PROTOCOL

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

1. The term “resident of a Contracting State” as defined in paragraph 1 of Article 4 of the Agreement shall also mean companies under Belgian law other than share companies, which have chosen to have their profits subjected to the individual income tax in the names of their members.

2. In applying paragraph 2 of Article 4 of the Agreement, the competent authorities of the Contracting States shall be guided by the provisions contained in paragraph 2 of Article 4 of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

3. The provisions of Article 8 of the Agreement shall not affect the provisions of Article 8 of the Maritime Agreement between the Government of the Kingdom of Belgium and the Government of the People’s Republic of China signed at Beijing on 20 April 1975 nor the provisions of Article 10 of the Agreement between the Government of the Kingdom of Belgium and the Government of the People’s Republic of China pertaining to civil air transport signed at Beijing on 20 April 1975.

4. The term “dividends” as used in Article 10 of the Agreement shall also mean income even if attributed in the form of interest taxable as income from capital invested by members in companies which are residents of a Contracting State.

5. In applying paragraph 2 of Article 12 of the Agreement, the tax which may be levied on royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment shall be calculated on 60 per cent of the gross amount of the royalties.

6. The provisions of paragraph 2 of Article 24 of the Agreement shall not prevent a Contracting State from levying its tax, in accordance with its laws and subject to the other provisions of this Agreement, on residents of the other Contracting State, it being understood that the rate of tax paid by a company which is a resident of that other State because of the profits of the permanent establishment at its disposal in the
first-mentioned State shall not exceed the maximum rate of tax applicable to the profits of companies which are residents of that first-mentioned State.

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

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

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

For the Government of the People’s Republic of China

For the Government of the Kingdom of Belgium