SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Government of the Republic of Slovenia and the Government of the Russian Federation for the Avoidance of Double Taxation with respect to Taxes on Income and Capital signed on 29 September 1995 (the "Convention"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Republic of Slovenia and by the Russian Federation on 7 June 2017 (the "MLI").

The document was prepared on the basis of the MLI position of the Republic of Slovenia submitted to the Depositary upon ratification on 22 March 2018 and of the MLI position the Russian Federation submitted to the Depositary upon ratification on 18 June 2019. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as "Covered Tax Agreement" and "Convention", "Contracting Jurisdictions" and "Contracting States"), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The authentic legal texts of the MLI and the Convention can be found in the Republic of Slovenia in the Official Journal of the Republic of Slovenia, nos. 11/96-MP and 2/18-MP (https://www.uradni-list.si).

The MLI position of the Republic of Slovenia submitted to the Depositary upon ratification on 22 March 2018 and the MLI position of the Russian Federation submitted to the Depositary upon

ratification on 18 June 2019 can be found on the MLI Depositary (OECD) webpage.

Disclaimer on the entry into effect of the provisions of the MLI

The provisions of the MLI applicable to the Convention do not take effect on the same dates as the original provisions of the Convention. Each of provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by the Republic of Slovenia and the Russian Federation in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 22 March 2018 for the Republic of Slovenia and 18 June 2019 for the Russian Federation.

Entry into force of the MLI: 1 July 2018 for the Republic of Slovenia and 1 October 2019 for the Russian Federation.

Date of receipt by the Depositary and the Republic of Slovenia of the notification by the Russian Federation for the entry into effect of the MLI pursuant to paragraph 7(b) of Article 35 of the MLI with respect to the Convention: 30 April 2020.

The provisions of the MLI have effect with respect to the Convention:

In accordance with paragraph 1 and 7 of Article 35 of the MLI, the provisions of the MLI have effect in the Republic of Slovenia with respect to the Convention:

a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2021; and

b) with respect to all other taxes levied by the Republic of Slovenia, for taxes levied with respect to taxable periods beginning on or after 30 November 2020;

and,

In accordance with paragraphs 1, 3 and 7 of Article 35 of the MLI, the provisions of the MLI have effect in the Russian Federation with respect to the Convention:

a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2021; and

b) with respect to all other taxes levied by the Russian Federation, for taxes levied with respect to taxable periods beginning on or after 1 January 2021.

C O N V E N T I O N

BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Government of the Republic of Slovenia and the Government of the Russian Federation

[REPLACED by paragraphs 1 and 3 of Article 6 of the MLI] [desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital,]

The following paragraphs 1 and 3 of Article 6 of the MLI replace the text referring to an intent to eliminate double taxation in the preamble of this Convention:

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

Intending to eliminate double taxation with respect to the taxes covered by *this Convention* without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in *the Convention* for the indirect benefit of residents of third jurisdictions),

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and capital imposed in a Contracting State or its administrative-territorial subdivisions irrespective of the manner in which they are levied.

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

3. The taxes to which this Convention shall apply:

a) in the Republic of Slovenia:

(i) the tax (and contributions) on profits of legal persons;

(ii) the tax on income from transportation services of a foreign person not having his agency in the territory of the Republic of Slovenia,

(iii) the tax on income of individuals;

(iv) the tax on property

(hereinafter referred to as “Slovenian tax”);

b) in the Russian Federation – taxes imposed in accordance with the following laws of the Russian Federation:

(i) “On tax on profits of enterprises and organizations”;

(ii) “On tax on the income of individuals”;

(iii) “On tax on property of enterprises” and

(iv) “On taxes on property of individuals”

(hereinafter referred to as “Russian tax”).

4. The Convention shall also apply to the same or substantially similar taxes imposed after the date of signature of the Convention in addition to, or in place of the taxes mentioned in paragraph 3. The competent authorities of both Contracting States shall notify each other of any important 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, the following terms shall mean:

a) the terms “a Contracting State” and “the other Contracting State” – the Republic of Slovenia or the Russian Federation, depending on the context;

b) – the term “Slovenia” when used in a geographical sense – the territory of the Republic of Slovenia, including the sea area, sea-bed and subsoil adjacent to the territorial sea of Slovenia, if the latter may exercise its sovereign rights and

jurisdiction over such sea area, sea-bed and subsoil in accordance with its domestic legislation and international law;

– the term “the Russian Federation (Russia)” when used in a geographical sense – its territory, including internal waters and territorial sea, air space above them as well as the economic zone and continental shelf where the Russian Federation exercises sovereign rights and jurisdiction in conformity with its internal legislation and international law;

c) the term “national” – any individual possessing the nationality of a Contracting State and any legal person or association having aquired such status on the basis of the laws in force in a Contracting State;

d) the term “person” – any individual, a company or other legal person;

e) the term “company” – any body corporate subject to taxation or any entity which is treated as a body corporate for tax purposes;

f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” – 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” – any transport by ship or aircraft operated by an enterprise which is a resident of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

h) the term “competent authority”:

– in the Republic of Slovenia – the Ministry of Finance of the Republic of Slovenia or its authorised representative;

– in the Russian Federation – the Ministry of Finance of the Russian Federation or its authorised representative.

2. As regards the application of this Convention by a Contracting State, any term not defined therein shall have the meaning which it has under the laws of that Contracting State concerning the taxes to which the Convention applies.

Article 4

RESIDENT

1. For the purposes of this Convention the term “resident of a Contracting State” means any person who, under the laws of that Contracting State, is liable to taxation therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature.

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

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

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

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

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

3. **[REPLACED by paragraph 1 of Article 4 of the MLI]** [Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, such a person shall be deemed to be a resident of the Contracting State in which it is incorporated.]

The following paragraph 1 of Article 4 of the MLI replaces paragraph 3 of Article 4 of this Convention:

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of *the Convention* a person other than an individual is a resident of both *Contracting States*, the competent authorities of the *Contracting States* shall endeavour to determine by mutual agreement the *Contracting State* of which such person shall be deemed to be a resident for the purposes of *the Convention*, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by *the Convention* except to the extent and in such manner as may be agreed upon by the competent authorities of the *Contracting States*.

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” shall include 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 other place of extraction of natural resources.

3. A building site, construction, assembly or installation project or supervisory activities in connection therewith constitutes a permanent establishment only when such a building site, project or activities continue for a period more than twelve months.

4. **[MODIFIED by paragraph 2 of Article 13 of the MLI]** [Notwithstanding the provisions of paragraphs 1, 2 and 3 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 for 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 carrying on 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 preparatory or auxiliary character.]

The following paragraph 2 of Article 13 of the MLI modifies paragraph 4 of Article 5 of this Convention:

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS
(Option A)

Notwithstanding *Article 5 of the Convention*, the term "permanent establishment" shall be deemed not to include:

a) the activities specifically listed in *paragraph 4 of Article 5 of the Convention* as activities deemed not to constitute a permanent establishment, whether or not that exception from

permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;

b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);

c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Convention as modified by paragraph 2 of Article 13 of the MLI:

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS

Paragraph 4 of Article 5 of the Convention, as modified by paragraph 2 of Article 13 of the MLI shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same *Contracting State* and:

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of *Article 5 of the Convention*; or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

5. **[REPLACED by paragraph 1 of Article 12 of the MLI]** [Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person – other than an agent of an independent status to whom paragraph 6 of this Article applies – acting in a Contracting State on behalf of an enterprise of the other Contracting State and has, and habitually exercises in the former an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in the former of the Contracting States for the activities carried out by that person for the enterprise, unless the activities of such a person are limited to those mentioned in paragraph 4 of this Article, which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.]

The following paragraph 1 of Article 12 of the MLI replaces paragraph 5 of Article 5 of this Convention:

ARTICLE 12 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

Notwithstanding *Article 5 of the Convention*, but subject to *paragraph 2 of Article 12 of the MLI*, where

a person is acting in a *Contracting State* on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

a) in the name of the enterprise; or

b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or

c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that *Contracting State* in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that *Contracting State*, would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the provisions of *Article 5 of the Convention*.

6. **[REPLACED by paragraph 2 of Article 12 of the MLI]** [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, where such persons are acting in the ordinary course of their business.]

The following paragraph 2 of Article 12 of the MLI replaces paragraph 6 of Article 5 of this Convention:

ARTICLE 12 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

Paragraph 1 of Article 12 of the MLI shall not apply where the person acting in a *Contracting State* on behalf of an enterprise of the other *Contracting State* carries on business in the first-mentioned *Contracting State* as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

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 carries on business in that other Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

The following paragraph 1 of Article 15 of the MLI applies to provisions of this Convention:

ARTICLE 15 OF THE MLI – DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE

For the purposes of the provisions of *Article 5 of the Convention*, a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

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 laws of the Contracting State in which the property in question is situated. The term "immovable property" shall always include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law concerning landed property apply, usufruct of immovable property and rights to payments on a temporary or permanent basis 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 of this Article 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 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the business purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting 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 mere purchasing 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 hereof, 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 operations of ships or aircraft in international traffic carried on by an enterprise which is a resident of a Contracting State shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall also apply to income 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 have been established or imposed in the commercial or financial relations between the two enterprises which differ from those which would be agreed upon between two independent enterprises, then any profits which would 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 provisions of the Convention and the competent authorities of the Contracting States shall if necessary consult each other.

3. A Contracting State shall not adjust the profits of an enterprise in the circumstances referred to in paragraph 1 after five years from the end of the year in which the profits which would be subject to such adjustment would have accrued to an enterprise of that State. This paragraph shall not apply in the case of fraud or wilful default.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting 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 the State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of such limitation.

The provisions of 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, founder’s shares, mining shares, or other rights not being debt-claims but participating in profits, as well as income from other corporate rights which is subject 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.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to a resident to the former of the States, 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 such other State, nor subject the company’s undistributed profit 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 Contracting State.

2. The interest referred to in paragraph 1 of this Article may also be taxed in the Contracting State in which it arises and in accordance with the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. 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.

4. 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.

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

6. Where, by reason of a special relationship betwen 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. The royalties referred to in paragraph 1 of this Article may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 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 television and radio films or tapes, for the use of, or the right to use, any patent, know-how, trade mark, design or model, plan, computer programs, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial or scientific experience.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is the State itself, an administrative-territorial subdivision, a local authority thereof or a resident of that State. However, if 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 to which the obligation to pay the royalties relates 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 paid, 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 be subjected to taxation according to the laws of each Contracting State, due regard being had to the other provisions hereof.

Article 13

CAPITAL GAINES

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 permament establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable property pertaining to a fixed base used by 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 together with the whole enterprise) or 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 of movable property pertaining to the operation of such ship or aircraft shall be taxable only in the Contracting State of which the enterprise is a resident.

4. **[MODIFIED by paragraph 4 of Article 9 of the MLI]** [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.]

The following paragraph 4 of Article 9 of the MLI applies and supersedes paragraph 4 of Article 13 of this Convention:

ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY

For purposes of *the Convention*, gains derived by a resident of a *Contracting State* from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other

Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other *Contracting State*.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable in that State unless:

a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. In such case only the portion of the income attributable to that fixed base may be taxed in the other Contracting State;

b) he resides in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned. In such case only the portion of the income attributable to his services rendered in the other Contracting State may be taxed in the other Contracting State.

2. The term “professional services” includes especially idenpendent 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 and 19, 20 and 21 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If, however, the employment is so exercised, such remuneration may be taxed in that other Contracting State.

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

a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State of which the enterprise deriving the profits from the operation of the ship or aircraft is a resident.

Article 16

DIRECTORS' FEES

Directors' fees and other similar income derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting 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 theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

3. Notwithstanding the provisions of this Article income of an entertainer or a sportsman from his personal activities shall be exempt from tax in the Contracting State in which these activities are exercised if the activities are exercised within the framework of a programme for cultural cooperation and of a visit which is wholly financed by the other Contracting State or by the administrative-territorial subdivision or local authority. The afore-mentioned incentive shall be given upon presenting to the tax authorities of a Contracting State a document of a competent state administrative authority of the other Contracting State which confirms that all necessary requirements have been complied with.

Article 18

PENSIONS

Pensions and other similar remuneration, paid to the resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1.

a) Remuneration, other than a pension, paid by the Government of a Contracting State, or its administrative - territorial subdivision or a local authority thereof to an individual in respect of services rendered to that State, subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient 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, an administrative-territorial 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 an individual is a resident and a national of that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remunerations in respect of services rendered in connection with a business carried on by a Contracting State or an administrative-territorial subdivision or a local authority thereof.

Article 20

PROFESSORS, TEACHERS AND RESEARCHERS

Notwithstanding the provisions of Article 15, a teacher, a professor or a researcher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching or research at a university, college, school or other educational or research institution in that State and who is, or immediately before such visit

was, a resident of the other Contracting State shall, in respect of remuneration for such teaching, or research, be exempt from tax in the first-mentioned State.

The provisions of this Article shall not apply to income from research or teaching if such research or teaching is undertaken not in the public interest but primarely for the private benefit of a person or several such persons.

Article 21

STUDENTS OR BUSINESS APPRENTICES

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 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 State, provided that such payments arise from sources outside that State.

Article 22

OTHER INCOME

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

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

Article 23

CAPITAL

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

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

Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services may be taxed in that other State.

3. Capital represented by ships or aircraft operated in international traffic and by movable property pertaining to the operation of such means of transport, shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention.

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

Article 24

METHOD OF ELIMINATION OF DOUBLE TAXATION

1. In Slovenia double taxation shall be avoided as follows:

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

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

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

   Such deduction shall in no case exceeed the portion of the income tax or capital tax which has been computed before making the deduction which is attributable to the income or capital, as the case may be, that may be taxed in Russia.

   In Russia double taxation shall be avoided as follows:

   Where a resident of Russia derives income from Slovenia or owns capital in Slovenia, which in accordance with the provisions of this Convention may be taxed in Slovenia, the amount of tax on that income or capital payable in Slovenia may be credited against the tax levied in Russia. The amount of credit, however, shall not exceed the amount of the tax of Russia on that income or capital computed in accordance with its taxation laws and regulations.

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

Article 25

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirement to which the nationals of the other Contracting State are or may be subjected in the same circumstances.

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 the nationals of the State concerned are or may be subjected in the same circumstances.

3. The taxation of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourable in that other Contracting State than the taxation of any enterprise of that other Contracting 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 such personal allowances, reliefs and deductions for taxation purposes on account of civil status or family responsibilities as it may grant to its own residents.

4. Except in cases referred to in Article 9, paragraph 6 of Article 11 and paragraph 6 of Article 12, 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 an enterprise be deductable under the same conditions as if they had been paid to a resident of the first-mentioned Contracting 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 with 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 of more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or related requirement which is other or more burdensome than the taxation and related requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

6. The provisions of this Article shall apply to taxes of every kind and form.

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. 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 this Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws 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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When necessary for reaching an agreement, the competent authorities may meet and have an oral exchange of opinions.

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention, and for the prevention of fiscal evasion. Any information received by a Contracting State shall be treated as confidential and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. The provisions of paragraph 1 of this Article shall in no case be construed as imposing on competent authorities of Contracting States 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 are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

Article 28

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

The following paragraphs 1 through 3 of Article 10 of the MLI apply and supersede the provisions of this Convention:

ARTICLE 10 OF THE MLI – ANTI-ABUSE RULE FOR PERMANENT ESTABLISHMENTS SITUATED IN THIRD JURISDICTIONS

Paragraph 1 of Article 10 of the MLI

1. Where:

a) an enterprise of a *Contracting State* derives income from the other *Contracting State* and the first-mentioned *Contracting State* treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and
b) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned *Contracting State*,

the benefits of *the Convention* shall not apply to any item of income on which the tax in the third jurisdiction is less than 60 per cent of the tax that would be imposed in the first-mentioned *Contracting State* on that item of income if that permanent establishment were situated in the first-mentioned *Contracting State*. In such a case, any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other *Contracting State*, notwithstanding any other provisions of *the Convention.*

Paragraph 2 of Article 10 of the MLI

2. Paragraph 1 *of Article 10 of the MLI* shall not apply if the income derived from the other *Contracting State* described in paragraph 1 *of Article 10 of the MLI* is derived in connection with or is incidental to the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

Paragraph 3 of Article 10 of the MLI

3. If benefits under *the Convention* are denied pursuant to paragraph 1 *of Article 10 of the MLI* with respect to an item of income derived by a resident of a *Contracting State*, the competent authority of

the other *Contracting State* may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of paragraphs 1 and 2 *of Article 10 of the MLI*. The competent authority of the *Contracting State* to which a request has been made under the preceding sentence by a resident of the other *Contracting State* shall consult with the competent authority of that other *Contracting State* before either granting or denying the request.

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE
(*Principal purposes test provision)*

Notwithstanding any provisions of *the Convention*, a benefit under *the Convention* shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of *the Convention*.

Article 29

ENTRY INTO FORCE

The Contracting States shall notify each other about the completion of the procedure required by its laws for the bringing into force of this Convention. This Convention shall enter into force thirty days after the latter of the notifications and shall have effect in respect of taxes on income and on capital, in every tax year starting with 1st January, or after 1st January of the calendar year following the year in which such diplomatic notifications have been exchanged.

Article 30

TERMINATION

This Convention shall remain in force for an indefinite period of time. Not later than 30th of June of a calendar year starting five years after entering into force of the Convention, however, each Contracting State may send through diplomatic channels a written notice on termination. In such case the Convention shall cease to apply with respect to income and capital taxes for each tax year starting with 1st January, or after 1st January of the calendar year following the year of notification on termination.

Done at Ljubljana, 29th of November, 1995, in duplicate, each text in Slovenian, Russian and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

For the Government of	For the Government of
the Republic of Slovenia	the Russian Federation
Mitja Gaspari	Vladimir Georgijevič Panskov