

**No. 17508**

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**BELGIUM  
and  
POLAND**

**Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and on capital (with final protocol). Signed at Brussels on 14 September 1976**

*Authentic texts: French, Dutch and Polish.*

*Registered by Belgium on 23 January 1979.*

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**BELGIQUE  
et  
POLOGNE**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole final). Signée à Bruxelles le 14 septembre 1976**

*Textes authentiques: français, néerlandais et polonais.*

*Enregistrée par la Belgique le 23 janvier 1979.*

## [TRANSLATION—TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF TAX EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Kingdom of Belgium and the Government of the Polish People's Republic,

Desiring to pursue and to facilitate the development of their economic relations, have decided to conclude a Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and on capital and have agreed on the following provisions:

## I. SCOPE OF THE CONVENTION

*Article 1. PERSONAL SCOPE*

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

*Article 2. TAXES COVERED*

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

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

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

- (1) In the case of the Polish People's Republic:
  - (a) The income tax (*podatek dochodowy*),
  - (b) The tax on wages and salaries (*podatek od wynagrodzeń*),
  - (c) The surcharge on the income tax and on the tax on wages and salaries (*podatek wyrównawczy do podatku dochodowego, albo do podatku od wynagrodzeń*)  
(hereinafter referred to as "Polish tax");
- (2) In the case of the Kingdom of Belgium:
  - (a) The tax on individuals (*l'impôt des personnes physiques*),
  - (b) The company tax (*l'impôt des sociétés*),

<sup>1</sup> Came into force on 21 September 1978, i.e., the fifteenth day after the date of the exchange of the instruments of ratification, which took place at Warsaw on 6 September 1978, in accordance with article 28 (2).

- (c) The tax on legal persons (*l'impôt des personnes morales*),
- (d) The non-residents' tax (*l'impôt des non-résidents*), including taxes collected in advance (*precomptes*), surcharges (*décimes et centimes additionnels*) on the aforementioned taxes and advance collections and the additional communal tax (*taxe communale additionnelle*) to the tax on individuals

(hereinafter referred to as "Belgian tax").

4. The Convention shall also apply to any identical or substantially similar taxes which enter into effect after the date of signature of this Convention and are in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any major changes which have been made in their respective taxation laws.

## II. DEFINITIONS

### Article 3. GENERAL DEFINITIONS

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

(1) The terms "a Contracting State" and "the other Contracting State" mean Poland or Belgium, as the context requires; the terms "Poland" and "Belgium" mean respectively the Polish People's Republic and the Kingdom of Belgium.

(2) The term "local authorities" means:

- (a) In Poland, the local authorities;
- (b) In Belgium, the provinces, the federations of communes, the agglomerations and the communes.

(3) The term "person" comprises an individual, a company and any other body of persons.

(4) The term "company" means any body corporate or any other entity which is liable to taxation as such in respect of its income or its capital in the State of which it is a resident.

(5) 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.

(6) The term "national" comprises:

- (a) Any individual possessing the nationality of a Contracting State;
- (b) Any legal person, partnership or association constituted in accordance with the legislation in force in a Contracting State.

(7) The term "international traffic" means any transport by a ship, an aircraft or a rail or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or vehicle is operated solely between places in the other Contracting State.

(8) The term "competent authority" means:

- (a) In the case of the Polish People's Republic, the Minister of Finance;
- (b) In the case of the Kingdom of Belgium, the Director-General of Direct Taxation.

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 the Convention.

#### *Article 4. FISCAL DOMICILE*

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person whose income or capital is liable to taxation in that State by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to taxation in that State in respect only of income from sources in that State or capital possessed therein.

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

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

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

(3) If he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national.

(4) If his status cannot be determined in accordance with the provisions of subparagraphs (1), (2) and (3) above, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

#### *Article 5. PERMANENT ESTABLISHMENT*

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

2. The term “permanent establishment” shall include especially:

- (1) A place of management;
- (2) A branch;
- (3) An office;
- (4) A factory;
- (5) A workshop;
- (6) A mine, quarry or other place of extraction of natural resources;

(7) 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:

- (1) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (2) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (3) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (4) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (5) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person—other than an agent of an independent status to whom paragraph 5 applies—acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of the enterprise in the first-mentioned State if he 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 deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is 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.

### III. TAXATION OF INCOME

#### *Article 6. INCOME FROM IMMOVABLE PROPERTY*

1. Income from immovable property, including income from agriculture or forestry, 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. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

#### *Article 7. BUSINESS PROFITS*

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

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall, in each Contracting State, be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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

7. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provision of those articles shall not be affected by the provisions of this article.

#### *Article 8. INTERNATIONAL TRANSPORT*

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. Profits from the operation of rail or road vehicles in international transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. The provisions of paragraphs 1, 2 and 4 shall also apply:

- (1) To profits from the operation of chartered ships or aircraft or leased rail or road vehicles in international traffic and profits from the operation of chartered boats engaged in inland waterways transport;
- (2) To profits from the participation in a pool, a joint business or an international operating agency.

#### *Article 9. ASSOCIATED ENTERPRISES*

Where

- (1) An enterprise of a Contracting State participates directly or indirectly in the management, control or financing of an enterprise of the other Contracting State, or
- (2) The same persons participate directly or indirectly in the management, control or financing 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.

#### *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 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 if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

The provisions of this paragraph shall not limit the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, 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 professional 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 provision of article 7 or article 14, as the case may be, shall apply, on the understanding that the said dividends may be taxed either separately or as profits, according to the law of that other Contracting State.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to residents of the first-mentioned State, except in so far 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.

#### *Article 11. INTEREST*

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the amount of the interest.

3. Notwithstanding the provisions of paragraph 2, the following categories of interest shall be taxable only in the Contracting State of which the beneficial owner is a resident:

- (1) Interest on current accounts or nominee advances between banking enterprises of the two contracting States;
- (2) Interest on moneys, not represented by bearer bonds, deposited by residents of a Contracting State in banking enterprises of the other Contracting State, including public credit establishments.

4. Notwithstanding the provision of paragraph 2, the interest received on its own account by a Contracting State shall be exempt from taxation in the other Contracting State.

5. The term "interest" as used in this article means income from debt-claim of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; however, for the purpose of this article, the term "interest" shall not include penalty charges for late payment.

6. The provisions of paragraphs 1, 2 and 3 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 professional services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or



fixed base. In such a case the provisions of article 7 or article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, a legal person governed by public law 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

8. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the interest shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

#### *Article 12. ROYALTIES*

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term “royalties” as used in this article means payment 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 works recorded for radio or television, 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 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 professional 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 a case, the provisions of article 7 or article 14, 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 local authority, a public law agency 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 in connection with which the contract on the basis of which the royalties are paid was concluded, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the 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. CAPITAL GAINS*

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of property of the kind referred to in article 22, paragraph 3, shall be taxable only in the Contracting State in which such property is taxable according to the said article.

3. Gains from the alienation of any property other than that mentioned in paragraphs 1 and 2 shall be taxable only in the Contracting State of which the alienator is a resident.

#### *Article 14. PROFESSIONAL SERVICES*

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless 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 activities performed from that fixed base.

2. The term "independent activities" means all activities—other than commercial, industrial or agricultural activities—performed independently, on his own account, by a person who receives the profits or bears the losses arising from such activities.

#### *Article 15. DEPENDENT PERSONAL SERVICES*

1. Subject to the provisions of articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, 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:

- (1) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year;
- (2) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (3) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship, an aircraft or a rail or road vehicle operated 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 16. DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or similar organ of a company limited by shares (*sociétés par actions*) which is a resident of the other Contracting State may be taxed in that other State.

2. However, the remuneration which a person of the kind referred to in paragraph 1 derives from a company for the performance of permanent managerial or technical functions may be taxed according to the provisions of article 15.

#### Article 17. ARTISTS AND ATHLETES

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

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues to a person other than the entertainer or athlete himself, it may, notwithstanding the provisions of articles 7, 14 and 15, 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, income in respect of activities as defined in paragraph 1 which are exercised in connection with cultural exchanges approved by the State of which the artistes or athletes are residents shall be taxable only in that State.

#### Article 18. PENSIONS

Subject to the provisions of article 19, paragraph 2, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

#### Article 19. GOVERNMENT SERVICE

1. (1) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

(2) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient of the remuneration is a resident of that State who:

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of rendering the services.

2. (1) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

(2) However, such pension shall be taxable only in the other Contracting State if the recipient is a resident of, and a national of, that State.

3. The provisions of articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

#### *Article 20. TEACHERS AND STUDENTS*

1. Any remuneration paid to professors and other teachers who are residents of a Contracting State and who are temporarily present in the other Contracting State for the purpose of teaching or carrying on scientific research at a university or other officially recognized educational institution in that State for a period not exceeding two years shall be taxable only in the first-mentioned State.

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

3. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives 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.

4. Notwithstanding the provisions of paragraph 3, remuneration which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives in respect of services rendered in the first-mentioned State shall not be taxed in that State, provided that such services are connected with his education or training and the remuneration for such services is necessary to supplement the resources available to him for his maintenance.

5. The provisions of paragraph 4 shall cease to apply if the visit to the first-mentioned Contracting State exceeds either the normal duration of the educational courses undertaken in that State or, in the case of a business apprentice, a period of three years commencing with his first arrival in that State at the start of the visit concerned.

#### *Article 21. OTHER INCOME*

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

2. The provisions of paragraph 1 shall not apply if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of article 7 or article 14, as the case may be, shall apply.

#### IV. TAXATION OF CAPITAL

##### *Article 22*

1. Capital 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. Capital 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, aircraft and rail or road vehicles 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 capital of a resident of a Contracting State shall be taxable only in that State.

#### V. METHODS FOR ELIMINATION OF DOUBLE TAXATION

##### *Article 23*

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

(1) Where a resident of Poland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Belgium, Poland shall, subject to the provisions of subparagraph (2) of this paragraph, exempt such income or capital from tax but may, in calculating the amount of tax on the remaining income or capital, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

(2) Where a resident of Poland derives income which, in accordance with the provisions of articles 10, 11 and 12, may be taxed in Belgium, Poland shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Belgium. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Belgium.

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

(1) Where a resident of Belgium derives income to which subparagraphs (2) and (3) of this paragraph do not apply or owns elements of capital which, in accordance with the provisions of this Convention, may be taxed in Poland, Belgium shall exempt such income or elements of capital from tax but may, in calculating the amount of its taxes on the remaining income or capital of that

resident, apply the rate of tax which would have been applicable if the exempted income or elements of capital had not been so exempted.

(2) In the case of dividends which may be taxed in accordance with the provisions of article 10, paragraph 2, and are not exempted from Belgian tax by virtue of subparagraph (3) of this paragraph, in the case of interest which may be taxed in accordance with the provisions of article 11, paragraph 2 or paragraph 8, and in the case of royalties which may be taxed in accordance with the provisions of article 12, paragraph 2 or paragraph 6, the fixed proportion of the foreign tax for which provision is made in Belgian law shall be allowed as a deduction, under the conditions and at the rate of tax laid down by that law, against the Belgian tax chargeable on the aforementioned income.

(3) Where a company which is a resident of Belgium owns stock or shares in a company limited by shares (*société par actions*) which is a resident of Poland and is subject to the income tax in that State, dividends which are paid to it by the latter company and which may be taxed in Poland in accordance with the provisions of article 10, paragraph 2, shall be exempt from the company tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium.

(4) In accordance with Belgian law where losses sustained by a Belgian enterprise in a permanent establishment situated in Poland have been effectively deducted from the profits of that enterprise for the purpose of its taxation in Belgium, the exemption provided for in subparagraph (1) shall not apply in Belgium to the profits for other tax periods which are attributable to such establishment, to the extent that such profits have also been exempted from tax in Poland by reason of their being offset by the said losses.

## VI. SPECIAL PROVISIONS

### Article 24. NON-DISCRIMINATION

1. Nationals of a Contracting State, whether or not they are residents of one of the Contracting States, 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. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.

3. 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, relief and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of article 9, article 11, paragraph 8, and article 12, paragraph 6, 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, and 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.

5. 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.

6. In this article the term “taxation” means taxes of every kind and description.

7. The provisions of this article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any reliefs which it grants to residents of a third State under conventions concluded with that third State.

#### *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 this Convention, 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 or, if his case comes under article 24, paragraph 1, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with 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 application of the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly in order to apply the Convention and, in particular, for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

5. The competent authorities shall jointly determine procedures for carrying out the Convention and, in particular, the formalities which residents of a Contracting State shall comply with in order to obtain the tax reductions and exemptions provided for in the Convention.

### 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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by article 1.

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 prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Convention. Those persons 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 be construed so as to impose on a Contracting State the obligation:

- (1) To carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (2) 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;
- (3) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

### Article 27. DIPLOMATIC AND CONSULAR OFFICIALS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their private servants, members of consular posts and members of permanent missions under the rules of international law or under treaty provisions.

2. For the purposes of this Convention, members of a diplomatic mission or consular post of a Contracting State accredited to the other Contracting State or a third State who are nationals of the sending State shall be deemed to be residents of the sending State if they are liable therein to the same obligations in respect of taxes on income and on capital as are residents of that State.

3. This Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission or consular post of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income and on capital.

## VII. FINAL PROVISIONS

### Article 28. ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Warsaw as soon as possible.

2. The Convention shall enter into force on the fifteenth day following the date of the exchange of instruments of ratification and shall apply:



- (1) To taxes due at the source on income credited or payable on or after 1 January of the year immediately following that in which the instruments of ratification are exchanged;
- (2) To other taxes levied on income for tax periods ending on or after 31 December of the year in which the instruments of ratification are exchanged.

#### *Article 29. TERMINATION*

1. This Convention shall remain in force indefinitely. However, beginning with the fifth year following that of its entry into force, either Contracting State may, by giving at least six months' notice of termination through the diplomatic channel, terminate it with effect from the end of a calendar year.

2. In such event, its provisions shall apply for the last time:

- (1) To taxes due at source on income credited or payable on or before 31 December of the year in which notice of termination is given;
- (2) To other taxes levied on income for tax periods ending before 31 December of the same year.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Brussels, on 14 September 1976, in duplicate in the French, Dutch and Polish languages, the three texts being equally authentic.

For the Government  
of the Kingdom of Belgium:  
R. VAN ELSLANDE

For the Government  
of the Polish People's Republic:  
H. KISIEL

#### FINAL PROTOCOL

At the time of signing the Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and on capital concluded this day between the Government of the Kingdom of Belgium and the Government of the Polish People's Republic, the undersigned agreed on the following provisions, which form an integral part of the Convention.

1. For the purposes of article 9, the term "financing" means participations in the registered capital of an enterprise and also the placing of funds in any form whatever at the disposal of the enterprise.

2. For the purposes of article 10, the term "dividends" also means income—even if paid in the form of interest—which is taxable as income from capital invested by partners in partnerships, other than partnerships limited by shares (*sociétés par actions*), which are residents of Belgium.

3. For the purposes of article 24 in Belgium, it is understood that nothing in this article may be construed as preventing Belgium:

- (1) From taxing at the rate provided for under Belgian law the total profits of a Belgian permanent establishment of a company which is a resident of Poland or an association whose place of effective management is in Poland;
- (2) From levying the movable property tax collected in advance (*précompte mobilier*) in respect of dividends pertaining to holdings effectively connected

with a permanent establishment or a fixed base available in Belgium to a company which is a resident of Poland or an association which has its place of effective management in Poland and is liable to taxation as a body corporate in Belgium.

4. For the purposes of article 24 in Poland, it is understood that:

- (1) The taxes referred to in paragraph 6 do not include the fee for the registration of temporary residence (*opłaty meldunkowe*) and the fee for a permit to open an enterprise (*opłaty za zezwolenie na otwarcie przedsiębiorstwa*);
- (2) The provisions of this article are not affected by the differentiated taxation system in respect of taxes on income, profits or capital which is established in Poland for the socialized enterprises.

5. The provisions of the Convention shall not limit the taxation of a company which is a resident of Belgium, in accordance with Belgian law, in the event of redemption of its own stocks or shares or division of its assets.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Final Protocol.

DONE at Brussels, on 14 September 1976, in duplicate in the French, Dutch and Polish languages, the three texts being equally authentic.

For the Government  
of the Kingdom of Belgium:  
R. VAN ELSLANDE

For the Government  
of the Polish People's Republic:  
H. KISIEL