

AGREEMENT

BETWEEN

**JERSEY
AND**

THE REPUBLIC OF POLAND

**FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT
TO ENTERPRISES OPERATING SHIPS OR AIRCRAFT IN
INTERNATIONAL TRAFFIC**

Jersey and the Republic of Poland, desiring to conclude an Agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

have agreed as follows:

ARTICLE 1
Persons covered

This Agreement shall apply to enterprises operating ships or aircraft in international traffic who are resident of one or both of the Contracting Parties.

ARTICLE 2
Taxes covered

1. The existing taxes to which this Agreement shall apply are in particular:

a) in the case of Poland:

- i) the personal income tax, and
 - ii) the corporate income tax
- (hereinafter referred to as "Polish taxes");

b) in the case of Jersey:

- i) the income tax
- (hereinafter referred to as "Jersey tax").

2. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3

General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the terms "Poland" means the Republic of Poland and, when used in a geographical sense, means the territory of the Republic of Poland, and any area adjacent to the territorial waters of the Republic of Poland within which, under the laws of Poland and in accordance with international law, the rights of Poland with respect to the exploration and exploitation of the natural resources of the seabed and its sub-soil may be exercised;
 - b) the term "Jersey" means the Bailiwick of Jersey, including its territorial sea;
 - c) the terms "Contracting Party" and "the other Contracting Party" mean the Republic of Poland and Jersey as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in the territory of a Contracting Party, except when the ship or aircraft is operated solely between places in the territory of the other Contracting Party;
 - g) the term "competent authority" means:
 - i) in the case of Poland, the Minister of Finance or its authorised representative,
 - ii) in the case of Jersey, the Treasury and Resources Minister or his authorised representative;
 - h) the term "enterprise" applies to the carrying on of any business;
 - i) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Party for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

ARTICLE 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in that Contracting Party in respect only of income from sources in that Contracting Party.

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

- a) he shall be deemed to be a resident only of the Contracting Party where he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (centre of vital interests);
- b) if the territory of the Party 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 Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting Parties or in neither of them, he shall be deemed to be a resident only of the Contracting Party of which he is a national;
- d) if he is a national of both Parties or of neither of them, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than individual is a resident of both Contracting Parties, then it shall be deemed to be a resident only of the Contracting Party in which its place of effective management is situated.

ARTICLE 5
Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
2. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
3. The provisions of paragraphs 1 and 2 shall also apply to profits and gains derived by an enterprise of a Contracting Party from the participation in a pool, a joint business or an international operating agency.
4. If the place of effective management of a shipping enterprise is abroad a ship, then it shall be deemed to be situated in the territory of the Contracting Party in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the territory of the Contracting Party of which the operator of the ship or boat is a resident.

ARTICLE 6
Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting Parties 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 Parties, present his case to the competent authority of the Contracting Party 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 this Agreement. The competent authorities of the Contracting Parties may by mutual agreement settle the mode of execution of the mutual agreement procedure and elements of the motion for instituting the mutual agreement procedure.

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 Party, with a view to the avoidance of taxation which is not in accordance with this Agreement.

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

4. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of applying the Agreement.

ARTICLE 7
Entry into force

1. This Agreement submits to acceptance in accordance with the law of each of the Contracting Parties, what shall be notified in writing between the Contracting Parties.

2. This Agreement shall enter into force on the first day of the third month following the receipt of the later of these notifications and shall thereupon have effect:

- a) in Poland in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force;
- b) in Jersey in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, this Agreement shall only have effect when the Agreement signed on 02-12-2011 at London between the Republic of Poland and Jersey for the exchange of information relating to tax matters shall have effect.

ARTICLE 8
Termination

1. Either Contracting Party may terminate this Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect:

- a) in Poland in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given;
- b) in Jersey in respect of taxes of income and capital gains, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

2. Notwithstanding the provisions of paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 02-12-2011 at London between the Republic of Poland and Jersey for the exchange of information relating to tax matters.

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

Done in duplicate at London, this day of 02-12-2011 in the Polish and English languages, both texts being equally authentic.

For Jersey:



For the Republic of Poland:

