

PROTOCOL
BETWEEN
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
AND
THE GOVERNMENT OF THE REPUBLIC OF BULGARIA
ON
THE AMENDMENTS
TO
THE AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF
CHINA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA FOR
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the People's Republic of China and
The Government of the Republic of Bulgaria
(hereinafter referred to as "the Contracting States"),

Have agreed upon as follows:

Article 1

Article 2 ('Taxes Covered') of the Agreement shall be amended by omitting paragraph 3, subparagraphs a) and b) and substituting the following subparagraphs:

- "a) in the People's Republic of China:
 - i) the individual income tax;
 - ii) the income tax on enterprises with foreign investment and foreign enterprises;
 - iii) the local income tax.(hereinafter referred to as "Chinese tax");

- b) in the Republic of Bulgaria:
 - i) the personal income tax;
 - ii) the corporate income tax;
 - iii) the real property tax;
 - iv) the final annual tax.(hereinafter referred to as "Bulgarian tax")."

Article 2

In Article 3 ('General Definitions') of the Agreement, paragraph 1, subparagraph j) shall be amended as follows:

"j) the term "competent authority" means in the case of China, the State Administration of Taxation or its authorised representative, and in the case of Bulgaria, the Minister of Finance or his authorised representative."

Article 3

Article 4 ('Resident') of the Agreement, shall be amended by repealing paragraphs 1 and 2 and substituting the following paragraphs:

"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, place of incorporation or any other criterion of a similar nature. 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 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.”

Article 4

A new **Article 7a**, titled “Associated enterprises” shall be inserted and it shall read as follows:

“Article 7a ASSOCIATED ENTERPRISES

1. 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 persons 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.

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State may make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.”

Article 5

The words “People’s Republic of Bulgaria”, wherever met in the Agreement, shall be replaced by the words “Republic of Bulgaria”.

Article 6

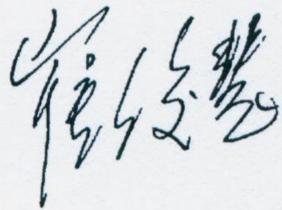
- 1. Each of the Contracting States shall notify in a written form to the other the completion of the procedures for the bringing into force of this Protocol.
- 2. This Protocol shall enter into force on the date of issuing the latter of the notifications referred to in paragraph 1 and shall be an integral part of the Agreement.

3. This Protocol shall have effect in respect of income and capital in the taxable year commencing on or after the first day of January in the calendar year in which this Protocol enters into force.

IN WITNESS whereof the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Sofia, on the *15th* day of *July*..., 2002, in the Chinese, Bulgarian and English languages, all texts being equally authentic. In case of divergence in interpretation the English text shall prevail.

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



**For the Government of the
Republic of Bulgaria**

