

**SYNTHESISED TEXT**  
**OF THE MLI AND THE CONVENTION BETWEEN**  
**THE GOVERNMENT OF THE POLISH PEOPLE’S REPUBLIC**  
**AND**  
**THE GOVERNMENT OF THE KINGDOM OF THAILAND**  
**FOR THE AVOIDANCE OF DOUBLE TAXATION**  
**WITH RESPECT TO TAXES ON INCOME**

This document presents the synthesized text for the application of the Convention between the Government of the Polish People’s Republic and the Government of the Kingdom of Thailand for the avoidance of double taxation with respect to taxes on income signed at Bangkok on 8 December 1978 (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 Thailand on 9 February 2022 (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 Thailand on 31 March 2022.

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 Thailand: 1 July 2022.

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.

As a result of the reservation made by Thailand pursuant to Article 35(6) of the MLI, Article 35(4) will not apply. Hence, the general rules will determine the date of the entry into effect of the second sentence of Article 16(1) and the second sentence of Article 16(2) of the MLI.

Hence, unless it is stated otherwise elsewhere in this document, in accordance with Article 35(1) of the MLI, the provisions of Article 5(6), Article 6(1), Article 7(1), the second sentence of Article 16(1), the second sentence of Article 16(2) and Article 17(1) 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 2023; and
- with respect to all other taxes levied by Poland, for taxes levied with respect to taxable periods beginning on or after 1 January 2023;

and

in accordance with Article 35(1) of the MLI, the provisions of Article 5(6), Article 6(1), Article 7(1), the second sentence of Article 16(1), the second sentence of Article 16(2) and Article 17(1) of the MLI have effect with respect to the application of the Convention by Thailand:

- 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 2023; and
- with respect to all other taxes levied by Thailand, for taxes levied with respect to taxable periods beginning on or after 1 January 2023.

## 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 (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 Thailand was published in the Journal of Laws from 2022 item 1295.

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 GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC**  
**AND**  
**THE GOVERNMENT OF THE KINGDOM OF THAILAND**  
**FOR THE AVOIDANCE OF DOUBLE TAXATION**  
**WITH RESPECT TO TAXES ON INCOME**

*The Government of the Polish People's Republic and the Government of the Kingdom of Thailand;*

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

~~*Desiring to conclude a Convention for the avoidance of double taxation 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 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**

### **Personal scope**

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 imposed on behalf of each 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 all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by the enterprises.

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

(a) in the case of the Polish People's Republic:

- the income tax (podatek dochodowy);
- the tax on wages or salaries (podatek od wynagrodzeń); and
- the equalization tax (podatek wyrównawczy)

(hereinafter referred to as "Polish tax").

(b) in the case of the Kingdom of Thailand:

- the income tax; and
- the petroleum income tax;

(hereinafter referred to as "Thai tax").

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

### **Article 3**

#### **General definitions**

1. In this Convention, unless the context otherwise requires:
  - (a) the terms "a Contracting State" and "the other Contracting State" mean the Polish People's Republic or the Kingdom of Thailand, as the context requires;
  - (b) the term "person" includes an individual, a company or juridical person and all other entities which are treated as taxable units under the tax laws in force in either Contracting State;
  - (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes under the laws of either Contracting State;
  - (d) 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;
  - (e) the term "competent authority" means in the case of the Polish People's Republic, the Minister of Finance or his authorized representative; and in the case of the Kingdom of Thailand, the Minister of Finance or his authorised representative;
  - (f) the term "nationals" means:
    - in relation to Poland, any individual having the nationality of Poland and any legal person or association or other entity created under the law in force in Poland;
    - in relation to Thailand, all individuals possessing the nationality of Thailand and all legal persons, partnerships and associations deriving their status as such from the law in force in Thailand.

2. As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

### **Article 4**

#### **Fiscal domicile**

1. For the purpose of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management, place of registration, or by any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or if he has not an habitual abode in either Contracting State, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if the question of residence cannot be determined according to the provisions of sub-paragraphs (a), (b) and (c) of this paragraph, 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 the competent authorities of the Contracting States shall settle the question by mutual agreement.

## **Article 5**

### **Permanent establishment**

1. For the purpose of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop or warehouse;
- (f) a mine, oil well, quarry or other place of extraction of natural resources.

3. The term "permanent establishment" shall not be deemed 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 for collecting information for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State -- other than a broker, general commission agent or any other agent of an independent status to whom paragraph 5 applies -- shall be deemed to be a permanent establishment in the first-mentioned State, but only if

- (a) he has and habitually exercises in the first-mentioned State an authority to conclude contracts on behalf of the enterprise; or
- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or
- (c) he habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is resident of a Contracting State has a subsidiary which is a resident of the other Contracting State, or which carries on a trade or business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself make that subsidiary a permanent establishment of its parent company.



## **Article 6**

### **Income from immovable property**

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property is situated. The term shall in any case include property accessory to immovable property, 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 and aircrafts shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from 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 professional 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. 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 the determination of the profits of a permanent establishment there shall be allowed as deductions expenses of the enterprise 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. In so far 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 or, in the case of a person who does not claim taxation on the basis of the actual net profits of the permanent establishment, on the basis of a reasonable percentage of gross receipts of the permanent establishment, nothing in paragraph 2 shall preclude such State from determining the

profits to be taxed by such method. The method adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

5. 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.

6. For the purpose 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**

### **Air transport**

1. Income from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management is situated.

2. The provisions of paragraph 1 shall likewise apply in respect of profits derived from participation in pools of any kind by enterprises engaged in air transport.

## **Article 9**

### **Associated enterprises**

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.

*The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Convention:*

## ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

Where a [*Contracting State*] includes in the profits of an enterprise of that [*Contracting State*] - and taxes accordingly - profits on which an enterprise of the other [*Contracting State*] has been charged to tax in that other [*Contracting State*] and the profits so included are profits which would have accrued to the enterprise of the first-mentioned [*Contracting State*] if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other [*Contracting 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 [*the 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 Contracting 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 Contracting State, but the tax so charged shall not exceed 20 per cent of the gross amount of the dividends if the recipient is a company which owns at least 25 per cent of the capital of the company paying such dividends.

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 rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares according to the taxation 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 recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a 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 to persons who are not residents of that other Contracting State, or 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 the other Contracting 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 be taxed in the Contracting State in which it arises, and according to the laws of the Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company).

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax of the first-mentioned Contracting State.

4. For the purposes of paragraph 3, the term "Government"

(a) in the case of the Polish People's Republic means the Government of the Polish People's Republic and shall include:

- the National Bank of Poland (Narodowy Bank Polski) and the Bank Handlowy w Warszawie S.A. to the extent that their activity is carried on within the scope of the normal authority of a central bank.
- such institutions the capital of which is wholly owned by the Government of the Polish People's Republic or the local authorities, as may be agreed from time to time between the Governments of the two Contracting States.

(b) in the case of Thailand means the Government of the Kingdom of Thailand and shall include:

- the Bank of Thailand; and
- such institutions, the capital of which is wholly owned by the Government of the Kingdom of Thailand or the local authorities, as may be agreed from time to time between the Governments of the two Contracting States.

5. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind, and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent to the taxation law of the Contracting State in which the income arises.

6. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

8. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payments shall remain taxable according to the law 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 shall be taxable in the other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, but the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of royalties if they are made as a consideration for the alienation or the use of, or the right to use any copyright of literary, artistic or scientific work excluding cinematographic films or tapes for television or broadcasting;

(b) 15 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2, royalties or other like payments payable to a Contracting State or a State owned company in respect of films or tapes shall be exempt from tax in the other Contracting State.

4. The term "royalties" as used in this Article means payments of any kind received as a consideration for the alienation or the use of or the right to use, any copyright of literary, artistic or scientific work including cinematographic films or tapes for television or broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use information concerning industrial, commercial or scientific experience.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise, a permanent establishment with which the right or property giving rise to the royalties is effectively connected, provided that under the law of that

other State the royalties are taxed as part of the profits of the permanent establishment. In such case the provisions of Article 7 shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State, a local authority or 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 with which right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

### **Article 13**

#### **Capital gains**

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

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 such a permanent establishment (alone or together with the whole enterprise), may be taxed in that other State. However, gains from the alienation of ship and aircraft operated in international traffic and assets other than immovable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

### **Article 14**

#### **Independent personal services**

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless such activities were performed in the other Contracting State. Income in respect of professional services or independent activities performed within that other State may be taxed by that other State.

2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other independent activities performed in the other Contracting State shall not be taxable in the other State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
- (b) the recipient does not maintain a fixed base in the other State for a period or periods exceeding in the aggregate 183 days in such year, and
- (c) the income is not borne by an enterprise or a permanent establishment in that other State.

3. 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 and dentists.

## **Article 15**

### **Dependent personal services**

1. Subject to the provisions of Articles 16, 17, 18, 19 and 20, 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 of this Article, 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 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 in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## **Article 16**

### **Directors' fees**

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

## **Article 17**

### **Artistes and athletes**

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio and television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.
2. Where income in respect of personal activities as such of a public entertainer accrues not to that entertainer himself but to another person that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply in the case of cultural and sport programmes sponsored by or on behalf of each of the Contracting States.

## **Article 18**

### **Governmental functions**

Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

## **Article 19**

### **Students**

1. An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and whose visit to the first-mentioned Contracting State is solely for the purpose of:
  - (a) studying at a University or other recognised educational institution; or
  - (b) securing training to qualify him to practice a profession or trade; or
  - (c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation;

shall be exempt from tax in that other Contracting State on: remittances from abroad for the purpose of his maintenance, education, study, research or training; the grant, allowance or award; and income from personal services rendered in that State (other than services rendered by an articulated clerk, or other individual undergoing training, to the person or partnership to whom he is articulated or who is providing the training) provided the income constitutes earnings reasonably necessary for his maintenance and education.



**Article 20**  
**Professors, teachers and research workers**

1. An individual who, at the invitation of a university, college, school or other similar recognised educational institution in one of the Contracting States visits that Contracting State, solely for the purpose of teaching or research at such educational institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that State.

2. The provisions of paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

**Article 21**  
**Elimination of double taxation**

**[REPLACED by paragraph 6 of Article 5 of the MLI]**

~~[1. — Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of this Convention, shall be taxable only in that other Contracting State, or may be taxed in that other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.]~~

*The following paragraph 6 of Article 5 of the MLI replaces paragraph 1 of Article 21 of this Convention:*

**ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR  
ELIMINATION OF DOUBLE TAXATION (Option C)**

Where a resident of a [Contracting State] derives income which may be taxed in the other [Contracting State] in accordance with the provisions of [this Convention] (except to the extent that these provisions allow taxation by that other [Contracting State] solely because the income is also income derived by a resident of that other [Contracting State]), the first-mentioned [Contracting State] shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other [Contracting State].

Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in that other [Contracting State].

Where in accordance with any provision of [this Convention] income derived by a resident of a [Contracting State] is exempt from tax in that [Contracting State], such [Contracting State] may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of Article 10, may be taxed in that other Contracting State, the first-mentioned State shall allow as a deduction from the tax on income of that person an amount equal to the tax paid in that other Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.

**Article 22  
Non-discrimination**

1. The nationals of a Contracting State shall not be subject 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 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. 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 Contracting 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 that first-mentioned State are or may be subjected.

4. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

5. The taxes on income and capital and payments from profits to the budget (Wpłaty z Zysku) which under Polish law are chargeable on Polish socialised enterprises (Jednostki Gospodarki Uspolecznionej) shall be chargeable only on such enterprises and shall not be treated as "taxation" for the purposes of this Article.

6. In this Article the term "taxation" means taxes of every kind and description.

### **Article 23**

#### **Mutual agreement procedure**

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

*The following second sentence of paragraph 1 of Article 16 of the MLI applies to this Convention:*

#### **ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE**

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 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 an appropriate 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 not in accordance with the Convention.

*The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:*

## ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the 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 24** **Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

- (a) to carry out administrative measures at variance with the laws or the administrative practices of that or the other Contracting State;
- (b) to supply particulars which are 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*).

## **Article 25** **Diplomatic and consular privileges**

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

*The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention<sup>1</sup>:*

**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 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 26**  
**Entry into force**

1. This Convention is subjected to ratification and the instruments of ratification shall be exchanged at Warsaw.
2. This Convention shall enter into force upon the exchange of the instruments of ratification and shall have effect for the income of the calendar years or accounting periods beginning on/or after the first day of January of the calendar year in which the instruments of ratification are exchanged.

**Article 27**  
**Termination**

This Convention shall remain in force indefinitely but either of the Contracting States may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, notice of termination not later than the 30th June of any calendar year from the fifth year in which the Convention entered into force. In such event, the Convention shall cease to have effect for the income of the calendar years or accounting periods beginning on/or after the first day of January of the calendar year following that in which the notice is given.

In witness whereof the undersigned duly authorised thereto by their respective Governments have signed this Convention.

Done in duplicate at Bangkok, this eighth day of December of the year 1978, in two originals, each in the Polish, Thai and English languages, all texts being equally authentic, except in the case of doubt when the English text shall prevail.

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<sup>1</sup> Article 7(1) of the MLI applies to all of the provisions of this Convention (as in practice it is added to the Convention).

## **PROTOCOL**

At the moment of signing the Convention for the avoidance of double taxation with respect to taxes on income this day concluded between the Government of the Polish People's Republic and the Government of the Kingdom of Thailand, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

### **I. Ad Article 5**

1. It is understood that the building site which exists or construction or assembly project which is effectively carried on not more than 6 months will not be treated as a permanent establishment for the tax purposes.

2. It is understood that for the purpose of paragraph 5 an agent shall not be considered to be an agent of an independent status if it acts as an agent exclusively or almost exclusively for the enterprise and carried on any of the activities described in paragraph 4.

### **II. Ad Article 8**

It is understood that income from the operation in international traffic of ships owned or chartered by an enterprise having a place of effective management in a Contracting State may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount to 50 per cent thereof.

### **III. Ad Article 18**

The reference to "the discharge of functions of a governmental nature" does not include activities carried on in the discharge of functions of any Polish enterprises.