

SYNTHESISED TEXT
OF THE MLI AND THE AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF POLAND
AND
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME

This document presents the synthesized text for the application of the Agreement between the government of the Republic of Poland and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed in Singapore on 4 November 2012 (the “Agreement”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Poland and by Singapore on 7 June 2017 (the “MLI”).

This document was prepared by the competent authority of Poland in consultation with the competent authority of Singapore and represents the shared understanding of the modifications made to the Agreement by the MLI.

The document was prepared on the basis of the MLI positions submitted to the Depository upon the deposit of the ratification instrument:

- by Poland on 23 January 2018; and
- by Singapore on 21 December 2018.

The effects of the MLI on the application of the Agreement can change over time as the MLI is a living instrument and Parties can partially modify their MLI positions in the future.

The purpose of this document is to facilitate the application of the MLI. It constitutes an auxiliary tool only, aimed at documenting the impact of the MLI on the Agreement. This document does not constitute a source of law. The authentic legal texts of the Agreement and the MLI remain the only sources of law.

For legal purposes, the provisions of the MLI must be interpreted alongside the Agreement, in light of the interaction of the MLI positions of the Contracting States.

The provisions of the MLI that are applicable with respect to the provisions of the Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of the Agreement. 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 Agreement (such as “Covered Tax Agreement” and “Agreement”, “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.

Entry into force and entry into effect of the MLI

Entry into force of the MLI:

- for Poland: 1 July 2018; and
- for Singapore: 1 April 2019.

The provisions of the MLI applicable to the Agreement do not take effect on the same dates as the original provisions of the Agreement. Each of provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source on non-residents’ income or other taxes levied) and on the choices made by the Contracting States in their MLI positions.

Hence, unless it is stated otherwise elsewhere in this document, in accordance with Article 35(1) of the MLI, the provisions of Article 6(1) and Article 7(1) of the MLI have effect with respect to the application of the Agreement by Poland:

- 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 2020; and
- with respect to all other taxes levied by Poland, for taxes levied with respect to taxable periods beginning on or after 1 October 2019;

and

in accordance with Article 35(1) of the MLI, the provisions of Article 6(1) and Article 7(1) of the MLI have effect with respect to the application of the Agreement by Singapore:

- 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 2020; and
- with respect to all other taxes levied by Singapore, for taxes levied with respect to taxable periods beginning on or after 1 October 2019.

References

The authentic legal text of the MLI can be found on the MLI Depository (OECD) webpage:

- in English: <http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf>; and
- in French: <http://www.oecd.org/fr/fiscalite/conventions/convention-multilaterale-pour-la-mise-en-oeuvre-des-mesures-relatives-aux-conventions-fiscales-pour-prevenir-le-BEPS.pdf>.

The Polish text of the MLI was published in the Journal of Laws from 2018 item 1369: <http://www.dziennikustaw.gov.pl/du/2018/1369/1>.

The governmental announcement on the entry into force of the MLI was published in the Journal of Laws from 2018 item 1370: <http://www.dziennikustaw.gov.pl/du/2018/1370/1>.

The governmental announcement on the entry into force of the MLI between Poland and Singapore was published in the Journal of Laws from 2019 item 910: <http://dziennikustaw.gov.pl/DU/2019/910/1>.

The MLI positions of the Contracting States can be found on the OECD webpage: <http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf>.

The MLI Matching Database is publicly available on the OECD webpage: <http://www.oecd.org/tax/treaties/mli-matching-database.htm>.

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF POLAND
AND
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of Poland and the Government of the Republic of Singapore,

[REPLACED by paragraph 1 of Article 6 of the MLI]

~~*[Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,]*~~

The following preamble text described in paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Agreement:

**ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX
AGREEMENT**

Intending to eliminate double taxation with respect to the taxes covered by *[this Agreement]* 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 *[the Agreement]* for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

ARTICLE 1
Persons covered

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2
Taxes covered

1. This Agreement shall apply to taxes on income 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 all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property.

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

a) in case of Poland:

- (i) the personal income tax, and
- (ii) the corporate income tax,

(hereinafter referred to as "Polish taxes");

b) in case of Singapore:

- the income tax,

(hereinafter referred to as "Singapore tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are 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 States shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3
General Definitions

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

- a) the term "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) the term “Singapore” means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designed under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea–bed, the subsoil and the natural resources;
- c) the terms “a Contracting State” and “the other Contracting State” mean Poland and Singapore 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 “national”, in relation to a Contracting State, means:
 - (i) any individual possessing the citizenship of that Contracting State;
and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
- h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- i) the term “competent authority” means:
 - (i) in the case of Poland, the Minister of Finance or his authorised representative,
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative.

2. For the purposes of Articles 10, 11 and 12, a trustee liable to tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of that interest or those dividends or royalties.

3. As regards the application of the 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 the 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 4 Resident

1. For the purposes of this Agreement, 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 or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

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) in any other case, 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, then it shall be deemed to be a resident only of the State in which its place of effective management is situated. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5 Permanent establishment

1. For the purposes of this Agreement, 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" also encompasses:
 - a) a building site, construction, assembly or installation project constitutes a permanent establishment only if it lasts more than twelve months;
 - b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 365 days in any 15-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 sub-paragraphs (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.

5. 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.

6. 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.

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.

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 term shall in any case include 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, 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 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. The provisions of paragraphs 1 and 3 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. 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.
5. 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.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:
 - a) profits from the rental on a bareboat basis of ships or aircraft; and
 - b) related equipment for the transport of containers), used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

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 by a Contracting State 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 other Contracting State agrees that the profits so included are profits that would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those that 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 Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

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:

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which controls directly at least 10 per cent of the capital of the company paying the dividends on the date the dividends are paid and has done so or will have done so for an uninterrupted 24-month period in which that date falls;
- b) 10 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.

3. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State.

4. For the purpose of paragraph 3, the term "Government":

- a) in the case of Poland, means the Government of Poland and shall include:
 - (i) National Bank of Poland
 - (ii) Bank Gospodarstwa Krajowego
 - (iii) a statutory body; and
 - (iv) any institution wholly or mainly owned by the Government of Poland as may be agreed from time to time between the competent authorities of the Contracting States.
- b) in the case of Singapore, means the Government of Singapore and shall include:
 - (i) the Monetary Authority of Singapore;
 - (ii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iii) a statutory body; and
 - (iv) any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

5. The term "dividends" as used in this Article means income from shares, 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 Contracting State of which the company making the distribution is a resident.

6. 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.

7. 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.

[REPLACED by paragraph 1 of Article 7 of the MLI]¹

~~[8. The benefits of this Article shall not apply if it was the main purpose of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.]~~

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 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of the interest and:

- a) is that State, the central bank, a political subdivision, local authority or statutory body thereof;

¹ The wording of Article 7(1) of the MLI is presented in this document immediately after Article 26. Please note that Article 7(1) of the MLI replaces Article 10(8), 11(8) and 12(7) of the Agreement. In addition, it also applies to all the provisions of the Agreement (as in practice it is added to the Agreement).

- b) the interest is paid by the State in which the interest arises or by a political subdivision, a local authority or statutory body thereof;
- c) is an institution wholly or mainly owned by the Contracting State as may be agreed from time to time between the competent authorities of the Contracting States;
- d) is the Government of Singapore Investment Corporation Pte Ltd.; and
- e) is Bank Gospodarstwa Krajowego.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and 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 and 2 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 Agreement.

[REPLACED by paragraph 1 of Article 7 of the MLI]²

~~[8.— The benefits of this Article shall not apply if it was the main purpose of any person concerned with the creation or assignment of the debt claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.]~~

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 of which the company paying the royalties is a resident 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:

- a) 2 per cent of the gross amount of the royalties paid for the use of, or the right to use any industrial, commercial, or scientific equipment; and
- b) 5 per cent of the gross amount of the royalties in other cases.

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, any computer software, 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 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.

² The wording of Article 7(1) of the MLI is presented in this document immediately after Article 26. Please note that Article 7(1) of the MLI replaces Article 10(8), 11(8) and 12(7) of the Agreement. In addition, it also applies to all the provisions of the Agreement (as in practice it is added to the Agreement).

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 Agreement.

[REPLACED by paragraph 1 of Article 7 of the MLI]³

~~[7.— The benefits of this Article shall not apply if it was the main purpose of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.]~~

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 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.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains derived by a resident of a Contracting State from the alienation of shares, other than shares traded on a recognized stock exchange, deriving more than 75 per cent of their value directly or indirectly of immovable property situated in the other Contracting State may be taxed in that other 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.

³ The wording of Article 7(1) of the MLI is presented in this document immediately after Article 26. Please note that Article 7(1) of the MLI replaces Article 10(8), 11(8) and 12(7) of the Agreement. In addition, it also applies to all the provisions of the Agreement (as in practice it is added to the Agreement).

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 except in the following circumstances, when such income may also be taxed in the other Contracting State:

- a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- b) if his stay in the other Contracting State is for a period or periods exceeding in the aggregate 365 days in any 15-month period; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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 fiscal 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 shall be taxed only in that

State. However, if the remuneration is derived by a resident of the other Contracting State, it may also be taxed in that other State.

ARTICLE 16

Directors' fees

Fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the management board, the supervisory board, or of a similar body 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 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 accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 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 artiste 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 or statutory bodies thereof. In such case, the income shall be taxable only in the Contracting State in which the artiste or the 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 or a statutory body thereof to an individual in respect of services

rendered to that State or subdivision, authority or body 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) Notwithstanding the provisions of paragraph 1, any pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.
 - b) However, such pensions and other similar remuneration 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, pensions and other similar remuneration, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, a local authority or a statutory body thereof.

ARTICLE 20

Students

Payments which a student, pupil or business apprentice 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 first- mentioned 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 shall be taxable only in that 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.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 22

Elimination of double taxation

1. In case of Poland, double taxation shall be avoided as follows:
 - a) Where a resident of Poland derives income which, in accordance with the provisions of this Agreement may be taxed in Singapore, Poland shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Singapore. 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 Singapore.
 - b) Where in accordance with any provision of this Agreement, income derived by a resident of Poland is exempt from tax in Poland, Poland may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.
2. In case of Singapore, double taxation shall be avoided as follows:
 - a) Where a resident of Singapore derives income from Poland which, in accordance with the provisions of this Agreement, may be taxed in Poland, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Polish tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of Poland to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Polish tax paid by that company on the portion of its profits out of which the dividend is paid.
 - b) Where a resident of Singapore derives income from Poland, Singapore shall, subject to the conditions of exemption for income received from outside Singapore provided for in the Singapore Income Tax Act being satisfied, exempt such income from tax in Singapore.

ARTICLE 23

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.

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.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, 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.

4. Nothing in this Article shall be construed as obliging a Contracting State to grant to:

- a) residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which it grants to its own residents; or
- b) nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own nationals who are not residents of that State or to such other persons as may be specified in the taxation laws of that State.

5. 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.

6. Where a Contracting State grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.

7. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

ARTICLE 24
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 Agreement, 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 23 of, 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 Agreement.

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 Agreement. 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 Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 25
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 the taxes referred to in paragraph 1, 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 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).

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 it relates to ownership interests in a person.

ARTICLE 26

Members of diplomatic missions and consular posts

Nothing in this Agreement 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 replaces paragraph 8 of Article 10, paragraph 8 of Article 11 and paragraph 7 of Article 12 of this Agreement⁴:

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE
(Principal purposes test provision)

Notwithstanding any provisions of [*the Agreement*], a benefit under [*the Agreement*] shall not be granted in respect of an item of income 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 [*the Agreement*].

ARTICLE 27
REMITTANCE CLAUSE

1. Where this Agreement provides (with or without other conditions) that income from sources in Poland shall be exempt from tax, or taxed at a reduced rate, in Poland and under the laws in force in Singapore the said income is subject to tax by reference to the amount thereof which is remitted to or received in Singapore and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in Poland shall apply only to so much of the income as is remitted to or received in Singapore.
2. However, this limitation does not apply:
 - a) To income derived by the Government of Singapore or any person approved by the competent authority of Singapore for the purpose of this paragraph. The term “the Government of Singapore” shall include its agencies and statutory bodies; and
 - b) When Singapore exempts income received from outside Singapore referred to in paragraph 2(b) of Article 22. In such a case, the exemption or reduction of tax to be allowed under this Agreement in Poland shall apply to the full amount of income from sources in Poland that is Exempted from tax in Singapore.

⁴ Please note that Article 7(1) of the MLI replaces Article 10(8), 11(8) and 12(7) of the Agreement and, in addition, it also applies to all the provisions of the Agreement (as in practice it is added to the Agreement).

ARTICLE 28

Entry into force

1. 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 Agreement.

2. This Agreement shall enter into force on the date of the later of these notifications and its provisions shall have effect:

a) in Poland:

- (i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Agreement enters into force, and
- (ii) in respect of other taxes, on income derived in any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force;

b) in Singapore:

- (i) in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the Agreement enters into force; and
- (ii) in all other cases, on or after 1 January of the calendar year next following the date on which the Agreement enters into force.

3. Notwithstanding the provisions of this Article, the provisions of Articles 24 and 25 (Mutual agreement procedure and Exchange of information) shall have effect from the date of entry into force of this Agreement, without regard to the taxable period to which the matter relates.

4. The Agreement between the Government of the Republic of Poland and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Singapore on 23rd of April 1993 shall terminate and cease to be effective from the date upon which this Agreement has effect in respect of the taxes to which this Agreement applies in accordance with the provisions of paragraphs 1, 2 and 3 of this Article.

ARTICLE 29

Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, 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 five years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

- a) in Poland:
 - (i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given, and
 - (ii) in respect of other taxes, on income derived in any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given;
- b) in Singapore:
 - (i) in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the notice is given; and
 - (ii) in all other cases, after the end of that calendar year in which the notice is given.

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

Done in duplicate at Singapore, this day of November 4, 2012 in the Polish and English languages, both texts being equally authentic.

PROTOCOL

At the moment of signing the Agreement between the Government of the Republic of Singapore and Government of the Republic of Poland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall be an integral part of the Agreement.

1. With reference to the Agreement

The term “statutory body” means a body constituted by any statute of a Contracting State, a political subdivision, a local authority thereof, and performing functions which would otherwise be performed by the State, subdivision or authority.

2. With reference to Article 8(1) of the Agreement

Interest derived by an enterprise of a Contracting State from its deposits of moneys incidental to and connected with its operations of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft.

3. With reference to Article 13(4) of the Agreement

The term “recognized stock exchange” means:

- a) in the case of Poland, the Warsaw Stock Exchange (WSE);
- b) in the case of Singapore, the Singapore Exchange (SGX);
- c) any stock exchange as may be agreed from time to time.

4. With reference to Article 22 of the Agreement,

- a) Notwithstanding the provisions of paragraph 1 of Article 22, income which in accordance with the provisions of Articles 10,11 and 12 of the Agreement may be taxed in Singapore shall be exempt from Polish tax where such income is the subject of exemption or reduced taxation granted under the incentive provisions contained in Singapore laws designed to promote economic development;
- b) The provisions of sub-paragraph (a) shall be applicable only in respect of income derived from contractual arrangements that are in existence as at the last day of the 3rd month following the month of the date of signature of the Agreement;
- c) The provisions of sub-paragraph (a) shall cease to have effect in the tax year beginning on or after 1 January 2017;
- d) A person that is resident of Poland and derives income from Singapore shall not be entitled to the benefits of sub-paragraph (a) if it was the main purpose of any person concerned with the creation or assignment of shares or other rights in respect of which the dividends are paid, the creation or assignment of the debt-claim in respect of which the interest is paid, the creation or assignment of rights in respect of which the royalties are paid, to take advantage of this sub-paragraph by means of that creation or assignment.

5. With reference to Article 23(3) of the Agreement:

It is understood that, for the purposes of allowing deduction of an interest payment to a non-resident, nothing in the said paragraph shall be construed as preventing a

Contracting State from disallowing a deduction of such interest payment if withholding tax is not accounted for on the payment.

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

Done in duplicate at Singapore, this day of November 4, 2012 in the Polish and English languages, both texts being equally authentic.