

AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF
POLAND**

AND

**THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF NIGERIA**

**FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME AND CAPITAL GAINS**

The Government of the Republic of Poland

and

The Government of the Federal Republic of Nigeria

**Desiring to conclude an Agreement for the avoidance of double
taxation and prevention of fiscal evasion with respect to taxes on
income and capital gains have agreed as follows:**

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

1. The taxes which are the subject of this Agreement are:

a) In Poland:

(i) the personal income tax; and

(ii) the corporate income tax;

(hereinafter referred to as "Polish tax");

b) In Nigeria:

(i) The personal income tax;

(ii) the companies income tax;

(iii) the petroleum profits tax; and

(iv) the capital gains tax;

(hereinafter referred to as "Nigerian tax").

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

ARTICLE 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - a) the term "Poland" means the territory of the Republic of Poland and includes the area outside the territorial sea/fishing zone, continental shelf; as an area within which Poland exercises jurisdiction in accordance with international law and with respect to internal laws of Poland;
 - b) the term "Nigeria" means the Federal Republic of Nigeria including any area outside the territorial waters of the Federal Republic of Nigeria which in accordance with international law has been or may hereafter be designated, under the laws of the Federal republic of Nigeria concerning the continental shelf, as an area within which the rights of the Federal Republic of Nigeria with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - c) the term "national" means:
 - (i) in relation to Poland, all individuals possessing the nationality of Poland and all juridical persons created or organised under the laws of Poland and all organisations without juridical personality treated for the purposes of tax of Poland as juridical persons created or organised under the laws of Poland.

(ii) in relation to Nigeria, any citizen of Nigeria and any legal person, partnership, association or other entity deriving its status as such from the laws in force in Nigeria;

d) the terms "a Contracting State" and "the other Contracting State" mean Poland or Nigeria as the context requires;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes under the laws of each Contracting State;

f) the term "person" includes an individual, a company and any other body of persons;

g) 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 the enterprise carried on by a resident of the other Contracting State;

h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State;

i) the term "competent authority" means, in the case of Poland, the Minister of Finance or his authorised representative; and in the case of Nigeria, the Minister of Finance or his authorised representatives;

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

ARTICLE 4

FISCAL RESIDENCE

1. For the purposes of this Agreement the term "resident of a Contracting State" means any persons who, under the laws of that State, is liable to tax 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 of this Article an individual is a resident of both Contracting States then his status shall be determined in accordance with the following rules:

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

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

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

d) if the question of resident can not be determined according to the provisions of sub-paragraphs a) to c), the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which it is incorporated.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - g) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than three months from the commencement of such site, project or activities;
 - h) an installation or the provision of supervisory activities in connection with such installation incidental to the sale of machinery where the charge payable for such installation exceeds five percent of the sale price of the machinery or equipment free-on-board.
3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not be deemed to include:

a) the use or 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 fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

d) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on for the enterprise, any other activity of a preparatory or auxiliary character.

4. The term "permanent establishment" shall include a fixed place of business used as a sales outlet notwithstanding the fact that such fixed place of business is otherwise maintained solely for any of the activities mentioned in paragraph 3 of this Article.

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 the 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. A person, (other than an agent of an independent status to whom the provisions of paragraph 5 of this Article apply) who acts in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first mentioned Contracting State if:

a) he has, and habitually exercises in that State, an authority to conclude contracts or perform any service on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise; or

b) he habitually secures orders for the sale of goods or merchandise in the first- mentioned State exclusively or almost exclusively on behalf of the enterprise or other enterprises controlled by in or which have a controlling interest in it.

7. 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 (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting States in which such property is situated.
2. The term "immovable property" shall have the meaning which it has under 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 the 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 and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraph 1 and 3 of this Article shall also apply to income from immovable property of an enterprise and to income from

immovable property used for the performance of independent personal services

ARTICLE 7

BUSINESS PROFITS

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

a) that permanent establishment;

b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses shown to have been incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of

amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. 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. Provided that where that permanent establishment is also used as a sales outlet for the goods or merchandise so purchased the profits on such sales may be attributed to that permanent establishment.

5. Where profits include items which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

SHIPPING AND AIR TRANSPORT

1. A resident of the Contracting State shall be exempted from tax in the other Contracting State in respect of profits or gains derived from the operations of ships or aircraft in international traffic.

2. However, no exemption shall be granted if such operation in international traffic are carried on by an enterprise of only one of the Contracting States, in such a case, the tax charged shall not exceed 1

percent of the earnings of the enterprise derived from the other Contracting States.

For the purpose of this paragraph, "earnings" means income from freight, mails and sale of tickets and other such income less refunds and payments of wages and salaries of ground staff.

3. The provisions of paragraph 1 of this Article shall also apply to profits derived from participation in a pool, a joint business or an international operating agency.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxed accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first - mentioned State if the conditions made between the two enterprises had been those which would have been between independent enterprises, then that other State shall make an appropriate adjustment to

the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10

DIVIDENDS

1. Dividends derived from a company which is a resident of a Contracting State by a resident of the other Contracting State may be also taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 percent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The provisions of paragraph 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, has in the other Contracting State of which the company paying the dividends is a resident a permanent establishment or a fixed base situated therein and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment or fixed base. In such a case, the provisions of Article 7 or 14 as the case may be, shall apply.
4. 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 and beneficially owned by persons who are not residents of the other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

5. 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, and also any other item (other than interest relieved from tax under the provisions of Article 11) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

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 also 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 percent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or any agency or instrumentality of that Government or local authority.
4. The provisions of paragraph 1 and 2 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State of which the company paying the interest is a resident a permanent establishment or a fixed base situated therein and the debt - claim in respect of which the interest is paid is effectively connected with the business carried on through such permanent establishment or a fixed base. In such a case, the provisions of Article 7 or 14 as the case may be, shall apply.

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

6. Where owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds, for whatever reason, the amount which would have been agreed upon 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 laws of each Contracting State, due regard being had to the other provisions of this Agreement.

7. The terms "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures including premiums and prizes attaching to such securities, bonds or debentures.

ARTICLE 12

ROYALTIES

1. Royalties derived from a resident of a Contracting State by a resident of the other Contracting State may be taxed in the other State.

2. However such royalties may also be taxed in the Contracting State from which they are derived 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 percent of the gross amount of the royalties.

3. The provisions of paragraph 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State of which the company paying the royalties is a resident a permanent establishment or a fixed base situated therein and the right or property respect of which the royalties are paid is effectively connected with the business carried on through such permanent establishment or a fixed base. In such a case, the provisions of Article 7 or 14 as the case may be, shall apply.

4. Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment or fixed base, such royalties shall be deemed to arise in a Contracting State in which the permanent establishment or a fixed base is situated.

6. Where owing to a special relationship between the payer and the beneficial owner 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 beneficial owner 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 laws of each Contracting State, due regard being had to the other provisions of this Agreement.

7. In this Article the term "royalties" means payment of any kind received as consideration for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematograph films and films or tapes used for radio and television broadcasting, any patent, trade mark, design, 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 or commercial experience.

ARTICLE 13

CAPITAL GAINS

1. Gains derived from the sale or alienation of immovable and movable property including shares in companies shall be taxed only in the Contracting State in which the property is situated.
2. Gains from the alienation of ships and aircraft operated in international traffic, shall be taxable only in the Contracting State of which the enterprise is a resident.
3. 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.
5. Gains from the alienation of any property other than that referred to in paragraph 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

INDEPENDENT PERSONAL SERVICE

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of any independent 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 State but only so much of it as is attributable to that fixed base.

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

ARTICLE 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 17, 18, 20 and 21 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 of this Articles, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any period of 12 months; and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or

aircraft operated in international traffic may be taxed in the Contracting State of which the enterprise deriving the profits from the operation of the ship or aircraft is a resident.

ARTICLE 16

DIRECTOR'S FEES

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

ARTICLE 17

ARTISTS AND SPORTSMEN

1. Notwithstanding the provisions of Article 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artist, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Article 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraph 1 and 2, income derived from such activities as defined in paragraph 1 performed within the framework of cultural exchange between the Contracting State, shall be exempt from tax in the Contracting State in which these activities are

exercised provided that such activities are sponsored by the Government of a State and are not for the purpose of profit.

ARTICLE 18

GOVERNMENT SERVICE

1.

a) Remuneration other than pensions paid by a Contracting State, or the political subdivision or a local authority thereof to an individual in respect of services rendered to the Government that State, or the political subdivision or a local authority shall be taxable only in that State.

b) Such remuneration shall however be taxable only in the other Contracting State if the services in respect of which the remuneration is paid are rendered in the other Contracting State and the recipient is a resident and a national of that other State, provided that he did not become a resident of that other State solely for purpose of rendering the services.

2. The provisions of Article 15 and 16 shall apply to remuneration in respect of an employment in connection with any business carried on by a Contracting State, or political subdivision or a local authority thereof for the purpose of profits.

ARTICLE 19

PENSIONS AND ANNUITIES

1. Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State.

2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that State or the permanent establishment situated therein.

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

ARTICLE 20

STUDENTS AND TRAINEES

1. A student or business apprentice who, immediately before visiting a Contracting State was a resident of the other Contracting State and who is present in the first- mentioned Contracting State primarily for the purpose of this education or training shall be exempt from tax in that first-mentioned Contracting State on:

a) payments made to him by persons residing outside that first-mentioned Contracting State for the purposes of his maintenance, education or training; and

b) remuneration for employment in that first- mentioned Contracting State, provided that the remuneration constitutes earning reasonably necessary for his maintenance and education.

2. An individual who is a resident of one of the States immediately before making a visit to the other State and is temporarily present in the other State for a period not exceeding three years for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either State or from a scientific, educational, religious or charitable organisation situated abroad or under a technical assistance programme entered into by the government of either State shall be exempt from tax in that other State on:

a) the amount of such a grant, allowance or award granted by the government of either Contracting State under the technical assistance programme;

b) all remittances from abroad for the purpose of his maintenance, education or training.

ARTICLE 21

TEACHERS AND RESEARCHERS

1. A professor or teacher who visits one of the Contracting States for the purpose of teaching or engaging in research at a University or any other similarly recognised educational institution in that State and who, immediately before that visit was a resident of the other Contracting State shall be exempted from tax by the first - mentioned State in respect of any remuneration received for such teaching or research for a period not exceeding two years from the date of this first arrival in that State for such purpose.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the benefit of a specific person or persons.

ARTICLE 22

OTHER INCOME

Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may be taxed in that other State.

ARTICLE 23

ELIMINATION OF DOUBLE TAXATION

1. Subject to the Polish taxation law:

a) Where a resident of Poland derives income which, in accordance with the provisions of this Agreement may be taxed in Nigeria, Poland shall, subject to the provisions of paragraph 2(b) of this Article, exempt such income from tax but may, in calculating tax on the remaining income of that person, apply to rate of tax which would have been applicable if the exempted income had not been so exempted.

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

2. Subject to the provisions of the law of Nigeria regarding the allowance as a credit against Nigerian tax of tax payable in a territory outside Nigeria (which shall not affect the general principle hereof).

a) Polish tax payable under the law of Poland and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Poland (excluding in the case of dividend, tax payable in respect of the profits out of which the dividends is paid) shall be allowed as a credit against any Nigerian tax computed by reference to the same profits, income or chargeable gains by reference to which Polish tax is computed.

b) In the case of a dividend paid by a company which is a resident of Poland to a company which is resident in Nigeria, the credit

shall take into account (in addition to any Polish tax for which credit may be allowed under the provisions of sub - paragraph (a) of this paragraph) Polish tax payable by the company in respect of the profits out of which such dividend is paid.

For the purpose of this paragraph, the amount of tax credit to be granted shall not exceed the proportion of the Nigerian tax which such profits, income or chargeable gains bears to the entire profits, income or chargeable gains chargeable to Nigerian tax.

3. For the purposes of allowance as a credit against the tax payable in Poland and Nigeria as the context requires, the tax payable in the Contracting State shall be deemed to include the tax which is otherwise payable in that State but has been reduced or exempted by the State in pursuance of its tax incentive programme.

ARTICLE 24

NON - DISCRIMINATION

1. Notwithstanding the provisions of Article 1, nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Enterprise 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.

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

5. The provisions of this Article shall apply to taxes covered by Article 2.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident or a national of a Contracting State considers that the actions of one or both of the Contracting States result of will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. If his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national.

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 taxation authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. 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 enforcement prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation;

a) to carry out administrative measure at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws of in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy

ARTICLE 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Agreement shall affect the fiscal privileges of diplomatic representatives and consular officials under the general rules of international law or under the provisions of special Agreements.

2. Notwithstanding paragraph 1 of Article 4, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

ARTICLE 28

ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify to each other that the legal requirements for the entry into force of this Agreement have been complied with.

2. The Agreement shall enter into force thirty days after the date of the latter of the notifications referred to in paragraph 1 of this Article and its provisions shall have effect:

a) in Poland:

i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1st January in the calendar year immediately following that in which the Agreement enters into force;

ii) in respect of other taxes, in relation to income of any basis period beginning on or after 1st January in the calendar year immediately following that in which the Agreement enters into force.

b) in Nigeria:

i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1st January in the calendar year immediately following that in which the Agreement enters into force;

ii) in respect of other taxes, in relation to income of any basis period beginning on or after 1st January in the calendar year immediately following that in which the Agreement enters into force;

ARTICLE 29

TERMINATION

This Agreement shall remain in force indefinitely but either Contracting State may terminate the Agreement, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

a) in Poland:

i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1st January in the calendar year immediately following that in which the notice of termination is given;

ii) in respect of other taxes, in relation to income of any basis period beginning on or after 1st January in the calendar year immediately following that in which the notice of termination is given.

b) in Nigeria:

i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1st January in the calendar year immediately following that in which the notice of termination is given;

i) in respect of other taxes, in relation to income of any basis period beginning on or after 1st January in the calendar year immediately following that in which the notice of termination is given;

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

Done in duplicate at Abuja on the 12th day of February 1999 in the Poland and English languages, both texts being equally authentic.



FOR THE GOVERNMENT
OF THE
REPUBLIC OF POLAND

A.W. Etuk-ude
(AKPAN WILSON ETUK-UDE)

FOR THE GOVERNMENT
OF THE FEDERAL
REPUBLIC OF NIGERIA