

125. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Države Kuvajt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BKWIDO)

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

U K A Z

o razglasitvi Zakona o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Države Kuvajt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BKWIDO)

Razlašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Države Kuvajt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BKWIDO), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-16

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO DRŽAVE KUVAJT O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BKWIDO)

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Države Kuvajt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, podpisana v Kuvajtu 11. januarja 2010.

2. člen

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

K O N V E N C I J A

**MED VLADO REPUBLIKE SLOVENIJE
IN VLADO DRŽAVE KUVAJT O IZOGIBANJU
DVOJNEGA OBDAVČEVANJA
IN PREPREČEVANJU DAVČNIH UTAJ
V ZVEZI Z DAVKI OD DOHODKA
IN PREMOŽENJA**

Vlada Republike Slovenije in Vlada Države Kuvajt sta se v želji, da bi spodbujali medsebojne gospodarske odnose s sklenitvijo konvencije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja,

sporazumeli:

C O N V E N T I O N

**BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF SLOVENIA
AND THE GOVERNMENT OF THE STATE OF
KUWAIT FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES
ON INCOME AND ON CAPITAL**

The Government of the Republic of Slovenia and the Government of the State of Kuwait desiring to promote their mutual economic relations through the conclusion between them of 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:

* Besedilo konvencije v arabskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

1. člen

Osebe, za katere se uporablja konvencija

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

2. člen

Davki, za katere se uporablja konvencija

1. Ta konvencija se uporablja za davke od dohodka 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 premoženja ali nepremičnin, davki na skupne zneske mezd ali plač, ki jih izplačujejo podjetja, ter davki na zvišanje vrednosti kapitala.

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

a) v Sloveniji:

- (i) davek od dohodka pravnih oseb,
- (ii) dohodnina,
- (iii) davek od premoženja

(v nadaljnjem besedilu: slovenski davek);

b) v Kuvajtu:

- (i) davek od dohodka pravnih oseb,
- (ii) prispevek iz neto dobička kuvajtskih delniških družb, ki se plačuje Kuvajtski fundaciji za napredek znatnosti (KFAS);
- (iii) zekat;
- (iv) davek po zakonu o zaposlovanju

(v nadaljnjem besedilu: kuvajtski 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 se uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

3. člen

Splošna opredelitev izrazov

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

a) izraz »Slovenija« pomeni Republiko Slovenijo, in ko se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija uveljavlja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz »Kuvajt« pomeni ozemlje Države Kuvajt, vključno s katerim koli območjem zunaj teritorialnega morja, ki je bilo ali bo morda pozneje v skladu z mednarodnim pravom s kuvajtsko zakonodajo določeno kot območje, na katerem lahko Kuvajt uveljavlja svoje suverene pravice ali jurisdikcijo;

c) izraza »država pogodbenica« in »druga država pogodbenica« pomenita Slovenijo ali Kuvajt, kakor zahteva sobesedilo;

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

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

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

Article 1

Persons Covered

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

Article 2

Taxes Covered

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

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 this Convention shall apply are in particular:

a) in the case of 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 the case of Kuwait:

- (i) the corporate income tax;
- (ii) the contribution from the net profits of the Kuwaiti shareholding companies payable to the Kuwait Foundation for Advancement of Science (KFAS);
- (iii) the Zakat;
- (iv) the tax subjected according to the supporting of national employee law;

(hereinafter referred to as "Kuwaiti 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.

Article 3

General Definitions

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

a) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;

b) the term "Kuwait" means the territory of the State of Kuwait including any area beyond the territorial sea which in accordance with international law has been or may hereafter be designated, under the laws of Kuwait, as an area over which Kuwait may exercise sovereign rights or jurisdiction;

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

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

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

f) the term "enterprise" applies to the carrying on 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) izraz »mednarodni promet« pomeni prevoz z ladjo ali letalom, ki ga opravlja podjetje s sedežem dejanske uprave v državi pogodbenici, razen če se z ladjo ali letalom ne opravljajo prevozi samo med kraji v drugi državi pogodbenici;

i) izraz »pristojni organ« pomeni:

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

(ii) v Kuvajtu: ministra za finance ali njegovega pooblaščenega predstavnika;

j) 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 v tej državi pogodbenici;

k) izraz »davek« pomeni slovenski ali kuvajtski davek, kakor zahteva sobesedilo;

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

2. Kadar država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo 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:

a) za Slovenijo osebo, ki je po zakonodaji Slovenije dolžna v njej plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila; ta izraz pa ne vključuje osebe, ki je dolžna plačevati davke v Sloveniji samo v zvezi z dohodki iz virov v Sloveniji ali premoženja v njej;

b) za Kuvajt posameznika, ki ima stalno prebivališče v Kuvajtu in je kuvajtski državljan, ter podjetje, ki je ustanovljeno v Kuvajtu.

2. Za namen prvega odstavka rezident države pogodbenice vključuje:

a) vlado države pogodbenice in katero koli njeno politično enoto ali lokalno oblast ali centralno banko;

b) vladno ustanovo, ustanovljeno v tej državi pogodbenici po javnem pravu, kot je korporacija, sklad, organ, fundacija, agencija ali drug podoben subjekt;

c) subjekt, ustanovljen v tej državi pogodbenici, katerega celotni kapital je zagotovila ta država pogodbenica ali njena politična enota ali lokalna oblast ali vladna ustanova, kot je opredeljena v pododstavku b, skupaj z drugimi državami.

3. 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;

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

i) the term "competent authority" means:

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

(ii) in the case of Kuwait: the Minister of Finance or an authorized representative of the Minister of Finance;

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

(i) any individual possessing the nationality or citizenship of that Contracting State; and

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

k) the term "tax" means Slovenian tax or Kuwaiti tax, as the context requires;

l) 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:

a) in the case of Slovenia: any person who, under the laws of Slovenia, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature; this term, however, does not include any person who is liable to tax in Slovenia in respect only of income from sources in Slovenia or capital situated therein;

b) in the case of Kuwait: an individual who has his domicile in Kuwait and is a Kuwaiti national, and a company which is incorporated in Kuwait.

2. For the purposes of paragraph 1, a resident of a Contracting State shall include all of the following:

a) the Government of that Contracting State and any political subdivision or local authority thereof or Central Bank;

b) any governmental institution created in that Contracting State under public law such as a corporation, fund, authority, foundation, agency or other similar entity;

c) any entity established in that Contracting State, all the capital of which has been provided by that Contracting State or any political subdivision or local authority thereof or any governmental institution as defined in subparagraph b), together with other states.

3. 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) če njegovega statusa ni mogoče določiti po določbah pododstavkov od a do c, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

4. Kadar je zaradi določb prvega in drugega 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,
- d) tovarno,
- e) delavnico in
- f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj raziskovanja ali izkoriščanja naravnih virov.

3. Gradbišče, projekt gradnje, montaže ali postavitve ali dejavnosti nadzora v zvezi z njimi, ki se izvajajo v državi pogodbenici, so stalna poslovna enota samo, če tako gradbišče, projekt ali dejavnosti trajajo več kakor 6 mesecev.

4. Šteje se, da ima podjetje države pogodbenice stalno poslovno enoto v drugi državi pogodbenici, če to podjetje v tej drugi državi pogodbenici uporablja ali montira obsežno tehnično, strojno ali znanstveno opremo ali mehanizacijo več kakor šest mesecev v katerem koli dvanajstmesečnem obdobju.

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 od 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 se, 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, 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.

d) if his status cannot be determined under the provision of subparagraph a) to c), the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraphs 1 and 2 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

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

3. A building site, a construction, assembly or installation project or a supervisory activities in connection therewith carried out in a Contracting State, constitutes a permanent establishment only if such site, project or activities continue for a period of more than 6 months.

4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if substantial technical, mechanical or scientific equipment or machinery is used or installed by that enterprise in that other Contracting State for more than six months within any twelve-months 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 a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

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

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

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

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

6. člen

Dohodek iz nepremičnin

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

2. Izraz »nepremičnine« ima pomen, ki ga ima po pravu države pogodbenice, v kateri 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 nadomestilo 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 pripiše tej stalni poslovni enoti.

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

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

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

Article 6

Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

Business Profits

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

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

8. člen

Ladijski in letalski prevoz

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

2. Za namene tega člena dobiček iz ladijskih ali letalskih prevozov v mednarodnem prometu vključuje:

a) dobiček iz dajanja praznih ladij ali letal v najem;

b) dobiček iz uporabe, vzdrževanja ali dajanja v najem za bojnikov, vključno s priklopniki in povezano opremo za prevoz zabojnikov, ki se uporabljajo za prevoz dobrin ali blaga,

če je tako dajanje v najem ali uporaba, vzdrževanje ali dajanje v najem, odvisno od primera, občasno pri opravljanju prevozov z ladjami ali letali v mednarodnem prometu.

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

9. člen

Povezana podjetja

1. Kadar:

a) je podjetje države pogodbenice neposredno ali posredno udeleženo pri upravljanju, nadzoru ali 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 vzpostavijo med podjetjema 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 vključen 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.

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

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

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

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

Article 8

Shipping And Air Transport

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

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include all of the following:

a) profits from the rental on a bareboat basis of ships or aircraft;

b) profits from the use, maintenance or rental of containers, including trailers and related equipment for the transport of containers, used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraph 1 shall also apply to profits derived 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.

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 sme presegati 5 odstotkov bruto zneska dividend.

3. Ne glede na določbe drugega odstavka se dividende ne obdavčijo v državi pogodbenici, katere rezident je družba, ki izplačuje dividende, če je upravičeni lastnik dividend rezident druge države pogodbenice in je ali:

a) vlada te države pogodbenice in katera koli njena politična enota ali lokalna oblast ali centralna banka;

b) vladna ustanova, ustanovljena v tej državi pogodbenici po javnem pravu, kot je korporacija, sklad, organ, fundacija, agencija ali drug podoben subjekt;

c) subjekt, ustanovljen v tej državi pogodbenici, katerega celotni kapital je zagotovila ta država pogodbenica ali njena politična enota ali lokalna oblast ali vladna ustanova, kot je opredeljena v pododstavku b, skupaj z drugimi državami.

Določbe tega odstavka in drugega odstavka ne vplivajo na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

4. Izraz »dividende«, kot je uporabljen v tem členu, pomeni dohodek iz delnic, delnic »jouissance« ali pravic »jouissance«, rudniških 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.

5. Določbe prvega, drugega in tretjega 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 uporabljajo določbe 7. člena.

6. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende ne 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 tej 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 sme presegati 5 odstotkov bruto zneska obresti.

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 States of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident, if the beneficial owner of the dividends is a resident of the other Contracting State and is either:

a) the Government of that Contracting State and any political subdivision or local authority thereof or Central Bank;

b) any governmental institution created in that Contracting State under public law such as a corporation, fund, authority, foundation, agency or other similar entity;

c) any entity established in that Contracting State, all the capital of which has been provided by that Contracting State or any political subdivision or local authority thereof or any governmental institution as defined in subparagraph b), together with other states.

The provisions of this paragraph and paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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

5. The provisions of paragraphs 1, 2 and 3 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.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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.

3. Ne glede na določbe drugega odstavka se obresti, ki nastanejo v državi pogodbenici, ne obdavčijo v tej državi pogodbenici, če je upravičeni lastnik obresti rezident druge države pogodbenice in je ali:

- a) vlada te države pogodbenice in katera koli njena politična enota ali lokalna oblast ali centralna banka;
- b) vladna ustanova, ustanovljena v tej državi pogodbenici po javnem pravu, kot je korporacija, sklad, organ, fundacija, agencija ali drug podoben subjekt;
- c) subjekt, ustanovljen v tej državi pogodbenici, katerega celotni kapital je zagotovila ta država pogodbenica ali katera koli njena politična enota ali lokalna oblast ali vladna ustanova, kot je opredeljena v pododstavku b, skupaj z drugimi državami.

4. Izraz »obresti«, kakor 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 dajejo 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, kot tudi dohodek, ki se davčno obravnava enako kot dohodek iz denarja, ki se posoja po davčni zakonodaji države pogodbenice, v kateri dohodek nastane. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej in je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto. V takem primeru se uporabljajo 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. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatve, za katere se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. člen

Licenčnine in avtorski honorarji

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

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

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

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall not be taxed in that Contracting State if the beneficial owner of the interest is a resident of the other Contracting State and is either:

- a) the Government of that Contracting State and any political subdivision or local authority thereof or Central Bank;
- b) any governmental institution created in that Contracting State under public law such as a corporation, fund, authority, foundation, agency or other similar entity;
- c) any entity established in that Contracting State, all the capital of which has been provided by that Contracting State or any political subdivision or local authority thereof or any government institution as defined in subparagraph b), together with other 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, as well as income which is subjected to the same taxation treatment as income from money lent by the taxation laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of such royalties.

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

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnih 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 licenčnih 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 licenčnih in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

13. člen

Kapitalski dobički

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

2. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, 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 ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

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

14. člen

Dohodek iz zaposlitve

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 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 skupno ne presegajo 183 dni v katerem koli dvajstimesečnem obdobju, 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

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

Article 13

Capital Gains

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, 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 or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State 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, 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 there from 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) 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 se opravljajo prevozi v mednarodnem prometu, obdavči v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4. Rezidenti države pogodbenice, ki jih uprava nacionalnega letalskega prevoznika te države pogodbenice določi kot letališko zemeljsko osebje v drugi državi pogodbenici, so oproščeni davkov od prejemkov v tej drugi državi pogodbenici.

15. člen

Plačila direktorjem

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član uprave ali podobnega organa družbe, ki je rezident druge države pogodbenice, se obdavčijo samo v prvi državi pogodbenici.

16. člen

Umetniki in športniki

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

2. Kadar dohodek iz osebnih dejavnosti, ki jih opravlja 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 osebnih dejavnosti kot takih, ki jih nastopajoči izvajalci ali športniki, ki so rezidenti države pogodbenice, opravljajo v drugi državi pogodbenici, če se gostovanje v tej državi pretežno krije iz javnih sredstev prve omenjene države, vključno iz sredstev njene politične enote, lokalne oblasti ali z zakonom določenega organa.

17. člen

Pokojnine

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

18. člen

Državna služba

1. a) Plače, mezde in drugi podobni prejemki, 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 drugi 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) Ne glede na določbe prvega odstavka se pokojnine in drugi podobni prejemki, plačani iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, obdavčijo samo v tej državi.

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, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

4. Residents of a Contracting State, appointed as ground staff by the head office of the national air carrier of that Contracting State to the other Contracting State shall be exempt from taxes levied on their remunerations in that other Contracting State.

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 other similar organ of a company which is a resident of the other Contracting State shall be taxable only in the first-mentioned Contracting 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 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 by entertainers or sportsmen who are residents of a Contracting State from personal activities as such exercised in the other Contracting State if their visit to that other State is substantially supported from the public funds of the first-mentioned State, including those of any political subdivision, a local authority or statutory body thereof.

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 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) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration 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) Take pokojnine in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

3. Za plače, mezde, pokojnine in druge podobne prejemke za storitve, opravljene v zvezi s poslovanjem države pogodbenice ali njene politične enote ali lokalne oblasti, se uporabljajo določbe 14., 15., 16. in 17. člena.

19. člen

Učitelji, profesorji in raziskovalci

1. Posameznik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je na povabilo vlade prve omenjene države ali univerze, višje ali visoke šole, šole, muzeja ali druge ustanove v tej prvi omenjeni državi ali je po uradnem programu kulturne izmenjave v tej državi samo zaradi poučevanja, predavanja ali raziskovanja v taki ustanovi za obdobje, ki ne presega dveh zaporednih let, je v tej državi oproščen davka za prejemke za tako dejavnost.

2. Oprostitev po prvem odstavku se ne prizna za prejemke za raziskovanje, če tako raziskovanje ni v javno korist, ampak v zasebno korist posamezne osebe ali oseb.

20. člen

Študenti in pripravniki

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

2. Pri nagradah, štipendijah in prejemkih iz zaposlitve, ki niso zajeti v prvem odstavku, je študent ali pripravnik iz prvega odstavka med izobraževanjem ali usposabljanjem upravičen tudi do enakih oprostitvev, olajšav ali odbitkov pri davkih kot 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.

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 neko podjetje države pogodbenice v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

b) However, such pensions and other similar remuneration 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, pensions, and other similar remuneration 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

Teachers, Professors and Researchers

1. An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who, at the invitation of the Government of the first-mentioned State or of a university, college, school, museum or other institution in that first-mentioned State or under an official programme of cultural exchange, is present in that State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that State on his remuneration for such activity.

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 and Trainees

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

2. In respect of 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.

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 State.

3. Premoženje v obliki ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, in v obliki premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami in letali, 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.

23. člen

Odprava dvojnega obdavčevanja

1. Zakonodaja, ki velja v eni ali drugi državi pogodbenici, še naprej ureja obdavčevanje v posamezni državi pogodbenici, razen če v tej konvenciji ni drugače določeno.

2. Dogovorjeno je, da izogibanje dvojnega obdavčevanja poteka v skladu s temi odstavki tega člena:

a) v Sloveniji:

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

(1) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Kuvajtu;

(2) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Kuvajtu.

Tak odbitek v nobenem primeru ne sme presegaati tistega dela pred odbitkom izračunanega davka od dohodka ali premoženja, ki se nanaša na dohodek ali premoženje, odvisno od primera, ki se lahko obdavči v Kuvajtu.

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

b) v Kuvajtu:

kadar rezident Kuvajta dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Kuvajtu in Sloveniji, Kuvajt kot odbitek od davka od dohodka ali premoženja tega rezidenta dovoli znesek, ki je enak davku od dohodka ali premoženja, plačanemu v Sloveniji. Tak odbitek v nobenem primeru ne sme presegaati tistega dela pred odbitkom izračunanega davka od dohodka ali premoženja, ki se nanaša na dohodek ali premoženje, odvisno od primera, ki se lahko obdavči v Sloveniji.

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 bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za posameznike z državljanstvom te druge države v enakih okoliščinah, še zlasti glede rezidentstva.

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 v enakih okoliščinah. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da priznava rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

3. Capital 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 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.

Article 23

Elimination Of Double Taxation

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

2. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article:

a) In the case of Slovenia:

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

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

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

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 Kuwait.

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

b) In the case of Kuwait:

Where a resident of Kuwait derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in both Kuwait and Slovenia, Kuwait shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Slovenia and as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Slovenia. Such deduction in either case shall not, however, exceed that part of the tax on income or on capital, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Slovenia.

Article 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 more burdensome than the taxation and connected requirements to which individuals possessing the nationality of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

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

3. 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.

4. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih izplača 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.

5. Nič v tem členu se ne sme razlagati tako, kot da nalaga državi pogodbenici zakonsko obveznost, da rezidentom druge države pogodbenice prizna ugodnosti obravnave, prednosti ali privilegija, ki jih lahko priznava kateri koli drugi državi ali njenim rezidentom na podlagi carinske unije, gospodarske unije, območja proste trgovine ali druge regionalne ali podregionalne povezave, ki se v celoti ali pretežno nanaša na pretok kapitala in/ali obdavčevanje, in katere članica je lahko prva omenjena država.

6. Določbe tega člena se uporabljajo samo za davke, za katere se uporablja ta konvencija.

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 ji jih omogoča domače pravo teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali države pogodbenice, katere državljan je, če se njen primer nanaša na prvi odstavek 24. člena. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

2. Pristojni organ si, če se mu zdi pritožba upravičena in če je sam ne more zadovoljivo rešiti, prizadeva rešiti zadevo s skupnim dogovorom s pristojnim organom druge države pogodbenice, da bi se izognil 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 posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4. Pristojna organa držav pogodbenic se lahko dogovarjata neposredno, da bi dosegla dogovor v smislu prejšnjih odstavkov, pa tudi v skupni komisiji, ki jo sestavljata sama ali njuni predstavniki.

3. 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.

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

5. Nothing in this Article shall be interpreted as imposing a legal obligation on a Contracting State to extend to the residents of the other Contracting State, the benefit of any treatment, preference or privilege which may be accorded to any other state or its residents by virtue of the formation of a customs union, economic union, a free trade area or any regional or sub-regional arrangement relating wholly or mainly to movement of capital and/or taxation to which the first-mentioned State may be a party.

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

Article 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

3. The competent authorities of the Contracting States shall 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.

26. člen

Izmenjava informacij

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so predvidoma pomembne za izvajanje določb te konvencije ali za izvajane ali uveljavljanje domače zakonodaje glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njihovih političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom.

2. Vsaka informacija, ki jo po prvem odstavku prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega odstavka ali pri nadzoru nad omenjenim. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v sodnih postopkih ali sodnih odločitvah.

3. V nobenem primeru se določbe prvega odstavka ne razlagajo, kakor 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 predloži informacije, ki jih ni mogoče dobiti po zakonodaji ali običajni upravni poti te ali druge države pogodbenice,

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

27. člen

Razna pravila

1. Določbe te konvencije se ne smejo razlagati, kot da kakor koli omejujejo kakršno koli izločitev, oprostitev, odbitek, dobroimetje ali drugo ugodnost, ki jo zdaj ali jo bo v prihodnje zagotavljala zakonodaja države pogodbenice pri ugotavljanju davka, ki ga nalaga ta država.

2. Pristojna organa držav pogodbenic lahko sprejmeta predpise za izvajanje določb te konvencije.

28. člen

Člani diplomatskih predstavništev in konzulatov

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

29. člen

Začetek veljavnosti

1. Državi pogodbenici se uradno obvestita o dokončanju svojih ustavnih postopkov za začetek veljavnosti te konvencije. Konvencija začne veljati z dnem prejema zadnjega uradnega obvestila.

2. Ta konvencija se uporablja:

a) v zvezi z davki, odtegnjenimi 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.

Article 26

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement 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.

2. Any information received under paragraph 1 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. 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 (order public).

Article 27

Miscellaneous Rules

1. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded by the laws of a Contracting State in the determination of the tax imposed by that State.

2. The competent authorities of each Contracting State may prescribe regulations in order to carry out the provisions of this Convention.

Article 28

Members of Diplomatic Missions and Consular Posts

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

Article 29

Entry into Force

1. Each of the Contracting States shall notify the other of the completion of its constitutional procedures for the entry into force of this Convention. This 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 1 January of the calendar year next following the year in which the Convention enters into force;

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

30. člen

Trajanje in prenehanje veljavnosti

Ta konvencija velja pet let in se nato podaljša za enako obdobje ali enaka obdobja, dokler ena ali druga država pogodbenica šest mesecev pred potekom začetnega ali katerega koli naslednjega obdobja pisno ne obvesti druge, da jo namerava odpovedati. V takem primeru konvencija preneha veljati v obeh državah pogodbenicah:

a) v zvezi z davki, odtegnjenimi 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 pooblaščenca držav pogodbenic podpisala to konvencijo.

Sestavljeno v Kuvajtu 11. januarja 2010, ki ustreza dnevu 25. muharam 1431 H, v dveh izvirnikih v slovenskem, arabskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah med besedili prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Franc Križanič l.r.

Za Vlado
Države Kuvajt
Mustafa Al-Shamali l.r.

For the Government of the
Republic of Slovenia
Franc Križanič (s)

For the Government of the
State of Kuwait
Mustafa Al-Shamali (s)

3. člen

Za izvajanje konvencije skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/10-35/9

Ljubljana, dne 22. septembra 2010

EPA 1194-V

Article 30

Duration and Termination

This Convention shall remain in force for a period of five years and shall continue in force thereafter for a similar period or periods unless either Contracting State notifies the other in writing, six months before the expiry of the initial or any subsequent period, of its intention to terminate this Convention. In such event, this Convention shall cease to have effect in both Contracting States:

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

In WITNESS WHEREOF the respective plenipotentiaries of both Contracting States have signed this Convention.

Done at Kuwait this 11th day of January 2010 corresponding to the 25th day of Moharram 1431 H, in two originals, in the Slovenian, Arabic and English languages, all texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

126. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Arabsko republiko Egipt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BEGIDO)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Konvencije med Republiko Slovenijo in Arabsko republiko Egipt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BEGIDO)**

Razlašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Arabsko republiko Egipt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BEGIDO), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-15

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN ARABSKO REPUBLIKO EGIPT O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA, S PROTOKOLOM (BEGIDO)****1. člen**

Ratificira se Konvencija med Republiko Slovenijo in Arabsko republiko Egipt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom, podpisana v Kairu 15. decembra 2009.

2. člen

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

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

Republika Slovenija in Arabska republika Egipt

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

1. ČLEN**OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA**

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

2. ČLEN**DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA**

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

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

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

The Republic of Slovenia and the Arab Republic of Egypt,

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

Have agreed as follows:

ARTICLE 1**PERSONS COVERED**

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

ARTICLE 2**TAXES COVERED**

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

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

* Besedilo konvencije s protokolom v arabskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

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

a) v Egiptu:

- i) davek od dohodkov fizičnih oseb, vključno z:
 - 1. dohodkom iz zaposlitve;
 - 2. dohodkom iz trgovinskih in industrijskih dejavnosti;
 - 3. dohodkom iz poklicnih dejavnosti (samostojnih osebnih storitev);
 - 4. dohodkom iz nepremičnin (vključno s kmetijskimi zemljišči, stavbami in opremljenimi prostori);
- ii) davek od dohodkov pravnih oseb (družb in oseb-nih družb);
- iii) davek, odtegnjen pri viru;
- iv) dodatni davki, določeni v odstotku od davkov, navedenih zgoraj, ali od drugih davkov (v nadaljevanju »egiptovski davek«);

b) v Sloveniji:

- i) davek od dohodkov pravnih oseb,
- ii) dohodnina

(v nadaljevanju »slovenski davek«).

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

3. ČLEN

SPLOŠNA OPREDELITEV IZRAZOV

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

a) i) izraz »Egipt« pomeni ozemlje Arabske republike Egipt, in ko se uporablja v geografskem pomenu, vključuje teritorialno morje in vsako območje ob obali zunaj teritorialnih voda, na katerem Egipt po egiptovski zakonodaji in v skladu z mednarodnim pravom izvaja svoje suverene pravice in ki je bilo določeno ali se določi kot območje, na katerem lahko Egipt uresničuje svoje pravice v zvezi z morskim dnom in njegovim podzemljem ter z njunimi naravnimi viri;

ii) izraz »Slovenija« pomeni Republiko Slovenijo, in ko se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija izvaja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraza »država pogodbenica« in »druga država pogodbenica« pomenita Egipt ali Slovenijo, kakor zahteva sobesedilo;

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

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

e) 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;

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

g) izraz »pristojni organ« pomeni:

- i) v Egiptu: ministra za finance ali njegovega pooblaščenega predstavnika;
- ii) v Sloveniji: Ministrstvo za finance Republike Slovenije ali njegovega pooblaščenega predstavnika;

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

(a) in the case of Egypt:

- (i) the tax on income of individuals including:
 - 1. income from salaries and wages;
 - 2. income from commercial and industrial activities;
 - 3. income from professional activities (independent personal services);
 - 4. income derived from immovable property (including agriculture land, buildings, and furnished units);
- (ii) the tax on the profits of legal entities (Corporations and Partnerships);
- (iii) the tax withheld at source;
- (iv) the supplementary taxes imposed as percentage of taxes mentioned above or otherwise; (hereinafter referred to as "Egyptian tax");

(b) in the case of Slovenia:

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

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

ARTICLE 3

GENERAL DEFINITIONS

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

(a) (i) the term "Egypt" means the territory of the Arab Republic of Egypt, and when used in a geographical sense, includes the territorial sea and any area adjacent to the coast beyond the territorial waters, over which Egypt exercises sovereign rights, in accordance with Egyptian legislation and international law, and which has been or may hereafter be designated as an area within which Egypt may exercise rights with respect to the sea bed and subsoil and their natural resources;

(ii) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional right in accordance with internal legislation and international law;

(b) the terms "a Contracting State" and "the other Contracting State" mean Egypt or Slovenia, as the context requires;

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

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

(e) 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;

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

(g) the term "competent authority" means:

- (i) in Egypt: the Minister of Finance or his authorized representative;
- (ii) in Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorized representative;

h) 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.

2. Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo 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, sedeža uprave, kraja ustanovitve ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi.

2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi 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 poteka poslovanje podjetja.

2. Izraz »stalna poslovna enota« vključuje zlasti:

- a) sedež uprave,
 - b) podružnico,
 - c) pisarno,
 - d) tovarno,
 - e) delavnico,
 - f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov;
 - g) kmetijsko gospodarstvo ali plantažo.
3. Izraz »stalna poslovna enota« vključuje tudi:

a) gradbišče, projekt gradnje ali montaže ali postavitve ali vrtno ploščad ali ladjo, ki se uporablja za iskanje ali razvoj naravnih virov, vključno z dejavnostmi nadzora v zvezi z njimi, vendar samo kadar tako gradbišče, projekt ali dejavnosti trajajo več kot šest mesecev;

(h) 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 law in force in a Contracting State.

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

ARTICLE 4 RESIDENT

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

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

ARTICLE 5 PERMANENT ESTABLISHMENT

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

2 The term "permanent establishment" includes especially:

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

3 The term "permanent establishment" likewise encompasses:

(a) a building site, a construction or assembly project or installation project or drilling rig or ship used for the exploration or development of natural resources including supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;

b) opravljanje storitev, vključno s svetovalnimi ali poslovnimi storitvami, ki jih podjetje države pogodbenice opravlja z zaposlenimi delavci ali drugimi osebami, ki jih uporabi za ta namen, vendar samo če take dejavnosti (za isti ali povezan projekt) potekajo v državi v obdobju ali obdobjih, ki v katerem koli dvanajstmesečnem obdobju skupaj znašajo več kot 183 dni.

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

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

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

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.

5. Ne glede na določbe prvega in drugega odstavka se, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi odstavek – v državi pogodbenici deluje v imenu podjetja druge države pogodbenice, za to podjetje šteje, da ima stalno poslovno enoto v prvi omenjeni državi pogodbenici v zvezi s dejavnostmi, ki jih ta oseba prevzame za podjetje, če taka oseba:

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

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

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

7. Ne šteje se, da ima podjetje države pogodbenice stalno poslovno enoto v drugi državi pogodbenici samo zato, ker opravlja posle v tej drugi 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 namenjene izključno ali skoraj izključno temu podjetju in med podjetjem in zastopnikom v njihovi komercialnih ali finančnih odnosih obstajajo ali se vzpostavijo pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka.

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

(b) the furnishing of services, including consultancy services, or managerial services by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 183 days within any twelve-month period.

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

(a) the use of facilities solely for the purpose of storage or display 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 or display;

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

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

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

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

5 Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 7 applies is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercise in that State an authority to conclude Contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

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

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

7 An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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 the 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 The fact that a company which is a resident of a Contracting state controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

6. ČLEN**DOHODEK IZ NEPREMIČNIN**

1. Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom iz kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej 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 nadomestilo za izkoriščanje ali pravico do izkoriščanja nahajališč rud, virov ter drugega naravnega bogastva. Ladje in letala se ne štejejo za nepremičnine.

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

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

7. ČLEN**POSLOVNI DOBIČEK**

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje 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 pripiše tej stalni poslovni enoti.

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

3. Pri ugotavljanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene poslovanja stalne poslovne enote, vključno s poslovnimi 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 pripiše stalni poslovni enoti, običajno ugotavlja na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje ugotavljanja obdavčljivega dobička s tako običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat skladen z načeli tega člena.

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

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

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

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 and aircraft shall not be regarded as immovable property.

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

4 The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7**BUSINESS PROFITS**

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

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

3 In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

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

8. ČLEN**LADIJSKI IN LETALSKI PREVOZ**

1. Dobiček iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

2. Če je sedež dejanske uprave ladjarskega podjetja na 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 v interesnem združenju, mešanem podjetju ali mednarodni prevoznici agenciji.

9. ČLEN**POVEZANA PODJETJA**

1. Kadar:

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

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

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

2. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključen dobiček dobiček, ki bi 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. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije.

3. Določbe prvega in drugega odstavka se ne uporabljajo v primeru goljufije ali naklepne kršitve ali malomarnosti.

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 sme presegati:

a) 8 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima neposredno ali posredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;

b) 13 odstotkov bruto zneska dividend v vseh drugih primerih.

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

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

ARTICLE 8**SHIPPING AND AIR TRANSPORT**

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

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

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

ARTICLE 9**ASSOCIATED ENTERPRISES**

1 Where

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

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

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

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

3 The provisions of paragraphs 1 and 2 shall not apply in the case of fraud, willful default or neglect.

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

(b) 13 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting State 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. Izraz »dividende«, kot je uporabljen v tem členu, pomeni dohodek iz delnic, delnic »jouissance« ali pravic »jouissance«, rudniških 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 ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

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

11. ČLEN OBRESTI

1. Obresti, ki nastanejo v državi pogodbenici in se plačajo 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 sme presegati 13 odstotkov bruto zneska obresti.

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

3. Obresti, ki nastanejo v državi pogodbenici, so oproščene davka v obeh državah, če se izplačajo:

- a) drugi državi pogodbenici, njeni politični enoti, lokalni oblasti ali osebi javnega prava;
- b) centralni banki druge države pogodbenice.

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 dajejo pravico do udeležbe pri dolžnikovem dobičku, še posebej 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.

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

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

4 The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5 Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11 INTEREST

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

2 However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other contracting State the tax so charged shall not exceed 13 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 Interest arising in a Contracting State shall be exempt from tax in both States if the interest is paid to:

- (a) the other Contracting State, its political subdivisions, its local authority or public law entities thereof;
- (b) Central bank of the other Contracting State.

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

5 The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

7. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na 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 obdavičuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. ČLEN

LICENČNINE IN AVTORSKI HONORARJI

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

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčin in avtorskih honorarjev rezident druge države pogodbenice, tako zaračunani davek ne sme presegati 15 odstotkov bruto zneska licenčin in avtorskih honorarjev.

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

3. Izraz »licenčnine in avtorski honorarji«, kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi in videofilmi ali filmi ali trakovi za radijsko ali televizijsko predvajanje, katerega koli patenta, blagovne znamke, vzorca ali modela, računalniške programske opreme, načrta, tajne formule ali postopka ali za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah. Vključuje tudi plačila za tehnično pomoč, ki jo v državi pogodbenici izvaja rezident druge države pogodbenice, če se nanaša na uporabo kakršnih koli takih pravic, premoženja ali informacij, in je pomožna ali razmeroma nepomembna.

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

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

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

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

ARTICLE 12

ROYALTIES

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

2 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 15 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 and video films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, computer software, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience. It also includes payments for technical assistance performed in a Contracting State by a resident of the other Contracting State where it is related to the application of any such rights, property or information, and is of an ancillary or largely unimportant character.

4 The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek 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 navedene 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 deležev ali drugih pravic v družbi, skrbniškem skladu ali primerljivi ustanovi, katerih vrednost v več kot 50 odstotkih neposredno ali posredno izhaja iz nepremičnin 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, ali premičnin, ki so povezane s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici zaradi opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

4. Dobiček iz odtujitve ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki so povezane z opravljanjem prevozov s takimi ladjami ali letali, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

5. Dobiček iz odtujitve premoženja, ki ni premoženje, navedeno v prejšnjih odstavkih, se lahko obdavči v državi pogodbenici, v kateri dohodek nastane.

14. ČLEN SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga rezident države pogodbenice doseže s poklicnimi storitvami ali drugimi samostojnimi dejavnostmi, se obdavči samo v tej državi, razen v naslednjih okoliščinah, ko se tak dohodek lahko obdavči tudi v drugi državi pogodbenici:

a) če ima v drugi državi pogodbenici za opravljanje svojih dejavnosti redno na voljo stalno bazo; v tem primeru se lahko v tej drugi državi pogodbenici obdavči samo toliko dohodka, kolikor se pripiše tej stalni bazi, ali

b) če v drugi državi pogodbenici ostane v obdobju ali obdobjih, ki skupaj trajajo ali presegajo 183 dni v določenem davčnem letu; v tem primeru se lahko v tej drugi državi lahko obdavči samo toliko dohodka, kolikor ga doseže s svojimi dejavnostmi, opravljenimi v tej drugi državi.

2. Izraz »poklicne storitve« še zlasti vključuje samostojne znanstvene, literarne, umetniške, vzgojne ali izobraževalne dejavnosti in tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

15. ČLEN ODVISNE OSEBNE STORITVE

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

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

ARTICLE 13 CAPITAL GAINS

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

2 Gains derived by a resident of a Contracting State from the alienation of shares or of other rights in a company, trust or comparable institution 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

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

5 Gains from the alienation of any property other than that referred to in the preceding paragraphs may be taxed in the Contracting State where the income arises.

ARTICLE 14 INDEPENDENT PERSONAL SERVICES

1 Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

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

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

2 The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15 DEPENDENT PERSONAL SERVICES

1 Subject to the provisions of Articles 16, 18, 19 and 20 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. 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 ali stalna baza, 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 se opravljajo prevozi v mednarodnem prometu, obdavči v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

16. ČLEN

PLAČILA DIREKTORJEM

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

17. ČLEN

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se lahko dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski ume-tnik 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., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri potekajo dejavnosti nastopajočega izvajalca ali športnika.

18. ČLEN

POKOJNINE IN RENTE

1. Ob upoštevanju določb drugega odstavka 19. člena se pokojnine, rente 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 lahko pokojnine, rente in druga plačila, ki se izplačujejo v skladu z zakonodajo o socialni varnosti države pogodbenice, obdavčijo v tej državi.

3. Izraz »renta« pomeni določen znesek, ki se redno izplačuje ob določenem času vse življenje ali v določenem ali določljivem časovnem obdobju, z obveznostjo izplačevanja v zameno za ustrezno in celotno vplačilo v denarju ali denarni vrednosti.

19. ČLEN

DRŽAVNA SLUŽBA

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

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

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 or a fixed base which the employer has in the other State.

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

ARTICLE 16

DIRECTORS' FEES

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

ARTICLE 17

ARTISTES AND SPORTSMEN

1 Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

ARTICLE 18

PENSIONS AND ANNUITIES

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

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

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

ARTICLE 19

GOVERNMENT SERVICE

1 Salaries, wages, and other similar remuneration, other than a 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.

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

a) je državljan te države ali
b) ni postal rezident te države samo zaradi opravljanja storitev.

3. 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.

4. Določbe 15., 16., 17. in 18. člena se uporabljajo za prejemke in pokojnine za storitve, opravljene v zvezi s poslovanjem države pogodbenice ali njene politične enote ali lokalne oblasti.

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 niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

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

3. Ne glede na določbe prvega in drugega odstavka se deli dohodka rezidenta države pogodbenice, ki niso obravnavani v predhodnih členih te konvencije in nastanejo v drugi državi pogodbenici, lahko obdavčijo tudi v tej drugi državi.

22. ČLEN ODPRAVA DVOJNEGA OBDAVČEVANJA

1. Kadar rezident države pogodbenice doseže dohodek, ki se v skladu z določbami te konvencije lahko obdavči v drugi državi pogodbenici, prva omenjena država dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v tej drugi državi. Tak odbitek pa ne sme presegati tistega dela pred odbitkom izračunanega davka od dohodka, ki se nanaša na dohodek, 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, oproščen davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka tega rezidenta vseeno upošteva oproščeni dohodek.

(a) is a national of that State; or
(b) did not become a resident of that State solely for the purpose of rendering the services.

3 (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.

4 The provisions of Articles 15, 16, 17 and 18 shall apply to remuneration and pension in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20 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 The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal service from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3 Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 22 ELIMINATION OF DOUBLE TAXATION

1 Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, to the income which may be taxed in that other State.

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

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

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

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

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

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

24. ČLEN**POSTOPEK SKUPNEGA DOGOVORA**

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčenje, ki ni v skladu z določbami te konvencije, lahko ne glede na pravna sredstva, ki ji jih omogoča domače pravo teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 23. 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 obdavčenje, ki ni v skladu z določbami konvencije.

2. Če se pristojnemu organu zdi ugovor upravičen in če sam ne more priti do zadovoljive rešitve, si prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčenju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domačem pravu držav pogodbenic.

ARTICLE 23**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 State.

2 Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

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

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

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

6 The provisions of this Article shall apply only to taxes that are covered by this Convention.

ARTICLE 24**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 State, 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 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2 The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual convention 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 limit in the domestic law of the Contracting States.

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 posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

25. ČLEN

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, če obdavčevanje na tej podlagi ni v nasprotju s konvencijo, zlasti za preprečevanje goljufij ali utaje takšnih davkov. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države. Če pa se informacija šteje za tajnost v državi, ki informacijo da, se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija; te osebe ali organi uporabljajo informacije samo v te namene, vendar pa jih lahko razkrijejo v sodnih postopkih ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka ne razlagajo, kakor 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 predloži informacije, ki jih ni mogoče dobiti po zakonodaji ali običajni upravni poti te ali druge države pogodbenice,

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

26. ČLEN

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

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

27. ČLEN

ZAČETEK VELJAVNOSTI

1. Državi pogodbenici se po diplomatski poti pisno obvešča, da so končani postopki, ki se po njuni zakonodaji zahtevajo za začetek veljavnosti te konvencije. Konvencija začne veljati z dnem prejema zadnjega uradnega obvestila.

2. Po začetku veljavnosti te konvencije se njene določbe prvič uporabijo:

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

b) v zvezi z drugimi davki za davčna leta ali obdobja, ki se začnejo prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

28. ČLEN

PRENEHANJE VELJAVNOSTI

Ta konvencija velja za nedoločen čas, vendar lahko katera koli država pogodbenica drugi državi pogodbenici po diplomatski poti da pisno obvestilo o odpovedi 30. junija ali pred tem v katerem koli koledarskem letu po petih letih od datuma začetka veljavnosti konvencije.

3 The competent authorities of the Contracting States shall endeavor to resolve by mutual Convention 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.

ARTICLE 25

EXCHANGE OF INFORMATION

1 The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, insofar as the taxation thereunder is not contrary to the Convention in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting state it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention, such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions.

2 In no case shall the provisions of paragraphs 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 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

ARTICLE 27

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 the receipt of the last notification.

2 After the entry into force of this Convention its provisions shall have effect for the first time:

(a) in respect of tax withheld at source, on amounts paid or credited on or after the first day of January in the calendar year following its entry into force; and

(b) in respect of other taxes, for taxation years or periods beginning on or after the first day of January in the calendar year following its entry into force.

ARTICLE 28

TERMINATION

This Convention shall continue in effect indefinitely, but either Contracting State may, on or before June 30 in any calendar year after the expiration of a period of five years from date of entry into force, give to the other Contracting State a notice of termination in writing through diplomatic channels.

V takem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, odtegnjenimi pri viru, za zneske, plačane ali pripisane prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo, in

b) v zvezi z drugimi davki za davčna leta ali obdobja, ki se začnejo prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo.

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

Sestavljeno v dveh izvodih v Kairu dne 15. decembra 2009 v slovenskem, arabskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi besedil prevlada angleško besedilo.

Za
Republiko Slovenijo
Franc Križanič l.r.

Za
Arabsko republiko Egipt
Youssef Ghali l.r.

PROTOKOL

Ob podpisu Konvencije med Republiko Slovenijo in Arabsko republiko Egipt o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka sta se državi pogodbenici dogovorili, da je naslednja določba sestavni del konvencije:

V zvezi z 22. členom se razume, da bosta državi pogodbenici ponovno preučili načine odprave dvojnega obdavčevanja, če druga država pogodbenica v skladu s svojimi predpisi o davčnih spodbudah zniža ali odpravi davek, ki se sicer plačuje v tej drugi državi pogodbenici, če se bo davčni sistem v Republiki Sloveniji spremenil. Če bo Slovenija uvedla tako spremembo, se opravijo pogajanja za spremembo 22. člena.

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

Sestavljeno v dveh izvodih v Kairu dne 15. decembra 2009 v slovenskem, arabskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi besedil prevlada angleško besedilo.

Za
Republiko Slovenijo
Franc Križanič l.r.

Za
Arabsko republiko Egipt
Youssef Ghali l.r.

3. člen

Za izvajanje konvencije s protokolom skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/10-34/9
Ljubljana, dne 22. septembra 2010
EPA 1193-V

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

(a) in respect of tax withheld at source, on amounts paid or credited on or after the first day of January in the calendar year following that in which the notice has been given; and

(b) in respect of other taxes, for taxation years or periods beginning on or after the first day of January in the calendar year following that in which the notice has been given.

IN WITNESS WHEREOF the undersigned, duly authorized to that effect, have signed this Convention.

Done in duplicate at Cairo, this 15 day of December 2009, in the Slovenian, Arabic and English languages, each version being equally authentic. In case of divergence between any of texts, the English text shall prevail.

For the
Republic of Slovenia
Franc Križanič (s)

For the
Arab republic of Egypt
Youssef Ghali (s)

PROTOCOL

At the time of signing the Convention between the Republic of Slovenia and the Arab Republic of Egypt for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, both Contracting States have agreed that the following provision shall form an integral part of the Convention:

In respect of Article 22, it is understood that the Contracting States shall reconsider the methods of elimination of double taxation in the case when the tax which is otherwise payable in the other Contracting State has been reduced or waived by that other Contracting State under its legal provisions for tax incentives, if there would be a change in the tax system of the Republic of Slovenia. If such a change will be introduced in Slovenia, negotiations for the revision of Article 22 shall take place.

IN WITNESS WHEREOF the undersigned, duly authorized to that effect, have signed this Protocol.

Done in duplicate at Cairo, this 15 day of December 2009, in the Slovenian, Arabic and English languages, each version being equally authentic. In case of divergence between any of texts, the English text shall prevail.

For the
Republic of Slovenia
Franc Križanič (s)

For the
Arab republic of Egypt
Youssef Ghali (s)

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

127. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Države Katar o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BQAIDO)

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 Države Katar o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BQAIDO)**

Razlašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Države Katar o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BQAIDO), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-14

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO DRŽAVE KATAR O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA, S PROTOKOLOM (BQAIDO)****1. člen**

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Države Katar o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom, podpisan v Dohi 10. januarja 2010.

2. člen

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

S P O R A Z U M**MED VLADO REPUBLIKE SLOVENIJE
IN VLADO DRŽAVE KATAR
O IZOGIBANJU DVOJNEGA OBDAVČEVANJA
IN PREPREČEVANJU DAVČNIH UTAJ
V ZVEZI Z DAVKI OD DOHODKA**

Vlada Republike Slovenije in Vlada Države Katar

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

1. ČLEN**OSEBE, ZA KATERE SE UPORABLJA SPORAZUM**

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

2. ČLEN**DAVKI, ZA KATERE SE UPORABLJA SPORAZUM**

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

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

A G R E E M E N T**BETWEEN THE GOVERNMENT
OF THE REPUBLIC OF SLOVENIA
AND THE GOVERNMENT
OF THE STATE OF QATAR
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of Slovenia and the Government of the State of Qatar

Desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income,
Have agreed as follows:

ARTICLE 1**PERSONS COVERED**

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

ARTICLE 2**TAXES COVERED**

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

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

* Besedilo sporazuma s protokolom v arabskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

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

- (a) v Katarju:
 - davki od dohodka
- (v nadaljevanju »katarski davek«) in
- (b) v Sloveniji:
 - (i) davek od dohodkov pravnih oseb in
 - (ii) dohodnina
- (v nadaljevanju »slovenski davek«).

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

3. ČLEN

SPLOŠNA OPREDELITEV IZRAZOV

1. V tem sporazumu, razen če sobesedilo ne zahteva drugače:

(a) izraz »Katar« pomeni kopno Države Katar, notranje vode, teritorialno morje, vključno z morskim dnom in podmorjem, zračni prostor nad njimi, izključno ekonomsko cono in kontinentalni greben, nad katerimi Država Katar izvaja svoje suverene pravice in jurisdikcijo v skladu z določbami mednarodnega prava ter zakoni in predpisi Katarja;

(b) izraz »Slovenija« pomeni Republiko Slovenijo, in ko se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija izvaja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

(c) izraza »država pogodbenica« in »druga država pogodbenica« pomenita Katar ali Slovenijo, kakor zahteva sobesedilo;

(d) izraz »oseba« vključuje posameznika, družbo ter katero koli drugo telo, ki združuje več oseb in se obravnava kot subjekt za davčne namene;

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

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

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

(h) izraz »pristojni organ« pomeni:

(i) za Katar ministra za gospodarstvo in finance ali njegovega pooblaščenega predstavnika in

(ii) za Slovenijo Ministrstvo za finance ali njegovega pooblaščenega predstavnika;

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

(i) posameznika, ki ima državljanstvo te države pogodbenice;

(ii) pravno osebo, partnerstvo ali združenje, katerega status izhaja iz veljavne zakonodaje v tej državi pogodbenici.

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

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

- (a) in the case of Qatar:
 - taxes on income
- (Hereinafter referred to as "Qatari tax"); and
- (b) in the case of Slovenia:

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

(Hereinafter referred to as "Slovenian tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement 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 respective tax laws.

ARTICLE 3

GENERAL DEFINITIONS

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

(a) the term "Qatar" means the State of Qatar's lands, internal waters, territorial sea including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf, over which the State of Qatar exercises sovereign rights and jurisdiction in accordance with the provisions of international law and Qatar's national laws and regulations;

(b) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;

(c) the term "a Contracting State" and "the other Contracting State" means Qatar or Slovenia, as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;

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

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

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

(h) the term "competent authority" means:

(i) in the case of Qatar, the Minister of Economy and Finance, or his authorized representative, and

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

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

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

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

2. When implementing the provisions of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State concerning the taxes to which the Agreement 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.

4. ČLEN REZIDENT

1. V tem sporazumu izraz »rezident države pogodbenice« pomeni:

(a) za Katar vsakega posameznika, ki ima v Katarju stalno prebivališče, središče svojih življenjskih interesov ali običajno bivališče, in družbo, ki je ustanovljena v Katarju ali ima v njem sedež dejanske uprave;

(b) za Slovenijo vsako osebo, ki je po slovenski zakonodaji dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave, kraja ustanovitve ali katerega koli drugega podobnega merila. Ta izraz pa ne vključuje osebe, ki je dolžna plačevati davke v Sloveniji samo v zvezi z dohodki iz virov v Sloveniji.

2. Za namene prvega odstavka izraz »rezident« vključuje državo pogodbenico, katero koli njeno politično enoto, lokalno oblast ali z zakonom določen organ.

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

(a) šteje se samo za rezidenta države pogodbenice, v kateri ima na razpolago stalno prebivališče; če ima stalno prebivališče na razpolago v obeh državah pogodbenicah, se šteje samo za rezidenta države pogodbenice, 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 pogodbenic na razpolago stalnega prebivališča, se šteje samo za rezidenta države pogodbenice, v kateri ima običajno bivališče;

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

(d) če statusa rezidentstva posameznika ni mogoče določiti v skladu z določbami zgornjih pododstavkov (a), (b) in (c), pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

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

5. ČLEN STALNA POSLOVNA ENOTA

1. V tem sporazumu 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,
- (d) tovarno,
- (e) delavnico,
- (f) prodajno mesto in

(g) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj raziskovanja, pridobivanja ali izkoriščanja naravnih virov.

3. Izraz »stalna poslovna enota« vključuje tudi:

(a) gradbišče, projekt gradnje, montaže ali postavitve ali kakršno koli dejavnost nadzora v zvezi s takim gradbiščem ali projektom, vendar samo, če tako gradbišče, projekt ali dejavnost traja v obdobju ali obdobjih, ki v katerem koli dvanajstmesečnem obdobju skupaj znašajo več kot šest mesecev, in

(b) opravljanje storitev, vključno s svetovalnimi storitvami, ki jih podjetje opravlja z zaposlenimi delavci ali drugimi osebami, ki jih uporabi za ta namen, vendar samo, če take dejavnosti (za isti ali povezan projekt) potekajo v državi pogodbenici v obdobju ali obdobjih, ki v katerem koli dvanajstmesečnem obdobju skupaj znašajo več kot šest mesecev.

ARTICLE 4 RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means:

(a) in the case of Qatar, any individual who has a permanent home, his centre of vital interest, or habitual abode in Qatar, and a company incorporated or having its place of effective management in Qatar;

(b) in the case of Slovenia, any person who, under the law of Slovenia, 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. This term, however, does not include any person who is liable to tax in Slovenia in respect only of income from sources in Slovenia.

2. For the purposes of paragraph 1 the term "resident" shall include a Contracting State, any political subdivision, local authority or statutory body thereof.

3. 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 Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the Contracting 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 Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;

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

(d) if the residence status of an individual cannot be determined in accordance with the provisions of subparagraphs (a), (b) and (c) above, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. 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 Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a sales outlet; and

(g) a mine, an oil or gas well, a quarry or any other place of exploration, extraction or exploitation of natural resources.

3. The term "permanent establishment" also encompasses:

(a) a building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, but only where such site, project or activity continues for period or periods aggregating more than six months within any twelve month period; and

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if the activities of that nature continue (for the same or a connected project) within a Contracting State for period or periods aggregating more than six months within any twelve month period.

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 ali

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

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

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 namenjene izključno ali skoraj izključno temu podjetju in med podjetjem in zastopnikom v njunih komercialnih in finančnih odnosih obstajajo ali se vzpostavijo pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka.

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

6. ČLEN

DOHODEK IZ NEPREMIČNIN

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

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

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

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

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

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

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

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, 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. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. 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 nadomestilo 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 in za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

7. ČLEN POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje 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 pripiše tej stalni poslovni enoti.

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

3. Pri ugotavljanju dobička stalne poslovne enote je dovoljeno odšteti stroške, 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, in so dovoljeni v skladu z določbami domače zakonodaje države pogodbenice, v kateri je stalna poslovna enota.

4. Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno ugotavlja na podlagi porazdelitve vsega dobička podjetja na njegove 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 skladen z načeli tega člena.

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

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

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

8. ČLEN LADIJSKI IN LETALSKI PREVOZ

1. Dobiček iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

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 and to income from immovable property used for the performance of independent personal services.

ARTICLE 7 BUSINESS PROFITS

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, which are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated.

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

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

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

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

ARTICLE 8 SHIPPING AND AIR TRANSPORT

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

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 v 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 vzpostavijo med podjetjema 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 vključen 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 lahko ustrezno prilagodi znesek davka, ki se v tej državi obračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe tega sporazuma, 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 sme presegati 5 odstotkov bruto zneska dividend.

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

3. Ne glede na določbe prvega in drugega odstavka se dividende, ki jih doseže in je njihov upravičeni lastnik vlada države pogodbenice, njena lokalna oblast ali politična enota, obdavčijo samo v tej državi.

4. Izraz »dividende«, kot je uporabljen v tem členu, pomeni dohodek iz 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 pogodbenice, katere rezident je družba, ki dividende deli.

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

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

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where:

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

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

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

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

ARTICLE 10

DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

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

3. Notwithstanding the provisions of paragraphs 1 and 2 above, dividends derived and beneficially owned by the Government of a Contracting State, a local authority or a political subdivision thereof shall be taxable only in that State.

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

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

6. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček, 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 plačajo 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 sme presegati 5 odstotkov bruto zneska obresti.

3. Ne glede na določbe prvega in drugega odstavka se obresti, ki nastanejo v državi pogodbenici in se plačajo vladi druge države pogodbenice, njeni lokalni oblasti ali politični enoti, obdavčijo samo v tej drugi državi.

4. Izraz »obresti«, kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe pri dolžnikovem dobičku, še posebej 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 namene tega člena ne štejejo za obresti.

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

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in the other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on 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.

3. Notwithstanding the provisions of paragraphs 1 and 2 above, interest arising in a Contracting State and paid to the Government of the other Contracting State, a local authority or a political subdivision thereof shall be taxable only in that other State.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in the other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

7. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom obresti 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 tega sporazuma.

12. ČLEN

LICENČNINE IN AVTORSKI HONORARJI

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

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in sicer v skladu z zakonodajo te države, toda če je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne sme presegati 5 odstotkov bruto zneska teh licenčnin in avtorskih honorarjev.

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

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

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

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

13. ČLEN

KAPITALSKI DOBIČKI

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

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-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 Agreement.

ARTICLE 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in the other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

ARTICLE 13

CAPITAL GAINS

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

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

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

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

14. ČLEN

SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga posameznik, ki je rezident države pogodbenice, doseže s poklicnimi storitvami ali drugimi samostojnimi dejavnostmi, se obdavči samo v tej državi, razen v naslednjih okoliščinah, ko se tak dohodek lahko obdavči tudi v drugi državi pogodbenici:

(a) če ima v drugi državi pogodbenici za opravljanje svojih dejavnosti redno na voljo stalno bazo; v tem primeru se lahko v tej drugi državi pogodbenici obdavči samo toliko dohodka, kolikor se pripiše tej stalni bazi, ali

(b) če v drugi državi pogodbenici ostane v obdobju ali obdobjih, ki skupaj trajajo ali presegajo 183 dni v katerem koli dvanajstmesečnem obdobju, ki se začne ali konča v določenem davčnem letu; v tem primeru se lahko v tej drugi državi obdavči samo toliko dohodka, kolikor ga doseže s svojimi dejavnostmi, opravljenimi v tej drugi državi.

2. Izraz »poklicne storitve« še zlasti vključuje samostojne znanstvene, literarne, umetniške, vzgojne ali izobraževalne dejavnosti in tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

15. ČLEN

ODVISNE OSEBNE STORITVE

1. Ob upoštevanju določb 16., 18., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev 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 dvanajstmesečnem obdobju, 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 ali stalna baza, 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 se opravljajo prevozi v mednarodnem prometu, obdavči v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

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

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State 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

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

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

(b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

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

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

4. Ne glede na prejšnje določbe tega člena se lahko plače, mezde, dodatki in drugi prejemki, ki jih dobi območni upravitelj ladijske ali letalske družbe s sedežem dejanske uprave v državi pogodbenici, ki je rezident te države pogodbenice in je nameščen v drugi državi pogodbenici, obdavčijo le v prvi omenjeni državi pogodbenici.

16. ČLEN

PLAČILA DIREKTORJEM

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

17. ČLEN

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se 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., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri potekajo dejavnosti nastopajočega izvajalca ali športnika.

3. Dohodek, ki ga dobi rezident države pogodbenice iz dejavnosti, ki jih izvaja v drugi državi pogodbenici, kot je predvideno v prvem in drugem odstavku tega člena, je oproščen davka v tej drugi državi, če se gostovanje v tej drugi državi v celoti ali pretežno krije iz sredstev katere koli države pogodbenice, njene politične enote ali lokalne oblasti ali če poteka na podlagi sporazuma med državama pogodbenicama na področju kulture.

18. ČLEN

POKOJNINE IN RENTE

1. Ob upoštevanju določb drugega odstavka 19. člena se pokojnine in drugi podobni prejemki ter rente, ki se izplačujejo rezidentu države pogodbenice, obdavčijo samo v tej državi.

2. Izraz »renta« pomeni določen znesek, ki se redno izplačuje ob določenem času vse življenje ali v določenem ali določljivem časovnem obdobju, z obveznostjo izplačevanja v zameno za ustrezno in celotno vplačilo v denarju ali denarni vrednosti.

19. ČLEN

DRŽAVNA SLUŽBA

1. (a) Plače, mezde in drugi podobni prejemki, 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 drugi državi in je posameznik rezident te druge države, ki:

- (i) je državljan te druge države ali
- (ii) ni postal rezident te druge države samo zaradi opravljanja storitev.

4. Notwithstanding the preceding provisions of this Article, salaries, wages, allowances and other remuneration received by an area manager of a shipping or an airline enterprise having its place of effective management in a Contracting State, who is a resident of that Contracting State and stationed in the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

ARTICLE 16

DIRECTORS' FEES

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

ARTICLE 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from 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 sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Income derived by a resident of a Contracting State from activities exercised in the other Contracting State as envisaged in paragraphs 1 and 2 of this Article, shall be exempted from tax in that other State if the visit to that other State is supported wholly or substantially by funds of either Contracting State, a political subdivision or a local authority thereof, or takes place under a cultural agreement between the Contracting States.

ARTICLE 18

PENSIONS AND ANNUITIES

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

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

ARTICLE 19

GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration 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 other State and the individual is a resident of that other State who:

- (i) is a national of that other State; or
- (ii) did not become a resident of that other State solely for the purpose of rendering the services.

2. (a) Ne glede na določbe prvega odstavka se pokojnine in drugi podobni prejemki, ki jih plača država pogodbenica ali njena politična enota ali lokalna oblast ali ki se plačajo iz njihovih skladov posamezniku za storitve, opravljene za to državo ali enoto ali oblast, obdavčijo samo v tej državi.

(b) Take pokojnine in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

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

20. ČLEN

PROFESORJI IN RAZISKOVALCI

1. Posameznik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je na povabilo vlade prve omenjene države pogodbenice ali univerze, višje ali visoke šole, šole, muzeja ali druge kulturne ustanove v tej prvi omenjeni državi pogodbenici ali je po uradnem programu kulturne izmenjave v tej državi pogodbenici samo zaradi poučevanja, predavanja ali raziskovanja v taki ustanovi za obdobje, ki ne presega dveh zaporednih let, je v tej državi pogodbenici oproščen davka od prejemkov za tako dejavnost. Posameznik je upravičen do ugodnosti iz tega člena samo enkrat.

2. Določbe prvega odstavka tega člena se ne uporabljajo za dohodek od raziskovanja, če se tako raziskovanje ne izvaja v javno korist, ampak predvsem v zasebno korist določene osebe ali oseb.

21. ČLEN

ŠTUDENTI IN PRIPRAVNIKI

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

2. Pri nagradah, štipendijah in prejemkih iz zaposlitve, ki niso zajeti v prvem odstavku, je študent, vajenec ali pripravnik iz prvega odstavka med izobraževanjem ali usposabljanjem upravičen tudi do enakih oprostitev, olajšav ali odbitkov pri davkih kot rezidenti države pogodbenice, v kateri je na obisku.

22. ČLEN

DRUGI DOHODKI

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

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

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration 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 pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20

PROFESSORS AND RESEARCHERS

1. An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who, at the invitation of the Government of the first-mentioned Contracting State or of a university, college, school, museum or other cultural institution in that first mentioned Contracting State or under an official program of cultural exchange, is present in that Contracting State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that Contracting State on his remuneration for such activity. An individual shall be entitled to the benefits of this Article only once.

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

ARTICLE 21

STUDENTS AND TRAINEES

1. Payments which a student, business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting 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 Contracting State, provided that such payments arise from sources outside that Contracting State.

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

ARTICLE 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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 Contracting State through a permanent establishment situated therein, or performs in the other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

23. ČLEN**ODPRAVA DVOJNEGA OBDAVČEVANJA**

1. V Katarju se dvojno obdavčevanje odpravi, kakor sledi:

Kadar rezident Katarja doseže dohodek, ki je v skladu z določbami tega sporazuma obdavčljiv v Sloveniji, Katar dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku, plačanemu v Sloveniji, pri čemer tak odbitek ne sme presegati tistega dela pred odbitkom izračunanega davka, ki se nanaša na dohodek, dosežen v Sloveniji.

2. V Sloveniji se dvojno obdavčevanje odpravi, kot sledi:

(a) Kadar rezident Slovenije doseže dohodek, ki se v skladu z določbami tega sporazuma lahko obdavči v Katarju, Slovenija dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Katarju. Tak odbitek pa v nobenem primeru ne sme presegati tistega dela pred odbitkom izračunanega davka od dohodka, ki se nanaša na dohodek, ki se lahko obdavči v Katarju.

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

24. ČLEN**ENAKO OBRAVNAVANJE**

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

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

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

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

5. Neobdavčenje državljanov Katarja po katarski davčni zakonodaji se po tem členu ne šteje za neenako obravnavanje.

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

ARTICLE 23**ELIMINATION OF DOUBLE TAXATION**

1. In the case of Qatar, double taxation shall be eliminated as follows:

Where a resident of Qatar derives income which, in accordance with the provisions of this Agreement, is taxable in Slovenia, then Qatar shall allow as a deduction from the tax on income of that resident an amount equal to the tax paid in Slovenia, provided that such deduction shall not exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Slovenia.

2. In the case of Slovenia, double taxation shall be eliminated as follows:

(a) Where a resident of Slovenia derives income which, in accordance with the provisions of this Agreement, may be taxed in Qatar, Slovenia shall allow as deduction from the tax on the income of that resident, an amount equal to the income tax paid in Qatar. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Qatar.

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

ARTICLE 24**NON-DISCRIMINATION**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirements 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, relief and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

4. 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 requirements 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 non taxation of Qatari nationals under Qatari tax law shall not be regarded as a discrimination under the provision of this Article.

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

25. ČLEN**POSTOPEK SKUPNEGA DOGOVORA**

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanj za posledico obdavčenje, ki ni v skladu s tem sporazumom, lahko ne glede na sredstva, ki ji 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 obdavčenje, ki ni v skladu z določbami sporazuma.

2. Če se pristojnemu organu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, si prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčenju, ki ni v skladu s sporazumom. 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 sporazuma. Prav tako se lahko posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih sporazum ne predvideva.

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

26. ČLEN**IZMENJAVA INFORMACIJ**

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so pomembne za izvajanje določb tega sporazuma ali za izvajanje ali uveljavljanje domače zakonodaje glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njihovih političnih enot ali lokalnih oblasti, če obdavčevanje na njih ni podlagi ni v nasprotju s sporazumom. Izmenjava informacij ni omejena s 1. in 2. členom.

2. Vsaka informacija, ki jo prejme država pogodbenica na podlagi prvega odstavka, 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 davkov, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega odstavka. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v sodnih postopkih ali sodnih odločbah.

3. V nobenem primeru se določbe prvega in drugega odstavka ne razlagajo, kakor 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 predloži informacije, ki jih ni mogoče dobiti po zakonodaji ali običajni upravni poti te ali druge države pogodbenice;

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

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 this Agreement, 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 Agreement.

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

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 relevant for carrying out the provisions of this Agreement or to the administration or enforcement 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 Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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 paragraph 1. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

(a) to carry out administrative measures at variance with the laws or the 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*).

4. Če država pogodbenica zahteva informacije v skladu s tem členom, druga država pogodbenica sprejme ukrepe za pridobitev zahtevanih informacij, tudi če jih ta druga država morda ne potrebuje za svoje davčne namene. Za obveznost iz prejšnjega stavka veljajo omejitve iz tretjega odstavka, toda v nobenem primeru se take omejitve ne razlagajo tako, kot da država pogodbenica lahko zavrne predložitev informacij samo zato, ker sama zanje nima interesa.

5. V nobenem primeru se določbe tretjega odstavka ne razlagajo tako, kot da država pogodbenica lahko zavrne predložitev informacij samo zato, ker jih hrani banka, druga finančna ustanova, pooblaščenec ali oseba, ki deluje kot zastopnik ali fiduciar, ali zato, ker so povezane z lastniškimi deleži v neki osebi.

27. ČLEN

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

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

28. ČLEN

ZAČETEK VELJAVNOSTI

1. Državi pogodbenici se po diplomatski poti pisno obvestita, da so končani postopki, ki se po njuni zakonodaji zahtevajo za začetek veljavnosti tega sporazuma. Sporazum začne veljati trideseti dan od prejema zadnjega uradnega obvestila.

2. Določbe tega sporazuma se uporabljajo:

(a) v zvezi z davki, odtegnjenimi pri viru, za zneske, plačane ali pripisane prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati sporazum, in

(b) v zvezi z drugimi davki za davčna leta, ki se začnejo prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati sporazum.

29. ČLEN

PRENEHANJE VELJAVNOSTI

1. Ta sporazum velja, dokler ga ena država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove sporazum po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po poteku petih letih od dneva začetka njegove veljavnosti.

2. Ta sporazum se preneha uporabljati:

(a) za davke, odtegnjene pri viru, za zneske, plačane ali pripisane prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je dano obvestilo o odpovedi, in

(b) za druge davke 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 pooblaščenca, podpisala ta sporazum.

Sestavljeno v dveh izvodih v Dohi, dne 10. januarja 2010, v slovenskem, arabskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Franc Križanič l.r.

Za Vlado
Države Katar
Youssef Hussein Kamal l.r.

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

ARTICLE 28

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by their laws for the bringing into force of this Agreement. The Agreement shall enter into force on the thirtieth day from the date of receipt of the later of these notifications.

2. The provisions of this Agreement shall have effect:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year following the year in which the Agreement enters into force; and

(b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the calendar year following the year in which the Agreement enters into force.

ARTICLE 29

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following the expiration of a period of five years from the date of its entry into force.

2. This Agreement shall cease to have effect:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year following the year in which the notice is given; and

(b) with regard to other taxes, in respect of taxable years beginning on or after 1 January of the calendar year following the year in which the notice is given.

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

Done in duplicate at Doha, this 10th day of January 2010, in the Slovenian, Arabic and English languages, all texts being equally authentic. In case of any divergence, the English text shall prevail.

For the Government of
the Republic of Slovenia
Franc Križanič (s)

For the Government of the
State of Qatar
Youssef Hussein Kamal (s)

PROTOKOL

Ob podpisu Sporazuma med Vlado Republike Slovenije in Vlado Države Katar o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka sta se podpisana sporazumela o naslednjih določbah, ki so sestavni del sporazuma.

Prvi odstavek: v zvezi s tretjim odstavkom 10. člena

Razume se, da izraz »vlada države pogodbenice« vključuje:

(a) za Katar Investicijski organ Katarja in

(b) za Slovenijo pozneje ustanovljeno institucijo, ki opravlja podobne naloge kot organ, naveden v pododstavku (a) zgoraj, kot se lahko dogovorita pristojna organa držav pogodbenic.

Drugi odstavek: v zvezi s tretjim odstavkom 11. člena

Razume se, da izraz »vlada države pogodbenice« vključuje:

(a) za Katar Investicijski organ Katarja, Centralno banko Katarja in katero koli institucijo, ki je v popolni lasti države, kot se lahko sproti dogovorita pristojna organa držav pogodbenic, in

(b) za Slovenijo centralno banko, institucijo, predvideno v pododstavku (b) prvega odstavka tega protokola, in katero koli institucijo, ki je v popolni lasti države, kot se lahko sproti dogovorita pristojna organa držav pogodbenic.

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

Sestavljeno v dveh izvodih v Dohi, dne 10. januarja 2010, v slovenskem, arabskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Franc Križanič l.r.

Za Vlado
Države Katar
Youssef Hussein Kamal l.r.

For the Government of
the Republic of Slovenia
Franc Križanič (s)

For the Government of the
State of Qatar
Youssef Hussein Kamal (s)

3. člen

Za izvajanje sporazuma s protokolom skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/10-32/9

Ljubljana, dne 22. septembra 2010

EPA 1180-V

PROTOCOL

At the moment of signing the Agreement between the Government of the Republic of Slovenia and the Government of the State of Qatar for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

Paragraph 1: With respect to paragraph 3 of Article 10

It is understood that the term "Government of a Contracting State" shall include:

(a) in the case of Qatar: the Qatar Investment Authority; and

(b) in the case of Slovenia: a subsequently established institution, performing similar functions as the authority mentioned in subparagraph (a) above, as may be agreed between the competent authorities of the Contracting States.

Paragraph 2: With respect to paragraph 3 of Article 11

It is understood that the term "Government of a Contracting State" shall include:

(a) in the case of Qatar: the Qatar Investment Authority, the Qatar Central Bank and any institution fully owned by the State as may be agreed from time to time between the competent authorities of the Contracting States; and

(b) in the case of Slovenia: the Central Bank, the institution provided for in sub paragraph (b) of paragraph 1 of this Protocol and any institution fully owned by the State as may be agreed from time to time between the competent authorities of the Contracting States.

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

Done in duplicate at Doha, this 10th day of January 2010, in the Slovenian, Arabic and English languages, all texts being equally authentic. In case of any divergence, the English text shall prevail.

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

128. Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Singapur o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BSGIDO)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Singapur o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BSGIDO)**

Razlašam Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Singapur o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom (BSGIDO), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-13

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED REPUBLIKO SLOVENIJO IN REPUBLIKO SINGAPUR
O IZOGIBANJU DVOJNEGA OBDVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI
Z DAVKI OD DOHODKA, S PROTOKOLOM (BSGIDO)****1. člen**

Ratificira se Sporazum med Republiko Slovenijo in Republiko Singapur o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, s protokolom, podpisan v New Yorku 8. januarja 2010.

2. člen

Sporazum s protokolom se v izvirniku v slovenskem in angleškem jeziku glasi:

S P O R A Z U M**MED REPUBLIKO SLOVENIJO IN REPUBLIKO
SINGAPUR O IZOGIBANJU DVOJNEGA
OBDVČEVANJA IN PREPREČEVANJU
DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA**

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

sporazumeli:

1. člen**OSEBE, ZA KATERE SE UPORABLJA SPORAZUM**

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

2. člen**DAVKI, ZA KATERE SE UPORABLJA SPORAZUM**

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

2. Za davke od dohodka se štejejo vsi davki, uvedeni na celoten dohodek ali na sestavine dohodka, vključno z davki od dobička iz odtujitve premočnin ali nepremičnin.

A G R E E M E N T**BETWEEN THE REPUBLIC OF SLOVENIA
AND THE REPUBLIC OF SINGAPORE
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Republic of Slovenia and the Republic of Singapore, desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income,

Have agreed as follows:

Article 1**PERSONS COVERED**

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

Article 2**TAXES COVERED**

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

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

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

- a) v Sloveniji:
 - i) davek od dohodka pravnih oseb,
 - ii) dohodnina
 (v nadaljevanju »slovenski davek«);
- b) v Singapurju:
 - davek od dohodka
 (v nadaljevanju »singapurski davek«).

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

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tem sporazumu, razen če sobesedilo ne zahteva drugače:

a) izraz »Slovenija« pomeni Republiko Slovenijo, in ko se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija uveljavlja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz »Singapur« pomeni Republiko Singapur, in ko se uporablja v geografskem pomenu, izraz »Singapur« vključuje teritorialne vode Singapurja in katero koli območje zunaj meja teritorialnih voda Singapurja ter morsko dno in njegovo podzemlje takega območja, ki je bilo ali bo morda pozneje po zakonodaji Singapurja in v skladu z mednarodnim pravom določeno kot območje, na katerem ima Singapur suverene pravice za raziskovanje in izkoriščanje živih ali neživih naravnih virov;

c) izraza »država pogodbenica« in »druga država pogodbenica« pomenita Slovenijo ali Singapur, kakor zahteva sobesedilo;

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) 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;

g) izraz »mednarodni promet« pomeni prevoz z ladjo ali letalom, ki ga opravlja podjetje s sedežem dejanske uprave v državi pogodbenici, razen če ladja ali letalo ne opravlja prevozov samo med kraji v drugi državi pogodbenici;

h) izraz »pristojni organ« pomeni:

- i) v Sloveniji: Ministrstvo za finance Republike Slovenije ali njegovega pooblaščenega predstavnika;
- ii) v Singapurju: ministra za finance ali njegovega pooblaščenega predstavnika;

i) izraz »državljan« v zvezi s pogodbenico pomeni:

- i) posameznika, ki ima državljanstvo države pogodbenice;
- ii) pravno osebo, osebno družbo ali združenje, katerega status izhaja iz veljavne zakonodaje v tej državi pogodbenici.

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

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

- a) in Slovenia:
 - (i) the tax on income of legal persons;
 - (ii) the tax on income of individuals;
 (hereinafter referred to as "Slovenian tax");
- b) in Singapore:
 - the income tax;
 (hereinafter referred to as "Singapore tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement 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 respective taxation laws.

Article 3

GENERAL DEFINITIONS

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

a) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;

b) the term "Singapore" means the Republic of Singapore and when used in a geographical sense, the term "Singapore" includes the territorial waters of Singapore and any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;

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

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

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

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

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

h) the term "competent authority" means:

- (i) in Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorised representative;
- (ii) in Singapore: the Minister for Finance or his authorised representative;

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

- (i) any individual possessing the nationality of that Contracting State;
- (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State.

2. As regards the application of the Agreement 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 Agreement 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.

4. člen

REZIDENT

1. V tem sporazumu izraz »rezident države pogodbenice« pomeni osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njeno politično enoto, lokalno oblast ali z zakonom določen organ.

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) v vseh drugih primerih 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. Če sedeža njene dejanske uprave ni mogoče določiti, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

5. člen

STALNA POSLOVNA ENOTA

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

3. Izraz »stalna poslovna enota« vključuje tudi:

a) gradbišče, projekt gradnje, montaže ali postavitve ali dejavnost nadzora ali svetovanja v zvezi z njimi, a samo če tako gradbišče, projekt ali dejavnost traja na ozemlju pogodbenice več kakor dvanajst mesecev, in

b) storitve, vključno s svetovalnimi storitvami, ki jih podjetje države pogodbenice opravlja z zaposlenimi delavci ali drugimi osebami, ki jih uporabi za ta namen, a samo če take dejavnosti (za isti ali z njim povezan projekt) še naprej potekajo v drugi državi pogodbenici v obdobju ali obdobjih, ki v katerem koli dvanajstmesečnem obdobju skupaj znašajo več kot 9 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;

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

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) in any other case, 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. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

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

3. The term "permanent establishment" also includes:

a) a building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith, but only if such site, project or activity lasts in a Contracting State for a period of more than twelve months;

b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 9 months within any twelve-month period.

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

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

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

c) 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, navedenih v pododstavkih od a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

5. Ne glede na določbe prvega in drugega odstavka se, 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, 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 ali je pod nadzorom družbe, ki je rezident druge države pogodbenice, ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače), samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

6. člen

DOHODEK IZ NEPREMIČNIN

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

2. Izraz »nepremičnine« ima pomen, ki ga ima po pravu države pogodbenice, v kateri 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 nadomestilo 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 in za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

7. člen

POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje 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 pripiše tej stalni poslovni enoti.

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

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

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

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 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 a 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.

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 and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

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

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

3. Pri ugotavljanju dobička stalne poslovne enote je dovoljeno odšteti vse stroške, vključno s poslovnimi in splošnimi upravnimi stroški, ki bi jih bilo mogoče odšteti, če bi bila ta poslovna enota ločeno podjetje, če jih je razumno mogoče pripisati tej stalni poslovni enoti, ne glede na to, ali so nastali v državi pogodbenici, v kateri je stalna poslovna enota, ali drugje.

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

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

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

8. člen

LADIJSKI IN LETALSKI PREVOZ

1. Dobiček od ladijskih ali letalskih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

2. Če je sedež dejanske uprave ladjarskega podjetja na 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.

4. Obresti od finančnih sredstev, povezanih z opravljanjem ladijskih ali letalskih prevozov v mednarodnem prometu, se štejejo kot dobiček od opravljanja prevozov s temi ladjami ali letali in za te obresti se ne uporabljajo določbe 11. člena.

5. Za namen tega člena dobiček od opravljanja prevozov z ladjami ali letali v mednarodnem prometu vključuje:

a) dobiček od dajanja v najem praznih ladij in letal in

b) dobiček od uporabe, vzdrževanja ali dajanja v najem zabojnikov (vključno s priklopniki in povezano opremo za prevoz zabojnikov), ki se uporabljajo za prevoz blaga ali dobrin,

če je tako oddajanje v najem ali uporaba, vzdrževanje ali najem, odvisno od primera, občasno pri opravljanju prevozov z ladjami ali letali v mednarodnem prometu.

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

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 all expenses, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

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

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

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

Article 8

SHIPPING AND AIR TRANSPORT

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

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

4. Interest on funds connected with the operations of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft, and the provisions of Article 11 shall not apply in relation to such interest.

5. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:

a) profits from the rental on a bareboat basis of ships or aircraft; and

b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

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) 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 vzpostavijo med podjetjema 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 skladu z določbami prvega odstavka in 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 ta druga država meni, da je prilagoditev upravičena. Pri določanju take prilagoditve je treba upoštevati druge določbe tega sporazuma, 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 sicer v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne sme presegati 5 odstotkov bruto zneska dividend. 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, delnic »jouissance« ali pravic »jouissance«, rudniških 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 ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

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

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 accordance with the provisions of paragraph 1, 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 Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10 DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends. 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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

11. člen
OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in sicer v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne sme presegati 5 odstotkov bruto zneska obresti.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici in se izplačajo vladi druge države pogodbenice, oproščene davka v prvi omenjeni državi. V primeru Slovenije so obresti, ki nastanejo v Singapurju in se plačajo za posojilo, za katero je dala poroštvo ali ga zavarovala Slovenska izvozna in razvojna banka Ljubljana za račun Republike Slovenije, za to pooblaščen po notranjem pravu, oproščene davka v Singapurju.

4. Za namen tretjega odstavka izraz »vlada«

(a) v primeru Slovenije pomeni vlado Slovenije in vključuje:

- (i) Banko Slovenije,
- (ii) politično enoto, lokalno oblast ali z zakonom določen organ in
- (iii) katero koli institucijo, ki je v celotni ali pretežni lasti vlade Slovenije, kot se sproti dogovorita pristojna organa držav pogodbenic;

(b) v primeru Singapurja pomeni vlado Singapurja in vključuje:

- (i) centralno singapursko banko (Monetary Authority of Singapore);
- (ii) Investicijsko korporacijo vlade Singapurja (Government of Singapore Investment Corporation Pte Ltd);
- (iii) z zakonom določen organ in
- (iv) katero koli institucijo, ki je v celotni ali pretežni lasti vlade Singapurja, kot se sproti dogovorita pristojna organa držav pogodbenic.

5. 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 dajejo 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.

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

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

Article 11
INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State. In the case of Slovenia, interest arising in Singapore and paid in consideration of a loan guaranteed or insured by Slovene Export and Development Bank Inc., Ljubljana on account of the Republic of Slovenia as authorised in accordance with the domestic law shall be exempt from tax in Singapore.

4. For the purpose of paragraph 3, the term "Government":

(a) in the case of Slovenia, means the Government of Slovenia and shall include:

- (i) Bank of Slovenia;
- (ii) a political subdivision, a local authority or a statutory body; and
- (iii) any institution wholly or mainly owned by the Government of Slovenia as may be agreed from time to time between the competent authorities of the Contracting States.

(b) in the case of Singapore, means the Government of Singapore and shall include:

- (i) the Monetary Authority of Singapore;
- (ii) the Government of Singapore Investment Corporation Pte Ltd;
- (iii) a statutory body; and
- (iv) any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

5. 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.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

12. člen

LICENČNINE IN AVTORSKI HONORARJI

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

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in sicer v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne sme presegati 5 odstotkov bruto zneska teh licenčnin in avtorskih honorarjev.

3. Izraz »licenčnine in avtorski honorarji«, kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi in filmi ali trakovi za radijsko ali televizijsko predvajanje, kakršne koli računalniške programske opreme, 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 ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

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

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

13. člen

KAPITALSKI DOBIČKI

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

8. 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 Agreement.

Article 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for radio or television broadcasting, any computer software, 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

6. 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 Agreement.

Article 13

CAPITAL GAINS

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

2. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo deležev, razen delnic, s katerimi se trguje na priznani borzi, katerih vrednost v več kot 75 odstotkih neposredno ali posredno izhaja iz nepremičnin, ki so 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, ali premičnin, ki so povezane s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici zaradi opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

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

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

14. člen

SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga rezident države pogodbenice dobi s poklicnimi storitvami ali drugimi samostojnimi dejavnostmi, se obdavči samo v tej državi, razen v naslednjih okoliščinah, ko se tak dohodek lahko obdavči tudi v drugi državi pogodbenici:

a) če ima v drugi državi pogodbenici za opravljanje svojih dejavnosti redno na voljo stalno bazo; v tem primeru se lahko v drugi državi pogodbenici obdavči samo toliko dohodka, kolikor se pripiše tej stalni bazi, ali

b) če v drugi državi pogodbenici prebiva v obdobju ali obdobjih, ki v katerem koli dvanajstmesečnem obdobju skupaj presegajo 9 mesecev za isti ali z njim povezan projekt; v tem primeru se lahko v tej drugi državi obdavči samo toliko dohodka, kolikor ga doseže s svojimi dejavnostmi, ki jih opravi v tej drugi državi.

2. Izraz »poklicne storitve« še zlasti vključuje samostojne znanstvene, književne, umetniške, vzgojne ali izobraževalne dejavnosti in tudi samostojne dejavnosti zdravnikov, pravnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

15. člen

DOHODEK IZ ZAPOSLOTITVE

1. Ob upoštevanju določb 16., 18., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev ne izvaja v drugi državi pogodbenici. Če se 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 dvanajstmesečnem obdobju, 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 ali stalna baza, ki jo ima delodajalec v drugi državi.

2. Gains derived by a resident of a Contracting State from the alienation of shares, other than shares traded on a recognized stock exchange, deriving more than 75% 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

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

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

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:

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

(b) if his stay in the other State is for a period or periods exceeding in the aggregate 9 months within any twelve-month period for the same or a connected project; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

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

3. Ne glede na prejšnje določbe tega člena se lahko prejemek, ki izhaja iz zaposlitve, ki se izvaja na ladji ali letalu, s katerim se opravljajo prevozi v mednarodnem prometu, obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja. Če pa prejemek dobi rezident druge države pogodbenice, se lahko obdavči tudi v tej drugi državi.

16. člen

PLAČILA DIREKTORJEM

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

17. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se 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 osebnih dejavnosti, ki jih opravlja v drugi državi pogodbenici, obdavči v tej drugi državi.

2. Kadar dohodek iz osebnih ali z njimi povezanih dejavnosti, ki jih opravlja nastopajoči izvajalec ali športnik, ne priraste samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri 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 opravlja v državi pogodbenici, če se gostovanje v tej državi v celoti ali pretežno krije iz javnih sredstev ene ali obeh držav pogodbenic ali njunih političnih enot, lokalnih oblasti ali z zakonom določenih organov. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

18. člen

POKOJNINE

Ob upoštevanju določb drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

19. člen

DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki, razen pokojnin, ki jih izplačuje država pogodbenica ali njena politična enota, lokalna oblast ali z zakonom določen organ 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, izplačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti ali z zakonom določenega organa posamezniku za storitve, opravljene za to državo ali enoto, oblast ali organ, 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. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. However, if the remuneration is derived by a resident of the other Contracting State, it may also be taxed in that other State.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

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

Article 18

PENSIONS

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

Article 19

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body 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, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body 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. Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s poslovanjem države pogodbenice ali njene politične enote, lokalne oblasti ali z zakonom določenega organa.

20. člen

PROFESORJI IN RAZISKOVALCI

1. Posameznik, ki je rezident države pogodbenice tik pred obiskom druge države pogodbenice in je na povabilo univerze, višje ali visoke šole, šole ali druge podobne izobraževalne ustanove, ki jo priznava pristojni organ v drugi državi pogodbenici, na obisku v drugi državi pogodbenici za največ dve leti samo zaradi poučevanja ali raziskovanja ali obojega v taki izobraževalni ustanovi, je oproščen davka v drugi državi pogodbenici za prejemke za tako poučevanje ali raziskovanje.

2. Ta člen se ne uporablja za dohodek od poučevanja ali raziskovanja, če se tako poučevanje ali raziskovanje ne izvaja predvsem v javno korist, ampak v prvi vrsti v zasebno korist določene osebe ali oseb.

21. člen

ŠTUDENTI

Plačila, ki jih študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoč samo 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.

22. člen

DRUGI DOHODKI

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

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

3. Ne glede na določbe prvega in drugega odstavka se deli dohodka rezidenta države pogodbenice, ki niso obravnavani v predhodnih členih tega sporazuma in nastanejo v drugi državi pogodbenici, lahko obdavčijo v tej drugi državi.

23. člen

ODPRAVA DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi, kakor sledi:

1. V Sloveniji:

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

Tak odbitek pa ne sme presegati tistega dela pred odbitkom izračunanega davka od dohodka, ki se nanaša na dohodek, ki se lahko obdavči v Singapurju.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, a local authority or a statutory body thereof.

Article 20

PROFESSORS AND RESEARCHERS

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution, which is recognized by the competent authority in the other Contracting State, visits the other Contracting State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in the other Contracting State on his remuneration for such teaching or research.

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

Article 21

STUDENTS

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

Article 22

OTHER INCOME

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

Article 23

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In Slovenia:

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

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

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

2. V Singapurju:

kadar rezident Singapurja dobi dohodek iz Slovenije, ki se v skladu z določbami tega sporazuma lahko obdavči v Sloveniji, Singapur ob upoštevanju svoje zakonodaje o znižanju davka, ki se plača v kateri koli državi razen v Singapurju, v obliki odbitka od singapurskega davka prizna slovenski davek, plačan neposredno ali z zmanjšanjem, kot odbitek od singapurskega davka, ki se plača od dohodka tega rezidenta. Kadar je tak dohodek dividenda, ki jo plača družba, ki je rezident Slovenije, družbi, ki je rezident Singapurja in je neposredno ali posredno lastnica najmanj 10 odstotkov delniškega kapitala prve omenjene družbe, se kot odbitek upošteva slovenski davek, ki ga je plačala ta družba od dela svojega dobička, iz katerega je bila izplačana dividenda.

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.

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.

3. Nič v tem sporazumu se ne razlaga, kot da zavezuje državo pogodbenico, da prizna:

(a) 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, ali

(b) državljanom druge države pogodbenice tiste osebne olajšave, druge olajšave in znižanja za davčne namene, ki jih priznava svojim državljanom, ki niso rezidenti te države, ali drugim osebam, določenim v davčni zakonodaji te države.

4. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, osmega 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.

5. Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana 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.

6. Določbe tega člena se uporabljajo za davke, ki jih ureja ta sporazum.

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

2. In Singapore:

Where a resident of Singapore derives income from Slovenia which, in accordance with the provisions of this Agreement, may be taxed in Slovenia, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Slovenian tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of Slovenia to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Slovenian tax paid by that company on the portion of its profits out of which the dividend is paid.

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.

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.

3. Nothing in this Article shall be construed as obliging a Contracting State to grant to:

(a) residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes on account of civil status or family responsibilities which it grants to its own residents; or

(b) nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own nationals who are not residents of that State or to such other persons as may be specified in the taxation laws of that State.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 8 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.

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

6. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

25. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanj za posledico obdavčenje, ki ni v skladu z določbami tega sporazuma, lahko ne glede na pravna sredstva, ki ji 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 obdavčenje, ki ni v skladu z določbami sporazuma.

2. Če se pristojnemu organu zdi ugovor upravičen in če sam ne more priti do zadovoljive rešitve, si prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčenju, ki ni v skladu s sporazumom. 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 sporazuma. Prav tako se lahko posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih sporazum ne predvideva.

4. Pristojna organa držav pogodbenic se lahko dogovarjata neposredno, da bi dosegla dogovor v smislu prejšnjih odstavkov.

26. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb tega sporazuma ali domače zakonodaje držav pogodbenic glede davkov, za katere se uporablja sporazum, če obdavčevanje na tej podlagi ni v nasprotju s sporazumom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja ta sporazum. 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) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,

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

c) da predloži informacije, ki bi razkrile kakršno koli trgovinsko, 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

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

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 Agreement, 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 3 years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

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

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 Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State, and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

Article 27

MEMBERS OF DIPLOMATIC MISSIONS
AND CONSULAR POSTS

Nothing in this Agreement 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.

28. člen

ZAČETEK VELJAVNOSTI

1. Državi pogodbenici se po diplomatski poti pisno obvestita, da so končani postopki, ki se po njuni zakonodaji zahtevajo za začetek veljavnosti tega sporazuma. Sporazum začne veljati z dnem prejema zadnjega uradnega obvestila.

2. Določbe tega sporazuma se uporabljajo v zvezi z davkom, obračunanim za katero koli leto odmere z začetkom 1. januarja ali po njem v drugem koledarskem letu, ki sledi letu, v katerem začne veljati ta sporazum.

29. člen

PRENEHANJE VELJAVNOSTI

Ta sporazum velja, dokler ga ena država pogodbenica ne odpove. Vsaka država ga lahko odpove po diplomatski poti z obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po poteku petih let od dneva začetka veljavnosti sporazuma. V takem primeru se sporazum preneha uporabljati v zvezi z davkom, obračunanim za katero koli leto odmere z začetkom 1. januarja ali po njem v drugem koledarskem letu, ki sledi letu, v katerem je dano obvestilo.

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

Sestavljeno v dveh izvodih v New Yorku dne 8. januarja 2010 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za
Republiko Slovenijo:
Sanja Štiglic l.r.

Za
Republiko Singapur:
Vanu Gopala Menon l.r.

**Protokol k Sporazumu med Republiko Slovenijo
in Republiko Singapur o izogibanju dvojnega
obdavčevanja in preprečevanju davčnih utaj
v zvezi z davki od dohodka**

Ob podpisu Sporazuma med Republiko Slovenijo in Republiko Singapur o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka sta se podpisana sporazumela, da so naslednje določbe sestavni del navedenega sporazuma:

1. V zvezi s 3. členom (Splošna opredelitev izrazov)

Izraz »telo, ki združuje več oseb« v točki d) prvega odstavka vključuje sklad, ki se ustanovi v državi pogodbenici, če je po domačem pravu te države pogodbenice sklad davčni rezident te države.

2. V zvezi z 11. členom (Obresti)

Izraz »Slovenska izvozna in razvojna banka, d. d., Ljubljana« bo zajemal tudi katero koli pozneje ustanovljeno institucijo, ki bo nadomestila Slovensko izvozno in razvojno banko, d. d., Ljubljana, in opravljala iste naloge v skladu z domačo zakonodajo.

3. V zvezi s 13. členom (Kapitalski dobički)

Izraz »priznana borza« v drugem odstavku pomeni:

- a) v primeru Slovenije Ljubljansko borzo (LJSE);
- b) v primeru Singapurja Singapursko borzo (SGX);
- c) katero koli borzo, o kateri je lahko sproti dogovorjeno.

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 Agreement have been satisfied. The Agreement shall enter into force on the date of receipt of the later of these notifications.

2. The provisions of this Agreement shall have effect in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the Agreement enters into force.

Article 29

TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such event, the provisions of this Agreement shall cease to have effect in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the notice is given.

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

DONE in duplicate at New York this 8 day of January 2010, in the Slovenian and English languages, both texts being equally authentic.

For the
Republic of Slovenia:
Sanja Štiglic (s)

For the
Republic of Singapore:
Vanu Gopala Menon (s)

**Protocol to the Agreement between the Republic
of Slovenia and the Republic of Singapore for the
avoidance of double taxation and the prevention of fiscal
evasion with respect to taxes on income**

At the signing of the Agreement between the Republic of Slovenia and the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the said Agreement:

1. With respect to Article 3 (General Definitions)

The term "body of persons" in paragraph 1(d) includes a trust established in a Contracting State if the domestic law of that Contracting State regards the trust as a tax resident of that State.

2. With respect to Article 11 (Interest)

The term "Slovene Export and Development Bank Inc., Ljubljana" will also cover any other subsequently established institution, replacing Slovene Export and Development Bank Inc., Ljubljana and performing the same functions in accordance with the domestic law.

3. With respect to Article 13 (Capital Gains)

The term "recognized stock exchange" in paragraph 2 means:

- a) in the case of Slovenia, the Ljubljana Stock Exchange (LJSE);
- b) in the case of Singapore, the Singapore Exchange (SGX);
- c) any stock exchange as may be agreed from time to time.

4. V zvezi s 24. členom (Enako obravnavanje)

a) Nič v tem členu ne preprečuje Singapurju, da uporablja:

(i) davčne spodbude, ki jih daje svojim državljanom za spodbujanje družbenega razvoja v skladu s svojo politiko in merili;

(ii) davčne spodbude iz dela XIII B Zakona o spodbujanju gospodarske rasti (Olajšave pri davku od dohodka) za spodbujanje naložb v tujini ali projektov, ki jih izvajajo podjetja v pretežni lasti državljanov in oseb s stalnim prebivališčem v Singapurju.

b) Za namene četrtega odstavka se razume, da se za dovolitev odbitka plačila stroškov nerezidentu nič v tem odstavku ne razlaga, kot da preprečuje državi pogodbenici uvesti kakršno koli obveznost davčnega odtegljaja od takih plačil.

5. V zvezi s 26. členom (Izmenjava informacij)

Če Singapur na dan začetka veljavnosti tega sporazuma ali po njem izpolni zahteve svoje notranje zakonodaje za začetek veljavnosti določb spodaj navedenega 26. člena, o tem uradno obvesti Slovenijo po diplomatski poti. Besedilo 26. člena sporazuma se nato črta in nadomesti z naslednjim, ki se začne uporabljati 30 dni po dnevu takega uradnega obvestila:

»1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so predvidoma pomembne za izvajanje določb tega sporazuma ali za izvajanje ali uveljavljanje domače zakonodaje držav pogodbenic glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njihovih političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s tem sporazumom. Izmenjava informacij ni omejena s 1. in 2. členom.

2. Vsaka informacija, ki jo prejme država pogodbenica na podlagi prvega odstavka, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega odstavka ali pri nadzoru nad omenjenim. Te osebe ali organi uporabljajo informacije samo v te namene. Razkrijejo jih lahko v sodnih postopkih ali sodnih odločitvah.

3. V nobenem primeru se določbe prvega in drugega odstavka ne razlagajo, kakor 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 predloži informacije, ki jih ni mogoče dobiti po zakonih ali običajni upravni poti te ali druge države pogodbenice,

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

4. Če država pogodbenica zahteva informacije v skladu s tem členom, druga država pogodbenica sprejme ukrepe za pridobitev zahtevanih informacij, tudi če ta druga država sama morda ne potrebuje takih informacij za svoje davčne namene. Za obveznost iz prejšnjega stavka veljajo omejitve iz tretjega odstavka, toda v nobenem primeru se take omejitve ne razlagajo tako, kot da država pogodbenica lahko zavrne predložitev informacij samo zato, ker sama zanje nima interesa.

4. With respect to Article 24 (Non-discrimination)

a) Nothing in this Article shall prevent Singapore from applying:

(i) tax incentives granted to its nationals to promote social development in accordance with its national policy and criteria;

(ii) tax incentive under Part XIIB of the Economic Expansion Incentives (Relief from Income Tax) Act for the promotion of overseas investments or projects carried out by enterprises mainly owned by nationals and permanent residents of Singapore.

b) For the purposes of paragraph 4, it is understood that, for the purposes of allowing deduction of a payment of expenses to a non-resident, nothing in the said paragraph shall be construed as preventing a Contracting State from imposing any obligation to withholding tax from such payments.

5. With respect to Article 26 (Exchange of Information)

If, on or after the date that this Agreement enters into force, Singapore has completed its domestic legislative requirements necessary for entry into force of the provisions of Article 26 set out below, Singapore shall notify Slovenia through diplomatic channels. The text of Article 26 of the Agreement shall then be deleted and replaced by the following, which shall have effect 30 days after the date of such notification:

»1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement 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 Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 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).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. V nobenem primeru se določbe tretjega odstavka ne razlagajo tako, kot da država pogodbenica lahko zavrne predložitev informacij samo zato, ker jih hrani banka, druga finančna ustanova, pooblaščenec ali oseba, ki deluje kot zastopnik ali fiduciar, ali zato, ker so povezane z lastniškimi deleži v neki osebi.«

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

Sestavljeno v dveh izvodih v New Yorku dne 8. januarja 2010 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za
Republiko Slovenijo:
Sanja Štiglic l.r.

Za
Republiko Singapur:
Vanu Gopala Menon l.r.

For the
Republic of Slovenia:
Sanja Štiglic (s)

For the
Republic of Singapore:
Vanu Gopala Menon (s)

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

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

DONE in duplicate at New York this 8 day of January 2010, in the Slovenian and English languages, both texts being equally authentic.

3. člen

Za izvajanje sporazuma s protokolom skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/10-31/10
Ljubljana, dne 22. septembra 2010
EPA 1154-V

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

129. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Črne gore o sodelovanju pri varstvu pred naravnimi in drugimi nesrečami (BMNSVN)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Črne gore o sodelovanju pri varstvu pred naravnimi in drugimi nesrečami (BMNSVN)**

Razlašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Črne gore o sodelovanju pri varstvu pred naravnimi in drugimi nesrečami (BMNSVN), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-12

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO ČRNE GORE O SODELOVANJU PRI VARSTVU PRED NARAVNIMI IN DRUGIMI NESREČAMI (BMNSVN)****1. člen**

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Črne gore o sodelovanju pri varstvu pred naravnimi in drugimi nesrečami, podpisan 28. januarja 2010 v Ljubljani.

2. člen

Sporazum se v izvirniku v slovenskem in angleškem jeziku glasi:*

S P O R A Z U M**med Vlado Republike Slovenije
in Vlado Črne gore
o sodelovanju pri varstvu pred naravnimi
in drugimi nesrečami**

Vlada Republike Slovenije
in
Vlada Črne gore,
(v nadaljnjem besedilu pogodbenici),
sta se

v prepričanju o nujnosti sodelovanja pri preprečevanju in lažanju posledic naravnih in drugih nesreč (v nadaljnjem besedilu nesreče),

ob upoštevanju vloge Evropske unije, Organizacije združenih narodov in drugih mednarodnih organizacij na področju varstva pred naravnimi in drugimi nesrečami dogovorili:

1. člen**Namen**

(1) Ta sporazum ureja okvirne pogoje prostovoljnega nudenja medsebojne pomoči ob nesrečah na ozemlju druge pogodbenice, pogoje sodelovanja pri preprečevanju nesreč in druge oblike medsebojnega sodelovanja.

(2) Sodelovanje med pogodbenicama poteka po načelih vzajemnosti in v okviru zmogljivosti držav pogodbenic.

A G R E E M E N T**between the Government of the Republic
of Slovenia and the Government of Montenegro
on co-operation in the area of protection against
natural and other disasters**

The Government of the Republic of Slovenia
and
the Government of Montenegro
(hereinafter referred to as "the Parties");

Convinced of the necessity of mutual co-operation in prevention and mitigation of consequences of natural and other disasters (hereinafter referred to as "disasters");

Considering the role of the European Union, the United Nations Organization and other international organisations in the area of protection against natural and other disasters;

Have agreed as follows:

Article 1**Purpose of the Agreement**

(1) This Agreement shall regulate the framework conditions for voluntary provision of mutual assistance in the event of disasters in the territory of the other Party, conditions for co-operation in the area of disaster prevention and other forms of mutual co-operation.

(2) Co-operation between the Parties shall follow the principles of reciprocity and shall be conducted within the capabilities of the Parties.

* Besedilo sporazuma v črnogorskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

2. člen**Področja sodelovanja**

(1) Sodelovanje med pogodbenicama poteka predvsem na naslednjih področjih:

- (a) izmenjava znanstvenih in tehničnih spoznanj in izkušenj na področju varstva pred nesrečami;
- (b) izobraževanje in usposabljanje osebja, ki sodeluje pri dejavnostih zaščite in reševanja;
- (c) razvijanje in proizvodnja zaščitne in reševalne opreme;
- (d) obveščanje o nevarnostih nesreč in njihovih posledicah;
- (e) pomoč ob naravnih in drugih nesrečah pri zaščiti in reševanju ter odpravljanju posledic nesreč.

(2) Za izvajanje tega sporazuma in uresničevanje sodelovanja na področjih iz prejšnjega odstavka lahko pogodbenici skleneta izvedbene dogovore.

(3) Pogodbenici vzpodbujata sodelovanje med državnimi organi, vladnimi in nevladnimi institucijami ter organizacijami, ki opravljajo dejavnost na področju varstva pred naravnimi in drugimi nesrečami.

3. člen**Pomen izrazov**

Izrazi, uporabljeni v tem sporazumu, pomenijo:

- a) **naravne in druge nesreče** so nesreče, ki jih povzročijo naravne sile, industrijske dejavnosti in drugi civilizacijsko povzročeni škodni dogodki, razen vojne, ki ogrozijo življenje, premoženje in okolje ter bistveno poslabšajo življenjske razmere;
- b) **podatki in informacije o nevarnostih** so podatki in informacije o naravnih in drugih nesrečah, katerih namen je zgodnje obveščanje o pretečih nevarnostih ter uveljavljanje zaščitnih in drugih ukrepov pri zagotavljanju varnosti ljudi, premoženja in okolja;
- c) **reševanje in zagotavljanje pomoči** so dejavnosti vseh reševalnih sil in sredstev, katerih namen je neposredno in posredno lajšanje in odpravljanje posledic naravnih in drugih nesreč;
- d) **reševalne ekipe in posamezniki, ki nudijo pomoč**, so ustrezno usposobljene in opremljene skupine in osebe, ki jih država pošiljateljica določi za dajanje pomoči;
- e) **zaščitna in reševalna ter druga oprema** so sredstva za osebno in skupinsko zaščito, reševalna oprema, prevozna sredstva (vozila, plovila in zrakoplovi) ter tehnična in druga sredstva, ki jih uporabljajo reševalne ekipe in posamezniki, ki nudijo pomoč;
- f) **človekoljubna pomoč** so živila, pitna voda, zdravila, sanitetni material in drugo blago, namenjeno brezplačni razdelitvi prizadetemu in ogroženemu prebivalstvu kot pomoč pri lajšanju posledic nesreč;
- g) **država prejemnica** je pogodbenica, katere pristojni organi zaprosijo drugo pogodbenico za pomoč;
- h) **država pošiljateljica** je pogodbenica, katere pristojni organi ugodijo prošnji druge pogodbenice za pomoč;
- i) **država tranzita** je država, po ozemlju katere poteka prehod enot za reševanje in pomoč ter opreme za potrebe pogodbenic.

4. člen**Pristojni organi**

(1) Za izvajanje tega sporazuma sta pristojna:

– v Republiki Sloveniji: Ministrstvo za obrambo Republike Slovenije – Uprava Republike Slovenije za zaščito in reševanje;

Article 2**Areas of Co-operation**

(1) Co-operation between the Parties shall include mainly the following areas:

- (a) the exchange of scientific and technical knowledge and expertise in the field of protection against disasters;
- (b) education and training of personnel who participate in protection and rescue activities;
- (c) development and production of protection and rescue equipment;
- (d) mutual notification of disaster risks and their consequences;
- (e) assistance in the case of natural and other disasters in the areas of protection and rescue, as well as elimination of their consequences.

(2) For the implementation of this Agreement and the realisation of co-operation in the areas referred to in the previous paragraph, the Parties may conclude implementing arrangements.

(3) The Parties shall advance co-operation between national authorities, governmental and non-governmental institutions and organisations engaged in protection against natural and other disasters.

Article 3**Definitions of Terms**

Terms used in this Agreement have the following meaning:

- a) "natural and other disasters" are disasters caused by natural forces, industrial activity and other man-made events, excluding war, which endanger life, property and the environment and significantly worsen the living conditions;
- b) "data and information on hazards" are data on natural and other disasters whose purpose is early notification of imminent danger and implementation of protection and other measures in ensuring security for people, property and the environment;
- c) "rescue and disaster relief" are activities of all rescue forces and resources whose purpose is direct and indirect mitigation and elimination of the consequences of natural and other disasters;
- d) "rescue and disaster relief teams and individuals" are adequately trained and equipped teams and persons designated by the sending State for the provision of assistance;
- e) "protection, rescue and other equipment" are means of personal and collective protection, rescue equipment, means of transport (vehicles, vessels and aircraft), and technical and other means used by rescue teams and individuals providing assistance;
- f) "humanitarian aid" is food, potable water, medications, medical supplies and other items intended for free distribution to the affected or threatened population as assistance in mitigating the consequences of disasters;
- g) "receiving State" is the Party whose competent authorities request disaster relief from the other Party;
- h) "sending State" is the Party whose competent authorities grant the assistance request of the other Party;
- i) "country of transit" is a country whose territory is crossed by rescue and disaster relief units and equipment for the needs of the Parties.

Article 4**Competent Authorities**

(1) Authority for the implementation of this Agreement shall lie with:

– in the Republic of Slovenia: Ministry of Defence – Administration of the Republic of Slovenia for Civil Protection and Disaster Relief;

– v Črni gori: Ministrstvo za notranje zadeve in javno upravo – Sektor za obvladovanje izrednih razmer.

(2) Pristojna organa se za učinkovito izvajanje tega sporazuma sestajata po potrebi.

(3) Pri izvajanju tega sporazuma sta pristojna organa iz prvega odstavka tega člena pooblaščenca za vzpostavitev neposrednih stikov in povezav. Za to pristojna organa izmenjata naslove in podatke o telekomunikacijskih povezavah (telefon, telefaks in elektronska pošta) in osebah za stike.

(4) Pogodbenici se pisno obvestita o spremembah pristojnih organov in njihovih naslovov, telekomunikacijskih povezav in oseb za stike najpozneje v 30 dneh od spremembe.

5. člen

Sodelovanje človekoljubnih organizacij

Pogodbenici spodbujata sodelovanje med njunimi človekoljubnimi organizacijami na področju varstva pred nesrečami.

6. člen

Izmenjava spoznanj in izkušenj

(1) Pogodbenici se zaradi predvidevanja in odpravljanja posledic nesreč ter učinkovitejše zaščite in reševanja obveščata o znanstvenih in tehničnih spoznanjih ter izkušnjah.

(2) Pogodbenici si izmenjujeta informacije o veljavnem notranjem pravu na področju varstva pred nesrečami.

(3) Pogodbenici si prizadevata učinkovito uporabljati rezultate in izsledke znanstvenega in tehničnega sodelovanja na področju varstva pred nesrečami tudi pri gospodarskem in drugem sodelovanju.

7. člen

Izobraževanje in usposabljanje

Pogodbenici spodbujata sodelovanje pri izobraževanju in usposabljanju osebja, ki sodeluje pri dejavnostih zaščite in reševanja, in sicer:

a) z vzpostavljanjem neposrednih povezav in sodelovanja izobraževalnih organizacij ter izmenjavo predavateljev, inštruktorjev in drugih strokovnjakov;

b) z organiziranjem izobraževanja in usposabljanja osebja;

c) z izmenjavo učnega gradiva in sredstev ter izkušenj, pridobljenih med dejavnostmi zaščite in reševanja;

d) z organiziranjem skupnih vaj na področju zaščite in reševanja.

8. člen

Razvoj in proizvodnja zaščitne in reševalne opreme

Pogodbenici spodbujata sodelovanje med vladnimi institucijami in gospodarskimi subjekti na področju tehnološkega razvoja in proizvodnje zaščitne in reševalne opreme.

9. člen

Obveščanje o nevarnostih in nesrečah

(1) Pogodbenici se obveščata o nevarnostih in nesrečah, ki lahko ogrozijo ali prizadenejo katero od pogodbenic.

(2) Obvestilo o nevarnosti ali nesreči vsebuje: opis nevarnosti ali nesreče, podatke o kraju, času, obsegu in posledicah nesreče ter sprejetih zaščitnih ukrepih.

(3) Pogodbenici se ob nesreči obvestita tudi o potrebnih in razpoložljivi pomoči ter možnostih in oblikah dajanja pomoči.

– in Montenegro: Ministry of Interior Affairs and Public Administration – Crisis Management Assistance Sector.

(2) Competent authorities shall meet as necessary for efficient implementation of the Agreement.

(3) In implementing this Agreement, the competent authorities referred to in paragraph 1 of this Article shall be authorised to establish direct contacts and connections. In this regard, the competent authorities shall exchange addresses and data on telecommunication links (telephone, fax and electronic mail) and points of contact.

(4) The Parties shall inform each other in writing of any subsequent changes of competent authorities and their addresses, telecommunication links and points of contact, no later than 30 days following the date of change.

Article 5

Co-operation between Humanitarian Organisations

The Parties shall encourage co-operation between the humanitarian organisations of both Parties in the area of protection against disasters.

Article 6

Exchange of Knowledge and Experience

(1) The Parties shall inform each other of scientific and technical findings and experience for the purpose of anticipating and eliminating disasters as well as more efficient protection and rescue.

(2) The Parties shall exchange information on applicable national law in the area of protection against disasters.

(3) The Parties shall also strive for efficient use of the results and findings of scientific and technical co-operation in the area of protection against disasters in economic and other forms of co-operation.

Article 7

Education and Training

The Parties shall promote mutual co-operation in the area of education and training of personnel who participate in protection and rescue activities in the following manner:

a) through establishment of direct links and co-operation between educational organisations and the exchange of lecturers, instructors and other experts;

b) through organisation of education and training of personnel;

c) through the exchange of educational and teaching materials, as well as experience gained during protection and rescue activities;

d) through organisation of joint exercises in the area of protection and rescue.

Article 8

Development and Production of Protection and Rescue Equipment

The Parties shall encourage co-operation between government institutions and business entities in the areas of technological development and production of protection and rescue equipment.

Article 9

Notification of Threats and Disasters

(1) The Parties shall inform each other of threats and disasters that may threaten or affect either Party.

(2) Notification of a threat or disaster shall contain: a description of the threat or disaster, information on location, time, scale and consequences of a disaster as well as on protective measures taken.

(3) In the event of a disaster, the Parties shall also inform each other on the required and available assistance, and the possibilities and manner of its provision.

(4) Obvestilo o nevarnosti ali nesreči se lahko sporoči pisno ali ustno v jezikih pogodbenic. Ustno obvestilo je treba pisno potrditi.

(5) Za obveščanje o nevarnostih in nesrečah ter za vlaganje in sprejemanje prošenj za pomoč so pristojni:

- v Republiki Sloveniji:
 - Ministrstvo za obrambo Republike Slovenije – Uprava Republike Slovenije za zaščito in reševanje;
- v Črni gori:
 - Ministrstvo za notranje zadeve in javno upravo – Sektor za obvladovanje izrednih razmer.

10. člen

Nudjenje pomoči

(1) Pogodbenica, ki jo je prizadela nesreča, lahko prosi za pomoč drugo pogodbenico. Pomoč lahko vključuje reševalne ekipe, posameznike, zaščitno in reševalno opremo ter človekoljubno pomoč.

(2) Zaposilo za pomoč iz prvega odstavka tega člena mora vsebovati: podatke o vrsti in obsegu potrebne pomoči, podatke o organih in osebah, s katerimi se vzpostavi stik, ter predlog o oblikah pomoči.

(3) Pomoč se nudi v skladu s predpisi pogodbenic.

11. člen

Prestop državne meje in bivanje na ozemlju druge pogodbenice

(1) Zaradi hitrejšega in učinkovitejšega zagotavljanja pomoči pri zaščiti in reševanju ter odpravljanju posledic nesreč pogodbenici reševalnim ekipam in posameznikom, ki nudijo pomoč, zagotovita poenostavljeni postopek za prestop državne meje.

(2) O času in kraju prestopa državne meje, načinu prihoda in odhoda ter o času bivanja reševalnih ekip in posameznikov, ki nudijo pomoč, na ozemlju druge pogodbenice se dogovorita pristojna organa iz prvega odstavka 4. člena.

(3) Reševalne ekipe in posamezniki, ki nudijo pomoč, morajo imeti ustrezne dokumente, ki so jih izdali pristojni organi države pošiljateljice in dokazujejo njihovo identiteto.

(4) Reševalne ekipe in posamezniki, ki nudijo pomoč, imajo na ozemlju druge pogodbenice pravico nositi svojo uniformo.

(5) Na območje druge pogodbenice ni dovoljeno vnašati orožja, streliva in eksplozivnih sredstev.

(6) Pogodbenici zagotavljata izvajanje tega člena tudi, kadar je ena od njiju država tranzita. Pristojna organa iz prvega odstavka 4. člena se v najkrajšem možnem času obvestita o tranzitnih zahtevah, opredelita izvedbene postopke in po potrebi med prehodom tranzitni skupini zagotovita uradno spremstvo.

12. člen

Vnos in iznos opreme in sredstev pomoči

(1) Ob nesrečah pogodbenici poenostavita postopke v zvezi z vnosom, iznosom in prevozom zaščitne in reševalne opreme ter sredstev pomoči preko državne meje. Pri prestopu državne meje mora vodja reševalne ekipe mejni službi države prejemnice predložiti seznam zaščitne in reševalne opreme ter sredstev pomoči.

(2) Reševalne ekipe in posamezniki, ki nudijo pomoč, lahko preko državne meje prenesejo le zaščitno in reševalno opremo ter sredstva, ki so potrebna za njihovo oskrbo, delovanje in sredstva pomoči.

(4) Notification of a threat or disaster may be communicated in writing or orally in languages of the Parties. Oral notification must be confirmed in writing.

(5) Competent authorities of the Parties for notification of threats and disasters and for sending and receiving requests for assistance are:

- in the Republic of Slovenia:
 - Ministry of Defence – Administration of the Republic of Slovenia for Civil Protection and Disaster Relief;
- in Montenegro:
 - Ministry of the Interior and Public Administration – Crisis Management Assistance Sector.

Article 10

Providing Assistance

(1) The Party affected by a disaster may request assistance from the other Party. Assistance may include rescue teams, individuals, protection and rescue equipment, and humanitarian aid.

(2) A request for assistance as referred to in paragraph 1 of this Article must contain: information on the type and scope of required assistance, information on institutions and persons that a connection is to be established with, as well as a proposal for the manner of providing assistance.

(3) Assistance shall be provided in accordance with the regulations of the Parties.

Article 11

Crossing the State Border and Stay in the Territory of the Other Party

(1) In order to provide faster and more efficient assistance in protection and rescue as well as elimination of disaster consequences, the Parties shall grant rescue teams and individuals providing assistance a simplified procedure for crossing the state border.

(2) Competent authorities referred to in paragraph 1 of Article 4 shall agree on the time and location of crossing the state border, on the manner of arrival and departure, and on the duration of stay of rescue teams and individuals providing assistance in the territory of the other Party.

(3) Rescue teams and individuals providing assistance must possess relevant documents issued by the competent authorities of the sending State that prove their identity.

(4) Members of rescue teams and individuals providing assistance shall be entitled to wear their uniforms in the territory of the other Party.

(5) It shall be prohibited to bring weapons, ammunition and explosive ordnance to the territory of the other Party.

(6) The Parties shall also ensure implementation of this Article in the event of one of them being a country of transit. Competent authorities referred to in paragraph 1 of Article 4 shall within the shortest time possible inform each other of transit requirements, specify implementation procedures and, if necessary, provide the transit group official escort during transit.

Article 12

Temporary Importation and Exportation of Equipment and Disaster Relief

(1) In the event of disasters, the Parties shall simplify procedures regarding temporary importation, exportation and transportation of protection and rescue equipment and disaster relief across the state border. When crossing the state border, the rescue team leader must submit a list of protection and rescue equipment and means of disaster relief to the border control authority of the receiving State.

(2) Rescue teams and individuals providing assistance may only take across the state border such protection and rescue equipment and means as are required for their own provision and operation as well as for disaster relief.

(3) Za vnašanje in iznašanje zaščitne ter reševalne opreme in sredstev pomoči ne veljajo mednarodne prepovedi in omejitve, ki veljajo za vnašanje in iznašanje blaga v blagovnem prometu. Če se zaščitna in reševalna oprema ne porabi, jo je treba vrniti državi pošiljateljici. Če sredstva ali oprema ostanejo v državi prejemnici kot pomoč, je treba sporočiti vrsto, količino in lokacijo opreme pristojnemu organu države prejemnice, ki o tem obvesti pristojni carinski organ. V tem primeru veljajo predpisi države prejemnice.

(4) Določbe tretjega odstavka tega člena veljajo tudi za vnos zdravil, ki vsebujejo narkotike in psihotropne snovi, v državo prejemnico, pa tudi za vračilo neporabljenih količin, državi pošiljateljici. Vnos in iznos narkotikov in psihotropnih snovi v okviru mednarodnih sporazumov se ne šteje za uvoz in izvoz blaga v zunanji trgovini. Zdravila, ki vsebujejo narkotike in psihotropne snovi, se lahko vnesejo le v količini, potrebni za nujno zdravniško pomoč, in uporabljajo le pod nadzorom ustrezno usposobljenega zdravstvenega osebja v skladu s predpisi države pošiljateljice.

(5) Država pošiljateljica obvesti državo prejemnico o količini porabljenih zdravil, ki vsebujejo narkotike in psihotropne snovi.

13. člen

Uporaba zrakoplovov in plovil

(1) Zrakoplovi in plovila se lahko uporabljajo za nujni prevoz reševalnih ekip ali posameznikov, ki nudijo pomoč, zaščitne in reševalne ter druge opreme, in za druge vrste pomoči v skladu s tem sporazumom.

(2) O nudenju pomoči ter uporabi zrakoplovov in plovil pri zaščiti in reševanju je treba nemudoma obvestiti organ, ki je zaprosil za pomoč, in mu sporočiti natančne podatke o vrsti in oznakah zrakoplovov in plovil, njihovih posadkah in tovoru ter druge potrebne podatke. Čas, predvideno smer letenja ali plovbe ter kraj pristanka določi država prejemnica.

(3) Za posadke zrakoplovov in plovil in za reševalne ekipe ter posameznike, ki nudijo pomoč, se smiselno uporabljajo določbe enajstega člena tega sporazuma v zvezi s prestopom državne meje. Za zrakoplove in plovila, prepeljano zaščitno in reševalno opremo ter sredstva pomoči veljajo določbe dvanajstega člena tega sporazuma.

(4) Pri uporabi zrakoplovov veljajo predpisi pogodbenic, ki urejajo letenje zrakoplovov. Vsak načrt leta mora vsebovati potrebne podatke, ki se nanašajo na nameravan let ali na del leta zrakoplova. Te podatke je treba poslati enotam služb zračnega prometa. Za pogodbenici so obvezni standardi in usmeritve Mednarodne organizacije za civilno letalstvo.

(5) Pri uporabi plovil veljajo predpisi pogodbenic s področja pomorstva in mednarodni predpisi. Za pogodbenici so obvezni standardi in usmeritve Mednarodne pomorske organizacije.

14. člen

Uporaba vojaških zrakoplovov in vojaških plovil

Uporaba vojaških zrakoplovov in vojaških plovil za namene tega sporazuma je dovoljena le v soglasju z državo prejemnico.

15. člen

Pristojnost za vodenje

(1) Za vodenje reševalnih akcij in nudenje pomoči so v vseh primerih pristojni organi države prejemnice.

(3) No international prohibitions and restrictions, as apply for the import and export of commercial goods, shall apply for importing and exporting protection and rescue equipment and means of disaster relief. Should protection and rescue equipment not be used, it must be returned to the sending State. In the case of resources or equipment remaining as aid in the receiving State, the competent authority of the receiving State must be notified of the type, quantity and location of equipment. This authority shall relay this information to the relevant customs authorities. In this case, the regulations of the receiving State shall apply.

(4) Provisions of paragraph 3 of this Article shall also apply to the import into the receiving State of medications containing narcotics and psychotropic substances, and to the return of unused quantities of these to the sending State. Import and export of narcotics and psychotropic substances within international agreements shall not be considered as import and export of goods in foreign trade. Medications containing narcotics and psychotropic substances may only be imported in the quantities required for urgent medical assistance and used under supervision of medical professionals having proper medical training, in accordance with the regulations of the Party of the rescue team.

(5) The sending State shall inform the receiving State of the quantities of medication containing narcotics and psychotropic substances used.

Article 13

Use of Aircraft and Vessels

(1) Aircraft and vessels may be used for emergency transportation of rescue teams or individuals providing assistance, of protection, rescue and other equipment, and of other types of assistance in accordance with this Agreement.

(2) The authority requesting assistance must be immediately informed of the provision of disaster relief and the use of aircraft and vessels for protection and rescue, and given detailed information on the types and codes of the aircraft or vessels, their crews, cargo and other required parameters. The receiving State shall specify the time, planned flight or navigation route and location of the arrival.

(3) The provisions of Article 11 of this Agreement shall apply as appropriate for aircraft and vessel crews, for rescue teams and individuals providing assistance, with regard to crossing the state border. The provisions of Article 12 of this Agreement shall apply to aircraft and vessels, protection and rescue equipment transported, and disaster relief.

(4) Regulations of the Parties managing aircraft flights shall apply to the use of aircraft. Each flight plan must contain required information concerning the planned aircraft flight or part thereof and must be submitted to Air Traffic Service units. The Parties shall be bound by the standards and guidelines of the International Civil Aviation Organization.

(5) Regulations of the Parties in the area of maritime affairs and international regulations shall apply for the use of vessels. The Parties shall be bound by the standards and guidelines of the International Maritime Organization.

Article 14

Use of Military Aircraft and Military Vessels

Use of military aircraft and military vessels for the purposes of this Agreement shall only be permitted in agreement with the receiving State.

Article 15

Responsible Authorities

(1) Competent authorities of the receiving State shall in all cases be responsible for the management of rescue operations and provision of assistance.

(2) Organi iz prvega odstavka tega člena zaupajo naloge izključno vodjem reševalnih ekip države pošiljateljice, ti pa svoje podrejene seznanijo s podrobnostmi izvajanja.

16. člen

Zaščita in pomoč pri delu reševalnih ekip

Pristojni organi države prejemnice zagotovijo reševalnim ekipam in posameznikom države pošiljateljice, ki opravljajo naloge reševanja in nudenja pomoči, nujno medicinsko oskrbo, ustrezno zaščito in pomoč.

17. člen

Stroški pomoči

(1) Država pošiljateljica nima pravice od države prejemnice zahtevati povračila stroškov za dano pomoč. To velja tudi za stroške, ki bi nastali zaradi uporabe, poškodbe ali izgube zaščitne in reševalne ter druge opreme, vključno s prevoznimi sredstvi.

(2) Stroške pomoči, ki jo dajejo pravne ali fizične osebe s posredovanjem države pošiljateljice, krije država prejemnica. To pomoč mora država prejemnica neposredno zahtevati in se mora strinjati z nadomestitvijo stroškov za dano pomoč.

(3) Prevozna sredstva, ki se uporabljajo pri izvajanju pomoči, so oproščena plačila za uporabo prometne infrastrukture ter morebitnih dajatev ali drugih prispevkov.

(4) Če reševalne ekipe in posamezniki, ki nudijo pomoč, porabijo zaloge, ki so jih pripeljali s seboj, stroške za njihovo oskrbo, nastanitev in potrebna materialna sredstva do zaključka izvajanja pomoči krije država prejemnica. Po potrebi se jim zagotovi ustrezna logistična podpora in zdravstvena oskrba.

18. člen

Nadomestila in odškodnine

(1) Pogodbenici se odpovedujeta vsakemu zahtevku za nadomestilo škode na zaščitni in reševalni ter drugi opremi, če je škodo povzročila reševalna ekipa ali posamezniki, ki nudijo pomoč, po tem sporazumu, in škoda ni bila povzročena namerno.

(2) Pogodbenici se odpovedujeta vsem pravicam do nadomestil v primeru telesne poškodbe, trajnih posledic za zdravje ali smrti udeleženca v reševalni akciji, če se je to zgodilo med opravljanjem reševalnih nalog po tem sporazumu, razen če to ni bilo povzročeno namerno.

(3) Če je bila pri opravljanju nalog iz tega sporazuma povzročena škoda tretji osebi, prevzame odgovornost država prejemnica, kot če bi to škodo povzročile njene reševalne ekipe in posamezniki, ki nudijo pomoč, razen če niso reševalne ekipe in posamezniki, ki nudijo pomoč, države pošiljateljice škode povzročili namerno.

(4) Odškodninska odgovornost, določena v prvem in drugem odstavku tega člena, nastane ob prihodu na ozemlje ali v zračni prostor države prejemnice in traja do zapustitve njenega ozemlja ali zračnega prostora.

(5) Pogodbenici izvajata določbe tega člena tudi, kadar sta državi tranzita.

19. člen

Uporaba informacijsko-komunikacijskih sredstev

(1) Pristojni organi pogodbenic zagotovijo informacijsko-komunikacijske povezave, zlasti telefonske, radijske in druge zveze med organi, reševalnimi ekipami in posamezniki, ki nudijo pomoč, v skladu s tem sporazumom, pri čemer upoštevajo mednarodno dogovorjena pravila komuniciranja. Pristojni organi pogodbenic zagotavljajo tudi dostop do svetovnega spleta.

(2) The authorities referred to in paragraph 1 of this Article shall only entrust tasks to heads of rescue teams of the sending State, who shall in turn inform their subordinates of the details of execution.

Article 16

Protection and Support of Rescue Teams' Operations

The competent authorities of the receiving State shall provide those rescue teams and individuals of the sending State who perform rescue tasks and provide assistance with emergency medical care as well as proper protection and support.

Article 17

Costs of Assistance

(1) The sending State shall not be entitled to claim reimbursement of costs from the receiving State for the provided assistance. This shall also apply to costs incurred through the use, damage or loss of protection, rescue and other equipment, including transportation means.

(2) Costs of assistance provided by legal or natural persons through the sending State shall be covered by the receiving State. The receiving State must request this assistance directly and agree to reimburse the costs of assistance provided.

(3) Transportation means used for provision of assistance shall be exempt from payment for the use of traffic infrastructure and possible charges or other contributions.

(4) Should rescue teams and individuals providing assistance run out of the supplies brought with them, the receiving State shall cover the costs of their upkeep, accommodation and the needed supplies until the completion of their task of assistance. If necessary, proper logistical support and medical care shall be provided for them.

Article 18

Reimbursements and Damages

(1) The Parties shall renounce all claims for reimbursement for damage to protection, rescue and other equipment, provided that damage is caused by the rescue team or individual assisting in performing rescue and disaster relief tasks according to this Agreement, and that damage is not intentional.

(2) The Parties shall renounce every entitlement to reimbursement in the case of personal injuries and permanent consequences for health and in the event of death of a participant in a rescue operation, when this occurred during the performance of rescue tasks under this Agreement, except in cases when it is intentional.

(3) In the case of damage inflicted on third persons when performing tasks covered by this Agreement, the receiving State shall assume responsibility as if the damage was caused by its rescue teams and individuals providing assistance, except in cases when damage is inflicted deliberately by rescue teams or individuals providing assistance of the sending State.

(4) The damage liability specified in paragraph 1 and 2 of this Article shall arise upon arrival at the territory or airspace of the receiving State and continue until departure from its territory or airspace.

(5) The Parties shall also implement the provisions of this Article in the event of them being countries of transit.

Article 19

Use of Information and Communication Means

(1) The competent authorities of the Parties shall provide mutual information and communication links, in particular telephone, radio and other links between the authorities, rescue teams and individuals providing assistance, in accordance with this Agreement, while respecting internationally agreed rules of communication. The competent authorities of the Parties shall also provide Internet access.

(2) Pogodbenici si izmenjata seznam radijskih frekvenc, ki jih je za potrebe komuniciranja dovoljeno uporabljati na njunem ozemlju.

20. člen **Začetek veljavnosti**

(1) Ta sporazum se sklene za nedoločen čas.

(2) Ta sporazum začne veljati z dnem prejema zadnjega uradnega obvestila pogodbenic, da so izpolnjeni notranjepravni pogoji za začetek njegove veljavnosti.

21. člen

Vpliv tega sporazuma na druge sporazume

Ta sporazum ne vpliva na pravice in obveznosti pogodbenic po drugih mednarodnih sporazumih.

22. člen

Reševanje sporov

Pogodbenici spore v zvezi z razlago ali izvajanjem tega sporazuma rešujeta izključno s posvetovanji in pogajanji.

23. člen

Spremembe

(1) Sporazum lahko pogodbenici spremenita s podpisom ločenega protokola, ki začne veljati v skladu z drugim odstavkom 20. člena tega sporazuma.

(2) Pisna obvestila pogodbenic o spremembah podatkov pristojnih organov in njihovih naslovov, telekomunikacijskih povezav in oseb za stike pogodbenic ne štejejo za spremembo tega sporazuma.

24. člen

Prenehanje veljavnosti

(1) Vsaka pogodbenica ima pravico pisno po diplomatski poti odpovedati sporazum. V tem primeru sporazum preneha veljati tri mesece od dneva prejema uradnega obvestila o njegovi odpovedi.

(2) Prenehanje veljavnosti tega sporazuma ne vpliva na obveznosti glede njegovega izvajanja, ki na dan prenehanja veljavnosti še trajajo.

Sestavljeno v Ljubljani, 28. januar 2010, v dveh izvirnikih v slovenskem, črnogorskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi ali uporabi tega sporazuma prevlada angleško besedilo.

Za
Vlado Republike Slovenije:
Boris Balant l.r.

Za
Vlado Črne gore:
Zoran Begović l.r.

For the Government of
the Republic of Slovenia:
Boris Balant (s)

For the Government of
Montenegro:
Zoran Begović (s)

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za obrambo.

4. člen

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

Št. 212-07/09-14/12

Ljubljana, dne 22. septembra 2010

EPA 810-V

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

(2) The Parties shall exchange lists of radio frequencies authorised for use in their territories for the purposes of mutual communication.

Article 20 **Entry into Force**

(1) The Agreement is concluded for an indefinite period of time.

(2) The Agreement shall enter into force on the date of the receipt of the last notification that the necessary requirements for its entry into force have been fulfilled.

Article 21

Impact of this Agreement on Other Agreements

This Agreement does not prejudice the rights and obligations of the Parties arising from other international agreements.

Article 22

Settlement of Disputes

The Parties shall resolve disputes regarding the interpretation or implementation of this Agreement exclusively by mutual consultation and negotiation.

Article 23

Amendments

(1) The Parties may amend the Agreement by signing a separate protocol that shall enter into force in accordance with paragraph 2 of Article 20 of this Agreement.

(2) Written notices of the Parties on data modification of competent authorities and their addresses, telecommunication links and points of contact shall not be regarded as amendments to the Agreement.

Article 24

Termination of the Agreement

(1) Either Party has the right to terminate this Agreement in writing through diplomatic channels. Termination of the Agreement shall take effect three months from the date of receipt of the notification of its termination.

(2) Termination of this Agreement shall not prejudice the obligations regarding its implementation, which are still applicable at the date of its termination.

Done at Ljubljana on 28 January 2010, in two original copies in the Slovene, Montenegrin and English languages, all texts being equally authentic. In case of divergence of interpretation or application of the provisions of this Agreement, the English version shall prevail.

130. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Makedonije o izmenjavi in medsebojnem varovanju tajnih podatkov (BMKVTP)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Makedonije o izmenjavi in medsebojnem varovanju tajnih podatkov (BMKVTP)**

Razglašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Makedonije o izmenjavi in medsebojnem varovanju tajnih podatkov (BMKVTP), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-10

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE MAKEDONIJE O IZMENJAVI IN MEDSEBOJNEM VAROVANJU TAJNIH PODATKOV (BMKVTP)****1. člen**

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Republike Makedonije o izmenjavi in medsebojnem varovanju tajnih podatkov, podpisan 31. marca 2010 v Skopju.

2. člen

Sporazum se v izvirniku v slovenskem in angleškem jeziku glasi:¹

S P O R A Z U M**med Vlado Republike Slovenije in Vlado Republike Makedonije o izmenjavi in medsebojnem varovanju tajnih podatkov**

Vlada Republike Slovenije in Vlada Republike Makedonije (v nadaljevanju "pogodbениci") sta se

v skladu z že podpisanimi dvostranskimi in večstranskimi sporazumi o političnih in varnostnih zadevah ter o spodbujanju političnega, varnostnega, vojaškega in gospodarskega sodelovanja,

ob priznavanju pomembne vloge, ki jo ima vzajemno sodelovanje pogodbениci za utrjevanje miru, mednarodno varnost in medsebojno zaupanje,

zavedajoč se, da dobro sodelovanje lahko zahteva izmenjavo tajnih podatkov med pogodbениcama,

v želji vzpostaviti pravila, ki bodo urejala medsebojno varovanje tajnih podatkov, sporazumeli:

1. člen**Pomen izrazov**

V tem sporazumu izrazi pomenijo:

1) "**tajni podatek**" podatek, dokument ali gradivo, ki se ne glede na obliko prenaša ali nastane med pogodbениcama ter ga je treba varovati pred nepooblaščenim dostopom in je kot tak določen in ustrezno označen po notranjih zakonih in predpisih obeh pogodbениci;

2) "**nacionalni varnostni organ**" nacionalni organ, odgovoren za izvajanje tega sporazuma in nadzor nad njim;

A G R E E M E N T**between the Government of the Republic of Slovenia and the Government of the Republic of Macedonia on the Exchange and Mutual Protection of Classified Information**

The Government of the Republic of Slovenia and the Government of the Republic of Macedonia (hereinafter referred to as "the Contracting Parties"),

In accordance with bilateral and multilateral agreements already signed on political and security-related issues and on enhancing political, security, military and economic cooperation,

Recognizing the important role of the mutual cooperation between the Contracting Parties for the stabilization of peace, international security and mutual confidence,

Realizing that good cooperation may require exchange of Classified Information between the Contracting Parties,

Desiring to establish a set of rules regulating the mutual protection of Classified Information,

Have agreed as follows:

Article 1**Definitions**

For the purpose of this Agreement:

1) "**Classified Information**" means any information, document or material, regardless of its form, which is transmitted or generated between the Contracting Parties, requires protection against unauthorized access and is designated as such and marked appropriately under the national laws and regulations of either Contracting Party;

2) "**National Security Authority**" means the national authority responsible for the implementation and supervision of this Agreement;

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

3) **“pristojni varnostni organ”** vsak pristojni organ iz 3. člena, pooblaščen v skladu z notranjimi zakoni in predpisi pogodbenic in odgovoren za izvajanje sporazuma v zvezi z obravnavanimi področji;

4) **“potreba po seznanitvi”** potrebo po dostopu do tajnih podatkov v zvezi z danim uradnim položajem ali zaradi opravljanja določene naloge;

5) **“nepooblaščen dostop”** vsako obliko razkritja, zlorabe, odtujitve, spremembe, poškodbe, predložitve, uničenja tajnih podatkov kot tudi vsako drugo dejanje, ki ima za posledico kršitev varovanja ali izgubo takih podatkov. Nepooblaščen dostop vključuje tudi vsako dejanje ali opustitev dejanja, ki ima za posledico razkritje podatkov posamezniku, ki nima ustreznega dovoljenja za dostop do tajnih podatkov ali potrdila za dostop;

6) **“stopnja tajnosti”** kategorijo, ki v skladu z notranjimi zakoni in predpisi pogodbenic določa pomembnost tajnih podatkov, stopnjo omejitve dostopa do njih in stopnjo varovanja, ki jo zagotavljata pogodbenici;

7) **“dovoljenje za dostop do tajnih podatkov/varnostno dovoljenje organizacije”** pozitivno odločitev na podlagi postopka varnostnega preverjanja, ki potrjuje zanesljivost posameznika ali pravnega subjekta kot tudi druge varnostne vidike v skladu z notranjimi zakoni in predpisi pogodbenic. S tako odločitvijo je mogoče posamezniku ali pravnemu subjektu brez varnostnega tveganja dovoliti dostop do tajnih podatkov in možnost njihovega obravnavanja glede na stopnjo tajnosti, opredeljeno v dovoljenju;

8) **“potrdilo za dostop”** dokument, ki ga izda nacionalni varnostni organ Republike Makedonije, ki potrjuje, da ima tuji pravni subjekt ali posameznik varnostno dovoljenje in izpolnjuje pogoje za dostop do nacionalnih tajnih podatkov v Republiki Makedoniji;

9) **“pogodbenica izvora”** pogodbenico vključno z vsakim državnim organom ali zasebnim subjektom v njeni pristojnosti, ki da tajne podatke pogodbenici prejemnici;

10) **“pogodbenica prejemnica”** pogodbenico vključno z vsakim državnim organom ali zasebnim subjektom v njeni pristojnosti, ki prejme tajne podatke od pogodbenice izvora;

11) **“pogodba s tajnimi podatki”** pogodbo ali podpogodbo, vključno s pogajanjem pred sklenitvijo pogodbe, ki vključuje ali zajema dostop do tajnih podatkov;

12) **“izvajalec”** posameznika ali pravnega subjekta, ki je pravno sposoben skleniti pogodbo, in/ali stranko v pogodbi s tajnimi podatki v skladu z določbami tega sporazuma;

13) **“tretja stran”** vsako državo, organizacijo, pravni subjekt in posameznika, ki ni pogodbenica tega sporazuma.

2. člen

Stopnje tajnosti

1. Tajni podatki se označijo z ustrežno stopnjo tajnosti v skladu z notranjimi zakoni in predpisi pogodbenic, preden se dajo v skladu s tem sporazumom.

2. Enakovredne stopnje tajnosti so:

za Republiko Slovenijo	za Republiko Makedonijo	v angleščini
STROGO TAJNO	ДРЖАВНА ТАЈНА	TOP SECRET
TAJNO	СТРОГО ДОВЕРЛИВО	SECRET
ZAUPNO	ДОВЕРЛИВО	CONFIDENTIAL
INTERNO	ИНТЕРНО	RESTRICTED

3) **“Competent Security Authority”** means any competent entity authorized in accordance with the national laws and regulations of the Contracting Parties referred to in Article 3 and which is responsible for the implementation of this Agreement according to the fields concerned;

4) **“Need-to-know”** means the need to have access to Classified Information in the context of a given official position or for the performance of a specific task;

5) **“Unauthorized Access”** means any form of disclosure, misuse, misappropriation, change, damage, submission, destruction of Classified Information, as well as any other action, resulting in a breach of security or loss of such information. Unauthorized access also includes any action or inaction that results in disclosure of the information to an individual who does not possess an appropriate Personnel Security Clearance Certificate or an Access Permit;

6) **“Security Classification Level”** means the category which under the national laws and regulations of the Contracting Parties characterizes the significance of the Classified Information, the level of restriction of access to it and the level of its protection by the Contracting Parties;

7) **“Personnel/Facility Security Clearance Certificate”** means a positive determination stemming from a vetting procedure that ascertains the trustworthiness of an individual or legal entity as well as other security aspects in accordance with national laws and regulations of the Contracting Parties. Such a determination enables the individual or the legal entity to be granted access to and the possibility of handling Classified Information of a certain classification level defined in the security clearance certificate without a security risk;

8) **“Access Permit”** is a document issued by the National Security Authority of the Republic of Macedonia confirming that a foreign legal entity or individual has a security clearance certificate and is eligible to have access to the national Classified Information in the Republic of Macedonia;

9) **“Originating Party”** means the Contracting Party, including any state body or private entity under its jurisdiction, which releases Classified Information to the Receiving Party;

10) **“Receiving Party”** means the Contracting Party, including any state body or private entity under its jurisdiction, which receives Classified Information from the Originating Party;

11) **“Classified Contract”** means a contract or a subcontract, including pre-contractual negotiations, which contains or involves access to Classified Information;

12) **“Contractor”** means an individual or a legal entity possessing the legal capacity to conclude contracts and/or a party to a Classified Contract under the provisions of this Agreement;

13) **“Third Party”** means any state, organization, legal entity and individual which is not a party to this Agreement.

Article 2

Security Classification Levels

1. Classified Information shall be marked with the appropriate security classification level under the national laws and regulations of the Contracting Parties before being released under this Agreement.

2. The equivalence of the national security classification markings is:

For the Republic of Slovenia	For the Republic of Macedonia	In English
STROGO TAJNO	ДРЖАВНА ТАЈНА	TOP SECRET
TAJNO	СТРОГО ДОВЕРЛИВО	SECRET
ZAUPNO	ДОВЕРЛИВО	CONFIDENTIAL
INTERNO	ИНТЕРНО	RESTRICTED

3. člen**Nacionalni in pristojni varnostni organi**

1. Nacionalna varnostna organa pogodbenic sta:

v Republiki Sloveniji:

Urad Vlade RS za varovanje tajnih podatkov;

v Republiki Makedoniji:

Direktorat za varovanje tajnih podatkov.

2. Nacionalna varnostna organa se obvestita o vsakem drugem pristojnem varnostnem organu, odgovornem za izvajanje tega sporazuma glede na obravnavana področja.

3. Pogodbenici se obvestita o vseh poznejših spremembah nacionalnih varnostnih organov.

4. člen**Dostop do tajnih podatkov**

1. Dostop do podatkov stopnje INTERNO je omejen na posameznike, ki imajo potrebo po seznanitvi in so ustrezno usposobljeni.

2. Dostop do podatkov stopnje ZAUPNO in višje je omejen na posameznike, ki imajo potrebo po seznanitvi in jim je bilo v skladu z notranjimi zakoni in predpisi izdano dovoljenje za dostop do tajnih podatkov.

3. Pogodbenici medsebojno priznavata dovoljenja za dostop do tajnih podatkov. Skladno s tem se uporablja drugi odstavek 2. člena.

5. člen**Varovanje tajnih podatkov**

1. Pogodbenici v skladu s svojimi notranjimi zakoni in predpisi izvajata vse ustrezne ukrepe za varovanje tajnih podatkov, ki se dajo po tem sporazumu ali nastanejo po pogodbi s tajnimi podatki. Za te tajne podatke se zagotovi enako varovanje, kot je zagotovljeno za nacionalne tajne podatke enakovredne stopnje tajnosti iz 2. člena tega sporazuma.

2. Dostop do tajnih podatkov se odobri le tistim posameznikom/pravnim subjektom, ki jim je bilo v skladu z notranjimi zakoni in predpisi pogodbenice izdano dovoljenje za dostop do tajnih podatkov/varnostno dovoljenje organizacije ali potrdilo za dostop.

3. Pogodbenica izvora:

– zagotavlja označevanje tajnih podatkov z ustrezno oznako stopnje tajnosti v skladu s svojimi zakoni in predpisi ter

– obvesti pogodbenico prejemnico o pogojih za dajanje ali omejitvah pri uporabi tajnih podatkov in o vseh poznejših spremembah stopenj tajnosti.

4. Pogodbenica prejemnica ne sme:

– tajnih podatkov dati tretji strani brez predhodnega pisnega soglasja pogodbenice izvora,

– uporabljati tajnih podatkov za namen, ki je drugačen od tistega, za katerega so bili zagotovljeni, in

– znižati ali preklicati stopnje tajnosti danih tajnih podatkov brez predhodnega pisnega soglasja pogodbenice izvora.

5. Če drugi sporazumi, sklenjeni med pogodbenicama, vsebujejo strožje predpise o izmenjavi ali varovanju tajnih podatkov, se uporabijo ti predpisi.

6. člen**Prenos tajnih podatkov**

1. Tajni podatki se pošiljajo po diplomatskih ali drugih poteh, ki zagotavljajo varovanje pred nepooblaščenim dostopom, o katerih sta se predhodno dogovorila nacionalna varnostna organa pogodbenic. Pogodbenica prejemnica pisno potrdi prejem tajnih podatkov.

Article 3**National and Competent Security Authorities**

1. The National Security Authorities of the Contracting Parties are:

– in the Republic of Slovenia:

Government Office for the Protection of Classified Information

– in the Republic of Macedonia:

Directorate for Security of Classified Information.

2. The National Security Authorities shall notify each other of any other Competent Security Authority responsible for the implementation of this Agreement according to the fields concerned.

3. The Contracting Parties shall inform each other of any subsequent change of the National Security Authorities.

Article 4**Access to Classified Information**

1. Access to information classified RESTRICTED shall be limited to individuals who have a Need-to-know and have been briefed accordingly.

2. Access to information classified CONFIDENTIAL and above shall be limited to individuals who have a Need-to-know and who, in accordance with national laws and regulations, have been issued a Personnel Security Clearance Certificate.

3. The Contracting Parties shall mutually recognize their respective security clearance certificates. Paragraph 2 of Article 2 shall apply accordingly.

Article 5**Protection of Classified Information**

1. In accordance with their national laws and regulations, the Contracting Parties shall implement all appropriate measures for the protection of Classified Information, which shall be released under this Agreement or generated under a Classified Contract. Such Classified Information shall be afforded the same level of protection as has been provided for the national Classified Information with the corresponding security classification level, as defined in Article 2 of this Agreement.

2. Access to Classified Information shall only be granted to individuals/legal entities which have been issued Personnel/Facility Security Clearance Certificate or an Access Permit for Classified Information in accordance with the national laws and regulations of the respective Contracting Party.

3. The Originating Party shall:

– ensure that the Classified Information is marked with an appropriate security classification marking in accordance with its national laws and regulations; and

– inform the Receiving Party of any conditions of release or limitations on the use of the Classified Information, and of any subsequent changes of the classification level.

4. The Receiving Party is obliged not to:

– submit Classified Information to a Third Party without prior written consent of the Originating Party;

– use the Classified Information for a purpose other than the one it has been provided for; and

– downgrade or de-classify Classified Information transmitted without the prior written consent of the Originating Party.

5. If any other agreements concluded between the Contracting Parties contain stricter regulations regarding the exchange or protection of Classified Information, such regulations shall apply.

Article 6**Transmission of Classified Information**

1. Classified Information shall be transmitted through diplomatic or other channels ensuring protection against unauthorized access, previously agreed upon between the National Security Authorities of the Contracting Parties. The Receiving Party shall confirm the receipt of the Classified Information in writing.

2. Podatki stopnje INTERNO se lahko pošljejo tudi s pošto ali z drugo dostavno službo v skladu z notranjimi zakoni in predpisi.

3. Pri pošiljanju velikih pošilk, ki vsebujejo tajne podatke, se pristojni varnostni organi vsakokrat posebej dogovorijo in odobrijo prevozna sredstva, pot ter druge varnostne ukrepe.

4. Elektronsko se tajni podatki pošiljajo v šifrirani obliki, tako da se uporabijo šifrirne metode in naprave, ki jih sprejmeta nacionalna varnostna organa v skladu z notranjimi zakoni in predpisi.

7. člen

Prevajanje, razmnoževanje, uničevanje

1. Podatki stopnje STROGO TAJNO se lahko prevajajo ali razmnožujejo le v izjemnih primerih s predhodnim pisnim soglasjem pogodbenice izvora.

2. Tajne podatke prevajajo posamezniki, ki imajo ustrezno dovoljenje za dostop do tajnih podatkov. Prevodi morajo imeti ustrezno oznako stopnje tajnosti in primerno oznako v jeziku prevoda, ki navaja, da prevod vsebuje tajne podatke pogodbenice izvora.

3. Pri razmnoževanju tajnih podatkov so na vsakem izvodu razmnožene ali označene tudi oznake stopnje tajnosti izvirnika. Za tako razmnožene podatke velja enak nadzor kot za izvirne podatke. Izvodi so omejeni na najmanjše število, potrebno za uradni namen.

4. Ob upoštevanju petega odstavka tega člena se tajni podatki uničijo v skladu z notranjimi zakoni in predpisi pogodbenic na tak način, da jih ni mogoče delno ali v celoti obnoviti.

5. Podatki stopnje STROGO TAJNO se ne uničijo. Vrnejo se pogodbenici izvora.

8. člen

Pogodbe s tajnimi podatki

1. Pogodbe s tajnimi podatki se sklenejo in izvajajo v skladu z notranjimi zakoni in predpisi pogodbenic. Na zahtevo nacionalni varnostni organ pogodbenice zagotovi podatke, ali je bilo predlaganemu izvajalcu izdano dovoljenje za dostop do tajnih podatkov/varnostno dovoljenje organizacije, ki ustreza zahtevani stopnji tajnosti. Če predlagani izvajalec nima dovoljenja za dostop do tajnih podatkov/varnostnega dovoljenja organizacije, lahko nacionalni varnostni organ pogodbenice zahteva, da se izvajalec varnostno preveri zaradi izdaje dovoljenja za dostop do tajnih podatkov/varnostnega dovoljenja organizacije, preden se mu dovoli dostop do tajnih podatkov.

2. Varnostna priloga je sestavni del vsake pogodbe s tajnimi podatki. V tej prilogi izvajalec pogodbenice izvora navede tajne podatke, ki se dajo pogodbenici prejemnici, in stopnjo tajnosti, določeno tem podatkom.

3. Za varovanje tajnih podatkov izvajalec izpolnjuje najmanj navedena merila:

a) da tajne podatke razkrije le posamezniku, ki ima dovoljenje za dostop do tajnih podatkov, potrebo po seznanitvi in je zaposlen ali sodeluje pri izvajanju pogodbe s tajnimi podatki;

b) da določi poti za varen prenos tajnih podatkov;

c) da določi postopke in načine sporočanja sprememb glede tajnih podatkov zaradi sprememb stopnje tajnosti ali ker njihovo varovanje ni več potrebno;

2. Information classified RESTRICTED may also be transmitted by mail or other delivery services in accordance with national laws and regulations.

3. In case of transmitting a large consignment containing Classified Information, the Competent Security Authorities shall agree on and approve the means of transportation, the route and the other security measures on a case-by-case basis.

4. Classified Information shall be transmitted electronically in an encrypted form, by using cryptographic methods and devices accepted by the National Security Authorities of the Contracting Parties in accordance with national laws and regulations.

Article 7

Translation, Reproduction, Destruction

1. Information classified TOP SECRET may be translated or reproduced only in exceptional cases upon prior written consent of the Originating Party.

2. All translations of Classified Information shall be made by individuals possessing appropriate Personnel Security Clearance Certificates. Such translations shall bear an appropriate classification marking and a suitable annotation in the language of the translation, indicating that the translation contains Classified Information of the Originating Party.

3. When Classified Information is reproduced, the classification markings of the original shall also be reproduced or marked on each copy. Such reproduced information shall be subject to the same security measures as the original information. The number of the copies shall be limited to the minimum required for official purposes.

4. Subject to paragraph 5 of this Article, Classified Information shall be destroyed in accordance with the national laws and regulations of the Contracting Parties in such a manner as to eliminate the possibility of its partial or total reconstruction.

5. Information classified TOP SECRET shall not be destroyed. It shall be returned to the Originating Party.

Article 8

Classified Contracts

1. Classified Contracts shall be concluded and implemented in accordance with the national laws and regulations of each Contracting Party. Upon request the National Security Authority of each Contracting Party shall provide information on whether a proposed Contractor has been issued a national Personnel/Facility Security Clearance Certificate, corresponding to the required security classification level. If the proposed Contractor does not hold a Personnel/Facility Security Clearance Certificate, the National Security Authority of either Contracting Party may request that the Contractor be security cleared for the issuance of a Personnel/Facility Security Clearance Certificate before access to Classified Information is granted.

2. A security annex shall be an integral part of each Classified Contract. In this annex the Contractor of the Originating Party shall specify the Classified Information to be released to the Receiving Party and the security classification level granted to that information.

3. In order to protect the Classified Information the Contractor shall meet at least the following criteria:

a) to disclose Classified Information only to an individual who has a relevant Personnel Security Clearance Certificate, has a Need-to-know and is employed or engaged in the performing of the Classified Contract;

b) to determine the channels for safe transmission of the Classified Information;

c) to determine the procedures and mechanisms for communicating any changes in respect of the Classified Information either because of changes in its security classification level or because its protection is no longer required;

d) da določi postopek za odobritev obiskov, dostopa ali inšpekcijskih pregledov objektov pogodbenice, ki jih opravi osebje druge pogodbenice in se nanašajo na pogodbo s tajnimi podatki;

e) da obvesti svoj pristojni varnostni organ in nacionalni varnostni organ o vsakem dejanskem nepooblaščenem dostopu, poskusu ali sumu takega dostopa do tajnih podatkov, povezanih s pogodbo s tajnimi podatki, in o vseh ukrepih, ki so bili izvedeni, da se prepreči nadaljnje ogrožanje tajnih podatkov;

f) da se pri obravnavanju tajnih podatkov dosledno izvajajo fizični, organizacijski in tehnični ukrepi ter postopki in se tajni podatki iz pogodbe s tajnimi podatki uporabljajo le za namene, povezane s predmetom pogodbe;

g) da strogo upošteva postopke za obravnavanje tajnih podatkov in

h) da tajne podatke iz pogodbe s tajnimi podatki da tretji strani le z izrecnim pisnim soglasjem pogodbenice izvora.

4. V ustrezni pogodbi s tajnimi podatki se podrobneje določijo ukrepi, potrebni za varovanje tajnih podatkov, in postopek ocene in plačila odškodnine ob morebitni izgubi, ki je izvajalcu nastala zaradi nepooblaščenega dostopa do tajnih podatkov.

5. Pogodbe s tajnimi podatki, ki vključujejo podatke stopnje INTERNO, imajo ustrezno določbo, ki opredeljuje minimalne ukrepe za varovanje takih tajnih podatkov v skladu z notranjimi zakoni in predpisi.

6. Za stranke ustreznih podpogodb veljajo enake varnostne zahteve kot za izvajalca.

9. člen

Obiski

1. Za obiske, pri katerih je potreben dostop do tajnih podatkov, je treba predhodno pridobiti odobritev nacionalnega varnostnega organa pogodbenice gostiteljice.

2. Odobritev iz prvega odstavka tega člena dobi izključno posameznik, ki ima ustrezno dovoljenje za dostop do tajnih podatkov, izdano v skladu z notranjimi zakoni in predpisi pogodbenice, iz katere je obisk.

3. Zapisilo za obisk vsebuje:

a) namen, datum in program obiska;

b) ime in priimek, datum in kraj rojstva, državljanstvo obiskovalca;

c) številko potnega lista ali številko osebne izkaznice;

d) položaj obiskovalca in ime subjekta, ki ga zastopa;

e) stopnjo dovoljenja obiskovalca za dostop do tajnih podatkov;

f) ime in naslov objekta, ki ga namerava obiskati;

g) ime, priimek in položaj osebe, ki jo namerava obiskati;

h) druge podatke, o katerih se dogovorijo pristojni varnostni organi.

4. Zapisilo iz tretjega odstavka tega člena se pošlje najmanj 15 dni pred začetkom obiska. V nujnih primerih se pristojni varnostni organi lahko dogovorijo za krajši rok.

5. Nacionalna varnostna organa se lahko v posamezni pogodbi s tajnimi podatki dogovorita o seznamu obiskovalcev, ki so upravičeni do večkratnih obiskov. Seznam velja največ 12 mesecev. Zapisilo za večkratne obiske se predloži v skladu s tretjim odstavkom tega člena. Ko je seznam odobren, se lahko izvajalci neposredno dogovarjajo o obiskih.

6. Pogodbenica na podlagi zaprosila druge pogodbenice odobri obiske varnostnega osebja druge pogodbenice, ki bo sodelovalo z ustreznimi organi pogodbenice gostiteljice pri ocenjevanju varovanja prenesenih tajnih podatkov.

d) to determine the procedure for the approval of visits, access or inspections by personnel of one of the Contracting Parties to the facilities of the other Contracting Party that are related to the Classified Contract;

e) to notify its Competent Security Authority and National Security Authority of any actual, attempted or suspected unauthorized access to Classified Information, related to the Classified Contract and measures taken in order to prevent any further compromise of Classified Information;

f) consistently to take physical, organizational and technical measures and perform procedures in handling Classified Information and to use such information under the Classified Contract only for the purposes related to the subject of the contract;

g) to adhere strictly to the procedures for handling of Classified Information; and

h) to release Classified Information under the Classified Contract to any Third Party only with an explicit written consent of the Originating Party.

4. The measures required for protection of the Classified Information, as well as the procedure for assessment of and indemnification for possible losses caused to the Contractors by unauthorized access to Classified Information shall be specified in more detail in the relevant Classified Contract.

5. Classified Contracts including information classified RESTRICTED, shall contain an appropriate clause identifying the minimum measures to be applied for the protection of such Classified Information in accordance with national laws and regulations.

6. The parties to the relevant subcontracts shall be subject to the same security requirements as the Contractor.

Article 9

Visits

1. Visits necessitating access to Classified Information shall be subject to prior approval of the National Security Authority of the host Contracting Party.

2. The approval referred to in paragraph 1 of this Article shall be given exclusively to the individual holding an appropriate Personnel Security Clearance Certificate issued in accordance with the national laws and regulations of the visiting Contracting Party.

3. A request for a visit shall include:

a) the purpose, date and program of the visit;

b) the visitor's name, date and place of birth, nationality;

c) passport number or identity card number;

d) the position of the visitor and the name of the entity which he or she represents;

e) the level of the Personnel Security Clearance Certificate held by the visitor;

f) the name and address of the facility to be visited;

g) the name and position of the person to be visited;

h) other data, if agreed upon by the Competent Security Authorities.

4. The request referred to in paragraph 3 of this Article shall be transmitted at least 15 days prior to the commencement of the visit. In urgent cases, the Competent Security Authorities can agree on a shorter period.

5. In a particular Classified Contract, the National Security Authorities may agree on a list of visitors entitled to recurring visits. The list shall be valid for a period not exceeding 12 months. The request for a recurring visit shall be submitted in accordance with the provision of paragraph 3 of this Article. Once the list has been approved, visits may be arranged directly between the Contractors involved.

6. At the request of the other Contracting Party, each Contracting Party shall authorize visits of the security personnel of the other Contracting Party to participate with the appropriate authorities of the host Contracting Party in the assessment of the protection of the Classified Information transmitted.

7. Pristojni varnostni organi obeh pogodbenic zagotavljajo varstvo osebnih podatkov obiskovalcev v skladu s svojimi notranjimi zakoni in predpisi.

10. člen

Varnostno sodelovanje

1. Da bi dosegli in ohranili primerljive varnostne standarde, si nacionalna varnostna organa na podlagi zaprosila zagotavljata podatke o svojih nacionalnih varnostnih standardih, postopkih in praksah za varovanje tajnih podatkov. V ta namen se lahko nacionalna varnostna organa obiskujeta.

2. Nacionalna varnostna organa se obveščata o veljavnih notranjih zakonih in predpisih, ki urejajo varovanje tajnih podatkov, pa tudi o vseh poznejših spremembah.

3. Nacionalna varnostna organa se obveščata o vseh izjemnih varnostnih tveganjih in grožnjah, ki lahko ogrozijo dane tajne podatke.

4. Nacionalna varnostna organa si na podlagi zaprosila in v skladu z notranjimi zakoni in predpisi pomagata pri postopkih varnostnega preverjanja.

5. Nacionalna varnostna organa se nemudoma obvestita o vsaki spremembi pri medsebojno priznanih dovoljenjih za dostop do tajnih podatkov/varnostnih dovoljenjih organizacij.

6. Varnostne službe pogodbenic lahko operativne in/ali obveščevalne podatke izmenjavajo neposredno v skladu s svojimi notranjimi zakoni in predpisi.

7. Sodelovanje po tem sporazumu poteka v angleškem jeziku.

11. člen

Kršitev varnosti

1. Nacionalni varnostni organ pogodbenice takoj obvesti nacionalni varnostni organ druge pogodbenice o vsakem sumu ali odkritju kršitve ali ogrožanju varnosti izmenjanih tajnih podatkov in opravi ustrezno preiskavo. Pri preiskavi po potrebi sodeluje nacionalni varnostni organ druge pogodbenice.

2. Pri nepooblaščenem dostopu pri tretji strani do tajnih podatkov nacionalni varnostni organ pogodbenice, ki je poslala podatke, ukrepa, kot je predpisano v prvem odstavku tega člena.

3. V vseh primerih se nacionalni varnostni organ druge pogodbenice obvesti o izsledkih preiskave, prejme pa tudi končno poročilo o razlogih za škodo in njenem obsegu.

12. člen

Stroški

Vsaka pogodbenica krije stroške, povezane z izpolnjevanjem svojih obveznosti po tem sporazumu.

13. člen

Končne določbe

1. Sporazum začne veljati prvi dan drugega meseca po prejemu zadnjega uradnega obvestila, s katerim se pogodbenici po diplomatski poti obvestita, da so izpolnjene njune notranjepravne zahteve, potrebne za začetek veljavnosti tega sporazuma.

2. Sporazum je sklenjen za nedoločen čas. Vsaka pogodbenica ga lahko odpove s pisnim obvestilom, ki ga po diplomatski poti pošlje drugi pogodbenici. V tem primeru sporazum velja še šest mesecev po prejemu obvestila o odpovedi.

7. The Competent Security Authorities of both Contracting Parties shall ensure the protection of the personal data of the visitors in accordance with their national laws and regulations.

Article 10

Security Cooperation

1. In order to achieve and maintain comparable security standards, the National Security Authorities shall, on request, provide each other with information about their national security standards, procedures and practices for the protection of Classified Information. To this aim the National Security Authorities may visit each other.

2. The National Security Authorities shall inform each other of the national laws and regulations in force regulating the protection of Classified Information as well as any subsequent amendments.

3. The National Security Authorities shall inform each other of exceptional security risks and threats that may endanger the released Classified Information.

4. On request, the National Security Authorities shall, in accordance with national laws and regulations, assist each other in carrying out security clearance procedures.

5. The National Security Authorities shall promptly inform each other about any changes in mutually recognized Personnel/Facility Security Clearance Certificates.

6. The security services of the Contracting Parties may exchange operative and/or intelligence information directly in accordance with national laws and regulations.

7. Cooperation under this Agreement shall be effected in the English language.

Article 11

Breach of Security

1. The National Security Authority of either Contracting Party shall immediately notify the National Security Authority of the other Contracting Party of any suspicion or discovery of a breach or compromise of security of the exchanged Classified Information and shall carry out an appropriate investigation. The National Security Authority of the other Contracting Party shall, if required, cooperate in the investigation.

2. In cases in which unauthorized access to Classified Information has occurred in a Third Party, the National Security Authority of the sending Contracting Party shall take the actions set forth in paragraph 1 of this Article.

3. In all cases the National Security Authority of the other Contracting Party shall be informed of the results of the investigation and shall receive a final report on the reasons for and extent of the damage.

Article 12

Expenses

Each Contracting Party shall bear the expenses related to the implementation of its obligations under this Agreement.

Article 13

Final Provisions

1. This Agreement shall enter into force on the first day of the second month following the receipt of the last notification by which the Contracting Parties inform each other through diplomatic channels that their internal legal requirements necessary for the entry into force of this Agreement have been fulfilled.

2. This Agreement is concluded for an unlimited period of time. It may be terminated by either Contracting Party upon giving written notice to the other Contracting Party through diplomatic channels. In such a case, this Agreement shall remain in force for another six-month period after the receipt of the termination notice.

3. Ne glede na odpoved sporazuma se tajni podatki, ki so bili dani ali so nastali po njem, še naprej varujejo v skladu z njegovimi določbami.

4. Sporazum se lahko spremeni s pisnim soglasjem pogodbenic. Spremembe začnejo veljati v skladu s prvim odstavkom tega člena.

5. Pogodbenici rešujeta spor zaradi razlage ali izvajanja tega sporazuma izključno z neposrednimi posvetovanji in pogajanji.

6. Za izvajanje tega sporazuma se lahko sklenejo izvedbeni varnostni dogovori.

Sestavljeno v Skopju 31. marca 2010 v dveh izvirnikih v slovenskem, makedonskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi določb sporazuma prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Milan Tarman l.r.

Za Vlado
Republike Makedonije
Lidija Kostovska l.r.

For the Government of
the Republic of Slovenia
Milan Tarman (s)

For the Government of
the Republic of Macedonia
Lidija Kostovska (s)

3. Notwithstanding the termination of this Agreement, the Classified Information transmitted or generated under this Agreement shall continue to be protected in accordance with the provisions set forth herein.

4. This Agreement may be amended by written consent of the Contracting Parties. Such amendments shall enter into force in accordance with the provisions of paragraph 1 of this Article.

5. Any dispute regarding the interpretation or implementation of this Agreement shall be resolved exclusively by direct consultations and negotiations between the Contracting Parties.

6. Implementing security arrangements may be concluded for the implementation of this Agreement.

Done in Skopje on 31 March 2010, in two originals, each in the Slovenian, Macedonian and English languages, all texts being equally authentic. In case of any divergence of interpretation of the provisions of this Agreement, the English text shall prevail.

3. člen

Za izvajanje sporazuma skrbi Urad Vlade Republike Slovenije za varovanje tajnih podatkov.

4. člen

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

Št. 040-05/09-25/11
Ljubljana, dne 22. septembra 2010
EPA 369-V

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

131. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Svetom ministrov Republike Albanije o izmenjavi in medsebojnem varovanju tajnih podatkov (BALVTP)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Sporazuma med Vlado Republike Slovenije in Svetom ministrov Republike Albanije o izmenjavi in medsebojnem varovanju tajnih podatkov (BALVTP)**

Razglašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Svetom ministrov Republike Albanije o izmenjavi in medsebojnem varovanju tajnih podatkov (BALVTP), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-11

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN SVETOM MINISTROV REPUBLIKE ALBANIJE O IZMENJAVI IN MEDSEBOJNEM VAROVANJU TAJNIH PODATKOV (BALVTP)****1. člen**

Ratificira se Sporazum med Vlado Republike Slovenije in Svetom ministrov Republike Albanije o izmenjavi in medsebojnem varovanju tajnih podatkov, podpisan 7. maja 2010 v Tirani.

2. člen

Sporazum se v izvirniku v slovenskem in angleškem jeziku glasi:¹

S P O R A Z U M**MED VLADO REPUBLIKE SLOVENIJE
IN SVETOM MINISTROV REPUBLIKE ALBANIJE
O IZMENJAVI IN MEDSEBOJNEM VAROVANJU
TAJNIH PODATKOV**

Vlada Republike Slovenije
in
Svet ministrov Republike Albanije,
v nadaljevanju »pogodbenika«,
sta se ob tem, da sta se dogovorila za razgovore o var-
nostnih vprašanjih ter razširitev in poglobitev medsebojnega
sodelovanja,

ob spoznanju, da dobro sodelovanje lahko zahteva izme-
njavo tajnih podatkov med pogodbenikoma,

v želji, da bi zagotovila varovanje tajnih podatkov, iz-
menjanih med njima ali med javnimi in zasebnimi subjekti
v njihovi pristojnosti, ob upoštevanju državnih interesov in
varnosti,

dogovorila:

1. ČLEN**POMEN IZRAZOV**

V tem sporazumu izrazi pomenijo:

»**tajni podatek**«: podatek, dokument ali gradivo ne glede
na njegovo obliko, ki je kot tak določen in označen v skladu z
notranjo zakonodajo pogodbenic ter zahteva varovanje pred
nepooblaščenim razkritjem, odtujitvijo ali izgubo;

A G R E E M E N T**BETWEEN THE GOVERNMENT
OF THE REPUBLIC OF SLOVENIA
AND THE COUNCIL OF MINISTERS
OF THE REPUBLIC OF ALBANIA
ON THE EXCHANGE AND MUTUAL
PROTECTION OF CLASSIFIED INFORMATION**

The Government of the Republic of Slovenia
and
the Council of Ministers of the Republic of Albania,
hereinafter referred to as the "Parties",
having agreed to hold talks on security related issues and
to broaden and tighten their mutual cooperation,

realizing that good cooperation may require the exchange
of Classified Information between the Parties and
wishing to ensure the protection of Classified Information
exchanged between the Parties or between public and private
entities under their jurisdiction, in respect of national interests
and security,

have agreed the following:

ARTICLE 1**DEFINITIONS**

For the purpose of this agreement these terms mean the
following:

»**Classified Information**«: Any information, document or
material, regardless of its form, designated and marked as
such under the national legislation of either Party and requiring
protection against unauthorised disclosure, misappropriation
or loss.

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

»**pogodba s tajnimi podatki**«: izvajalska ali podizvajalska pogodba, vključno s pogajanjem pred sklenitvijo pogodbe, ki vsebuje tajne podatke ali vključuje dostop do njih;

»**pogodbenik izvora**«: pogodbenik, vključno z javnimi ali zasebnimi subjekti v njegovi pristojnosti, ki daje tajne podatke pogodbeniku prejemniku;

»**pogodbenik prejemnik**«: pogodbenik, vključno z javnimi ali zasebnimi subjekti v njegovi pristojnosti, ki prejme tajne podatke od pogodbenika izvora;

»**tretja stran**«: država, vključno z javnimi ali zasebnimi subjekti v njeni pristojnosti, ali mednarodna organizacija, ki ni pogodbenica tega sporazuma;

»**potreba po seznanitvi**«: načelo, s katerim se posamezniku lahko dovoli dostop do tajnih podatkov le zaradi opravljanja njegovih/njenih uradnih dolžnosti ali nalog;

»**dovoljenje za dostop do tajnih podatkov**«: odločitev pristojnega varnostnega organa, da je posameznik upravičen do dostopa do tajnih podatkov v skladu z notranjo zakonodajo;

»**varnostno dovoljenje organizacije**«: odločitev pristojnega varnostnega organa, da pravni subjekt izpolnjuje predpisane fizične in organizacijske pogoje za ravnanje s tajnimi podatki v skladu z notranjo zakonodajo;

»**izvajalec**«: javni in/ali zasebni subjekt s pravno sposobnostjo za sklepanje pogodb s tajnimi podatki;

»**obiskovalec**«: predstavnik javnega ali zasebnega subjekta v pristojnosti pogodbenika, ki mora obiskati organizacijo drugega pogodbenika, katere dejavnost vključuje dostop do tajnih podatkov.

2. ČLEN

NAMEN IN PODROČJE UPORABE

Pogodbenika v skladu s svojo notranjo zakonodajo sprejmeta vse ustrezne ukrepe, da bi zagotovila varovanje tajnih podatkov, ki se prenašajo ali nastajajo v skladu s tem sporazumom.

3. ČLEN

PRISTOJNI VARNOSTNI ORGANI

1. Nacionalna varnostna organa, ki sta ju pogodbenika imenovala za pristojna za splošno izvajanje vseh vidikov tega sporazuma in ustrezni nadzor nad njimi, sta:

v Republiki Sloveniji:

Urad Vlade Republike Slovenije za varovanje tajnih podatkov (nacionalni varnostni organ – NVO);

v Republiki Albaniji:

Drejtoria e Sigurimit të Informacionit të Klasifikuar (nacionalni varnostni organ – NVO).

2. Nacionalna varnostna organa se uradno obveščata o drugih pristojnih varnostnih organih, odgovornih za izvajanje tega sporazuma.

3. Pogodbenika se obveščata o vseh poznejših spremembah nacionalnih varnostnih organov.

4. ČLEN

OZNAKE STOPNJE TAJNOSTI

1. Tajni podatki, dani na podlagi tega sporazuma, so označeni z ustreznimi oznakami stopnje tajnosti po notranji zakonodaji pogodbenikov.

2. Enakovredne oznake stopnje tajnosti so:

Republika Slovenija	Republika Albanija	V angleškem jeziku
STROGO TAJNO	TEPËR SEKRET	TOP SECRET
TAJNO	SEKRET	SECRET
ZAUPNO	KONFIDENCIAL	CONFIDENTIAL
INTERNO	I KUFIZUAR	RESTRICTED

»**Classified Contract**«: A contract or a subcontract, including pre-contractual negotiations, which contains Classified Information or involves access to it.

»**Originating Party**«: The Party, including any public or private entities under its jurisdiction, which releases Classified Information to the Recipient Party.

»**Recipient Party**«: The Party, including any public or private entities under its jurisdiction, which receives Classified Information from the Originating Party.

»**Third Party**«: A state, including any public or private entities under its jurisdiction, or an international organisation that is not a Party to this Agreement.

»**Need-to-Know**«: The principle by which access to Classified Information may be granted to an individual only in connection with his/her official duties or tasks.

»**Personnel Security Clearance**«: The determination by a Competent Security Authority that an individual is eligible to have access to Classified Information, in accordance with national legislation.

»**Facility Security Clearance**«: The determination by a Competent Security Authority that a legal entity has the physical and organisational capability to fulfil the prescribed conditions for Classified Information handling in accordance with national legislation.

»**Contractor**«: A public and/or private entity possessing the legal capability to conclude a Classified Contract.

»**Visitor**«: Representative of public or private entities under the jurisdiction of a Party who requires to visit facilities of the other Party engaged in activities involving Classified Information.

ARTICLE 2

PURPOSE AND SCOPE

In accordance with their national legislation both Parties shall take all appropriate measures to ensure the protection of Classified Information that is transmitted or generated according to this agreement.

ARTICLE 3

COMPETENT SECURITY AUTHORITIES

1. The National Security Authorities designated by the Parties as responsible for the general implementation and relevant controls of all aspects of this agreement are:

In the Republic of Slovenia:

Urad Vlade Republike Slovenije za varovanje tajnih podatkov (National Security Authority – NSA)

In the Republic of Albania:

Drejtoria e Sigurimit të Informacionit të Klasifikuar (National Security Authority – NSA)

2. The National Security Authorities shall notify each other of any other Competent Security Authorities that are responsible for the implementation of this agreement.

3. The Parties shall inform each other of any subsequent changes of the National Security Authorities.

ARTICLE 4

SECURITY CLASSIFICATIONS

1. Classified Information released under this agreement shall be marked with the appropriate security classification level under the national legislation of the Parties.

2. The equivalence of the national security classification markings is as follows:

Republic of Slovenia	Republic of Albania	English translation
STROGO TAJNO	TEPËR SEKRET	TOP SECRET
TAJNO	SEKRET	SECRET
ZAUPNO	KONFIDENCIAL	CONFIDENTIAL
INTERNO	I KUFIZUAR	RESTRICTED

5. ČLEN**DOSTOP DO TAJNIH PODATKOV**

1. Dostop do tajnih podatkov stopnje INTERNO je omejen na osebe, ki imajo potrebo po seznanitvi in so bile ustrezno poučene.

2. Dostop do tajnih podatkov stopnje ZAUPNO in višje stopnje je omejen na osebe, ki imajo potrebo po seznanitvi in ustrezno dovoljenje za dostop do tajnih podatkov.

3. Pogodbenika si priznavata dovoljenja za dostop do tajnih podatkov in varnostna dovoljenja organizacij. Skladno s tem se uporablja drugi odstavek 4. člena.

6. ČLEN**NAČELA VAROVANJA TAJNOSTI**

1. Pogodbenika zagotavljata tajnim podatkom iz tega sporazuma enako varovanje kakor svojim podatkom enakovredne stopnje tajnosti.

2. Pristojni varnostni organ pogodbenika izvora:

a) zagotovi, da so tajni podatki označeni z ustrezno oznako stopnje tajnosti v skladu z notranjo zakonodajo, in

b) obvesti pogodbenika prejemnika o:

– pogojih za dajanje tajnih podatkov ali omejitvah pri njihovi uporabi in

– vsaki poznejši spremembi stopnje tajnosti.

3. Pristojni varnostni organ pogodbenika prejemnika:

a) zagotovi, da so tajni podatki označeni z enakovredno oznako stopnje tajnosti v skladu z drugim odstavkom 4. člena,

b) zagotovi, da se stopnja tajnosti ne spremeni, razen s pisnim dovoljenjem pogodbenika izvora,

c) uporabi tajne podatke le za namen, za katerega so bili dostavljeni, in z omejitvami, ki jih je navedel pogodbenik izvora, in

d) tajnih podatkov ne da tretji strani brez predhodnega pisnega soglasja pogodbenika izvora.

7. ČLEN**PRENOS TAJNIH PODATKOV**

1. Prenos tajnih podatkov med pogodbenikoma poteka po diplomatski, vojaški ali drugi poti, ki jo odobrita njuna pristojna varnostna organa v skladu z notranjo zakonodajo.

2. Podatki stopnje INTERNO se lahko prenašajo tudi po pošti ali z drugo dostavno službo v skladu z notranjo zakonodajo.

8. ČLEN**RAZMNOŽEVANJE, PREVAJANJE
IN UNIČEVANJE TAJNIH PODATKOV**

1. Vsi izvodi in prevodi so označeni z ustreznimi oznakami stopnje tajnosti in varovani kot tajni podatki izvirnika. Prevodi in število razmnoženih izvodov so omejeni na najmanjše število, potrebno za uradne namene.

2. Vsak prevod vsebuje ustrezno navedbo v jeziku prevođa, da prevod vsebuje tajne podatke pogodbenika izvora.

3. Tajni podatki stopnje STROGO TAJNO se prevajajo ali razmnožujejo le s pisnim dovoljenjem pogodbenika izvora.

4. Tajni podatki stopnje STROGO TAJNO se ne smejo uničiti. Vrnejo se pogodbeniku izvora. Če v kriznih razmerah tajnih podatkov stopnje STROGO TAJNO ni mogoče varovati ali vrniti pogodbeniku izvora, se takoj uničijo. Pogodbenik prejemnik uradno obvesti pogodbenika izvora o uničenju tajnih podatkov.

ARTICLE 5**ACCESS TO CLASSIFIED INFORMATION**

1. Access to information classified as RESTRICTED shall be limited to persons who have a Need-to-Know and who have been briefed accordingly.

2. Access to information classified as CONFIDENTIAL and above shall be limited to persons who have a Need-to-Know and have an appropriate Personnel Security Clearance.

3. The Parties shall mutually recognise their respective Personnel Security Clearances and Facility Security Clearances. Paragraph 2 of Article 4 shall apply accordingly.

ARTICLE 6**SECURITY PRINCIPLES**

1. The Parties shall afford Classified Information referred to in this agreement the same protection as their own information of the corresponding level of security classification.

2. The Competent Security Authority of the Originating Party shall:

a) ensure that Classified Information is marked with the appropriate security classification marking in accordance with its national legislation, and

b) inform the Recipient Party
– of any conditions of release or limitations on the use of the Classified Information, and

– of any subsequent changes in the classification level.

3. The Competent Security Authority of the Recipient Party shall:

a) ensure that Classified Information is marked with the equivalent classification marking in accordance with Paragraph 2 of Article 4,

b) ensure that the classification level is not changed unless authorized in writing by the Originating Party,

c) use the Classified Information only for the purpose for which it has been delivered and within the limitations stated by the Originating Party, and

d) not release Classified Information to a Third Party without the prior written consent of the Originating Party.

ARTICLE 7**TRANSMISSION OF CLASSIFIED INFORMATION**

1. Classified Information shall be transmitted between the Parties through diplomatic or military channels or through other channels approved by their Competent Security Authorities in accordance with national legislation.

2. Information classified as RESTRICTED may be transmitted also by post or another delivery service in accordance with national legislation.

ARTICLE 8**REPRODUCTION, TRANSLATION AND DESTRUCTION
OF CLASSIFIED INFORMATION**

1. All reproductions and translations shall bear the appropriate security classification markings and they shall be afforded the same protection as the original Classified Information. Translations and the number of reproductions shall be limited to the minimum required for an official purpose.

2. All translations shall contain a suitable annotation, in the language of translation, indicating that they contain Classified Information of the Originating Party.

3. Classified Information marked TOP SECRET shall be translated or reproduced only with the written permission of the Originating Party.

4. Classified Information marked TOP SECRET shall not be destroyed. It shall be returned to the Originating Party. If in the case of a crisis situation, it is not possible to protect Classified Information marked TOP SECRET or return it to the Originating Party, it shall be destroyed immediately. The Recipient Party shall notify the Originating Party of the destruction of the Classified Information.

5. Tajni podatki stopnje TAJNO ali nižje stopnje se v skladu z notranjo zakonodajo uničijo, ko jih pogodbenik prejemnik ne potrebuje več.

9. ČLEN

POGODBE S TAJNIMI PODATKI

1. Če namerava pristojni varnostni organ pogodbenika izvora dovoliti pogajanja za sklenitev pogodbe s tajnimi podatki z izvajalcem, ki je v pristojnosti pogodbenika prejemnika, na podlagi zaprosila pridobi od pristojnega varnostnega organa pogodbenika prejemnika vsa ustrezna dovoljenja za dostop do tajnih podatkov in varnostna dovoljenja organizacij.

2. Pristojni varnostni organ pogodbenika prejemnika lahko pri odprtem tajnem razpisu pristojnemu varnostnemu organu pogodbenika izvora zagotovi ustrezna dovoljenja za dostop do tajnih podatkov in varnostna dovoljenja organizacij tudi brez zaprosila.

3. Za podizvajalce veljajo enake varnostne zahteve kot za izvajalca, ki je sklenil glavno pogodbo s tajnimi podatki.

4. Pristojni varnostni organ pogodbenika izvora lahko predlaga in sodeluje pri varnostnih pregledih, ki jih izvede pristojni varnostni organ pogodbenika prejemnika v organizacijah, da zagotovi njihovo spoštovanje tega sporazuma.

10. ČLEN

OBISKI

1. Za obiske, pri katerih je potreben dostop do tajnih podatkov, je potrebno predhodno dovoljenje pristojnega varnostnega organa pogodbenika gostitelja.

2. Zaposilo za obisk se predloži ustreznemu pristojnemu varnostnemu organu vsaj 20 dni pred začetkom obiska. Naslednji podatki se uporabijo samo za namene obiska. Zaposilo za obisk vsebuje:

- a) ime in priimek obiskovalca, datum in kraj rojstva, državljanstvo in številko osebne izkaznice/potnega lista;
- b) položaj obiskovalca s podatki o delodajalcu, ki ga obiskovalec zastopa;
- c) podatke o projektu, pri katerem obiskovalec sodeluje;
- d) veljavnost in stopnjo tajnosti dovoljenja za dostop do tajnih podatkov obiskovalca, če je potrebno;
- e) ime, naslov, telefonsko številko, številko telefaksa, elektronski naslov organizacije, v kateri bo obisk, in osebo za stike;
- f) namen obiska, vključno z najvišjo stopnjo obravnavanih tajnih podatkov;
- g) datum in trajanje obiska. Pri večkratnih obiskih se navede celotno obdobje obiskov;

h) datum in podpis pristojnega varnostnega organa pošiljatelja.

3. V nujnih primerih se pristojna varnostna organa lahko dogovorita za krajši rok predložitve zaprosila za obisk.

4. Pristojna varnostna organa se lahko dogovorita o seznamu obiskovalcev, ki imajo pravico do večkratnih obiskov. Seznam velja največ 12 mesecev. Zaposilo za večkratne obiske se predloži v skladu z drugim odstavkom. Ko je seznam potrjen, se lahko sodelujoče organizacije o obiskih dogovarjajo neposredno.

5. Vsak tajni podatek, ki ga pridobi obiskovalec, se na podlagi tega sporazuma šteje za tajni podatek.

5. Information classified as SECRET or below shall be destroyed after it is no longer considered necessary by the Recipient Party, in accordance with national legislation.

ARTICLE 9

CLASSIFIED CONTRACTS

1. If the Competent Security Authority of the Originating Party intends to permit negotiations for concluding a Classified Contract with a contractor under the jurisdiction of the Recipient Party, it shall, on request, obtain all relevant Personnel Security Clearances and Facility Security Clearances from the Competent Security Authority of the Recipient Party.

2. In the case of an open classified tender, the Competent Security Authority of the Recipient Party may provide the Competent Security Authority of the Originating Party with the relevant Personnel Security Clearances and Facility Security Clearances, even without a request.

3. Sub-contractors shall be subject to the same security requirements as the contractor that concluded the main Classified Contract.

4. The Competent Security Authority of the Originating Party may propose and participate in security inspections at facilities carried out by the Competent Security Authority of the Recipient Party to ensure their compliance with this agreement.

ARTICLE 10

VISITS

1. Visits requiring access to Classified Information shall be subject to prior permission of the Competent Security Authority of the host Party.

2. A request for a visit shall be submitted to the relevant Competent Security Authority at least 20 days prior to the commencement of the visit. The following data shall be used for the purpose of the visit only. The request for the visit shall include:

- a) the visitor's name, date and place of birth, nationality and ID card/passport number;
- b) the visitor's position, with a specification of the employer whom the visitor represents;
- c) a specification of the project in which the visitor is participating;
- d) the validity and level of the visitor's Personnel Security Clearance, if required;
- e) the name, address, phone/fax number, e-mail and point of contact of the facility to be visited;
- f) the purpose of the visit, including the highest level of Classified Information to be involved;
- g) the date and duration of the visit. In the case of recurring visits, the total period covered by the visits shall be stated;
- h) the date and signature of the sending Competent Security Authority.

3. In urgent cases, the Competent Security Authorities may agree on a shorter period of submission of a request for a visit.

4. The Competent Security Authorities may agree on a list of visitors entitled to recurring visits. The list shall be valid for a period not exceeding 12 months. A request for recurring visits shall be submitted in accordance with Paragraph 2 of this article. Once a list has been approved, visits may be arranged directly between the facilities involved.

5. Any Classified Information acquired by a visitor shall be considered to be Classified Information under this agreement.

11. ČLEN**SODELOVANJE PRI VAROVANJU TAJNOSTI**

1. Zaradi doseganja in ohranjanja primerljivih varnostnih standardov pristojna varnostna organa na podlagi zaprosila drug drugemu zagotovita podatke o svojih nacionalnih varnostnih standardih, postopkih in praksah za varovanje tajnih podatkov. V ta namen se lahko nacionalna varnostna organa obiskujeta.

2. Pristojna varnostna organa se obveščata o izjemnih varnostnih tveganjih, ki lahko ogrozijo dane tajne podatke.

3. Na podlagi zaprosila in v skladu z notranjo zakonodajo si pristojna varnostna organa pomagata pri izvajanju postopkov varnostnega preverjanja.

4. Pristojna varnostna organa se takoj obvestita o vsaki spremembi medsebojno priznanih dovoljenj za dostop do tajnih podatkov in varnostnih dovoljenj organizacij.

5. V skladu z notranjo zakonodajo si lahko varnostne službe pogodbenikov neposredno izmenjavajo operativne in/ali obveščevalne podatke.

6. Sodelovanje po tem sporazumu poteka v angleškem jeziku.

12. ČLEN**KRŠITEV VAROVANJA TAJNOSTI**

1. Pogodbenik takoj uradno obvesti drugega pogodbenika o sumu ali odkritju kršitve ali ogrožanja varovanja tajnih podatkov.

2. Pristojni pogodbenik sprejme vse možne ustrezne ukrepe v skladu s svojo notranjo zakonodajo, da omeji posledice kršitve ali ogrožanja iz prvega odstavka in prepreči nadaljnje kršitve. Na podlagi zaprosila drug pogodbenik pomaga pri preiskavi; obveščen mora biti o izidu preiskave in ukrepih, sprejetih zaradi kršitve.

13. ČLEN**STROŠKI**

Vsak pogodbenik krije svoje stroške, ki nastanejo pri izvajanju tega sporazuma.

14. ČLEN**REŠEVANJE SPOROV**

Vse spore zaradi razlage ali uporabe tega sporazuma pogodbenika rešujeta s posvetovanji in pogajanji ter jih ne predložita nobenemu mednarodnemu sodišču ali tretji osebi.

15. ČLEN**KONČNE DOLOČBE**

1. Sporazum je sklenjen za nedoločen čas. Sporazum mora biti odobren v skladu z notranjepravnimi postopki pogodbenikov in začne veljati prvi dan drugega meseca po prejemu zadnjega uradnega obvestila, da so izpolnjene zahteve, potrebne za začetek njegove veljavnosti.

2. Sporazum se lahko kadar koli spremeni s pisnim soglasjem obeh pogodbenikov. Spremembe začnejo veljati v skladu s prvim odstavkom.

3. Pogodbenik lahko ta sporazum kadar koli pisno odpove. V takem primeru sporazum preneha veljati šest mesecev po dnevu, ko je drugi pogodbenik prejel uradno obvestilo o odpovedi.

4. Ne glede na prenehanje veljavnosti tega sporazuma se vsi tajni podatki, dostavljeni na podlagi tega sporazuma, še naprej varujejo v skladu z določbami tega sporazuma, dokler pogodbenik izvora pogodbenika prejemnika ne razreši te obveznosti.

ARTICLE 11**SECURITY CO-OPERATION**

1. In order to achieve and maintain comparable standards of security, the Competent Security Authorities shall, on request, provide each other with information about their national security standards, procedures and practices for the protection of Classified Information. To this end, the Competent Security Authorities may visit each other.

2. The Competent Security Authorities shall inform each other of exceptional security risks that may endanger the released Classified Information.

3. On request, the Competent Security Authorities shall, in accordance with national legislation, assist each other in carrying out security clearance procedures.

4. The Competent Security Authorities shall promptly inform each other about any changes in mutually recognized Personnel Security Clearances and Facility Security Clearances.

5. The security services of the Parties may exchange operative or/and intelligence information directly in accordance with national legislation.

6. Co-operation under this agreement shall be effected in the English language.

ARTICLE 12**BREACH OF SECURITY**

1. Each Party shall immediately notify the other Party of any suspicion or discovery of a breach or compromise of the security of Classified Information.

2. The competent Party shall undertake all possible appropriate measures under its national legislation to limit the consequences of the breach or compromise referred to in Paragraph 1 of this article and to prevent further violations. On request, the other Party shall provide investigative assistance; it shall be informed of the outcome of the investigation and the measures undertaken due to the violation.

ARTICLE 13**EXPENSES**

Each Party shall bear its own expenses incurred in the course of implementation of this agreement.

ARTICLE 14**DISPUTE SETTLEMENT**

Any dispute regarding the interpretation or application of this agreement shall be settled by consultations and negotiations between the Parties and shall not be referred to any international tribunal or Third Party.

ARTICLE 15**FINAL PROVISIONS**

1. This agreement is concluded for an indefinite period of time. It is subject to approval in accordance with the national legal procedures of the Parties and shall enter into force on the first day of the second month following receipt of notification that the necessary requirements for this agreement to enter into force have been fulfilled.

2. This agreement may be amended at any time by the written consent of both Parties. Such amendments shall enter into force in accordance with Paragraph 1 of this article.

3. Each Party shall have the right to terminate this agreement in writing at any time. In such a case, the validity of the agreement shall expire 6 months following the day on which the termination notice was received by the other Party.

4. Notwithstanding the termination of this agreement, all Classified Information delivered under this agreement shall continue to be protected in accordance with the provisions stated in this agreement until the Originating Party relieves the Recipient Party of this obligation.

5. Sporazum ne vpliva na pravice in obveznosti pogodbenikov iz drugih mednarodnih sporazumov.

6. Za izvajanje tega sporazuma se lahko sklenejo dogovori o izvajanju.

Sestavljeno v Tirani 7. maja 2010 v dveh izvornikih v slovenskem, albanskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

V potrditev tega sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala ta sporazum.

Za
Vlado
Republike Slovenije
Milan Tarman l.r.

Za
Svet ministrov
Republike Albanije
Shyqyri Dekavelli l.r.

5. This agreement does not prejudice the rights and obligations of the Parties arising from other international agreements.

6. Implementing arrangements may be concluded for the implementation of this agreement.

Done in Tirana on 7 May 2010 in two originals in the Slovenian, Albanian and English languages, each text being equally authentic. In the case of different interpretations, the English text shall prevail.

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

On behalf of the Government
of the Republic
of Slovenia
Milan Tarman (s)

On behalf of the Council
of Ministers of the Republic
of Albania
Shyqyri Dekavelli (s)

3. člen

Za izvajanje sporazuma skrbi Urad Vlade Republike Slovenije za varovanje tajnih podatkov.

4. člen

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

Št. 040-05/09-43/11
Ljubljana, dne 22. septembra 2010
EPA 674-V

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

132. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Latvije o izmenjavi in medsebojnem varovanju tajnih podatkov (BLAVTP)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Latvije o izmenjavi in medsebojnem varovanju tajnih podatkov (BLAVTP)**

Razlašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Latvije o izmenjavi in medsebojnem varovanju tajnih podatkov (BLAVTP), ki ga je sprejel Državni zbor Republike Slovenije na 20. seji 22. septembra 2010.

Št. 003-02-8/2010-9

Ljubljana, dne 30. septembra 2010

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE LATVIJE O IZMENJAVI IN MEDSEBOJNEM VAROVANJU TAJNIH PODATKOV (BLAVTP)****1. člen**

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Republike Latvije o izmenjavi in medsebojnem varovanju tajnih podatkov, podpisan 10. februarja 2010 v Rigi.

2. člen

Sporazum se v izvirniku v slovenskem in angleškem jeziku glasi:¹

S P O R A Z U M**MED VLADO REPUBLIKE SLOVENIJE
IN VLADO REPUBLIKE LATVIJE O IZMENJAVI
IN MEDSEBOJNEM VAROVANJU
TAJNIH PODATKOV**

Vlada Republike Slovenije in Vlada Republike Latvije, v nadaljevanju "pogodbenci", sta se ob medsebojnem upoštevanju državnih interesov in varnosti v želji, da bi zagotovili varovanje tajnih podatkov, izmenjanih med njima ali med javnimi in zasebnimi subjekti v njuni pristojnosti, sporazumeli o:

1. ČLEN**POMEN IZRAZOV**

V tem sporazumu izrazi pomenijo:

tajni podatek: podatek, dokument ali gradivo v kateri koli obliki, ki se prenese ali nastane med pogodbenicama po notranji zakonodaji pogodbenice in ga je treba varovati pred nepooblaščenim razkritjem, odtujitvijo ali izgubo ter je določen kot tajen in ustrezno označen;

pogodba s tajnimi podatki: pogodba z izvajalci ali podizvajalci, vključno s pogajanjem za sklenitev pogodbe, ki vsebuje tajne podatke in vključuje dostop do tajnih podatkov ali njihovo nastajanje;

A G R E E M E N T**BETWEEN THE GOVERNMENT
OF THE REPUBLIC OF SLOVENIA
AND THE GOVERNMENT
OF THE REPUBLIC OF LATVIA
ON THE EXCHANGE AND MUTUAL
PROTECTION OF CLASSIFIED INFORMATION**

The Government of the Republic of Slovenia and the Government of the Republic of Latvia, hereinafter referred to as the "Parties", wishing to ensure the protection of Classified Information exchanged between them or between public and private entities under their jurisdiction, have, in mutual respect for national interests and security, agreed upon the following:

ARTICLE 1**DEFINITIONS**

For the purposes of this Agreement these terms mean the following:

Classified Information: any information, document or material regardless of its form, transmitted or generated between the Parties under the national legislation of either Party, requiring protection against unauthorised disclosure, misappropriation or loss and designated as such and appropriately marked;

Classified Contract: a contract or a sub-contract including pre-contractual negotiations, which contains Classified Information and involves access to or generation of Classified Information;

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

"potreba po seznanitvi": načelo, po katerem se dostop do tajnih podatkov lahko dovoli samo posamezniku, ki v okviru uradnih dolžnosti potrebuje tak dostop;

pogodbenica izvora: pogodbenica, vključno z javnimi ali zasebnimi subjekti v njeni pristojnosti, ki da tajne podatke drugi pogodbenici;

pogodbenica prejemnica: pogodbenica, vključno z javnimi ali zasebnimi subjekti v njeni pristojnosti, ki prejme tajne podatke od pogodbenice izvora;

tretja stran: država, vključno z javnimi ali zasebnimi subjekti v njeni pristojnosti, ali mednarodna organizacija, ki ni pogodbenica tega sporazuma;

dovoljenje za dostop do tajnih podatkov: odločitev po varnostnem preverjanju osebe v skladu z notranjo zakonodajo, na podlagi katere je posameznik pooblaščen za dostop do tajnih podatkov stopnje tajnosti, ki je navedena na dovoljenju, in za ravnanje z njimi;

varnostno dovoljenje organizacije: odločitev po varnostnem preverjanju, da izvajalec, ki je pravna oseba, izpolnjuje pogoje za ravnanje s tajnimi podatki v skladu z notranjo zakonodajo pogodbenice.

2. ČLEN

OZNAKE STOPENJ TAJNOSTI

1. Tajni podatki, ki se dajo na podlagi tega sporazuma, so označeni z ustreznimi oznakami stopnje tajnosti po notranji zakonodaji pogodbenic.

2. Enakovredne stopnje tajnosti so:

Republika Slovenija	Republika Latvija	v angleškem jeziku
STROGO TAJNO	SEVIŠĶI SLEPENI	TOP SECRET
TAJNO	SLEPENI	SECRET
ZAUPNO	KONFIDENCIĀLI	CONFIDENTIAL
INTERNO	DIENESTA VAJADŽIBĀM	RESTRICTED

3. ČLEN

PRISTOJNI VARNOSTNI ORGANI

1. Pristojna varnostna organa pogodbenic, ki sta odgovorna za varnost in varovanje tajnih podatkov v skladu s svojo notranjo zakonodajo ter za izvajanje tega sporazuma, sta:

v Republiki Sloveniji:

Urad Vlade Republike Slovenije za varovanje tajnih podatkov (nacionalni varnostni organ);

v Republiki Latviji:

Satversmes aizsardzības birojs (nacionalni varnostni organ).

2. Pristojna varnostna organa se obveščata o vsakem drugem pristojnem varnostnem organu, ki je odgovoren za izvajanje tega sporazuma.

3. Pogodbenici se obveščata o vseh poznejših spremembah pristojnih varnostnih organov.

4. ČLEN

VARNOSTNA NAČELA

1. Dostop do tajnih podatkov, ki se dajo na podlagi tega sporazuma, je omejen na:

a) posameznike po načelu "potrebe po seznanitvi" in

b) pravne osebe s sposobnostjo za ravnanje s tajnimi podatki,

če so bili ti posamezniki in pravne osebe pravilno pooblašteni v skladu z notranjo zakonodajo pogodbenice.

"Need to know": a principle by which access to Classified Information may only be granted to an individual who within the framework of the official duties requires such access;

Originating Party: the Party, including any public or private entities under its jurisdiction, which releases Classified Information to the other Party;

Recipient Party: the Party, including any public or private entities under its jurisdiction, which receives Classified Information from the Originating Party;

Third Party: a state, including any public or private entities under its jurisdiction, or an international organisation that is not a party to this Agreement;

Personnel Security Clearance: a determination following an investigative procedure in accordance with the national legislation, on the basis of which an individual is authorised to have access to and to handle Classified Information up to the level defined in the clearance;

Facility Security Clearance: a determination following an investigative procedure certifying that a contractor which is a legal entity fulfils the conditions of handling Classified Information in accordance with the national legislation of one of the Parties.

ARTICLE 2

SECURITY CLASSIFICATIONS

1. Classified Information released under this Agreement shall be marked with security classification levels as appropriate under the national legislation of the Parties.

2. The equivalence of national security classification levels is as follows:

Republic of Slovenia	Republic of Latvija	Equivalent in English
STROGO TAJNO	SEVIŠĶI SLEPENI	TOP SECRET
TAJNO	SLEPENI	SECRET
ZAUPNO	KONFIDENCIĀLI	CONFIDENTIAL
INTERNO	DIENESTA VAJADŽIBĀM	RESTRICTED

ARTICLE 3

COMPETENT SECURITY AUTHORITIES

1. The Competent Security Authorities of the Parties responsible for security and protection of Classified Information in accordance with their national legislation and for the implementation of this Agreement are the following:

in the Republic of Slovenia:

Urad Vlade Republike Slovenije za varovanje tajnih podatkov (National Security Authority);

in the Republic of Latvia:

Satversmes aizsardzības birojs (National Security Authority).

2. The Competent Security Authorities shall notify each other of any other competent authorities that are responsible for the implementation of this Agreement.

3. The Parties shall inform each other of any subsequent changes of the Competent Security Authorities.

ARTICLE 4

SECURITY PRINCIPLES

1. Access to Classified Information released under this Agreement shall be limited to:

a) individuals according to the "Need to know" principle, and

b) legal entities capable of handling Classified Information,

under the condition that these individuals and legal entities have been duly authorised in accordance with the national legislation of the respective Party.

2. Če so izpolnjene postopkovne zahteve iz notranje zakonodaje, si pogodbenici priznavata dovoljenja za dostop do tajnih podatkov in varnostna dovoljenja organizacij. Ustrezno se uporablja drugi odstavek 2. člena.

3. Pogodbenica izvora:

a) zagotovi, da so tajni podatki označeni z ustrezno stopnjo tajnosti v skladu z njeno notranjo zakonodajo;

b) obvesti pogodbenico prejemnico o vseh pogojih za dajanje tajnih podatkov ali omejitvah pri njihovi uporabi ter o vseh poznejših spremembah stopnje tajnosti.

4. Pogodbenica prejemnica:

a) v skladu s svojo notranjo zakonodajo tajnim podatkom zagotovi enakovredno stopnjo varovanja, kot jo zagotavlja pogodbenica izvora;

b) zagotovi, da so tajni podatki označeni z enakovredno oznako stopnje tajnosti v skladu z drugim odstavkom 2. člena;

c) zagotovi, da se brez pisnega dovoljenja pogodbenice izvora stopnja tajnosti ne spremeni.

5. Pogodbenica prejemnica tajne podatke uporabi samo za namen, za katerega so ji bili dani, in z omejitvami, ki jih je navedla pogodbenica izvora.

6. Pogodbenica prejemnica tajnih podatkov ne da tretji strani brez pisnega soglasja pogodbenice izvora.

5. ČLEN

PRENOS TAJNIH PODATKOV

1. Tajni podatki se med pogodbenicama prenašajo po diplomatski poti.

2. Pristojna varnostna organa pogodbenic se lahko dogovorita tudi za drug način prenosa vključno z dostavo večjih pošilk tajnih podatkov ali uporabo zaščitenih informacijskih in komunikacijskih poti.

3. Pogodbenica prejemnica pisno potrdi prejem tajnih podatkov ter o tem obvesti pristojni varnostni organ.

6. ČLEN

RAZMNOŽEVANJE, PREVAJANJE IN UNIČEVANJE

1. Vsi izvodi in prevodi imajo ustrezno oznako stopnje tajnosti in so varovani kot tajni podatki izvirnika. Prevajajo jih lahko samo posamezniki, ki imajo ustrezno dovoljenje za dostop do tajnih podatkov. Prevodi in izvodi so omejeni na število, potrebno za uradni namen. Tajni podatki stopnje STROGO TAJNO/SEVIŠKI SLEPENI/TOP SECRET se prevajajo ali razmnožujejo samo s pisnim soglasjem pogodbenice izvora.

2. Vsak prevod ima v jeziku prevoda ustrezno oznako, da vsebuje tajne podatke pogodbenice izvora.

3. Tajni podatki stopnje TAJNO/SLEPENI/SECRET ali nižje se uničijo v skladu z notranjo zakonodajo.

4. Tajni podatki stopnje STROGO TAJNO/SEVIŠKI SLEPENI/TOP SECRET se ne uničijo in se vrnejo pogodbenici izvora.

7. ČLEN

OBISKI

1. Za obiske, pri katerih je potreben dostop do tajnih podatkov, se zahteva predhodno pisno soglasje, ki ga izda pristojni varnostni organ gostitelj.

2. Zaposilo za obisk se predloži ustreznemu pristojnemu varnostnemu organu vsaj 20 dni pred začetkom obiska in vsebuje:

2. Subject to fulfilment of procedural requirements laid down in the national legislation, the Parties shall mutually recognise their Personnel Security Clearances and Facility Security Clearances. The provision of paragraph 2 of Article 2 shall apply accordingly.

3. The Originating Party shall:

a) ensure that Classified Information is marked with an appropriate security classification marking in accordance with its national legislation,

b) inform the Recipient Party of any conditions for release or limitations on the use of Classified Information, and of any subsequent changes in classification levels.

4. The Recipient Party shall:

a) in accordance with its national legislation afford the equivalent level of protection to Classified Information as afforded by the Originating Party;

b) ensure that Classified Information is marked with an equivalent classification marking in accordance with paragraph 2 of Article 2;

c) ensure that classification level is not altered except if authorised in writing by the Originating Party.

5. The Recipient Party shall use Classified Information only for the purpose it has been released for and within limitations stated by the Originating Party.

6. The Recipient Party shall not release Classified Information to a Third Party without a written consent of the Originating Party.

ARTICLE 5

TRANSMISSION OF CLASSIFIED INFORMATION

1. Classified Information shall be transmitted between the Parties through diplomatic channels.

2. Other means of transmission may be agreed by the Competent Security Authorities, including delivery of large consignments of Classified Information or use of protected information and communication channels.

3. The Recipient Party shall confirm receipt of Classified Information in writing and notify the Competent Security Authority thereof.

ARTICLE 6

REPRODUCTION, TRANSLATION AND DESTRUCTION

1. All reproductions and translations shall bear appropriate security classification markings and shall be protected as the original Classified Information. Only individuals holding an appropriate Personnel Security Clearance shall make the translations. The translations and number of reproductions shall be limited to the amount required for an official purpose. Classified Information marked STROGO TAJNO/SEVIŠKI SLEPENI/TOP SECRET shall be translated or reproduced only upon a written consent of the Originating Party.

2. All translations shall contain a suitable annotation in the language of the translation, indicating that they contain Classified Information of the Originating Party.

3. Classified Information marked TAJNO/SLEPENI/SECRET or below shall be destroyed in accordance with the national legislation.

4. Classified Information marked STROGO TAJNO/SEVIŠKI SLEPENI/TOP SECRET shall not be destroyed and shall be returned to the Originating Party.

ARTICLE 7

VISITS

1. Visits necessitating access to Classified Information shall be subject to prior written consent issued by the host Competent Security Authority.

2. A request for visit shall be submitted to the relevant Competent Security Authority at least 20 days prior to the commencement of the visit, and shall include the following:

- ime in priimek obiskovalca, datum in kraj rojstva, državljanstvo in številko osebne izkaznice ali potnega lista;
- položaj obiskovalca s podatki o delodajalcu, ki ga obiskovalec zastopa, ali naslov pogodbe s tajnimi podatki, pri kateri obiskovalec sodeluje, in podrobne podatke o njej;
- veljavnost in stopnjo tajnosti dovoljenja za dostop do tajnih podatkov obiskovalca;
- ime, naslov, telefonsko številko, številko telefaksa, elektronski naslov organizacije, v kateri bo obisk, in ime osebe za stike v organizaciji;
- namen obiska, vključno z najvišjo stopnjo tajnosti obravnavanih podatkov;
- datum in trajanje obiska. Pri večkratnih obiskih se navede celotno obdobje, v katerem bodo potekali;
- datum, podpis in uradni žig pristojnega varnostnega organa.

3. V nujnih primerih se zaprosilo za obisk predloži najmanj pet (5) delovnih dni pred njegovim začetkom.

4. Pristojni varnostni organi se lahko v posamezni pogodbi s tajnimi podatki dogovorijo o seznamu obiskovalcev, ki so upravičeni do večkratnih obiskov. Seznam velja največ 12 mesecev in se lahko podaljša še za največ 12 mesecev. Zaprosilo za večkratne obiske se predloži v skladu z drugim odstavkom tega člena. Ko je seznam potrjen, se lahko sodelujoče organizacije neposredno dogovarjajo o obiskih.

5. Tajni podatki, ki jih pridobi obiskovalec, se štejejo za tajne podatke, dane na podlagi tega sporazuma.

8. ČLEN

POGODBE S TAJNIMI PODATKI

1. Če pogodbenica ali javni ali zasebni subjekti v njeni pristojnosti izvajajo pogodbo s tajnimi podatki na ozemlju države druge pogodbenice, pristojni varnostni organ druge pogodbenice prevzame odgovornost za varovanje tajnih podatkov, prejetih na podlagi pogodbe s tajnimi podatki.

2. Preden pristojni varnostni organ da izvajalcu tajne podatke, ki jih je prejel od drugega pristojnega varnostnega organa, pristojni varnostni organ pogodbenice prejemnice preveri, ali:

- imajo izvajalci ustrezna varnostna dovoljenja organizacije;
- imajo vsi posamezniki, ki potrebujejo dostop do prejetih tajnih podatkov, "potrebo po seznanitvi" in so pravilno pooblašeni v skladu z notranjo zakonodajo pogodbenice.

3. Pogodba s tajnimi podatki vsebuje določbe o varnostnih zahtevah in stopnji tajnosti vsakega njenega vidika ali dela. Izvod tega dokumenta se predloži pristojnim varnostnim organom pogodbenic.

4. Pristojni varnostni organ lahko zaprosi, da se pri izvajalcu opravi inšpekcijski pregled, da se zagotovi nenehno upoštevanje varnostnih standardov v skladu z ustrezno notranjo zakonodajo.

5. Izvajalec ima pravico, da s predhodnim pisnim soglasjem svojega pristojnega varnostnega organa v pogodbo s tajnimi podatki vključi podizvajalce. Morebitni podizvajalec izpolnjuje enake varnostne zahteve kot izvajalec.

6. Pristojni varnostni organi se obveščajo o vseh izvajalcih in podizvajalcih, ki sodelujejo pri pogodbi s tajnimi podatki.

- name of the visitor, date and place of birth, nationality and ID card/passport number;
- position of the visitor with a specification of the employer which the visitor represents; or the title and details of the Classified Contract in which the visitor participates;
- validity and the level of Personnel Security Clearance of the visitor;
- name, address, phone/fax number, e-mail and point of contact of the facility to be visited;

- purpose of the visit, including the highest level of Classified Information to be involved;
- dates and duration of the visit. In case of a recurring visit, the total period covered by the visits shall be stated;
- date, signature and the official seal of the Competent Security Authority.

3. In urgent cases, a request for visit shall be submitted at least 5 working days prior to the commencement of the visit.

4. In a particular Classified Contract, the Competent Security Authorities may agree on a list of visitors entitled to recurring visits. The list shall be valid for an initial period not exceeding 12 months and may be extended for a further period not exceeding 12 months. The request for a recurring visit shall be submitted in accordance with paragraph 2 of this Article. Once a list has been approved, visits may be arranged directly between the facilities involved.

5. Any Classified Information acquired by a visitor shall be considered as Classified Information released under this Agreement.

ARTICLE 8

CLASSIFIED CONTRACTS

1. Should either of the Parties or public or private entities under their jurisdiction perform a Classified Contract in the territory of the state of the other Party, the Competent Security Authority of this other Party shall assume responsibility for the protection of Classified Information received under the Classified Contract.

2. Before either of the Competent Security Authorities releases Classified Information received from the other Competent Security Authority to the contractor, the Competent Security Authority of the Recipient Party shall ascertain itself that:

- the contractors are holders of the appropriate Facility Security Clearances;
- all individuals requiring access to Classified Information received have a »Need to know« and have been duly authorised in accordance with the national legislation of the respective Party.

3. A Classified Contract shall contain provisions on the security requirements and on the classification of each aspect or element of the Classified Contract. A copy of such a document shall be submitted to the Competent Security Authorities of the Parties.

4. Each Competent Security Authority may request that a security inspection of the contractor is carried out to ensure continuing compliance with security standards in accordance with the applicable national legislation.

5. The contractor shall be entitled, with a prior written consent of its Competent Security Authority, to engage sub-contractors in a Classified Contract. The prospective sub-contractor shall meet the same security requirements as the contractor.

6. The Competent Security Authorities shall inform each other of all contractors and sub-contractors engaged in a Classified Contract.

9. ČLEN**SODELOVANJE PRI VAROVANJU TAJNOSTI**

1. Zaradi doseganja in ohranjanja primerljivih varnostnih standardov pristojni varnostni organi na podlagi zaprosila zagotovijo informacije o svojih varnostnih standardih, postopkih in praksah za varovanje tajnih podatkov. V ta namen se lahko pristojni varnostni organi obiskujejo.

2. Pristojni varnostni organi se obveščajo o izjemnih varnostnih tveganjih, ki lahko ogrozijo dane tajne podatke.

3. V okviru omejitev, ki jih določa notranja zakonodaja, si pristojni varnostni organi na podlagi zaprosila pomagajo pri izvajanju postopkov varnostnega preverjanja.

4. Pristojni varnostni organi se takoj obvestijo o vsaki spremembi v medsebojno priznanih dovoljenjih za dostop do tajnih podatkov in varnostnih dovoljenjih organizacij.

5. Sodelovanje na podlagi tega sporazuma poteka v angleškem jeziku, razen če ni drugače dogovorjeno.

10. ČLEN**KRŠITEV VAROVANJA TAJNOSTI**

1. Ob kršitvi varovanja tajnosti, katere posledica je nepooblaščen razkritje, odtujitev ali izguba tajnih podatkov, ali sumu take kršitve pristojni varnostni organ pogodbenice prejemnice o tem takoj pisno obvesti pristojni varnostni organ pogodbenice izvora.

2. Ustrezni organi pogodbenice prejemnice, ki jim po potrebi pomagajo ustrezni organi pogodbenice izvora, takoj raziščejo dogodek v skladu s svojo notranjo zakonodajo. Pogodbenica prejemnica takoj obvesti pogodbenico izvora o okoliščinah dogodka, povzročeni škodi, sprejetih ukrepih za ublažitev škode in ugotovitvah preiskave.

11. ČLEN**STROŠKI**

Vsaka pogodbenica krije svoje stroške, ki nastanejo med izvajanjem tega sporazuma.

12. ČLEN**REŠEVANJE SPOROV**

Spore zaradi razlage ali uporabe tega sporazuma rešuje ta pogodbenica s posvetovanji in se ne predložijo v reševanje nobenemu domačemu ali mednarodnemu razsodišču ali tretji strani.

13. ČLEN**KONČNE DOLOČBE**

1. Sporazum je sklenjen za nedoločen čas in začne veljati z dnem prejema zadnjega pisnega uradnega obvestila, s katerim si pogodbenici po diplomatski poti sporočita, da so izpolnjene vse notranjepravne zahteve, potrebne za začetek njegove veljavnosti.

2. Pogodbenica lahko sporazum odpove, tako da o tem po diplomatski poti pisno obvesti drugo pogodbenico. V takem primeru sporazum preneha veljati šest mesecev po dnevu prejema obvestila o odpovedi. Ne glede na odpoved se vsi tajni podatki, preneseni na podlagi tega sporazuma, še naprej varujejo v skladu z njegovimi določbami, dokler pogodbenica izvora pogodbenice prejemnice ne razreši te obveznosti.

3. Sporazum se lahko kadar koli spremeni s pisnim soglasjem obeh pogodbenic. Spremembe začnejo veljati v skladu s prvim odstavkom tega člena.

ARTICLE 9**SECURITY CO-OPERATION**

1. In order to achieve and maintain comparable standards of security, the Competent Security Authorities shall, on request, provide each other with information about their national security standards, procedures and practices for the protection of Classified Information. To this aim, the Competent Security Authorities may conduct mutual visits.

2. The Competent Security Authorities shall inform each other of exceptional security risks which may endanger the released Classified Information.

3. On request, the Competent Security Authorities shall, within the limits set up by their national legislation, assist each other in carrying out security clearance procedures.

4. The Competent Security Authorities shall promptly inform each other of any changes in mutually recognized Personnel Security Clearances and Facility Security Clearances.

5. The co-operation under this Agreement shall be effected in the English language unless otherwise agreed.

ARTICLE 10**BREACH OF SECURITY**

1. In the event of a security breach resulting in unauthorised disclosure, misappropriation or loss of Classified Information or suspicion of such a breach, the Competent Security Authority of the Recipient Party shall immediately inform the Competent Security Authority of the Originating Party thereof in writing.

2. The appropriate authorities of the Recipient Party assisted by the appropriate authorities of the Originating Party, if required, shall carry out an immediate investigation of the incident in accordance with their national legislations. The Recipient Party shall without delay inform the Originating Party of the circumstances of the incident, the damage inflicted, measures adopted for its mitigation and the outcome of the investigation.

ARTICLE 11**EXPENSES**

Each Party shall bear its own expenses incurred in the course of the implementation of this Agreement.

ARTICLE 12**SETTLEMENT OF DISPUTES**

Any dispute regarding the interpretation or application of this Agreement shall be resolved by consultation between the Parties and shall not be referred to any national or international tribunal or Third Party for settlement.

ARTICLE 13**FINAL PROVISIONS**

1. This Agreement is concluded for an indefinite period of time and shall enter into force on the date of receipt of the last written notification through diplomatic channels by which the Parties inform each other that the internal legal requirements necessary for its entry into force have been fulfilled.

2. This Agreement may be terminated by either of the Parties by written notice to the other Party through diplomatic channels. In such a case, this Agreement shall expire six months after the date of receipt of the notice on termination. Notwithstanding the termination, all Classified Information transferred pursuant to this Agreement shall continue to be protected according to the provisions set forth herein, until the Originating Party dispenses the Recipient Party from this obligation.

3. This Agreement may be amended at any time by a written consent of both Parties. Such amendments shall enter into force in accordance with paragraph 1 of this Article.

4. Sporazum ne posega v pravice in obveznosti pogodbenic, ki izhajajo iz drugih mednarodnih sporazumov.

5. Za izvajanje sporazuma se lahko sklene dogovor o izvajanju.

Sestavljeno v Rigi 10. februarja 2010 v dveh izvirnikih v slovenskem, latvijskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

V potrditev tega so podpisani, ki so bili za to pravilno pooblaščen, podpisali ta sporazum.

Za
Vlado
Republike Slovenije
Samuel Žbogar l.r.

Za
Vlado
Republike Latvije
Māris Riekstiņš l.r.

4. This Agreement does not prejudice the rights and obligations of the Parties arising from other international agreements.

5. Implementing arrangements may be concluded for the implementation of this Agreement.

Done in Riga on 10 February 2010 in two original copies, each in the Slovenian, Latvian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

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

On behalf
of the Government
of the Republic of Slovenia
Samuel Žbogar (s)

On behalf
of the Government
of the Republic of Latvia
Māris Riekstiņš (s)

3. člen

Za izvajanje sporazuma skrbi Urad Vlade Republike Slovenije za varovanje tajnih podatkov.

4. člen

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

Št. 040-05/08-10/11

Ljubljana, dne 22. septembra 2010

EPA 141-V

Državni zbor
Republike Slovenije
dr. Pavel Gantar l.r.
Predsednik

Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

- 133. Obvestilo o začetku veljavnosti Sprememb Priloge 1 k Okvirnemu sporazumu med Vlado Republike Slovenije in Švicarskim zveznim svetom o izvajanju slovensko-švicarskega programa sodelovanja za zmanjševanje gospodarskih in socialnih razlik v razširjeni Evropski uniji**

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO, 76/08 in 108/09) Ministrstvo za zunanje zadeve

s p o r o č a,

da so 30. septembra 2010 začele veljati Spremembe Priloge 1 k Okvirnemu sporazumu med Vlado Republike Slovenije in Švicarskim zveznim svetom o izvajanju slovensko-švicarskega programa sodelovanja za zmanjševanje gospodarskih in socialnih razlik v razširjeni Evropski uniji, sklenjene z izmenjavo pism 16. junija 2010 in objavljene v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 14/10 (Uradni list Republike Slovenije, št. 74/10).

Ljubljana, dne 4. oktobra 2010

Ministrstvo za zunanje zadeve
Republike Slovenije

POPRAVKI

- 134. Popravek Obvestila o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Azerbajdžanske republike o sodelovanju na področju informacijsko-komunikacijskih tehnologij**

P o p r a v e k

V Obvestilu o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Azerbajdžanske republike o sodelovanju na področju informacijsko-komunikacijskih tehnologij, ki je bil objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 14/10 (Uradni list Republike Slovenije, št. 74/10), se pravilni datum veljavnosti glasi 15. junij 2010.

Ljubljana, dne 7. oktobra 2010

Ministrstvo za zunanje zadeve
Republike Slovenije

VSEBINA

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Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

133.	Obvestilo o začetku veljavnosti Sprememb Priloge 1 k Okvirnemu sporazumu med Vlado Republike Slovenije in Švicarskim zveznim svetom o izvajanju slovensko-švicarskega programa sodelovanja za zmanjševanje gospodarskih in socialnih razlik v razširjeni Evropski uniji	895
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POPRAVKI

134.	Popravek Obvestila o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Azerbajdžanske republike o sodelovanju na področju informacijsko-komunikacijskih tehnologij	895
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