

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

The Government of the People’s Republic of China and the Government of the Republic of Finland,

Desiring to conclude a Protocol to amend the Agreement between the Contracting States for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Helsinki on 12 May 1986 (hereinafter referred to as “the Agreement”),

Have agreed as follows:

ARTICLE I

Paragraph 1 of Article 2 of the Agreement shall be amended as follows:

“1. The existing taxes to which this Agreement shall apply are:

(a) in Finland:

- (i) the state income taxes;
- (ii) the corporate income tax;
- (iii) the communal tax;
- (iv) the church tax;
- (v) the tax withheld at source from interest derived by residents; and
- (vi) the tax withheld at source from non-residents’ income;

(hereinafter referred to as “Finnish tax”) ;

(b) in China:

- (i) the individual income tax;
- (ii) the income tax for enterprises with foreign investment and foreign enterprises;
- (iii) the local income tax; and
- (iv) the tax withheld at source from non-residents’ income;

(hereinafter referred to as “Chinese tax”) . ”

ARTICLE II

Paragraph 1 of Article 4 of the Agreement shall be amended as follows.

“1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head office or management, place of incorporation (registration) or any other criterion of a similar nature.”

ARTICLE III

Paragraphs 1, 2 and 3 of Article 10 of the Agreement shall be amended as follows and numbered as new paragraphs 1, 2, 3 and 4, and the existing paragraphs 4 and 5 shall be renumbered as paragraphs 5 and 6:

“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. 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 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.

2. However, as long as a person resident in Finland is under Finnish law entitled to a credit against his income taxes for income tax on the profits out of which the dividends are paid by a company resident in Finland, the following provisions of this paragraph shall apply instead of the provisions of paragraph 1:

Dividends paid by a company which is a resident of Finland to a resident of China shall be exempt from Finnish tax on dividends, where the recipient is the beneficial owner of the dividends.

3. The provisions of paragraphs 1 and 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. The term “dividends” as used in this Article 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. Profits distributed by a Chinese enterprise with foreign investment to a resident of Finland shall be regarded as dividends.”

ARTICLE IV

Sub-paragraphs (b) and (d) of paragraph 1 of Article 23 of the Agreement shall be amended as follows, and the following new sub-paragraph (f) shall be inserted immediately after the existing sub-paragraph (e) :

“(b) Dividends referred to in Article 10 and paid by a company which is a resident of China to a company which is a resident of Finland and holds directly at least 10 per cent of the shares of the company paying the dividends shall be exempt

from Finnish tax. Tax refunded, under Article 10 of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises and paragraph 1 of Article 81 of the Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises, to a person who is a resident of Finland shall be exempt from Finnish tax on income of that person.”

“(d) For the purposes of sub-paragraph (a), the term “tax on income paid in China” shall be deemed to include any amount which would have been payable as Chinese tax for any year but for an exemption from, or reduction of, Chinese tax granted under

- (i) the provisions of Article 7 of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises and the provisions of Article 72, sub-paragraph 3 of paragraph 1 of Article 73 and sub-paragraph 5 of paragraph 1 of Article 75 of the Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (as amended from time to time without affecting the general principle thereof) ; or
- (ii) any other provision concerning similar special incentive measures designed to promote economic development in China which may be introduced in the laws of China after the date of signature of this Agreement and which the Governments of the Contracting States agree to be of such a character (as amended from time to time without affecting the general principle thereof) . ”

“(f) The provisions of sub-paragraph (d) (i), insofar as they refer to sub-paragraph 3 of paragraph 1 of Article 73 and sub-paragraph 5 of paragraph 1 of Article 75 of the Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises, shall apply for ten years from the date the relevant exemption from, or reduction of, tax is actually received by the taxpayer. ”

ARTICLE V

Each of the Contracting States shall notify the other the completion of the procedures required by its law for the bringing into force of this Protocol. The Protocol shall enter into force on the thirtieth day following the date of the later of these notifications and shall thereupon have effect in both Contracting States:

- (a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Protocol enters into force;
- (b) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Protocol enters into force.

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

DONE in duplicate at Helsinki this 11th day of September 1995, in the Chinese, Finnish and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

**On behalf of
the Government of the
People's Republic of China**

**On behalf of
the Government of the Republic
of Finland**