Treaty Series No. 12 (2015)

Protocol

amending the Convention between the United Kingdom of Great Britain and Northern Ireland and Japan for the Avoidance of the Double Taxation and the Prevention of Fiscal Evasion with respect to the Taxes on Income and on Capital Gains (with exchange of notes)

London, 17 December 2013

[The Protocol entered into force on 12 December 2014]

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PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS (WITH EXCHANGE OF NOTES)

The United Kingdom of Great Britain and Northern Ireland and Japan,

Desiring to amend the Convention between the United Kingdom of Great Britain and Northern Ireland and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains signed at London on 2 February 2006 [1] (hereinafter referred to as "the Convention") and the Protocol, which forms an integral part of the Convention, signed at London on 2 February 2006[2] (hereinafter referred to as "the Protocol of 2006"),

Have agreed as follows:

ARTICLE 1

Subparagraph (a) of paragraph 1 of Article 2 of the Convention shall be deleted and replaced by the following:

"(a) in the case of Japan:

(i) the income tax;

(ii) the corporation tax;

(iii) the special income tax for reconstruction;

(iv) the special corporation tax for reconstruction; and

(v) the local inhabitant taxes

(hereinafter referred to as "Japanese tax");"

[1] Treaty Series No. 030 (2006) Cm 6980
[2] Treaty Series No. 030 (2006) Cm 6980

ARTICLE 2

Article 7 of the Convention shall be deleted and replaced by the following:

"Article 7

1. 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 that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 of this Article may be taxed in that other Contracting State.

2. For the purposes of this Article and Article 23 of this Convention, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 of this Article are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2 of this Article, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other Contracting State, the other Contracting State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.

4. Where profits include items of income, profits or gains 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 3

1. Paragraph 2 of Article 9 of the Convention shall be deleted and replaced by the following:

> "2. Where a Contracting State includes 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 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 profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other."

2. Paragraph 3 of Article 9 of the Convention shall be amended by deleting the words "seven years" and replacing them with the words "ten years".

ARTICLE 4

1. Paragraph 2 of Article 10 of the Convention shall be deleted and replaced by the following:

> "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 dividends are beneficially owned by a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends."

2. Subparagraph (a) of paragraph 3 of Article 10 of the Convention shall be amended by deleting the words "50 per cent" and replacing them with the words "10 per cent".

3. A new paragraph shall be added after paragraph 3 of Article 10 of the Convention as follows:

> "4. The provisions of paragraphs 2 and 3 of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid."

4. Paragraph 4 of Article 10 of the Convention shall be amended by deleting the words "subparagraph (a) of paragraph 2 and" and renumbered as paragraph 5.

5. Paragraphs 5, 6, 7, 8 and 9 of Article 10 of the Convention shall be renumbered as paragraphs 6, 7, 8, 9 and 10 respectively.

ARTICLE 5

Article 11 of the Convention shall be deleted and replaced by the following:

"Article 11

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1 of this Article, interest arising in a Contracting State that is determined by reference to receipts, sales, income, profits or other cash flow of the debtor or a related person, to any change in the value of any property of the debtor or a related person or to any dividend, partnership distribution or similar payment made by the debtor or a related person, or any other interest similar to such interest arising in a Contracting State, may be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. 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, and all other income that is subjected to the same taxation treatment as income from money lent by the tax laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article. Income dealt with in Article 10 of this Convention shall not be regarded as interest for the purposes of this Convention.

4. The provisions of paragraphs 1 and 2 of this Article 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

5. 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 exceeds, for whatever reason, 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.

6. A resident of a Contracting State shall not be considered the beneficial owner of interest in respect of a debt-claim if such debt-claim would not have been established unless a person:

(a) that is not entitled to benefits with respect to the interest arising in the other Contracting State which are equivalent to, or more favourable than, those available under this Convention to a resident of the first-mentioned Contracting State; and

(b) that is not a resident of either Contracting State;

held an equivalent debt-claim against the first-mentioned resident.

7. No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment."

ARTICLE 6

1. Paragraph 3 of Article 13 of the Convention shall be deleted and replaced by the following:

"3. Where

(a) a Contracting State (including, for this purpose in the case of Japan, the Deposit Insurance Corporation of Japan) provides, pursuant to the laws of that Contracting State concerning failure resolution involving imminent insolvency of financial institutions, substantial financial assistance to a financial institution that is a resident of that Contracting State, and

(b) a resident of the other Contracting State acquires shares in the financial institution from the first-mentioned Contracting State,

the first-mentioned Contracting State may tax gains derived by the resident of the other Contracting State from the alienation of such shares, provided that the alienation is made within five years from the first date on which such financial assistance was provided."

2. Paragraphs 4 and 5 of Article 13 of the Convention shall be amended by deleting the words "movable property" and replacing them with the words "any property, other than immovable property,".

ARTICLE 7

1. Paragraph 1 of Article 22 of the Convention shall be amended by deleting the words "in Article 7;" and by deleting the words "paragraph 3 of Article 11" and replacing the words "paragraph 3 of Article 11" with the words "paragraph 1 of Article 11".

2. Paragraph 3, subparagraph (a) of paragraph 5 and paragraph 6 of Article 22 of the Convention shall be amended by deleting the words "of Article 7;" and by deleting the words "paragraph 3 of Article 11" and replacing the words "paragraph 3 of Article 11" with the words "paragraph 1 of Article 11".

3. Clause (ii) of subparagraph (c) of paragraph 7 of Article 22 of the Convention shall be deleted and replaced by the following:

"(ii) any stock exchange established under the terms of the Financial Instruments and Exchange Law (Law No. 25 of 1948) of Japan;"

4. Subclause (cc) of clause (i) of subparagraph (e) of paragraph 7 of Article 22 of the Convention shall be amended by deleting the words "in Article 7;", by deleting the words "paragraph 3 of Article 11" and replacing them with the words "paragraph 1 of Article 11", and by deleting the words ", under conditions in that convention which are no less restrictive than those in this Convention".

ARTICLE 8

Paragraphs 1 and 2 of Article 23 of the Convention shall be deleted and replaced by the following:

"1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom or, as the case may be, regarding the exemption from United Kingdom tax of a dividend arising in a territory outside the United Kingdom or of the profits of a permanent establishment situated in a territory outside the United Kingdom (which shall not affect the general principle hereof):

(a) Japanese tax payable under the laws of Japan and in accordance with this Convention, whether directly or by deduction, on income, profits or chargeable gains from sources within Japan (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same income, profits or chargeable gains by reference to which the Japanese tax is computed;

(b) a dividend which is paid by a company which is a resident of Japan to a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax, when the conditions for exemption under the law of the United Kingdom are met;

(c) the profits of a permanent establishment in Japan of a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable under the law of the United Kingdom and the conditions for exemption under the law of the United Kingdom are met;

(d) in the case of a dividend not exempted from tax under subparagraph (b) of this paragraph which is paid by a company which is a resident of Japan to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit mentioned in subparagraph (a) of this paragraph shall also take into account the Japanese tax payable by the company in respect of its profits out of which such dividend is paid.

2. Subject to the provisions of the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, where a resident of Japan derives income from the United Kingdom which may be taxed in the United Kingdom in accordance with the provisions of this Convention, the amount of the United Kingdom tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Japanese tax which is appropriate to that income."

ARTICLE 9

Paragraph 3 of Article 24 of the Convention shall be amended by deleting the words "paragraphs 8 or 9 of Article 10, paragraphs 8, 9 or 10 of Article 11" and replacing them with the words "paragraphs 9 or 10 of Article 10, paragraphs 5, 6 or 7 of Article 11".

ARTICLE 10

1. A new sentence shall be added to paragraph 3 of Article 25 of the Convention as follows:

> "They may also consult together for the elimination of double taxation in cases not provided for in the Convention."

2. Two new paragraphs shall be added to Article 25 of the Convention as follows:

> "5. Where,
>
> (a) under paragraph 1 of this Article, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and
>
> (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 of this Article within two years from the presentation of the case to the competent authority of the other Contracting State,
>
> any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Contracting State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these Contracting States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.
>
> 6. The provisions of paragraph 5 of this Article shall not apply to cases falling within paragraph 3 of Article 4 of this Convention."

ARTICLE 11

Paragraphs 1 and 2 of Article 26 of the Convention shall be deleted and replaced by the following:

> "1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic law concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2 of the Convention.
>
> 2. Any information received under paragraph 1 of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic law of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1 of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both Contracting States and the competent authority of the other Contracting State authorises such use."

ARTICLE 12

A new Article shall be added after Article 26 of the Convention as follows:

> "Article 26A
>
> 1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2 of this Convention.
>
> 2. The term "revenue claim" as used in this Article means an amount owed in respect of the taxes covered by Article 2 of this Convention which are imposed on behalf of the Contracting States, and in respect of the following taxes, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount:

(a) in the case of Japan:

(i) the consumption tax;

(ii) the inheritance tax; and

(iii) the gift tax;

(b) in the case of the United Kingdom:

(i) the value added tax; and

(ii) the inheritance tax;

(c) any other tax agreed upon between the Governments of the Contracting States through an exchange of diplomatic notes.

3. When a revenue claim of a Contracting State is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other Contracting State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Contracting State that met the conditions allowing that other Contracting State to make a request under this paragraph.

4. When a revenue claim of a Contracting State is a claim in respect of which that Contracting State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other Contracting State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Contracting State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Contracting State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4 of this Article, a revenue claim accepted by the competent authority of a Contracting State for purposes of paragraph 3 or 4 of this Article shall not, in that Contracting State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Contracting State by reason of its nature as such. In addition, a revenue claim accepted by the competent authority of a Contracting State for the purposes of paragraph 3 or 4 of this Article shall not, in that Contracting State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Notwithstanding the provisions of paragraph 5 of this Article, acts carried out by a Contracting State in the collection of a revenue claim accepted by the competent authority of that Contracting State for purposes of paragraph 3 or 4 of this Article, which, if they were carried out by the other Contracting State, would have the effect of suspending or interrupting the time limits applicable to the revenue claim according to the laws of that other Contracting State, shall have such effect under the laws of that other Contracting State. The first-mentioned Contracting State shall inform the other Contracting State about such acts.

7. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

8. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 of this Article and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned Contracting State, the relevant revenue claim ceases to be

(a) in the case of a request under paragraph 3 of this Article, a revenue claim of the first-mentioned Contracting State that is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, or

(b) in the case of a request under paragraph 4 of this Article, a revenue claim of the first-mentioned Contracting State in respect of which that Contracting State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned Contracting State shall promptly notify the competent authority of the other Contracting State of that fact and, at the option of the other Contracting State, the first-mentioned Contracting State shall either suspend or withdraw its request.

9. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to carry out measures which would be contrary to public policy;

(c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

(d) to provide assistance in those cases where the administrative burden for that Contracting State is clearly disproportionate to the benefit to be derived by the other Contracting State;

(e) to provide assistance if that Contracting State considers that the taxes with respect to which assistance is requested are imposed contrary to generally accepted taxation principles.

10. Before assistance is lent under the provisions of this Article, the competent authorities of both Contracting States shall agree upon the mode of application of this Article, including an agreement to ensure comparable levels of assistance to each of the Contracting States. In particular, the competent authorities of both Contracting States shall agree on a limit to the number of applications for assistance that a Contracting State may make in a particular year, as well as a minimum monetary threshold for a revenue claim for which assistance is sought, and procedural rules related to the remittance of amounts collected pursuant to the provisions of this Article."

ARTICLE 13

1. Paragraph 1 of the Protocol of 2006 shall be amended by deleting the term "10-3" and replacing it with the term "10-2" and by adding the words "(as they may be amended from time to time without changing the general principle hereof)" after the words "paragraph 1 of Article 20 of its supplementary provisions".

2. Paragraphs 3 and 6 of the Protocol of 2006 shall be deleted and paragraphs 4 and 5 of the Protocol of 2006 shall be renumbered as paragraphs 3 and 4 respectively.

3. A new paragraph shall be added to the Protocol of 2006 as follows:

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

(a) The competent authorities 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 presented pursuant to that paragraph hinder the resolution of the case or unless the competent authorities and that person agree otherwise.

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

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

(ii) The competent authority of each Contracting State shall appoint one arbitrator who may be a national of that Contracting State. The two arbitrators appointed by the competent authorities shall appoint the third arbitrator who will serve as the chair of the arbitration panel in accordance with the procedures agreed by the competent authorities.

(iii) No arbitrator shall be an employee of the tax authority of either Contracting State, nor have dealt with the case presented pursuant to paragraph 1 of Article 25 of the Convention 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 shall ensure that all arbitrators and their staff agree, in statements sent to each competent authority, prior to their acting in an arbitration proceeding, to abide by and be subject to the same confidentiality and non-disclosure obligations described in paragraph 2 of Article 26 of the Convention and under the applicable domestic laws of the Contracting States.

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

(c) The competent authorities shall provide the information necessary for the arbitration decision to all arbitrators and their staff without undue delay.

(d) An arbitration decision shall be treated as follows:

(i) An arbitration decision has no formal precedential value.

(ii) An arbitration decision shall be final, unless that decision is found to be unenforceable by the courts of one of the Contracting States due to a violation of paragraph 5 of Article 25 of the Convention, of this paragraph or of any procedural rule determined in accordance with subparagraph (a) of this paragraph that may reasonably have affected the decision. If the decision is found to be unenforceable due to the violation, the decision shall be considered not to have been made.

(e) Where, at any time after a request for arbitration has been made and before the arbitration panel has delivered a decision to the competent authorities and the person who made the request for arbitration, the competent authorities have reached an agreement on all the unresolved issues submitted to the arbitration, the case shall be considered as resolved pursuant to paragraph 2 of Article 25 of the Convention and no arbitration decision shall be provided."

ARTICLE 14

1. This Protocol shall be approved in accordance with the legal procedures of each of the Contracting States and shall enter into force on the thirtieth day after the date of exchange of diplomatic notes indicating such approval.

2. This Protocol shall be applicable:

(a) in the United Kingdom:

(i) with respect to taxes withheld at source, to income derived on or after 1 January in the calendar year next following that in which this Protocol enters into force;

(ii) subject to clause (i) of subparagraph (a) of this paragraph, with respect to income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which this Protocol enters into force; and

(iii) with respect to corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which this Protocol enters into force; and

(b) in Japan:

(i) with respect to taxes withheld at source, for amounts taxable on or after 1 January in the calendar year next following that in which this Protocol enters into force; and

(ii) with respect to taxes on income which are not withheld at source, as regards income for any taxable year beginning on or after 1 January in the calendar year next following that in which this Protocol enters into force.

3. Notwithstanding the provisions of paragraph 2 of this Article, the provisions of Article 7 of the Convention as amended by Article 2 of this Protocol shall be applicable with respect to profits for any taxable year or chargeable period beginning on or after a date to be agreed between the Governments of the Contracting States through an exchange of diplomatic notes. Until the provisions of Article 7 of the Convention as amended by Article 2 of this Protocol are applicable, the provisions of the original Article 7 of the Convention shall continue to apply.

4. Notwithstanding the provisions of paragraph 2 of this Article, the provisions of paragraphs 3, 5 and 6 of Article 25, paragraphs 1 and 2 of Article 26 and Article 26A of the Convention, and paragraph 5 of the Protocol of 2006, as amended by this Protocol, shall have effect from the date of entry into force of this Protocol, without regard to the taxable year or chargeable period to which the matter relates. For the purposes of paragraph 5 of Article 25 of the Convention, as amended by this Protocol, no case may be submitted to arbitration earlier than a date two years from the entry into force of this Protocol.

5. This Protocol shall remain in force as long as the Convention remains in force.

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

DONE in duplicate at London this seventeenth day of December, 2013, in the English and Japanese languages, each text being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:	**For Japan:**
DAVID GAUKE	KEIICHI HAYASHI

EXCHANGE OF NOTES BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND JAPAN AMENDING THE PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS

No. 1

Keiichi Hayashi, Ambassador Extraordinary and Plenipotentiary of Japan to the United Kingdom of Great Britain and Northern Ireland to David Gauke Exchequer Secretary to the Treasury of the United Kingdom of Great Britain and Northern Ireland

I have the honour to refer to the Convention between Japan and the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains, signed at London on 2 February 2006, as amended by the Protocol signed today (hereinafter referred to as "the Convention"), and to the agreement effected by the exchange of notes between the Government of Japan and the Government of the United Kingdom of Great Britain and Northern Ireland on 2 February 2006 concerning taxation (hereinafter referred to as "the Notes of 2006"), and to make, on behalf of the Government of Japan, the following proposal:

1. Paragraph 2 of the Notes of 2006 shall be amended by deleting the words "paragraphs 2 and 3 of Article 10" and replacing them with the words "paragraph 3 of Article 10".

2. Paragraph 3 of the Notes of 2006 shall be amended by deleting the words "paragraphs 3 and 28 of Article 2" and replacing them with the words "paragraphs 3 and 22 of Article 2".

3. Paragraph 4 of the Notes of 2006 shall be amended by deleting the words "paragraph 8 of Article 11" and replacing them with the words "paragraph 5 of Article 11".

4. Paragraph 5 of the Notes of 2006 shall be deleted and paragraph 6 of the Notes of 2006 shall be renumbered as paragraph 5.

5. A new paragraph shall be added to the Notes of 2006 as follows:

"6. It is understood that the provisions of the laws of each Contracting State referred to in this note include those as may be amended from time to time without changing the general principle hereof."

If the foregoing understanding is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to suggest that the present note and Your Excellency's reply to that effect should be regarded as

constituting 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.

No. 2

David Gauke Exchequer Secretary to the Treasury of the United Kingdom of Great Britain and Northern Ireland to Keiichi Hayashi, Ambassador Extraordinary and Plenipotentiary of Japan to the United Kingdom of Great Britain and Northern Ireland

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

> " I have the honour to refer to the Convention between Japan and the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains, signed at London on 2 February 2006, as amended by the Protocol signed today (hereinafter referred to as "the Convention"), and to the agreement effected by the exchange of notes between the Government of Japan and the Government of the United Kingdom of Great Britain and Northern Ireland on 2 February 2006 concerning taxation (hereinafter referred to as "the Notes of 2006"), and to make, on behalf of the Government of Japan, the following proposal:
>
> 1. Paragraph 2 of the Notes of 2006 shall be amended by deleting the words "paragraphs 2 and 3 of Article 10" and replacing them with the words "paragraph 3 of Article 10".
>
> 2. Paragraph 3 of the Notes of 2006 shall be amended by deleting the words "paragraphs 3 and 28 of Article 2" and replacing them with the words "paragraphs 3 and 22 of Article 2".
>
> 3. Paragraph 4 of the Notes of 2006 shall be amended by deleting the words "paragraph 8 of Article 11" and replacing them with the words "paragraph 5 of Article 11".
>
> 4. Paragraph 5 of the Notes of 2006 shall be deleted and paragraph 6 of the Notes of 2006 shall be renumbered as paragraph 5.
>
> 5. A new paragraph shall be added to the Notes of 2006 as follows:
>
> "6. It is understood that the provisions of the laws of each Contracting State referred to in this note include those as may be amended from time to time without changing the general principle hereof."
>
> If the foregoing understanding is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to suggest that the present note and Your Excellency's reply to that effect should

be regarded as constituting 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."

The foregoing proposal being acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to confirm that Your Excellency's Note and this reply shall be regarded as constituting an agreement between the two Governments in this matter, which shall enter into force at the same time as the entry into force of the Protocol signed today.

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

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