

**No. 14546**

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**FEDERAL REPUBLIC OF GERMANY  
and  
POLAND**

**Convention for the avoidance of double taxation with respect to taxes on income and on fortune (with protocol).  
Signed at Warsaw on 18 December 1972**

*Authentic texts: German and Polish.*

*Registered by the Federal Republic of Germany on 16 January 1976.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
POLOGNE**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune (avec protocole).  
Signée à Varsovie le 18 décembre 1972**

*Textes authentiques : allemand et polonais.*

*Enregistrée par la République fédérale d'Allemagne le 16 janvier 1976.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE POLISH PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON FORTUNE

The Federal Republic of Germany and the Polish People's Republic,

Desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income and on fortune in the interest of developing and facilitating their economic relations,

Have agreed as follows:

*Article 1.* This Convention shall apply to persons who are residents of one or both of the Contracting States.

*Article 2.* 1. This Convention shall apply to taxes on income and on fortune imposed in either Contracting State, irrespective of the manner in which they are levied.

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

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

(a) in the case of the Federal Republic of Germany:

- the income tax (*Einkommensteuer*), including the income tax surcharge (*Ergänzungsabgabe zur Einkommensteuer*),
- the corporation tax (*Körperschaftsteuer*), including the corporation tax surcharge (*Ergänzungsabgabe zur Körperschaftsteuer*),
- the tax on fortune (*Vermögensteuer*), and
- the business tax (*Gewerbesteuer*);

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

- the income tax (*podatek dochodowy*),
- the tax on wages and salary (*podatek od wynagrodzeń*),
- the equalizing tax (the tax surcharge on the income tax or on the tax on wages and salary) (*podatek wyrównawczy*), and
- the tax on the income of co-operative associations (*podatek dochodowy od spółdzielczości*).

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.

<sup>1</sup> Came into force on 14 September 1975, i.e., one month after the date of the exchange of the instruments of ratification, which took place at Bonn on 14 August 1975, in accordance with article 25 (2).

5. The provisions of this Convention in respect of the taxation of income or fortune shall apply *mutatis mutandis* to the business tax, which is computed on a basis other than income or fortune.

*Article 3.* 1. In this Convention, unless the context otherwise requires:

(a) The terms “a Contracting State” and “the other Contracting State” mean the Federal Republic of Germany or the Polish People’s Republic, as the context requires, and, if used in a geographical sense for the purposes of this Convention, the territory in which the tax law of the State in question applies;

(b) The term “person” comprises individuals and companies;

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

(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 Federal Republic of Germany, the Federal Minister of Finance and, in the case of the Polish People’s Republic, the Minister of Finance.

2. As regards the application of the 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.* 1. For the purposes 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 or 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, the following rules shall apply:

(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 closest.

(b) If the Contracting State with which his personal and economic relations are closest 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 a habitual abode.

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

*Article 5.* 1. For the purposes 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;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than 12 months.

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. Where a person—other than an agent of an independent status to whom paragraph 5 applies—acts in a Contracting State on behalf of an enterprise of the other Contracting State, a permanent establishment shall be deemed to exist in the first-mentioned State if the person has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be treated as having 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 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.* 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 in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. Paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. 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.* 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 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, 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 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 purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. For the purposes of this article the profits of an enterprise of a Contracting State shall include all income derived by the enterprise in that Contracting State, in the other Contracting State or in a third State. Where, however, profits include items of income within the meaning of article 10, the provisions of that article shall not be affected by the provisions of this article.

*Article 8.* 1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

3. If the place of effective management of a shipping enterprise or of an inland waterways 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. Paragraphs 1 to 3 shall apply *mutatis mutandis* to the shareholding in pools, in a joint business or in any other international operating combination of enterprises engaged in the operation of ships or aircraft.

*Article 9.* 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, 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.

*Article 10.* 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 be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

3. So long as in one Contracting State the rate of the tax on the distributed profits of a company is lower than the rate for undistributed profits and so long as the difference is not less than 20 per cent, the tax levied on dividends in that State may, notwithstanding the provisions of paragraph 2, amount to 25 per cent of the gross amount of the dividends plus the surcharge, if the dividends are paid by a company resident in that Contracting State to a company resident in the other Contracting State which, itself or together with other persons controlling it or under common control with it, owns directly or indirectly at least 25 per cent of the voting shares of the company resident in the first-mentioned State.

4. 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 assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

5. Paragraphs 1 to 3 shall not apply if the recipient of 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, article 7 shall apply.

6. 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 State, or subject the company's profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

*Article 11.* 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. 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 as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

3. 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. In such a case, article 7 shall apply.

4. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

*Article 12.* 1. Royalties arising in a Contracting State and paid to a resident of the Contracting State shall be taxable only in that other State.

2. The term “royalties” as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright, patent, trade mark or trade name, 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, or for the use of, or the right to use, cinematograph films or tape recordings for television or radio broadcasting.

3. Paragraph 1 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. In such a case, article 7 shall apply.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of 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, 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 13.* 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 he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

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 and dentists.

*Article 14.* 1. Subject to the provisions of article 15, article 16, paragraph 2, article 17 and article 18, salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is a resident of a Contracting State in respect of an employment or independent activity 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 calendar year concerned, and
- (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 which the person paying the remuneration has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

*Article 15.* 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 16.* 1. Notwithstanding the provisions of articles 13 and 14, income derived by professional entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which the said activities are exercised.

2. Notwithstanding the provisions of paragraph 1, income derived from the activities referred to in paragraph 1 by persons participating in a cultural exchange programme approved by the sending State shall be taxable only in the Contracting State of which they are residents.

*Article 17.* 1. Remuneration paid directly by, or out of special funds created by, a Contracting State or a local authority thereof to any individual in respect of services rendered to that State or local authority in the discharge of functions of a governmental nature may be taxed in that State.

2. Articles 14 and 15 shall apply to remuneration in respect of services rendered in connexion with any trade or business carried on by one of the Contracting States or a local authority thereof.

*Article 18.* 1. Remuneration paid to professors and other teachers, who are residents of one Contracting State and who, during a visit to the other Contracting State for a period not exceeding two years, teach or carry out scientific research at a university or other non-profit educational or research institution shall be taxable only in the first-mentioned State.

2. Payments which a scholarship holder, student, trainee or apprentice who is or was formerly a resident of a Contracting State and who is present in the other



Contracting State solely for the purpose of his education or training received for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

*Article 19.* Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles shall be taxable only in that State.

*Article 20.* 1. Fortune represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Fortune represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic and boats engaged in inland waterways transport, and movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of fortune of a resident of a Contracting State shall be taxable only in that State.

*Article 21.* 1. In the case of a resident of the Federal Republic of Germany the tax shall be determined as follows:

(a) Unless the provisions of subparagraph (b) apply, there shall be excluded from the basis upon which the tax of the Federal Republic of Germany is imposed any item of income derived from sources in the Polish People's Republic and any item of fortune situated within the Polish People's Republic which, according to this Convention, may be taxed in the Polish People's Republic. The Federal Republic of Germany shall, however, take into account, in the determination of its tax rate, the items of income and fortune so excluded.

The first sentence shall apply to dividends only when they are paid by a company resident in the Polish People's Republic to a joint-stock company resident in the Federal Republic of Germany which owns at least 25 per cent of the voting shares of the first-mentioned company. There shall also be excluded from the basis upon which the tax of the Federal Republic of Germany is imposed, shareholdings whose dividends have, in accordance with the preceding sentence, been excluded from the said basis or should have been excluded at payment.

(b) Tax paid under the laws of the Polish People's Republic and in accordance with this Convention on the following items of income derived from sources in the Polish People's Republic shall, subject to the provisions of the tax law of the Federal Republic of Germany relating to credits for foreign tax, be credited against the tax imposed on the said items of income in the Federal Republic of Germany:

- (1) dividends to which subparagraph (a) does not apply;
- (2) items of income within the meaning of article 15;
- (3) items of income within the meaning of article 16, paragraph 1.

2. In the case of a resident of the Polish People's Republic the tax shall be determined as follows:

(a) Unless the provisions of paragraph (b) apply, there shall be excluded from the basis upon which the tax of the Polish People's Republic is imposed any item of

income derived from sources in the Federal Republic of Germany and any item of fortune situated within the Federal Republic of Germany which, according to this Convention, may be taxed in the Federal Republic of Germany. The Polish People's Republic shall, however, take into account, in the determination of its tax rate, the items of the income and fortune so excluded.

The first sentence shall apply to dividends only when they are paid by a company resident in the Federal Republic of Germany to a company resident in the Polish People's Republic which owns at least 25 per cent of the voting shares of the first-mentioned company. There shall also be excluded from the basis upon which the tax of the Polish People's Republic is imposed, shareholdings whose dividends have, in accordance with the preceding sentence, been excluded from the said basis or should have been excluded at payment.

(b) Tax paid under the laws of the Federal Republic of Germany and in accordance with this Convention on the following items of income derived from sources in the Federal Republic of Germany shall, subject to the provisions of the tax law of the Polish People's Republic relating to credit for foreign tax, be credited against the tax imposed on the said items of income in the Polish People's Republic:

- (1) dividends to which subparagraph (a) does not apply;
- (2) items of income within the meaning of article 15;
- (3) items of income within the meaning of article 16, paragraph 1.

*Article 22.* 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.

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.

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 purposes of the application of this Convention.

*Article 23.* 1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of 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 the 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 practice of that or of 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 or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

*Article 24.* In conformity with the Quadripartite Agreement of 3 September 1971,<sup>1</sup> this Convention shall be extended to Berlin (West) in accordance with the established procedures.

*Article 25.* 1. This Convention shall be ratified; the instruments of ratification shall be exchanged at Bonn as soon as possible.

2. The Convention shall enter into force one month after the exchange of the instruments of ratification and its provisions shall have effect:

- (a) in the Federal Republic of Germany, in respect of taxes levied or to be levied for the assessment period 1972 and subsequent assessment periods;
- (b) in the Polish People's Republic, in respect of taxes levied or to be levied for the assessment period 1972 and subsequent assessment periods;
- (c) in both Contracting States, in respect of taxes withheld at the source on items of income paid after 31 December 1971.

*Article 26.* This Convention shall remain in force indefinitely; however, either Contracting State may until June of any calendar year after the expiry of the third year following the year in which the Convention entered into force, give the other Contracting State written notice of termination; in such event the Convention shall cease to have effect:

- (a) in the Federal Republic of Germany, in respect of taxes which are levied for the assessment period following the one in which notice of termination was given and for subsequent assessment periods;
- (b) in the Polish People's Republic, in respect of taxes which are levied for the assessment period following the one in which notice of termination was given and for subsequent assessment periods;
- (c) in both Contracting States, in respect of taxes withheld at the source on items of income paid after 31 December of the year in which notice of termination was given.

DONE at Warsaw on 18 December 1972, in duplicate in the German and Polish languages, both texts being equally authentic.

For the Federal Republic of Germany:

DR. RUETE

For the Polish People's Republic:

KRZAK

## P R O T O C O L

The Federal Republic of Germany and the Polish People's Republic,  
on signing the Convention for the avoidance of double taxation with respect to  
taxes on income and on fortune, concluded between the two States on 18 December

<sup>1</sup> United Nations, *Treaty Series*, vol. 880, p. 115.

1972 at Warsaw, have agreed on the following provisions, which shall form an integral part of the Convention:

1. *Ad articles 2 and 21.* In the application of these articles in the Polish People's Republic, the profits tax paid by Polish State enterprises shall be deemed to be tax of the Polish People's Republic within the meaning of these articles.

2. *Ad article 5.* A building site or construction or assembly project being worked on in a Contracting State by an enterprise of the other Contracting State shall not be deemed to be a permanent establishment unless the duration of the project exceeds 18 months. This rule shall apply only to the assesment period specified in article 25 and the four subsequent assessment periods.

It is agreed that profits derived by an enterprise of a Contracting State from the operation of rail and motor vehicles in international traffic may be taxed in the other State only under the conditions specified in articles 5 and 7.

3. *Ad article 14.* In the case of a person who by virtue of article 4 is a resident of a Contracting State and stays temporarily in the other Contracting State within the meaning of article 14, paragraph 2, in order to work as an employee of an enterprise of the first-mentioned State on a building site or a construction or assembly project in the latter Contracting State which is being maintained or carried out by that enterprise, the time period specified in article 14, paragraph 2 (a), shall be replaced by the duration of the temporary stay, provided that the length of the stay does not exceed the period during which the building site or construction or assembly project does not, according to the Final Protocol with reference to article 5, constitute a permanent establishment. This rule shall apply only to the assessment period specified in article 25 and the four subsequent assessment periods.

4. *Ad articles 2 to 20.* None of the provisions of these articles shall be construed so as to allow a Contracting State to levy tax which the State would not levy on residents of a third State with which it had no such convention for the avoidance of double taxation.

5. *Ad article 21.* Article 21, paragraph 1 (a), of the Convention shall apply only when the permanent establishment or the company in which there is a shareholding derives its income exclusively or almost exclusively from the following activities exercised in the Polish People's Republic: the manufacture or sale of goods or merchandise, technical services or banking or insurance activities. Otherwise article 21, paragraph 1 (b), shall apply. In the taxation of fortune, the tax levied in accordance with the Convention in the Polish People's Republic on items of fortune situated within the Polish People's Republic shall be credited against the tax levied in the Federal Republic of Germany in conformity with the provisions of the tax law of the Federal Republic of Germany relating to credit for foreign tax.

6. *Ad article 23.* The competent authorities of the Contracting States shall notify each other of any significant changes in their taxation laws and shall consult together on request concerning the desirability of amending the Convention.

For the Federal Republic of Germany:  
DR. RUETE

For the Polish People's Republic:  
KRZAK