Protocol

At the signing of the Convention between the Government of Japan and the Government of the Kingdom of Saudi Arabia for the Avoidance of Double Taxation and the Prevention of Tax Evasion with respect to Taxes on Income (hereinafter referred to as "the Convention"), the Government of Japan and the Government of the Kingdom of Saudi Arabia have agreed upon the following provisions, which shall form an integral part of the Convention.

1. For the purposes of the Convention, the term "tax" means Japanese tax or Saudi tax, as the context requires.

2. With reference to subparagraph (d) of paragraph 1 of Article 3 of the Convention, it is understood that the term "person" includes a Contracting State and any political subdivision or local authority thereof.

3. With reference to paragraph 1 of Article 4 of the Convention, it is understood that the term "resident of a Contracting State" includes any person that is:

(a) organised under the laws of a Contracting State;

(b) established and maintained in that Contracting State exclusively for a religious, charitable, educational, scientific, artistic, cultural or other similar public purposes, or to administer or provide pensions or other similar remuneration; and

(c) exempt from tax in that Contracting State.

4. With reference to paragraph 3 of Article 4 of the Convention, where a person other than an individual is a resident of both Contracting States and that person has its place of head or main office situated in a Contracting State and its place of effective management situated in the other Contracting State, then the competent authorities of the Contracting States shall determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of the Convention.

5. With reference to Article 7 of the Convention, it is understood that the term "profits" does not include items of income from performance of personal services by an individual which are dealt with either in Article 14 or 15 of the Convention.

6. With reference to paragraph 1 of Article 7 of the Convention, it is understood that in the case of the profits of an enterprise of a Contracting State from the activities of furnishing of services, including consultancy services, only so much of them will be attributable to a permanent establishment situated in the other Contracting State as results from the actual performance of such activities carried on by that permanent establishment in that other Contracting State.

7. With reference to paragraph 3 of Article 7 of the Convention, it is understood that no deduction shall be allowed in respect of amounts paid or charged (other than reimbursement of actual expenses) by a permanent establishment of an enterprise to the head office of the enterprise or any other offices thereof, by way of:

(a) royalties, fees or other similar payments in return for the use of patents or other rights;

(b) commission, for specific services performed or for management; or

(c) income from debt-claims with regard to money lent to the permanent establishment; except where the enterprise is a banking institution.

8. With reference to Article 8 of the Convention, it is understood that profits from the operation of ships or aircraft in international traffic include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

(b) profits from the use, maintenance or rental of containers, including trailers and related equipment for the transport of containers, used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

9. With reference to Article 8 of the Convention, notwithstanding the provisions of Article 2 of the Convention, where an enterprise of a Contracting State carries on the operation of ships or aircraft in international traffic, that enterprise, if an enterprise of the Kingdom of Saudi Arabia, shall be exempt from the enterprise tax of Japan, and, if an enterprise of Japan, shall be exempt from any tax similar to the enterprise tax of Japan which may hereafter be imposed in the Kingdom of Saudi Arabia.