

AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF POLAND
AND THE GOVERNMENT OF BERMUDA
(AS AUTHORISED BY THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND)
FOR THE EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS

The Government of the Republic of Poland and the Government of Bermuda,
desiring to exchange information with respect to taxes;

Have agreed as follows:

Article 1

Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment and collection of tax with respect to persons subject to such taxes, the recovery and enforcement of tax claims, or the investigation of tax matters or prosecution of criminal tax matters in relation to such persons. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

Article 2
Jurisdiction

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

Article 3
Taxes Covered

1. This Agreement shall apply to the following taxes imposed by the Contracting Parties:

a) in the case of Poland:

- i) the personal income tax;
- ii) the corporate income tax;

b) in the case of Bermuda:

Direct taxes of every kind and description.

2. This Agreement shall apply also to any identical or substantially similar taxes imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any substantial changes in their laws which may effect the obligations of that Contracting Party pursuant to this Agreement.

Article 4

Definitions

1. In this Agreement the term:

- a) "Poland" means the Republic of Poland and, when used in a geographical sense, means the territory of the Republic of Poland, and any area adjacent to the territorial waters of the Republic of Poland within which, under the laws of Poland and in accordance with international law, the rights of Poland with respect to the exploration and exploitation of the natural resources of the seabed and its sub-soil may be exercised;
- b) "Bermuda" means the islands of Bermuda;
- c) "Contracting Party" means Poland or Bermuda, as the context requires;
- d) "competent authority" means:
 - i) in the case of Poland, the Minister of Finance or his authorized representative;
 - ii) in the case of Bermuda, the Minister of Finance or his authorized representative;
- e) "person" includes an individual, a company and any other body of persons;
- f) "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- g) "publicly traded company" means any company whose principal class of shares is listed on a recognized stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- h) "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
- i) "recognized stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- j) "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
- k) "tax" means any tax to which the Agreement applies;
- l) "applicant Party" means the Contracting Party requesting information;

- m) "requested Party" means the Contracting Party requested to provide information;
- n) "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- o) "information" means any fact, statement or record in any form whatever;
- p) "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party and includes all cases where a person has been notified that proceedings concerning those matters have been initiated against that person;
- q) "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether such are contained in the tax laws, the criminal code or other statutes.

2. As regards the application of this Agreement at any time by a Contracting Party, 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 Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request by the competent authority of the applicant Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested Party if it had occurred in the territory of the requested Party.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, that Party shall use all relevant information gathering measures to provide the competent authority of the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the applicant Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

- a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;
- b) information regarding the legal and beneficial ownership of companies, partnerships, public collective investment schemes, trusts, foundations and other persons, including information on all such persons in an ownership chain, in particular:
 - i) in the case of public collective investment funds or schemes, information on shares, units and other interests;
 - ii) in the case of foundations, information on founders, members of the foundation council and beneficiaries;
 - iii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries;
 - iv) in the case of persons that are neither collective investment schemes, trusts or foundations, equivalent information to the information in subparagraphs i) to iii).

5. This Agreement does not create an obligation for a Contracting Party to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes, unless such information can be obtained without giving rise to disproportionate difficulties.

6. The competent authority of the applicant Party shall provide the following information to the competent authority of the requested Party when making a request for information under Agreement to demonstrate the foreseeable relevance of the information to the request:

- a) the identity of the person under examination or investigation;
- b) the period for which the information is requested;
- c) the nature of the information requested;
- d) the tax purpose for which the information is sought;
- e) to the 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 applicant Party, that if the requested information was within the jurisdiction of the applicant Party then the competent authority of the applicant Party would be able to obtain the information under the laws of the applicant Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- g) a statement that the applicant Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

7. The competent authority of the requested Party shall forward the requested information as soon as reasonably possible to the applicant Party. To ensure a prompt response, the competent authority of the requested Party shall:

- a) confirm receipt of a request in writing to the competent authority of the applicant Party and shall notify the competent authority of the applicant Party of deficiencies in the request, if any, within 60 days of the receipt of the request, and
- b) if the competent authority of the requested Party has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the applicant Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 6
Tax Examinations Abroad

1. With reasonable notice the applicant Party may request that the requested Party allow representatives of the competent authority of the applicant Party to enter the territory of the requested Party, to the extent permitted under its domestic laws, to interview individuals and examine records. The competent authority of the applicant Party shall notify the competent authority of the requested Party of the time and place of the meeting with the individuals concerned.

2. At the request of the competent authority of the applicant Party, the competent authority of the requested Party may allow representatives of the competent authority of the applicant Party to attend a tax examination in the territory of the requested Party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the requested Party conducting the examination shall, as soon as possible, notify the competent authority of the applicant Party of the time and place of the examination, the authority or person authorized to carry out the examination and the procedures and conditions required by the requested Party for the conduct of the examination. All decisions regarding the conduct of the tax examination shall be made by the requested Party conducting the examination.

Article 7
Possibility of Declining a Request

1. The competent authority of the Requested Party may decline to assist:
 - a) where the request is not made in conformity with this Agreement;
 - b) where the Requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or
 - c) where the disclosure of the information requested would be contrary to public policy.
2. This Agreement shall not impose upon a Requested Party any obligation to provide items subject to any trade, business, industrial, commercial or professional secret or trade process, provided that information described in paragraph 4 of Article 5 shall not by reason of that fact alone be treated as such a secret or trade process.
3. The provisions of this Agreement shall not impose on a Contracting Party the obligation to obtain or provide information, which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:
 - a) produced for the purposes of seeking or providing legal advice; or
 - b) produced for the purposes of use in existing or contemplated legal proceedings.
4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.
5. The Requested Party shall not be required to obtain and provide information which, if the requested information was within the jurisdiction of the Requesting Party, the competent authority of the Requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.
6. The Requested Party may decline a request for information if the information is requested by the Requesting Party to administer or enforce a provision of the tax law of the Requesting Party, or any requirement connected therewith, which discriminates against a national of the Requested Party as compared with a national of the Requesting Party in the same circumstances.

Article 8

Confidentiality

1. Any information provided and received by the competent authorities of the Contracting Parties shall be kept confidential.
2. Information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in the Article 1, and used by such persons or authorities only for such purposes, the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.
3. Information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the requested Party.
4. The information provided to a applicant Party under this Agreement may not be disclosed to any other jurisdiction, without the express written consent of the Competent Authority of the requested Party.

Article 9

Costs

Unless the competent authorities of the Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party, and extraordinary costs incurred in providing assistance (including costs of engaging external advisors in connection with litigation or otherwise necessary to comply with the request) shall be borne by the applicant Party. The respective competent authorities shall consult periodically with regard to this Article, and in particular the competent authority of the requested Party shall consult with the competent authority of the applicant Party if the costs of providing information with respect to a specific request are expected to be significant.

Article 10

Language

Requests for assistance, the responses thereto and any other written communication between the competent authorities shall be drawn up in English. As regards other documents or files to be provided, the competent authorities shall consult whether and to what extent translation into the English language is indeed required.

Article 11
Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of the Agreement, the competent authorities shall use their best efforts to resolve the matter by mutual agreement.
2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.
3. The Contracting Parties shall endeavour to agree on other forms of dispute resolution should this become necessary.
4. Formal communications, including requests for information, made in connection with or pursuant to the provision of this Agreement will be in writing directly to the competent authority of the other Contracting Party at such address as may be notified by one Contracting Party to the other. Any subsequent communications regarding requests for information will be either in writing or verbally, whichever is most practical, between the aforementioned competent authorities or their authorized representatives.

Article 12

Entry into Force

1. Each of the Contracting Parties shall notify in writing to the other the completion of the procedures required by its law for the bringing into force of this Agreement.
2. This Agreement shall enter into force in three months after the date of receiving the later of these notifications and shall thereupon have effect for requests made on or after the date of entry into force:
 - a) for criminal tax matters on that date; and
 - b) for all other matters covered in Article 1 on that date but in respect of taxable periods beginning on or after that date, or where there is no taxable period, all charges arising on or after that date.

Article 13
Termination

1. This Agreement is concluded for unspecified time. It may be terminated only by written notification through diplomatic channels by either Contracting Party; in such a case it shall cease to be in force after three months from after the date of receipt of the notification by the other Contracting Party.
2. All requests received by the Contracting Parties up to effective day of termination will be dealt in accordance with the terms of this Agreement.
3. If the Agreement is terminated the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under the Agreement.

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

Done in duplicate at London this 25 day of November 2013, in the Polish and English languages, both texts being equally authentic.



For the Government of the
Republic of Poland:



For the Government
of Bermuda:

MEMORANDUM OF UNDERSTANDING
CONCERNING THE INTERPRETATION AND APPLICATION OF THE
AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF POLAND
AND THE GOVERNMENT OF BERMUDA
FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

The Government of the Republic of Poland and the Government of Bermuda, desiring to facilitate the exchange of information relating to tax matters (the Agreement), have reached the following understandings:

1. Pursuant to Article 1 of the Agreement it is mutually agreed that in this Article the term "relevant" includes the standard for the term "foreseeably relevant" and "foreseeable relevance" as explained in paragraph numbered 4 of the 2002 OECD Model Agreement on Exchange of Information on Tax Matters Commentary on Article 1 of that Model.

2. With reference to Article 5 of the Agreement, it is understood that Parties may not require certain records to be kept for longer than a specified period under the domestic law, consistent with international standards, however the competent authority of the requested Party will, nevertheless, use all relevant information-gathering measures to provide any information requested, where that information is, in fact, kept.

3. Pursuant to Article 9 of the Agreement the following is mutually agreed:

(a) Ordinary costs will normally cover internal administration costs of the competent authority and any minor external costs such as the costs of couriers.

(b) All reasonable costs incurred by third parties in complying with the request for exchange of information are considered extraordinary costs and will be borne by the requesting Party. Examples of extraordinary costs include, but are not limited to, the following:

- (i) fees charged for staff employed by third parties in assisting with the request;
- (ii) fees charged by third parties for carrying out research;
- (iii) fees charged by third parties for copying documents;
- (iv) costs of engaging experts, interpreters, or translators;

- (v) litigation costs of the requested Party in relation to a specific request for information;
- (vi) costs for obtaining depositions or testimony; and
- (vii) fees and expenses, determined in accordance with amounts allowed under applicable law, on the person who voluntarily appears for an interview, deposition or testimony relating to a particular information request.

(c) The competent authorities will consult each other in any particular case where extraordinary costs are likely to exceed \$US5000 to determine whether the requesting Party will continue to pursue the request and bear the cost.

(d) In the event that the requested Party finds it difficult or impossible to comply with a single or multiple requests for information from the applicant Party because of limited staff or financial resources, the competent authorities will consult, and if mutually agreed, the applicant Party will bear the costs associated with complying with a request or multiple requests.

This Memorandum of Understanding will come into effect on the entry into force of the TIEA.

This Memorandum of Understanding will remain in effect for as long as the TIEA remains in effect.

In witness whereof the undersigned, duly authorised thereto, have signed this Memorandum of Understanding.

Done in duplicate at London this 25 day of November 2013, in the Polish and English languages, both texts being equally authentic.



For the Government of the
Republic of Poland:



For the Government
of Bermuda: