

SPORAZUM
V OBLIKI IZMENJAVE PISEM
O OBDAVČEVANJU DOHODKA OD PRIHRANKOV IN ZAČASNI UPORABI TEGA
SPORAZUMA

A. Pismo Republike Slovenije

Spoštovani!

V čast mi je, da se sklicujem na besedila "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Arube in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Arube in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčenju dohodka od prihrankov v obliki plačil obresti", ki so rezultat pogajanj z Nizozemskimi Antili in Arubo o Sporazumu o obdavčevanju prihrankov in so bila kot Priloga I, II, III in IV priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije z dne 12. marca (Dok. 7660/04 FISC 68).

V čast mi je, da vam v zvezi z zgoraj omenjenimi besedili lahko predložim "Konvencijo o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", kot je navedena v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti te konvencije ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Konvencije o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" predlagam, da Republika Slovenija in Kraljevina Nizozemska glede Nizozemskih Antilov to konvencijo začasno uporabljata od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov.

Prosim, sprejmite izraze našega najglobljega spoštovanja.

Za Republiko Slovenijo

dr. Dušan Mramor, l.r.

V Ljubljani, dne 4. junija 2004

B. Pismo Nizozemskih Antilov

Spoštovani!

V čast mi je potrditi prejem vašega današnjega pisma, v katerem je zapisano:

" Spoštovani!

V čast mi je, da se sklicujem na besedila "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Arube in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" in "Konvencije med Kraljevino Nizozemsko glede Arube in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", ki so rezultat pogajanj z Nizozemskimi Antili in Arubo o Sporazumu o obdavčevanju prihrankov in so bila kot Priloga I, II, III in IV priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7660/04 FISC 68).

V čast mi je, da vam v zvezi z zgoraj omenjenimi besedili lahko predložim "Konvencijo o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", kot je navedena v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti te konvencije ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Konvencije o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" predlagam, da Republika Slovenija in Kraljevina Nizozemska glede Nizozemskih Antilov to konvencijo začasno uporabljata od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov.

Prosim, sprejmite izraze našega najglobljega spoštovanja."

Potrdim lahko, da se Nizozemski Antili strinjajo z vsebino vašega pisma.

Prosim, sprejmite izraze mojega najglobljega spoštovanja.

Za Nizozemske Antile
E.T.M. de Lannooy, l.r.

V Haagu, dne 27. avgusta 2004

KONVENCIJA MED KRALJEVINO NIZOZEMSKO GLEDE NIZOZEMSKIH ANTILOV IN
REPUBLIKO SLOVENIJO O AVTOMATIČNI IZMENJAVI PODATKOV O
OBDAVČEVANJU DOHODKA OD PRIHRANKOV V OBLIKI PLAČIL OBRESTI

OB UPOŠTEVANJU NASLEDNJEGA:

1. Člen 17(2) Direktive 2003/48/EGS ("Direktiva") Sveta Evropske unije ("Svet") o obdavčevanju dohodka od prihrankov predvideva, da države članice sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to direktivo, katere določbe se uporabljajo od 1. januarja 2005, kolikor
 - Švicarska konfederacija, Kneževina Lihtenštajn, Republika San Marino, Kneževina Monako in Kneževina Andora z istim dnem uporabljajo ukrepe, ki so enakovredni ukrepom iz te direktive, skladno s sporazumi, ki jih te države sklenejo z Evropsko skupnostjo na podlagi soglasne odločitve Sveta;
 - so v veljavi vsi sporazumi ali drugi dogovori, ki zagotavljajo, da vsa odvisna ali pridružena ozemlja z istim dnem uporabljajo avtomatično izmenjavo podatkov na način, kot je določeno v poglavju II te direktive, ali v prehodnem obdobju, ki ga določa člen 10, uporabljajo davčni odtegljaj pod enakimi pogoji, kot jih vsebujeta člena 11 in 12.

2. Nizozemski Antili niso del davčnega območja EU, temveč so za potrebe Direktive pridruženo ozemlje EU in kot tako niso vezani na določila Direktive. Vendar je Kraljevina Nizozemska za Nizozemske Antile na temelju sporazuma med Nizozemskimi Antili in Nizozemsko pripravljena skleniti sporazume z državami članicami EU o uporabi davčnega odtegljaja od 1. januarja 2005 pod enakimi pogoji, kot jih vsebujeta člena 11 in 12 Direktive v prehodnem obdobju v smislu člena 10 Direktive in po poteku prehodnega obdobja uporabljati avtomatično izmenjavo podatkov na enak način, kot je predvideno v poglavju II Direktive.

3. Pogoj za sporazum med Nizozemskimi Antili in Nizozemsko iz prejšnjega odstavka je, da vse države članice sprejmejo zakone in predpise, potrebne za uskladitev z Direktivo, in da so izpolnjene zahteve člena 17 Direktive.
4. Nizozemski Antili s to konvencijo, če v njej ni drugače določeno, privolijo v uporabo določb Direktive glede upravičenih lastnikov, ki so rezidenti Republike Slovenije in Republika Slovenija privoli v uporabo Direktive za upravičene lastnike, ki so rezidenti Nizozemskih Antilov.

Vlada Kraljevine Nizozemske v zvezi z Nizozemskimi Antili in vlada Republike Slovenije sta se v želji, da bi sklenili Konvencijo o učinkovitem obdavčevanju dohodka od prihrankov v obliki plačil obresti, plačanih v eni državi pogodbenici upravičenim lastnikom, ki so posamezniki, rezidenti druge države pogodbenice, v skladu z zakonodajo države pogodbenice, katere rezidenti so, in skladno z Direktivo in zgoraj opredeljenimi nameni držav pogodbenic, sporazumeli kot sledi:

Člen 1

Splošno področje uporabe

1. Ta konvencija se uporablja za obresti, ki jih plača plačilni zastopnik, ustanovljen na ozemlju ene od držav pogodbenic, kar naj bi omogočilo učinkovito obdavčevanje dohodka od prihrankov v obliki plačil obresti v drugi državi pogodbenici upravičenim lastnikom, ki so posamezniki, za davčne namene rezidenti druge države pogodbenice, v skladu z zakonodajo države pogodbenice, katere rezidenti so.
2. Področje uporabe te konvencije je treba omejiti na obdavčevanje dohodka od prihrankov v obliki plačil obresti na dolžniške terjatve, pri čemer so med drugim izključena vprašanja v zvezi z obdavčevanjem pokojninskih prejemkov in prejemkov iz zavarovanja.
3. Glede Kraljevine Nizozemske se ta sporazum uporablja samo za Nizozemske Antile.

Člen 2

Opredelitev izrazov

1. Za namene te konvencije, razen če sobesedilo ne zahteva drugače:
 - a) izraza "država pogodbenica" in "druga država pogodbenica" pomenita Kraljevino Nizozemsko v zvezi z Nizozemskimi Antili ali Republiko Slovenijo, kot zahteva sobesedilo;
 - b) "Nizozemski Antili" pomeni del Kraljevine Nizozemske, ki leži na Karibskem območju in ga sestavljajo otoška ozemlja Bonaire, Curaçao, Saba, St. Eustatius in nizozemski del St. Maartena;
 - c) "Pogodbenica", država članica Evropske unije, pomeni: Republiko Slovenijo;
 - d) izraz "Direktiva" pomeni Direktivo 2003/48/ES Sveta Evropske unije z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, kot se uporablja na dan podpisa te konvencije;
 - e) izraz "upravičeni lastnik(-i)" pomeni upravičenega(-e) lastnika(-e) skladno s členom 2 Direktive;
 - f) izraz "plačilni zastopnik(-i)" pomeni plačilnega(-e) zastopnika(-e) skladno s členom 4 Direktive;
 - g) izraz "pristojni organ" pomeni:
 - i) v primeru Nizozemskih Antilov: ministra za finance ali njegovega pooblaščenega predstavnika;
 - ii) v primeru Republike Slovenije: pristojni organ te države skladno s členom 5 Direktive;

h) izraz "plačilo(-a) obresti" pomeni plačilo(-a) obresti skladno s členom 6 Direktive, pri čemer se ustrezno upošteva člen 15 Direktive;

i) katerikoli izraz, ki v tej konvenciji ni drugače opredeljen, ima pomen kot ga ima po Direktivi-.

2. Za namene te konvencije v določbah Direktive, na katero se ta konvencija sklicuje, izraz "države članice" pomeni: države pogodbenice.

Člen 3

Identiteta in rezidentstvo upravičenih lastnikov

Vsaka država pogodbenica na svojem ozemlju sprejme in zagotovi uporabo potrebnih postopkov, ki plačilnemu zastopniku omogočajo identificirati upravičene lastnike in njihovo rezidentstvo za namene členov 4 do 6. Ti postopki so v skladu z minimalnimi standardi, določenimi v odstavkih 2 in 3 člena 3 Direktive, s tem, da se za Nizozemske Antile, v zvezi s pododstavkoma 2(a) in 3(a) tega člena, identiteta in rezidentstvo upravičenega lastnika ugotavljata iz podatkov, ki jih ima na voljo plačilni zastopnik na podlagi uporabe ustreznih določb zakonov in drugih predpisov Nizozemskih Antilov. Morebitne obstoječe izjeme ali oprostitev, podeljene na temelju teh določb na zahtevo upravičenega lastnika, ki je rezident v Republiki Sloveniji, se prenehajo uporabljati in takim upravičenim lastnikom se ne podeli nobenih tovrstnih nadaljnjih izjem ali oprostitev.

Člen 4

Avtomatična izmenjava podatkov

1. Pristojni organ države pogodbenice, v kateri je plačilni zastopnik ustanovljen, sporoči podatke iz člena 8 Direktive pristojnemu organu druge države pogodbenice, katere rezident je upravičeni lastnik.
2. Sporočanje podatkov je avtomatično in se opravi vsaj enkrat letno v šestih mesecih po koncu davčnega leta države pogodbenice plačilnega zastopnika za vsa plačila obresti v tem letu.

3. Za izmenjavo podatkov po tej konvenciji države pogodbenice uporabljajo določbe člena 7 Direktive 77/799/EGS.

Člen 5

Prehodne določbe

1. Če je upravičeni lastnik rezident Republike Slovenije in plačilni zastopnik rezident Nizozemskih Antilov, Nizozemski Antili v prehodnem obdobju iz člena 10 odmerijo davčni odtegljaj od plačila obresti po stopnji 15 % v prvih treh letih prehodnega obdobja, po stopnji 20 % v nadaljnjih treh letih in nato pa po stopnji 35 %. V tem obdobju Nizozemskim Antilom ni treba uporabljati določb člena 4. Vendar pa prejemajo od Republike Slovenije podatke v skladu s tem členom.
2. Plačilni zastopnik obračuna davčni odtegljaj na način, kot je opisan v odstavkih 2 in 3 člena 11 Direktive.
3. Davčni odtegljaj, ki ga uvedejo Nizozemski Antili, pa ne preprečuje Republiki Sloveniji obdavčevanja dohodka v skladu z njeno nacionalno zakonodajo.
4. V prehodnem obdobju lahko Nizozemski Antili določijo, da se nosilec gospodarske dejavnosti, ki plača obresti ali zagotovi obresti za subjekt iz odstavka 2 člena 4 Direktive, ustanovljen v Republiki Sloveniji, šteje za plačilnega zastopnika namesto subjekta in pobira davčni odtegljaj od teh obresti, razen če se subjekt ni uradno strinjal, da se podatki o njegovem imenu, naslovu in skupnem znesku plačanih ali zagotovljenih obresti sporočijo v skladu z zadnjim pododstavkom tega odstavka.
5. Ob koncu prehodnega obdobja morajo Nizozemski Antili začeti uporabljati določbe člena 4 in prenehati uporabljati davčni odtegljaj in delitev prihodkov iz členov 5 in 6. Če se v prehodnem obdobju Nizozemski Antili odločijo za uporabo predpisov člena 4, ne uporabljajo več davčnega odtegljaja in delitev prihodkov iz členov 5 in 6.

Člen 6

Delitev prihodkov

1. Nizozemski Antili obdržijo 25 % prihodkov od davčnega odtegljaja iz odstavka 1 člena 5 in ostalih 75 % prenesejo na Republiko Slovenijo.
2. Če Nizozemski Antili pobirajo davčni odtegljaj v skladu z odstavkom 4 člena 5, obdržijo 25 % prihodkov in ostalih 75 % prihodkov od davčnega odtegljaja, pobranega od plačil obresti prenesejo subjektom iz odstavka 2 člena 4 Direktive, s sedežem v Republiki Sloveniji.
3. Taki prenosi se opravijo najkasneje v obdobju šestih mesecev po zaključku davčnega leta Nizozemskih Antilov.
4. Nizozemski Antili sprejmejo potrebne ukrepe, s katerimi zagotovijo pravilno delovanje sistema delitve dohodka.

Člen 7

Izjeme pri postopku pobiranja davčnega odtegljaja

1. Nizozemski Antili predpišejo enega ali oba izmed postopkov iz odstavka 1 člena 13 Direktive, po katerih lahko upravičeni lastnik zahteva, da se davek ne odtegne.
2. Na zahtevo upravičenega lastnika pristojni organ države pogodbenice, katere rezident je upravičeni lastnik za davčne namene, izda potrdilo v skladu z odstavkom 2 člena 13 Direktive.

Člen 8

Odprava dvojnega obdavčevanja

Republika Slovenija zagotovi odpravo dvojnega obdavčevanja, ki bi bilo lahko posledica uvedbe davčnega odtegljaja iz člena 5, v skladu z določbami odstavkov 2 in 3 člena 14 Direktive, ali zagotovi povračilo davčnega odtegljaja.

Člen 9

Drugi davčni odtegljaji

Konvencija ne preprečuje državam pogodbenicam, da poleg davčnega odtegljaja iz člena 5 pobirajo tudi druge oblike davčnega odtegljaja v skladu s svojo nacionalno zakonodajo ali konvencijami o izogibanju dvojnega obdavčevanja.

Člen 10

Prenos

Države pogodbenice do 1. januarja 2005 sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to konvencijo.

Člen 11

Priloga

Besedili Direktive in člena 7 Direktive 77/799/EGS Sveta Evropske unije z dne 19. decembra 1977 o vzajemni pomoči pristojnih organov držav članic na področju neposrednega in posrednega obdavčevanja, kot se uporabljata na dan podpisa te konvencije in na kateri se ta konvencija sklicuje, sta dodani kot priloga k tej konvenciji in sta njen sestavni del. Besedilo člena 7 Direktive 77/799/EGS v tej prilogi se nadomesti z besedilom navedenega člena v popravljeni Direktivi 77/799/EGS, če ta popravljena direktiva začne veljati pred dnevom začetka veljavnosti določb te konvencije.

Člen 12
Začetek veljavnosti

Ta konvencija začne veljati trideseti dan od zadnjega od datomov, na katerega sta vladi pisno obvestili druga drugo, da so izpolnjene njune ustavne zahteve in njene določbe veljajo z dnem, ko se začne uporabljati Direktiva v skladu z odstavkoma 2 in 3 člena 17 Direktive.

Člen 13
Odpoved

Ta konvencija velja, dokler je ne odpove ena od držav pogodbenic. Vsaka država lahko odpove konvencijo po diplomatski poti z obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta, ki sledi obdobju treh let od datuma začetka veljavnosti te konvencije. V takem primeru Konvencija preneha veljati za obdobja, ki sledijo zaključku koledarskega leta, v katerem je bilo dano obvestilo o odpovedi.

Sestavljeno v slovenskem, angleškem jeziku in nizozemskem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru kakršnega koli razhajanja v razlagi med jezikovnimi različicami besedil, prevlada angleško besedilo.

Za Republiko Slovenijo
dr. Dušan Mramor, l.r.

Za Kraljevino Nizozemsko glede Nizozemskih
Antilov
E.T.M. de Lannooy, l.r.

Člen 7

Določbe o tajnosti

1. Vse informacije, s katerimi se seznanj država članica v skladu s to direktivo, se v navedeni državi hranijo kot zaupne na enak način kot informacije, prejete v skladu z njeno nacionalno zakonodajo. V vsakem primeru se take informacije:
 - lahko dajo na razpolago le osebam, ki se neposredno ukvarjajo z odmero davka ali upravnim nadzorom te odmere,
 - lahko sporočijo samo v povezavi s sodnimi postopki ali upravnimi postopki, ki vključujejo sankcije, uvedene zaradi ali v zvezi z izdelavo ali revizijo davčne odmere, in samo osebam, ki so neposredno vpletene v take postopke; take informacije pa se lahko razkrijejo med javnimi zaslišanji ali v sodbah, če pristojni organ države članice, ki daje informacijo, ob prvi predložitvi te informacije ne ugovarja,
 - v nobenem primeru ne smejo uporabiti za druge namene kot za namene obdavčevanja ali v povezavi s sodnimi postopki ali upravnimi postopki, ki vključujejo sankcije, uvedene zaradi ali v zvezi z izdelavo ali revizijo davčne odmere.

Poleg tega države članice lahko določijo, da se informacije iz prvega pododstavka uporabijo za odmero drugih prelevmanov, dajatev in davkov, zajetih v členu 2 Direktive 76/308/EGS.

2. Odstavek 1 ne obvezuje države članice, katere zakonodaja ali upravna praksa določa za domače namene ožje omejitve, kot jih vsebujejo določbe tega odstavka, da zagotovi informacije, če zadevna država ne upošteva teh ožjih omejitev.

3. Ne glede na odstavek 1 lahko pristojni organi države članice, ki zagotovi informacije, dovolijo, da se v državi prosilki uporabijo za druge namene, če bi bile lahko po zakonodaji države, ki je informacije posredovala, te v podobnih okoliščinah uporabljene za podobne namene v državi, ki jih je posredovala.

4. Če pristojni organ države članice meni, da so informacije, ki jih je prejel od pristojnega organa druge države članice, verjetno uporabne za pristojni organ tretje države članice, jih lahko posreduje temu pristojnemu organu s soglasjem pristojnega organa, ki je informacije posredoval.

AGREEMENT
IN THE FORM OF AN EXCHANGE OF LETTERS
ON THE TAXATION OF SAVINGS INCOME AND THE PROVISIONAL APPLICATION
THEREOF

A. Letter from the Republic of Slovenia

Madam/Sir,

I have the honour to refer to the texts of respectively the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments" and the "Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (doc. 7660/04 FISC 68).

In view of the above mentioned texts I have the honour to propose to you the "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Convention and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments", I have the honour to propose to you that the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles.

Please accept, Madam/Sir, the assurance of our highest consideration,

For the Republic of Slovenia

Dr Dušan Mramor, (s)

Minister of Finance

Done at Ljubljana, on 4 June 2004, in the English language in three copies.

B. Letter from the Netherlands Antilles

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

" Sir,

I have the honour to refer to the texts of respectively the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments " and the " Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (doc. 7660/04 FISC 68).

In view of the above mentioned texts I have the honour to propose to you the "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Convention and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments", I have the honour to propose to you that the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that the Netherlands Antilles is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For the Netherlands Antilles

E.T.M. de Lannooy, (s)

Done at The Hague, on 27 August 2004, in the English language in three copies.

CONVENTION BETWEEN THE KINGDOM OF THE NETHERLANDS IN RESPECT OF THE
NETHERLANDS ANTILLES AND THE REPUBLIC OF SLOVENIA CONCERNING THE
AUTOMATIC EXCHANGE OF INFORMATION REGARDING SAVINGS INCOME IN THE
FORM OF INTEREST PAYMENTS

WHEREAS:

1. Article 17(2) of Directive 2003/48/EEC (“the Directive”) of the Council of the European Union (“the Council”) on taxation of savings income provides that Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with the Directive from January 1, 2005, provided that:
 - the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra from that same date apply measures equivalent to those contained in the Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;
 - all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that date automatic exchange of information in the same manner as is provided for in Chapter II of the Directive, or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12.

2. The Netherlands Antilles are not within the EU fiscal territory but are, for purposes of the Directive, an EU associated territory and as such are not bound by the terms of the Directive. However, the Kingdom of the Netherlands in respect of the Netherlands Antilles, on the basis of an agreement between the Netherlands Antilles and the Netherlands, is willing to enter into agreements with the Member States of the EU to apply from January 1, 2005, a withholding tax on the same terms as are contained in Articles 11 and 12 of the Directive during the transitional period defined in Article 10 thereof, and, after expiration of the transitional period, to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive.

3. The agreement between the Netherlands Antilles and the Netherlands, as stated in the previous paragraph, is contingent on the adoption by all the Member States of the laws, regulations and administrative provisions necessary to comply with the Directive, and on the requirements of Article 17 of the Directive being met.
4. Through this Convention, the Netherlands Antilles agrees to apply the provisions of the Directive, subject to what is otherwise agreed herein, in regard of Beneficial Owners that are residents of the Republic of Slovenia and the Republic of Slovenia agrees to apply the Directive in regard to Beneficial Owners that are residents of the Netherlands Antilles.

The Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles and the Government of the Republic of Slovenia, desiring to conclude a Convention which enables savings income in the form of Interest Payments made in one of the Contracting States to Beneficial Owners who are individuals resident in the other Contracting State, to be made subject to effective taxation in accordance with the laws of the latter Contracting State, in conformity with the Directive and with the intentions of the Contracting States as laid down herein above, have agreed as follows:

Article 1 General Scope

1. This Convention shall apply to interest paid by a Paying Agent established within the territory of one of the Contracting States with a view to enable savings income in the form of Interest Payments made in one Contracting State to Beneficial Owners who are individuals resident for tax purposes in the other Contracting State to be made subject to effective taxation in accordance with the laws of the latter Contracting State.
2. The scope of this Convention shall be limited to taxation of savings income in the form of Interest Payments on debt claims, to the exclusion, inter alia, of the issues relating to the taxation of pension and insurance benefits.
3. As regards the Kingdom of the Netherlands, this Agreement shall apply only to the Netherlands Antilles.

Article 2
Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) The terms “a Contracting State” and “the other Contracting State” mean the Kingdom of the Netherlands in respect of the Netherlands Antilles or the Republic of Slovenia as the context requires;
 - b) The Netherlands Antilles mean that part of the Kingdom of the Netherlands that is situated in the Caribbean area and consists of the Island territories of Bonaire, Curaçao, Saba, St. Eustatius and the Dutch part of St. Maarten;
 - c) The "contracting party" being a Member State of the European Union means: the Republic of Slovenia;
 - d) The term “Directive” means Directive 2003/48/EC of the Council of the European Union of 3 June 2003 on taxation of savings income in the form of interest payments, as applicable at the date of signing this Convention;
 - e) the term “Beneficial Owner(s)” means the beneficial owner(s) according to Article 2 of the Directive;
 - f) the term “Paying Agent(s)” means the paying agent(s) according to Article 4 of the Directive;
 - g) the term “Competent Authority” means:
 - i) In the case of the Netherlands Antilles: the Minister of Finance or his authorised representative.
 - ii) In the case of the Republic of Slovenia: the competent authority of that State according to Article 5 of the Directive.

h) the term “Interest Payment(s)” means the interest payment(s) according to Article 6, due account being taken of Article 15, of the Directive;

i) Any term not otherwise defined herein shall have the meaning given to it in the Directive.

2. For the purposes of this Convention, in the provisions of the Directive to which this Convention refers, instead of “Member States” has to be read: Contracting States.

Article 3

Identity and residence of beneficial owners

Each Contracting State shall, within its territory, adopt and ensure the application of the procedures necessary to allow the Paying Agent to identify the Beneficial Owners and their residence for the purpose of the Articles 4 to 6. These procedures shall comply with the minimum standards established in Article 3, paragraph 2 and 3 of the Directive, with the provision, that, in regard to the Netherlands Antilles, in relation to subparagraphs 2.a) and 3.a) of that Article, the identity and residence of the Beneficial Owner shall be established on the basis of the information which is available to the Paying Agent by virtue of the application of the relevant provisions of Netherlands Antilles law and regulations. However, existing exemptions or dispensations, if any, provided on request to Beneficial Owners resident in the Republic of Slovenia under these provisions shall cease to apply and no further exemptions or dispensations of this nature shall be provided to such Beneficial Owners.

Article 4

Automatic exchange of information

1. The Competent Authority of the Contracting State where the Paying Agent is established, shall communicate the information referred to in Article 8 of the Directive to the Competent Authority of the other Contracting State of residence of the Beneficial Owner.
2. The communication of information shall be automatic and shall take place at least once a year, within six months following the end of the tax year of the Contracting State of the Paying Agent, for all Interest Payments made during that year.

3. Information exchange under this Convention shall be treated by the Contracting States in a manner consistent with the provisions of Article 7 of Directive 77/799/EEC.

Article 5

Transitional provisions

1. During the transitional period referred to in Article 10 of the Directive, where the Beneficial Owner is resident in the Republic of Slovenia and the Paying Agent is resident in the Netherlands Antilles, the Netherlands Antilles shall levy a withholding tax on Interest Payments at a rate of 15% during the first three years of the transitional period, 20% for the subsequent three years and 35% thereafter. During this period, the Netherlands Antilles shall not be required to apply the provisions of Article 4. It shall, however, receive information from the Republic of Slovenia in accordance with that Article.
2. The Paying Agent shall levy the withholding tax in the manner as described in Article 11, paragraphs 2 and 3 of the Directive.
3. The imposition of withholding tax by the Netherlands Antilles shall not preclude the Republic of Slovenia from taxing the income in accordance with its national law.
4. During the transitional period, the Netherlands Antilles may provide that an economic operator paying interest to, or securing interest for, an entity referred to in Article 4, paragraph 2, of the Directive, established in the Republic of Slovenia shall be considered the Paying Agent in place of the entity and shall levy the withholding tax on that interest, unless the entity has formally agreed to its name, address and the total amount of interest paid to it or secured for it being communicated in accordance with the last subparagraph of that paragraph.
5. At the end of the transitional period, the Netherlands Antilles shall be required to apply the provisions of Article 4 and shall cease to apply the withholding tax and the revenue sharing provided for in Article 5 and Article 6. If, during the transitional period, the Netherlands Antilles elects to apply the provisions of Article 4, it shall no longer apply the withholding tax and the revenue sharing provided for in Article 5 and Article 6.

Article 6
Revenue sharing

1. The Netherlands Antilles shall retain 25% of the revenue of the withholding tax mentioned in Article 5, paragraph 1, and transfer 75% of the revenue to the Republic of Slovenia.
2. If the Netherlands Antilles levies withholding tax in accordance with Article 5, paragraph 4, the Netherlands Antilles shall retain 25% of the revenue and transfer 75% to the Republic of Slovenia of the revenue of the withholding tax levied on interest payments made to entities referred to in Article 4, paragraph 2, of the Directive, established in the Republic of Slovenia.
3. Such transfers shall take place at the latest within a period of six months following the end of the tax year of the Netherlands Antilles.
4. The Netherlands Antilles shall take the necessary measures to ensure the proper functioning of this revenue-sharing system.

Article 7
Exceptions to the withholding procedure

1. The Netherlands Antilles shall provide for one or both of the procedures of Article 13, paragraph 1, of the Directive in order to ensure that the Beneficial Owners may request that no tax be withheld.
2. At the request of the Beneficial Owner, the Competent Authority of his Contracting State of residence for tax purposes shall issue a certificate in accordance with Article 13, paragraph 2, of the Directive.

Article 8
Elimination of double taxation

The Republic of Slovenia shall ensure the elimination of any double taxation which might result from the imposition of the withholding tax referred to in Article 5, in accordance with the provisions of Article 14, paragraphs 2 and 3, of the Directive or will provide a refund of the withholding tax.

Article 9
Other withholding taxes

The Convention shall not preclude the Contracting States from levying other types of withholding tax than that referred to in Article 5 in accordance with their national laws or double-taxation conventions.

Article 10
Transposition

Before 1 January 2005 the Contracting States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Convention.

Article 11
Annex

The texts of the Directive and of Article 7 of Directive 77/799/EEC of the Council of the European Union of 19 December, 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation, as applicable at the date of signing this Convention and to which this Convention refers, are appended as an Annex to, and form an integral part of, this Convention. The text of Article 7 of Directive 77/799/EEC in this Annex shall be replaced by the text of the said Article in the revised Directive 77/799/EEC if this revised Directive enters into force before the date from which the provisions of this Convention shall take effect.

Article 12

Entry Into Force

This Convention shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect from the date from which the Directive is applicable according to Article 17, paragraphs 2 and 3, of the Directive.

Article 13

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of three years from the date of its entry into force. In such event the Convention shall cease to have effect for periods beginning after the end of the calendar year in which the notice of termination has been given.

Done in the Slovenian, English and Dutch languages all texts being equally authentic. In case there is any divergence of interpretation between the different language versions of the texts, the English text shall prevail.

For the Republic of Slovenia
Dr Dušan Mramor, (s)

For the Kingdom of the Netherlands in
respect of the Netherlands Antilles
E.T.M. de Lannooy, (s)

Article 7

Provisions relating to secrecy

1. All information made known to a Member State under this Directive shall be kept secret in that State in the same manner as information received under its national legislation. In any case, such information:

- may be made available only to the persons directly involved in the assessment of the tax or in the administrative control of this assessment,
- may be made known only in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or relating to, the making or reviewing the tax assessment and only to persons who are directly involved in such proceedings; such information may, however, be disclosed during public hearings or in judgements if the competent authority of the Member State supplying the information raises no objection at the time when it first supplies the information,
- shall in no circumstances be used other than for taxation purposes or in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or in relation to, the making or reviewing of the tax assessment.

In addition, Member States may provide for the information referred to in the first subparagraph to be used for assessment of other levies, duties and taxes covered by Article 2 of Directive 76/308/EEC.

2. Paragraph 1 shall not oblige a Member State whose legislation or administrative practice lays down, for domestic purposes, narrower limits than those contained in the provisions of that paragraph, to provide information if the State concerned does not undertake to respect those narrower limits.

3. Notwithstanding paragraph 1, the competent authorities of the Member State providing the information may permit it to be used for other purposes in the requesting State, if, under the legislation of the informing State, the information could, in similar circumstances, be used in the informing State for similar purposes.

4. Where a competent authority of a Member State considers that information which it has received from the competent authority of another Member State is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.