

SYNTHESISED TEXT
OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED
MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING

AND

THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SERBIA
AND THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA FOR THE
AVOIDANCE OF DOUBLE TAXATION 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 Government of the Republic of Serbia and the Government of the Republic of Lithuania for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital signed on 28 August 2007 (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 Serbia and by the Republic of Lithuania on 7 June 2017 (the „MLI”).

This document was prepared jointly by the competent authorities of the Republic of Serbia and the Republic of Lithuania and represents their shared understanding of the modifications made to the Convention by the MLI.

The document was prepared on the basis of the MLI position of the Republic of Serbia submitted to the Depository upon ratification on 5 June 2018 and of the MLI position of the Republic of Lithuania submitted to the Depository upon ratification on 11 September 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

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

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

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as „Covered Tax Agreement” and „Convention”, „Contracting Jurisdictions” and „Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the

MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

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

References

The authentic legal texts of the MLI and the Convention can be found at the following links:

- in the Republic of Serbia,

<http://www.mfin.gov.rs/pages/issue.php?id=7063>

- <http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf>

- in the Republic of Lithuania,

<https://www.e-tar.lt/portal/lt/legalAct/TAR.DF2C53E5B741>

(the

Convention),

[https://www.e-](https://www.e-tar.lt/portal/lt/legalAct/56a279f0cbc311e8bf37fd1541d65f38)

[tar.lt/portal/lt/legalAct/56a279f0cbc311e8bf37fd1541d65f38](https://www.e-tar.lt/portal/lt/legalAct/56a279f0cbc311e8bf37fd1541d65f38) (the MLI)

The MLI position of the Republic of Serbia submitted to the Depositary upon ratification on 5 June 2018 and the MLI position of the Republic of Lithuania submitted to the Depositary upon ratification on 11 September 2018 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 Serbia and the Republic of Lithuania in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 5 June 2018 for the Republic of Serbia and 11 September 2018 for the Republic of Lithuania.

Entry into force of the MLI: 1 October 2018 for the Republic of Serbia and 1

January 2019 for the Republic of Lithuania.

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 2019;
- with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 July 2019.

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[REPLACED by paragraph 1 of Article 6 of the MLI]

[Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital,]

The following preamble text described in 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 *this 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, as well as taxes on capital appreciation.

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

1) in Lithuania:

- (1) the profit tax (pelno mokestis);
- (2) the income tax (pajamu mokestis);
- (3) the immovable property tax (nekilnojamojo turto mokestis);

(hereinafter referred to as "**Lithuanian tax**");

2) in Serbia:

- (1) the tax on profit (porez na dobit);
- (2) the tax on income (porez na dohodak);
- (3) the tax on capital (porez na imovinu);

(hereinafter referred to as "**Serbian tax**").

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

Article 3 GENERAL DEFINITIONS

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

- 1) the terms "**a Contracting State**" and "**the other Contracting State**" mean Lithuania or Serbia, as the context requires;
- 2) the term "**Lithuania**" means the Republic of Lithuania and, when used in the geographical sense, means the territory of the Republic of Lithuania and any other area adjacent to the territorial sea of the Republic of Lithuania within which under the laws of the Republic of Lithuania and in accordance with

international law, the rights of Lithuania may be exercised with respect to the sea bed and its sub-soil and their natural resources;

- 3) the term "**Serbia**" means the Republic of Serbia and, when used in a geographical sense it means the territory of the Republic of Serbia;
- 4) the term "**person**" includes an individual, a company and any other body of persons;
- 5) the term "**company**" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- 6) 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;
- 7) 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;
- 8) the term "**competent authority**" means:
 - (1) in Lithuania, the Minister of Finance or his authorised representative;
 - (2) in Serbia, the Ministry of Finance or its authorised representative.
- 9) the term "**national**" means:
 - (1) any individual possessing the nationality of a Contracting State;
 - (2) 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, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

- 1) 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);
- 2) 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;
- 3) 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;
- 4) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting State shall endeavour to resolve the case by mutual agreement due regard being had to its place of effective management or to any other relevant criterion. In the absence of such an agreement, such a person shall not be entitled to claim any benefits under this Convention.

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:

- 1) a place of management;
- 2) a branch;
- 3) an office;
- 4) a factory;
- 5) a workshop, and
- 6) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "**permanent establishment**" likewise encompasses:

[MODIFIED by paragraph 1 of Article 14 of the MLI]

[1) a building site or construction or installation project only if such site or project lasts for a period of more than nine months;]

The following paragraph 1 of Article 14 of the MLI applies and supersedes paragraph 3 subparagraph 1) of Article 5 of this Convention:

ARTICLE 14 OF THE MLI – SPLITTING UP OF CONTRACT

For the sole purpose of determining whether the period referred to in *paragraph 3 subparagraph 1) of Article 5 of this Convention* has been exceeded:

- a) where an enterprise of a *Contracting State* carries on activities in the other *Contracting State* at a place that constitutes a building site *or* construction *or* installation project identified in *paragraph 3 subparagraph 1) of Article 5 of this Convention*, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period referred to in *paragraph 3 subparagraph 1) of Article 5 of this Convention*; and
- b) where connected activities are carried on in that other *Contracting State* at the same building site *or* construction *or* installation project during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,
- these different periods of time shall be added to the aggregate period of time during which the first-mentioned enterprise has carried on activities at that building site *or* construction *or* installation project.

- 2) activities carried on in a Contracting State in connection with the exploration or exploitation of the sea bed and its sub-soil of their natural resources situated in that State, if such activities are carried on for a period or periods exceeding in the aggregate 30 days in any twelve month period.

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

- 1) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- 2) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- 3) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- 4) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- 5) 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;
- 6) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs 1) to 5), 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 4 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Convention:

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

Paragraph 4 of Article 5 of this Convention, 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 this 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 this 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 this 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 this 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, any option or similar rights to acquire immovable property, 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, rights to assets to be produced by the exploration or exploitation of the sea bed and its sub-soil and their natural resources, including rights to interests in or to the benefit of such assets.. 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. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to the enjoyment may be taxed in the Contracting State in which the immovable property is situated.
5. The provisions of paragraphs 1, 3 and 4 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. Nothing in this paragraph shall,

however, authorise a deduction for expenses which would not be deductible if the permanent establishment were a separate enterprise.

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 INTERNATIONAL TRAFFIC

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

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

Article 9 ASSOCIATED ENTERPRISES

1. Where

- 1) 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
- 2) 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:

- 1) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- 2) 10 per cent of the gross amount of the dividends in all other cases.

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

3. The term "**dividends**" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income 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.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is derived and beneficially owned by the Government of the other Contracting State, including any political subdivision or local authority thereof, the Central Bank or any financial institution wholly owned by that Government.
4. The term "**interest**" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. The term "**interest**" shall not include any income which is treated as a dividend under the provisions of Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.
3. The term "**royalties**" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes and other means of image or sound reproduction for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. 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. Income or 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 operating ships or aircraft in international traffic from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

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

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

Article 14

INDEPENDENT PERSONAL SERVICES

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

- 1) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- 2) his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other State.

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

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- 1) 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
- 2) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- 3) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 16 DIRECTORS' FEES

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

Article 17 ARTISTES AND SPORTSMEN

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by a resident of a Contracting State from his personal activities as an entertainer or as a sportsman shall be taxable only in that State if the activities are exercised in the other Contracting State within the framework of a cultural or sports exchange programme approved by both Contracting States.

Article 18 PENSIONS

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

2. Notwithstanding the provisions of paragraph 1 of this Article and paragraph 2 of Article 19, pensions and other similar remuneration paid under the social security system of a Contracting State shall be taxable only in that State.

Article 19
GOVERNMENT SERVICE

1. 1) 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.
- 2) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (1) is a national of that State; or
 - (2) did not become a resident of that State solely for the purpose of rendering the services.
2. 1) 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.
- 2) 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
STUDENTS

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

Article 21
PROFESSORS AND RESEARCHERS

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at a university, college, school or other recognized educational institution in that State and who is or was immediately before that visit a resident of the other Contracting State, shall be exempt from taxation in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of his first visit for that purpose, provided that such remuneration arise from sources outside that State and is subject to tax in the other Contracting State.
2. The provisions of paragraph 1 of this Article shall not apply to remuneration from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22
OTHER INCOME

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

Article 23
CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and 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 24
ELIMINATION OF DOUBLE TAXATION

1. In Lithuania, double taxation shall be eliminated as follows:

Where a resident of Lithuania derives income or owns capital which, in accordance with this Convention, may be taxed in Serbia, unless a more favourable treatment is provided in its domestic law, Lithuania shall allow:

- 1) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Serbia;
- 2) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in Serbia.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax in Lithuania, 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 Serbia.

2. In Serbia, double taxation shall be eliminated as follows:

- 1) Where a resident of Serbia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Lithuania, Serbia shall allow:
 - (1) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Lithuania;
 - (2) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Lithuania.

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 Lithuania.

- 2) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Serbia is exempt from tax in Serbia, Serbia 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.

Article 25 NON-DISCRIMINATION

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

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

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

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

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

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic 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 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

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

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

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State 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. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- 1) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- 2) 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;
- 3) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 28
MEMBERS OF DIPLOMATIC MISSIONS
AND CONSULAR POSTS

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

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 *this Convention*, a benefit under *this 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 *this Convention*.

Article 29
ENTRY INTO FORCE

1. The Contracting States shall notify each other, through diplomatic channels, when the constitutional requirements for the entry into force of this Convention have been complied with.

2. This 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 :

1) in Lithuania:

- (1) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the

Convention enters into force;

- (2) in respect of other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

2) in Serbia:

in respect of the taxes on income derived and the taxes on capital owned in each fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

Article 30 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 notice of termination at least six months before the end of any calendar year. In such event, this Convention shall cease to have effect:

1) in Lithuania:

- (1) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;
- (2) in respect of other taxes on income and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given;

2) in Serbia:

in respect of the taxes on income derived and the taxes on capital owned in each fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination has been given.

IN WITNESS whereof the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Belgrade this 28 day of August 2007 in two originals, in the Serbian, Lithuanian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT
OF THE REPUBLIC OF SERBIA**

VUK JEREMIC

**FOR THE GOVERNMENT
OF THE REPUBLIC OF LITHUANIA**

PETRAS VAITIEKUNAS