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CONVENTION BETWEEN JAPAN
AND THE REPUBLIC OF THE PHILIPPINES
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

Japan and the Republic of the Philippines,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

Article 1

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

(1) The taxes which are the subject of this Convention are:

- (a) In the case of Japan, the income tax and the corporation tax (hereinafter referred to as "Japanese tax"); and
- (b) In the case of the Philippines, the Philippine income tax (hereinafter referred to as "Philippine tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, those referred to in the preceding paragraph. The competent authorities of the Contracting States shall notify to each other any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

Article 3

(1) For the purposes of this Convention, unless the context otherwise requires:

- (a) the term "Japan", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are in force;

- (b) the term "the Philippines" means the Republic of the Philippines and, when used in a geographical sense, means the territory comprising the Republic of the Philippines;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Japan or the Philippines, as the context requires;
- (d) the term "tax" means Japanese tax or Philippine tax, as the context requires;
- (e) the term "person" comprises an individual, a company and any other body of persons;
- (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (h) the term "nationals" means:
 - (i) in relation to the Philippines, all individuals possessing the citizenship of the Philippines and all juridical persons created or organized under the laws of the Philippines and all organizations without juridical personality treated for the purposes of Philippine tax as juridical persons created or organized under the laws of the Philippines; and
 - (ii) in relation to Japan, all individuals possessing the nationality of Japan and all juridical persons created or organized under the laws of Japan and all organizations without juridical personality treated for the purposes of Japanese tax as juridical persons created or organized under the laws of Japan;
- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "competent authority" in relation to a Contracting State means the Minister of Finance of that Contracting State or his authorized representative.

(2) As regards the application of this Convention by a Contracting State, any term not defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State concerning the taxes to which this Convention applies.

Article 4

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of incorporation or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein.

(2) Where by reason of the provisions of the preceding paragraph a person is a resident of both Contracting States, 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 this Convention.

Article 5

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) The term "permanent establishment" includes especially:

- (a) a store or other sales outlet;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;

(f) a warehouse;

(g) a mine, an oil or gas well, a quarry or other place of extraction of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

(4) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Where a person – other than an agent of an independent status to whom paragraph (7) applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if:

- (a) that person has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- (b) that person regularly secures orders in the first-mentioned Contracting State wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which control or are controlled by that enterprise; or
- (c) that person maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills order on behalf of the enterprise.

(6) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it furnishes in that other Contracting State consultancy services, or supervisory services in connection with a contract for a building, construction or installation project through employees or other personnel – other than an agent of an independent status to whom paragraph (7) applies –, provided that such activities continue (for the same project or two or more connected projects) for a period or periods aggregating more than six months within any twelve-month period. However, if the furnishing of such services is effected under an agreement between the Governments of the two Contracting States regarding economic or technical cooperation, that enterprise shall, notwithstanding any provisions of this Article, not be deemed to have a permanent establishment in that other Contracting State.

(7) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a bona fide broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

(8) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

(9) An insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State, if it collects premiums in that other Contracting State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph (7).

Article 6

(1) Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other Contracting State.

(2) The term "immovable property" shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting immovable property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

(1) The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in that other Contracting State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3), where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(7) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

(1) The profits of an enterprise of a Contracting State derived in the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in that other Contracting State, but the tax so charged shall be 60 per cent of the tax which is chargeable under the laws of that other Contracting State in force on the date of signature of this Convention.

(2) The provisions of the preceding paragraph shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

(1) Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

(2) Where a Contracting State includes, in accordance with the provisions of paragraph (1), in the profits of an enterprise of that Contracting State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and where the competent authorities of the Contracting States agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention.

Article 10

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent either of the voting shares of the company paying the dividends or of the total shares issued by that company during the period of six months immediately preceding the date of payment of the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) Notwithstanding the provisions of paragraph (2), the amount of tax imposed by the Philippines on the dividends paid by a company, being a resident of the Philippines, registered with the Board of Investments and engaged in preferred pioneer areas of investment under the investment incentives laws of the Philippines to a resident of Japan, who is the beneficial owner of the dividends, shall not exceed 10 per cent of the gross amount of the dividends.

(4) The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation laws of the Contracting State of which the company making the distribution is a resident.

(5) The provisions of paragraphs (1), (2) and (3) shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(6) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Contracting State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other Contracting State.

Article 11

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2), interest arising in a Contracting State and derived by the Government of the other Contracting State including political subdivisions and local authorities thereof, the Central Bank of that other Contracting State or any financial institution wholly owned by that Government, or by any resident of the other Contracting State with respect to debt-claims guaranteed, insured or indirectly financed by the Government of that other Contracting State including political subdivisions and local authorities thereof, the Central Bank of that other Contracting State or any financial institution wholly owned by that Government shall be exempt from tax in the first-mentioned Contracting State.

For the purposes of this paragraph, the term "financial institution wholly owned by the Government" means:

- (a) In the case of Japan, the Japan Bank for International Cooperation and the Nippon Export and Investment Insurance;
- (b) In the case of the Philippines, the Development Bank of the Philippines and the Land Bank of the Philippines; and
- (c) Any such financial institution the capital of which is wholly owned by the Government of either Contracting State, other than those referred to in sub-paragraphs (a) and (b) above, as may be agreed from time to time between the Governments of the two Contracting States.

(4) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

(5) The provisions of paragraphs (1) and (2) above shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision or a local authority thereof or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

(2) However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the royalties if the royalties are paid in respect of the use of or the right to use cinematograph films and films or tapes for radio or television broadcasting;
- (b) 10 per cent of the gross amount of the royalties in all other cases.

(3) Notwithstanding the provisions of paragraph (2), the amount of tax imposed by the Philippines on the royalties paid by a company, being a resident of the Philippines, registered with the Board of Investments and engaged in preferred pioneer areas of investment under the investment incentives laws of the Philippines to a resident of Japan, who is the beneficial owner of the royalties, shall not exceed 10 per cent of the gross amount of the royalties.

(4) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(5) The provisions of paragraphs (1), (2) and (3) shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(6) Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision or a local authority thereof or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property as defined in paragraph (2) of Article 6 and situated in the other Contracting State may be taxed in that other Contracting State.

(2) Gains from the alienation of any property, other than immovable property, forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of any property, other than immovable property, pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State.

(3) Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic and any property, other than immovable property, pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

(4) Gains from the alienation of shares of a company, a partnership or a trust the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that Contracting State.

(5) Gains from the alienation of any property other than those referred to in paragraphs (1), (2), (3) and (4) shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other Contracting State for a period or periods exceeding in the aggregate 120 days in the calendar year concerned. If he has such a fixed base or remains in that other Contracting State for the aforesaid period or periods, the income may be taxed in that other Contracting State but only so much of it as is attributable to that fixed base or is derived in that other Contracting State during the aforesaid period or periods.

(2) The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

(1) Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned Contracting State if:

- (a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other Contracting State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting State.

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

Article 16

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

Article 17

(1) Notwithstanding the provisions of Article 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

Such income shall, however, be exempt from tax in that other Contracting State if such activities are exercised pursuant to a special programme between the Governments of the two Contracting States for cultural exchange and supported substantially from the public funds of either Contracting State or a political subdivision or a local authority thereof or from the funds of a statutory body or a non-profit organization thereof.

(2) Where income in respect of personal activities exercised in a Contracting State by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person who is a resident of the other Contracting State, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the first-mentioned Contracting State.

Such income shall, however, be exempt from tax in the first-mentioned Contracting State if such activities are exercised by an entertainer or athlete who is a resident of that other Contracting State pursuant to a special programme between the Governments of the two Contracting States for cultural exchange and supported substantially from the public funds of either Contracting State or a political subdivision or a local authority thereof or from the funds of a statutory body or a non-profit organization thereof.

Article 18

Subject to the provisions of paragraph (2) of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and annuities paid to such a resident shall be taxable only in that Contracting State.

Article 19

- (1) (a) Remuneration, other than a pension, paid by a Contracting State, or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting State, or political subdivision or local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in that Contracting State.
- (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:
 - (i) is a national of that other Contracting State; or
 - (ii) did not become a resident of that other Contracting State solely for the purpose of performing the services.
- (2) (a) Any pension paid by, or out of funds to which contributions are made by, a Contracting State, or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting State, or political subdivision or local authority thereof shall be taxable only in that Contracting State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.
- (3) The provisions of Articles 15, 16, 17 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

(1) A professor, teacher or researcher who makes a temporary visit to a Contracting State for a period not exceeding two years solely for the purpose of teaching or conducting research at a university, college, school or other accredited educational institution and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax of the first-mentioned Contracting State in respect of remuneration for such teaching or research.

(2) The provisions of the preceding paragraph shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

Article 21

(1) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of:

- (a) studying at a university or other accredited educational institution in that other Contracting State; or
- (b) securing training required to qualify him to practice a profession or a professional speciality; or
- (c) studying or conducting research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organization;

shall be exempt from tax in that other Contracting State with respect to:

- (i) remittance from abroad for the purpose of his maintenance, education, study, research or training;
- (ii) the grant, allowance or award; and
- (iii) income from his personal services rendered in that other Contracting State in an amount not exceeding 1,500 United States dollars or its equivalent in Japanese yen or Philippine pesos during any calendar year.

(2) The benefits under the provisions of the preceding paragraph shall only extend for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no event shall any individual have the benefits of the said paragraph for more than five consecutive years in the case of paragraph (1)(a) and more than three consecutive years in the case of paragraphs (1)(b) and (1)(c).

(3) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is present in that other Contracting State for a period not exceeding one year, as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of acquiring technical, professional or business experience from a person other than that resident of the first-mentioned Contracting State shall be exempt from tax in that other Contracting State on the remuneration for such period for his personal services performed in connection with the acquisition of such experience, if the total of the amount received from abroad and the amount paid in that other Contracting State does not exceed 4,000 United States dollars or its equivalent in Japanese yen or Philippine pesos during any calendar year.

(4) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is present in that other Contracting State for a period not exceeding one year, as a participant in a programme sponsored by the Government of that other Contracting State, for the primary purpose of training, research or study shall be exempt from tax in that other Contracting State on the remuneration for such period for his personal services performed in connection with such training, research or study, if the total of the amount received from abroad and the amount paid in that other Contracting State does not exceed 4,000 United States dollars or its equivalent in Japanese yen or Philippine pesos during any calendar year.

Article 22

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

(2) The provisions of the preceding paragraph shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

(1) Subject to the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, Philippine tax payable in respect of income derived from the Philippines shall be allowed as a credit against Japanese tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of the Philippines to a company which is a resident of Japan and which owns not less than 25 per cent either of the voting shares of the company paying the dividend or of the total shares issued by that company, the credit shall take into account Philippine tax payable by the company paying the dividend in respect of its income.

(2) Subject to the laws of the Philippines regarding the allowance as a credit against Philippine tax of tax payable in any country other than the Philippines, Japanese tax payable in respect of income derived from Japan shall be allowed as a credit against Philippine tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Japan to a company which is a resident of the Philippines and which owns the majority of the voting shares of the company paying the dividend or of the total shares issued by that company, the credit shall take into account Japanese tax payable by the company paying the dividend in respect of its income.

(3) For the purposes of the credit referred to in the first sentence of paragraph (1), Philippine tax shall always be considered as having been paid at the rate of 20 per cent in the case of dividends to which the provisions of paragraph (2) or (3) of Article 10 apply, and at the rate of 15 per cent in the case of interest to which the provisions of paragraph (2) of Article 11 apply, and in the case of royalties to which the provisions of paragraph (2) or (3) of Article 12 apply.

Article 24

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(3) Except where the provisions of paragraph (1) of Article 9, paragraph (7) of Article 11, or paragraph (7) of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting State.

(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

(5) The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

(6) Notwithstanding the preceding provisions of this Article, the Philippines may limit to its nationals the enjoyment of tax incentives granted under:

- (a) the Investment Incentives Act (Republic Act No. 5186), the Export Incentives Act (Republic Act No. 6135), the Investment Incentives Program for the Tourism Industry (Presidential Decree No. 535) or the Agricultural Investment Incentives Act (Presidential Decree No. 1159) so far as it was in force on, and has not been modified since, the date of signature of this Convention, or has been modified only in minor respects so as not to affect its general character; or
- (b) any other enactment adopted by the Philippines in pursuance of its programme of economic development which may be determined by mutual agreement between the Governments of the two Contracting States.

Article 25

(1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph (1) of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the provisions of this Convention.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention relating to the taxes which are the subject of this Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or for the prevention of fiscal evasion or for the administration of statutory provisions against tax avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those, including a court, concerned with the assessment and collection of those taxes or the determination of appeals in relation thereto and the persons with respect to whom the information relates.

(2) In no case shall the provisions of the preceding paragraph be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 27

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 28

Nothing in this Convention shall be construed as depriving the Philippines of the right to tax its own citizens who are residents of Japan in accordance with the laws of the Philippines, but Japan shall not be bound to give credit for such tax.

Article 29

(1) This Convention shall be ratified by the Contracting States in accordance with their respective constitutional and legal requirements and the instruments of ratification shall be exchanged at Manila as soon as possible.

(2) This Convention shall enter into force on the thirtieth day after the date of the exchange of instruments of ratification and shall have effect:

(a) in Japan:

in respect of income for any taxable year beginning on or after the first day of January of the calendar year next following that in which the exchange of instruments of ratification takes place;

(b) in the Philippines;

(i) in respect of tax withheld at the source on amounts paid on or after the first day of January of the calendar year next following that in which the exchange of instruments of ratification takes place;

(ii) in respect of other taxes for any taxable year beginning on or after the first day of January of the calendar year next following that in which the exchange of instruments of ratification takes place.

Article 30

This Convention shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of three years from the date of its entry into force, give to the other Contracting State, through diplomatic channel, written notice of termination and, in such event, this Convention shall cease to be effective:

(a) in Japan:

in respect of income for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given;

(b) in the Philippines:

(i) in respect of tax withheld at the source on amounts paid on or after the first day of January of the calendar year next following that in which the notice of termination is given;

(ii) in respect of other taxes for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE in duplicate at Tokyo on the 13th day of February 1980, in the English language.

For Japan:

For the Republic of
the Philippines:

Saburo Okita

Cesar Virata

PROTOCOL

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

1. With reference to paragraph (1) of Article 7 of the Convention, profits derived by an enterprise of a Contracting State from the sale in the other Contracting State of goods or merchandise of the same or similar kind as those sold, or from other business activities in that other Contracting State of the same or similar kind as those effected, through a permanent establishment situated in that other Contracting State, may be attributed to that permanent establishment if such sale of goods or merchandise or such business activities have been resorted to in order to avoid taxation.

2. With reference to paragraph (3) of Article 7 of the Convention, 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; and
- (c) interest on moneys lent to the permanent establishment; except where the enterprise is a banking institution.

3. For the purposes of paragraph (3) of Article 10 and paragraph (3) of Article 12 of the Convention, the term "investment incentives laws of the Philippines" means:

- (a) the Investment Incentives Act (Republic Act No. 5186), the Export Incentives Act (Republic Act No. 6135) and the Agricultural Investment Incentives Act (Presidential Decree No. 1159) so far as they were in force on, and have not been modified since, the date of signature of the Convention, or have been modified only in minor respects so as not to affect their general character; and

- (b) any other enactment adopted by the Republic of the Philippines in pursuance of its programme of economic development which may be determined by mutual agreement between the Governments of the two Contracting States.

4. With reference to Article 16 of the Convention, in relation to remuneration of a director of a company derived from the company in respect of the discharge of day-to-day functions of a managerial or technical nature, the provisions of Article 15 of the Convention shall apply as if the remuneration were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

5. Nothing in the Convention shall be construed as preventing the Republic of the Philippines from imposing on the earnings (other than those derived from the operation of ships or aircraft in international traffic) of a company being a resident of Japan attributable to a permanent establishment which it has in the Republic of the Philippines, a tax in addition to the tax which would be chargeable on the income of a company being a resident of the Republic of the Philippines, provided that any additional tax so imposed shall not exceed 10 per cent of the amount of the part of such earnings which is remitted abroad. For the purposes of this paragraph, the term "earnings" means the amount remaining after deducting from the profits attributable to a permanent establishment in the Republic of the Philippines in a year and years preceding that year all taxes other than the additional tax referred to in this paragraph, imposed on such profits by the Republic of the Philippines.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.

DONE in duplicate at Tokyo on the 13th day of February, 1980, in the English language.

For Japan:

For the Republic of
the Philippines:

Saburo Okita

Cesar Virata