

PROTOCOL
AMENDING THE CONVENTION BETWEEN SWEDEN
AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of Sweden and the Government of Japan,

Desiring to amend the Convention between Sweden and Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Stockholm on 21 January 1983, as amended by the Protocol signed at Stockholm on 19 February 1999 (hereinafter referred to as “the Convention”),

Have agreed as follows:

Article I

Paragraph 1 of Article 2 of the Convention shall be deleted and replaced by the following:

“1. The taxes which are the subject of this Convention are:

(a) In Japan:

- (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the special income tax for reconstruction;
 - (iv) the special corporation tax for reconstruction; and
 - (v) the local inhabitant taxes
- (hereinafter referred to as “Japanese tax”);

(b) In Sweden:

- (i) the national income tax;
 - (ii) the withholding tax on dividends;
 - (iii) the income tax on non-residents;
 - (iv) the income tax on non-resident artistes and athletes; and
 - (v) the municipal income tax
- (hereinafter referred to as “Swedish tax”).”

Article II

Sub-paragraphs (i) and (j) of paragraph 1 of Article 3 of the Convention shall be deleted and replaced by the following:

- “(i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “competent authority” means:
 - (i) in Japan, the Minister of Finance or his authorized representative;
 - (ii) in Sweden, the Minister of Finance, his authorized representative or the authority which is designated as a competent authority for the purposes of this Convention;
- (k) the term “enterprise” applies to the carrying on of any business; and
- (l) the term “business” includes the performance of professional services and of other activities of an independent character.”

Article III

Article 4 of the Convention shall be deleted and replaced by the following:

“Article 4

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature, and also includes that Contracting State and any governmental body or agency, political subdivision or local authority thereof and a pension fund as referred to in sub-paragraph (d) of paragraph 7 of Article 21A. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State.

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:

- (a) he shall be deemed to be a resident only 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 only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) 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 only of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or of neither of them, 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 the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of this Convention. In the absence of such agreement, such person shall not be entitled to any reduction or exemption from tax provided by this Convention.”

Article IV

1. Paragraph 2 of Article 6 of the Convention shall be deleted and replaced by the following:

“2. The term “immovable property” shall have the meaning which it has under the laws 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, buildings, 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.”

2. Paragraph 4 of Article 6 of the Convention shall be amended by deleting the words “and to income from immovable property used for the performance of independent personal services”.

Article V

1. Paragraph 4 of Article 7 of the Convention shall be deleted.

2. Paragraphs 5, 6 and 7 of Article 7 of the Convention shall be renumbered as paragraphs 4, 5 and 6 respectively.

Article VI

1. Paragraph 2 of Article 10 of the Convention shall be deleted and replaced by the following:

“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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a resident of the other Contracting State and is a company (other than a partnership) that has held, directly or indirectly, at least 10 per cent of the voting power of the company paying the dividends for the period of six months ending on the date on which entitlement to the dividends is determined. For the purposes of this paragraph, the term “partnership” does not include any entity that

is treated as a body corporate for tax purposes in a Contracting State and is a resident of that Contracting State.

4. The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

5. The provisions of paragraph 3 shall not apply in the case of dividends paid by a company which is entitled to a deduction for dividends paid to its beneficiaries in computing its taxable income in the Contracting State of which the company paying the dividends is a resident.”

2. Paragraphs 3 and 4 of Article 10 of the Convention shall be renumbered as paragraphs 6 and 7 respectively.

3. Paragraph 5 of Article 10 of the Convention shall be deleted and replaced by the following:

“8. The provisions of paragraphs 1, 2, 3, 4 and 5 shall not apply if the beneficial owner 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.”

4. Paragraph 6 of Article 10 of the Convention shall be amended by deleting the words “or a fixed base” and renumbered as paragraph 9.

Article VII

Paragraphs 1, 2, 3, 4 and 5 of Article 11 of the Convention shall be deleted and replaced by the following:

“1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, interest arising in a Contracting State that is determined by reference to receipts, sales, income, profits or other cash flow of the debtor or a related person, to any change in the value of any property of the debtor or a related person or to any dividend, partnership distribution or similar payment made by the debtor or a related person, or any other interest similar to such interest arising in a Contracting State, may be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, and all other income that is subjected to the same taxation treatment as income from money lent by the tax laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article. Income dealt with in Article 10 shall not be regarded as interest for the purposes of this Convention.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting 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.”

Article VIII

1. Paragraphs 1, 2, 3, 4 and 5 of Article 12 of the Convention shall be deleted and replaced by the following:

“1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other Contracting State.

2. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.”

2. Paragraph 6 of Article 12 of the Convention shall be renumbered as paragraph 4.

Article IX

Paragraph 2 of Article 13 of the Convention shall be deleted and replaced by the following:

“2. Gains from the alienation of any property, other than immovable property, forming part of the business property of a permanent establishment which an

enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in that other Contracting State.”

Article X

Article 14 of the Convention shall be deleted and replaced by the following:

“Article 14 (Deleted)”

Article XI

1. Sub-paragraph (a) of paragraph 2 of Article 15 of the Convention shall be deleted and replaced by the following:

“(a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable year concerned; and”

2. Sub-paragraph (c) of paragraph 2 of Article 15 of the Convention shall be amended by deleting the words “or a fixed base”.

Article XII

1. Paragraph 1 of Article 17 of the Convention shall be amended by deleting the words “Articles 14 and 15” and replacing them with the words “Articles 7 and 15”.

2. Paragraph 2 of Article 17 of the Convention shall be amended by deleting the words “Articles 7, 14 and 15” and replacing them with the words “Articles 7 and 15”.

Article XIII

Paragraph 2 of Article 21 of the Convention shall be deleted and replaced by the following:

“2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.”

Article XIV

The following new Articles shall be inserted immediately after Article 21 of the Convention:

“Article 21A

1. Except as otherwise provided in this Article, a resident of a Contracting State that derives income described in paragraph 3 of Article 10 or in Article 11 or 12 from the other Contracting State shall be entitled to the benefits granted for a taxable year by the provisions of that paragraph or those Articles only if such resident is a qualified person as defined in paragraph 2 and satisfies any other specified conditions in that paragraph or those Articles for the obtaining of such benefits.

2. A resident of a Contracting State is a qualified person for a taxable year only if such resident is either:

- (a) an individual;
- (b) the Government of that Contracting State, any statutory body, political subdivision or local authority of that Contracting State, or the Bank of Japan or the Central Bank of Sweden (Sveriges Riksbank);
- (c) a company, if its principal class of shares is listed or registered on a recognized stock exchange specified in clause (i) or (ii) of sub-paragraph (c) of paragraph 7 and is regularly traded on one or more recognized stock exchanges;
- (d) a pension fund, provided that, as of the end of the prior taxable year, more than 50 per cent of the beneficiaries, members or participants of that pension fund are individuals who are residents of either Contracting State;

- (e) an organisation established under the laws of that Contracting State and operated exclusively for a religious, charitable, educational, scientific, artistic, cultural or public purpose, only if all or part of its income may be exempt from tax under the domestic law of that Contracting State; or
- (f) a person other than an individual, if residents of either Contracting State that are qualified persons by reason of sub-paragraph (a), (b), (c), (d) or (e) of this paragraph hold, directly or indirectly, at least 50 per cent of the voting power or other beneficial interests of that person.

3. Notwithstanding that a company that is a resident of a Contracting State may not be a qualified person, that company shall be entitled to the benefits granted by the provisions of paragraph 3 of Article 10 or of Article 11 or 12 with respect to an item of income described in that paragraph or those Articles derived from the other Contracting State if that company satisfies any other specified conditions in that paragraph or those Articles for the obtaining of such benefits and at least 75 per cent of the voting power of that company is held, directly or indirectly, by seven or fewer persons who are equivalent beneficiaries.

4. Where the provisions of sub-paragraph (f) of paragraph 2 and paragraph 3 apply:

- (a) in respect of taxation by withholding at source, a resident of a Contracting State shall be considered to satisfy the conditions described in that sub-paragraph or paragraph for the taxable year in which payment of an item of income is made if such resident satisfies those conditions during the twelve month period preceding the date of the payment (or, in the case of dividends, the date on which entitlement to the dividends is determined);
- (b) in all other cases, a resident of a Contracting State shall be considered to satisfy the conditions described in that sub-paragraph or paragraph for a taxable year if such resident satisfies those conditions on at least half the days of the taxable year.

5. (a) Notwithstanding that a resident of a Contracting State may not be a qualified person, that resident shall be entitled to the benefits granted by the provisions of paragraph 3 of Article 10 or of Article 11 or 12 with respect to an item of

income described in that paragraph or those Articles derived from the other Contracting State if:

- (i) that resident is carrying on business in the first-mentioned Contracting State (other than the business of making or managing investments for that resident's own account, unless the business is banking, insurance or securities business carried on by a bank, insurance company or securities dealer);
 - (ii) the income derived from that other Contracting State is derived in connection with, or is incidental to, that business; and
 - (iii) that resident satisfies any other specified conditions in that paragraph or those Articles for the obtaining of such benefits.
- (b) If a resident of a Contracting State derives an item of income from a business carried on by that resident in the other Contracting State or derives an item of income arising in the other Contracting State from a person that has with that resident a relationship described in sub-paragraph (a) or (b) of paragraph 1 of Article 9, the conditions described in sub-paragraph (a) of this paragraph shall be considered to be satisfied with respect to such item of income only if the business carried on in the first-mentioned Contracting State is substantial in relation to the business carried on in that other Contracting State. Whether such business is substantial for the purposes of this paragraph shall be determined on the basis of all the facts and circumstances.
- (c) In determining whether a person is carrying on business in a Contracting State under sub-paragraph (a) of this paragraph, the business conducted by a partnership in which that person is a partner and the business conducted by persons connected to such person shall be deemed to be conducted by such person. A person shall be connected to another if one holds, directly or indirectly, at least 50 per cent of the beneficial interests in the other (or, in the case of a company, at least 50 per cent of the voting power of the company) or a third person holds, directly or indirectly, at least 50 per cent of the beneficial interests (or, in the case of a company, at least 50 per cent of the voting power of the company) in each person. In any case, a person shall be considered to be connected to another if, on the basis of all the facts and circumstances, one has control of the other or both are under the control of the same person or persons.

6. A resident of a Contracting State that is neither a qualified person nor entitled under paragraph 3 or 5 to the benefits granted by the provisions of paragraph 3 of Article 10 or of Article 11 or 12 with respect to an item of income described in that paragraph or those Articles shall, nevertheless, be granted such benefits if the competent authority of the other Contracting State determines, in accordance with its domestic law or administrative practice, that the establishment, acquisition or maintenance of such resident and the conduct of its operations are considered as not having the obtaining of such benefits as one of the principal purposes.

7. For the purposes of this Article:

- (a) the term “shares” shall include depository receipts thereof;
- (b) the term “principal class of shares” means the class or classes of shares of a company which represent a majority of the voting power of the company;
- (c) the term “recognized stock exchange” means:
 - (i) any stock exchange established under the terms of the Financial Instruments and Exchange Law (Law No. 25 of 1948) of Japan;
 - (ii) the OMX NASDAQ Stockholm Stock Exchange (Stockholmsbörsen), the Nordic Growth Market, and any other stock exchange subject to regulation by the Swedish Financial Supervisory Authority;
 - (iii) the Irish Stock Exchange and the stock exchanges of Amsterdam, Brussels, Copenhagen, Dusseldorf, Frankfurt, Hamburg, Helsinki, Hong Kong, London, Madrid, Milan, New York, Oslo, Paris, Reykjavik, Riga, Seoul, Shanghai, Singapore, Sydney, Tallinn, Toronto, Vienna, Vilnius, and Zurich, and the NASDAQ System; and
 - (iv) any other stock exchange which the competent authorities of the Contracting States agree to recognize for the purposes of this Article;
- (d) the term “pension fund” means any person that:
 - (i) is established under the laws of a Contracting State;
 - (ii) is operated principally to administer or provide pensions, retirement benefits or other similar remuneration or to earn income for the benefit of other pension funds; and
 - (iii) is exempt from tax in that Contracting State with respect to income derived from the activities described in clause (ii); and
- (e) the term “equivalent beneficiary” means:

- (i) a resident of a state that has a convention for the avoidance of double taxation and the prevention of fiscal evasion between that state and the Contracting State from which the benefits of this Convention are claimed such that:
 - (aa) that convention contains provisions for effective exchange of information;
 - (bb) that resident is a qualified person under the limitation on benefits provisions in that convention or, when there are no such provisions in that convention, would be a qualified person when that convention is read as including provisions corresponding to paragraph 2; and
 - (cc) with respect to an item of income referred to in paragraph 3 of Article 10 or in Article 11 or 12 that resident would be entitled under that convention to a rate of tax with respect to the particular class of income for which the benefits are being claimed under this Convention that is at least as low as the rate applicable under this Convention; or
- (ii) a qualified person by reason of sub-paragraph (a), (b), (c), (d) or (e) of paragraph 2.

Article 21B

Notwithstanding any other provisions of this Convention, where

- (a) a company that is a resident of a Contracting State derives its income primarily from other states
 - (i) from financial or shipping activities, or
 - (ii) from being the headquarters or co-ordination centre in relation to, or an entity providing administrative services or other support to, a group of companies which carry on business primarily in other states; and
- (b) such income would bear a significantly lower tax under the laws of that Contracting State than income from financial or shipping activities carried out within that Contracting State or from being the headquarters or co-ordination centre in relation to, or an entity providing administrative services or other support to, a group of companies which carry on business in that Contracting State, as the case may be,

any provisions of this Convention conferring an exemption or a reduction of tax shall not apply to the income of such company and to the dividends paid by such company.

Article 21C

No relief shall be available under this Convention if it was the main purpose of any person concerned with the creation or assignment of any right or property in respect of which the income is paid or derived to take advantage of this Convention by means of that creation or assignment.”

Article XV

Article 22 of the Convention shall be deleted and replaced by the following:

“Article 22

1. Subject to the provisions of the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, where a resident of Japan derives income from Sweden which may be taxed in Sweden in accordance with the provisions of this Convention, the amount of Swedish tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Japanese tax which is appropriate to that income.

2. (a) Subject to the provisions of sub-paragraph (b) of this paragraph and of paragraph 6 of Article 10, where a resident of Sweden derives income which may be taxed in Japan in accordance with the provisions of this Convention, Sweden shall allow - subject to the provisions of the laws of Sweden concerning credit for foreign tax (as they may be amended from time to time without changing the general principle hereof) - as a deduction from the tax on such income, an amount equal to the Japanese tax paid in respect of such income.

(b) Where a resident of Sweden derives income which, in accordance with the

provisions of this Convention, shall be taxable only in Japan, Sweden may, when determining the graduated rate of Swedish tax, take into account the income which shall be taxable only in Japan.”

Article XVI

1. Paragraph 2 of Article 23 of the Convention shall be deleted and replaced by the following:

“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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.”

2. Paragraph 3 of Article 23 of the Convention shall be amended by deleting the words “Article 9, paragraph 6 of Article 11, or paragraph 6 of Article 12,” and replacing them with the words “paragraph 1 of Article 9, paragraph 6 of Article 11 or paragraph 4 of Article 12”.

Article XVII

Article 24 of the Convention shall be amended by adding the following after paragraph 4:

- “5. Where,
- (a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and
 - (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within three years from the presentation of the case to the competent authority of the other Contracting State,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Contracting State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these Contracting States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

6. For the purposes of applying the provisions of paragraph 5:

- (a) The competent authorities shall by mutual agreement establish a procedure in order to ensure that an arbitration decision will be implemented within two years from a request for arbitration as referred to in paragraph 5 unless actions or inaction of a person directly affected by the case presented pursuant to that paragraph hinder the resolution of the case or unless the competent authorities and that person agree otherwise.
- (b) An arbitration panel shall be established in accordance with the following rules:
 - (i) An arbitration panel shall consist of three arbitrators with expertise or experience in international tax matters.
 - (ii) Each competent authority shall appoint one arbitrator who may be its national. The two arbitrators appointed by the competent authorities shall appoint the third arbitrator who serves as the chair of the arbitration panel in accordance with the procedures agreed by the competent authorities.
 - (iii) All arbitrators shall not be employees of the tax authorities of the Contracting States, nor have had dealt with the case presented pursuant to paragraph 1 in any capacity. Unless otherwise agreed by the competent authorities of the Contracting States, the third arbitrator shall not be a national of either Contracting State.
 - (iv) The competent authorities shall ensure that all arbitrators and their staff agree, in statements sent to each competent authority, prior to their acting in an arbitration proceeding, to abide by and be subject to the same

confidentiality and non-disclosure obligations described in paragraph 2 of Article 25 and under the applicable domestic laws of the Contracting States.

- (v) Each competent authority shall bear the costs of its appointed arbitrator and its own expenses. The costs of the chair of an arbitration panel and other expenses associated with the conduct of the proceedings shall be borne by the competent authorities in equal shares.
 - (c) The competent authorities shall provide the information necessary for the arbitration decision to all arbitrators and their staff without undue delay.
 - (d) An arbitration decision shall be treated as follows:
 - (i) An arbitration decision has no formal precedential value.
 - (ii) An arbitration decision shall be final, unless that decision is found to be unenforceable by the courts of one of the Contracting States due to a violation of paragraph 5, of this paragraph or of any procedural rule determined in accordance with sub-paragraph (a) of this paragraph that may reasonably have affected the decision. If the decision is found to be unenforceable due to the violation, the decision shall be considered not to have been made.
 - (e) Where, at any time after a request for arbitration has been made and before the arbitration panel has delivered a decision to the competent authorities and the person who made the request for arbitration, the competent authorities have solved all the unresolved issues submitted to the arbitration, the case shall be considered as solved pursuant to paragraph 2 and no arbitration decision shall be provided.
7. (a) The provisions of paragraphs 5 and 6 shall not apply to cases falling within paragraph 3 of Article 4 or to cases concerning the attribution of capital to a permanent establishment under Article 7.
- (b) Notwithstanding the provisions of paragraph 5, a case shall not be submitted to arbitration if the competent authorities of both Contracting States have agreed that the case is not suitable for resolution through arbitration.”

Article XVIII

Article 25 of the Convention shall be deleted and replaced by the following:

“Article 25

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both Contracting States and the competent authority of the Contracting State supplying the information authorizes such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*);
- (d) to obtain or provide information that would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:
 - (i) produced for the purposes of seeking or providing legal advice; or
 - (ii) produced for the purposes of use in existing or contemplated legal proceedings.

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other Contracting State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

Article XIX

Article 25A of the Convention shall be deleted and replaced by the following:

“Article 25A

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2.

2. The term “revenue claim” as used in this Article means an amount owed in respect of the following taxes, insofar as the taxation thereunder is not contrary to this

Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties, surcharges and costs of collection or conservancy related to such amount:

(a) in the case of Japan:

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the special income tax for reconstruction;
- (iv) the special corporation tax for reconstruction;
- (v) the consumption tax;
- (vi) the inheritance tax; and
- (vii) the gift tax;

(b) in the case of Sweden:

- (i) the national income tax;
- (ii) the withholding tax on dividends;
- (iii) the income tax on non-residents;
- (iv) the income tax on non-resident artistes and athletes;
- (v) the municipal income tax;
- (vi) the value added tax;
- (vii) the real estate tax;
- (viii) the net wealth tax;
- (ix) the inheritance tax; and
- (x) the gift tax;

(c) any identical or substantially similar taxes that are imposed after the date of signature of the Protocol signed at Stockholm on 5 December 2013 amending this Convention as amended by the Protocol signed at Stockholm on 19 February 1999 in addition to, or in place of, the taxes covered by subparagraphs (a) and (b).

The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

3. When a revenue claim of a Contracting State is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, that revenue claim shall, at the

request of the competent authority of that Contracting State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other Contracting State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Contracting State that met the conditions allowing that other Contracting State to make a request under this paragraph.

4. When a revenue claim of a Contracting State is a claim in respect of which that Contracting State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other Contracting State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Contracting State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Contracting State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that Contracting State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Contracting State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that Contracting State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Notwithstanding the provisions of paragraph 5, acts carried out by a Contracting State in the collection of a revenue claim accepted by that Contracting State for purposes of paragraph 3 or 4, which, if they were carried out by the other Contracting State, would have the effect of suspending, prolonging or interrupting the time limits applicable to the revenue claim according to the laws of that other Contracting State, shall have such effect under the laws of that other Contracting State.

The first-mentioned Contracting State shall inform the other Contracting State about such acts.

7. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

8. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned Contracting State, the relevant revenue claim ceases to be

- (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned Contracting State that is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, or
- (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned Contracting State in respect of which that Contracting State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned Contracting State shall promptly notify the competent authority of the other Contracting State of that fact and, at the option of the other Contracting State, the first-mentioned Contracting State shall either suspend or withdraw its request.

9. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to carry out measures which would be contrary to public policy (*ordre public*);
- (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

- (d) to provide assistance in those cases where the administrative burden for that Contracting State is clearly disproportionate to the benefit to be derived by the other Contracting State.

10. Before assistance is lent under the provisions of this Article, the competent authorities of both Contracting States shall agree upon the mode of application of this Article, including an agreement to ensure comparable levels of assistance to each of the Contracting States. In particular, the competent authorities of both Contracting States shall agree on a limit to the number of applications for assistance that a Contracting State may make in a particular year and a minimum monetary threshold for a revenue claim for which assistance is sought.”

Article XX

1. Each of the Contracting States shall send in writing and through diplomatic channels to the other the notification confirming that its internal procedures necessary for the entry into force of this Protocol have been completed. The Protocol shall enter into force on the thirtieth day after the date of receipt of the latter notification.

2. This Protocol shall have effect:

- (a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the date on which the Protocol enters into force;
- (b) in respect of other taxes on income, as regards income for taxable years beginning on or after the first day of January of the year next following the date on which the Protocol enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of paragraphs 5, 6 and 7 of Article 24 of the Convention, as added by Article XVII of this Protocol, shall have effect from the date of entry into force of the Protocol, with respect to:

- (a) cases that are under consideration by the competent authorities of the Contracting States on the date on which the Protocol enters into force. For such cases, no unresolved issues arising therefrom shall be submitted to arbitration earlier than three years after the date on which the Protocol enters into force;

(b) cases that come under consideration by the competent authorities of the Contracting States after the date on which the Protocol enters into force.

4. Notwithstanding the provisions of paragraph 2, the provisions of Article 25 of the Convention, as amended by Article XVIII of this Protocol, and Article 25A of the Convention, as amended by Article XIX of the Protocol, shall have effect from the date of entry into force of the Protocol, without regard to the taxable year to which the matter or revenue claim relates.

5. This Protocol shall remain in effect as long as the Convention remains in force.

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

DONE in duplicate at Stockholm, this fifth day of December 2013, in the English language.

For the Government of Sweden:



For the Government of Japan:


