

RECORD OF DISCUSSIONS
[WITH RESPECT TO THE CONVENTION
BETWEEN THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME,
SIGNED AT WASHINGTON ON NOVEMBER 6, 2003]

The representatives of the Government of Japan and the Government of the United States of America wish to confirm their intentions regarding application of clause (iv) of subparagraph (c) of paragraph 3 of Article 11 of the Convention between the Government of Japan and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Washington on November 6, 2003. It is understood that, in the case of an enterprise that derives more than 50 percent of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, the conditions with respect to the assets described in that clause will be considered to be satisfied, if they are satisfied on the basis of the consolidated financial statement of that enterprise prepared for financial disclosure or other regulatory purposes related to such debt issuances, which would take into account on a consolidated basis the assets of that enterprise and the assets of subsidiary companies consolidated with that enterprise for such purposes. The preceding sentence will not apply if on a consolidated basis 50 percent or more of the liabilities of the enterprise and the liabilities of the subsidiary companies consolidated with the enterprise for such purposes are derived other than from the issuance of bonds in the financial markets or from taking deposits at interest.

DONE in duplicate at Tokyo this nineteenth day of May,
2004, in the Japanese and English languages.

Shingo Yamagami
Director,
Second North America Division
Ministry of Foreign Affairs
Japan

James Zumwalt
Minister Counselor
for Economic Affairs
Embassy of
the United States of America

Masatsugu Asakawa
Director,
International Tax
Policy Division
Ministry of Finance
Japan

Barbara M. Angus
International Tax Counsel
Department of the Treasury
United States of America