

AGREEMENT

between

**the Competent Authorities of the
Republic of Chile**

and

**the Competent Authorities of the
Republic of Poland**

The Competent Authorities of the Republic of Chile and the Republic of Poland enter into the following agreement (the "Agreement") regarding the application of paragraph 3 of the Protocol to the Convention between the Government of the Republic of Chile and the Government of the Republic of Poland for the avoidance of double taxation and the prevention of fiscal evasion, signed on 10 March 2000 (the "Convention").

The Agreement is entered into under paragraph 3 of Article 25 (Mutual agreement procedure) of the Convention.

The Competent Authorities confirm that:

1. According to paragraph 3 of the Protocol to the Convention, if in any agreement or convention concluded by Chile with a third state, being a member of the OECD, Chile would agree to exempt interest or royalties (either generally or for specific items of interest or royalties) arising in Chile from tax or to reduce the rate of tax provided in paragraph 2 of Article 11 or 12, respectively, such exemption or reduced rate shall automatically apply under the same condition as if it had been specified in this Convention.
2. The conditions indicated in paragraph 3 of Protocol to the Convention have been fulfilled since Chile concluded a convention with Japan which contemplates lower tax rates than the ones provided in paragraph 2 of Article 11 and 12 of the Convention. The convention with Japan came into force of 28 December 2016 and it applies with respect to taxes on income obtained and amounts paid, credited to an account, put at the disposal or accounted as an expense, on or after 1 January of 2017.
3. As a consequence, as of 1 January of 2017, the text of the Convention should be read as follows:
 - a) the paragraph 2 of the Article 11 of the Convention shall be read as follows:

"2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 4 per cent of the gross amount of the interest if the beneficial owner of the interest is either:

(i) a bank;

(ii) an insurance company;

(iii) an enterprise substantially deriving its gross income from the active and regular conduct of a lending or finance business involving transactions with unrelated persons, where the enterprise is unrelated to the payer of the interest. For the purposes of this clause, the term "lending or finance business" includes the business of issuing letters of credit, providing guarantees or providing credit card services;

(iv) an enterprise that sold machinery or equipment, where the interest is paid with respect to indebtedness arising as part of the sale on credit of such machinery or equipment; or

(v) any other enterprise, provided that in the three taxable years preceding the taxable year in which the interest is paid, the enterprise derives more than 50 per cent of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, and more than 50 per cent of the assets of the enterprise consist of debt-claims against unrelated persons;

(b) 5 per cent of the gross amount of the interest derived from bonds or securities that are regularly and substantially traded on a recognized securities market;

(c) 10 per cent of the gross amount of the interest in all other cases.

For the purposes of subparagraph (a), an enterprise is unrelated to a person if the enterprise does not have with the person a relationship described in subparagraph (a) or (b) of paragraph 1 of Article 9.

Notwithstanding the provisions of subparagraph (a), if interest referred to in that subparagraph is paid as part of an arrangement involving back-to-back loans or other arrangement that is economically equivalent and intended to have a similar effect to an arrangement involving back-to-back loans, such interest may be taxed in the Contracting State in which it arises but the tax so charged shall not exceed 10 per cent of the gross amount of the interest in cases provided in subparagraphs (iii) and (v) of the aforementioned subparagraph; and it shall not exceed 5 per cent of the gross amount of the interest in cases provided in subparagraphs (i), (ii) and (iv) of the same subparagraph.

It is understood that the term "arrangement involving back-to-back loans" would cover, inter alia, any kind of arrangement structured in such a way that a financial institution which is a resident of a Contracting State receives interest arising in the other Contracting State and the financial institution pays an equivalent interest to another person which, if the person received the interest directly from the other Contracting State, would not be entitled to limitation of tax under subparagraph (a) with respect to that interest in that other Contracting State.

The rate of 15 per cent shall apply in place of the rate provided in subparagraph (c) until December 31, 2018.”.

b) the paragraph 2 of the Article 12 of the Convention shall be read as follows:

“2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 2 per cent of the gross amount of the royalties for the use of, or the right to use, industrial, commercial or scientific equipment;

(b) 10 per cent of the gross amount of the royalties, in all other cases.”.

4. In case of any further application of the conditions indicated in paragraph 3 of Protocol to the Convention, the Republic of Chile shall endeavour to inform the Republic of Poland of this fact at least 3 months prior to the date of the beginning of application of the lower rates or exemption.

For the Competent Authority
of the Republic of Chile



Signature

Date

For the Competent Authority
of the Republic of Poland

PODSEKRETARZ STANU

Signature
Pawel Grucha

Date

