

No. 23494

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**FRANCE
and
CHINA**

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Paris on 30 May 1984

Authentic texts: French and Chinese.

Registered by France on 27 August 1985.

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**FRANCE
et
CHINE**

Accord en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signé à Paris le 30 mai 1984

Textes authentiques : français et chinois.

Enregistré par la France le 27 août 1985.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC 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

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

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. PERSONAL SCOPE

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, 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;
- (iv) The local income tax;
- (v) Including any withholding tax and prepayment with respect to the afore-said taxes

(hereinafter referred to as "Chinese tax").

(b) In the French Republic:

- (i) The income tax;
- (ii) The corporation tax;

¹ Came into force on 21 February 1985, i.e., the thirtieth day following the date (22 January 1985) of the last of the notifications by which the Contracting Parties had informed each other of the completion of the required legal procedures, in accordance with article 28.

including any withholding tax and prepayment with respect to the afore-said taxes

(hereinafter referred to as "French tax").

4. The Agreement shall apply also to any taxes identical or substantially similar to those mentioned in paragraph 3 above which 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 in a timely manner of substantial changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

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

(a) The terms "a Contracting State" and "the other Contracting State" mean the People's Republic of China or the French Republic as the context requires.

(b) The term "tax" means Chinese tax or French tax, as the context requires.

(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 which 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 "nationals" means any individual possessing the nationality of a Contracting State and any body corporate existing and organized under the laws in force in a Contracting State as well as any body which is not a corporation but which is treated for tax purposes as a corporation existing and organized under the laws of that Contracting State.

(g) The term "competent authority" means:

(i) In the case of the People's Republic of China, the Ministry of Finance or its authorized representative,

(ii) In the case of the French Republic, the Minister for the Budget or his authorized representative.

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

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 general management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall determine by mutual agreement the State of which that individual is a resident.

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 Contracting State in which its place of general management is situated.

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 a construction installation or assembly project, but only where such site or project continues for a period of more than six months;
- (b) The furnishing of services, including consultancy services or supervisory activities, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12-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 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.

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 the first mentioned State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that 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 allow this fixed place of business to be treated as 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, 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 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 also 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.

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 Contracting 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 the determination of 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 Contracting State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. In so far 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 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 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 articles of this Agreement, then the provisions of those articles shall not be affected by the provisions of this article.

Article 8. ASSOCIATED ENTERPRISES

Where:

(a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital or 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 the commercial or financial relations of the two enterprises differ from those which would be established 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.

Article 9. 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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount in all cases.

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 shares or from rights to the distribution of profits, not being debt-claims, as well as other income which is subjected to the same taxation treatment as income from shares by the laws of the Contracting 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 13, as the case may be, shall apply.

5. A resident of China who receives dividends paid by a company which is a resident of France may obtain reimbursement of the prepayment relating to such dividends from France. Such reimbursement may be taxed in France in accordance with the provisions of paragraph 2 above.

6. 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 in so far as such dividends are paid to a resident of that other State or in so far 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 even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 10. 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 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 shall be exempt from tax in that State, if it is paid:

(a) In the case of the People's Republic of China:

- (i) To the Government of the People's Republic of China;
- (ii) To the People's Bank of China;
- (iii) In respect of a loan financed or guaranteed, directly or indirectly, by the Bank of China or the China International Credit and Investment Corporation;
- (iv) To a financial institution owned by the Government of the People's Republic of China which is approved by mutual agreement by the competent authorities of the two Contracting States;

(b) In the case of the French Republic:

- (i) To the Government of the French Republic;
- (ii) To the Bank of France;
- (iii) In respect of a loan financed or guaranteed, directly or indirectly, by the French Bank for External Trade or the French Insurance Company for External Trade;
- (iv) To a financial institution owned by the Government of the French Republic which is approved by mutual agreement by the competent authorities of the two Contracting States.

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.

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 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 therewith. In such case the provisions of article 7 or article 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 State itself, a local authority or 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 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 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.

Article 11. ROYALTIES

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 State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

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, cinematograph films or films or tapes used for radio or television broadcasting, any patent, know-how, trade mark, design or model, secret plan, 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 therewith. In such case the provisions of article 7 or article 13, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a State a permanent establishment or a fixed base with which the liability to pay the royalties is effectively connected 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 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.

Article 12. 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 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 personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other Contracting 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 that State and received by a resident of a Contracting State.

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 Contracting State.

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

6. Gains derived by a resident of a Contracting State in the other Contracting State from the alienation of any property other than that referred to in paragraphs 1 to 5 shall be taxable in the last-mentioned Contracting State.

Article 13. 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 Contracting 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 Contracting State; or
- (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 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 14. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 15, 17, 18, 19, and 20, wages, salaries and other similar remuneration 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 the following three conditions are simultaneously fulfilled:

- (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 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 above remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

Article 15. 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 of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artist 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 articles 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 above, income derived from activities exercised by an entertainer or athlete who is a resident of one Contracting State in the other Contracting State within the framework of an official programme of cultural exchanges between the two States shall be exempt from tax in the last-mentioned Contracting State.

Article 17. PENSIONS

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

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made by a Contracting State or a local authority thereof under the social security system provided by its legislation shall be taxable only in that Contracting State.

Article 18. GOVERNMENT SERVICE

1. (a) 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 that State or authority shall be taxable only in that 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 Contracting State; or
- (ii) Did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, the Government of a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority 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 articles 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.

Article 19. TEACHERS AND RESEARCHERS

Remuneration which an individual 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, lecturing or engaging in research at a university, an institute, a school or an educational or research institution recognized by the Government of that State, derives in respect of such activities shall not be taxed in that State for a total period not exceeding three years from the date of his arrival in that State.

Article 20. STUDENTS AND APPRENTICES

Payments which a student or business apprentice 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 receives for the purpose of his maintenance, education or training shall not be taxed in that State.

Article 21. OTHER INCOME

1. Items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Agreement and arising in the other Contracting State shall be taxable in that other Contracting State.

2. However, items of income of a resident of a Contracting State wherever arising, other than those referred to in paragraph 1, which are not dealt with in the foregoing articles of this Agreement may be taxed only in that other Contracting State.

3. The provisions of paragraphs 1 and 2 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 13 as the case may be, shall apply.

Article 22. METHOD FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner for the two Contracting States:

1. In the case of the People's Republic of China:
 - (a) The tax paid under this Agreement in France in respect of any income derived from France and received by a resident of China may be deducted from the Chinese tax to be paid in respect of such resident in China, but the amount of the deduction shall not exceed the corresponding amount of the Chinese tax paid in respect of such income, as computed in accordance with the tax laws and the regulations of the People's Republic of China.
 - (b) Where the income is a dividend paid by a company which is a resident of France to a company which is a resident of China and which owns more than 10 per cent of the shares of the company paying the dividend, the French tax in respect of such dividend paid by the company paying the dividend shall be taken into account for the purpose of making the deduction from the Chinese tax.
2. In the case of the French Republic:
 - (a) Income other than that referred to in subparagraph (b) below shall be exempt from the French taxes referred to in paragraph 3 (b) of article 2, if the income is taxable in China under the terms of this Agreement.
 - (b) The income referred to in articles 9, 10, 11, 12, 15 and 16 received from China may be taxed in France in accordance with the provisions of these articles on their gross amount. Residents of France shall be entitled to a French tax credit corresponding to the amount of Chinese tax but paid on such income but which shall not exceed the amount of French tax attributable to such income.
 - (c) For the purposes of subparagraph (b) and with regard to the items of income referred to in articles 9, 10 and 11, the amount of Chinese tax paid shall be deemed to be equal to 10 per cent in respect of the gross dividends paid by Chinese joint ventures, 20 per cent in respect of other dividends, 10 per cent in respect of interest and 20 per cent in respect of royalties, of the gross amount of such items of income.

- (d) Notwithstanding the provisions of subparagraphs (a) and (b) French tax may be computed on income taxable in France under the terms of this Agreement at the rate corresponding to the total taxable income according to French legislation.

Article 23. NON-DISCRIMINATION

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. 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.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably 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 article 8, paragraph 7 of article 10, or paragraph 6 of article 11 apply, interest, royalties and other sums 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 this article shall, notwithstanding the provisions of article 2, apply to taxes of every kind and description.

Article 24. 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 a 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 23, 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 endeavour, 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 accord-

ance with 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 arising as to the 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 two Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of paragraphs 2 and 3 above. In order to facilitate such agreement, the competent authorities of the two Contracting States may negotiate through an oral exchange of opinions.

Article 25. EXCHANGE OF INFORMATION

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 in so far as the taxation thereunder is not contrary to the Agreement and particularly in order to prevent fiscal evasion. The exchange of information is not restricted by article 1. Any information received by a Contracting State shall be treated as secret and shall be disclosed only to persons or authorities involved in the assessment or collection of the taxes covered by the Agreement, including the courts involved in the determination of appeals in relation to such taxes. Such persons or authorities shall use the information only for such purposes. They may, however, 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 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*).

Article 26. DIPLOMATS

This Agreement shall not affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 27. TERRITORIAL SCOPE

This Agreement shall apply:

- (a) In the case of the People's Republic of China to any territory of the People's Republic of China to which the Chinese tax laws effectively apply, including the territorial sea and any area beyond the territorial sea which is, in accordance with international law, an area within which the People's Republic of

China has sovereign rights for the purposes of the exploration and exploitation of the resources of the sea-bed, the subsoil thereof and the superjacent waters;

- (b) In the case of the French Republic, to any department or territory of the French Republic to which the French tax laws relating to the taxes referred to in this Agreement effectively apply, including the territorial sea and any area beyond the territorial sea which is, in accordance with international law, an area within which the French Republic has sovereign rights for the purposes of the exploration and exploitation of the resources of the sea-bed, the subsoil and the superjacent waters.

Article 28. ENTRY INTO FORCE

The two Contracting States shall notify each other in writing through the diplomatic channel of the completion of the procedures required by their respective laws for the entry into force of this Agreement. This Agreement shall enter into force on the 30th day following the date of the second notification. It shall apply to income received after the first day of January, or attributable to the accounting year which begins during the course of the year next following the one in which it entered into force.

Article 29. TERMINATION

This Agreement shall remain in force for an indefinite period. However, five years after the date of its entry into force, either of the Contracting States may give the other notice through the diplomatic channel, before 1 July of the calendar year, of the termination of the Agreement, effective at the end of that calendar year.

In that event, it shall apply for the last time to income received after the first day of January, or attributable to the accounting year which ends during the course of the year next following the one in which it was terminated.

IN WITNESS WHEREOF the undersigned, duly authorized for such purposes, have signed this Agreement.

DONE in Paris on 30 May 1984 in duplicate, in the French and Chinese languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

PIERRE MAUROY
Prime Minister

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

[Signed]

ZHAO ZIYANG
Premier of the State Council

PROTOCOL

At the time of 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, the undersigned agreed to the following provisions, which are an integral part of the Agreement.

1. With regard to article 5, paragraph 3, of the Agreement, the supervision of the assembly or installation of industrial or commercial machinery or equipment by the enterprise which sells such machinery or equipment does not constitute a permanent establishment of the enterprise if the expenditures for such supervision represent less than 5 per cent of the total sale and are treated as an accessory to the sale.

2. With regard to article 11, paragraph 3, of the Agreement, the royalties paid for the use of or the right to use industrial, commercial or scientific equipment shall be taxed at the rate of 60 per cent of the gross amount of such royalties.

3. Nothing in this Agreement shall affect the provision of the Agreement and exchange of letters between the Government of the French Republic and the Government of the People's Republic of China concerning maritime transport of 28 September 1975¹ and the Agreement between the Government of the French Republic and the Government of the People's Republic of China on reciprocal exemption of taxes owed by air-transport enterprises of 23 January 1979.²

DONE in Paris on 30 May 1984 in duplicate, in the French and Chinese languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

PIERRE MAUROY
Prime Minister

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

[Signed]

ZHAO ZIYIANG
Premier of the State Council

¹ United Nations, *Treaty Series*, vol. 1062, p. 251.

² *Ibid.*, vol. 1214, p. 245.