

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA
AND
THE GOVERNMENT OF THE KINGDOM OF BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME**

The Government of the People’s Republic of China and the Government of the Kingdom of Belgium;

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Have agreed to the following:

**ARTICLE 1
PERSONAL SCOPE**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

**ARTICLE 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its administrative subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) with respect to Belgium:

- (i) the individual income tax (l'impôt des personnes physiques) ;
- (ii) the corporate income tax (l'impôt des sociétés) ;
- (iii) the tax on legal persons (l'impôt des personnes morales) ;
- (vi) the tax on non-residents (l'impôt des non-résidents) ;
- (v) the special levy equivalent to the individual income tax (la cotisation spéciale assimilée à l'impt des personnes physiques) ;

including any prepayments (précomptes), surcharges on the above-mentioned taxes and prepayments as well as the additional taxes on the individual income tax.

(hereinafter referred to as “Belgian tax”) ;

(b) with respect to China:

- (i) the individual income tax;
- (ii) the income tax concerning joint ventures with Chinese and foreign investment;
- (iii) the income tax concerning foreign enterprises;
- (vi) the local income tax;

including all withholding taxes and all prepayments with respect to the above-mentioned taxes.

(hereinafter referred to as “Chinese tax”) ;

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other in due time of substantial changes which have been made in their respective taxation laws.

ARTICLE 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term “Belgium” means the Kingdom of Belgium; when used in a geographical sense, it means the territory of the Kingdom of Belgium including its territorial sea as well as areas over which, in accordance with international law, the Kingdom of Belgium has sovereign rights with respect to exploration for and exploitation of the natural resources of the seabed and subsoil thereof and the above-lying waters;
 - (b) the term “China” means the People’s Republic of China; when used in a geographical sense, means all the territory of the People’s Republic of China, including its territorial sea, in which the laws relating to Chinese tax are in force, and all the area beyond its territorial sea over which, in accordance with international law, the People’s Republic of China has sovereign rights for the purposes of exploration for and exploitation of the resources of the seabed and subsoil thereof and the above-lying waters;
 - (c) the terms “a Contracting State” and “the other Contracting State” mean Belgium or China, as the context requires;
 - (d) the term “tax” means Belgian tax or Chinese tax, as the context requires;
 - (e) the term “person” includes an individual, a company and any other body of persons;
 - (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 Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (h) the term “nationals” means:
 - (i) all individuals having the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations constituted in accordance with the law in force in a Contracting State;

- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of head office in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “competent authority” means:
 - (i) with respect to Belgium, the Minister of Finance or his authorized representative;
 - (ii) with respect to China, the Ministry of Finance or its authorized representative.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

ARTICLE 4

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 head office or any other criterion of a similar nature.
- 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall determine, by mutual agreement, of which State that individual is a resident.
- 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of head office is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

- 1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
- 2. The term “permanent establishment” includes especially:
 - (a) a place of management;

- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term “permanent establishment” shall also include:

- (a) a building site or assembly project or supervisory activities connected therewith, but only if the construction, assembly or supervisory activities last for more than 6 months;
- (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purposes, but only where such activities continue (for the same or a connected project) within the country for a period or periods aggregating more than 6 months within any 12-month period.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not 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 of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 6 applies—is acting in a Contracting State on behalf of an enterprise of the other Contracting State and has, and habitually exercises, an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, where the activities of such an agent are carried out exclusively or almost exclusively on behalf of that enterprise, that agent is not considered an independent agent for the purposes of this paragraph.

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

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State 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 landed 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 or right to 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 independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State 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 State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State 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 wholly 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 expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Similarly, no account shall be taken, in the determination of the profits of a permanent establishment, of amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a Contracting State 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 State 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 contained 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of head office of the enterprise is situated.

2. 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 9

ASSOCIATED ENTERPRISES

Where:

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same profits participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, 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 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
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 State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term “dividends” as used in this Article means income from shares or rights to participate in profits, not being debt-claims, as well as other income which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11
INTEREST

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

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 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State shall be exempt from tax in that State, when it concerns interest paid to the account of the other Contracting State or interest paid to banking or credit institutions the capital of which is wholly owned by the other State or which are recognized by mutual agreement between the competent authorities of both Contracting States.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the interest shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State.

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 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 and films or tapes for radio or television broadcasting, any patent, know-how, 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 beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is the Government of that State itself, an administrative subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the royalties shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of head office of the enterprise is situated.

4. Gains from the alienation of shares in the capital of a company, the assets of which consist mainly, directly or indirectly, of immovable property situated in a Contracting State, may be taxed in that State.

5. Gains derived from the alienation of shares, other than those mentioned in paragraph 4 and which represent a participation of 25 per cent in a company which is a resident of a Contracting State, may be taxed in that State.

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable in the Contracting State in which the transferred property is situated.

ARTICLE 14
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State in the following cases.

- (a) if the resident has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in such case so much of the income as is attributable to that fixed base may be taxed in the other Contracting State; or
- (b) if his stay in the other Contracting State is for a period or periods equalling or exceeding in the aggregate 183 days during the calendar year concerned; in such case only so much of the income as is derived from the activities performed in that other Contracting State may be taxed in that other State.

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 15
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if the 3 following conditions are simultaneously fulfilled:

- (a) the recipient is present in the other State 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 the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base

which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of head office of the enterprise is situated.

ARTICLE 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or similar body of a joint-stock company which is a resident of the other Contracting State may be taxed in that other State.

The provisions of this Article shall also apply to payments derived by persons for the exercising of functions similar to those mentioned in the preceding paragraph.

ARTICLE 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by an entertainer or an athlete who is a resident of a Contracting State from activities exercised in the other Contracting State within the framework of cultural exchange programme between the Government of both States, shall not be taxed in that other State.

ARTICLE 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made by a Contracting State, a political subdivisions or a local authorities thereof or by a legal person which is part of the social security system of that State may be taxed in that State.

ARTICLE 19

GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that other State who:
 - (i) is a national of that other State; or
 - (ii) did not become a resident of that other State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20
PROFESSORS

Remuneration which an individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State, and who is present in the first-mentioned State solely for the purpose of teaching, giving lectures or engaging in research at a university or other teaching or research institution recognized by that State, receives for such services shall not be taxable in that State for a period not exceeding, in total, 3 years as from the date of his arrival in that State.

ARTICLE 21
STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State.

ARTICLE 22
OTHER INCOME

1. Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and which arise in the other Contracting State shall be taxable in that other State.
2. Items of income of a resident of a Contracting State which arise from sources situated outside the other Contracting State shall be taxable only in the first State.
3. The provisions of paragraphs 1 and 2 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment of fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 23
METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In the case of Belgium, double taxation shall be avoided as follows:

- (a) Where a resident of Belgium derives income which is taxable in China in accordance with the provisions of this Agreement, with the exception of the provisions of paragraph 2 of Article 10, paragraphs 2 and 7 of Article 11 and paragraphs 2 and 6 of Article 12, Belgium shall exempt such income from tax but it may, in calculating the amount of its taxes on the remaining income of such resident, apply the same rate as if the income in question had not been exempted.
- (b) Where a resident of Belgium derives items of income which are included in his total income subject to Belgian tax and which consist of dividends taxable in accordance with paragraph 2 of Article 10 and which are not exempt from Belgian tax by virtue of (c) below, of interest taxable in accordance with paragraphs 2 or 7 of Article 11, or of royalties taxable in accordance with paragraphs 2 or 6 of Article 12, Belgium shall allow a deduction from the tax on that income taking into account the Chinese tax on that income, whether or not such tax has actually been paid. Such deduction shall be equal to the lump-sum deduction of foreign tax provided by Belgian law, but the tax may not, however, be less than 15 per cent of the amount of income in question received after deducting the Chinese tax which might be levied. The deduction is granted at a rate of 20 per cent in the case of royalties which are taxable in China by virtue of the general rules of its tax laws but which are exempt from Chinese tax on the basis of special regulations for the economic development of the country.
- (c) where a company which is a resident of Belgium owns shares in a company which is a resident of China, the dividends paid to it by the last-mentioned company and which are taxable in China in accordance with paragraph 2 of Article 10 shall be exempt from the corporate income tax in Belgium, to the extent that such exemption would have been granted had both companies been residents of Belgium.
- (d) Where, in accordance with Belgian law, losses incurred by an enterprise managed by a resident of Belgium through a permanent establishment located in China have been effectively deducted from the profits of that enterprise for purposes of Belgian taxation, the exemption provided in (a) shall not apply in Belgium to the profits of other taxable periods which are attributable to that establishment, to the extent that such profits will also have been exempt from tax in China because of their compensation by such losses.

2. In the case of China, double taxation shall be avoided as follows:

- (a) The tax levied in Belgium by virtue of this Agreement on income derived in Belgium and received by a resident of China shall be deducted from the

Chinese tax payable by that resident on such income, but the amount of the deduction may not exceed the amount of Chinese tax calculated in accordance with Chinese law which is proportionally assignable to such income.

- (b) Where the income consists of dividends paid by a company that is a resident of Belgium to a company which is a resident of China and which owns more than 10 per cent of the shares of the company paying the dividends, then, for the deduction from Chinese tax, the Belgian tax paid by the company paying the dividends which corresponds to those dividends must also be taken into account.

ARTICLE 24

NON-DISCRIMINATION

1. Nationals of a Contracting State 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 nationals of that other State in the same circumstances are or may be subjected. This provision shall notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, 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 first-mentioned State to any taxation or requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his

case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement.

3. 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.

4. The competent authorities of the Contracting States may communicate with each other on the subject of the administrative measures which are necessary for carrying out the provisions of the Agreement and particularly on the subject of the proof to be provided by residents of each State in order to benefit in the other State from the tax exemptions or reductions provided by this Agreement.

5. The competent authorities of the Contracting States may communicate with each other directly for the application of the Agreement.

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement, in particular for

the purpose of combatting tax fraud or evasion with respect to these taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

ARTICLE 27

DIPLOMATS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 28

ENTRY INTO FORCE

The Contracting States shall notify each other in writing through diplomatic channels that the procedures required by their respective laws for the bringing into force of this Agreement have been completed. The Agreement shall enter into force on the 30th day after the date of the later of the notifications. It shall apply to income arising as from 1 January of the year following that of its entry into force or to income pertaining to taxable periods beginning as from 1 January of the year following that of its entry into force.

ARTICLE 29
TERMINATION

This Agreement shall remain in force indefinitely. However, 5 years after entry into force, each of the Contracting State may give notice through diplomatic channels, before 1 July of a calendar year of termination of this Agreement at the end of that calendar year. In such case, the Agreement shall cease to apply for the last time to income arising as from 1 January of the year following that of termination or to income pertaining to taxable periods beginning as from 1 January of the year following that of termination.

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

DONE at Beijing, 18 April 1985, in duplicate in the Chinese and French, Dutch languages, the three texts being equally authentic.

For the Government
of the People's Republic of China

For the Government of
the Kingdom of Belgium

PROTOCOL

At the signature of the Agreement between the Government of the People's Republic of China and the Government of the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

1. The term "resident of a Contracting State" as defined in paragraph 1 of Article 4 of the Agreement shall also mean companies under Belgian law other than share companies, which have chosen to have their profits subjected to the individual income tax in the names of their members.
2. In applying paragraph 2 of Article 4 of the Agreement, the competent authorities of the Contracting States shall be guided by the provisions contained in paragraph 2 of Article 4 of the United Nations Model Double Taxation Convention between Developed and Developing Countries.
3. The provisions of Article 8 of the Agreement shall not affect the provisions of Article 8 of the Maritime Agreement between the Government of the Kingdom of Belgium and the Government of the People's Republic of China signed at Beijing on 20 April 1975 nor the provisions of Article 10 of the Agreement between the Government of the Kingdom of Belgium and the Government of the People's Republic of China pertaining to civil air transport signed at Beijing on 20 April 1975.
4. The term "dividends" as used in Article 10 of the Agreement shall also mean income even if attributed in the form of interest taxable as income from capital invested by members in companies which are residents of a Contracting State.
5. In applying paragraph 2 of Article 12 of the Agreement, the tax which may be levied on royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment shall be calculated on 60 per cent of the gross amount of the royalties.
6. The provisions of paragraph 2 of Article 24 of the Agreement shall not prevent a Contracting State from levying its tax, in accordance with its laws and subject to the other provisions of this Agreement, on residents of the other Contracting State, it being understood that the rate of tax paid by a company which is a resident of that other State because of the profits of the permanent establishment at its disposal in the

first-mentioned State shall not exceed the maximum rate of tax applicable to the profits of companies which are residents of that first-mentioned State.

7. No provision of the Agreement shall limit the taxation of a company which is a resident of a Contracting State, in accordance with the laws of that State, in the event it repurchases its own shares or in the event its capital is divided.

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

DONE at Beijing, 18 April 1985, in duplicate in the Chinese and French, Dutch languages, the three texts being equally authentic.

**For the Government
of the People's Republic of China**

**For the Government of
the Kingdom of Belgium**