AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF POLAND

AND

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Poland and The Government of the Republic of the Philippines

Desiring to promote their mutual economic relations by removing fiscal obstacles, have resolved to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and

Have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State 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 and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which the Agreement shall apply are in particular:
   a) in Poland:
      (1) the individual income tax (podatek dochodowy);
      (2) the corporate income tax (podatek dochodowy od osob prawnych);
      (3) the agricultural income tax (podatek rolny);
   b) in the Philippines:
      the income tax imposed under Title II of the National Internal Revenue Code of the Republic of the Philippines (hereinafter referred to as “Philippine tax”).

4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in this Article. The competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement:
   a) The term “Poland” means the Republic of Poland and includes any area adjacent to the territorial waters of Poland which in accordance with international law has been or may be designated under the laws of Poland as an area in which Poland may exercise sovereign rights or jurisdiction;
   b) The term “Philippines” shall refer to the territory of the Republic of the Philippines in accordance with its Constitution and laws including adjacent areas and such other areas over which the Republic has sovereign right and other rights under international law;
c) The terms “one of the Contracting State” and “the other Contracting State” mean the Philippines or Poland as the context requires;

d) The term “national” means all individuals possessing the nationality of a Contracting State and all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;

e) The term “person” comprises an individual, an estate, a trust, a company or any other body of persons;

For the purposes of this sub-paragraph the term “estate” means property or properties left by a decedent pending or in the process of distribution to the heirs or beneficiaries of the said decedent the income from which, in accordance with the respective laws of the Contracting States, may be subject to income prior to its final distribution to the heirs or beneficiaries.

f) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

g) The term “company” means any body corporate or any other entity which is treated as a body corporate for tax purposes;

h) The term “international traffic” means any transport by ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

i) The term “competent authority” means:

(1) in the case Poland, the Minister of Finance or his authorized representative;
(2) in the case of Philippines, the Secretary of Finance or his authorized representative.

2. As regards the application of this Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires or the Competent Authorities agree to a common definition pursuant to the provision of Article 26 (Mutual Agreement Procedure) have the meaning which it has under the law of that State concerning the taxes to which this Agreement applies.

Article 4
RESIDENT

1. For the purposes of this Agreement, the term “resident of the Contracting State” means a person who, under the laws of that State, is liable to tax therein by
Poland

reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him;

b) If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (center of vital interests);

c) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

d) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

e) If the status of a resident cannot be determined according to sub-paragraphs (a) - (d), the competent authorities of the Contracting States shall settle the question by mutual agreement.

f) If the status of a resident cannot be determined according to the preceding sub-paragraph, the competent authorities shall settle the question pursuant to the provisions of Article 26 (Mutual Agreement Procedure).

3. Where, by reason of the provisions of paragraph 1 of this Article, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. In case of conflict, the competent authorities shall settle the question pursuant to the provisions of Article 26 (Mutual Agreement Procedure).

Article 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

a) a place of management;
b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

g) a building site, a construction, assembly, or installation project which lasts more than 183 days; and

h) the furnishing of services, including consultancy services by an enterprise through employees or other personnel where activities of that nature continue for a period or periods exceeding in the aggregate 183 days within any twelve-month period.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the term “permanent establishment” shall be deemed not to include:

a) the use of facilities solely for the purpose of storage or display 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 or display;

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 advertising, or for supply of information, scientific research or similar activities which have a preparatory or auxiliary character, for the enterprise;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in the preceding sub-paragraphs provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person - other than an agent of an independent status to whom paragraph 5 applies - is acting in a Contracting State on behalf of an enterprise of the other
Contacting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State, if such a person:

a) has and habitually exercises in that State an authority to conclude contracts in behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 of this Article; or

b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. 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. However, when the activities of such an agent are devoted wholly or almost wholly in behalf of the enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.

6. 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 in this Agreement have the meaning which it has under the law of the Contracting State in which the property in question is situated. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article 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 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

**Article 7**

BUSINESS PROFITS
1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3 of this Article 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other rights, or by way of commission, for specific services performed or for management, or except in the case of a banking enterprise, by way of interest on moneys lent and actually provided to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commissions for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent and actually provided to the head office of the enterprise or any of its other offices.

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 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

**Article 8**
**SHIPPING AND AIR TRANSPORT**

1. Profits derived by an enterprise which has its place of effective management in a Contracting State from the operation in international traffic of ships or aircraft shall be taxable in that State.

2. Notwithstanding the provisions of paragraph 1, profits from sources within a Contracting State derived by an enterprise of the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the first-mentioned State but the tax so charged shall not exceed the lesser of

   a) one and one-half per cent of the gross revenues derived from sources in that State; and

   b) the lowest rate of Philippine tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

3. If the place of effective management of a shipping enterprise or of an inland waterways transport 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 paragraphs 1 and 2 shall also apply to profits derived from the participations in pools, a joint business or an international operating agency.

**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 which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall, if necessary, consult each other.

Article 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

   a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (excluding partnerships) which holds directly at least 25 per cent of the capital of the paying company;

   b) 15 per cent of the gross amount of the dividends in all other cases.

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 taxation law of that State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on
business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Agreement, as the case may be, 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 or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Notwithstanding any other provisions of this Agreement where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of the permanent establishment may be subjected to an additional tax in that other State in accordance with its law, but the additional tax so charged shall not exceed 10 per cent of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that 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, interest referred to in paragraph 1 of this Article may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

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

   (i) a bond, debenture or other similar obligation of the government of that State or a political subdivision or local authority thereof, or
   (ii) a loan or credit extended, guaranteed, insured or refinanced.
   (aa) in the case of the Philippines, the Central Bank of the Philippines,
   (bb) in the case of Poland, the Central Bank of Poland, and
Poland

(cc)other lending institutions as maybe specified and agreed in letters of exchange between the competent authorities of the Contracting States.

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, in particular, income from government securities and income from bonds and debentures, including premiums and prizes attaching to such securities, bonds or debentures and, as well as income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) of this Agreement, as the case may be, shall apply.

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

7. Where by reason of a special relationship between the payer and the recipient 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

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, the royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 15 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 of literary, artistic or scientific work including cinematograph films and films and tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience;

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) of this Agreement, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, 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 or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the recipient 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 be agreed upon between 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 such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13
GAINS FROM THE ALIENATION OF PROPERTY

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 (Income from Immovable Property) 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 business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of shares of a company, and interest in a partnership or trust, the property of which consists principally of immovable situated in a Contracting State, may be taxed in that State.

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

5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may be taxed in the other Contracting State if:

a) he has a fixed base regularly available to him in that other Contracting State for the purpose of performing his activities; but only so much of the income as is attributable to that fixed base may be taxed in that Contracting State; or

b) he is present in that other State for a period or periods aggregating 120 days within any 12 month period.

2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16 (Directors’ Fees), 18 (Pension and Social Security Payments), 19 (Government Service) and 20 (Students) of this Agreement, 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 120 days within any twelve month period;

b) the remuneration is paid by, or on behalf of a person 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 from an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in the other Contracting State of which the recipient is a resident or a national.

**Article 16**

**DIRECTORS’ FEES**

Directors’ fees and other similar payments 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 Contracting State.

**Article 17**

**ARTISTES AND ATHLETES**

1. Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services) of this Agreement, 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 an athlete, from his 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles
7, 14 and 15 of this Agreement, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived in respect of the activities referred to in paragraph 1 of this Article within the framework of cultural or sports exchange programme agreed to by both Contracting States, substantially supported by public funds and/or officially recognized and endorsed by a Contracting State, shall be exempted from taxation in the Contracting State in which these activities are exercised.

**Article 18**

**PENSIONS AND SOCIAL SECURITY PAYMENTS**

1. Subject to the provisions of paragraph 2 of Article 19 (Government Service), pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in the Contracting State of which the recipient of the pension is a resident.

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

**Article 19**

**GOVERNMENT SERVICE**

1. Remuneration, other than pension, paid 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 shall be taxable only in that State. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident of that other Contracting State who:

   a) is a national of that State; or
   
   b) did not become a resident of that State solely for the purpose of performing the services.

2. Any pensions paid by, or out of funds created by, a Contracting State or political subdivision or local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

   However, such pension shall be taxable only in the other Contracting State if the recipient is a national of, and a resident of, that State.
3. The provisions of Articles 15 (Dependent Personal Services), 16 (Directors’ Fees) and 18 (Pensions and Social Security Payments) shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Contracting State or a political subdivision or a local authority thereof.

**Article 20**

**STUDENTS**

1. Payments received by a student, business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. Income derived by a student, business apprentice or trainee in respect of activities exercised in a Contracting State in which he is present solely for the purpose of his education or training, shall not be taxable in that State, unless it exceeds the amount necessary for his maintenance, education or training.

**Article 22**

**PROFESSORS AND RESEARCHERS**

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at a university, college or other recognized educational institution in that Contracting State and who is or was immediately before that visit a resident of the other Contracting State, shall be exempted from taxation in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of his first visit for that purpose.

2. The provisions of paragraph 1 of this Article 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 22**

**OTHER INCOME**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 (Income from Immovable Property), if the recipient of such income, being a
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

**Article 23**

**ELIMINATION OF DOUBLE TAXATION**

1. In Poland, double taxation shall be avoided as follows:

   a) Where a resident of Poland derives income which, in accordance with the provisions of this Agreement may be taxed in the Philippines, Poland shall, subject to the provisions of sub-paragraphs (b) and (c) of this paragraph, exempt such income from tax.

   b) Where a resident of Poland derives income which, in accordance with the provisions of Articles 10 (Dividends), 11 (Interest), and 12 (Royalties) of this Agreement may be taxed in the Philippines, Poland shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the Philippines. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to such income derived in the Philippines.

   c) Where, in accordance with any provisions of this Agreement, income derived by a resident of Poland is exempted from tax in Poland, Poland may in calculating the amount of tax on the remaining income of such resident apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

2. In the Philippines, double taxation shall be avoided as follows:

   a) In accordance with the provisions and subject to limitations of the National Internal Revenue Code of the Philippines, income tax paid by a resident or citizen of the Philippines under the laws of Poland with respect to income from sources within Poland shall be allowed as a credit against Philippine income tax payable by said resident or citizen of the Philippines.

   b) In accordance with the provisions and subject to the limitations of the National Internal Revenue Code of the Philippines, a Philippine corporation
owning more than 50 per cent of the voting stock of a Polish company from which it receives dividends in any taxable year, shall be allowed as a credit against Philippine income tax payable by said Philippine corporation, the income tax paid by the Polish company with respect to income out of which such dividends are paid.

3. Taxes which have been relieved or reduced in a Contracting State by virtue of special incentive laws for the promotion of the economic development or by virtue of the provisions of this Agreement shall be allowed as tax credit in the other Contracting State in an amount equal to the tax which would have been appropriate to the income involved if no such relief or reduction had been allowed.

Article 24
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 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. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs 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 Article 9 (Associated Enterprises), paragraph 7 of Article 11 (Interest), or paragraph 6 of Article 12 (Royalties) of this Agreement 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.
Article 25

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 the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs 1, 2 and 3 of this Article. When it seems advisable in order to reach an 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 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. Any information received 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) involved in the assessment or collection of the taxes covered by the Agreement. Such person or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on the competent authority of the Contracting States 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 business or official secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27
DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 28
MISCELLANEOUS RULES

Nothing in this Agreement shall be construed as preventing the Philippines from taxing individuals possessing its nationality who may be residing in Poland, in accordance with its domestic legislation. However, no credit shall be given for taxes in pursuance thereto.

Article 29
ENTRY INTO FORCE

1. This Agreement shall enter into force on the later of the dates on which the respective Governments may notify each other in writing that the formalities constitutionally required in their respective States have been complied with.

2. This Agreement shall have effect in both Contracting States:

   a) in the case of Poland:

      (i) in respect of tax withheld at source, on or after 1 January in the year next following that in which the Agreement enters into force; and

      (ii) in respect of other taxes, for taxable years beginning on or after 1 January in the year next following that in which the Agreement enters into force.
b) in the case of the Philippines:

in respect of taxes on income, including taxes withheld at source on income paid to non-residents, for taxable periods beginning on or after the first day of January next following that in which the exchange of instruments of ratification takes place.

**Article 30**

**TERMINATION**

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

In the case of Poland:

a) in respect of tax withheld at source on or after 1 January in the year next following that in which the notice of termination is given.

b) in respect of other taxes, for taxable years beginning on or after 1 January in the year next following that in which the notice of termination is given.

In the case of the Philippines:

in respect of taxes on income, including taxes withheld at source, on income paid to non-residents, for taxable periods beginning on or after the first of January following that in which the notice of termination has been given.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in duplicate at Manila this 9th day of September, 1992, in the English language.

FOR THE GOVERNMENT OF THE REPUBLIC OF THE POLAND
FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES