

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

Prom. SG. 56/13 Jul 1990, amend. SG. 6/21 Jan 2003

The Government of the People's Republic of Bulgaria and The Government of the People's Republic of China,

desiring to promote and deepen the economic cooperation between the People's Republic of China and the People's Republic of Bulgaria in accordance with the Principle of equality and mutual benefit,

through an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital,

Have agreed as follows:

Personal Scope

Art. 1

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

Taxes Covered

Art. 2

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or its local authorities irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income and on total capital, or on elements of income or of capital, 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:

a) in the People's Republic of 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; and

(IV) the local income tax,

(hereinafter referred to as "Chinese tax");

b) in the People's Republic of Bulgaria:

(I) the tax on total income;

(II) the tax on income of single males and females, widowers, divorced persons and spouses without children;

(III) the tax on profits;

(IV) the tax on buildings;

(hereinafter referred to as "Bulgarian tax");

4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of

any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

General Definitions

Art. 3

1. For the purposes of this Agreement, unless the context otherwise requires:

a) the term "China" means the People's Republic of China; when used in geographical sense, means all the territory of the People's Republic of China, including its territorial sea in which the Chinese laws relating to taxation apply, and any area beyond its territorial sea, within which the People's Republic of China has sovereign rights of exploration for and exploitation of resources of the seabed and its subsoil and superjacent water resources in accordance with international law;

b) the term "Bulgaria" means the People's Republic of Bulgaria and, when used in a geographical sense, means the territory over which it exercises its state sovereignty, as well as the Continental shelf and the exclusive economic zone on which it exercises sovereign rights according to international law;

c) The terms "a Contracting State" and "the other Contracting State" mean China or Bulgaria as the context requires;

d) the term "tax" means Chinese or Bulgarian tax, as the context requires;

e) the term "person" means an individual, a legal person, including 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" mean all individuals possessing the nationality of a Contracting States and all juridical persons created or organised under the laws of that Contracting State as well as any organizations without juridical personality treated for tax purpose as juridical persons created or organized under the laws of that Contracting State;

i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its 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 in the case of China, the Ministry of Finance or its authorized representative, and in the case of Bulgaria, the Minister of Economy and Planning or his authorised representative.

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

Resident

Art. 4

1. For the purposes of this Agreement, the term "resident of a Contracting State" means:

a) in the case of China, any person who, under the laws of China, is liable to tax therein by reason of his domicile, residence, place of head office;

b) in the case of Bulgaria, individuals who are nationals of Bulgaria and legal persons who have their place of head office or are registered therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall determine by mutual agreement the Contracting State of which that individual shall be deemed to be a resident for the purposes of this Agreement.

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 State in which its head office is situated.

Permanent Establishment

Art. 5

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" likewise encompasses:

a) a building site, construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;

b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other engaged personnel in the other Contracting State, provided that such activities continue for the same project or a connected project for a period or periods aggregating more than six months within any twelve-month period.

4. Notwithstanding the provisions of paragraphs 1 to 3, 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 temporary maintenance of a stock of goods displayed by the enterprise in a stock fair or an exhibition which is to be sold after the conclusion;

f) 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;

g) an assembly services carried on by an enterprise of a Contracting State in the other Contracting State in connection with the sale of machinery or equipment to that other Contracting State;

h) the maintenance of a fixed place of business solely for any combination of the activities mentioned in subparagraphs a) to g), 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 the provisions of paragraph 6 apply - is acting in a Contracting State

on behalf of an enterprise of the other Contracting State, 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 the first-mentioned Contracting State 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 that 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 Contracting State merely because it carries on business in that Contracting 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.

7. The fact that a company which is a resident of a Contracting State participates in a capital of 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.

Income From Immovable Property

Art. 6

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 Contracting 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, 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 used for the performance of independent professional services.

Business Profits

Art. 7

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

2. Subject of 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 business of the permanent establishment, including

executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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 to its various parts, nothing in paragraph 2 shall preclude that Contracting 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 Art..

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 paragraphs 1 to 5, 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 Art.s of this Agreement, then the provisions of those Art.s shall not be affected by the provisions of this Art..

Shipping And Air Transport

Art. 8

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. If the place of head office of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour, of the ship is situated, or if there is no such home harbor, in the Contracting State of which the operator of the ship is a resident.

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.

Dividends

Art. 9

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 Contracting 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 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.

3. The term "dividends" as used in this Art. means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the 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 dividends is a resident, through a permanent establishment situated therein, or performs in that other Contracting State independent professional 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 Art. 7 or Art. 13, 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 Contracting 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 Contracting 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 on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

Interest

Art. 10

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

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.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State, a local authority and the Central Bank thereof or any financial institution wholly owned by that Government, or by any other resident of that other Contracting State with respect to debt-claims indirectly financed by the Government of that other Contracting State, a local authority, and the Central Bank thereof or any financial institution wholly owned by that Government, shall be exempt from tax in the first-mentioned State.

4. The term "interest" as used in this Art. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Art..

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 Contracting State independent professional 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 Art. 7 or Art. 13, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a local authority thereof or a resident of that Contracting 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 Art. shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Royalties

Art. 11

1. Royalties 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 royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but in the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:

a) 7 per cent of the gross amount of the royalties in the case of the uses, or the right to use industrial, commercial or scientific equipment;

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

3. The term "royalties" as used in this Art. 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 (certificate of invention), 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 paragraph 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 Contracting State independent professional 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 Art. 7 or Art. 13, 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 Contracting State, a local authority thereof 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 liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, 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 Art. shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Capital Gains

Art. 12

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Art. 6 and situated in the other Contracting State may be taxed in that other Contracting 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State.

3. Gains from the alienation of ships or aircraft operated in international traffic of 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 of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that other Contracting State.

Income From Independent Professional Services

Art. 13

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 Contracting State except in one of the following circumstances, when such income may also be taxed in the other Contracting State:

a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State;

b) if his stay in the other Contracting State is for a period or periods exceeding in the aggregate 183 days in the calendar year concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other Contracting 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.

Income From Dependent Professional Services

Art. 14

1. Subject to the provisions of Art.s 15, 17, 18, 19 and 20, salaries, wages and other similar remunerations derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting 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 Contracting 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:

a) the recipient is present in the other Contracting 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 Contracting State; and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated by an enterprise of a Contracting State in international traffic, shall be taxable only in the Contracting State in which the place of head office of the enterprise is situated.

Directors' Fees

Art. 15

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 of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

Artistes And Athletes

Art. 16

1. Notwithstanding the provisions of Art.s 13 and 14, 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 Contracting 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 Art.s 7, 13 and 14, 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 entertainers or athletes who are residents of a Contracting State from the activities exercised in the other Contracting State under a plan of cultural exchange between the Governments of the both Contracting States shall be exempt from tax in that other Contracting State.

Pensions

Art. 17

Subject to the provisions of paragraph 2 of Art. 18, pensions and the other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

Government Service

Art. 18

1. a) Remuneration, other than pension, paid by the Government of a Contracting State or a local authority thereof to an individual in respect of services rendered to the Government of that Contracting State or a local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in that Contracting State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:

I) is a national of that other Contracting State; or

II) did not become a resident of that other Contracting State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds to which contributions are made by, the Government of a Contracting State or a local authority thereof to an individual in respect of services rendered to the Government of that Contracting State or a local authority thereof shall be taxable only in that Contracting 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 other Contracting State.

3. The provisions of Art.s 14, 15, 16 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by the Government of a Contracting State or a local authority thereof.

Teachers And Researchers

Art. 19

An individual who is, or immediately before visiting a Contracting State was a resident of the other Contracting State and is present in the first-mentioned State for the primary purpose of teaching, giving lectures or conducting research at an university, college, school or educational institution or scientific research institution accredited by the Government of the first-mentioned Contracting State shall be exempt from tax in the first-mentioned Contracting State for a period of five years from the date of his arrival in the first-mentioned Contracting State, in respect of remuneration for such teaching, lectures or research.

Students And Trainees

Art. 20

1. A student, business apprentice or trainee 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 shall be exempt from tax in that first-mentioned State on the following payments or income received or derived by him for the purpose of his maintenance, education or training:

a) payments derived from sources outside that Contracting State for the purpose of his maintenance, education, study, research or training;

b) grants, scholarships or awards supplied by the Government, or a scientific, educational, cultural or other tax-exempt organization.

2. In respect of remuneration from employment a student, business apprentice or trainee described in paragraph 1 shall be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the Contracting State, which he is visiting.

Capital

Art. 21

1. Capital represented by immovable property referred to in Art. 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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 by 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 a independent professional services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in the international traffic and by movable property pertaining to the operation of ships and aircraft, shall be taxable only in the Contracting State in which the place of head office of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Methods For Elimination Of Double Taxation

Art. 22

1. In China double taxation shall be eliminated as follows:

a) where a resident of China derives income from Bulgaria, the amount of tax on that income payable in Bulgaria in accordance with the provisions of this Agreement, may be credited against the Chinese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Chinese tax on that income computed in accordance with the taxation laws and regulations of China.

b) where the income derived from Bulgaria is a dividend paid by a company which is a resident of Bulgaria to a company which is a resident of China and which owns not less than 10 per cent of the capital of the company paying the dividend, the credit shall take into account the tax paid to Bulgaria by the company paying the dividend in respect of its income.

2. In Bulgaria double taxation shall be eliminated as follows:

a) where a resident of Bulgaria derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in China, Bulgaria shall, subject to the provisions of subparagraphs b) and c) of this paragraph, exempt such income or capital from tax;

b) where a resident of Bulgaria derives dividends, interest or royalties which, in accordance with the provisions of Art.s 9, 10 and 11 of this Agreement may be taxed in China, Bulgaria shall allow as a deduction from the tax on the dividends, interest and royalties of that resident an amount equal to the tax paid in China. Such deductions shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such dividends, interest and royalties derived from China.

c) where in accordance with any provision of this Agreement income derived or capital owned by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria may, nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

3. In the case of business profits, arising in a Contracting State, according to the laws and regulations in force in both Contracting States may be entitled to tax reduction or exemption within a limited period, such tax reduction or exemption shall be deemed to have been paid as the total amount.

Non-discrimination

Art. 23

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. The provisions of this paragraph shall, notwithstanding the provisions of Art. 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 favorably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision of this paragraph 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 paragraph 7 of Art. 10 or paragraph 6 of Art. 11 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 participated in, 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 any 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.

Mutual Agreement Procedure

Art. 24

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 Art. 23, to that of the Contracting States 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 this 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 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 provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. 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 paragraphs 2 and 3. When it seems advisable for reaching agreement, representatives of the competent authorities of the Contracting States may meet together for an oral exchange of opinions.

Exchange Of Information

Art. 25

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 provisions of this Agreement, in particular for the prevention of fraud or fiscal evasion of such taxes. The exchange of information is not restricted by Art. 1. Any information received by a Contracting State shall be treated as secret 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 the administrative practice of that or 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).

Diplomatic Agents and Consular Officers

Art. 26

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

Entry Into Force

Art. 27

This Agreement shall enter into force on the thirtieth day after the date on which diplomatic notes indicating the completion of internal legal procedures necessary in each Contracting State for the entry into force of this Agreement have been exchanged. This Agreement shall have effect as respects income derived during the taxable years beginning on or after the first day of January next following that in which this Agreement enters into force.

Termination

Art. 28

This Agreement shall continue in effect indefinitely but either of the Contracting State may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give written notice of termination to the other Contracting State through diplomatic channel. In such event this Agreement shall cease to have effect as respects income derived during the taxable years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

Done at Beijing on the 6 day of November 1989 in duplicate in the Chinese, Bulgarian and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

Tzian Tzichun

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA:

Petar Mladenov

Final Protocol

At the signing of 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 (hereinafter referred to as "the Agreement") the undersigned have agreed upon the following provisions, which form an integral part of the Agreement:

1. Ad Art. 5

Notwithstanding the provisions of paragraph 3 of Art. 5 of the Agreement, an enterprise of a Contracting State shall be deemed not to have a permanent establishment in the other Contracting State if it furnishes in that other Contracting State consultancy services in connection with the sale or lease of machinery or equipment through employees or other personnel.

2. Ad Art. 8

Nothing in this Agreement shall affect the provisions of the Agreement for Maritime transport

between the Government of the People's Republic of China and the Government of the People's Republic of Bulgaria signed at Sofia on 4 June 1974, to the extent that they have effect as regards taxes to which the Agreement applies.

3. Each Contracting State shall apply its internal law in matter or transfer pricing between associated enterprises, if the case occurs. Any dispute occurred in connection with this matter should be settled through mutual agreement.

4. Ad Art. 9

Profits derived by participants in joint ventures set up under the Decree No. 535/1980 of the State Council of the People's Republic of Bulgaria and distributed according to their rights, shall not be regarded as dividends.

5. Ad Art. 12

a) Gains from the alienation of shares other than those mentioned in paragraph 4 of Art. 12, representing a participation of at least 25 per cent in a company which is a resident of a Contracting State may be taxed in that Contracting State.

b) In the case of double taxation on gains from capital, other than those mentioned in paragraphs 1, 2, 3 and 4 of Art. 12 and in subparagraph a) of paragraph 5 of this Protocol, both Contracting States shall settle the question by mutual agreement.

6. Ad Art. 18

The term "services rendered to the Government" includes services of employees who act on behalf of governmental institutions to perform non-commercial and non-productive activities in accordance with the international law of the Contracting State, in which such activities are carried out, as well as press, radio or television reporters or correspondents.

7. In the case of double taxation on other income not dealt with in the Art.s of this Agreement, both Contracting States shall settle the question by mutual Agreement.

Done at Beijing on the 6 day of November 1989 in duplicate in the Chinese, Bulgarian and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

Tzian Tzichun

Minister of Foreign Affairs

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA:

Petar Mladenov

Minister of Foreign Affairs