

(Japanese Note)

Berne, July 16, 2021

Excellency:

I have the honour to refer to the Protocol signed today (hereinafter referred to as "the Protocol of 2021"), to the Convention between Japan and Switzerland for the Avoidance of Double Taxation with respect to Taxes on Income signed at Tokyo on 19 January 1971, as amended by the Protocol signed at Berne on 21 May 2010 and by the Protocol of 2021 (hereinafter referred to as "the Convention"), and to the agreement effected by exchange of notes between the Government of Japan and the Swiss Federal Council on 21 May 2010 concerning taxation (hereinafter referred to as "the Notes of 2010"), and to make, on behalf of the Government of Japan, the following proposals:

1. The provisions of paragraph 2 of the Notes of 2010 shall cease to have effect with respect to taxes to which the Protocol of 2021 shall have effect in accordance with the provisions of paragraph 2 of Article 19 thereof.
2. With reference to subparagraph (b) of paragraph 12 of Article 25 of the Convention:

It is understood that a change of profits in the circumstances referred to in paragraph 1 of Article 9 of the Convention relating to hard-to-value intangibles refers to such change made in line with D.4 (hard-to-value intangibles) of Chapter VI of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations of July 2017 (as amended).

His Excellency
Mr. Stefan Flückiger
Ambassador
Deputy State Secretary for International Finance
of the Swiss Confederation

If the foregoing proposals are acceptable to the Swiss Federal Council, I have the honour to suggest that the present Note and Your Excellency's Note in reply to that effect shall constitute an agreement between the two Governments in this matter, which shall enter into force at the same time as the Protocol of 2021.

I avail myself of the opportunity to extend to Your Excellency the assurance of my highest consideration.

SHIRAISHI Kojiro
Ambassador Extraordinary
and Plenipotentiary of Japan
to the Swiss Confederation

(Swiss Note)

Berne, July 16, 2021

Excellency:

I have the honour to acknowledge the receipt of Your Excellency's Note of today's date which reads as follows:

“(Japanese Note)”

The foregoing proposals being acceptable to the Swiss Federal Council, I have the honour to confirm that Your Excellency's Note and this Note in reply shall constitute an agreement between the two Governments in this matter, which shall enter into force at the same time as the Protocol signed today.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Stefan Flückiger
Ambassador
Deputy State Secretary
for International Finance
of the Swiss Confederation

His Excellency
Mr. SHIRAIISHI Kojiro
Ambassador Extraordinary
and Plenipotentiary of Japan
to the Swiss Confederation