SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE REPUBLIC OF SLOVENIA AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Republic of Slovenia and the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital signed on 2 May 2001 (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 Kingdom of Denmark 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 Kingdom of Denmark submitted to the Depositary upon ratification on 30 September 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. As the Kingdom of Denmark has modified its MLI position subsequent to the submission of its instrument of ratification to the Depositary, this document also contains the modifications of the effects of the MLI on the Convention resulting from the withdrawal of the reservation made by the Kingdom of Denmark under subparagraph a) of paragraph 2 of Article 28 of the MLI (as evident from the modifications the Kingdom of Denmark has made to its MLI position reflected in the consolidated MLI position of the Kingdom of Denmark submitted to the Depositary on 29 June 2021).

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. 6/02-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 Kingdom of Denmark submitted to the Depositary upon

ratification on 30 September 2019 and the consolidated MLI position of the Kingdom of Denmark submitted to the Depositary on 29 June 2021 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 Kingdom of Denmark in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 22 March 2018 for the Republic of Slovenia and 30 September 2019 for the Kingdom of Denmark.

Entry into force of the MLI: 1 July 2018 for the Republic of Slovenia and 1 January 2020 for the Kingdom of Denmark.

Information on the notification by the Kingdom of Denmark on the withdrawal of the reservation made under subparagraph a) of paragraph 2 of Article 28 of the MLI:

- date of receipt of the notification by the Depositary: 29 June 2021;
- date of the communication of the notification by the Depositary to the Republic of Slovenia: 30 June 2021.

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI have effect with respect to the Convention:

- 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 2020;
- with respect to all other taxes levied by the Republic of Slovenia, for taxes levied with respect to taxable periods beginning on or after 1 July 2020; and
- with respect to all other taxes levied by the Kingdom of Denmark, 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 REPUBLIC OF SLOVENIA AND THE KINGDOM OF DENMARK 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 Kingdom of Denmark

[REPLACED by paragraph 1 of Article 6 of the MLI] [desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital,]

The following paragraph 1 of Article 6 of the MLI replaces 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),

Have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

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

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

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

a) in Slovenia:

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

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

(iii) the tax on property (davek od premoženja);

(hereinafter referred to as “Slovenian tax“);

b) in Denmark:

(i) the income tax to the State (indkomsskatten til staten);

(ii) the income tax to the municipalities (den kommunale indkomstskat);

(iii) the income tax to the county municipalities (den amtskommunale indkomstskat);

(iv) taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);

(v) the tax on real property value (ejendomsværdiskatten);

(hereinafter referred to as “Danish tax“).

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

Article 3

GENERAL DEFINITIONS

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

a) the terms “a Contracting State“ and “the other Contracting State“ mean Slovenia or Denmark, as the context requires;

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

c) the term “Denmark“ means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;

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

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

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

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

h) the term “competent authority“ means:

(i) in Denmark: The Minister for Taxation or his authorized representative;

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

i) the term “national“ means:

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

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

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

Article 4

RESIDENT

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

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

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

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

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

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

3. **[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, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.]

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“ includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop, and

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

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

4. **[MODIFIED by paragraph 2 of Article 13 of the MLI]** [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.]

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, 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.]

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 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.]

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 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.

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

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

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

Article 7

BUSINESS PROFITS

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

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

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

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

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

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

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

Article 8

SHIPPING AND AIR TRANSPORT

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

2. Profits derived by an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) used for the transport of goods or merchandise in international traffic where such use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic, shall be taxable only in that State.

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. With respect to profits derived by Danish, Norwegian and Swedish air transport consortium the Scandinavian Airlines System (SAS), the provisions of paragraphs 1, 2 and 3 shall apply only to such proportion of the profits as corresponds to the participation held in that consortium by SAS Danmark A/S, the Danish partner of Scandinavian Airlines System.

Article 9

ASSOCIATED ENTERPRISES

1. Where

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

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

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

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

Article 10

DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the

beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

a) **[MODIFIED by paragraph 1 of Article 8 of the MLI]** [5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends where such holding is being possessed for an uninterrupted period of no less than one year and the dividends are declared within that period; and]

b) **[MODIFIED by paragraph 1 of Article 8 of the MLI]** [in the case of Denmark, 5 per cent of the gross amount of the dividends if the beneficial owner is a company, being a resident of Denmark, which is a partner in a Danish partnership, and alone holds directly at least 25 per cent of the capital of the company paying the dividends where such holding is being possessed for an uninterrupted period of no less than one year and the dividends are declared within that period;]

The following paragraph 1 of Article 8 of the MLI applies to subparagraphs a) and b) of paragraph 2 of Article 10 of this Convention:

ARTICLE 8 OF THE MLI – DIVIDEND TRANSFER TRANSACTIONS

Subparagraphs a) and b) of paragraph 2 of Article 10 of the Convention shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

c) 5 per cent of the gross amount of the dividends if the beneficial owner of the dividends and the beneficial and direct owner of the shares or other corporate rights giving right to the dividends is a recognized pension fund referred to in the Protocol to this Convention;

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

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

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

3. The term “dividends“ as used in this Article means income from shares, 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.

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 if such resident is the beneficial owner of the interest.

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

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

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

Article 12

ROYALTIES

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

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

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

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

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

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

Article 13

CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other

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

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property including containers referred to in Article 8 pertaining to the operation of such ships or aircraft shall be taxable only in that State.

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*.

5. With respect to gains derived by Danish, Norwegian and Swedish air transport consortium the Scandinavian Airlines System (SAS), the provisions of paragraph 3 shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by SAS Danmark A/S, the Danish partner of Scandinavian Airlines System.

6. Where a person who is a resident of a Contracting State becomes a resident of the other Contracting State, and the first-mentioned Contracting State taxes deemed capital gains on property of that person at the time of change of residence, then - in the case of subsequent alienation of such property - capital gains on such property as derived up to the time of change of residence shall not be taxed in the other Contracting State.

7. The provisions of paragraph 4 shall not affect the right of either of the Contracting States to levy, according to its law, a tax on gains from the alienation of shares or other corporate rights derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the five years immediately preceding the alienation of the shares or other corporate rights.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of

performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

Article 15

DEPENDENT PERSONAL SERVICES

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

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

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in 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 a resident of the first-mentioned 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 operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard an aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

Article 16

DIRECTORS’ FEES

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

Article 17

ARTISTES AND SPORTSMEN

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

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

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

Article 18

PENSIONS, SOCIAL SECURITY PAYMENTS AND SIMILAR PAYMENTS

1. Payments received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State, or under any other similar scheme out of funds created by that other State or a political subdivision or a local authority thereof, may be taxed in that other State.

2. Subject to the provisions of paragraph 1 of this Article and paragraph 2 of Article 19, pensions and other remuneration in connection with past employment and any other pension distributions arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the other Contracting State, unless:

a) the recipient was a resident of the first-mentioned State; and

b) (i) the contributions paid by the beneficiary to the pension scheme were deductible according to the provisions regarding pension schemes recognized for tax purposes in the Contracting State where the pension scheme is established; or

(ii) the beneficiary of the pension scheme was not taxable on the contributions paid by an employer according to provisions regarding pension schemes recognized for tax purposes in the Contracting State where the pension scheme is established; or

(iii) a combination of (i) and (ii).

In such case, the pensions may be taxed in the first-mentioned State; the tax so charged shall, however, not exceed 23 per cent of the pensions.

However, pensions arising in a Contracting State and paid to residents of the other Contracting State who were receiving such pensions before this Convention became effective, shall be taxable only in that other State.

3. Pension distributions shall be deemed to arise in a Contracting State only if paid by a pension scheme established in that State.

4. The term “A pension schemes recognized for tax purposes” shall include the following provisions and any identical or substantially similar provisions which are imposed after the date of signature of the Convention:

a) Under the laws of Denmark, qualified schemes under Part I of the Law on Taxation of Pensions;

b) In the case of Slovenia, under respective legislation.

Article 19

GOVERNMENT SERVICE

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

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

(i) is a national of that State; or

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

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

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

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

Article 20

PROFESSORS AND TEACHERS

1. Remuneration which a professor or a teacher, who is a resident of one of the Contracting States and who visits the other Contracting State for a period not exceeding two years for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution, receives for those activities, shall be taxable only in the first-mentioned State.

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

Article 21

STUDENTS

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

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1 of this Article, a student or business apprentice shall be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes as are available to the nationals in the same circumstances of the Contracting State which he is visiting.

Article 22

ACTIVITIES IN CONNECTION WITH PRELIMINARY SURVEYS, EXPLORATION OR EXTRACTION OF HYDROCARBONS

1. Notwithstanding the provisions of Articles 5 and 14, a resident of a Contracting State who carries on activities in connection with preliminary surveys, exploration or extraction of hydrocarbons situated in the other Contracting State shall be deemed to be carrying on in respect of such activities a business in that other State through a permanent establishment or to be performing independent personal services from a fixed base situated therein.

2. The provisions of paragraph 1 shall not apply where the activities are carried on for a period or periods not exceeding 30 days in the aggregate in any twelve month period. However, for the purpose of this paragraph, activities carried on by an enterprise associated with another enterprises within the meaning of Article 9 shall be deemed to be carried on by the enterprises with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprises.

3. Notwithstanding the provisions of paragraphs 1 and 2, drilling rig activities carried on offshore shall constitute a permanent establishment only if the activities are carried on for a period or periods exceeding 365 days in the aggregate in any eighteen month period. However, for the purpose of this paragraph, activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 shall be deemed to be carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.

4. Notwithstanding the provisions of paragraphs 1 and 2, profits derived by an enterprise of a Contracting State from the transport by ships or aircraft of supplies or personnel to a location where offshore activities in connection with preliminary surveys, exploration or extraction of hydrocarbons are being carried on in the other Contracting State, or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the first-mentioned State.

5. Salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft,

tugboat or vessel covered by paragraph 4 shall be taxed in accordance with the provisions of paragraphs 3 and 4 of Article 15.

6. Notwithstanding the provisions of Article 13, capital gains on drilling rigs used for activities, as mentioned in paragraph 3, which are deemed to be derived by a resident of a Contracting State when the activities cease to be subject to tax in the other Contracting State, shall be exempt from tax in that other State. For the purpose of this paragraph, the term “capital gains“ means the amount by which the market value at the moment of transfer exceeds the residual value at that moment, as increased by any depreciation taken.

Article 23

OTHER INCOME

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

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

Article 24

TAXATION OF 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 by an enterprise of a Contracting State and by movable property including containers referred to in Article 8 pertaining to the operation of such ships or aircraft shall be taxable only in that State.

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

Article 25

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In Slovenia:

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

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

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

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

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

2. In Denmark:

a) Subject to the provisions of subparagraph c), where a resident of Denmark derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Slovenia, Denmark shall allow:

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

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

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

c) where a resident of Denmark derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only in Slovenia, Denmark may include this income or capital in the tax base, but shall allow as a deduction from the income tax or capital tax that part of the income tax or capital tax which is attributable, as the case may be, to the income derived or the capital owned in Slovenia.

Article 26

NON-DISCRIMINATION

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

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

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

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

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

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

Article 27

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

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

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

4. The competent authorities of the Contracting States shall, in order to resolve questions which arise from different national standards determining the tax basis or from other reasons, consult together with a view to mitigating or eliminating difficulties which arise from differences in their respective tax laws, in particular in regard to partnerships, and with a view to avoiding non-taxation or double taxation and taking measures against international tax evasion and avoidance.

5. 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.

The following Part VI of the MLI applies to this Convention:[1]

PART VI OF THE MLI (ARBITRATION)

Paragraphs 1 to 10 and 12 of Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

a) under *paragraph 1 of Article 27 of the Convention*, a person has presented a case to the competent authority of a *Contracting State* on the basis that the actions of one or both of the *Contracting States* have resulted for that person in taxation not in accordance with the provisions of *the Convention*; and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to *paragraph 2 of Article 27 of the Convention*, within a period of *three-years* beginning on the start date referred to in paragraph 8 or 9 *of Article 19 of the MLI*, as the case may be (unless, prior to the expiration of that period the competent authorities of the *Contracting States* have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in *Part VI of the MLI*, according to any rules or procedures agreed upon by the competent authorities of the *Contracting States* pursuant to the provisions of paragraph 10 *of Article 19 of the MLI*.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 *of Article 19 of the MLI* because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 *of Article 19 of the MLI* will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 *of Article 19 of the MLI* will stop running until the suspension has been lifted.

[1] In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI have effect with respect to this Convention with respect to cases presented to the competent authority of a *Contracting State* on or after 1 January 2020.

In accordance with paragraph 2 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI apply to a case presented to the competent authority of a *Contracting State* prior to 1 January 2020 only to the extent that the competent authorities of both *Contracting States* agree that it will apply to that specific case.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1 *of Article 19 of the MLI*, the period provided in subparagraph b) of paragraph 1 *of Article 19 of the MLI* shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.

4. a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 *of Article 19 of the MLI*. The arbitration decision shall be final.

b) The arbitration decision shall be binding on both *Contracting States* except in the following cases:

i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.

ii) if a final decision of the courts of one of the *Contracting States* holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 *of Article 19 of the MLI* shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) *of the MLI*). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.

iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 *of Article 19 of the MLI* shall, within two calendar months of receiving the request:

a) send a notification to the person who presented the case that it has received the request; and

b) send a notification of that request, along with a copy of the request, to the competent authority of the other *Contracting State*.

6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other *Contracting State*) it shall either:

a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the

case; or

b) request additional information from that person for that purpose.

7. Where pursuant to subparagraph b) of paragraph 6 *of Article 19 of the MLI*, one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:

a) that it has received the requested information; or

b) that some of the requested information is still missing.

8. Where neither competent authority has requested additional information pursuant to subparagraph b) of paragraph 6 *of Article 19 of the MLI*, the start date referred to in paragraph 1 *of Article 19 of the MLI* shall be the earlier of:

a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 *of Article 19 of the MLI*; and

b) the date that is three calendar months after the notification to the competent authority of the other *Contracting State* pursuant to subparagraph b) of paragraph 5 *of Article 19 of the MLI*.

9. Where additional information has been requested pursuant to subparagraph b) of paragraph 6 *of Article 19 of the MLI*, the start date referred to in paragraph 1 *of Article 19 of the MLI* shall be the earlier of:

a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to subparagraph a) of paragraph 7 *of Article 19 of the MLI*; and

b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in subparagraph b) of paragraph 7 *of Article 19 of the MLI*, such notification shall be treated as a request for additional information under subparagraph b) of paragraph 6 *of Article 19 of the MLI*.

10. The competent authorities of the *Contracting States* shall by mutual agreement pursuant to *Article 27 of the Convention* settle the mode of application of the provisions contained in *Part VI of the MLI*, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

12. Notwithstanding the other provisions *of Article 19 of the MLI*:

a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by *the MLI* shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either *Contracting State*;

b) if, at any time after a request for arbitration has been made and before the arbitration

panel has delivered its decision to the competent authorities of the *Contracting States*, a decision concerning the issue is rendered by a court or administrative tribunal of one of the *Contracting States*, the arbitration process shall terminate.

Article 20 (Appointment of Arbitrators) of the MLI

1. Except to the extent that the competent authorities of the *Contracting States* mutually agree on different rules, paragraphs 2 through 4 *of Article 20 of the MLI* shall apply for the purposes of *Part VI of the MLI*.

2. The following rules shall govern the appointment of the members of an arbitration panel:

a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.

b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 *of the MLI*. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either *Contracting State*.

c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the *Contracting States* and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

3. In the event that the competent authority of a *Contracting State* fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 *of Article 20 of the MLI* or agreed to by the competent authorities of the *Contracting States*, a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either *Contracting State*.

4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 *of Article 20 of the MLI* or agreed to by the competent authorities of the *Contracting States,* the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either *Contracting State*.

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

1. Solely for the purposes of the application of the provisions of *Part VI of the MLI* and of the provisions of *the Convention* and of the domestic laws of the *Contracting States* related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive

from the arbitration panel shall be considered information that is exchanged under the provisions of *the Convention* related to the exchange of information and administrative assistance.

2. The competent authorities of the *Contracting States* shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of *the Convention* related to exchange of information and administrative assistance and under the applicable laws of the *Contracting States*.

Article 22 (Resolution of a Case Prior to the Conclusion of the Arbitration) of the MLI

For the purposes of *Part VI of the MLI* and the provisions of *the Convention* that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the *Contracting States*:

a) the competent authorities of the *Contracting States* reach a mutual agreement to resolve the case; or

b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

Paragraphs 3 and 5 of Article 23 (Type of Arbitration Process) of the MLI

3. The competent authorities of the *Contracting States* shall endeavour to reach agreement on the type of arbitration process that shall apply with respect to *the Convention*. Until such an agreement is reached, Article 19 (Mandatory Binding Arbitration) *of the MLI* shall not apply with respect to *the Convention*.

5. Prior to the beginning of arbitration proceedings, the competent authorities of the *Contracting States* shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under *the Convention*, as well as the arbitration proceeding under *Part VI of the MLI*, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the *Contracting States*, a person that presented the case or one of that person's advisors materially breaches that agreement.

Paragraph 2 of Article 24 (Agreement on a Different Resolution) of the MLI

2. Notwithstanding paragraph 4 of Article 19 *of the MLI,* an arbitration decision pursuant to *Part VI of the MLI* shall not be binding on the *Contracting States* and shall not be implemented if the competent authorities of the *Contracting States* agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

Article 25 (Costs of Arbitration Proceedings) of the MLI

In an arbitration proceeding under *Part VI of the MLI*, the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the *Contracting States*, shall be borne by the *Contracting States* in a manner to be settled by mutual agreement between the competent authorities of the *Contracting States*. In the absence of such agreement, each *Contracting State* shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the *Contracting States* in equal shares.

Paragraphs 2 and 3 of Article 26 (Compatibility) of the MLI

2. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in *Part VI of the MLI* shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral convention that provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

3. *Nothing* in *Part VI of the MLI* shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the *Contracting States* are or will become parties.

Subparagraph a) of paragraph 2 of Article 28 (Reservations) of the MLI

Pursuant to *subparagraph a) of paragraph 2 of Article 28 of the MLI*, the Republic of Slovenia formulates the following reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of *Part VI of the MLI*:

1. The Republic of Slovenia reserves the right to exclude from the scope of Part VI cases concerning items of income or capital that are not taxed by a Contracting Jurisdiction because they are not included in the taxable base in that Contracting Jurisdiction or because they are subject to an exemption or zero tax rate provided only under the domestic tax law of that Contracting Jurisdiction and that is specific to such item of income or capital.

2. The Republic of Slovenia reserves the right to exclude from the scope of Part VI cases involving conduct for which the taxpayer, a person acting on its behalf, or a related person:

   i. Has been found guilty by a court of a criminal tax offence; or

   ii. Has been subject to a serious penalty for tax fraud, evasion or avoidance.

For this purpose, the legislative provisions governing serious penalties for tax fraud, evasion or avoidance are contained in the Tax Procedure Act. Any subsequent provisions replacing, amending or updating these provisions would also be comprehended. The Republic of Slovenia shall notify the Depositary of any such subsequent provisions.

3. The Republic of Slovenia reserves the right to exclude from the scope of Part VI cases involving the residence of companies and other entities.

4. The Republic of Slovenia reserves the right to exclude from the scope of Part VI cases involving the application of domestic anti-avoidance provisions. For this purpose, the Republic of

Slovenia's domestic anti-avoidance provisions shall include such provisions contained in the tax laws.

Pursuant to *subparagraph a) of paragraph 2 of Article 28 of the MLI*, the Kingdom of Denmark formulates the following reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of *Part VI of the MLI*:

1. Part VI (Arbitration) of the Convention shall not apply to cases that fall within the scope of application of the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC) as amended, of Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union, or subsequent regulation.

2. Part VI (Arbitration) of the Convention shall not apply to cases where penalties were imposed on an individual or a legal person by a Party for tax fraud, willful default or gross negligence.

Note on the withdrawal of a reservation subsequent to ratification[2]:

Until deposit of the notification of the withdrawal of a reservation received by the Depositary on 29 June 2021 and communicated by the Depositary on 30 June 2021, the Kingdom of Denmark had an additional reservation that read as follows:

"2. Part VI (Arbitration) of the Convention shall apply to a tax case only insofar the Parties agree that

(a) the Chair of the arbitration panel shall be a judge, and

(b) Denmark shall be permitted to publish abstracts of decisions made by the arbitration panel.".

Article 28

EXCHANGE OF INFORMATION

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

[2] The withdrawal of a reservation subsequent to ratification has effect in accordance with the provisions of the MLI on the entry into effect.

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 29

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.

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 30

TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of Denmark which is specifically excluded from the application of the Convention and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 32 shall also terminate, in the manner provided for in that Article, the application of the Convention to any part of the territory of Denmark to which it has been extended under this Article.

Article 31

ENTRY INTO FORCE

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

2. The Convention shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in respect of taxes for the fiscal year immediately following that in which the Convention enters into force and subsequent fiscal years.

3. The Convention between the Socialist Federal Republic of Yugoslavia and the Kingdom of Denmark for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital signed on 19 March 1981, to which the Republic of Slovenia has succeeded by an exchange of notes of 28 July 1993 and 8 October 1993 between the Ministry for Foreign Affairs of the Republic of Slovenia and the Ministry of Foreign Affairs of the Kingdom of Denmark, shall terminate in relations between the Republic of Slovenia and the Kingdom of Denmark upon the entry into force of this Convention, and its provisions shall cease to have effect on the date when this Convention becomes effective.

Article 32

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following after a period of five years from the year in which the Convention enters into force. In such event, the Convention shall cease to have effect in respect of the taxes for the fiscal year immediately following that in which the notice of termination is given and subsequent fiscal years.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Copenhagen on the 2nd day of May 2001, in the Slovenian, Danish and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Government

For the Government

of the Republic of Slovenia

Dr Dimitrij Rupel

of the Kingdom of Denmark

Mogens Lykketoft

PROTOCOL

At the signing today of the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital concluded between the Government of the Republic of Slovenia and the Government of the Kingdom of Denmark, the undersigned have agreed upon the following additional provisions which shall form an integral part of the said Convention.

For the purposes of subparagraph c) of paragraph 2 of Article 10, it is understood that

in the case of Denmark, as a recognized pension fund shall be regarded:

a) the Labour Market Supplementary Pension Fund (Arbejdsmarkedets Tillægspension) as mentioned in subparagraph 1, no. 8), of paragraph 3 of the Danish Company Taxation Act; and

b) pension funds as defined in subparagraph 1, no. 9), of paragraph 3 of the Danish Company Taxation Act; and

c) the Employees Capital Pension Fund (Lønmodtagernes Dyrtidsfond) as mentioned in subparagraph 1, no. 13), of paragraph 3 of the Danish Company Taxation Act;

in the case of Slovenia, as a recognized pension fund shall be regarded any pension fund recognized and controlled according to statutory provisions.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Copenhagen on the 2nd day of May 2001, in the Slovenian, Danish and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Government

of the Republic of Slovenia

Dr Dimitrij Rupel

For the Government

of the Kingdom of Denmark

Mogens Lykketoft