

PROTOCOL

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF POLAND

AND

THE GOVERNMENT OF THE REPUBLIC OF CYPRUS

**amending the Agreement between the Government of the Republic of Poland
and the Government of the Republic of Cyprus for the Avoidance of Double
Taxation with Respect to Taxes on Income and on Capital, signed at Warsaw on
the 4th day of June 1992**

The Government of the Republic of Poland and the Government of the Republic of Cyprus desiring to conclude a Protocol amending the Agreement between the Government of the Republic of Poland and the Government of the Republic of Cyprus for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital, signed at Warsaw on the 4th day of June 1992 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

ARTICLE 1

Paragraph 3 of Article 2 of the Agreement shall be deleted and replaced by the following:

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

a) in Poland:

- i) the personal income tax;
 - ii) the corporate income tax;
- (hereinafter referred to as “Polish tax”)

b) in Cyprus:

- i) the income tax;
 - ii) the corporate income tax;
 - iii) the special contribution for the Defence of the Republic;
 - iv) the capital gains tax;
- (hereinafter referred to as “Cyprus tax”).”.

ARTICLE 2

1. Sub-paragraph b) of paragraph 1 of Article 3 of the Agreement shall be deleted and replaced by the following sub-paragraph b):

“b) the term “Cyprus” means the Republic of Cyprus and, when used in a geographical sense, includes the national territory, the territorial sea thereof as well as any area outside the territorial sea, including the contiguous zone, the exclusive economic zone and the continental shelf, which has been or may hereafter be designated, under the laws of Cyprus and in accordance with international law, as an area within which Cyprus may exercise sovereign rights or jurisdiction;”.

2. Paragraph 2 of Article 3 of the Agreement shall be deleted and replaced by the following:

“2. As regards the application of this Agreement 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 laws of that State for the purposes of the taxes to which Agreement 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 3

Paragraphs 3 and 4 of Article 9 of the Agreement shall be deleted.

ARTICLE 4

Paragraph 2 of Article 10 of the Agreement shall be deleted and replaced by the following:

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

- a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends for an uninterrupted period of twenty four months;
- b) 5 per cent of the gross amount of the dividends in all other cases.

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

ARTICLE 5

Paragraph 2 of Article 11 of the Agreement shall be deleted and replaced by the following:

“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 5 per cent of the gross amount of the interest.”.

ARTICLE 6

1. Paragraph 2 of Article 12 of the Agreement shall be deleted and shall be replaced by the following:

“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 recipient is the beneficial owner of the royalties the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.”.

2. Paragraph 3 of Article 12 of the Agreement shall be deleted and replaced by the following:

“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, patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use any industrial, commercial, or scientific equipment or for information (know-how) concerning industrial, commercial or scientific experience; this term also means payments of any kind received as a consideration for the use of, or the right to use, any copyright on cinematograph films, and films or tapes for radio or television broadcasting.”.

ARTICLE 7

Sub-paragraph b) of paragraph 1 Article 14 shall be deleted and replaced by the following:

“b) his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve months period commencing or ending in the fiscal year concerned; in that case only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other State.”.

ARTICLE 8

Sub-paragraph a) of paragraph 2 of Article 15 of the Agreement shall be deleted and replaced by the following:

“a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and ”.

ARTICLE 9

Article 16 of the Agreement shall be deleted and replaced by the following Article:

“ARTICLE 16

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in the capacity as a member of the board of directors or of the supervisory board or of

any other similar organ of a company which is a resident of the other Contracting State shall be taxed only in that first-mentioned State.”

ARTICLE 10

1. Sub-paragraph b) of paragraph 1 of Article 24 of the Agreement, shall be deleted and replaced by the following:

“b) where a resident of Poland derives income or capital gains which, in accordance with the provisions of Articles 7, 10, 11, 12 or 13, may be taxed in Cyprus, Poland shall allow as a deduction from the tax on the income or capital gains of that resident an amount equal to the tax paid in Cyprus. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such income or capital gains derived from Cyprus; “.

2. Paragraph 3 of Article 24 of the Agreement shall be deleted.

ARTICLE 11

Article 27 of the Agreement shall be deleted and replaced by the following Article:

“ARTICLE 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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, the determination of appeals in relation to taxes, or the oversight of the above. 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.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and the 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; or
- 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*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because the information relates to ownership interests in a person.

6. The requesting Contracting State shall provide the following information when making a request for information to demonstrate the foreseeable relevance of the information to the request:

- a) the identity of the person under examination or investigation;
- b) description of the information sought including its nature and the form in which the requesting Contracting State wishes to receive the information from the requested Contracting State;
- c) the tax purpose for which the information is sought;
- d) grounds for believing that the information requested is held in the requested Contracting State or is in the possession or control of a person within the jurisdiction of the requested Contracting State;
- e) to extent known, the name and address of any person believed to be in possession of the requested information;
- f) a statement that the request is in conformity with the law and administrative practices of the requesting Contracting State, that if the requested information was within the jurisdiction of the requesting Contracting State then the competent authority of the requesting Contracting State would be able to obtain the information under the laws of the requesting Contracting State.

State or in the normal course of administrative practice and that it is in conformity with this Agreement;

- g) a statement that the requesting Contracting State has exhausted all means available in its own territory to obtain the information, except those that would cause excessive difficulties.
- h) a statement that the requesting Contracting State can provide information of the same nature under its own domestic law.”.

ARTICLE 12

Each of the Contracting States shall notify in writing through diplomatic channels to the other the completion of the procedures required by its law for the bringing into force of this Protocol. The Protocol shall enter into force on the date of receipt of the latter of the notifications referred to above and shall have effect in both Contracting States:

- a) in respect of the taxes withheld at source – to amounts of income derived on or after the first of January of the calendar year next following the year in which the Protocol enters into force;
- b) in respect of other taxes on income, to such taxes chargeable for any taxable year beginning on or after the first of January of the calendar year next following the year in which the Protocol enters into force.

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

Done in duplicate at *Nicosia*....., this day of *22.03.2012* in the Polish, Greek and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

**For the Government of the
Republic of Poland**



Paweł Dobrowolski
Ambassador Extraordinary
and Plenipotentiary of the
Republic of Poland to the Republic
of Cyprus

**For the Government
of the Republic of Cyprus**



Kikis Kazamias
Minister of Finance