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**Switzerland
and
Chile**

Agreement between the Swiss Confederation and the Republic of Chile for the avoidance of double taxation with respect to enterprises operating aircraft in international traffic. Bern, 1 June 2007

Entry into force: *4 September 2009 by notification, in accordance with article 6*

Authentic texts: *English, French and Spanish*

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**Suisse
et
Chili**

Accord entre la Confédération suisse et la République du Chili en vue de l'élimination de la double imposition concernant les entreprises de transport aérien. Berne, 1 juin 2007

Entrée en vigueur : *4 septembre 2009 par notification, conformément à l'article 6*

Textes authentiques : *anglais, français et espagnol*

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AGREEMENT BETWEEN THE SWISS CONFEDERATION AND THE REPUBLIC OF CHILE FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO ENTERPRISES OPERATING AIRCRAFT IN INTERNATIONAL TRAFFIC

The Swiss Federal Council and the Government of the Republic of Chile, desiring to conclude an Agreement for the avoidance of double taxation with respect to enterprises operating aircraft in international traffic,

Have agreed as follows:

Article 1
DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "Chile" means the Republic of Chile;
 - b) the term "Switzerland" means the Swiss Confederation;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Chile or Switzerland as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the term "enterprise of a Contracting State" means an enterprise, carried on by a resident of a Contracting State;
 - g) the term "international traffic" means any transport by an aircraft operated by an enterprise of a Contracting State, except when such transport is solely between places in the other Contracting State;

h) the term "competent authority" means:

- i) in the case of Chile, the Minister of Finance or his authorised representative, and
- ii) in the case of Switzerland, the Director of the Federal Tax Administration or his authorised representative.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 2

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or of capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, such person shall be treated as a resident for the purpose of this Agreement only if and to the extent that the competent authorities of the Contracting States so agree by mutual agreement procedure.

Article 3

AIR TRANSPORT PROFITS

1. Profits of an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article the expression "operation of aircraft" by an enterprise includes:

- a) the charter or rental on a bareboat basis of aircraft;
- b) the rental of containers and related equipment,

if that charter or rental is incidental to the operation by the enterprise of aircraft in international traffic.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 4

TAXATION ON CAPITAL

Capital represented by an aircraft operated in international traffic, and by movable property pertaining to the operation of such aircraft, shall be taxable only in the Contracting State of which the enterprise operating such aircraft is resident.

Article 5

MUTUAL AGREEMENT PROCEDURE

1. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
2. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 6

ENTRY INTO FORCE

Each of the Contracting States shall notify the other through diplomatic channels of the completion of the procedures required by law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the latter of these notifications and shall have effect as from 1 of January 2006, as follows:

- a) in Chile,
 - i) in respect of taxes on income obtained and amounts paid, credited to an account, put at the disposal or accounted as an expense, on or after the first day of January 2006; and
 - ii) in respect of taxes on capital, if and to the extent such tax will be imposed by Chile after the date of signature of this Agreement, for tax levied in relation to capital