote ali lokalne oblasti. V takem primeru se dohodek obdavči v državi, katere rezident je nastopajoči izvajalec ali športnik.

17. člen

POKOJNINE

1. V skladu z določbami drugega odstavka 18. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

2. Ne glede na določbe prvega odstavka se pokojnine in druga podobna plačila, opravljena po zakonodaji s področja socialne varnosti države pogodbenice, lahko obdavčijo samo v tej državi.

18. člen

DRŽAVNA SLUŽBA

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

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

(i) je državljan te države ali

(ii) ni postal rezident te države samo zaradi 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 14., 15., 16. in 17. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

Article 15

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 or supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or as a musician, or as a sportsman from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

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

Article 17

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, 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.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting State may be taxed in that State.

Article 18

GOVERNMENT SERVICE

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

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

19. člen

PROFESORJI IN RAZISKOVALCI

1. Rezident države pogodbenice, ki je na povabilo univerze, višje ali visoke šole, druge šole ali druge podobne ustanove, ki je v drugi državi pogodbenici in jo priznava vlada te druge države pogodbenice, začasno navzoč v tej drugi državi pogodbenici samo zaradi poučevanja ali raziskovanja ali obojega v izobraževalni ustanovi, je za največ dve leti od prvega prihoda v to drugo državo pogodbenico oproščen davka v tej drugi državi pogodbenici za prejemke za tako poučevanje ali raziskovanje.

2. Izjema po prvem odstavku za prejemke za raziskovanje se ne prizna, če se takšno raziskovanje ne izvaja v javno korist, ampak v zasebno korist določene osebe ali oseb.

20. člen

ŠTUDENTI

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

21. člen

DRUGI DOHODKI

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

2. Vendar če rezident države pogodbenice dobi tak dohodek iz virov v drugi državi pogodbenici, se ta dohodek lahko obdavči tudi v državi, v kateri nastane, in v skladu s pravom te države.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik tega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.

IV. POGLAVJE OBDAVČEVANJE PREMOŽENJA

22. člen

PREMOŽENJE

1. Premoženje v obliki nepremičnin iz 6. člena, ki ga ima v lasti rezident države pogodbenice v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premoženje v obliki premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, se lahko obdavči v tej drugi državi pogodbenici.

3. Premoženje podjetja države pogodbenice v obliki ladij in letal, s katerimi se opravljajo prevozi v mednarodnem prometu, in premičnin v zvezi z opravljanjem prevozov s takimi ladjami in letali, se obdavči samo v tej državi pogodbenici.

4. Vse druge sestavine premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

Article 19

PROFESSORS AND RESEARCHERS

1. A resident of the Contracting State who, at the invitation of a university, college, school or other similar institution, situated in the other Contracting State and recognised by the Government of that other Contracting State, is temporarily present in that other Contracting State solely for the purpose of teaching, or engaging in research, or both, at the educational institution shall, for a period not exceeding two years from the date of his first arrival in that other Contracting State, be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

2. No exemption shall be granted under paragraph 1 with respect to any remuneration for research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

Article 20

STUDENTS

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

Article 21

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. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the law of that State.

3. The provisions of paragraphs 1 and 2 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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

CHAPTER IV TAXATION OF CAPITAL

Article 22

CAPITAL

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

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other Contracting State.

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

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

V. POGLAVJE

METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

23. člen

ODPRAVA DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi, kakor sledi:

1. Kadar rezident države pogodbenice dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v drugi državi pogodbenici, prva omenjena država pogodbenica dovoli:

a) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v tej drugi državi pogodbenici;

b) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v tej drugi državi pogodbenici.

Tak odbitek v nobenem primeru ne sme presegati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v tej drugi državi pogodbenici.

2. Kadar je v skladu s katero koli določbo tega sporazuma dohodek, ki ga dobi rezident države pogodbenice, ali premoženje, ki ga ima v lasti, oproščeno davka v tej državi pogodbenici, lahko ta država pogodbenica pri izračunu davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

VI. POGLAVJE

POSEBNE DOLOČBE

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 državljanje te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

2. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlagata, 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 šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri ugotavljanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri ugotavljanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot če bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.

CHAPTER V

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned Contracting State shall allow:

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

b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other Contracting State.

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

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

CHAPTER VI

SPECIAL PROVISIONS

Article 24

NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. 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 nobenemu obdavčevanju ali nobeni zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve do 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 ne glede na pravna sredstva, ki jih omogoča domače pravo 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. Pристojni 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 domačem pravu 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. Da bi pristojna organa držav pogodbenic dosegla dogovor v smislu prejšnjih odstavkov, lahko komunicirata med seboj neposredno, pa tudi prek skupne komisije, ki jo sestavljata sama ali njuni predstavniki.

26. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njunih političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregona ali pri odločjanju o pritožbah glede davkov iz prvega stavka. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v sodnih postopkih ali sodnih odločitvah.

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

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

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, 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 endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceeding or in the 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) priskrbeti informacije, ki jih ni mogoče dobiti po zakonih ali običajni upravni poti te ali druge države pogodbenice;

c) priskrbeti informacije, ki bi razkrile kakršno koli trgovsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinski postopek, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

27. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nobena določba te konvencije ne vpliva na davčne ugodnosti članov diplomatskih predstavnihstev ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

VII. POGLAVJE KONČNE DOLOČBE

28. člen

ZAČETEK VELJAVNOSTI

Ta konvencija začne veljati z dnem, ko je po diplomatski poti prejeto zadnje od pisnih uradnih obvestil, ki potrjujeta, da sta državi pogodbenici končali svoje postopke za začetek njene veljavnosti, njene določbe pa se uporabljajo:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, dosežen 1. januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati ta konvencija;

b) v zvezi z drugimi davki od dohodka in premoženja za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati ta konvencija.

29. člen

PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je ena država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecov pred koncem katerega koli koledarskega leta po petih letih od datuma začetka veljavnosti konvencije. V takem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, dosežen 1. januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je dano obvestilo o odpovedi;

b) v zvezi z drugimi davki od dohodka in premoženja za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je dano obvestilo o odpovedi.

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

SESTAVLJENO v Ljubljani dne 31. maja 2006 v dveh izvodih v slovenskem, moldovskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi besedil prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Andrej Šircelj l.r.

Za Vlado
Republike Moldove
Valeriu Ostalep l.r.

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

CHAPTER VII FINAL PROVISIONS

Article 28

ENTRY INTO FORCE

This Convention shall enter into force on the date of the receipt of the latter of the written notice, through diplomatic channels, confirming the completion of the internal procedures of the Contracting States for its entry into force and its provisions shall have effect:

a) in respect of taxes withheld at source, on income derived on or after 1st January of the calendar year next following the year in which this Convention enters into force;

b) in respect of other taxes on income and on capital, to taxes chargeable for any tax year beginning on or after 1st January of the calendar year next following the year in which the Convention enters into force.

Article 29

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving a written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect:

a) in respect of taxes withheld at source, on income derived on or after 1st January of the calendar year next following the year in which the notice of termination is given;

b) in respect of other taxes on income and on capital, to taxes chargeable for any tax year beginning on or after 1st January of the calendar year next following the year in which the notice of termination is given.

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

DONE at Ljubljana on 31 May, 2006 in duplicate, in the Slovenian, Moldovan and English languages, all texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Government of
the Republic of Slovenia
Andrej Šircelj (s)

For the Government of
the Republic of Moldova
Valeriu Ostalep (s)

PROTOKOL

Ob podpisu Konvencije med Vlado Republike Slovenije in Vlado Republike Moldove o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja sta se podpisana sporazumela o naslednjih določbah, ki sta sestavni del konvencije:

v zvezi z Moldovo:

a) izraz »premoženje« v vsej konvenciji pomeni »premoženje«, razen v teh členih:

prvi odstavek 9. člena,
drugi odstavek 10. člena in
četrti odstavek 24. člena;

b) izraz »politične enote« pomeni upravnozemeljske enote.

V DOKAZ NAVDENEGA sta podpisana, ki sta bila za to pravilno pooblaščena, podpisala ta protokol.

SESTAVLJENO v Ljubljani dne 31. maja 2006 v dveh izvodih v slovenskem, moldovskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi besedil prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Andrej Šircelj l.r.

Za Vlado
Republike Moldove
Valeriu Ostalep l.r.

PROTOCOL

At the signing of the Convention between the Government of the Republic of Slovenia and the Government of the Republic of Moldova for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

In the case of Moldova:

a) the term "capital" all through this Convention shall mean "property", except in the following Articles:

Article 9, paragraph 1;
Article 10, paragraph 2; and
Article 24, paragraph 4;

b) the term "political subdivisions" means administrative-territorial units.

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

DONE at Ljubljana on 31 May, 2006 in duplicate, in the Slovenian, Moldovan and English languages, all texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Government of
the Republic of Slovenia
Andrej Šircelj (s)

For the Government of
the Republic of Moldova
Valeriu Ostalep (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. 432-01/06-46/1
Ljubljana, dne 29. septembra 2006
EPA 1009-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

109. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Hrvaške o medsebojni pomoči pri carinskih zadevah (BHRPCZ)

Na podlagi druge alinee 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 HRVAŠKE O MEDSEBOJNI POMOČI PRI CARINSKIH ZADEVAH
(BHRPCZ)**

Razglašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Hrvaške o medsebojni pomoči pri carinskih zadevah (BHRPCZ), ki ga je sprejel Državni zbor Republike Slovenije na seji 29. septembra 2006.

Št. 001-22-138/06
Ljubljana, dne 9. oktobra 2006

dr. Janez Drnovšek l.r.
Predsednik
Republike Slovenije

Z A K O N

**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE
IN VLADO REPUBLIKE HRVAŠKE O MEDSEBOJNI POMOČI PRI CARINSKIH ZADEVAH (BHRPCZ)**

1. člen

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Republike Hrvaške o medsebojni pomoči pri carinskih zadevah, podpisani 10. junija 2005 na Brionih.

2. člen

Sporazum se v slovenskem in angleškem jeziku glasi¹:

S P O R A Z U M

**MED VLADO REPUBLIKE SLOVENIJE IN
VLADO REPUBLIKE HRVAŠKE O MEDSEBOJNI
POMOČI PRI CARINSKIH ZADEVAH**

Vlada Republike Slovenije in Vlada Republike Hrvaške, v nadaljevanju »pogodbenici«, sta se

glede na to, da so kršitve carinske zakonodaje škodljive za gospodarske, davčne in trgovinske interese njunih držav;

glede na pomembnost zagotavljanja pravilne odmere carin in drugih davkov na uvoz in izvoz blaga kot tudi pravilnega določanja vrednosti in porekla takega blaga;

ob priznavanju potrebe po mednarodnem sodelovanju pri zadevah, ki se nanašajo na izvajanje in uveljavljanje carinske zakonodaje;

v prepričanju, da je mogoče s sodelovanjem med njuni carinskim organi povečati učinkovitost ukrepov proti carinskim kršitvam;

ob upoštevanju Priporočila Sveta za carinsko sodelovanje o medsebojni upravni pomoči z dne 5. decembra 1953

dogovorili:

A G R E E M E N T

**BETWEEN THE GOVERNMENT OF
THE REPUBLIC OF SLOVENIA AND
THE GOVERNMENT OF THE REPUBLIC
OF CROATIA REGARDING MUTUAL
ASSISTANCE IN CUSTOMS MATTERS**

The Government of the Republic of Slovenia and the Government of the Republic of Croatia hereinafter referred to as the "Contracting Parties";

Considering that the contraventions against Customs laws are prejudicial to the economic, fiscal and commercial interests of their respective countries;

Considering the importance of assuring the accurate assessment of Customs duties and other taxes on the importation and exportation of goods, as well as the accurate determination of the value and origin of such goods;

Recognizing the need for international cooperation in matters related to the administration and enforcement of the Customs laws;

Convinced that action against Customs contraventions can be made more effective by cooperation between their Customs Authorities;

Having regard to the Recommendation of the Customs Cooperation Council on Mutual Administrative Assistance of December 5, 1953;

Have agreed as follows:

¹ Besedilo sporazuma v hrvaškem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

1. člen

Opredelitev pojmov

V tem sporazumu:

a) »carinska zakonodaja« pomeni zakone in predpise, ki jih uveljavljajo carinski organi pri uvozu, izvozu in tranzitu blaga, kot se nanašajo na carine, dajatve in drug nadzor v zvezi z gibanjem blaga čez državne meje;

b) »carine« pomenijo vse dajatve, davke, pristojbine in/ali druge dajatve, ki se odmerjajo in pobirajo na državnih območjih pogodbenic pri uporabi carinske zakonodaje, ne vključujejo pa pristojbin in dajatev, katerih znesek je omejen na približne stroške opravljenih storitev;

c) »organ prosilec« pomeni carinski organ, ki zaprosi za pomoč na podlagi tega sporazuma ali prejme tako pomoč;

d) »zaproseni organ« pomeni carinski organ, ki prejme zaprosilo za pomoč na podlagi tega sporazuma ali da tako pomoč;

e) »kršitev« pomeni vsako kršitev carinske zakonodaje in vsak poskus kršitve take zakonodaje;

f) »carinski organ« pomeni v Republiki Sloveniji Ministrstvo za finance – Carinsko upravo Republike Slovenije in v Republiki Hrvatski Ministrstvo za finance – Carinsko upravo Republike Hrvatske (Ministarstvo financija – Carinska uprava Republike Hrvatske);

g) »osebni podatki« pomenijo vse podatke, ki se nanašajo na določenega ali določljivega posameznika.

2. člen

Področje uporabe sporazuma

1. Pogodbenici si medsebojno pomagata na način in pod pogoji, navedenimi v tem sporazumu, pri zagotavljanju pravilne uporabe carinske zakonodaje, predvsem s preprečevanjem, odkrivanjem in preiskovanjem kršitev te zakonodaje.

2. Vsa pomoč po tem sporazumu je dana v skladu z notranjim pravom zaprošene pogodbenice.

3. člen

Pomoč ob zaprosilu

1. Na zaprosilo organa prosilca mu zaprošeni organ priskrbí vse ustrezne podatke, ki mu omogočijo, da zagotovi pravilno uporabo carinske zakonodaje, med drugim tudi podatke o prevozu in pošiljkah blaga, razpolaganju in namembnem kraju, o njegovi vrednosti in poreklu ter podatke o storjenih ali načrtovanih dejanjih, s katerimi se krši ali bi se lahko kršila taka zakonodaja.

2. Na zaprosilo organa prosilca ga zaprošeni organ obvesti, ali je bilo blago, izvoženo z državnega območja ene od pogodbenic, uvoženo na državno območje druge pogodbenice v skladu s carinsko zakonodajo, in kadar je primerno, navede carinski postopek, uporabljen za blago.

3. Na zaprosilo organa prosilca zaprošeni organ sprejme potrebne ukrepe za zagotovitev nadzora nad:

a) določenimi fizičnimi ali pravnimi osebami, za katere se utemeljeno sumi, da kršijo ali so kršile carinsko zakonodajo na državnem območju pogodbenice prosilke;

Article 1

Definitions

For the purposes of this Agreement:

a) "Customs legislation" shall mean laws and regulations enforced by the Customs Authorities concerning importation, exportation, and transit of goods, as they relate to Customs duties, charges, and other controls in respect of the movement of goods across national boundaries;

b) "Customs duties" shall mean all duties, taxes, fees or/and other charges which are levied and collected in the territories of the Contracting Parties, in application of customs legislation, but not including fees and charges which are limited in amount to the approximate costs of services rendered;

d) "Applicant Authority" shall mean the Customs Authority which makes a request for assistance pursuant to this Agreement or which receives such assistance;

d) "Requested Authority" shall mean the Customs Authority which receives a request for assistance pursuant to this Agreement or which renders such assistance;

e) "Contravention" shall mean any violation of the customs legislation as well as any attempted violation of such legislation;

f) "Customs Authority" shall mean in the Republic of Slovenia, the Ministry of Finance – the Customs Administration of the Republic of Slovenia (Ministrstvo za finance – Carinska uprava Republike Slovenije) and in the Republic of Croatia, the Ministry of Finance – the Customs Directorate of the Republic of Croatia (Ministarstvo financija – Carinska uprava Republike Hrvatske).

g) "Personal data" shall mean all information relating to an identified or identifiable individual.

Article 2

Scope of the Agreement

1. The Contracting Parties shall assist each other, in the manner and under the conditions laid down in this Agreement, in ensuring that customs legislation is correctly applied, in particular by the prevention, detection and investigation of contraventions of this legislation.

2. All assistance rendered pursuant to this Agreement shall be rendered in accordance with the domestic law of the requested Contracting Party.

Article 3

Assistance on Request

2. At the request of the applicant Authority, the requested Authority shall furnish it with all relevant information to enable it to ensure that customs legislation is correctly applied, including inter alia, information regarding the transportation and shipment of goods, the disposition and destination of such goods as well as their value and origin as well as information regarding acts committed or planned which contravene or would contravene such legislation.

2. At the request of the applicant Authority, the requested Authority shall inform it whether goods exported from the territory of one of the Contracting Parties have been imported into the territory of the other Contracting Party in accordance with the customs legislation, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant Authority, the requested Authority shall take the necessary steps to ensure that a surveillance is kept on:

a) particular natural or legal persons of whom there are reasonable grounds for believing that they are contravening or have contravened customs legislation in the territory of the applicant Contracting Party;

b) kraji, kjer se blago skladišči na način, zaradi katerega je mogoče utemeljeno sumiti, da je namenjeno nezakonitemu uvozu na državno območje pogodbenice prosilke;

c) gibanjem blaga, za katero organ prosilec sporoči, da bi lahko povzročilo bistvene kršitve carinske zakonodaje na državnem območju pogodbenice prosilke;

d) prevoznimi sredstvi, za katera se utemeljeno sumi, da so bila, so ali bi lahko bila uporabljena pri kršenju carinske zakonodaje na državnem območju pogodbenice prosilke.

4. člen

Pomoč na lastno pobudo

Pogodbenici si v okviru svojih pristojnosti medsebojno pomagata, če menita, da je to potrebno za pravilno uporabo carinske zakonodaje, zlasti kadar prejmeta informacije, ki se nanašajo na:

– dejanja, s katerimi je bila, je ali bi lahko bila kršena ta zakonodaja in ki bi lahko zanimala drugo pogodbenico;

– nova sredstva ali načine, uporabljeni pri kršenju te zakonodaje;

– blago, za katero se ve, da se z njim bistveno krši carinska zakonodaja na državnem območju druge pogodbenice;

– osebe, za katere se ve ali sumi, da kršijo carinsko zakonodajo, ki velja na državnem območju druge pogodbenice;

– prevozna sredstva in zaboljivke, za katere se ve ali sumi, da so bili, so ali bi lahko bili uporabljeni pri kršenju carinske zakonodaje, ki velja na državnem območju druge pogodbenice.

5. člen

Strokovna pomoč

1. Pomoč, kot je predvidena po tem sporazumu, med drugim vključuje podatke o:

a) ukrepih, ki bi lahko bili koristni pri preprečevanju kršitev;

b) novih načinov, ki se uporabljajo pri kršitvah;

c) opažanjih in ugotovitvah, ki izhajajo iz uspešne uporabe novih pripomočkov in tehnik, in

d) novih tehnikah in izboljšanih načinov obravnave potnikov in tovorja.

2. Če to ni v nasprotju z njunim notranjim pravom, si carinski organi pogodbenic prav tako prizadevajo za sodelovanje pri:

a) uvajanju, razvijanju ali izboljševanju posebnih programov usposabljanja za svoje osebje;

b) vzpostavljanju in vzdrževanju poti za medsebojno komuniciranje, da bi olajšali varno in hitro izmenjavo informacij;

c) pospeševanju medsebojnega učinkovitega usklajevanja, tudi z izmenjavo osebja, izvedencev in napotitvijo uradnikov za zvezo;

d) proučevanju in preizkušanju nove opreme ali postopkov;

e) poenostavljanju in usklajevanju svojih carinskih postopkov in

f) vseh drugih splošnih upravnih zadevah, pri katerih je občasno potrebno skupno ukrepanje.

6. člen

Pošiljanje/uradno obveščanje

Na zaprosilo organa prosilca sprejme zaprošeni organ v skladu s svojo zakonodajo vse potrebne ukrepe za:

b) places where goods are stored in a way that gives grounds for suspecting that they are intended to be illicitly imported into the territory of the applicant Contracting Party;

c) movement of goods notified by the applicant Authority as possibly giving rise to substantial contraventions of customs legislation in the territory of the applicant Contracting Party;

d) means of transport for which there are reasonable grounds for believing that they have been, are or may be used in the contravening of customs legislation in the territory of the applicant Contracting Party.

Article 4

Spontaneous Assistance

The Contracting Parties shall within their competences provide each other with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to:

– acts which have contravened, contravene or would contravene such legislation and which may be of interest to the other Contracting Party;

– new means or methods employed in committing contraventions against such legislation;

– goods known to be the subject of substantial contraventions against the customs legislation in the territory of the other Contracting Party;

– particular persons known to be or suspected of committing contraventions against the legislation in force in the territory of the other Contracting Party;

– means of transport and containers, about which knowledge or suspicions exist that they were, are, or could be used in committing contraventions against the customs legislation in force in the territory of the other Contracting Party.

Article 5

Technical Assistance

1. Assistance, as provided for in this Agreement shall include inter alia information regarding:

a) enforcement actions that may be of use in the prevention of contraventions;

b) new methods used in committing contraventions;

c) observations and findings resulting from the successful application of new enforcement aids and techniques; and

d) new techniques and improved methods of processing passengers and cargo.

2. The Customs Authorities of the Contracting Parties shall, if not contrary to their domestic law, also seek to cooperate in:

a) initiating, developing, or improving specific training programs for their personnel;

b) establishing and maintaining channels of communication between themselves in order to facilitate the secure and rapid exchange of information;

c) facilitating effective coordination between themselves, including the exchange of personnel, experts, and the posting of liaison officers;

d) the consideration and testing of new equipment or procedures;

e) the simplification and harmonization of their respective customs procedures; and

f) any other general administrative matters that may from time to time require their joint action.

Article 6

Delivery/Notification

At the request of the applicant Authority, the requested Authority shall in accordance with its legislation take all necessary measures in order

– pošiljanje vseh dokumentov,
– obveščanje o vseh odločitvah,
ki se v okviru uporabe tega sporazuma nanašajo na naslovnika, ki prebiva ali ima svoj sedež na njegovem državnem območju. V tem primeru se uporablja tretji odstavek 7. člena.

7. člen

Oblika in vsebina zaprosil za pomoč

1. Zaprosila po tem sporazumu morajo biti pisna. Zaprosilu morajo biti priloženi dokumenti, potrebeni za njegovo izpolnitev. V nujnih primerih se lahko sprejme ustno zaprosilo, ki pa ga je treba takoj pisno potrditi.

2. Zaprosila na podlagi prvega odstavka tega člena vsebujejo podatke o:

- a) organu prosilcu, ki vlaga zaprosilo;
- b) zaprošenem ukrepu;
- c) predmetu zaprosila in razlogu zanj;
- d) zakonih, predpisih in drugih pravnih podlagah v zvezi s tem;

e) kolikor je mogoče natančnih in celovitih navedbah o fizičnih ali pravnih osebah, na katere se zaprosilo nanaša;

f) povzetkih ustreznih dejstev, razen v primerih, predvidenih v 6. členu, in

g) povezavi med zaprošeno pomočjo in zadevo, na katero se nanaša.

3. Zaprosila je treba predložiti v uradnem jeziku zaprošenega organa, v angleškem jeziku ali jeziku, ki je sprejemljiv za zaprošeni organ.

4. Pomoč se zagotavlja z neposrednimi stiki med carinskimi organi.

Če carinski organ zaprošene pogodbenice ni pristojen organ za izpolnitev zaprosila, ga mora nemudoma poslati pristojnemu organu, ki v zvezi z njim ukrepa v skladu s svojimi zakonskimi pooblastili, ali pa organ prosilca obvesti o ustreznem postopku, po katerem se je treba pri takem zaprosilu ravnati.

5. Če zaprosilo ne ustreza predpisanim zahtevam, se lahko zahteva njegov popravek ali dopolnitev; lahko pa se odredijo previdnostni ukrepi.

8. člen

Izpolnitev zaprosil

1. Zaprošeni organ sprejme vse primerne ukrepe za izpolnitev zaprosila in bo po potrebi skušal zagotoviti vse uradne ali sodne ukrepe, potrebne za izpolnitev zaprosila.

2. Carinski organ ene pogodbenice na zaprosilo carinskega organa druge pogodbenice opravi vse potrebne preiskave, vključno z zaslišanjem izvedencev in prič ali oseb, osumljenih kršitev, in opravi preverjanja, preglede in poizvedbe o dejstvih v zvezi z zadevami iz tega sporazuma.

3. Na zaprosilo lahko zaprošeni organ v največji možni meri omogoči uradnim osebam organa prosilca navzočnost na državnem območju zaprošene pogodbenice, kadar njegove uradne osebe preiskujejo kršitve, ki zadevajo organ prosilca. Kadar so predstavniki ene od pogodbenic navzoči na državnem območju druge pogodbenice, morajo biti sposobni dokazati, da so tam uradno.

4. Organ prosilec je, če tako zahteva, obveščen o času in kraju ukrepanja na podlagi zaprosila, da se ukrepi uskladijo.

– to deliver all documents,
– to notify all decisions

falling within the scope of this Agreement to an addressee, residing or established in its territory. In such a case paragraph 3 of Article 7 shall apply.

Article 7

Form and Substance of Requests for Assistance

1. Requests pursuant to this Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral request may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 of this Article shall include the following information:

- a) the applicant Authority making the request;
- b) the measure requested;
- c) the object of and the reason for the request;
- d) the laws, rules and other legal elements involved;
- e) indications as exact and comprehensive as possible on the natural or legal persons, to which the request relates;
- f) a summary of the relevant facts, except in cases provided for in Article 6; and
- g) the connection between the assistance sought and the matter to which it relates.

3. Requests shall be submitted in an official language of the requested Authority, in English or in a language acceptable to that Authority.

4. Assistance shall be carried out by direct communication between the respective Customs Authorities.

In case the Customs Authority of the requested Contracting Party is not the appropriate agency to comply with a request, it shall promptly transmit the request to the appropriate agency, who shall act upon the request according to its powers under the law, or advise the applicant Authority of the appropriate procedure to be followed regarding such a request.

5. If a request does not meet the formal requirements, its correction or completion may be requested; the ordering of precautionary measures may, however, be undertaken.

Article 8

Execution of Requests

1. The requested Authority shall take all reasonable measures to execute the request, and if required, will endeavour to seek any official or judicial measure necessary to carry out the request.

2. The Customs Authority of one Contracting Party shall, upon the request of the Customs Authority of the other Contracting Party, conduct any necessary investigation, including the questioning of experts and witnesses or persons suspected of having committed a contravention, and undertake verifications, inspections, and fact-finding inquiries in connection with the matters referred to in this Agreement.

3. Upon request, the requested Authority may, to the fullest extent possible, allow officials of the applicant Authority to be present in the territory of the requested Contracting Party, when its officials are investigating contraventions which are of concern to the applicant Authority. When representatives of one of the Contracting Parties are present in the territory of the other Contracting Party they must be able to furnish proof of their official capacity.

4. The applicant Authority shall, if it so requests, be advised of the time and place of the action to be taken in response to the request so that the action may be coordinated.

5. Uradne osebe organa prosilca, ki so pooblaščene za preiskave kršitev, lahko zaprosijo, da zaprošeni organ pregleda ustrezne knjige, registre in drugo dokumentacijo ali nosilce podatkov ter priskrbi njihove kopije ali da priskrbi vse informacije v zvezi s kršitvijo.

9. člen

Oblika sporočanja informacij

1. Zaprošeni organ sporoči izid poizvedb organu prosilcu v obliku dokumentov, overjenih kopij dokumentov, poročil in podobnega, po potrebi pa tudi ustno.

2. Dokumente iz prvega odstavka tega člena lahko na domestijo računalniški podatki in kakršni koli obliki z enakim namenom; hkrati je treba dostaviti vse informacije, potrebne za razlago ali uporabo takih računalniških podatkov.

10. člen

Izjeme pri obveznosti zagotavljanja pomoči

1. Kadar zaprošena pogodbenica meni, da bi bili z izpolnitvijo zaprosila prizadeti njena suverenost, varnost, javni red ali drugi pomembni državni interesi ali bi bila kršena kaka gospodarska, poslovna ali poklicna skrivnost, lahko pomoč zavrne, jo zagotovi le delno ali jo zagotovi le, če so izpolnjeni določeni pogoji ali zahteve. Pomoč lahko prav tako zavrne, če zaprosilo vključuje devizne ali davčne predpise, ki se ne nanašajo na predpise o carinah.

2. Kadar organ prosilec prosi za pomoč, ki je sam ne bi mogel zagotoviti, če bi ga zanje zaprosili, mora v svojem zaprosilu na to opozoriti. Zaprošeni organ se potem sam odloči, kako se bo odzval na tako zaprosilo.

3. Če se pomoč odreče ali zavrne, je treba o tej odločitvi in razlogih zanje nemudoma uradno obvestiti organ prosilca.

11. člen

Obveznost spoštovanja zaupnosti

1. Vsaka informacija, sporočena v kakršni koli obliki po tem sporazumu, je zaupna. Mora se varovati kot uredna tajnost in je deležna enakega varstva po ustreznih zakonodajah, kot velja za enako vrsto informacij v pogodbenici, ki jo je prejela.

2. Osebni podatki se lahko pošljejo le, če je raven osebnega varstva, ki jo zagotavlja zakonodaja pogodbenic, enakovredna. Pogodbenici zagotovita vsaj raven varstva, ki temelji na načelih, določenih v prilogi k temu sporazumu.

12. člen

Uporaba informacij

1. Informacije, dokumenti in druga sporočila, prejeta v okviru medsebojne pomoči, se lahko uporabijo le za namene, določene v tem sporazumu, vključno z uporabo v sodnih in upravnih postopkih.

2. Organ prosilec brez predhodnega pisnega soglasja zaprošenega organa ne sme uporabljati dokazov ali informacij, pridobljenih po tem sporazumu, za drugačne namene, kot so navedeni v zaprosilu.

3. Kadar so po tem sporazumu izmenjeni osebni podatki, carinski organi pogodbenic zagotovijo, da so uporabljeni le za namene, navedene v zaprosilu, in v skladu z vsemi pogoji, ki jih lahko postavi zaprošena pogodbenica.

5. Officials of the applicant Authority, authorized to investigate contraventions, may ask that the requested Authority examine relevant books, registers, and other documents or data media and supply copies thereof, or supply any information relating to the contravention.

Article 9

The Form in which Information is to be Communicated

1. The requested Authority shall communicate the results of enquiries to the applicant Authority in the form of documents, certified copies of documents, reports and the like and, when necessary, orally.

2. The documents provided for in paragraph 1 may be replaced by computerized information produced in any form for the same purpose, any information necessary for the interpretation or utilization of such computerized information shall be furnished along with it.

Article 10

Exceptions to the Obligation to Provide Assistance

1. In cases where the requested Contracting Party is of the opinion that compliance with a request would infringe upon its sovereignty, security, public policy, or other substantive national interest, or would violate an industrial, commercial or professional secret, assistance may be refused, provided partly, or compliance may be made subject to the satisfaction of certain conditions or requirements. Assistance may also be refused if the request involves currency or tax regulations other than regulations concerning customs duties.

2. Where the applicant Authority requests assistance which it would itself be unable to provide if so asked, it shall draw attention to the fact in its request. It shall then be for the requested Authority to decide how to respond to such a request.

3. If assistance is withheld or denied, the decision and the reasons therefore must be notified to the applicant Authority without delay.

Article 11

Obligation to Observe Confidentiality

1. Any information communicated in whatever form pursuant to this Agreement shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the same protection extended under the relevant laws relating to the same kind of information applicable in the Contracting Party which received it.

2. Personal data may only be transmitted if the level of personal protection afforded by the legislation of the Contracting Parties is equivalent. The Contracting Parties shall ensure at least a level of protection based on the principles laid down in the Annex to this Agreement.

Article 12

Use of Information

2. Information, documents, and other communications received in the course of mutual assistance may only be used for the purposes specified in this Agreement, including the use in judicial and administrative proceedings.

2. The applicant Authority shall not use evidence or information obtained under this Agreement for purposes other than those stated in the request without the prior written consent of the requested Authority.

3. Where personal data is exchanged under this Agreement, the Customs Authorities of the Contracting Parties shall ensure that it is used only for the purposes indicated in the request and according to any conditions that the requested Contracting Party may impose.

4. Določbe prvega in drugega odstavka tega člena ne veljajo za informacije v zvezi s kršitvami, ki se nanašajo na mamilu in psihotropne snovi. Take informacije se lahko sporočijo organom pogodbenice prosilke, ki so neposredno vključeni v boj proti nedovoljeni trgovini z mamilami.

13. člen

Spisi, dokumenti in priče

1. Carinski organi pogodbenic na zaprosilo priskrbijo dokumentacijo v zvezi s prevozom in odpošiljanjem blaga z navedbo vrednosti, porekla, razpolaganja in namembnega kraja blaga.

2. Izvirniki spisov, dokumentov in drugega gradiva se lahko zahtevajo le, če kopije ne bi zadostovale. Na posebno zahtevo se kopije takih spisov, dokumentov in drugega gradiva ustrezno overijo.

3. Izvirnike spisov, dokumentov in drugega gradiva, ki so bili poslani organu prosilcu, je treba čim prej vrniti. To ne vpliva na pravice zaprošenega organa ali tretjih oseb, ki so s tem povezane. Na zahtevo je treba izvirnike, potrebne za razsojanje ali podobne namene, nemudoma vrniti.

4. Na zaprosilo carinskega organa pogodbenice carinski organ druge pogodbenice po lastnem preudarku po oblasti svoje uslužbence, če ti uslužbenci na to pristanejo, da nastopijo kot priče v sodnih ali upravnih postopkih na državnem območju pogodbenice prosilke in predložijo spise, dokumente in drugo gradivo ali njihove overjene kopije, ki so morda potrebne za postopek. V takem zaprosilu je treba natančno navesti čas, kraj in vrsto postopka in v kakšni vlogi uslužbenec priča.

14. člen

Stroški

1. Carinski organi pogodbenic se odpovejo vsem zahlevkom za povračilo stroškov, nastalih pri izvajanjtu tega sporazuma, razen stroškov za priče, honorarjev izvedencev in stroškov za tolmače, ki niso državni uslužbenci.

2. Če so ali bodo za izpolnitev zaprosila potrebni večji in izredni stroški, se carinski organi pogodbenic posvetujejo, da določijo pogoje, pod katerimi se zaprosilo izpolni, ter način kritja stroškov.

15. člen

Izvajanje sporazuma

1. Za izvajanje tega sporazuma so pooblaščeni carinski organi pogodbenic. Ti odločajo o vseh praktičnih ukrepih in dogovorih, potrebnih za njegovo uporabo, ob upoštevanju pravil o varstvu podatkov.

2. Po posvetovanju lahko carinski organi pogodbenic izdajo upravna navodila, potrebna za izvajanje tega sporazuma.

3. Carinski organi pogodbenic se lahko dogovorijo, da bodo njihove preiskovalne službe v neposrednih stikih.

16. člen

Začetek veljavnosti in odpoved

1. Ta sporazum se začasno uporablja od dneva podpisa in začne veljati prvi dan drugega meseca po datumu, ko se pogodbenici po diplomatski poti obvestita, da so bile izpolnjene vse notranjepravne zahteve za začetek njegove veljavnosti.

4. The provisions of paragraphs 1 and 2 of this Article are not applicable to information concerning contraventions relating to narcotic drugs and psychotropic substances. Such information may be communicated to the authorities of the applicant Contracting Party which are directly involved in combatting illicit drug traffic.

Article 13

Files, Documents and Witnesses

1. The Customs Authorities of the Contracting Parties shall, upon request, provide documentation relating to the transportation and shipment of goods, showing the value, origin, disposition, and destination of those goods.

2. Originals of files, documents, and other materials shall be requested only in cases where copies would be insufficient. Upon specific request, copies of such files, documents, and other materials shall be appropriately authenticated.

3. Originals of files, documents, and other materials which have been furnished to the applicant Authority shall be returned at the earliest opportunity. The rights of the requested Authority or of third parties relating thereto shall remain unaffected. Upon request, originals necessary for adjudicative or similar purposes shall be returned without delay.

4. Upon the request of the Customs Authority of one Contracting Party, the Customs Authority of the other Contracting Party shall, at its discretion, authorize its employees, if such employees consent to do so, to appear as witnesses in judicial or administrative proceedings in the territory of the applicant Contracting Party, and to produce such files, documents, and other materials, or authenticated copies thereof, as may be considered necessary for the proceedings. Such a request shall specify the time, place, and type of proceedings and in what capacity the employee shall testify.

Article 14

Costs

1. The Customs Authorities of the Contracting Parties shall waive all claims for the reimbursement of costs incurred in the execution of this Agreement, with the exception of expenses for witnesses, fees of experts, and the costs of interpreters other than government employees.

2. If expenses of a substantial and extraordinary nature are, or will be required, in order to execute the request, the Customs Authorities of the Contracting Parties shall consult to determine the terms and conditions under which the request shall be executed, as well as the manner in which the costs shall be borne.

Article 15

Implementation

1. The implementation of this Agreement shall be entrusted to the Customs Authorities of the Contracting Parties. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection.

2. After consultation, the Customs Authorities of the Contracting Parties may issue any administrative directives necessary for the implementation of this Agreement.

3. The Customs Authorities of the Contracting Parties may arrange for their investigation services to be in direct communication with each other.

Article 16

Entry into Force and Denunciation

1. This Agreement shall apply provisionally from the date of its signing and shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other through diplomatic channels that all internal legal requirements for its entry into force have been fulfilled.

2. Carinski organi pogodbenic soglašajo, da se sestanejo zaradi pregleda sporazuma ali obravnave drugih carinskih zadev, ki bi lahko izhajale iz njihovega medsebojnega odnosa, na zaprosilo enega od carinskih organov ali po petih letih od datuma začetka veljavnosti sporazuma, razen če se med seboj pisno ne obvestijo, da tak pregled ni potreben.

3. Ta sporazum se sklene za nedoločen čas, razen če ga ena od pogodbenic pisno ne odpove po diplomatski poti. Ta sporazum preneha veljati šest mesecev po prejemu takega obvestila.

V POTRDITEV TEGA sta podpisana, ki sta ju ustreznou pooblastili njuni vladi, podpisala ta sporazum.

Sklenjeno na Brioni dne 10. junija 2005 v dveh izvirnih, vsak v slovenskem, hrvaškem in angleškem jeziku, pri čemer so vsa tri besedila enako verodostojna. Pri razlikah v razlagi prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Andrej Bajuk l.r.

Za Vlado
Republike Hrvaške
Ivan Šuker l.r.

2. The Customs Authorities of the Contracting Parties agree to meet in order to review this Agreement or to discuss any other customs matters which may arise out of the relationship between them, upon the request of one of the Customs Authorities or at the end of five years from the date of its entry into force, unless they notify one another in writing that no such review is necessary.

3. This Agreement shall be concluded for an indefinite period of time, unless denunciated by one of the Contracting Parties in writing through diplomatic channels. This Agreement shall cease to be in force six months following the receipt of such notification.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

Done at Brioni on 10 June 2005, in two originals, each in the Slovene, Croatian and English languages, all three texts being equally authentic. In case of any difference in interpretation, the English text shall prevail.

For the Government of the Republic of Slovenia
Andrej Bajuk (s) For the Government of the Republic of Croatia
Ivan Šuker (s)

PRILOGA K SPORAZUMU MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE HRVAŠKE O MEDSEBOJNI POMOČI PRI CARINSKIH ZADEVAH O TEMELJNIH NAČELIH VARSTVA PODATKOV

1. Osebni podatki, ki se računalniško obdelujejo, morajo biti:

- a) pridobljeni in obdelani pošteno in zakonito;
- b) hranjeni za določene in zakonite namene in se ne smejo uporabljati na način, nezdružljiv s temi nameni;
- c) primerni, ustreznii in ne preobsežni glede na namene, za katere se hranijo;
- d) natančni, in če je potrebno, sproti dopolnjeni;
- e) ohranjeni v oblikih, ki dopušča prepoznavanje oseb, na katere se podatki nanašajo, le tako dolgo, dokler je to potrebno za namen, za katerega se ti podatki hranijo.

2. Osebni podatki, ki se nanašajo na zdravje ali spolno življenje, ne smejo biti računalniško obdelani, razen če notranje pravo ne zagotavlja ustreznega varstva. Enako velja za osebne podatke v zvezi s kazenskimi obsodbami.

3. Sprejeti je treba ustrerene varnostne ukrepe za varstvo osebnih podatkov, hranjenih v računalniških zbirkah podatkov, pred nepooblaščenim uničenjem ali nenamerno izgubo ter tudi pred nepooblaščenim dostopom, spremenjanjem ali razširjanjem.

4. Vsaki osebi se omogoči:

- a) da ugotovi, ali obstaja računalniška zbirka osebnih podatkov, njene glavne namene ter kdo je upravljavec zbirke podatkov in njegovo običajno prebivališče ali sedež organa, ki nadzoruje zbirko;
- b) da dobiva v razumnih presledkih in brez prevelike zamude ali stroškov potrdila o tem, ali so osebni podatki, ki se nanašajo nanjo, shranjeni v računalniški zbirki podatkov, in da ji take podatke sporočijo v razumljivi obliki;

ANNEX TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE REPUBLIC OF CROATIA REGARDING MUTUAL ASSISTANCE IN CUSTOMS MATTERS, ON BASIC PRINCIPLES OF DATA PROTECTION

1. Personal data undergoing automatic processing shall be:

- a) obtained and processed fairly and lawfully;
- b) stored for specified and legitimate purposes and not used in a way incompatible with those purposes;
- c) adequate, relevant and not excessive in relation to the purposes for which they are stored;
- d) accurate and, where necessary, kept up to date;
- e) preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored.

2. Personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions.

3. Appropriate security measures shall be taken for the protection of personal data stored in automated data files against unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination.

4. Any person shall be enabled:

- a) to establish the existence of an automated personal data file, its main purposes, as well as the identity and habitual residence or principal place of business of the relevant authority who is the controller of the file;
- b) to obtain at reasonable intervals and without excessive delay or expense confirmation of whether personal data relating to him are stored in the automated data file as well as communication to him of such data in an intelligible form;

- c) da, odvisno od primera, doseže popravek ali izbris takih podatkov, če so bili obdelani v nasprotju z določbami notranjega prava, ob upoštevanju temeljnih načel iz prvega in drugega odstavka te priloge;
- d) da ima na voljo pravna sredstva, če se zaprosilo za obvestilo ali, odvisno od primera, sporočilo, popravek ali izbris iz pododstavkov b) in c) tega odstavka ne ugodi.

5. Izjeme glede določb prvega, drugega in četrtega odstavka te priloge niso dovoljene, razen v okviru omejitve, opredeljenih v naslednjih pododstavkih.

Odstopanje od določb iz prvega, drugega in četrtega odstavka te priloge je dovoljeno, če je to predvideno v zakonodaji pogodbenice in je to potreben ukrep v demokratični družbi zaradi:

- a) zaščite državne varnosti, javne varnosti, finančnih interesov države ali zatiranja kaznivih dejanj;
- b) varstva osebe, na katero se podatki nanašajo, ali pravic in svoboščin drugih.

Zakon lahko določa omejitve pri uresničevanju pravic, določenih v pododstavkih b), c) in d) četrtega odstavka te priloge, v zvezi z računalniškimi zbirkami osebnih podatkov, ki se uporabljajo za statistične ali znanstvenoraziskovalne namene, kadar očitno ni nikakršnega tveganja, da bi bila kršena zasebnost oseb, na katere se podatki nanašajo.

6. Nobene določbe te priloge ni mogoče razlagati, kot da omejuje ali drugače vpliva na možnost pogodbenice, da dodeli osebam, na katere se podatki nanašajo, širše varstvo, kot je določeno v tej prilogi.

- c) to obtain, as the case may be, rectification or erasure of such data if they have been processed contrary to the provisions of domestic law giving effect to the basic principles set out under paragraphs 1 and 2 of this Annex;
- d) to have remedy if a request for communication or, as the case may be, communication, rectification or erasure as referred to in subparagraphs b and c of this paragraph is not complied with.

5. No exception to the provisions under paragraphs 1, 2 and 4 of this Annex shall be allowed except within the limits defined in the following subparagraphs.

Derogation from the provisions under paragraphs 1, 2 and 4 of this Annex shall be allowed when such derogation is provided for by the law of the Contracting Party and constitutes a necessary measure in a democratic society in the interest of:

- a) protecting State security, public safety, the monetary interests of the State or the suppression of criminal offences;
- b) protecting the data subject or the rights and freedoms of others.

Restrictions on the exercise of the rights specified in paragraph 4, subparagraphs b, c and d of this Annex, may be provided by law with respect to automated personal data files used for statistics or for scientific research purposes where there is obviously no risk of an infringement of the privacy of the data subjects.

6. None of the provisions of this Annex shall be interpreted as limiting or otherwise affecting the possibility for a Contracting Party to grant data subjects a wider measure of protection than that stipulated in this Annex.

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za finance – Carinska uprava Republike Slovenije.

4. člen

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

Št. 437-06/06-5/1
Ljubljana, dne 29. septembra 2006
EPA 973-IV

Predsednik
Državnega zбора
Republike Slovenije
France Cukjati, dr. med., l.r.

110. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Poljske o sodelovanju in medsebojni pomoči pri carinskih zadevah (BPLPCZ)

Na podlagi druge alinee 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 POLJSKE O SODELOVANJU IN MEDSEBOJNI POMOČI PRI CARINSKIH
ZADEVAH (BPLPCZ)**

Razglašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Poljske o sodelovanju in medsebojni pomoči pri carinskih zadevah (BPLPCZ), ki ga je sprejel Državni zbor Republike Slovenije na seji 29. septembra 2006.

Št. 001-22-139/06
Ljubljana, dne 9. oktobra 2006

dr. Janez Drnovšek I.r.
Predsednik
Republike Slovenije

Z A K O N

**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE
IN VLADO REPUBLIKE POLJSKE O SODELOVANJU IN MEDSEBOJNI POMOČI
PRI CARINSKIH ZADEVAH (BPLPCZ)**

1. člen

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Republike Poljske o sodelovanju in medsebojni pomoči pri carinskih zadevah, podpisani 25. maja 2005 v Varšavi.

2. člen

Sporazum se v slovenskem in angleškem jeziku glasi¹:

S P O R A Z U M
**MED VLADO REPUBLIKE SLOVENIJE
IN VLADO REPUBLIKE POLJSKE**
O SODELOVANJU IN MEDSEBOJNI POMOČI
PRI CARINSKIH ZADEVAH

Vlada Republike Slovenije in Vlada Republike Poljske, v nadaljevanju »pogodbenici«, sta se

glede na to, da je kršenje carinske zakonodaje škodljivo za gospodarske, davčne in trgovinske interese njunih držav,

glede na pomembnost zagotavljanja natančne odmere in pobiranja carin in drugih davkov na uvoz in izvoz blaga kot tudi natančnega določanja carinske vrednosti in porekla takega blaga,

ker priznavata potrebo po mednarodnem sodelovanju pri zadevah, ki se nanašajo na izvajanje in uveljavljanje carinske zakonodaje,

ker sta prepričani, da je mogoče s sodelovanjem med njenimi carinskimi organi povečati učinkovitost ukrepov pri krštvitvah carinske zakonodaje,

ob upoštevanju Priporočila Sveta za carinsko sodelovanje o medsebojni upravni pomoči z dne 5. decembra 1953,

ob upoštevanju določb Konvencije Združenih narodov proti prepovedani trgovini z mamili in psihotropnimi substancami z dne 20. decembra 1988

dogovorili:

A G R E E M E N T
**BETWEEN THE GOVERNMENT OF
THE REPUBLIC OF SLOVENIA AND
THE GOVERNMENT OF THE REPUBLIC OF
POLAND ON CO-OPERATION AND MUTUAL
ASSISTANCE IN CUSTOMS MATTERS**

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

Considering that the contravention of customs legislation is prejudicial to the economic, fiscal and commercial interests of their respective countries;

Considering the importance of assuring the accurate assessment and collection of customs duties and other taxes on importation and exportation of goods, as well as the accurate determination of the customs value and origin of such goods;

Recognising the need for international co-operation in matters related to the administration and enforcement of customs legislation;

Convinced that actions against contravention of customs legislation can be made more effective by co-operation between their Customs Authorities;

Having regard to the Recommendation of the Customs Co-operation Council on Mutual Administrative Assistance of December 5, 1953;

Having regard to the provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;

Have agreed as follows:

¹ Besedilo sporazuma v poljskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

OPREDELITEV POJMOV

1. člen

V tem sporazumu:

a) »carinska zakonodaja« pomeni zakone in predpise, ki jih uveljavljajo carinski organi pri uvozu, izvozu in tranzitu blaga in se nanašajo na carine in druge dajatve ter na ukrepe prepovedi, omejitve in nadzora pri pretoku blaga čez državne meje;

b) »carine« pomenijo vse dajatve, davke, pristojbine in/ali druge dajatve, ki se odmerjajo in pobirajo na ozemljih držav pogodbenic pri uporabi carinske zakonodaje, ne vključujejo pa pristojbin in dajatev, katerih znesek je omejen na približne stroške opravljenih storitev;

c) »organ prosilec« pomeni carinski organ, ki zaprosi za pomoč na podlagi tega sporazuma ali prejme tako pomoč;

d) »zaprošeni organ« pomeni carinski organ, ki prejme zaprosilo za pomoč na podlagi tega sporazuma ali da tako pomoč;

e) »kršitev« pomeni vsako kršitev carinske zakonodaje kot tudi vsak poskus kršitve take zakonodaje;

f) »carinski organ« pomeni v Republiki Sloveniji Ministrstvo za finance – Carinsko upravo Republike Slovenije in v Republiki Poljski ministra za finance;

g) »osebni podatki« pomenijo vse podatke, ki se nanašajo na določenega ali določljivega posameznika.

PODROČJE UPORABE SPORAZUMA

2. člen

1. Pogodbenici si medsebojno pomagata na način in pod pogoji, navedenimi v tem sporazumu, pri zagotavljanju pravilne uporabe carinske zakonodaje, še posebej s prečevanjem, odkrivanjem in preiskovanjem kršitev svoje carinske zakonodaje.

2. Vsa pomoč po tem sporazumu je dana v skladu z notranjim pravom zaposlene pogodbenice.

POMOČ PO ZAPROSILU

3. člen

1. Po zaposilu organa prosilca mu zaposleni organ priskrbí vse ustrezne podatke, ki mu omogočijo, da zagotovi pravilno uporabo carinske zakonodaje, med drugim tudi podatke o prevozu in odpošiljanju blaga ter kraju, kamor je namenjeno, o njegovi carinski vrednosti in poreklu ter podatke o storjenih ali načrtovanih dejanjih, s katerimi se krši ali bi se lahko kršila taka zakonodaja.

2. Po zaposilu organa prosilca ga zaposleni organ obvesti, ali je bilo blago, izvoženo z ozemlja države ene pogodbenice, pravilno uvoženo na ozemlje države druge pogodbenice, in kadar je primerno, navede carinski postopek, uporabljen za blago.

3. Po zaposilu organa prosilca zaposleni organ sprejme potrebne ukrepe za zagotovitev posebnega nadzora nad:

a) fizičnimi ali pravnimi osebami, za katere se utemeljeno domneva, da kršijo ali so kršile carinsko zakonodajo na ozemlju države organa prosilca;

DEFINITIONS

Article 1

For the purposes of this Agreement:

a) "Customs legislation" shall mean laws and regulations enforced by the Customs Authorities concerning importation, exportation and transit of goods, as they relate to customs duties, charges and measures of prohibition, restriction and control in respect of the movement of goods across national boundaries;

b) "Customs duties" shall mean all duties, taxes, fees or/and other charges which are levied and collected in the territories of the States of the Contracting Parties, in application of customs legislation, but not including fees and charges which are limited in amount to the approximate costs of services rendered;

c) "Applicant Authority" shall mean the Customs Authority which makes a request for assistance pursuant to this Agreement or which receives such assistance;

d) "Requested Authority" shall mean the Customs Authority which receives a request for assistance pursuant to this Agreement or which renders such assistance;

e) "Contravention" shall mean any violation of customs legislation as well as any attempted violation of such legislation;

f) "Customs Authority" shall mean in the Republic of Slovenia: the Ministry of Finance – the Customs Administration of the Republic of Slovenia (Ministrstvo za finance – Carinska uprava Republike Slovenije) and in the Republic of Poland – the Minister of Finance (Minister Finansów);

g) "Personal data" shall mean all information relating to an identified or identifiable individual.

SCOPE OF AGREEMENT

Article 2

1. The Contracting Parties shall assist each other, in the manner and under the conditions laid down in this Agreement, in ensuring that customs legislation is correctly applied, in particular by the prevention, detection and investigation of contravention of their customs legislation.

2. All assistance rendered pursuant to this Agreement shall be rendered in accordance with the national legislation of the requested Contracting Party.

ASSISTANCE ON REQUEST

Article 3

1. At the request of the Applicant Authority, the Requested Authority shall furnish it with all the relevant information to enable it to ensure that customs legislation is correctly applied, including, inter alia, information regarding transportation, shipment and destination of goods, their customs value and origin as well as the information regarding acts committed or planned, which contravene or would contravene such legislation.

2. At the request of the Applicant Authority, the Requested Authority shall inform it whether goods exported from the territory of the State of one of the Contracting Parties have been properly imported into the territory of the State of the other Contracting Party, specifying where appropriate, the customs procedure applied to the goods.

3. At the request of the Applicant Authority, the Requested Authority shall take the necessary steps to ensure that a special watch is kept on:

a) particular natural or legal persons of whom there are reasonable grounds for believing that they are contravening or have contravened customs legislation in the territory of the State of the Applicant Authority;

b) kraji, kjer se blago skladišči na način, zaradi katerega je mogoče utemeljeno sumiti, da je namenjeno nezakonitemu uvozu na ozemlje države organa prosilca;

c) gibanjem blaga, za katero organ prosilec sporoči, da bi lahko povzročilo bistvene kršitve carinske zakonodaje na ozemlju države organa prosilca;

d) prevoznimi sredstvi, za katera se upravičeno domneva, da so bila, so ali bi lahko bila uporabljena pri kršenju carinske zakonodaje na ozemlju države organa prosilca.

b) places where goods are stored in a way that gives grounds for suspecting that they are intended to be illicitly imported into the territory of the State of the Applicant Authority;

c) movement of goods notified by the Applicant Authority as possibly giving rise to substantial contravention of customs legislation in the territory of the State of the Applicant Authority;

d) means of transport for which there are reasonable grounds for believing that they have been, are or may be used for contravention of customs legislation in the territory of the State of the Applicant Authority.

POMOČ NA LASTNO POBUDO

4. člen

Pogodbenici si v okviru svojih pristojnosti medsebojno pomagata, če menita, da je to potrebno za pravilno uporabo carinske zakonodaje, še posebej kadar prejmeta informacije, ki se nanašajo na:

– dejanja, s katerimi je bila kršena, je kršena ali bi lahko bila kršena ta zakonodaja in ki bi lahko zanimala drugo pogodbenico;

– nova sredstva ali načine, uporabljeni pri kršenju te zakonodaje;

– blago, za katero se ve, da v zvezi z njim prihaja do bistvenih kršitev carinske zakonodaje na ozemlju države druge pogodbenice;

– osebe, za katere se ve ali sumi, da kršijo carinsko zakonodajo, ki velja na ozemlju države druge pogodbenice;

– prevozna sredstva in zaboljivke, za katere se ve ali sumi, da so bili, so ali bi lahko bili uporabljeni pri kršenju carinske zakonodaje, ki velja na ozemlju države druge pogodbenice.

STROKOVNA POMOČ

5. člen

1. Pomoč, kot je predvidena po tem sporazumu, med drugim vključuje podatke o:

a) ukrepih, ki bi bili lahko koristni pri preprečevanju kršitev;

b) novih načinov, ki se uporabljajo pri kršitvah;

c) opažanjih in ugotovitvah, ki izhajajo iz uspešne uporabe novih pripomočkov in metod za ukrepanje.

2. Če to ni v nasprotju z njunim notranjim pravom, si carinski organi pogodbenic prav tako prizadevajo za sodelovanje pri:

a) uvajanju, razvijanju ali izboljševanju posebnih programov usposabljanja za svoje osebje;

b) vzpostavljanju in vzdrževanju poti za medsebojno komuniciranje, da bi olajšali varno in hitro izmenjavo informacij;

c) pospeševanju medsebojnega usklajevanja iz izmenjavo osebja, izvedencev in določitvijo oseb za zvezo;

d) proučevanju in preizkušanju nove opreme ali postopkov;

e) poenostavljanju in usklajevanju svojih carinskih postopkov in

f) vseh drugih splošnih upravnih zadevah, pri katerih je potrebno skupno ukrepanje.

SPONTANEOUS ASSISTANCE

Article 4

The Contracting Parties shall, within their competencies, provide each other with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to:

– acts which have contravened, contravene or would contravene such legislation and which may be of interest to the other Contracting Party;

– new means or methods employed in committing contravention of such legislation;

– goods known to be the subject of substantial contravention of the customs legislation in the territory of the State of the other Contracting Party;

– particular persons known to be or suspected of committing contravention of the customs legislation in force in the territory of the State of the other Contracting Party;

– means of transport and containers, about which knowledge or suspicion exist that they were, are or could be used in committing contravention of customs legislation in force in the territory of the State of the other Contracting Party.

TECHNICAL ASSISTANCE

Article 5

1. Assistance, as provided for in this Agreement shall include, inter alia, information regarding:

a) enforcement actions that may be of use in the prevention of contravention;

b) new methods used in committing contravention;

c) observations and findings resulting from the successful application of new enforcement aids and techniques.

2. The Customs Authorities of the Contracting Parties shall, if not contrary to their national legislation, also seek to co-operate in:

a) initiating, developing or improving specific training programs for their personnel;

b) establishing and maintaining channels of communication between themselves in order to facilitate the secure and rapid exchange of information;

c) facilitating co-ordination between themselves by the exchange of personnel, experts, and the posting of liaison officers;

d) the consideration and testing of new equipment or procedures;

e) the simplification and harmonisation of their respective customs procedures; and

f) any other general administrative matters that may require their joint action.

DOSTAVA/URADNO OBVEŠČANJE

6. člen

Po zaprosilu organa prosilca sprejme zaprošeni organ v skladu s svojo zakonodajo vse potrebne ukrepe za:

- dostavo vseh dokumentov,
- uradno obvestilo o vseh odločitvah,

ki spadajo na področje uporabe tega sporazuma, naslovniku, ki prebiva ali je ustanovljen na ozemlju njegove države. V takem primeru se uporablja tretji odstavek 7. člena.

OBLIKA IN VSEBINA ZAPROSIL
ZA POMOČ

7. člen

1. Zaprosila po tem sporazumu morajo biti pisna. Zaprosilu morajo biti priloženi dokumenti, potrebeni za njegovo obravnavo. Kadar je nujno hitro ukrepanje, se lahko sprejme ustno zaprosilo, ki pa ga je treba takoj pisno potrditi.

2. Zaprosila na podlagi prvega odstavka tega člena vsebujejo te podatke:

- a) organ prosilec, ki da zaprosilo,
- b) zaprošeni ukrep,
- c) predmet zaprosila in razlog zanj,
- d) zakone, predpise in druge pravne podlage v zvezi s tem,

e) kolikor je mogoče natančne in celovite navedbe o fizičnih ali pravnih osebah, na katere se zaprosilo nanaša,

f) povzetek pomembnih dejstev, razen v primerih, predvidenih v 6. členu, in

g) povezavo med zaprošeno pomočjo in zadevo, na katero se nanaša.

3. Zaprosila je treba predložiti v angleškem jeziku ali jeziku, ki je sprejemljiv za zaprošeni organ.

4. Pomoč po tem sporazumu se zagotavlja z neposrednim sodelovanjem med ustreznimi carinskimi organi.

Če zaprošeni organ ni ustrezen organ za izpolnitve zaprosila, ga mora nemudoma poslati ustreznemu organu, ki v zvezi z njim ukrepa v skladu s svojimi zakonskimi pooblastili, ali pa organ prosilca obvesti o ustreznem postopku, po katerem se je treba ravnati pri takem zaprosilu.

5. Če zaprosilo ne ustreza predpisanim zahtevam, je mogoče zahtevati njegov popravek ali dopolnitev; lahko pa se odredijo previdnostni ukrepi.

OBRAVNAVANJE ZAPROSIL

8. člen

1. Zaprošeni organ sprejme vse upravičene ukrepe za obravnavo zaprosila in bo po potrebi skušal zagotoviti vse uradne ali sodne ukrepe, potrebne za izpolnitve zaprosila.

2. Carinski organ ene pogodbenice po zaprosilu carinskega organa druge pogodbenice opravi vse potrebne preiskave, vključno z zaslišanjem izvedencev in prič ali oseb, osumljenih kršitev, in opravi preverjanja, pregledne in pozvedbe o dejstvih v zvezi z zadevami, na katere se nanaša ta sporazum.

3. Po zaprosilu carinskega organa druge pogodbenice lahko zaprošeni organ omogoči uradnim osebam organa prosilca navzočnost na svojem ozemlju, kadar njegove uradne osebe preiskujejo kršitve carinske zakonodaje države organa prosilca.

DELIVERY/NOTIFICATION

Article 6

At the request of the Applicant Authority, the Requested Authority shall in accordance with its legislation take all necessary measures in order to:

- deliver all documents;
- notify all decisions;

falling within the scope of this Agreement to an addressee, residing or established in the territory of its State. In such a case paragraph 3 of Article 7 shall apply.

FORM AND SUBSTANCE OF REQUESTS
FOR ASSISTANCE

Article 7

1. Requests pursuant to this Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral request may be accepted, but it must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 of this Article shall include the following information:

- a) the Applicant Authority making the request;
- b) the measure requested;
- c) the object of and the reason for the request;
- d) the laws, rules and other legal grounds involved;

e) indications as exact and comprehensive as possible on the natural or legal persons, to which the request relates;

f) a summary of the relevant facts, except in cases provided for in Article 6; and

g) the connection between the assistance sought and the matter to which it relates.

3. Requests shall be submitted in English or in a language acceptable to the Requested Authority.

4. Assistance shall be carried out by direct communication between the respective Customs Authorities.

In case the Requested Authority is not the appropriate agency to comply with a request, it shall promptly transmit the request to the appropriate agency, who shall act upon the request according to its powers under the law, or advise the Applicant Authority of the appropriate procedure to be followed regarding such a request.

5. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures may, however, be undertaken.

EXECUTION OF REQUESTS

Article 8

1. The Requested Authority shall take all the reasonable measures to execute the request, and if required, will endeavour to seek any official or judicial measure necessary to carry out the request.

2. The Customs Authority of one Contracting Party shall, upon the request of the Customs Authority of the other Contracting Party, conduct any necessary investigation, including the questioning of experts and witnesses or persons suspected of having committed a contravention, and undertake verifications, inspections and fact-finding inquiries in connection with the matters referred to in this Agreement.

3. Upon request of the Customs Authority of the other Contracting Party, the Requested Authority may allow officials of the Applicant Authority to be present in its territory when its officials are investigating contravention of customs legislation of the State of the Applicant Authority.

4. Organ prosilec se, če tako zahteva, obvesti o času in kraju ukrepanja na podlagi zaprosila.

5. Uradne osebe organa prosilca, ki so pooblaščene za preiskave kršitev, lahko zaprosijo, da zaprošeni organ pregleda ustrezne knjige, registre in drugo dokumentacijo ali nosilce podatkov in priskrbi njihove kopije ali da priskrbi vse informacije v zvezi s kršitvijo, navedeno v zaprosilu.

OBЛИКА SPOROČANJA INFORMACIJ

9. člen

1. Zaprošeni organ sporoči izid poizvedb organu prosilcu v obliki dokumentov, overjenih kopij dokumentov, poročil in podobnega, po potrebi pa tudi ustno.

2. Dokumente iz prvega odstavka tega člena lahko nadomestijo računalniški podatki v kakršni koli obliki z enakim namenom; hkrati je treba dostaviti vse informacije, potrebne za razlago ali uporabo takih računalniških podatkov.

IZJEME PRI OBVEZNOSTI DAJANJA POMOČI

10. člen

1. Kadar zaprošena pogodbenica meni, da bi bili z izpolnitvijo zaprosila prizadeti njena suverenost, varnost, javni red ali drugi pomembni državni interesi ali bi bila kršena kaka gospodarska, poslovna ali poklicna skrivnost, lahko pomoč zavrne ali jo da le, če so izpolnjeni določeni pogoji ali zahete. Pomoč lahko prav tako zavrne, če zaprosilo vključuje devizne ali davčne predpise, ki se ne nanašajo na predpise o carinah.

2. Kadar organ prosilec prosi za pomoč, ki je sam ne bi mogel zagotoviti, če bi ga zanjo zaprosili, mora v svojem zaprosilu na to opozoriti. Zaprošeni organ se mora potem odločiti, kako bo odgovoril na tako zaprosilo.

3. Če je pomoč zadržana ali zavrnjena, je treba o tej odločitvi in razlogih zanjo nemudoma uradno obvestiti organ prosilca.

OBVEZNOST SPOŠTOVANJA ZAUPNOSTI

11. člen

1. Vsaka informacija, sporočena v kakršni koli obliki po tem sporazumu, se varuje pred nezakonitim razkritjem v skladu z notranjo zakonodajo pogodbenic.

2. Osebne podatke je mogoče poslati, le če je raven varovanja osebnih podatkov, ki jo zagotavlja zakonodaja pogodbenic, enakovredna. Pogodbenici zagotovita vsaj raven varstva, ki temelji na načelih, navedenih v prilogi k temu sporazumu.

UPORABA INFORMACIJ

12. člen

1. Informacije, dokumente in druga sporočila, prejeta v okviru medsebojne pomoči, je mogoče uporabiti le za namene, določene v tem sporazumu, vključno z uporabo v sodnih in upravnih postopkih.

4. The Applicant Authority shall, if it so requests, be advised of the time and place of the action to be taken in response to the request.

5. Officials of the Applicant Authority, authorized to investigate contravention, may ask the Requested Authority to examine relevant books, registers, and other documents or data media and supply copies thereof, or supply any information relating to the contravention specified in the request.

THE FORM IN WHICH INFORMATION IS TO BE COMMUNICATED

Article 9

1. The Requested Authority shall communicate the results of enquiries to the Applicant Authority in the form of documents, certified copies of documents, reports and the like and, when necessary, orally.

2. The documents provided for in paragraph 1 of this Article may be replaced by computerised information produced in any form for the same purpose. Any information necessary for the interpretation or utilisation of such computerised information shall be furnished along with it.

EXCEPTIONS TO THE OBLIGATION TO PROVIDE ASSISTANCE

Article 10

1. In cases where the requested Contracting Party is of the opinion that compliance with a request would infringe upon its sovereignty, security, public order or other substantive national interest, or would violate an industrial, commercial or professional secret, assistance may be refused or compliance may be made subject to the satisfaction of certain conditions or requirements. Assistance may also be refused if the request involves currency or tax regulations other than regulations concerning customs duties.

2. Where the Applicant Authority requests assistance which it would itself be unable to provide if so asked, it shall draw attention to the fact in its request. It shall then be for the Requested Authority to decide how to respond to such a request.

3. If the assistance is withheld or denied the decision and the reasons therefore must be notified to the Applicant Authority without delay.

OBLIGATION TO OBSERVE CONFIDENTIALITY

Article 11

1. Each information supplied in any form under this Agreement shall be protected against unlawful disclosure in accordance with the internal legislation of the Contracting Parties.

2. Personal data may be transmitted only if the level of personal data protection afforded by the legislation of the Contracting Parties is equivalent. The Contracting Parties shall ensure at least a level of protection based on the principles laid down in the Annex to this Agreement.

USE OF INFORMATION

Article 12

1. Information, documents and other communications received in the course of mutual assistance may be used only for the purposes specified in this Agreement, including the use in judicial and administrative proceedings.

2. Organ prosilec ne sme uporabljati dokazov ali informacij, pridobljenih po tem sporazumu, za drugačne namene, kot so navedeni v zaprosilu, brez predhodnega pisnega soglasja zaprošenega organa.

3. Kadar so po tem sporazumu izmenjani osebni podatki, carinski organi pogodbenic zagotovijo, da so uporabljeni le za namene, navedene v zaprosilu, in v skladu z vsemi pogoji, ki jih lahko postavi zaprošena pogodbenica.

4. Določbe prvega in drugega odstavka tega člena ne veljajo za informacije v zvezi s krštvami, ki se nanašajo na mamila in psihotropne snovi. Take informacije je mogoče sporočiti organom pogodbenice prosilke, ki so neposredno vključeni v boj proti nedovoljeni trgovini z mamili.

SPISI, DOKUMENTI IN PRIČE

13. člen

1. Carinski organi pogodbenic po zaprosilu priskrbijo dokumentacijo v zvezi s prevozom in odpošiljanjem blaga z navedbo carinske vrednosti, porekla, razporejanja blaga in kraja, kamor je to namenjeno.

2. Izvirnike spisov, dokumentov in drugega gradiva je mogoče zahtevati le, kadar kopije ne bi zadostovale. Na posebno zahtevo se kopije takih spisov, dokumentov in drugega gradiva ustrezno overijo.

3. Izvirnike spisov, dokumentov in drugega gradiva, ki so bili poslani organu prosilcu, je treba čim prej vrniti. To ne vpliva na pravice zaprošenega organa ali drugih, ki so s tem povezani. Na zahtevo je treba izvirnike nemudoma vrniti.

4. Po zaprosilu carinskega organa ene pogodbenice carinski organ druge pogodbenice po lastnem preudarku pooblasti svoje uslužbence, če ti uslužbenci na to pristanejo, da nastopijo kot priče v sodnih ali upravnih postopkih na ozemlju države pogodbenice prosilke in predložijo spise, dokumente in drugo gradivo ali njihove overjene kopije, ki utegnejo biti potrebne za postopek. V takem zaprosilu je treba navesti čas, kraj in vrsto postopka in v kakšni vlogi bo uslužbenec pričal.

STROŠKI

14. člen

1. Carinski organi pogodbenic se odpovejo vsem zahodkom za povračilo stroškov, nastalih pri izvajanjju tega sporazuma, razen stroškov za priče, honorarjev izvedencev in stroškov za tolmače, ki niso državni uslužbenci.

2. Če so ali bodo za izpolnitev zaprosila potrebni večji in izredni stroški, se carinski organi pogodbenic posvetujejo, da določijo pogoje, pod katerimi se zaprosilo izpolni, ter način kritja stroškov.

IZVAJANJE SPORAZUMA

15. člen

1. Izvajanje tega sporazuma se zaupa carinskim organom pogodbenic. Ti odločajo o vseh praktičnih ukrepih in dogovorih, potrebnih za njegovo uporabo, ob upoštevanju pravil o varstvu podatkov.

2. The Applicant Authority shall not use evidence or information obtained under this Agreement for purposes other than those stated in the request without the prior written consent of the Requested Authority.

3. When personal data is exchanged under this Agreement, the Customs Authorities of the Contracting Parties shall ensure that it is used only for the purposes indicated in the request and according to any conditions that the requested Contracting Party may impose.

4. The provisions of paragraphs 1 and 2 of this Article are not applicable to information concerning contravention relating to narcotic drugs and psychotropic substances. Such information may be communicated to the authorities of the applicant Contracting Party which are directly involved in combating illicit drug traffic.

FILES, DOCUMENTS AND WITNESSES

Article 13

1. The Customs Authorities of the Contracting Parties shall, upon request, provide documentation relating to the transportation and shipment of goods, showing the customs value, origin, disposition and destination of those goods.

2. Originals of files, documents and other materials shall be requested only in cases where copies would be insufficient. Upon specific request, copies of such files, documents, and other materials shall be appropriately authenticated.

3. Originals of files, documents, and other materials which have been furnished to the Applicant Authority shall be returned at the earliest opportunity. The rights of the Requested Authority or of third parties relating thereto shall remain unaffected. Upon request, such originals shall be returned without delay.

4. Upon request of the Customs Authority of one Contracting Party, the Customs Authority of the other Contracting Party shall at its discretion authorize its employees, if such employees consent to do so, to appear as witnesses in judicial or administrative proceedings in the territory of the State of the applicant Contracting Party, and to produce such files, documents and other materials or authenticated copies thereof, as may be considered necessary for the proceedings. Such a request shall specify the time, place and type of proceedings and in what capacity the employee shall testify.

COSTS

Article 14

1. The Customs Authorities of the Contracting Parties shall waive all claims for reimbursement of costs incurred in the execution of this Agreement, with the exception of expenses for witnesses, fees of experts, and the costs of interpreters other than government employees.

2. If expenses of a substantial and extraordinary nature are, or will be required, in order to execute the request, the Customs Authorities of the Contracting Parties shall consult to determine the terms and conditions under which the request shall be executed as well as the manner in which the costs shall be borne.

IMPLEMENTATION OF THE AGREEMENT

Article 15

1. The implementation of this Agreement shall be entrusted to the Customs Authorities of the Contracting Parties. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection.

2. Po posvetovanju lahko carinski organi pogodbenic izdajo upravna navodila, potrebna za izvajanje tega sporazuma.

3. Carinski organi pogodbenic se lahko dogovorijo, da bodo njihove preiskovalne službe v neposrednih stikih.

OBMOČJE UPORABE SPORAZUMA

16. člen

Ta sporazum se uporablja za območje Republike Slovenije in za območje Republike Poljske.

ZAČETEK IN PRENEHANJE VELJAVNOSTI

17. člen

1. Ta sporazum začne veljati prvi dan drugega meseca po datumu, ko se pogodbenici po diplomatski poti obvestita, da so bile izpolnjene vse notranjopravne zahteve za začetek njegove veljavnosti.

Z začetkom veljavnosti tega sporazuma med Republiko Slovenijo in Republiko Poljsko prenega veljati Sporazum med Vlado Socialistične federativne republike Jugoslavije in Vlado Ljudske republike Poljske o sodelovanju in vzajemni pomoči v carinskih zadevah, podpisani v Varšavi 9. maja 1967.

2. Carinski organi pogodbenic soglašajo, da se sestanejo zaradi ponovnega pregleda sporazuma ali obravnave drugih carinskih zadev, ki bi lahko izhajale iz njihovega medsebojnega odnosa, po zaprosilu enega od carinskih organov ali po petih letih od datuma začetka veljavnosti sporazuma, razen če se med seboj pisno uradno ne obvestijo, da tak pregled ni potreben.

3. Ta sporazum je sklenjen za nedoločen čas, razen če ga katera koli pogodbenica pisno ne odpove po diplomatski poti. Sporazum prenega veljati šest mesecev po prejemu takega uradnega obvestila.

V POTRDITEV TEGA sta podpisana, ki sta ju pravilno pooblastili njuni vladi, podpisala ta sporazum.

Sklenjeno v Varšavi dne 25. maja 2005 v dveh izvirnikih v slovenskem, poljskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah v razlagi je odločilno angleško besedilo.

Za Vlado
Republike Slovenije
Franc Košir l.r.

Za Vlado
Republike Poljske
Wiesław Czyżowicz l.r.

2. After consultation, the Customs Authorities of the Contracting Parties may issue any administrative directives necessary for the implementation of this Agreement.

3. The Customs Authorities of the Contracting Parties may arrange for their investigation services to be in direct communication with each other.

TERRITORIAL APPLICATION

Article 16

This Agreement shall be applicable to the territory of the Republic of Slovenia and to the territory of the Republic of Poland.

ENTRY INTO FORCE AND TERMINATION

Article 17

1. This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other through diplomatic channels that all the internal legal requirements for its entry into force have been fulfilled.

As soon as this Agreement enters into force in the relations between the Republic of Slovenia and the Republic of Poland, the Agreement between the Government of the Socialist Federal Republic of Yugoslavia and the Government of the People's Republic of Poland regarding co-operation and mutual assistance in customs matters, signed on May 9, 1967 in Warsaw shall cease to apply.

2. The Customs Authorities of the Contracting Parties agree to meet in order to review this Agreement or to discuss any other customs matters which may arise out of the relationship between them, upon the request of one of the Customs Authorities or at the end of five years from the date of its entry into force, unless they notify one another in writing that no such review is necessary.

3. This Agreement shall be concluded for an indefinite period of time, unless terminated by one of the Contracting Parties in writing through diplomatic channels. The Agreement shall cease to apply six months following the receipt of such notification.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

Done at Warsaw on the 25th day of May 2005 in two originals in the Slovene, Polish and English languages, all texts being equally authentic. In case of any difference in interpretation, the English text shall prevail.

For the Government of
the Republic of Slovenia
Franc Košir (s)

For the Government of
the Republic of Poland
Wiesław Czyżowicz (s)

PRILOGA

TEMELJNA NAČELA VARSTVA PODATKOV

1 Osebni podatki, ki se računalniško obdelujejo, morajo biti:

- a) pridobljeni in obdelani pošteno in zakonito;
- b) hranjeni za določene in zakonite namene in se ne smejo uporabljati na način, nezdružljiv s temi nameni;
- c) primerni, ustrezeni in ne preobsežni glede na namene, za katere se hranijo;

ANNEX

BASIC PRINCIPLES OF DATA PROTECTION

1. Personal data undergoing automatic processing shall be:

- a) obtained and processed fairly and lawfully;
- b) stored for specified and legitimate purposes and not used in a way incompatible with those purposes;
- c) adequate, relevant and not excessive in relation to the purposes for which they are stored;

- d) natančni, in če je potrebno, sproti dopolnjevani;
- e) ohranjeni v obliki, ki dopušča prepoznavanje oseb, na katere se podatki nanašajo, le tako dolgo, dokler je to potrebno za namen, za katerega se ti podatki hranijo.

2 Osebni podatki, ki se nanašajo na zdravje ali spolno življenje, ne smejo biti računalniško obdelani, razen če notranje pravo ne zagotavlja ustreznega varstva. Enako velja za osebne podatke v zvezi s kazenskimi obsodbami.

3 Sprejeti je treba ustreerne varnostne ukrepe za varstvo osebnih podatkov, hranjenih v računalniških zbirkah podatkov, pred nepooblaščenim uničenjem ali nenamerno izgubo ter tudi pred nepooblaščenim dostopom, spreminjanjem ali razširjanjem.

4 Vsaki osebi je treba omogočiti:

- a) da ugotovi, ali obstaja računalniška zbirka osebnih podatkov, njene glavne namene ter kdo je upravljavec zbirke podatkov in njegovo običajno prebivališče ali sedež;
- b) da je v razumnih presledkih in brez prevelike zamude ali stroškov obveščena o tem, ali so osebni podatki, ki se nanašajo nanjo, shranjeni v računalniški zbirki podatkov, in da ji take podatke sporočijo v razumljivi obliki;
- c) da, odvisno od primera, doseže popravek ali izbris takih podatkov, če so bili obdelani v nasprotju z določbami notranjega prava, ob upoštevanju temeljnih načel iz prvega in drugega odstavka te priloge;
- d) da vloži pritožbo, če zahteva za potrditev, dostop, popravek ali izbris iz pododstavkov b) in c) tega odstavka ni izpolnjena.

5.1 Odstopanje od določb prvega, drugega in četrtega odstavka te priloge je dovoljeno, če je to predvideno v zakonodaji države pogodbenice in je to potreben ukrep v demokratični družbi v interesu:

- a) zaščite državne varnosti, javne varnosti, finančnih interesov države ali zatiranja kaznivih dejanj;
- b) varstva osebe, na katero se podatki nanašajo, ali pravic in svoboščin drugih.

5.2 Zakon lahko določa omejitve pri uresničevanju pravic, določenih v pododstavkih b), c) in d) četrtega odstavka te priloge, v zvezi z računalniškimi zbirkami osebnih podatkov, ki se uporabljajo za statistične ali znanstvenoraziskovalne namene, kadar očitno ni nikakršnega tveganja, da bi bila kršena zasebnost oseb, na katere se podatki nanašajo.

6 Nobene določbe te priloge ni mogoče razlagati, kot da omejuje ali drugače vpliva na možnost pogodbenice, da dodeli osebam, na katere se podatki nanašajo, širše varstvo, kot je določeno v tej prilogi.

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za finance – Carinska uprava Republike Slovenije.

4. člen

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

Št. 437-06/06-6/1
Ljubljana, dne 29. septembra 2006
EPA 974-IV

- d) accurate and, where necessary, kept up to date;
- e) preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored.

2. Personal data concerning health or sexual life, may not be processed automatically unless national legislation provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions.

3. Appropriate security measures shall be taken for the protection of personal data stored in automated data files against unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination.

4. Any person shall be enabled:

- a) to establish the existence of an automated personal data file, its main purposes, as well as the identity and habitual residence or principal place of business of the controller of the file;
- b) to obtain at reasonable intervals and without excessive delay or expense confirmation of whether personal data relating to him are stored in the automated data file as well as communication to him of such data in an intelligible form;
- c) to obtain, as the case may be, rectification or erasure of such data if they have been processed contrary to the provisions of national legislation giving effect to the basic principles set out under paragraphs 1 and 2 of this Annex;
- d) to lodge a claim if a request for confirmation, access, rectification or erasure as referred to in subparagraphs b and c of this paragraph is not complied with.

5.1 Derogation from the provisions under paragraphs 1, 2 and 4 of this Annex shall be allowed when such derogation is provided for by the legislation of the State of the Contracting Party and constitutes a necessary measure in a democratic society in the interest of:

- a) protecting State security, public safety, the monetary interests of the State or the suppression of criminal offences;
- b) protecting the data subject or the rights and freedoms of other persons.

5.2 Restrictions on the exercise of the rights specified in paragraph 4, subparagraphs b, c and d of this Annex, may be provided by law with respect to automated personal data files used for statistics or for scientific research purposes where there is obviously no risk of an infringement of the privacy of the data subjects.

6. None of the provisions of this Annex shall be interpreted as limiting or otherwise affecting the possibility for a Contracting Party to grant data subjects a wider measure of protection than that stipulated in this Annex.

Predsednik
Državnega zborna
Republike Slovenije
France Cukjati, dr. med., l.r.

Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

111. Obvestilo o prenehanju veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Republike Bolgarije o sodelovanju na področju veterinarske medicine

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije, št. 113/03 – uradno prečiščeno besedilo in 20/06 – ZNOMCMO) Ministrstvo za zunanje zadeve

sporoča,

da je dne 19. avgusta 2006 prenehal veljati Sporazum med Vlado Republike Slovenije in Vlado Republike Bolgarije o sodelovanju na področju veterinarske medicine, podpisani v Sofiji 30. junija 1998 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 23/00 (Uradni list Republike Slovenije, št. 84/00).

Ljubljana, dne 1. septembra 2006

Ministrstvo
za zunanje zadeve
Republike Slovenije

112. Obvestilo o prenehanju veljavnosti Sporazuma med Vlado Socialistične federativne republike Jugoslavije in Vlado Socialistične republike Romunije o sodelovanju na področju zdravstva in medicinskih ved

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije, št. 113/03 – uradno prečiščeno besedilo in 20/06 – ZNOMCMO) Ministrstvo za zunanje zadeve

sporoča,

da je dne 6. junija 2005 med Republiko Slovenijo in Romunijo prenehal veljati Sporazum med Vlado Socialistične federativne republike Jugoslavije in Vlado Socialistične republike Romunije o sodelovanju na področju zdravstva in medicinskih ved, podpisani v Bukarešti 25. maja 1971 (objavljen v Uradnem listu SFRJ – Mednarodne pogodbe, št. 27/72).

Ljubljana, dne 8. septembra 2006

Ministrstvo
za zunanje zadeve
Republike Slovenije

113. Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Republike Uzbekistan o mednarodnem cestnem prevozu potnikov in blaga

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije, št. 113/03 – uradno prečiščeno besedilo in 20/06 – ZNOMCMO) Ministrstvo za zunanje zadeve

sporoča,

da je dne 17. avgusta 2006 začel veljati Sporazum med Vlado Republike Slovenije in Vlado Republike Uzbekistan o mednarodnem cestnem prevozu potnikov in blaga, podpisani 16. marca 2005 v Ljubljani in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 14/06 (Uradni list Republike Slovenije, št. 64/06).

Ljubljana, dne 26. septembra 2006

Ministrstvo
za zunanje zadeve
Republike Slovenije

114. Obvestilo o začetku veljavnosti Šestega dodatnega protokol k Ustavi Svetovne poštne zveze

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije, št. 113/03 – uradno prečiščeno besedilo in 20/06 – ZNOMCMO) Ministrstvo za zunanje zadeve

sporoča,

da je dne 16. maja 2006 začel za Republiko Slovenijo veljati Šesti dodatni protokol k Ustavi Svetovne poštne zveze, sklenjen v Pekingu 15. septembra 1999 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 6/06 (Uradni list Republike Slovenije, št. 30/06).

Ljubljana, dne 27. septembra 2006

Ministrstvo
za zunanje zadeve
Republike Slovenije

115. Obvestilo o začetku veljavnosti Sporazuma o sodelovanju med Ministrstvom za delo, družino in socialne zadeve Republike Slovenije in Ministrstvom za delo in zaposlovanje Velikega vojvodstva Luksemburg

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije, št. 113/03 – uradno prečiščeno besedilo in 20/06 – ZNOMCMO) Ministrstvo za zunanje zadeve

sporoča,

da je dne 4. oktobra 2006 začel veljati Sporazum o sodelovanju med Ministrstvom za delo, družino in socialne zadeve Republike Slovenije in Ministrstvom za delo in zaposlovanje Velikega vojvodstva Luksemburg, podpisan v Ženevi 10. junija 2003, objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 11/05 (Uradni list Republike Slovenije, št. 68/05).

Ljubljana, dne 9. oktobra 2006

Ministrstvo
za zunanje zadeve
Republike Slovenije

116. Obvestilo o začetku veljavnosti Sporazuma med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za narodno obrambo Romunije o sodelovanju na obrambnem področju

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije št. 113/03 – uradno prečiščeno besedilo in 20/06 – ZNOMCMO) Ministrstvo za zunanje zadeve

sporoča,

da je dne 10. oktobra 2006 začel veljati Sporazum med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za narodno obrambo Romunije o sodelovanju na obrambnem področju, podpisan v Bukarešti 4. aprila 2006 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 18/06 (Uradni list Republike Slovenije, št. 102/06).

Ljubljana, dne 12. oktobra 2006

Ministrstvo
za zunanje zadeve
Republike Slovenije

VSEBINA

- | | | |
|------|---|------|
| 107. | Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Bosno in Hercegovino o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BBHIDO) | 1477 |
| 108. | Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Moldove o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom (BMDIDO) | 1491 |
| 109. | Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Hrvaške o medsebojni pomoči pri carinskih zadevah (BHRPCZ) | 1506 |
| 110. | Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Poljske o sodelovanju in medsebojni pomoči pri carinskih zadevah (BPLPCZ) | 1514 |

Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

- | | | |
|------|---|------|
| 111. | Obvestilo o prenehanju veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Republike Bolgarije o sodelovanju na področju veterinarske medicine | 1522 |
| 112. | Obvestilo o prenehanju veljavnosti Sporazuma med Vlado Socialistične federativne republike Jugoslavije in Vlado Socialistične republike Romunije o sodelovanju na področju zdravstva in medicinskih ved | 1522 |
| 113. | Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Republike Uzbekistan o mednarodnem cestnem prevozu potnikov in blaga | 1522 |
| 114. | Obvestilo o začetku veljavnosti Šestega dodatnega protokol k Ustavi Svetovne poštne zveze | 1522 |
| 115. | Obvestilo o začetku veljavnosti Sporazuma o sodelovanju med Ministrstvom za delo, družino in socialne zadeve Republike Slovenije in Ministrstvom za delo in zaposlovanje Velikega vovodstva Luksemburg | 1523 |
| 116. | Obvestilo o začetku veljavnosti Sporazuma med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za narodno obrambo Romunije o sodelovanju na obrambnem področju | 1523 |