

**MUTUAL AGREEMENT REGARDING THE CONVENTION BETWEEN SWITZERLAND AND
CHILE FOR THE AVOIDANCE OF DOUBLE TAXATION ON INCOME AND ON CAPITAL OF 2
APRIL 2008**

between

**the Competent Authority of the
Swiss Confederation**

and

**the Competent Authority of the
Republic of Chile**

Considering that, according to paragraph 6 of the Protocol to the Convention between the Swiss Federal Council and the Government of the Republic of Chile for the avoidance of double taxation with respect to taxes on income and on capital, signed on 2 April 2008 (the "Convention"), if in any agreement or convention between Chile and a third State which is a member of the Organization for Economic Cooperation and Development, Chile agrees to exempt from tax interest or royalties (either generally or in respect of specific categories of interest or royalties) arising in Chile, or to limit the rate of tax on such interest or royalties (either generally or in respect of specific categories of interest or royalties) to a rate lower than the rates provided for in paragraph 2 of Article 11 or paragraph 2 of Article 12 of the Convention, such exemption or lower rate shall automatically apply (either generally or in respect of specific categories of interest or royalties) under the Convention as if such exemption or lower rate has been specified in the Convention, with effect from the date on which those provisions of that agreement or convention become effective;

Considering that the conditions indicated in paragraph 6 of the Protocol to the Convention have been fulfilled since Chile concluded a convention with Japan which contemplates lower tax rates than the ones provided in paragraph 2 of Article 11 and 12 of the Convention;

Considering that the convention with Japan came into force the 28 December of 2016 and applies with respect to taxes on income obtained and amounts paid, credited to an account, put at the disposal or accounted as an expense, on or after 1 January of 2017;

the competent authorities have reached the following mutual agreement (hereinafter: "Mutual Agreement").

1. As of 1 January of 2017, **paragraph 2 of Article 11 of the Convention shall read as follows:**

"2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 4 per cent of the gross amount of the interest if the beneficial owner of the interest is either:

- (i) a bank;
- (ii) an insurance company;

(iii) an enterprise substantially deriving its gross income from the active and regular conduct of a lending or finance business involving transactions with unrelated persons, where the enterprise is unrelated to the payer of the interest. For the purposes of this clause, the term "lending or finance business" includes the business of issuing letters of credit, providing guarantees or providing credit card services;

(iv) an enterprise that sold machinery or equipment, where the interest is paid with respect to indebtedness arising as part of the sale on credit of such machinery or equipment; or

(v) any other enterprise, provided that in the three taxable years preceding the taxable year in which the interest is paid, the enterprise derives more than 50 per cent of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, and more than 50 per cent of the assets of the enterprise consist of debt-claims against unrelated persons;

(b) 5 per cent on the gross amount of the interest derived from bonds or securities that are regularly and substantially traded on a recognized securities market;

(c) 15 (10 as of 1.01.2019) per cent of the gross amount of the interest in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

2a. For the purposes of clauses (iii) and (v) of subparagraph (a) of paragraph 2, an enterprise is unrelated to a person if the enterprise does not have with the person a relationship described in subparagraph (a) or (b) of paragraph 1 of Article 9.

2b. (a) Notwithstanding the provisions of subparagraph (a) of paragraph 2, if interest referred to in that subparagraph is paid as part of an arrangement involving back-to-back loans or other arrangement that is economically equivalent and intended to have a similar effect to an arrangement involving back-to-back loans, such interest may be taxed in the Contracting State in which it arises, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest in cases provided in clauses (iii) and (v) of the aforementioned subparagraph; and it shall not exceed 5 per cent of the gross amount of the interest in cases provided in clauses (i), (ii) and (iv) of the same subparagraph.

(b) It is understood that the term "arrangement involving back-to-back loans" would cover, inter alia, any kind of arrangement structured in such a way that a financial institution which is a resident of a Contracting State receives interest arising in the other Contracting State and the financial institution pays an equivalent interest to another person which, if the person received the interest directly from the other Contracting State, would not be entitled to limitation of tax under subparagraph (a) of paragraph 2 with respect to that interest in that other Contracting State."

2. As of 1 January of 2017, **paragraph 2 of Article 12 of the Convention shall read as follows:**

"2. However such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 2 per cent of the gross amount of the royalties for the use of, or the right to use, any industrial, commercial or scientific equipment;

(b) 10 per cent of the gross amount of the royalties, in all other cases."

3. This Mutual Agreement is entered into under Article 24 paragraph 3 of the Convention.

Agreed by the undersigned competent authorities:

**For the Competent Authority
of the Swiss Confederation**

Pascal Duss
(signed on 29 March 2021)

**For the Competent Authority
of the Republic of Chile**

Fernando Javier Barraza Luengo
(signed on 16 March 2021)