

No. 27196

—

**SWEDEN
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 Stockholm on 16 May 1986

Authentic texts: Swedish, Chinese and English.

Registered by Sweden on 18 April 1990.

—————

**SUÈDE
et
CHINE**

Accord tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signé à Stockholm le 16 mai 1986

Textes authentiques : suédois, chinois et anglais.

Enregistré par la Suède le 18 avril 1990.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN 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 Kingdom of Sweden, 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. The existing taxes to which this 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; and
 - (iv) the local income tax (hereinafter referred to as "Chinese tax");
- (b) in Sweden:
 - (i) the State income tax (den statliga inkomstskatten), including the sailors' tax (sjömansskatten) and the coupon tax (kupongskatten);
 - (ii) the tax on public entertainers (bevillningsavgiften för vissa offentliga föreställningar);
 - (iii) the communal income tax (den kommunala inkomstskatten); and

- (iv) the profit sharing tax (vinstdelningsskatten) (hereinafter referred to as "Swedish tax").

2. The Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the taxes referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

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 and, when used in geographical sense, means all the territory of the People's Republic of China, including its territorial sea, in which the Chinese laws relating to taxation apply, and any area beyond its territorial sea, within which the People's Republic of China has sovereign rights of exploration for and exploitation of resources of the seabed and its sub-soil, and superjacent water resources in accordance with international law;
- (b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accor-

¹ Came into force on 3 January 1987, i.e., the thirtieth day following the date of the exchange of notes (of 26 November and 4 December 1986) indicating the completion of the required internal legal procedures, in accordance with article 28.

dance with international law exercises sovereign rights or jurisdiction:

(c) the terms "a Contracting State" and "the other Contracting State" mean China or Sweden as the context requires;

(d) the term "tax" means Chinese tax or Swedish tax, as the context requires;

(e) the term "person" includes an individual, a company and any other body of persons;

(f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(g) 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;

(h) the term "nationals" means all individuals possessing the nationality of either Contracting State and all juridical persons created or organized under the laws of either Contracting State and all organizations without juridical personality treated for the purposes of tax as juridical persons created or organized under the laws of either Contracting State;

(i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its head office in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "competent authority" means, in the case of China, the Ministry of Finance or its authorized representative and, in the case of Sweden, the Minister of Finance 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 laws of that Contracting 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 Contracting State, is liable to tax therein by reason of his domicile, residence, place of head office 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, then his status shall be determined as follows:

(a) He shall be deemed to be a resident 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 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 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 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 of the State in which its head office 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, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;

(b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, but only where such activities continue (for the same project or a connected project) within the country for a period or periods aggregating more than six months within any twelve-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;

(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

the provisions of paragraph 6 apply — is acting on behalf of an enterprise and has and habitually exercises in a 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 his activities 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 Contracting 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 Contracting 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 Contracting State.

2. The term "immovable property" shall have the meaning which it has under the laws 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.

Article 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 that 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 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 si-

tuated 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 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 head office of the enterprise or any of its other offices.

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 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

Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State where the head office of the enterprise is situated.

2. 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 Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State, and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting 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 Contracting 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 Contracting 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.

The provisions of 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 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 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 Contracting 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

Contracting 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 Contracting 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 Contracting 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 that other Contracting State.

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 Contracting State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that Contracting 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 derived from a Contracting State is exempt from tax in that State, if it is paid:

(a) in the case of China:

(i) to the Government of the People's Republic of China;

(ii) to the People's Bank of China;

(iii) on a loan directly or indirectly financed or guaranteed by the Bank of China or the China International Trust and Investment Company (CITIC);

(iv) to a financial institution appointed by the Government of the People's Republic of China and mutually agreed upon by the competent authorities of the two Contracting States;

(b) in the case of Sweden:

(i) to the Government of Sweden;

(ii) to the Bank of Sweden;

(iii) on a loan, directly or indirectly financed or guaranteed by the Swedish Export Credit Guarantee Board, the National

Debt Office or the Swedish Fund for Industrial Cooperation with Developing Countries ("Swedfund");

(iv) to a financial institution appointed by the Government of Sweden and mutually agreed upon 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. Penalty charges for late payment 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 Contracting 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 the Government of that Contracting State, a local authority thereof or a resident of that Contracting 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 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting 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 including cinematograph films and films or tapes for radio or television broadcasting, any patent, know-how, 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 Contracting 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 the Gov-

ernment of that Contracting State, a local authority thereof or 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 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 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 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 together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State.

3. Gains from the alienation of ships or aircraft operated in international traffic and movable property, pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the head office of the enterprise is situated.

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 at least 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 from the alienation of any property other than that referred to in paragraphs 1 to 5 and arising in the other Contracting State may be taxed in that other Contracting State.

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 Contracting State except in one of 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;

(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 Contracting State.

2. The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activi-

ties as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 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 Contracting State, if:

(a) the recipient is present in that 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 that other Contracting State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting State.

3. Notwithstanding the provisions of paragraphs 1 and 2, 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 16

Directors' fees and remunerations of top-level managerial officials

1. 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 Contracting State.

2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

Article 17

Artistes and athletes

1. Notwithstanding the provisions of Articles 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, 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, 14 and 15, 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, income derived by entertainers or athletes who are residents of a Contracting State from activities referred to in paragraphs 1 and 2 exercised in the other Contracting State under a plan of cultural exchange between the Governments of the Contracting States, shall be exempt from tax in that other Contracting State.

Article 18

Pensions

1. 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 Contracting State.

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

Article 19

Government services

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 the Government of that Contracting State or a local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in that Contracting 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 other Contracting State; or

(ii) did not become a resident of that other Contracting 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 the Government of that Contracting State or a local authority thereof, in the discharge of functions of a governmental nature, 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 15, 16, 17 and 18 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 20

Students and trainees

A student, business apprentice or 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 Contracting State solely for the purpose of his education, training or obtaining special technical experience shall be exempt from tax in that first-mentioned Contracting State with respect to:

(a) payments received from sources outside that Contracting State for the purpose of his maintenance, education, study, research or training;

(b) grants, scholarships or awards from a government or a scientific, educational or other tax-exempt organization; and

(c) income from personal services performed in that Contracting State provided that the income does not exceed 18 000 Swedish kronor or its equivalent in Chinese yuan for any taxable year.

The benefits provided under sub-paragraph (c) shall extend only for such period of time as is reasonably necessary to complete the education or training, but shall in no event exceed a period of seven consecutive years.

Article 21

Teachers and researchers

1. An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of that other Contracting State or of a university or other educational or scientific research institution situated in that other Contracting State and approved by an educational authority of that other Contracting State, is present in that other Contracting State for the primary purpose of teaching, giving lectures or engaging in research at such university or other educational or scientific research institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching, giving lectures or engaging in research at such university or other educational or scientific research institution for a period not exceeding three years from the date of his arrival in that other Contracting State.

2. The exemption granted under paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or specific persons.

Article 22

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 may be taxed in that other Contracting State.

2. However, items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement, and other than those referred to in paragraph 1, shall be taxable only in that 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 who is 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 Contracting 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.

Article 23

Elimination of double taxation

1. In the case of China, double taxation shall be avoided as follows:

(a) Where a resident of China derives income from Sweden the amount of Swedish tax payable in respect of that income in accordance with the provisions of this Agreement may be allowed as a credit against the Chinese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Chinese tax computed as appropriate to that income in accordance with the taxation laws and regulations of China.

(b) Where the income derived from Sweden is a dividend paid by a company which is a resident of Sweden to a company which is a resident of China and which owns not less than 10 per cent of the share capital of the company paying the dividend, the credit shall take into account the Swedish tax payable by the company paying the dividend in respect of its income.

2. In the case of Sweden, double taxation shall be avoided as follows:

(a) Where a resident of Sweden derives income which under the laws of China and in accordance with the provisions of this Agreement may be taxed in China, Sweden shall allow — subject to the provisions of the law of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) — as a deduction from the tax on such income, an amount equal to the Chinese tax paid in respect of such income.

(b) Notwithstanding the provisions of sub-paragraph (a), where a resident of Sweden derives income which in accordance with the provisions of Article 7 or Article 14, or gains which in accordance with the provisions of paragraph 2 of Article 13, may be taxed in China, Sweden shall exempt such income or gains from tax provided that the principal part of the income or gains arises from business activities or independent personal services carried on within China.

(c) Notwithstanding the provisions of sub-paragraph (a), dividends paid by a company being a resident of China to a company which is a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies.

(d) Where a resident of Sweden derives income which, in accordance with the provisions of Article 8, paragraph 3 of Article 13, paragraph 2 of Article 18 and paragraphs 1 and 2 of Article 19, shall be taxable only in China, or derives income or gains which in accordance with sub-paragraph (b) of this paragraph shall be exempt from Swedish tax, Sweden may take such income or gains into account when determining the graduated rate of Swedish tax.

3. For the purpose of sub-paragraph (a) of paragraph 2, in respect of the items of income referred to in Articles 10, 11 and 12 the amount of "Chinese tax paid" shall be deemed to be equal to 10 per cent of the gross dividends, 10 per cent of the gross interest and 20 per cent of the gross royalties.

The provisions of this paragraph shall apply only for the first ten years for which this Agreement is effective. This period may be

extended by mutual agreement between the competent authorities of the Contracting States.

Article 24

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 Contracting State in the same circumstances are or may be subjected. The provisions of this paragraph 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. The provisions of this paragraph shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions based on its policy or 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 Contracting 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 Contracting 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 Contracting 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 25

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 laws of those Contracting 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 24, 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 accordance with the provisions of the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour 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 the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

Article 26

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, insofar as the taxation there under these laws is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received 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, involved in the assessment or collection of, the enforcement or prosecution in respect of the taxes covered by this Agreement or the determination of appeals in relation thereto. Such persons or authorities shall use the information only for such purposes. Such information may be disclosed 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; or

(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.

Article 27

Diplomatic agents and consular officers

Nothing in this Agreement shall 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 28

Entry into force

This Agreement shall enter into force on the thirtieth day after the date on which diplomatic notes indicating the completion of internal legal procedures necessary in each Contracting State for the entry into force of the Agreement have been exchanged. The Agreement shall have effect as respects income derived during any taxable year beginning on or after the first day of January in the year in which the Agreement enters into force.

Article 29

Termination

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 to the other Contracting State, through the diplomatic channel, written notice of termination. In such event the Agreement shall cease to have effect as respects income derived during the taxable years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

In witness whereof the undersigned being duly authorized thereto have signed the present Agreement.

Done at Stockholm, this 16th day of May, 1986, in duplicate in the Chinese, Swedish and English languages, all texts being equally authentic. In the case of doubt, however, the English text shall prevail.

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

WU XUEQIAN

For the Government
of the Kingdom of Sweden:

STEN ANDERSSON

Protocol

At the moment of signing the Agreement between the Government of the People's Republic of China and the Government of the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

To Articles 8 and 13

1. The provisions of Article 9 of the Agreement on Maritime Transport between the Government of the People's Republic of China and the Government of Sweden signed at Beijing on the 18th of January 1975¹ shall not be affected by the Agreement.

2. When applying the Agreement the air transport consortium Scandinavian Airlines System (SAS) shall be regarded as having its head office in Sweden but the provisions of paragraph 1 of Article 8 and paragraph 3 of Article 13 shall apply only to that part of its profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

To Article 12

For purposes of paragraph 3 of Article 12 it is understood that, in the case of payments received as a consideration for the use of or the right to use industrial, commercial or scientific equipment, the tax shall be imposed on 70 per cent of the gross amount of such payments.

To Article 15

It is understood that where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS) such remuneration shall be taxable only in Sweden.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

Done at Stockholm, this 16th day of May, 1986, in duplicate in the Chinese, Swedish and English languages, all texts being equally authentic. In the case of doubt, however, the English text shall prevail.

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

WU XUEQIAN

For the Government
of the Kingdom of Sweden:

STEN ANDERSSON

¹ United Nations, *Treaty Series*, vol. 1254, p. 211.