PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of India and the Government of Japan,

Desiring to amend the Convention between the Government of the Republic of India and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at New Delhi on 7th March, 1989 (hereinafter referred to as "the Convention") ,

Have agreed as follows:

ARTICLE I

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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid."

ARTICLE II

Paragraph 2 of Article 11 of the Convention shall be deleted and replaced by the following:

"2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest."

ARTICLE III

Paragraph 2 of Article 12 of the Convention shall be deleted and replaced by the following:

"2. However, such royalties and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties or fees for technical services, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services."

ARTICLE IV

Sub-paragraph (c) of paragraph 3 of Article 23 of the Convention shall be deleted.

ARTICLE V

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 Japan:

(i) with respect to taxes withheld at source:

(aa) for amounts taxable on or after 1st July of the calendar year in which the Protocol enters into force, if the Protocol enters into force before 1st July of a calendar year; or

(bb) for amounts taxable on or after 1st January of the calendar year next following the year in which the Protocol enters into force, if the Protocol enters into force after 30th June of a calendar year; 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 1st January of the calendar year next following that in which the Protocol enters into force; and

(b) in India:

(i) with respect to taxes withheld at source, for amounts paid or credited on or after 1st April of the calendar year next following that in which the Protocol enters into force; and

(ii) with respect to taxes on income for any previous year beginning on or after 1st April of the calendar year next following that in which the Protocol enters into force.

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

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

DONE in duplicate at TOKYO on this 24th day of February 2006 in the Hindi, Japanese and English languages, each text being equally authentic. In case of any divergence of interpretations, the English text shall prevail.

For the Government of the Republic of India:

Manmohan Singh

For the Government of Japan:

麻生太郎