

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

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

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 as follows:

**Article 1  
PERSONS COVERED**

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 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are in particular:

a) in China:

- (i) the individual income tax;
  - (ii) the enterprise income tax;
- (hereinafter referred to as "Chinese tax");

b) in France:

- (i) the income tax ("l'impôt sur le revenu");
- (ii) the corporation tax ("l'impôt sur les sociétés");
- (iii) the contributions on corporation tax ("les contributions sur l'impôt sur les sociétés");

including any withholding tax, prepayment (précompte) or advance payment with respect to the aforesaid taxes;  
(hereinafter referred to as "French tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that 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 of any significant changes which have been made in their taxation laws.

### **Article 3**

#### **GENERAL DEFINITIONS**

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, in which the Chinese laws relating to taxation apply, including its territorial sea, and any area beyond its territorial sea, within which the People’s Republic of China has sovereign rights or jurisdiction in accordance with international law and under its domestic law;
- b) the term “France” means the European and overseas departments of the French Republic, including the territorial sea, and any area outside the territorial sea within which, in accordance with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the sea bed and its sub-soil and the superjacent waters;
- c) the term “person” includes an individual, a company and any other body of persons;
- d) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) 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;
- f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- g) the term “competent authority” means, in the case of China, the State Administration of Taxation or its authorized representative, and in the case of France, the Minister in charge of finance or his authorised representative;
- h) the term “national”, in relation to a Contracting State, means:
  - (i) any individual possessing the nationality of a Contracting State;
  - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at

that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **Article 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 incorporation, place of effective management or any other criterion of a similar nature, and also includes that State and local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

4. For the purposes of applying this Agreement:

- a) an item of income, profit or gain:
  - (i) derived from a Contracting State through a partnership, group of persons or other similar entity that is organised in the other Contracting State; and
  - (ii) treated as the income of beneficiaries, partners, members or participants of that partnership, group of persons or other similar entity under the tax laws of that other Contracting State;

shall be eligible for the benefits of the Agreement that would be granted if it were directly derived by a beneficiary, partner, member or participant of that partnership, group of persons or other similar entity and who is a resident of that other Contracting State, to the extent that such beneficiaries, partners, members or participants are residents of that other Contracting State and satisfy any other conditions specified in the Agreement, without

regard to whether the income is treated as the income of such beneficiaries, partners, members or participants under the tax laws of the first-mentioned State;

b) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or other similar entity that is organised in the other Contracting State; and
- (ii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of that other Contracting State;

shall be eligible for the benefits of the Agreement that would be granted to a resident of that other Contracting State, without regard to whether the income is treated as the income of that partnership, group of persons or other similar entity under the tax laws of the first-mentioned State, if such partnership, group of persons or other similar entity is a resident of that other Contracting State and satisfies any other conditions specified in the Agreement;

c) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or any other similar entity that is organised in that Contracting State;
- (ii) treated as the income of beneficiaries, partners, members or participants of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State; and
- (iii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of the first-mentioned State;

can be taxed under the tax laws of the first-mentioned State without any restriction;

d) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or other similar entity that is organised in that Contracting State; and
- (ii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State;

shall not be eligible for the benefits of the Agreement;

e) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or any other similar entity that is organised in a State other than the Contracting States; and
- (ii) treated as the income of the beneficiaries, partners, members or participants of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State and under the tax laws of the State where the entity is organised;

shall be eligible for the benefits of the Agreement that would be granted if it were directly derived by a beneficiary, partner, member or participant of that partnership, group of persons or other similar entity and who is a resident of that other Contracting State, to the

extent that such beneficiaries, partners, members or participants are residents of that other Contracting State and satisfy any other conditions specified in the Agreement, without regard to whether the income is treated as the income of such beneficiaries, partners, members or participants under the tax laws of the first-mentioned State provided that the State where the partnership, group of persons or other similar entity is organised has concluded with the Contracting States an agreement containing a provision for the exchange of information with a view to the prevention of fiscal evasion;

f) an item of income, profit or gain:

(i) derived from a Contracting State through a partnership, group of persons or any other similar entity that is organised in a State other than the Contracting States; and

(ii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State;

shall not be eligible for the benefits of the Agreement.

## **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” likewise encompasses:

a) a building site, or construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than twelve months;

b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel who are present in a Contracting State for such purpose, but only if activities of that nature continue (for the same or a connected project) within that Contracting State for a period or periods aggregating more than 183 days within any twelve-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, in that Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that 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 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 other 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, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning 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 (including income from agriculture or forestry) 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, 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, notwithstanding the provisions of Article 7 and Article 14.

5. Where shares or other rights in a company, trust, entity or any other arrangement give entitlement to the enjoyment of immovable property situated in a Contracting State, income derived from the direct use, letting or use in any other form of that right of enjoyment may be taxed in that State notwithstanding the provisions of Article 7.

## **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 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 of the enterprise 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 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 effective management of the enterprise is situated.

2. If the place of effective management 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 harbour, 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.

## **Article 9** **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 shall 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 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:

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 10 per cent of the gross amount of the dividends in all other cases.

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

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 any type of 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 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 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 State.

6. The provisions of subparagraphs a) and b) of paragraph 2 shall not apply to dividends paid out of income or gains derived from immovable property within the meaning of Article 6 by an investment vehicle:

- a) which distributes most of this income annually; and

b) whose income or gains from such immovable property are exempted from tax;

where the beneficial owner of those dividends holds, directly or indirectly, 10 per cent or more of the capital of the vehicle paying the dividends. In such case, the dividends may be taxed at the rate provided for by the domestic law of the Contracting State in which the dividends arise.

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or the assignment of the shares or other rights in respect of which the dividends are paid to take advantage of this Article by means of that creation or assignment.

## **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. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest referred to in paragraph 1 shall be taxable only in the Contracting State of which the recipient of the interest is a resident, if it is paid:

a) in China:

- (i) to the Government of China or a local authority thereof;
- (ii) to the People's Bank of China;
- (iii) to the China Development Bank Corporation;
- (iv) to the Agricultural Development Bank of China;
- (v) to the Export-Import Bank of China;
- (vi) to the National Council for Social Security Fund;
- (vii) on loans directly or indirectly guaranteed or insured by the China Export & Credit Insurance Corporation;
- (viii) to any financial institution mutually agreed upon by the competent authorities of the Contracting States;

b) in France:

- (i) to the Government of France or a local authority thereof;
- (ii) to the Bank of France;
- (iii) to the Public Investment Bank of France (BPIfrance);
- (iv) to the Deposit and Consignment Office (CDC);
- (v) in respect of a loan directly or indirectly financed or subsidized by the French Government within the framework of the public aid to foreign trade or guaranteed or insured by the French Foreign Trade Insurance Company (COFACE);

- (vi) to any financial institution mutually agreed upon by the competent authorities of the Contracting States.

Regarding entities mentioned in paragraphs a) (iii), a) (iv), a) (v), a) (vi), b) (iii) and b) (iv), it is understood that the exemption only applies as long as those entities are wholly owned - directly or indirectly - by a Contracting State or a local authority thereof.

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. Penalty charges for late payment and payments of any kind received as a consideration for the guarantee or insurance of a debt-claim shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 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 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 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 payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

8. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

## **Article 12 ROYALTIES**

1. Royalties arising in a Contracting State and beneficially owned by 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 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. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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 cinematography films, or films or tapes for radio or television broadcasting, any patent, 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 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 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 payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

### **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 a 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 effective management of the enterprise is situated.

4. Gains from the alienation of shares or other rights in a company, a trust or any other institution or entity the assets or property of which consist, at any time during the preceding 36 months before such alienation, for more than 50 per cent of their value of, or derive more than 50 per cent of their value from, directly or indirectly through the interposition of one or more other companies, trusts, institutions or entities, immovable property referred to in Article 6 and situated in a Contracting State or of rights connected with such immovable property may be taxed in that State.

5. Gains derived by a resident of a Contracting State from the alienation of shares (other than the ones referred to in paragraph 4) of a company which is a resident of the other Contracting State may be taxed in that other Contracting State if the recipient of the gain, at any time during the twelve-month period preceding such alienation, had a participation, directly or indirectly, of at least 25 per cent in the capital of that company.

6. Gains from the alienation of any property, other than that referred to in paragraphs 1 to 5, shall be taxable only in the Contracting State of which the alienator is a resident.

#### **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 except in 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 State; or

b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other 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**  
**INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 16, 18 and 19, 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:
  - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal 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 effective management 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 of a supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

**Article 17**  
**ARTISTES AND ATHLETES**

1. Notwithstanding the provisions of Articles 7, 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 or a model, 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, an athlete or a model in his capacity as such accrues not to the entertainer, athlete or model 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, athlete or model are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by a resident of a Contracting State as an entertainer or an athlete or a model from his personal activities as such exercised in the other Contracting State, including where such income accrues not to the entertainer, the athlete or the model himself, but to another person whether a resident of a Contracting State or not, shall be taxable only in the first-mentioned State if those activities in the other State are supported mainly by public funds of the first-mentioned State or its local authorities.

## **Article 18 PENSIONS**

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.

## **Article 19 GOVERNMENT SERVICE**

1. a) Salaries, wages and other similar remuneration, other than a 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 State or authority, shall be taxable only in that State.  
  
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
  - (i) is a national of that State; or
  - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. a) Pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to the Government of that State or authority shall be taxable only in that State.  
  
b) However, such pensions and other similar remuneration 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 paragraph 1 shall also apply to remuneration of personnel of non-profit educational institutions of a Contracting State situated in the other Contracting State, irrespective of the payer of the remuneration, if the resources of such establishments derive solely or mainly from the first-mentioned State.
4. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by the Government of a Contracting State or a local authority thereof.

**Article 20**  
**TEACHERS AND RESEARCHERS**

Subject to the provisions of Article 19, remuneration which a teacher or a researcher 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 or engaging in research, derives in respect of such activities, shall be taxable only in the other State. This provision shall apply for a period not exceeding 36 months from the date of the first arrival of the teacher or researcher in the first-mentioned State for the purpose of teaching or engaging in research. However, when the research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons, the provisions of Article 15 shall apply.

**Article 21**  
**STUDENTS**

Payments which a student, a trainee, an intern or a 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 receives for the purpose of his maintenance or education shall not be taxed in that State, provided that such payments arise from sources outside that State.

**Article 22**  
**OTHER INCOME**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 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 or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
3. Where, by reason of a special relationship between the person referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of the income referred to in paragraph 1 exceeds the amount which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.
4. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the income is paid to take advantage of this Article by means of that creation or assignment.

**Article 23**  
**METHODS FOR ELIMINATION OF DOUBLE TAXATION**

1. In the case of China, double taxation shall be avoided in the following manner:

- a) Where a resident of China derives income from France, the amount of tax on that income payable in France in accordance with the provisions of this Agreement may be credited against the Chinese tax imposed on that resident. The amount of the 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 France is dividend paid by a company which is a resident of France to a company which is a resident of China and which owns not less than 20 per cent of the shares of the company paying the dividend, the credit shall take into account the tax paid to France by the company paying the dividend in respect of its income.

2. In the case of France, double taxation shall be avoided in the following manner:

- a) Notwithstanding any other provision of this Agreement, income which may be taxed or shall be taxable only in China in accordance with the provisions of the Agreement shall be taken into account for the computation of the French tax where such income is not exempted from corporation tax according to French domestic law. In that case, the Chinese tax shall not be deductible from such income, but the resident of France shall, subject to the conditions and limits provided for in sub-paragraphs (i) and (ii), be entitled to a tax credit against French tax. Such tax credit shall be equal:
  - (i) in the case of income other than that mentioned in sub-paragraph (ii), to the amount of French tax attributable to such income provided that the resident of France is subject to Chinese tax in respect of such income ;
  - (ii) in the case of income subject to the corporation tax referred to in Article 7, paragraph 2 of Article 13 and Article 14, and in the case of income referred to in Article 9, Article 10, paragraph 2 of Article 11, paragraph 2 of Article 12, paragraphs 1 and 4 of Article 13, paragraph 3 of Article 15, Article 16 and paragraphs 1 and 2 of Article 17, to the amount of tax paid in China in accordance with the provisions of those Articles; however, such tax credit shall not exceed the amount of French tax attributable to such income.
- b) (i) It is understood that the term “amount of French tax attributable to such income” as used in sub-paragraph a) means:
  - where the tax on such income is computed by applying a proportional rate, the amount of the net income concerned multiplied by the rate which actually applies to that income;
  - where the tax on such income is computed by applying a progressive scale, the amount of the net income concerned multiplied by the rate resulting from the ratio of the tax actually payable on the total net income taxable in accordance with French law to the amount of that total net income.

- (ii) It is understood that the term “amount of tax paid in China” as used in sub-paragraph a) means the amount of Chinese tax effectively and definitively borne in respect of the items of income concerned, in accordance with the provisions of the Agreement, by a resident of France who is taxed on those items of income according to the French law.

#### **Article 24 MISCELLANEOUS RULE**

The benefits of any reduction in or exemption from tax provided for in this Agreement shall not be available where the main purpose for entering into certain transactions or arrangements was to secure a more favourable tax position and obtaining that more favourable treatment in these circumstances would be contrary to the object and purpose of the relevant provisions of this Agreement.

#### **Article 25 NON-DISCRIMINATION**

1. a) 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, in particular with respect to residence, 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.  
  
b) For the purposes of subparagraph a), it is understood that an individual, a legal person, a partnership or an association who or which is a resident of a Contracting State is not placed in the same circumstances as an individual, a legal person, a partnership or an association who or which is not a resident of that State, whatever the definition of nationality is and even if the legal persons, partnerships or associations are deemed to be nationals of the Contracting State of which they are residents.
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 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 paragraph 1 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 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.

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

**Article 26**  
**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 25, 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 endeavor, 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. 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 endeavor 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 the 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 paragraphs 2 and 3. When it seems advisable for reaching an agreement, representatives of the competent authorities of the Contracting States may meet together for an oral exchange of opinions.

**Article 27**  
**EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

3. In no case shall the provisions of paragraphs 1 and 2 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).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

### **Article 28**

#### **ASSISTANCE IN THE COLLECTION OF TAXES**

The Contracting States shall endeavor to lend assistance to each other in the collection of revenue claims. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

### **Article 29**

#### **MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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 30**

#### **ENTRY INTO FORCE**

1. Each of the Contracting States shall notify the other through diplomatic channels the completion of internal procedures required as far as it is concerned for the bringing into force of this Agreement. This Agreement shall enter into force on the thirtieth day following the day when the latter notification is received.

2. The provisions of this Agreement shall have effect:

- a) in respect of taxes on income withheld at source, for amounts taxable on or after the first day of January of the calendar year next following that in which this Agreement enters into force;
- b) in respect of other taxes, for any tax year or accounting period beginning on or after the first day of January of the calendar year next following that in which the Agreement enters into force.

3. The Agreement between the Government of the People's Republic of China and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Paris on 30 May 1984 shall cease to have effect as from the date on which the provisions of this Agreement become applicable in accordance with the provisions of this Article.

### **Article 31 TERMINATION**

1. This Agreement shall continue in effect indefinitely but either of the Contracting States 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 channels.

2. In such event this Agreement shall cease to have effect:

- a) in respect of taxes on income withheld at source, for amounts taxable on or after the first day of January of the calendar year next following that in which the notice of termination is given;
- b) in respect of other taxes, for any tax year or accounting period beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given.

IN WITNESS whereof the undersigned, duly authorized thereto, have signed this Agreement.

Done at Beijing on the 26<sup>th</sup> day of November, 2013, in duplicate in the Chinese and French languages, both texts being equally authentic.

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

**Wang Jun**

**For the Government of  
the French Republic**

**Bruno Bezard**

## **PROTOCOL**

At the time of proceeding to the signature of the Agreement between the Government of the People's Republic of China and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, both parties have agreed on the following provisions which shall form an integral part of the Agreement.

1. In respect of Article 7:

- a) where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined as the total amount received by the enterprise but only as the remuneration which is attributable to the actual activity of the permanent establishment for such sales or business;
- b) in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, where an enterprise of a Contracting State has a permanent establishment in the other Contracting State, the profits of such permanent establishment shall not be determined as the total amount of the contract, but only as that part of the contract which is effectively accomplished by the permanent establishment;
- c) notwithstanding the provisions of subparagraphs a) and b), in situations where a permanent establishment fails to report with a reliable account of the income and expenses, the Contracting State where such permanent establishment is situated may assess the profits of such permanent establishment according to its domestic law, insofar as the application of the latter does not give rise to taxation contrary to the other provisions of this Agreement.

2. In relation to Article 10, it is understood that where a Contracting State applies the exemptions of its domestic regime applicable to investment vehicles as mentioned in paragraph 6 of Article 10 to the permanent establishment of an entity organised in the other Contracting State, no provision of this Agreement restricts the right of the first-mentioned Contracting State to tax, according to its domestic law, income from immovable property deemed to be distributed by that permanent establishment.

3. In respect of Articles 10 and 11, an investment vehicle, which is established in a Contracting State where it is not subject to a tax mentioned in sub-paragraphs a) or b) of paragraph 3 of Article 2, and which receives dividends or interest arising in the other Contracting State, can ask for the aggregate amount of the tax reductions or exemptions provided by this Agreement in the proportion of such income which corresponds to the rights in the vehicle held by residents of the first-mentioned State and which is taxable in the hands of such residents, provided such residents are beneficial owners of such income.

4. With respect to paragraph 3 of Article 10, it is understood that the term "dividends" also includes, where the company making the distribution is a resident of France, income treated as a distribution by the tax laws of France.

5. With respect to Articles 10, 11 and 13, income other than capital gains mentioned in paragraphs 1 and 4 of Article 13 derived from a Contracting State by a sovereign wealth fund created and wholly owned by the other Contracting State for macroeconomic purposes shall be taxable only in that other Contracting State. With respect to capital gains mentioned in paragraphs 1 and 4 of Article 13 derived by a sovereign wealth fund as aforementioned, the exemption or collection shall be decided by the domestic law of the Contracting State in which the immovable property is situated. The sovereign wealth fund as aforementioned refers to:

- a) in China:
  - (i) the China Investment Corporation;
  - (ii) any institution mutually agreed upon by the competent authorities of the two Contracting States;
  
- b) in France:
  - (i) the Retirement Reserve Fund (FRR);
  - (ii) any institution mutually agreed upon by the competent authorities of the two Contracting States.

6. With respect to paragraph 3 of Article 12 of the Agreement, royalties paid for the use of or the right to use industrial, commercial or scientific equipment shall be subject to tax on 60 per cent of the gross amount of such royalties.

7. Nothing in this Agreement shall affect the provisions of the Agreement of 23 January 1979 on the reciprocal exemption from taxes and charges on air transport enterprises and of the Agreement on maritime shipping of 10 April 1996 and the Exchange of Letters of 28 September 1975 maintained into force by the Exchange of Letters of 16 September 1996.

8. In respect of Article 23, notwithstanding the provisions of paragraph 3 of Article 30, the provisions of subparagraph c) of paragraph 2 of Article 22 of the Agreement between the Government of the People's Republic of China and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed in Paris on 30 May 1984 shall remain applicable to:

- a) any royalties paid during a 24-month period as from the date of entry into force of the Agreement;
  
- b) payments received in respect to any agreement for the use of, or the right to use, industrial, commercial or scientific equipment, provided the financial terms and conditions of the agreement are set up before 1<sup>st</sup> March 2012, and provided the equipment is delivered before 1<sup>st</sup> January 2013, but only for the duration of the agreement that is remaining as at 29<sup>th</sup> February 2012,

provided that the conduct of operations resulting in a tax credit had not for main purpose to obtain the benefit of such tax credit.

9. In respect of Article 25, it is understood that the provisions of the last sentence of paragraph 1 a) apply only to individuals.

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

Done at Beijing on the 26<sup>th</sup> day of November, 2013, in duplicate in the Chinese and French languages, both texts being equally authentic.

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

**Wang Jun**

**For the Government of  
the French Republic**

**Bruno Bezard**