

**SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE  
REPUBLIC OF LITHUANIA AND THE SLOVAK REPUBLIC 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 Lithuania and the Slovak Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital signed on 15 March 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 Lithuania and by the Slovak Republic on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position the Republic of Lithuania submitted to the Depository upon ratification on 11 September 2018 and of the MLI position the Slovak Republic submitted to the Depository upon ratification on 20 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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:

- in the Republic of Lithuania on the webpages <https://www.e-tar.lt/portal/lt/legalAct/TAR.D9A87285B1A4> (the Convention), <https://www.e-tar.lt/portal/lt/legalAct/6a24b8b0793111e8ae2bfd1913d66d57> (the MLI)
- in the Slovak Republic on the webpages <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/756/20021231> (the Convention), <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/339/20181129> (the MLI).

The MLI position of the Republic of Lithuania submitted to the Depository upon ratification on 11 September 2018 and the MLI position of the Slovak Republic submitted to the Depository upon ratification on 20 September 2018 can be found [on the MLI Depository \(OECD\) 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 Lithuania and the Slovak Republic in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 11 September 2018 for the Republic of Lithuania and 20 September 2018 for the Slovak Republic.

Entry into force of the MLI: 1 January 2019 for the Republic of Lithuania and 1 January 2019 for the Slovak Republic.

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 the Slovak Republic, for taxes levied with respect to taxable periods beginning on or after 1 July 2019; and
- with respect to all other taxes levied by the Republic of Lithuania, for taxes levied with respect to taxable periods beginning on or after 1 July 2019.

**CONVENTION BETWEEN  
THE REPUBLIC OF LITHUANIA AND  
THE SLOVAK REPUBLIC  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND  
THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Republic of Lithuania and the Slovak Republic,

**[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 *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:

(a) in Lithuania:

- (i) the tax on profits of legal persons (juridiniu asmenu pelno mokestis);
  - (ii) the tax on income of natural persons (fiziniu asmenu pajamu mokestis);
  - (iii) the tax on enterprises using state-owned capital (palukanos uz valstybinio kapitalo naudojima);
  - (iv) the immovable property tax (nekilnojamojo turto mokestis);
- (hereinafter referred to as "Lithuanian tax");

(b) in Slovakia:

- (i) the tax on income of individuals (dan z prijmov fyzickych osob);
  - (ii) the tax on income of legal persons (dan z prijmov pravnickych osob);
  - (iii) the tax on immovable property (dan z nehnutelnosti);
- (hereinafter referred to as "Slovak 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. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

### **Article 3**

#### **General definitions**

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

(a) 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;

(b) the term "Slovakia" means the Slovak Republic and, when used in a geographical sense, means its territory, within which the Slovak Republic exercises its sovereign rights and jurisdiction, in accordance with the rules of international law;

(c) the terms "a Contracting State" and "the other Contracting State" mean Lithuania or Slovakia, as the context requires;

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

(e) the term "company" means any body corporate or any entity 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 Lithuania, the Minister of Finance or his authorised representative;

(ii) in Slovakia, the Minister of Finance or his authorised representative;

(i) the term "national" means:

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

(ii) any legal person, partnership, association or other entity 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:

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

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

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Convention to such person. In the absence of such agreement, such person shall not be considered to be a resident of either Contracting State for purposes of enjoying benefits under the 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:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop, and

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

3. The term "permanent establishment" likewise encompasses:

(a) **[MODIFIED by paragraph 1 of Article 14 of the MLI]** a building site or construction or installation project only if it lasts more than nine months;

*The following paragraph 1 of Article 14 of the MLI applies and supersedes the provisions of this Convention:*

ARTICLE 14 OF THE MLI – SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether the nine months referred to *in subparagraph a) of paragraph 3 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, construction or installation project identified in the above-mentioned provision and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period or periods referred to *in subparagraph a) of paragraph 3 of Article 5 of the Convention*; and

b) where connected activities are carried on in that other Contracting State at (or, in connection with) the same building site, construction or installation project identified in the above-mentioned provision 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 a building site, construction or installation project identified in the above-mentioned provision .

(b) the furnishing of services, including consultancy and managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue in the territory of the other Contracting State for a period or periods exceeding in the aggregate six months within any twelve-month period.

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

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

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

(c) 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 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 provisions of this Convention relating to immovable property shall apply also to 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 right 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. 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 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.

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

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

## **Article 9**

### **Associated enterprises**

1. Where

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

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

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

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

3. The provisions of paragraph 2 shall not apply in the case of fraud or wilful default or neglect.

## **Article 10**

### **Dividends**

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3.The term "dividends" as used in this Article means income from shares of any description 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. The term "dividends" also includes income from arrangements, including debt obligations, carrying the right to participate in profits, to the extent so characterised under the law of the Contracting State in which the income arises.

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 arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State or the Central Bank or any financial institution wholly owned by that Government, or interest derived on loans guaranteed by that Government shall be exempt from tax in the first-mentioned State.

4.The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and, subject to paragraph 3 of Article 10, whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5.The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, 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 for radio or television broad-casting and other means of image or sound reproduction, 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. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains derived by a resident of a Contracting State from the alienation of shares in a company, the assets of which consist mainly, directly or indirectly, of immovable property referred to in Article 6 and situated in the other Contracting State, may be taxed in that other State.

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

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

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

### **Article 14**

#### **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 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. For this purpose, where an individual who is a resident of a Contracting State stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the tax year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be 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 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the tax year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

## **Article 16**

### **Directors' fees**

Directors' fees and other similar remuneration derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company 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 exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

## **Article 18**

### **Pensions**

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

## **Article 19**

### **Government service**

1.(a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision 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**

### **Students**

Payments which a student, a business apprentice or a 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**

### **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. However, income in the form of winnings from gaming and lotteries, arising in the other Contracting State, may also be taxed in that other 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 22**

### **Capital**

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

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State 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 23**

### **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 Slovakia, unless a more favourable treatment is provided in its domestic law, Lithuania shall allow:

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

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

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 Slovakia.

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

Slovakia, when imposing taxes on its residents, may include in the tax base upon which such taxes are imposed the items of income or capital which according to the provisions of this Convention may also be taxed in Lithuania, but shall allow as a deduction from the amount of tax computed on such a base an amount equal to the tax paid in Lithuania.

Such deduction shall not, however, exceed that part of the Slovak tax, as computed before the deduction is given, which is attributable to the income or capital which, in accordance with the provisions of this Convention, may be taxed in Lithuania.

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

## **Article 24**

### **Non-discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any 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, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

## **Article 25**

### **Mutual agreement procedure**

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

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

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

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

## **Article 26**

### **Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws 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. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

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

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

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

## **Article 27**

### **Members of diplomatic missions and consular posts**

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

*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**

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 28**

### **Entry into force**

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect in both Contracting States:

(a) 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;

(b) in respect of other taxes on income and taxes on capital, for taxes chargeable for any tax 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 29**

### **Termination**

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

- (a) 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 of termination has been given;
- (b) in respect of other taxes on income and taxes on capital, for taxes chargeable for any tax 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, duly authorised thereto, have signed this Convention.

Done in duplicate at Vilnius this 15th day of March 2001, in the Lithuanian, Slovak and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For the Republic of Lithuania

For the Slovak Republic

## **PROTOCOL TO THE CONVENTION BETWEEN THE REPUBLIC OF LITHUANIA AND THE SLOVAK REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

At the signing of the Convention between the Republic of Lithuania and the Slovak Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (hereinafter referred to as "the Convention"), the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

### **I. With reference to Article 6 and Article 13**

It is understood that all income and gains from the alienation of immovable property referred to in Article 6 and situated in a Contracting State may be taxed in accordance with the provisions of Article 13.

### **II. With reference to paragraph 3 of Article 7**

It is understood that the expenses to be allowed as deductions by a Contracting State shall include only those deductible expenses directly relating to the business of the permanent establishment.

### **III.**

*According to the paragraph 4 of Article 14 of the MLI and subject to the Republic of Lithuania's reservation under subparagraph b) of paragraph 3 of Article 14 of the MLI, the paragraph 1 of Article 14 of the MLI does not apply to the following provisions:*

The Contracting States agree that notwithstanding the provisions of Articles 4 to 20 of the Convention in relation to offshore activities the following provisions shall apply:

1. The term "offshore activities" means activities carried on offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that State.

2. A person who is a resident of a Contracting State and carries on offshore activities in the other Contracting State shall, subject to paragraph 3, be deemed to be carrying on business in that other State through a permanent establishment or a fixed base situated therein.

3. The provisions of paragraph 2 shall not apply where the offshore activities are carried on for a period or periods not exceeding in the aggregate 30 days in any twelve-month period. For the purposes of this paragraph:

(a) offshore activities carried on by a person who is associated with another person shall be deemed to be carried on by the other person if the activities in question are substantially the same as those carried on by the first-mentioned person, except to the extent that those activities are carried on at the same time as its own activities;

(b) a person shall be deemed to be associated with another person if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or third persons.

4. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days in any twelve-month period.

5. Gains derived by a resident of a Contracting State from the alienation of:

(a) exploration or exploitation rights; or

(b) property situated in the other Contracting State which is used in connection with the offshore activities carried on in that other State; or

(c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together;

may be taxed in that other State.

In this paragraph the term "exploration or exploitation rights" means rights to assets to be produced by offshore activities carried on in the other Contracting State, or to interests in or to the benefit of such assets.

In witness whereof, the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Vilnius this 15th day of March 2001, in the Lithuanian, Slovak and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For the Republic of Lithuania

For the Slovak Republic