

AGREEMENT BETWEEN
THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE REPUBLIC OF PANAMA
FOR
THE EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS

The Government of Japan and the Government of the Republic of Panama,

Desiring to conclude an Agreement for the exchange of information relating to tax matters,

Have agreed as follows:

Article 1
OBJECT AND SCOPE

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration or enforcement of the laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be obtained, exchanged and treated as confidential pursuant to the provisions of the Agreement, subject to the laws of the respective Contracting Parties. When the Requested Party obtains and provides information under the Agreement, the procedural rights and safeguards secured to persons by the laws or administrative practices of the Requested Party remain applicable, to the extent that they do not unduly prevent or delay effective exchange of information.

Article 2
JURISDICTION

The Requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

Article 3
TAXES COVERED

This Agreement shall apply to taxes of every kind and description imposed on behalf of a Contracting Party or of its political subdivisions or local authorities.

Article 4
DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term "Japan", when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the seabed and subsoil thereof, over which Japan has sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force;
- (b) the term "Panama" means the Republic of Panama and, when used in a geographical sense, the territory of the Republic of Panama, including its inland waters and territorial airspace and sea, and any area outside the territorial sea within which, in accordance with international law and on application of its domestic legislation, the Republic of Panama exercises, or may exercise in the future, jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;
- (c) the term "Contracting Party" means Japan or Panama as the context requires;
- (d) the term "competent authority" means:
 - (i) in the case of Japan, the Minister of Finance or his authorised representative; and
 - (ii) in the case of Panama, the Ministry of Economy and Finance or its authorised representative;
- (e) the term "person" includes an individual, a company and any other body of persons;

- (f) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (g) the term "national", in relation to a Contracting Party, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting Party; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting Party;
- (h) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be readily purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- (i) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of a company;
- (j) the term "recognised 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 Panama Stock Exchange; and
 - (iii) any other stock exchange agreed upon by the competent authorities of the Contracting Parties;
- (k) the term "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

- (l) the term "tax" means any tax to which the Agreement applies;
- (m) the term "Requesting Party" means the Contracting Party requesting information;
- (n) the term "Requested Party" means the Contracting Party requested to provide information;
- (o) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the information requested;
- (p) the term "information" means any fact, statement or record in any form whatever;
- (q) the term "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Requesting Party; and
- (r) the term "criminal laws" means all criminal laws designated as such under domestic laws irrespective of whether contained in the tax laws, the criminal code or other statutes.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Contracting Party, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 5 EXCHANGE OF INFORMATION UPON REQUEST

- 1. (a) The competent authority of the Requested Party shall obtain and provide upon request information for the purposes referred to in Article 1. Such information shall include:
 - (i) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees; and

(ii) information regarding the ownership of companies, partnerships, trusts, foundations and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries.

(b) The information referred to in subparagraph (a) shall be provided without regard to whether the conduct under examination or investigation would constitute a crime under the laws of the Requested Party if such conduct occurred in the Requested Party.

2. If the information in the possession of the competent authority of the Requested Party is not sufficient to enable it to comply with the request for information, the Requested Party shall use all relevant information gathering measures to provide the Requesting Party with the information requested, notwithstanding that the Requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the Requesting Party, the competent authority of the Requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. This Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

5. The competent authority of the Requesting Party shall provide the following information to the competent authority of the Requested Party when making a request for information under this Agreement to demonstrate the foreseeable relevance of the information sought to the request:

(a) the identity of the person under examination or investigation;

- (b) the taxable period or the period of time with respect to which the information requested is required for the tax purposes of the Requesting Party;
- (c) a statement of the information requested including its nature and the form in which the Requesting Party wishes to receive the information from the Requested Party;
- (d) the tax purposes for which the information requested is sought;
- (e) grounds for believing that the information requested is held by the Requested Party or is in the possession or control of a person who is within the territorial jurisdiction of the Requested Party;
- (f) to the extent known, the name and address of any person believed to be in possession or control of the information requested;
- (g) a statement that the request is in conformity with the laws and administrative practices of the Requesting Party, that if the information requested was within the territorial jurisdiction of the Requesting Party then the competent authority of the Requesting Party would be able to obtain the information under the laws or in the normal course of administrative practices of the Requesting Party and that the request is in conformity with the Agreement; and
- (h) a statement that the Requesting Party has pursued all means available within its territorial jurisdiction to obtain the information requested, except those that would give rise to disproportionate difficulties.

6. The competent authority of the Requested Party shall forward the information requested as promptly as possible to the Requesting Party. To ensure a prompt response, the competent authority of the Requested Party shall:

- (a) confirm receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of deficiencies in the request, if any, within sixty days of the receipt of the request; and

- (b) if the competent authority of the Requested Party has been unable to obtain and provide the information within ninety days of the receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, immediately inform the competent authority of the Requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 6
AUTOMATIC EXCHANGE OF INFORMATION

With respect to categories of cases and in accordance with procedures which the competent authorities of the Contracting Parties shall determine by mutual agreement, they shall automatically exchange information for the purposes referred to in Article 1.

Article 7
POSSIBILITY OF DECLINING A REQUEST

1. The Requested Party shall not be required to obtain or provide information that, if the information requested was within the territorial jurisdiction of the Requesting Party, then the competent authority of the Requesting Party would not be able to obtain under the laws or in the normal course of administrative practices of the Requesting Party. The competent authority of the Requested Party may decline to assist where the request of the Requesting Party is not made in conformity with this Agreement.

2. This Agreement shall not impose on a Contracting Party the obligation to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Such information includes information relating to communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the laws of each Contracting Party. Notwithstanding the foregoing sentences, information of the type referred to in subparagraph (a) of paragraph 1 of Article 5 shall not be treated as such a secret or trade process merely because it meets the criteria in that subparagraph.

3. The Requested Party may decline a request for information if the disclosure of the information requested would be contrary to public policy (ordre public) of the Requested Party.

4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

5. The Requested Party may decline a request for information if the information is requested by the Requesting Party to administer or enforce any provision of the tax laws of the Requesting Party, or any requirement connected therewith, which discriminates against a national of the Requested Party as compared with a national of the Requesting Party in the same circumstances.

Article 8 CONFIDENTIALITY

1. Any information received by a Contracting Party under this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other person or authority in the Contracting Party without the express written consent of the competent authority of the Requested Party.

2. Any information received by a Contracting Party under this Agreement may not be disclosed to any other person or authority in non-Contracting Parties.

Article 9 COSTS

Incidence of costs incurred in providing assistance shall be agreed by the competent authorities of the Contracting Parties.

Article 10 MUTUAL AGREEMENT PROCEDURES

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the competent authorities of the Contracting Parties shall endeavour to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Article 5.

3. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement under this Article.

Article 11 HEADINGS

The headings of the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of the Agreement.

Article 12 ENTRY INTO FORCE

The Governments of the Contracting Parties shall notify each other, in writing and through diplomatic channels, of the completion of their respective internal procedures necessary for the entry into force of this Agreement. The Agreement shall enter into force on the thirtieth day after the latter of the dates of receipt of the notifications and thereupon shall have effect:

- (a) for criminal tax matters, from the date on which the Agreement enters into force; and
- (b) for all other matters covered in Article 1:
 - (i) with respect to taxes levied on the basis of a taxable year, for taxes for any taxable years beginning on or after 1 January 2013; and
 - (ii) with respect to taxes not levied on the basis of a taxable year, for taxes levied on or after 1 January 2013.

Article 13 TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement, through diplomatic channels, by giving written notice of termination after the expiry of five years from the date of entry into force of the Agreement. The Agreement shall cease to have effect on the first day of the month following the expiry of six months after the date of receipt of the notice of termination.

2. If this Agreement is terminated, each Contracting Party shall remain bound by Article 8 with respect to any information received by that Contracting Party under the Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Panama City, this twenty-fifth day of August, 2016, in the Japanese, Spanish and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of Japan:

Hiroaki Isobe

For the Government of
the Republic of Panama:

Luis Miguel Hincapié