Protocol

At the signing of the Protocol amending the Convention between Japan and Switzerland for the Avoidance of Double Taxation with respect to Taxes on Income signed on 19 January 1971, the Government of Japan and the Swiss Federal Council have agreed upon the following provisions, which shall form an integral part of the Convention:

1. With reference to the whole Convention:

No relief shall be available under the 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 the Convention by means of that creation or assignment.

2. With reference to subparagraph (k) of paragraph 1 of Article 3 of the Convention:

It is understood that a pension fund or pension scheme shall be treated as exempt from tax on income derived with respect to the activities described in clause (ii) of that subparagraph even though it is subjected to the tax stipulated in Article 8 or 10-2 of the Corporation Tax Law (Law No. 34 of 1965) of Japan or paragraph 1 of Article 20 of its supplementary provisions.

3. With reference to Article 10 of the Convention:

The provisions of subparagraph (a) of paragraph 2 and subparagraph (a) of paragraph 3 of that Article 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.

4. With reference to paragraph 3 of Article 11 and Article 22A of the Convention:

It is understood that the term "insurance" includes re-insurance.

5. With reference to Article 25A of the Convention:

(a) In no case shall the provisions of that Article be construed so as to impose on a Contracting State the obligation to supply information if the other Contracting State has not pursued all reasonable measures of obtaining such information available under the laws and administrative practice of that other Contracting State, except those measures that would give rise to disproportionate difficulties.

(b) It is understood that the exchange of information provided for in that Article does not include measures aimed only at the simple collection of pieces of evidence ("fishing expeditions").

(c) It is understood that, where information is requested by a Contracting State in accordance with that Article, the competent authority of that Contracting State shall provide the following information to the competent authority of the other Contracting State:

(i) information sufficient to identify the person under examination (typically, name and, to the extent known, address, account number or similar identifying information);

(ii) the period of time with respect to the requested information;

(iii) a statement of the information sought including its nature and the form in which the first-mentioned Contracting State wishes to receive the information from the other Contracting State;

(iv) the tax purpose for which the information is sought; and

(v) the name and, to the extent known, the address of any person believed to be in possession of the requested information.

(d) Although Article 25A of the Convention does not restrict the possible methods for exchanging information, it shall not commit the Contracting States to exchange information on an automatic or a spontaneous basis.