

SYNTHESISED TEXT
OF THE MLI AND THE CONVENTION BETWEEN
THE REPUBLIC OF POLAND
AND
BOSNIA AND HERZEGOVINA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

This document presents the synthesized text for the application of the Convention between the Republic of Poland and Bosnia and Herzegovina for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed at Sarajevo on 4 June 2014 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Poland on 7 June 2017 and by Bosnia and Herzegovina on 30 October 2019 (the “MLI”).

This document was prepared jointly by the competent authorities of Poland and Bosnia and Herzegovina and represents the shared understanding of the modifications made to the Convention by the MLI.

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

- by Poland on 23 January 2018; and
- by Bosnia and Herzegovina on 16 September 2020.

The effects of the MLI on the application of the Convention 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 Convention. This document does not constitute a source of law. The authentic legal texts of the Convention and the MLI remain the only sources of law.

For legal purposes, the provisions of the MLI must be interpreted alongside the Convention, 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 Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. 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 Convention (such as “Covered Tax Agreement” and “Convention”, “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 Bosnia and Herzegovina: 1 January 2021.

The provisions of the MLI applicable to the Convention do not take effect on the same dates as the original provisions of the Convention. Each of the 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), Article 7(1) and Article 9(4) of the MLI have effect with respect to the application of the Convention 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 2021; and
- with respect to all other taxes levied by Poland, for taxes levied with respect to taxable periods beginning on or after 1 July 2021;

and

in accordance with Article 35(1) of the MLI, the provisions of Article 6(1), Article 7(1) and Article 9(4) of the MLI have effect with respect to the application of the Convention by Bosnia and Herzegovina:

- 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 2021; and
- with respect to all other taxes levied by Bosnia and Herzegovina, for taxes levied with respect to taxable periods beginning on or after 1 July 2021.

References

The authentic legal text of the MLI can be found on the MLI Depositary (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 (as amended).

The governmental announcement on the entry into force of the MLI was published in the Journal of Laws from 2018 item 1370 (as amended).

The governmental announcement on the entry into force of the MLI between Poland and Bosnia and Herzegovina was published in the Journal of Laws from 2020 item 2258.

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>.

CONVENTION
BETWEEN
THE REPUBLIC OF POLAND
AND
BOSNIA AND HERZEGOVINA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Republic of Poland and Bosnia and Herzegovina,

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

~~*[desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,]*~~

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 Convention:

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

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

have agreed as follows:

ARTICLE 1

Persons covered

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

ARTICLE 2

Taxes covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which this Convention shall apply are in particular:

a) in the case of Bosnia and Herzegovina:

i) tax on income of individuals;

ii) tax on profit of enterprises

(hereinafter referred to as: "Bosnia and Herzegovina tax")

b) in the case of Poland:

i) personal income tax;

ii) corporate income tax

(hereinafter referred to as "Polish taxes").

4. This Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Convention 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 Convention, unless the context otherwise requires:
 - a) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Poland and Bosnia and Herzegovina as the context requires;
 - b) the term "Bosnia and Herzegovina" means Bosnia and Herzegovina including the territory of Bosnia and Herzegovina, its territorial waters, as well as the sea-bed and subsoil, where it applies its jurisdiction and sovereign rights for purposes of exploring, exploiting and maintaining of natural resources in accordance with international law;
 - c) 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 natural resources of the seabed and its sub-soil may be exercised;
 - d) the term "political subdivision" in case of Bosnia and Herzegovina means entities: Federation of Bosnia and Herzegovina and Republika Srpska and Brčko District of Bosnia and Herzegovina;
 - e) the term "person" includes an individual, a company and any other body of persons;
 - f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - g) the term "enterprise" applies to carrying on of any business;
 - h) 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;
 - i) the term "national", in relation to a Contracting State, means:
 - i) any individual possessing 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;
 - j) the term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise that has its place of effective management in a Contracting State, except when a ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

- k) the term "competent authority" means:
 - i) in the case of Bosnia and Herzegovina, the Ministry of Finance and Treasury or the Minister's authorised representative;
 - ii) in the case of Poland, the Minister of Finance or the Minister's authorised representative;
- l) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of this Convention 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 this Convention 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 Convention, 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 that person's domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the individual's status shall be determined as follows:
 - a) the individual shall be deemed to be a resident only of the State in which the individual has a permanent home available; if that person has a permanent home available in both States, the individual shall be deemed to be a resident only of the State with which the individual's personal and economic relations are closer (centre of vital interests);
 - b) if the State in which the individual's centre of vital interests cannot be determined, or if there is not a permanent home available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;
 - c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;
 - d) if the individual is a national of both States or of neither of them, 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 such person shall be deemed to be a resident only of the State in which its place of effective management is situated.

ARTICLE 5

Permanent establishment

1. For the purposes of this Convention, 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. A building site, construction, assembly or installation project or supervisory activities in connection therewith, constitute a permanent establishment, but only if such site, project or activities continue for a period of more than twelve months.

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) of this paragraph, 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, boats or 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.

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. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment because of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. 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.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

International traffic and inland waterways' traffic

1. Profits from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. Profits from the operation of boats engaged in inland waterways traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. If the place of effective management of a shipping enterprise or of an inland waterways traffic enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

4. 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 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 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 Convention 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 holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 15 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. 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.

4. 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. 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 situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

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 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 any such interest referred to in paragraph 1 shall be taxable only in the Contracting State of which the recipient is a resident, if such recipient is the beneficial owner of the interest and if such interest is paid to the Government of a Contracting State, a political subdivision or local authority thereof, or the Central Bank of a Contracting State or any institution wholly owned by the Government of a Contracting State.

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. The term shall not include any item which is treated as a dividend under the provisions of Article 10.

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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State, including that State, a political subdivision and local authority thereof. Where, however, the person paying the interest, whether a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner of the interest 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 of the interest 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 Convention.

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 in which they arise 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 10 per cent of the gross amount of the royalties.

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 concerning industrial, commercial or scientific experience (know-how).

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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State, including that State, a political subdivision and local authority thereof. Where, however, the person paying the royalties, whether a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

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 Convention.

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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

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

[REPLACED by paragraph 4 of Article 9 of the MLI]

~~[4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.]~~

The following paragraph 4 of Article 9 of the MLI replaces paragraph 4 of Article 13 of this Convention:

**ARTICLE 9 OF THE MLI - CAPITAL GAINS FROM ALIENATION OF SHARES
OR INTERESTS OF ENTITIES DERIVING THEIR VALUE
PRINCIPALLY FROM IMMOVABLE PROPERTY**

For purposes of *[the Convention]*, gains derived by a resident of a *[Contracting State]* from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other *[Contracting State]* if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other *[Contracting 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.

**ARTICLE 14
Income from employment**

1. Subject to the provisions of Articles 15, 17 and 18, 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 which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of the Contracting State, in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, or aboard a boat engaged in inland waterways transport, shall be taxed only in that State.

ARTICLE 15

Managers' fees

1. Managers' fees and other similar payments derived by a resident of a Contracting State in that resident's capacity as a member of the management board or of the supervisory board or of any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, managers' fees and other similar payments derived by a resident of a Contracting State in the capacity as a member of the management board or of the supervisory board or of any other similar organ of a company which is a resident of the other Contracting State and is not engaged in the active conduct of a trade or business in that other Contracting State (other than the business of making or managing investments, unless those activities are carried on with customers in the ordinary course of business by a bank, an insurance company, a registered securities dealer or a deposit-taking financial institution) shall be taxed only in that first-mentioned State.

ARTICLE 16

Artistes and sportspersons

1. Notwithstanding the provisions of Articles 7 and 14, 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 sportsperson, from that resident's personal activities as such 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 sportsperson in that individual's capacity as such accrues not to the entertainer or sportsperson personally but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by a resident of a Contracting State from that person's personal activities as an entertainer or as a sportsperson shall be taxable only in that State if the activities are exercised in

the other Contracting State within the framework of a cultural or sports exchange program approved by both Contracting States.

ARTICLE 17

Pensions and similar remuneration

Subject to the provisions of paragraph 2 of Article 18, 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 18

Government service

1.
 - a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration paid in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 19

Students

Payments which a student, a pupil or an 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 that individual's education or training receives for the purpose of that individual's maintenance, education or training shall not be taxed in that first- mentioned State, provided that such payments arise from sources outside that State.

ARTICLE 20

Other income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention 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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Notwithstanding the provisions of paragraph 1 items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 21

Capital

1. Capital represented by immovable property referred to in Article 6 of this Agreement, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 may be taxed in that other State.
3. Capital represented by ships, aircraft and road vehicles operated in international traffic and by boats engaged in inland waterways traffic, and by movable property pertaining to the operation of such ships, boats, aircraft and road vehicles, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 22

Elimination of double taxation

1. In case of Bosnia and Herzegovina, double taxation shall be avoided as follows:

- a) Where a resident of Bosnia and Herzegovina derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Poland, Bosnia and Herzegovina shall allow:
 - as a deduction from the tax on the income of that resident, an amount equal to the tax on income paid in Poland;
 - as a deduction from the tax on the capital of that resident, an amount equal to the tax on capital paid in Poland.

Such deduction in either case shall not, however, exceed that part of the income tax or the tax on capital, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Poland.

- b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Bosnia and Herzegovina is exempt from tax in Bosnia and Herzegovina, Bosnia and Herzegovina may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In case of Poland, double taxation shall be avoided as follows:

- a) Where a resident of Poland derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Bosnia and Herzegovina, Poland shall, subject to the provision of sub-paragraph (b) of this paragraph exempt such income or capital from tax;
- b) Where a resident of Poland derives income or capital gains which, in accordance with the provisions of Article 7, 10, 11, 12, 13 or 20 may be taxed in Bosnia and Herzegovina, Poland shall allow as deduction from the tax on income or capital gains of that resident an amount equal to the tax paid in Bosnia and Herzegovina. 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 Bosnia and Herzegovina.
- c) Where in accordance with any provision of this Convention, income derived or capital owned by a resident of Poland is exempt from tax in Poland, Poland may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
- d) The provisions of the letter (a) shall not apply to income derived or capital owned by a resident of Poland where Bosnia and Herzegovina applies the provision of this Convention to exempt such income or capital from tax or applies the provisions of the paragraphs 2 of Article 10, 11 or 12 to such income.

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. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
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. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relieves and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
4. 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.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

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 that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, present the case to the competent authority of the Contracting State of which that person is a resident or, if that person's case comes under paragraph 1 of Article 23 of, to that of the Contracting State of which that person 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 this Convention.

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

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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

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 Convention or to the administration or enforcement of the domestic laws of the Contracting States 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 this Convention. 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

Limitation on benefits

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

~~[1. In respect of Articles 10, 11, 12 and 13 a resident of a Contracting State shall not be entitled to benefits otherwise accorded to residents of a Contracting State by this Convention, if the main purpose or one of the main purposes of any person concerned with the creation or assignment of a share, a debt claim, or a right in respect of which the income is paid is to take advantage of these Articles by means of that creation or assignment.]~~

2. Nothing in this Article shall be construed as restricting, in any manner, the application of any provisions of the law of a Contracting State which are designed to prevent the avoidance or evasion of taxes.

ARTICLE 27

Members of diplomatic missions and consular posts

Nothing in this Convention 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.

¹ The wording of Article 7(1) of the MLI is presented in this document immediately after Article 27. Please note that Article 7(1) of the MLI replaces Article 26(1) of the Convention. In addition, it also applies to all the provisions of the Convention (as in practice it is added to the Convention).

The following paragraph 1 of Article 7 of the MLI replaces paragraph 1 of Article 26 of this Convention²:

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

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

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 Convention.
2. This Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:
 - (i) in respect of taxes withheld at source, on income derived or capital owned on or after 1 January in the calendar year next following the year in which the Convention enters into force, and
 - (ii) in respect of other taxes, on income derived or capital owned in any tax year beginning on or after 1 January in the calendar year next following the year in which the Convention 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 Convention, without regard to the taxable period to which the matter relates.
4. The Agreement between the Polish Peoples' Republic and Socialist Federal Republic of Yugoslavia for the avoidance of double taxation with respect to taxes on income and capital signed in Warsaw on 10th of January 1985 shall terminate and cease to be effective from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraphs 1, 2 and 3.

² Please note that Article 7(1) of the MLI replaces Article 26(1) of this Convention and, in addition, it also applies to all the provisions of the Convention (as in practice it is added to the Convention).

ARTICLE 29

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate this Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Convention. In such event, this Convention shall cease to have effect:

- (i) in respect of taxes withheld at source, on income derived or capital owned 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 or capital owned in any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given;

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

Done in duplicate at Sarajevo, this day of 4 June 2014 in the Polish, Bosnian, Croatian, Serbian and English languages, all texts being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.