

(Japanese Note)

Berne, May 21, 2010

Excellency:

I have the honour to refer to the Convention between Japan and Switzerland for the Avoidance of Double Taxation with respect to Taxes on Income which was signed on 19 January 1971(hereinafter referred to as "the Convention") and to the Protocol amending the Convention (hereinafter referred to as "the Amending Protocol") as well as the Protocol to the Convention which are signed today, and to make, on behalf of the Government of Japan, the following proposals:

1. With reference to subparagraph (k) of paragraph 1 of Article 3 of the Convention:

It is understood that the term "pension fund or pension scheme" includes the following and any identical or substantially similar funds or schemes which are established pursuant to legislation introduced after the date of signature of the Amending Protocol and of the Protocol to the Convention:

- (a) funds or schemes established as the pension or retirement benefits systems implemented under the following laws in Japan:
 - (i) National Pension Law (Law No. 141 of 1959);
 - (ii) Employees' Pension Insurance Law (Law No. 115 of 1954);
 - (iii) The Law Concerning Mutual Aid Association for National Public Officials (Law No. 128 of 1958);
 - (iv) The Law Concerning Mutual Aid Association for Local Public Officials and Personnel of Similar Status (Law No. 152 of 1962);

His Excellency
Mr. Hans-Rudolf Merz
Federal Councillor
Head of the Federal Department of Finance
of the Swiss Confederation

- (v) The Law Concerning Mutual Aid for Private School Personnel (Law No. 245 of 1953);
 - (vi) Coal-Mining Pension Fund Law (Law No. 135 of 1967);
 - (vii) Defined-Benefit Corporate Pension Law (Law No. 50 of 2001);
 - (viii) Defined-Contribution Pension Law (Law No. 88 of 2001);
 - (ix) Farmers' Pension Fund Law (Law No. 127 of 2002);
 - (x) Corporate Tax Law (Law No. 34 of 1965);
 - (xi) Small and Medium Enterprises Retirement Allowance Mutual Aid Law (Law No. 160 of 1959);
 - (xii) Small Enterprise Mutual Relief Projects Law (Law No. 102 of 1965); and
 - (xiii) Cabinet Order of Income Tax Law (Cabinet Order No. 96 of 1965); and
- (b) in Switzerland, any plans and schemes covered by
- (i) the Federal Law on old-age and survivors' insurance, of 20 December 1946;
 - (ii) the Federal Law on disability insurance, of 19 June 1959;
 - (iii) the Federal Law on supplementary pensions in respect of old-age, survivors' and disability insurance, of 6 October 2006;
 - (iv) the Federal Law on old-age, survivors' and disability insurance payable in respect of employment or self-employment, of 25 June 1982, including the non-registered pension schemes which offer professional pension plans; and
 - (v) the forms of individual recognised pension schemes comparable with the professional pension plans, in accordance with Article 82 of the Federal Law on old-age, survivors' and disability insurance payable in respect of employment or self-employment, of 25 June 1982.

It is further understood that the term "pension fund or pension scheme" includes investment funds or trusts where all of the interest of the funds or trusts are held by pension funds or pension schemes.

2. With reference to subparagraph (b) of paragraph 3 of Article 11 of the Convention:

It is understood that the provisions of that subparagraph shall apply to the interest arising in a Contracting State and beneficially owned by any institution which is a resident of the other Contracting State and which is wholly owned by the central bank of that other Contracting State, with respect to debt-claims indirectly financed by that central bank.

3. With reference to clause (i) of subparagraph (b) of paragraph 5 of Article 22A of the Convention:

It is understood that, where a resident of a Contracting State provides a substantial portion of the overall supervision and administration of a corporate group forming part of a multinational corporate group or provides financing for such corporate group, such resident shall be considered to satisfy the conditions described in that clause with respect to such corporate group.

4. This exchange of notes replaces the exchange of notes of 19 January 1971.

If the foregoing understanding is acceptable to the Swiss Federal Council, 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 Amending Protocol and the Protocol to the Convention which are signed today.

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

小松一郎
Ambassador Extraordinary
and Plenipotentiary of Japan
to the Swiss Confederation

(Swiss Note)

Berne, May 21, 2010

Excellency:

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

"(Japanese Note)"

The foregoing proposal being acceptable to the Swiss Federal Council, 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 Amending Protocol and the Protocol to the Convention which are signed today.

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

Hans-Rudolf Merz
Federal Councillor
Head of the Federal Department of Finance
of the Swiss Confederation

His Excellency
Mr. Ichiro Komatsu
Ambassador Extraordinary
and Plenipotentiary of Japan
to the Swiss Confederation