

No. 10892

NETHERLANDS
and
JAPAN

**Convention for the avoidance of double taxation with respect to
taxes on income (with protocol and exchange of notes).
Signed at The Hague on 3 March 1970**

Authentic texts of the Convention and protocol: Dutch, Japanese and English.

Authentic text of the exchange of notes: English.

Registered by the Netherlands on 24 December 1970.

PAYS-BAS
et
JAPON

**Convention tendant à éviter la double imposition en matière
d'impôts sur le revenu (avec protocole et échange de notes).
Signée à La Haye le 3 mars 1970**

*Textes authentiques de la Convention et du protocole : néerlandais, japonais et
anglais.*

Texte authentique de l'échange de notes : anglais.

Enregistrée par les Pays-Bas le 24 décembre 1970.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE
KINGDOM OF THE NETHERLANDS AND THE
GOVERNMENT OF JAPAN FOR THE AVOIDANCE OF
DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME

The Government of the Kingdom of the Netherlands and the Government of Japan,

Desiring to conclude a Convention for the avoidance of double taxation 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 countries.

Article 2

1. The taxes which are the subject of this Convention are :

(a) In Japan:

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the local inhabitant taxes

(hereinafter referred to as "Japanese tax").

(b) In the Netherlands:

- (i) the income tax;
- (ii) the wages tax;
- (iii) the company tax; and
- (iv) the dividend tax

(hereinafter referred to as "Netherlands tax").

¹ Came into force on 23 October 1970 by the exchange of the instruments of ratification, which took place at Tokyo, in accordance with article 30 (2).

2. This Convention shall also apply to any other taxes of a character substantially similar to those referred to in the preceding paragraph and introduced by either country or by a political subdivision or a local authority thereof after the date of signature of this Convention.

Article 3

1. In 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 Netherlands” means the part of the Kingdom of the Netherlands that is situated in Europe;
- (c) the terms “a country” and “the other country” mean Japan or the Netherlands, as the context requires;
- (d) the term “tax” means Japanese tax or Netherlands tax, as the context requires;
- (e) the term “person” means an individual or a company;
- (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 country” and “enterprise of the other country” mean respectively an enterprise carried on by a resident of a country and an enterprise carried on by a resident of the other country;
- (h) the term “competent authority” in relation to a country means the Minister of Finance of that country or his authorized representative.

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

Article 4

1. For the purposes of this Convention, the term “resident of a country” means any person who, under the laws of that country, is liable to taxation

therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature but the term does not include any person who is liable to tax in that country only if he derives income from sources therein.

2. Where by reason of the provisions of paragraph 1 a person is a resident of both countries, then the competent authorities shall determine by mutual agreement the country 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 in which the business of the enterprise is wholly or partly carried on.

2. The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than twelve months.

3. The term “permanent establishment” shall not be deemed 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 for collecting information. for the enterprise;
- (e) 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.

4. An enterprise of a country shall be deemed to have a permanent establishment in the other country if it carries on supervisory activities in that other country for more than twelve months in connection with a building site or construction or assembly project which is being undertaken in that other country.

5. A person acting in a country on behalf of an enterprise of the other country — other than an agent of an independent status to whom paragraph 6 applies — shall be deemed to be a permanent establishment in the first-mentioned country if

- (a) he has, and habitually exercises in that first-mentioned country, 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
- (b) he maintains in that first-mentioned country a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise, consecutive to a contract previously concluded by the enterprise without specifying either the quantity to be delivered, or the date and the place of delivery.

6. An enterprise of a country shall not be deemed to have a permanent establishment in the other country merely because it carries on business in that other country through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

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

Article 6

Where under any provision of this Convention income is relieved from tax in a country and, under the laws in force in the other country, an individual, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other country and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned country shall apply only to so much of the income as is remitted to or received in that other country.

Article 7

1. Income from immovable property may be taxed in the country in which such property is situated.

2. The term “immovable property” shall be defined in accordance with the laws of the country 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 professional services.

Article 8

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

2. Where an enterprise of a country carries on business in the other country through a permanent establishment situated therein, there shall in each country 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 the determination of 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 country in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a country 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 country 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 laid down 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 9

1. Profits from the operation of ships or aircraft in international traffic carried on by an enterprise of a country shall be taxable only in that country.

2. In respect of the operation of ships or aircraft in international traffic carried on by an enterprise of a country, that enterprise, if an enterprise of the Netherlands, shall also be exempt from the enterprise tax in Japan and,

if an enterprise of Japan, shall also be exempt from any tax similar to the enterprise tax in Japan which may hereafter be imposed in the Netherlands.

3. This Convention shall not be construed to affect the arrangement between the Netherlands and Japan providing for relief from double taxation on shipping profits effected by the exchange of notes dated January 26, 1933.¹

Article 10

Where

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

Article 11

1. Dividends paid by a company which is a resident of a country to a resident of the other country may be taxed in the other country.

2. However, such dividends may be taxed in the country of which the company paying the dividends is a resident, and according to the laws of that country, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

¹ League of Nations, *Treaty Series*, vol. CXXXVIII, p. 185.

3. Notwithstanding the provisions of paragraph 2 :

- (a) Japanese tax on dividends paid by a company which is a resident of Japan to a company which is a resident of the Netherlands shall not exceed 10 per cent of the gross amount of the dividends, if the company receiving such dividends owns, during the period of six months immediately preceding the date when the dividends become payable, 25 per cent or more of the voting shares of the company paying such dividends;
- (b) Netherlands tax on dividends paid by a company which is a resident of the Netherlands to a company which is a resident of Japan shall not exceed 5 per cent of the gross amount of the dividends, if the company receiving such dividends owns, during the period of six months immediately preceding the date when the dividends become payable, 25 per cent or more of the voting shares of the company paying such dividends.

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

5. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, founders’ 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 country of which the company making the distribution is a resident.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a resident of a country, has in the other country, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 8 shall apply.

7. Where a company which is a resident of a country derives profits or income from the other country, that other country may not impose any tax on the dividends paid by the company to persons who are not residents of that other country, or subject the company’s undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other country.

Article 12

1. Interest arising in a country and paid to a resident of the other country may be taxed in that other country.

2. However, such interest may be taxed in the country in which it arises, and according to the laws of that country, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, the country in which interest arises shall not levy a tax on the interest paid to the Government or the Central Bank of the other country or to any financial institution fully owned by that other country.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation laws of the country in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a country, has in the other country in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 8 shall apply.

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

7. 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 interest paid, 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 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 laws of each country, due regard being had to the other provisions of this Convention.

Article 13

1. Royalties arising in a country and paid to a resident of the other country may be taxed in that other country.

2. However, such royalties may be taxed in the country in which they arise, and according to the laws of that country, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. 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, 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.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a country, has in the other country in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 8 shall apply.

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

6. 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 paid, 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 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 laws of each country, due regard being had to the other provisions of this Convention.

Article 14

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 7, may be taxed in the country in which such property is situated.

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 country has in the other country or of any property (other than immovable property) pertaining to a fixed base available to a resident of a country in the other country for the purpose of performing professional 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 country.

3. Notwithstanding the provisions of paragraph 2, gains derived by a resident of a country from the alienation of ships and aircraft operated in international traffic and any property (other than immovable property) pertaining to the operation of such ships and aircraft shall be taxable only in that country.

4. Gains derived by a resident of a country from the alienation of any property other than those to which the provisions of paragraphs 1 and 2 of this Article apply shall be taxable only in that country.

5. The provisions of paragraph 4 shall not affect the right of a country to levy according to its own laws a tax on gains from the alienation of shares or "jouissance" rights in a company, the capital of which is wholly or partly divided into shares and which is a resident of that country, derived by an individual who is a resident of the other country and has been a resident of the first-mentioned country at any time during the five years immediately preceding the alienation of the shares or "jouissance" rights.

Article 15

1. Income derived by a resident of a country in respect of professional

services or other independent activities of a similar character shall be taxable only in that country unless he has a fixed base regularly available to him in the other country for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in that other country but only so much of it as is attributable to that fixed base.

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 16

1. Subject to the provisions of Articles 17, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a country in respect of an employment shall be taxable only in that country unless the employment is exercised in the other country. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other country.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a country in respect of an employment exercised in the other country shall be taxable only in the first-mentioned country, if

- (a) the recipient is present in that other country 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 country, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other country.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship or an aircraft operated in international traffic by an enterprise of a country may be taxed in that country.

Article 17

Remuneration derived by a resident of a country in his capacity as a

member of the board of directors of a company which is a resident of the other country may be taxed in that other country.

Article 18

1. Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the country in which these activities are exercised.

2. Notwithstanding anything contained in this Convention, where the services of a public entertainer or an athlete mentioned in paragraph 1 are provided in a country by an enterprise of the other country, the profits derived from providing those services by such enterprise may be taxed in the first-mentioned country if the public entertainer or the athlete performing the services controls, directly or indirectly, such enterprise.

Article 19

Subject to the provisions of the paragraphs 1 and 2 of Article 20, pensions and other similar remuneration paid to a resident of a country in consideration of past employment shall be taxable only in that country.

Article 20

1. Remuneration, including pensions, paid by, or out of funds to which contributions, in the capacity as an employer, are made by, Japan or a local authority thereof to any individual in respect of services rendered to Japan or a local authority thereof in the discharge of functions of a governmental nature may be taxed in Japan. Subject to the provisions of paragraph 2 of Article 24, such remuneration shall be exempt from Netherlands tax.

2. Remuneration, including pensions, paid by, or out of funds created by, the Netherlands, a political subdivision or a local authority thereof to any individual in respect of services rendered to the Netherlands, a political subdivision or a local authority thereof in the discharge of functions of a govern-

mental nature may be taxed in the Netherlands. Such remuneration shall be exempt from Japanese tax if the recipient is a national of the Netherlands.

3. The provisions of this Article shall not apply to remuneration, including pensions paid in respect of services rendered in connection with any trade or business carried on by either country or a political subdivision or a local authority thereof.

Article 21

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

Article 22

Payments received for the purpose of his maintenance, education or training by a student or business apprentice who is present in a country solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other country, shall be exempt from tax of the first-mentioned country, provided that such payments are made to him from outside that first-mentioned country.

Article 23

Items of income of a resident of a country which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that country.

Article 24

1. Where a resident of Japan derives income from the Netherlands and that income may be taxed in both countries in accordance with the provisions of this Convention, the amount of the Netherlands 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 that part of the Japanese tax which is appropriate to that income. The mode of application of

giving this credit shall be determined in accordance with 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.

2. (a) The Netherlands, when imposing tax on its residents, may include in the basis upon which such tax is imposed the items of income, which according to the provisions of this Convention may be taxed in Japan.

(b) Without prejudice to the application of the provisions concerning the compensation of losses in the unilateral regulations for the avoidance of double taxation, the Netherlands shall allow a deduction from the amount of tax computed in conformity with the provisions of sub-paragraph (a) equal to such part of that tax which bears the same proportion to the aforesaid tax, as the part of the income which is included in the basis meant in the provisions of sub-paragraph (a) and which may be taxed in Japan according to the provisions of Articles 7 and 8, paragraphs 1 and 2, of Article 14 Article 15, paragraphs 1 and 3 of Article 16, Articles 17 and 18, and paragraph 1 of Article 20 of this Convention bears to the total income which forms the basis meant in the provisions of sub-paragraph (a).

(c) Further the Netherlands shall allow a deduction from the Netherlands tax so computed for such items of income, as are included in the basis meant in the provisions of sub-paragraph (a) and as may be taxed in Japan according to the provisions of paragraph 2 of Article 11, paragraph 2 of Article 12, paragraph 2 of Article 13, and paragraph 5 of Article 14. The amount of this deduction shall be equal to the amount of the Japanese tax. The deduction shall not, however, exceed that part of the Netherlands tax as computed before the deduction is given which is appropriate to the said items of income.

Article 25

1. The nationals of a country shall not be subjected in the other country 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 country in the same circumstances are or may be subjected.

2. The term “nationals” means :

(a) in respect of 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;

(b) in respect of the Netherlands: all individuals possessing the nationality of the Netherlands and all legal persons, partnerships and associations deriving their status as such from the laws in force in the Netherlands.

3. The taxation on a permanent establishment which an enterprise of a country has in the other country shall not be less favourably levied in that other country than the taxation levied on enterprises of that other country carrying on the same activities.

This provision shall not be construed as obliging a country to grant to residents of the other country any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Enterprises of a country, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other country, shall not be subjected in the first-mentioned country 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 that first-mentioned country are or may be subjected.

5. In this Article the term “taxation” means taxes of every kind and description.

6. The application of the provisions of this Article shall not be limited by the provisions of Article 1.

Article 26

1. Where a resident of a country considers that the actions taken in one or both countries result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the laws of the countries, present his case to the competent authority of the country of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not able to arrive at an appropriate solution, to

resolve the case by mutual agreement with the competent authority of the other country, with a view to the avoidance of taxation not in accordance with this Convention.

3. The competent authorities of the countries 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.

Article 27

1. The competent authority of a country, in accordance with the practices of that country, may prescribe regulations necessary to carry out the provisions of this Convention.

2. The competent authorities of the countries may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

Article 28

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

Article 29

This Convention may be extended, either in its entirety or with any necessary modifications, to Surinam and/or the Netherlands Antilles. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Government of the Kingdom of the Netherlands and the Government of Japan in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

Unless otherwise agreed by the two Governments, the termination of this Convention under Article 31 shall not automatically terminate the application of this Convention to Surinam and/or the Netherlands Antilles to which it has been extended under this Article.

Article 30

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible.

2. This Convention shall enter into force on the date of exchange of the instruments of ratification and shall have effect in respect of income derived during the taxable years beginning on or after the first day of January in the calendar year in which this Convention enters into force.

Article 31

Either country may terminate this Convention after a period of five years from the date on which this Convention enters into force by giving to the other country, through diplomatic channels, written notice of termination, provided that any such notice shall be given only on or before the thirtieth day of June in any calendar year, and, in such event, this Convention shall cease to be effective in respect of income derived during the taxable years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

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

DONE at The Hague, on March 3, 1970 in six originals, two each in the Netherlands, Japanese and English languages. The Netherlands and Japanese texts are equally authentic and, in case there is any divergence of interpretation between the Netherlands and Japanese texts, the English text shall prevail.

For the Government of the Kingdom of the Netherlands:

J. LUNS

For the Government of Japan:

Masato FUJISAKI

PROTOCOL

At the signing of the Convention between the Government of the Kingdom of the Netherlands and the Government of Japan for the Avoidance of Double

Taxation with respect to Taxes on Income, the undersigned have agreed upon the following provisions which shall form an integral part of the said Convention:

1. Without prejudice to the position of the Government of Japan concerning the status under international law of the continental shelf, it is understood that the taxation by the Netherlands on income derived by a resident of Japan from or in connection with the exploration for and exploitation of subsoil mineral resources in the submarine areas of the continental shelf under the North Sea and adjacent to the Netherlands is not in contravention of the Convention; taxation on such income would be subject to the rules contained in the Convention.

2. With reference to Articles 13 and 14 of the Convention, it is understood that, in respect of the question whether a payment is to be treated according to Article 13 or according to Article 14, Article 14 applies only to the gains from a genuine alienation of a patent or similar property without leaving the alienator any right on that property.

3. With reference to paragraph 2 of Article 24 of the Convention, it is understood that, in so far as the Netherlands income tax or company tax is concerned, the basis mentioned in that paragraph is the gross income or profits in terms of the Netherlands income tax law or company tax law, respectively.

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

DONE at The Hague, on March 3, 1970 in six originals, two each in the Netherlands, Japanese and English languages. The Netherlands and Japanese texts are equally authentic and in case there is any divergence of interpretation between the Netherlands and Japanese texts, the English text shall prevail.

For the Government of the Kingdom of the Netherlands:

J. LUNS

For the Government of Japan:

Masato FUJISAKI

EXCHANGE OF NOTES

I

MINISTRY OF FOREIGN AFFAIRS
TREATY DEPARTMENT

DVE/VV-41777

The Hague, March 3, 1970

Excellency,

I have the honour to refer to the Convention between the Government of the Kingdom of the Netherlands and the Government of Japan for the Avoidance of Double Taxation with respect to Taxes on Income which was signed today and to confirm, on behalf of the Government of the Kingdom of the Netherlands, the following understandings reached between the two Governments:

1. With references to paragraph 3 of Article 11, paragraph 2 of Article 12 and paragraph 2 of Article 13 of the Convention, the two Governments agree that if Japan, in a convention with any other State, being a member of the Organisation for Economic Co-operation and Development, would limit its taxation at the source on interest, on royalties or on dividends distributed by a company to a company which owns at least 25 per cent of the voting shares of the company paying the dividends to lower rates than those provided for in the said provisions, the two Governments will undertake to review the said provisions in order to provide the same treatment.

2. With reference to paragraph 3 of Article 11 of the Convention, the two Governments, having in mind that the difference between the provisions of sub-paragraph (a) and those of sub-paragraph (b) of the said paragraph is based on the fact that in Japan the rates of tax on companies' distributed profits are substantially lower than those on companies' undistributed profits, agree to undertake the review of the said provisions in order to adapt sub-paragraph (a) to sub-paragraph (b), when the basis of such difference no longer exists.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understandings on behalf of Your Excellency's Government.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

J. LUNS

His Excellency Mr. Masato Fujisaki
Ambassador extraordinary
and plenipotentiary
of Japan

II

EMBASSY OF JAPAN
THE NETHERLANDS

The Hague, March 3, 1970

Excellency,

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

[See note I]

I have further the honour to confirm the understandings contained in Your Excellency's Note, on behalf of the Government of Japan.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Masato FUJISAKI
Ambassador Extraordinary
and Plenipotentiary of Japan

His Excellency Mr. J.M.A.H. Luns
Minister for Foreign Affairs
of the Kingdom of the Netherlands