PROTOCOL

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

1. With reference to paragraph 2 of Article 1 of the Convention:

The term "fiscally transparent" means situations where, under the tax law of a Contracting State, income or part thereof of an entity or arrangement is taxed not at the level of the entity or arrangement but at the level of the persons who have an interest in that entity or arrangement as if that income or part thereof were directly derived by such persons at the time when that income or part thereof is realised whether or not that income or part thereof is distributed by that entity or arrangement to such persons.

2. Notwithstanding the provisions of the Convention, income derived by a resident of a Contracting State from shares of a company or comparable interests, such as interests in a partnership, trust or investment fund, may be taxed in the other Contracting State and according to the laws of that other Contracting State if, at any time during the 365 days preceding the payment of the income, these shares or comparable interests derived at least 50 per cent of their value directly or indirectly from immovable property referred to in Article 6 of the Convention and situated in that other Contracting State.

3. With reference to paragraph 5 of Article 25 of the Convention:

(a) The competent authorities of the Contracting States 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 of Article 25 of the Convention unless actions or inaction of a person directly affected by the case in respect of which the request for arbitration has been made hinder the resolution of the case or unless the competent authorities of the Contracting States and that person otherwise agree.

(b) An arbitration panel shall be established in accordance with the following rules:

(i) An arbitration panel shall consist of three arbitrators who are individuals with expertise or experience in international tax matters.

(ii) Each of the competent authorities of the Contracting States shall appoint one arbitrator, whether he is a national of either Contracting State or not. The two arbitrators appointed by the competent authorities of the Contracting States shall appoint the third arbitrator who serves as the chair of the arbitration panel in accordance with the procedures agreed by the competent authorities of the Contracting States.

(iii) No arbitrator shall be an employee of the tax authority of either Contracting State, nor have dealt with the case in respect of which the request for arbitration has been made in any capacity. The third arbitrator shall not be a national of either Contracting State, nor have had his usual place of residence in either Contracting State, nor have been employed by either Contracting State.

(iv) The competent authorities of the Contracting States shall ensure that all arbitrators agree, in statements sent to each of the competent authorities of the Contracting States, prior to their acting in the arbitration proceedings, to abide by and be subject to the same confidentiality and non-disclosure obligations as those provided for in paragraph 2 of Article 26 of the Convention and the laws of the Contracting States.

(v) Each of the competent authorities of the Contracting States shall bear the costs of its appointed arbitrator and its own expenses. The costs of the third arbitrator and other expenses associated with the conduct of the arbitration proceedings shall be borne by the competent authorities of the Contracting States in equal shares.