

PROTOCOL

At the moment of signing the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, this day concluded between the People's Republic of China and the Kingdom of the Netherlands, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

I. Ad Article 2

It is understood that the Government share in the net profits of the exploitation of natural resources meant in sub-paragraph a of paragraph 3 of Article 2 refers to the levy pursuant to the Mijnwet 1810 (the Mining Act of 1810) with respect to concessions issued from 1967, or pursuant to the Mijnwet Continentaal Plat 1965 (the Netherlands Continental Shelf Mining Act of 1965) .

II. Ad Article 7

Only those profits may be attributed to a building site, a construction, assembly or installation project which constitutes a permanent establishment, as are resulting from the actual building, construction, assembly or installation activities. Where in connection with these activities or independently there of, machinery or equipment is supplied by the head office or another permanent establishment of the enterprise or by third persons, then the value of such supply shall not be attributed to the profits of the building site, construction, assembly or installation project.

III. Ad Article 7

It is understood that technical services as meant in paragraph 7 of Article 7 include surveys of a geological or technical nature, engineering services and consultant or supervisory services.

IV. Ad Article 8

The provisions of Article 8 of this Agreement shall not affect the provisions of Article 8 of the Agreement between the Government of the Kingdom of the Netherlands and the Government of the People's Republic of China relating to maritime shipping, signed at Beijing on 14 August 1975, nor the provisions of paragraph 2 of Article 10 of the Agreement between the Government of the Kingdom of the Netherlands and the Government of the People's Republic of China relating to civil airtransport, signed at Beijing on 20 January 1979.

V. Ad Article 10

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraph 2 of Article 10.

VI. Ad Article 10

The term dividends as used in paragraph 3 of Article 10 shall include remittances out of China of profits derived by a resident of the Netherlands from its investment as a participant in a joint venture with Chinese and foreign investment.

VII. Ad Article 12

For the application of the percentage rate referred to in paragraph 2 of Article 12 there shall be taken as the taxable base of the royalties paid for the use of or the right to use any industrial, commercial or scientific equipment, 60 per cent of the gross amount of these payments.

VIII. Ad Articles 10, 11 and 12

Where tax has been levied at source in excess of the amount of tax chargeable under the provisions of Articles 10, 11 or 12 of this Agreement, applications for the refund of the excess amount of tax have to be lodged with the competent authority of the Contracting State having levied the tax, within a period of three years after the expiration of the calendar year in which the tax has been levied.

IX. Ad Article 13

After the signing of this Agreement, both sides shall enter into negotiations, if in an agreement signed by China with an other country a capital gain referred to in paragraph 4 of Article 13 is exempt from tax in China, to discuss whether this exemption shall also apply to residents of the Netherlands.

X. Ad Articles 18 and 19

It is understood that the provisions of paragraph 2 of Article 18 and sub-paragraph (a) of paragraph 1 and sub-paragraph (a) of paragraph 2 of Article 19 do not prevent the Netherlands from applying the provisions of sub-paragraphs (a) and (b) of paragraph 1 of Article 23 of the Agreement.

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

DONE at Beijing this 13th day of May, 1987, in duplicate in the Chinese, Netherlands and English languages, the three texts being equally authentic. In case there is any divergence of interpretation between the Chinese and Netherlands texts, the English text shall prevail.

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

**On behalf of
the Government of the Kingdom
of the Netherlands**

