

No. 7488

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**JAPAN  
and  
FEDERATION OF MALAYA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with exchange of notes). Signed at Kuala Lumpur, on 4 June 1963**

*Official text: English.*

*Registered by Japan on 25 November 1964.*

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**JAPON  
et  
FÉDÉRATION DE MALAISIE**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec échange de notes). Signée à Kuala-Lumpur, le 4 juin 1963**

*Texte officiel anglais.*

*Enregistrée par le Japon le 25 novembre 1964.*

No. 7488. CONVENTION<sup>1</sup> BETWEEN JAPAN AND THE FEDERATION OF MALAYA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT KUALA LUMPUR, ON 4 JUNE 1963

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The Government of Japan and the Government of the Federation of Malaya,

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 I*

1. The taxes which are the subject of the present Convention are :
  - (a) In the Federation of Malaya :

The income tax (hereinafter referred to as “ Federation tax ”).
  - (b) In Japan :

The income tax and the corporation tax (hereinafter referred to as “ Japanese tax ”).
2. The present Convention shall also apply to any other taxes of a substantially similar character to those referred to in the preceding paragraph imposed in either Contracting State after the date of signature of the present Convention.

*Article II*

1. In the present Convention, unless the context otherwise requires :
  - (a) The term “ Federation ” means the Federation of Malaya.
  - (b) The term “ Japan ”, when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are enforced.
  - (c) The terms “ one of the Contracting States ” and “ the other Contracting State ” mean Japan or the Federation, as the context requires.
  - (d) The term “ tax ” means Japanese tax or Federation tax, as the context requires.

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<sup>1</sup> Came into force on 21 August 1963, the date of the exchange of the instruments of ratification at Tokyo, in accordance with article XVIII (2).

(e) The term “ Japanese corporation ” means a company or any other kind of juridical person created under the law of Japan or any organisation without juridical personality treated for the purposes of Japanese tax as a juridical person created under the law of Japan and the business of which is not managed and controlled in the Federation; and the term “ Federation corporation ” means any company the business of which is managed and controlled in the Federation and which does not have its head or main office in Japan.

(f) The terms “ corporation of one of the Contracting States ” and “ corporation of the other Contracting State ” mean a Japanese corporation or a Federation corporation, as the context requires.

(g) The term “ resident of Japan ” means any individual who is resident in Japan for the purposes of Japanese tax and not resident in the Federation for the purposes of Federation tax and any Japanese corporation; and the term “ resident of the Federation ” means any Federation corporation and any other person who is resident in the Federation for the purposes of Federation tax and not resident in Japan for the purposes of Japanese tax.

(h) The terms “ resident of one of the Contracting States ” and “ resident of the other Contracting State ” mean a resident of Japan or a resident of the Federation, as the context requires.

(i) The terms “ Japanese enterprise ” and “ Federation enterprise ” mean, respectively, an industrial, mining, commercial, plantation, or agricultural enterprise or undertaking carried on by a resident of Japan and an industrial, mining, commercial, plantation, or agricultural enterprise or undertaking carried on by a resident of the Federation.

(j) The terms “ enterprise of one of the Contracting States ” and “ enterprise of the other Contracting State ” mean a Japanese enterprise or a Federation enterprise, as the context requires.

(k) The terms “ profits of a Japanese enterprise ” and “ profits of a Federation enterprise ” do not include rents or royalties in respect of motion picture films or of mines, oil wells, quarries or other places of extraction of natural resources, or income in the form of dividends, interest, rents, royalties, or capital gains, or fees or other remuneration derived from the management, control or supervision of the trade, business, or other activity of another enterprise or concern, or remuneration for labour or personal services, or profits derived from the operation of ships or aircraft.

(l) (i) The term “ permanent establishment ” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

- (ii) A permanent establishment shall include especially—
  - (aa) a place of management;
  - (bb) a branch;
  - (cc) an office;
  - (dd) a factory;
  - (ee) a workshop;
  - (ff) a mine, oil well, quarry or other place of extraction of natural resources;
  - (gg) a building site or construction or assembly project which exists for more than six months;
- (iii) The term “ permanent establishment ” shall not be deemed to include—
  - (aa) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise;
  - (bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display, or delivery;
  - (cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - (dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
  - (ee) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
- (iv) An enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if
  - (aa) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation, or assembly project which is being undertaken in that other Contracting State;
  - (bb) it carries on a business which consists of providing the services of public entertainers referred to in paragraph 3 of Article X in that other Contracting State.
- (v) A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State—other than an agent of

independent status to whom paragraph (vi) applies—shall be deemed to be a permanent establishment in the former Contracting State if

(aa) he has, and habitually exercises in that former Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(bb) he maintains in that former Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

(vi) An enterprise of one of the Contracting States 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 broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business.

(vii) The fact that a corporation of one of the Contracting States controls or is controlled by a corporation which is a corporation 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 corporation a permanent establishment of the other.

(m) The term “taxation authorities” means, in the case of Japan, the Minister of Finance or his authorised representative; and in the case of the Federation, the Minister of Finance or his authorised representative.

2. In the application of the provisions of the present Convention by one of the Contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention.

### *Article III*

Where the present Convention provides (with or without other conditions) that income from sources in one of the Contracting States shall be exempted from tax, or taxed at a reduced rate, by that Contracting State if it is subject to tax in the other Contracting State, and under the law in force in that other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by refer-

ence to the full amount thereof, then the exemption or reduction of tax to be allowed under the present Convention in the former Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State.

#### *Article IV*

1. (a) The profits of a Federation enterprise shall be taxable only in the Federation unless the enterprise carries on business in Japan through a permanent establishment situated in Japan. If the enterprise carries on business as aforesaid, tax may be imposed in Japan on the profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

(b) The profits of a Japanese enterprise shall be taxable only in Japan unless the enterprise carries on business in the Federation through a permanent establishment situated in the Federation. If the enterprise carries on business as aforesaid, tax may be imposed in the Federation on the profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

2. Where an enterprise of one of the Contracting States 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 quite 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 all expenses which would be deductible if the permanent establishment were an independent enterprise in so far as they are reasonably allocable to the permanent establishment, including executive and general administrative expenses so deductible, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

4. 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.

#### *Article V*

Where—

(a) an enterprise of one of the Contracting States 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 one of the Contracting States and an enterprise of the other Contracting State, and

- (c) 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,

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.

#### *Article VI*

1. Profits which an enterprise of one of the Contracting States derives from the operation of ships or aircraft shall be exempt from tax of the other Contracting State, unless the ships or aircraft are operated wholly or mainly between places within that other Contracting State.
2. An enterprise of one of the Contracting States shall likewise be exempt from any local tax in the other Contracting State which is or may be imposed on the basis of profits derived from the operation of ships or aircraft.

#### *Article VII*

1. Dividends paid by a corporation of one of the Contracting States to a resident of the other Contracting State shall not be chargeable to tax in the former Contracting State, in addition to the tax on the profits of the corporation out of which the dividends are paid, at a rate exceeding 15 per cent;  
Provided that where the resident of the other Contracting State is a corporation which owns not less than 25 per cent of the entire voting power of the corporation of the former Contracting State for at least six months immediately prior to the date when the dividend becomes payable, such dividend shall not be chargeable to tax in the former Contracting State at a rate exceeding 10 per cent.
2. Where a corporation of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the corporation unless paid to a resident of that other Contracting State, or any tax in the nature of undistributed profits tax on undistributed profits of the corporation, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.
3. The provisions of paragraph 1 of this Article shall not apply to dividends received by a resident of one of the Contracting States where such dividends are attributable to a permanent establishment of such resident in the other Contracting State; in such event, such dividends as are attributable to that permanent establishment shall be treated as if they were profits to which the provisions of Article IV are applicable.

*Article VIII*

1. Royalties arising in one of the Contracting States and paid to a resident of the other Contracting State which are subject to tax in that other Contracting State shall be exempt from tax of the former Contracting State.
2. The term “royalties” as used in this Article means payments of any kind received as consideration for the use of, or the right to use, any copyright of scientific work, 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.
3. Profits from the alienation of any right or property mentioned in paragraph 2 of this Article and subject to tax in the Contracting State of which the alienator is a resident shall be exempt from tax of the other Contracting State.
4. The provisions of paragraphs 1 and 3 of this Article shall not apply to royalties or profits received by a resident of one of the Contracting States where such royalties or profits are attributable to a permanent establishment of such resident in the other Contracting State; in such event, such royalties or profits as are attributable to that permanent establishment shall be treated as if they were profits to which the provisions of Article IV are applicable.
5. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties or profits paid, having regard to the use, right, property or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the Contracting States' own laws, due regard being had to the other provisions of the present Convention.

*Article IX*

1. Any salary, wage and similar remuneration paid by the Government or any local government of Japan to an individual who is a national of Japan and who is subject to Japanese tax on such payment in respect of services rendered in the discharge of governmental functions, or any pension paid to such individual in respect of such services, shall be exempt from Federation tax, unless such individual has been admitted to the Federation for permanent residence therein.



2. Any salary, wage, similar remuneration or pension paid by the Government or any State government or local authority of the Federation to an individual in respect of services rendered in the discharge of governmental functions, shall, if he is subject to Federation tax on such payment, be exempt from Japanese tax, unless such individual is a national of Japan or has been admitted to Japan for permanent residence therein.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on for purposes of profit.

#### *Article X*

1. An individual who is a resident of the Federation shall be exempt from Japanese tax on remuneration in respect of personal services performed within Japan in any calendar year, if—

- (a) he is present within Japan for a period or periods not exceeding in the aggregate 183 days during that year,
- (b) the services are performed for or on behalf of an employer in the Federation, and
- (c) the remuneration is subject to Federation tax.

2. An individual who is a resident of Japan shall be exempt from Federation tax on remuneration in respect of personal services performed within the Federation in any calendar year, if—

- (a) he is present within the Federation for a period or periods not exceeding in the aggregate 183 days during that year,
- (b) the services are performed for or on behalf of an employer in Japan, and
- (c) the remuneration is subject to Japanese tax.

3. The provisions of this Article shall not apply to the remuneration derived from one of the Contracting States of public entertainers such as stage, motion picture, radio, or television artistes, musicians, and athletes, whose visit to that Contracting State is not supported from the public funds of the Government of the other Contracting State.

#### *Article XI*

An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and who has made such visit at the invitation of a university, college, school or other recognised educational institution in the other Contracting State, solely for the purpose of teaching or

engaging in research at such educational institution for a period not exceeding two years shall be exempt from tax of that other Contracting State on his remuneration for such teaching or research.

*Article XII*

1. An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State solely—

(a) as a student at a recognised university, college, or school or other educational organisation in that other Contracting State, or

(b) as a recipient of a grant, allowance or award, for the primary purpose of study or research from a governmental, religious, charitable, scientific, literary, or educational organisation, or

(c) as a business apprentice,

shall be exempt from tax of that other Contracting State in respect of—

(i) remittances from abroad for the purposes of his maintenance, education, study, research, or training,

(ii) such grant, allowance, or award,

(iii) remuneration for personal services in that other Contracting State paid by his employer in the former Contracting State, and

(iv) remuneration or profits for personal services in that other Contracting State other than the remuneration referred to in sub-paragraph (iii) not exceeding the sum of 3,000 Malayan Dollars or 360,000 Yen, as the case may be, during any calendar year.

2. An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State for a period not exceeding twelve months as an employee of, or under contract with, an enterprise of the former Contracting State, or an organisation referred to in sub-paragraph (b) of paragraph 1 of this Article, solely to acquire technical, professional or business experience shall be exempt from tax of that other Contracting State on the remuneration for such period for his services directly related to the acquisition of such experience, if the total amount of such remuneration received from abroad by such individual and paid in that other Contracting State does not exceed the sum of 12,000 Malayan Dollars or 1,400,000 Yen, as the case may be, during any calendar year.

3. An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that

other Contracting State under arrangements with the Government of that other Contracting State, solely for the purpose of study, research or training, shall be exempt from tax of that other Contracting State on remuneration for services directly related to such study, research or training.

4. Notwithstanding the provisions of paragraph 1, 2 and 3 of this Article, as respects a period throughout which an individual qualifies for exemption under two or all of those paragraphs, he shall only be entitled to exemption under such one of the paragraphs under which he so qualifies as he may select.

### *Article XIII*

For the purposes of the present Convention :

- (1) Dividends paid by a corporation of one in the Contracting States shall be treated as derived from sources within that Contracting State.
- (2) Interest paid by one of the Contracting States, including local governments thereof, or by an enterprise of one of the Contracting States, shall be treated as derived from sources within that Contracting State, except that interest (other than that paid on indebtedness in connection with the purchase of ships or aircraft) which is paid
  - (a) by an enterprise of one of the Contracting States with a permanent establishment outside both Contracting States to a resident of the other Contracting State, or
  - (b) by an enterprise of one of the Contracting States with a permanent establishment in the other Contracting Stateon indebtedness incurred for the use of (or, in the case of a banking business, on deposits made with) the permanent establishment in the conduct of its trade or business and which is borne by that permanent establishment shall be treated as derived from sources within the territory where the permanent establishment is situated.
- (3) Royalties as defined in paragraph 2 of Article VIII shall be treated as derived from sources within the Contracting State in which the property referred to in that paragraph is used.
- (4) Profits derived from the alienation of rights or properties referred to in paragraph 3 of Article VIII shall be treated as derived from sources within the Contracting State in which such rights or properties are used.

- (5) Gains, profits and income derived from the alienation of movable property (excluding shares of a corporation) shall be treated as derived from sources within the Contracting State in which such property is alienated.
- (6) Gains, profits and income derived from the sale by an enterprise in one of the Contracting States of goods produced in whole or in part by such enterprise in the other Contracting State shall be treated as derived in part from sources within that other Contracting State and in part from sources within the former Contracting State.
- (7) Income from real property (including gains derived from the alienation of such property) and royalties in respect of the operation of mines, oil wells, quarries or other places of extraction of natural resources shall be treated as derived from sources within the Contracting State in which such real property, mines, oil wells, quarries or other places of extraction of natural resources are situated.
- (8) Remuneration or profits for personal (including professional) services shall be treated as derived from sources within the Contracting State in which are rendered the services for which such remuneration or profits are paid, and the services performed in ships or aircraft operated by an enterprise of one of the Contracting States shall be deemed to be rendered in that Contracting State, unless the ships or aircraft are operated wholly or mainly between places within the other Contracting State.
- (9) Notwithstanding the provisions of paragraph (8) of this Article, remuneration of a director of a corporation of one of the Contracting States—
  - (a) shall, where the business of such corporation is mainly carried on in the other Contracting State, be treated as derived from sources in that other Contracting State, including the case where the director is a resident of the former Contracting State, if such remuneration is directly deductible in determining the profits of such corporation in that other Contracting State, provided that this provision shall not be construed so as to limit the effect of paragraph 3 of Article IV which provides for the deduction of executive and general administrative expenses in determining the profits of a permanent establishment;
  - (b) shall be treated as derived from sources within that Contracting State where the provisions of sub-paragraph (a) of this paragraph are not applicable and the director's only duties are connected with the functions of the board of directors of such corporation.

#### *Article XIV*

1. The laws of the Federation and Japan shall continue to govern the taxation of income arising in either State except where express provision to the contrary

is made in the present Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. Subject to the provisions of the law of the Federation regarding the allowance as a credit against Federation tax of tax payable in any country other than the Federation, Japanese tax payable, whether directly or by deduction, in respect of income from sources within Japan shall be allowed as a credit against Federation tax payable in respect of that income. Where such income is a dividend paid by a Japanese corporation to a Federation corporation which owns not less than 25 per cent of the entire shares with voting power of the Japanese corporation, the credit shall take into account Japanese tax payable by the Japanese corporation in respect of its profits.

3. (a) Subject to the provisions of the law of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, Federation tax payable, whether directly or by deduction, in respect of income from sources within the Federation shall be allowed as a credit against Japanese tax payable in respect of that income. Where such income is a dividend paid by a Federation corporation to a Japanese corporation which owns not less than 25 per cent of the entire shares with voting power of the Federation corporation, the credit shall take into account Federation tax payable by the Federation corporation in respect of its profits.

(b) For the purposes of the credit referred to in sub-paragraph (a) of this paragraph, there shall be deemed to have been paid by the taxpayer in Japan the amount of Federation tax exempted under section 19 of the Pioneer Industries (Relief from Income Tax) Ordinance, 1958, of the Federation which makes special provision for encouraging the establishment and development in the Federation of industrial and commercial enterprises.

(c) For the purposes of the credit referred to in sub-paragraph (a) of this paragraph, where the taxpayer in Japan receives a dividend from a Federation corporation which is exempted under the provisions of section 20 of the Pioneer Industries (Relief from Income Tax) Ordinance, 1958, of the Federation there shall be deemed to have been paid by the taxpayer in Japan the amount of Federation tax so exempted under the provisions of the said Ordinance.

(d) In the application of sub-paragraphs (b) and (c) of this paragraph, such exemption under the provisions of the Pioneer Industries (Relief from Income Tax) Ordinance, 1958, of the Federation, as is to be taken into account in allowing as a credit against Japanese tax shall not go beyond the exemption falling to be accorded under the provisions of the said Ordinance as in effect on the date of signature of the present Convention.

(e) For the purposes of this paragraph, the term " Japanese tax " shall be taken to include the inhabitant taxes.

#### *Article XV*

The taxation authorities of the Contracting States shall exchange such information (being information available under the respective taxation laws of the Contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against tax avoidance in relation to the tax. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those, including a court, concerned with the assessment and collection of the tax or the determination of appeals in relation thereto. No information shall be exchanged which would disclose any trade secret or trade process.

#### *Article XVI*

1. Citizens or nationals of one of the Contracting States 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 citizens or nationals of that other Contracting State in the same circumstances are or may be subjected. This provision shall not be construed as obliging the Federation to grant to nationals of Japan not resident in the Federation those personal allowances, reliefs and reductions for tax purposes which are by law available on the date of signature of the present Convention only to citizens of the Federation or to such other persons as may be specified therein who are not resident in the Federation.

2. The taxation on a permanent establishment which an enterprise of one of the Contracting States 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 either of the Contracting States to grant to citizens or nationals of the other Contracting State not resident in the former Contracting State those personal allowances, reliefs and reductions for tax purposes which are by law available only to residents of that former Contracting State.

3. Enterprises of one of the Contracting States, 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 former 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 former Contracting State are or may be subjected.

4. In this Article, the term “ citizens or nationals ” means—
- (a) in the case of the Federation, all individuals possessing the citizenship of the Federation and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in the Federation; and
  - (b) in the case of Japan, all individuals possessing the nationality of Japan and all companies or other kinds of juridical persons created under the law of Japan and all organisations without juridical personality treated for the purposes of Japanese tax as juridical persons created under the law of Japan.
5. In this Article the term “ taxation ” means taxes of every kind and description.

#### *Article XVII*

1. Where a taxpayer shows to the satisfaction of the taxation authorities of the Contracting State of which the taxpayer is a resident that the taxpayer has not received the treatment in the other Contracting State to which the taxpayer is entitled under any provisions of the present Convention, such taxation authorities shall consult with the taxation authorities of the other Contracting State with a view to the avoidance of the double taxation in question.
2. The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention and for resolving any difficulty or doubt as to the application or interpretation of the present Convention.

#### *Article XVIII*

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible.
2. The present Convention shall enter into force on the date of exchange of instruments of ratification and shall be applicable —
  - (a) In the Federation :  
as respects tax for the years of assessment beginning on or after the first day of January of the calendar year in which the exchange of instruments of ratification takes place; and
  - (b) In Japan :  
as respects tax for the taxable years beginning on or after the first day of January of the calendar year in which the exchange of instruments of ratification takes place.

3. Either of the Contracting States may terminate the present Convention at any time after a period of five years from the date on which the present Convention enters into force, by giving to the other Contracting State notice of termination, provided that such notice shall be given on or before the 30th day of June, and, in such event, the present Convention shall cease to be effective—

(a) In the Federation :

as respects tax for the years of assessment beginning on or after the first day of January of the calendar year next following that in which the notice is given; and

(b) In Japan :

as respects tax for the taxable years beginning on or after the first day of January of the calendar year next following that in which the notice is given.

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

DONE in duplicate at Kuala Lumpur this fourth day of June of the year one thousand nine hundred and sixty-three in the English language.

For the Government  
of Japan :

Wataru OKUMA  
Ambassador Extraordinary  
and Plenipotentiary of Japan  
in the Federation of Malaya

For the Government  
of the Federation of Malaya :

Tan SIEW SIN  
Minister of Finance  
Federation of Malaya

## EXCHANGE OF NOTES

### I

Kuala Lumpur, 4th June, 1963

Your Excellency,

I have the honour to refer your Excellency to the Convention between the Governments of Japan and of the Federation of Malaya for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed today, and to record the following matters which arose in the course of negotiations on the Convention and with respect to which the following treatment was agreed upon, viz :



(1) That the interpretation to be placed upon paragraph 1 of Article VII of the Convention is that any application of the provisions of section 40 of the Income Tax Ordinance, 1947, as amended, of the Federation, would not have the effect of imposing an additional tax upon dividends within the meaning of paragraph 1 of Article VII of the Convention.

(2) That notwithstanding the provisions of section 6 of the Income Tax Act, 1962, of the Federation of Malaya, those provisions shall be treated as not having effect for and only for the year of assessment 1962 in relation to the gains or profits from the business of shipowner or charterer or of air-transport carried on in the Federation by a Japanese person or company not resident in the Federation for that year of assessment.

I have the honour to request your Excellency to confirm on behalf of the Government of Japan the treatment of the matters agreed upon as recorded above.

I avail myself of this opportunity to convey to your Excellency the assurances of my highest consideration.

Tan SIEW SIN  
Minister of Finance  
Federation of Malaya

His Excellency Mr. Wataru Okuma  
Ambassador of Japan to the Federation of Malaya

## II

Kuala Lumpur, 4th June, 1963

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's letter of the 4th June, 1963, relating to the Convention between the Governments of the Federation of Malaya and of Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed today, and recording certain matters, arising in the course of negotiations on the Convention, the treatment of which was agreed upon, as set out in your letter under reply.

As requested in your Excellency's letter, I confirm, on behalf of the Government of Japan, that the treatment of those matters will be as recorded in your Excellency's letter.

I avail myself of this opportunity to convey to your Excellency the assurances of my highest consideration.

Wataru OKUMA  
Ambassador of Japan  
to the Federation of Malaya

His Excellency Mr. Tan Siew Sin  
Minister of Finance  
Federation of Malaya