



Treaty Series No. 7 (1985)

Agreement

between the Government of the United Kingdom of
Great Britain and Northern Ireland and the
Government of the People's Republic of China
for the Reciprocal Avoidance of Double
Taxation and the Prevention of Fiscal
Evasion with respect to Taxes on
Income and Capital Gains

Peking, 26 July 1984

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by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
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AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
FOR THE RECIPROCAL AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China;

Desiring to conclude an Agreement for the reciprocal avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;

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 applies are:

(a) in the People's Republic of China:

(i) the individual income tax;

(ii) the income tax (including the additional local income tax) concerning joint ventures with Chinese and foreign investment; and

(iii) the income tax (including the local income tax) concerning foreign enterprises;

(hereinafter referred to as "Chinese tax");

(b) in the United Kingdom of Great Britain and Northern Ireland:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

(hereinafter referred to as "United Kingdom tax").

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the taxes referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any changes which are made in their respective taxation laws.

ARTICLE 3

General definitions

- (1) In this Agreement, unless the context otherwise requires:
- (a) the term "China" means the People's Republic of China, including all the territory and the territorial sea of the People's Republic of China, in which the laws relating to Chinese tax are in force, and all the area beyond its territorial sea, and the sea bed and sub-soil thereof, over which the People's Republic of China has jurisdiction in accordance with international law and in which the laws relating to Chinese tax are in force;
 - (b) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean China or the United Kingdom as the context requires;
 - (d) the term "national" means:
 - (i) in relation to China any individual who under the law in China possesses Chinese nationality; and any legal person, partnership or other body of persons deriving its status as such from the law in force in China;
 - (ii) in relation to the United Kingdom, any individual who has under the law in the United Kingdom the status of United Kingdom national, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (e) the term "person" means 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 "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management of the business in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(f) the term "competent authority" means, in the case of China, the General Taxation Bureau of the Ministry of Finance or its authorised representatives, and in the case of the United Kingdom, the Board of Inland Revenue or their authorised representatives.

(2) As regards the application of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of that Contracting State relating to the taxes to which this 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 law of that State, is liable to tax therein by reason of his domicile, residence, place of head office, place of effective management or any other criterion of a similar nature.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (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) of this Article 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 the place of effective management of its business is situated. However, where such a person has the place of effective management of its business in one of the Contracting States and the place of head office of its business in the other Contracting State, then the competent authorities of the Contracting States shall determine by mutual agreement the State of which the company shall be deemed to be a resident for the purposes of this Agreement.

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;

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and

(g) an installation or structure used for the exploration or exploitation of natural resources.

(3) A building site or a construction, installation or assembly project constitutes a permanent establishment only if it lasts more than six months.

(4) Notwithstanding the provisions of paragraphs (1) to (3) of this Article, 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) of this paragraph, 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) of this Article, where a person, other than an agent of an independent status to whom paragraph (6) of this Article 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 Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, unless the activities of such a person are limited to those mentioned in paragraph (4) of this Article, which, if exercised through a fixed place of business, would not make that 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 State through a broker, general commission agent or any other agent of an independent status, provided that such a person is acting in the ordinary course of his business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall 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 (including income from agriculture or forestry) 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) of this Article 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) of this Article 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 State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3) of this Article, 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 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 by way of fees for technical services, 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, of 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 specific services performed or for management, or by way of fees for technical services, 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) 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.

(5) 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 in which the place of effective management of the business of the enterprise is situated.

(2) If the place of effective management of the business of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

(3) The provisions of this Article shall also apply to profits derived from participation in a pool, a joint business or an international operating agency.

ARTICLE 9

Associated enterprises

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.

ARTICLE 10

Dividends

(1) Dividends derived from a company which is a resident of a Contracting State by 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 law of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

(3) The term "dividends" as used in this Article shall have the meaning which it has under the taxation law of the Contracting State of which the company paying the dividend is a resident and shall include any item which is treated under that law as a dividend or distribution.

(4) The provisions of paragraph (2) of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(5) The provisions of paragraphs (1) and (2) of this Article 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 15, as the case may be, shall apply.

(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 insofar as such dividends are paid to a resident of that other 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 State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

ARTICLE 11

Interest

(1) Interest arising in a Contracting State which is derived by 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 law of that State; but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State and derived by the Government of the other Contracting State, a political sub-division or local authority thereof, the Central Bank of that other Contracting State or any agency of that Government, or by any other resident of that other Contracting State with respect to debt-claims of that resident which are financed, guaranteed or insured by the Government of that other Contracting State, a political sub-division or local authority thereof, the Central Bank of that other Contracting State or any agency of that Government, shall be exempt from tax in the first-mentioned Contracting State.

(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, but shall not include any item which is treated as a distribution under the provisions of Article 10 of this Agreement.

(5) The provisions of paragraphs (1) and (2) of this Article 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 with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, 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 or a political sub-division thereof

or 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 that permanent establishment or fixed base, then such interest shall be deemed to arise in the 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 paid exceeds, for whatever reason, 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 law 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 which are derived by 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 law of that State; but if the beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed :

- (a) in the case of royalties referred to in sub-paragraph (a) of paragraph (3) of this Article, 10 per cent of the gross amount of the royalties; and
- (b) in the case of royalties referred to in sub-paragraph (b) of paragraph (3) of this Article, 10 per cent of the adjusted amount of the royalties. For the purpose of this sub-paragraph "the adjusted amount " means 70 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article comprises :

- (a) 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, or any patent, know-how, trademark, design or model, plan, secret formula or process; and
- (b) payments of any kind received as a consideration for the use of, or the right to use, any industrial, commercial or scientific equipment.

(4) The provisions of paragraphs (1) and (2) of this Article 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 with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is the Government of that State or a political sub-division thereof or 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 Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the 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 paid exceeds, for whatever reason, 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 law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13

Technical fees

(1) Technical fees arising in a Contracting State which are derived by a resident of the other Contracting State may be taxed in that other State.

(2) However, such technical fees may also be taxed in the Contracting State in which they arise, and according to the law of that State; but if the beneficial owner of the technical fees is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the adjusted amount of the technical fees. For the purpose of this paragraph, "the adjusted amount" means "70 per cent of the gross amount of the technical fees.

(3) The term "technical fees" as used in this Article means payments of any kind to any person in consideration for any services of a technical, supervisory or consultancy nature, including the use of, or the right to use, information concerning industrial, commercial or scientific experience, but it does not include payments made to an employee of the person making the payments for dependent personal services mentioned in Article 16.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State, in which the technical fees arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the technical fees are effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) Technical fees shall be deemed to arise in a Contracting State when the payer is the Government of that State or a political sub-division thereof or a local authority or a resident of that State. Where, however, the person paying the technical fees, 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 obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment or fixed base, then such technical fees shall be deemed to arise in the 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 technical fees paid exceeds, for whatever reason, 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 law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 14

Capital gains

(1) Subject to the provisions of paragraph (2) of this Article, capital gains which arise in a Contracting State may be taxed by that State in accordance with the provisions of its domestic law.

(2) Gains from the alienation of ships or aircraft operated in international traffic and any property, other than immovable property, pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the business of the enterprise is situated.

ARTICLE 15

Independent personal services

(1) Subject to the provisions of Article 13, income derived by a resident of a Contracting State in respect of professional services or other activities of independent character shall be taxable only in that 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 so much of the income as is attributable to that fixed base may be taxed in that other State; or
- (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case so much of the income as is derived from his activities performed in that other 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 16

Dependent personal services

(1) Subject to the provisions of Articles 17, 19, 20, 21 and 22 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 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 State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, 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:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal 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 of a fixed base which the employer has in the other State.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the business of the enterprise is situated.

(4) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, salaries, wages and other remuneration earned by a national of a Contracting State in respect of services rendered to an enterprise of that Contracting State engaged in the operation of aircraft in international traffic as an officer or employee posted to the other Contracting State shall be taxable only in the first-mentioned Contracting State.

ARTICLE 17

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 18

Entertainers and athletes

(1) Notwithstanding the provisions of Articles 15 and 16, 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 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, 15 and 16, 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) of this Article, income derived from such activities as are referred to in paragraph (1) performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by public or government funds of either Contracting State.

ARTICLE 19

Pensions

Subject to the provisions of paragraph (2) of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 20

Government service

(1) (a) Remuneration, other than a pension, paid by the Government of a Contracting State or by a political sub-division or a local authority thereof to an individual in respect of services rendered to the Government of that State or sub-division or local 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 State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of performing the services.

(2) (a) Any pension paid by, or out of funds created by, the Government of a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to the Government of that State or sub-division or authority shall be taxable only in that 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 State.

(3) The provisions of Articles 16, 17, 18 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

ARTICLE 21

Teachers and researchers

An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and who is present in the first-mentioned State for a period not exceeding three years for the purpose of teaching, giving lectures or conducting research at a university, college, school or other recognised educational or scientific research institution in the first-mentioned State shall be exempt from tax in the first-mentioned State for a period not exceeding three years from the date of his first arrival in that State in respect of remuneration from such teaching, lectures or research.

ARTICLE 22

Students, apprentices and trainees

(1) 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 State solely for the purpose of his education or training shall be exempt from tax in that State on:

- (i) all remittances made from abroad for the purpose of his maintenance, education or training;
- (ii) all scholarships, grants, allowances and awards from governmental, charitable, scientific, literary or educational organisations for the purposes of his maintenance, education or training; and
- (iii) income from personal services performed in that Contracting State (other than any rendered by a business apprentice to the person or partnership to whom he is apprenticed, or, in the case of a trainee, other than services rendered to the person providing the training) in an amount not in excess of one thousand pounds sterling, or its equivalent in Chinese yuan, for any year of assessment.

(2) The exemptions under paragraph (1) of this Article shall only continue for such period of time as may reasonably or customarily be required to complete the education or training undertaken but in no event shall any individual have the benefit of paragraph (1) of this Article for more than five years from the commencement of such education or training.

ARTICLE 23

Elimination of double taxation

- (1) In China double taxation shall be eliminated as follows:
- (a) Where a resident of China derives profits, income or capital gains from the United Kingdom, the amount of the United Kingdom tax payable in respect of such profits, income or capital gains in accordance with the provisions of this Agreement shall 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 with respect to such profits, income or capital gains in accordance with the tax laws and regulations of China;

- (b) where the income derived from the United Kingdom is a dividend paid by a company which is a resident of the United Kingdom 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 credit shall take into account the United Kingdom tax payable by the company paying the dividend in respect of its income.

(2) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

- (a) Chinese tax payable under the law of China and in accordance with this Agreement whether directly or by deduction, on profits, income or capital gains from sources within China (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or capital gains by reference to which the Chinese tax is computed;
- (b) in the case of a dividend paid by a company which is a resident of China to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Chinese tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Chinese tax payable by the company in respect of the profits out of which such dividend is paid.

(3) For the purpose of paragraph (2) of this Article, the term "Chinese tax payable" shall be deemed to include any amount which would have been payable as Chinese tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under any of the following provisions of Chinese law:

- (a) (i) Articles 5 and 6 of the Income Tax Law of the People's Republic of China Concerning Joint Ventures with Chinese and Foreign Investment and Article 3 of the Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People's Republic of China Concerning Joint Ventures with Chinese and Foreign Investment;
- (ii) Articles 4 and 5 of the Income Tax Law of the People's Republic of China Concerning Foreign Enterprises;

so far as they were in force on, and have not been modified since, the date of signature of this Agreement, or have been modified only in minor respects so as not to affect their general character; or

- (b) any other provision which may subsequently be made granting an exemption from or reduction of tax which is agreed by the competent

authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Chinese tax was first granted in respect of that source.

(4) For the purposes of paragraphs (1) and (2) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Agreement shall be deemed to arise from sources in that other Contracting State.

(5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (2) of this Article.

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 State in the same circumstances are or may be subjected.

(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.

(3) 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 that first-mentioned State are or may be subjected.

(4) Except where the provisions of Article 9, paragraph (7) of Article 11, paragraph (6) of Article 12 or paragraph (6) of Article 13 apply, interest, royalties, technical fees 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 State.

(5) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

ARTICLE 25

Mutual agreement procedure

(1) Where a resident of a Contracting State 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 States, present his case to the competent authority of the Contracting State of which he is a resident.

(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 this Agreement.

(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 this 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) of this Article.

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 this Agreement insofar as the taxation thereunder is not contrary to the provisions of this Agreement, in particular for the prevention of fraud or fiscal evasion. The exchange of information shall not be restricted by Article 1. Any information so exchanged shall be treated as secret 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, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph (1) of this Article be construed so as to impose on the competent authority of either Contracting State the obligation:

- (a) to carry out administrative measures at variance with the law and administrative practice prevailing in either Contracting State;
- (b) to supply information which is not obtainable under the law or in the normal course of the administration of either 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 officials

(1) Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

(2) Notwithstanding the provisions of paragraph (1) of Article 4, an individual who is a member of the diplomatic or permanent mission or consular post of a Contracting State or any third State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

ARTICLE 28

Existing Agreement

Nothing in this Agreement shall affect the provisions of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China for the Reciprocal Avoidance of Double Taxation on Revenues arising from the Business of Air Transport, signed at Beijing on 10 March 1981⁽¹⁾, to the extent that they have effect as regards taxes to which this Agreement applies. However, where any greater relief for such taxes is afforded by any provision of this Agreement, that provision shall apply.

ARTICLE 29

Entry into force

Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the thirtieth day following the date of the later of these notifications⁽²⁾ and shall thereupon have effect:

- (a) in China, in respect of profits, income and capital gains arising in any tax year beginning on or after the first day of January in the

⁽¹⁾ Treaty Series No. 7 (1982), Cmnd. 8462.

⁽²⁾ The Agreement entered into force on 23 December 1984.

calendar year next following that in which this Agreement enters into force;

(b) in the United Kingdom :

- (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which this Agreement enters into force;
- (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which this Agreement enters into force.

ARTICLE 30

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 this Agreement shall cease to have effect:

- (a) in China, as regards profits, income and capital gains derived during the tax year beginning on or after 1 January in the calendar year next following that in which the notice is given;
- (b) in the United Kingdom :
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given.

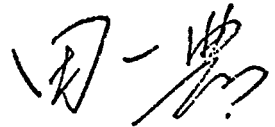
In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Peking this 26th day of July 1984 in the English and Chinese languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland :

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

Richard Evans



[TIAN YINONG]

中华人民共和国政府和 大不列颠及北爱尔兰联合王国政府 关于对所得和财产收益相互避免 双重征税和防止偷漏税的协定

中华人民共和国政府和大不列颠及北爱尔兰联合王国政府，愿意缔结关于对所得和财产收益相互避免双重征税和防止偷漏税的协定，达成协议如下：

第 一 条

人 的 范 围

本协定适用于缔约国一方或者双方居民的人。

第 二 条

税 种 范 围

一、本协定适用于下列现行税种：

（一）在中华人民共和国：

- 1、个人所得税；
- 2、中外合资经营企业所得税（包括附征地方所得税）；
- 3、外国企业所得税（包括地方所得税）
（以下简称“中国税收”）

（二）在大不列颠及北爱尔兰联合王国：

- 1、所得税；
- 2、公司税；
- 3、财产收益税。

（以下简称“联合王国税收”）

二、本协定也适用于本协定签订之日后缔约国任何一方增加或者代替本条第一款所列税种的相同或者实质相似的税收。缔约国双方主管当局应将各自税法所作的变动通知对方。

第 三 条

一 般 定 义

一、在本协定中，除上下文另有规定的以外：

（一）“中国”一语是指中华人民共和国，包括有效行

使有关中国税收法律的所有中华人民共和国领土、领海，以及根据国际法，中华人民共和国有管辖权和有效行使有关中国税收法律的所有领海以外的区域，包括海底和底土；

(二) “联合王国”一语是指大不列颠及北爱尔兰，包括根据国际法已经标明或以后将标明的联合王国领海以外的任何区域，根据联合王国关于大陆架的法律，对于海底和底土及其自然资源，联合王国行使权利的区域；

(三) “缔约国一方”和“缔约国另一方”的用语，按照上下文，是指中国或者联合王国；

(四) “国民”一语是指：

1. 在中国，按照中国法律具有中国国籍的任何个人和按照中国法律取得中国国民地位的任何法人、合伙企业或其它团体；

2. 在联合王国，任何按照联合王国法律具有联合王国国民地位，且在联合王国境内有居住权的个人；以及按照联合王国法律取得联合王国国民地位的任何法人、合伙企业、协会或其它实体；

(五) “人”一语是指个人、公司和其它团体；

(六) “公司”一语是指法人团体或者在税收上视同

法人团体的实体；

(七) “缔约国一方企业”和“缔约国另一方企业”的用语，分别指缔约国一方居民经营的企业和缔约国另一方居民经营的企业；

(八) “国际运输”一语是指在缔约国一方设有其实际经营管理机构的企业以船舶或飞机经营的运输，不包括仅在缔约国另一方各地之间以船舶或飞机经营的运输；

(九) “主管当局”一语，在中国方面是指财政部税务总局或其授权的代表；在联合王国方面是指国内收入局或其授权的代表。

二、缔约国一方在实施本协定时，对于未明确定义的用语，除上下文另有规定的以外，应当具有该缔约国关于适用本协定税种的法律所规定的含义。

第 四 条

居 民

一、在本协定中，“缔约国一方居民”一语是指按照该国法律，由于住所、居所、总机构、实际管理机构所在地，或者其它类似的标准，在该国负有纳税义务的人。

二、由于本条第一款的规定，同时为缔约国双方居民的个人，其身份应按以下规则确定：

（一）应认为是其有永久性住所所在国的居民；如果在两个国家同时有永久性住所，应认为是其个人和经济关系更密切（重要利益中心）的国家的居民；

（二）如果其重要利益中心所在国无法确定，或者在任何一国都没有永久性住所，应认为是其有习惯性居处所在国的居民；

（三）如果其在两个国家都有，或者都没有习惯性居处，应认为是其国民所在国的居民；

（四）如果其同时是两个国家的国民，或者不是任何一国的国民，缔约国双方主管当局应通过协商解决。

三、由于本条第一款的规定，除个人外，同时为缔约国双方居民的人，应认为是其经营的实际管理机构所在国的居民。然而，如果这个人在缔约国一方设有其经营的实际管理机构，在缔约国另一方设有其总机构，缔约国双方主管当局应协商确定该公司为本协定缔约国一方的居民。

第五 条

常 设 机 构

一、在本协定中，“常设机构”一语是指企业进行全部或部分营业的固定营业场所。

二、“常设机构”一语特别包括：

(一) 管理场所；

(二) 分支机构；

(三) 办事处；

(四) 工厂；

(五) 作业场所；

(六) 矿场、油井或气井、采石场或者其它开采自然资源的场所；

(七) 勘探或开发自然资源所使用的装置或设施。

三、建筑工地，建筑、装配或安装工程，仅以连续六个月以上的为常设机构。

四、虽有本条第一款至第三款的规定，“常设机构”一语应认为不包括：

(一) 专为储存、陈列或者交付本企业货物或者商品

的目的而使用的设施；

(二) 专为储存、陈列或者交付的目的而保存本企业货物或者商品的库存；

(三) 专为另一企业加工的目的而保存本企业货物或者商品的库存；

(四) 专为本企业采购货物或者商品，或者搜集情报的目的所设的固定营业场所；

(五) 专为本企业进行其它准备性或辅助性活动的目的所设的固定营业场所。

(六) 专为本款第(一)项至第(五)项活动的结合所设的固定营业场所，如果由于这种结合使该固定营业场所全部活动属于准备性质或辅助性质。

五、虽有本条第一款和第二款的规定，当一个人在缔约国一方代表缔约国另一方的企业进行活动，有权并经常行使这种权力代表该企业签订合同，除适用本条第六款的独立代理人以外，这个人为该企业进行的任何活动，应认为该企业在该缔约国一方设有常设机构。除非这个人的活动仅限于本条第四款的规定，即使是通过固定营业场所进行活动，按照该款规定，不应认为该固定营业场所是常设

机构。

六、缔约国一方企业仅通过按常规经营本身业务的经纪人、一般佣金代理人或者任何其他独立代理人在缔约国另一方进行营业，不应认为在该缔约国另一方设有常设机构。但如果这个代理人的活动全部或几乎全部代表该企业，不应认为是本款所指的独立代理人。

七、缔约国一方居民公司，控制或被控制于缔约国另一方居民公司或者在该另一国进行营业的公司（不论是否通过常设机构），此项事实不能据以使任何一方公司构成另一方公司的常设机构。

第 六 条

不 动 产 所 得

一、缔约国一方居民从位于缔约国另一方的不动产取得的所得(包括农业或林业所得)，可以在该另一国征税。

二、“不动产”一语应具有财产所在地的缔约国的法律所规定的含义。该用语在任何情况下应包括附属于不动产的财产，农业和林业所使用的牲畜和设备，一般法律规定的适用于地产的权利，不动产的用益权以及由于开采或

有权开采矿藏、水源和其它自然资源取得的不固定或固定收入的权利。船舶和飞机不应视为不动产。

三、本条第一款的规定适用于从直接使用、出租或者任何其它形式使用不动产取得的所得。

四、本条第一款和第三款的规定也适用于企业的不动产所得和用于进行独立个人劳务的不动产所得。

第七 条

营 业 利 润

一、缔约国一方企业的利润应仅在该国征税，但该企业通过设在缔约国另一方的常设机构在该另一国进行营业的除外。如果该企业通过设在该另一国的常设机构在该另一国进行营业，其利润可以在该另一国征税，但应仅以属于该常设机构的利润为限。

二、从属于本条第三款的规定，缔约国一方企业通过设在缔约国另一方的常设机构在该另一国进行营业，如果该常设机构是一个独立和分设的企业，在相同或相似情况下从事相同或相似活动，并完全独立地同其所隶属的企业进行交易，该常设机构在缔约国各方可能得到的利润应属

于该常设机构。

一、确定常设机构的利润时，应允许扣除其进行营业发生的各项费用，包括行政和一般管理费用，不论其发生于该常设机构所在国或者其它任何地方。但是，常设机构使用专利或者其它权利支付给企业总机构或该企业其它办事处的特许权使用费、报酬或其它类似款项，具体服务或管理的佣金，技术服务的报酬，或者借款给该常设机构的利息（银行企业除外），都不作任何扣除（属于偿还代垫实际发生的费用除外）。同样，在确定常设机构的利润时，对于该常设机构从企业总机构或该企业其它办事处取得的专利或其它权利的特许权使用费、报酬或其它类似款项，具体服务或管理的佣金，技术服务的报酬，或者借款给该企业总机构或该企业其它办事处的利息（银行企业除外），也不考虑（属于偿还代垫实际发生的费用除外）。

四、不应仅由于常设机构为企业采购货物或商品，将利润归属于该常设机构。

五、利润中如果包括本协定其它各条单独规定的所得项目时，本条规定不应影响其它各条的规定。

第 八 条

船 运 和 空 运

一、以船舶或飞机经营国际运输的利润，应仅在企业实际经营管理机构所在缔约国征税。

二、如果船运企业的实际经营管理机构设在船上，应以船舶母港所在缔约国为所在国；或者如果没有母港，应以船舶经营者为居民的缔约国为所在国。

三、本条规定也适用于参加合伙经营、联合经营或者参加国际经营机构的利润。

第 九 条

联 属 企 业

(一) 缔约国一方企业直接或者间接参与缔约国另一方企业的管理、控制或资本，或者

(二) 同一人直接或者间接参与缔约国一方企业和缔约国另一方企业的管理、控制或资本，

在上述任何一种情况下，两个企业之间的商业或财务关系不同于独立企业之间的关系，因此，本应由其中一个

企业取得，但由于这些情况而没有取得的利润，可以计入该企业的利润，并据以征税。

第 十 条

股 息

一、缔约国另一方居民从缔约国一方居民公司取得的股息，可以在该另一国征税。

二、然而，这些股息也可以在支付股息的公司是其居民的缔约国，按照该国的法律征税。但是，如果该项股息的受益所有人是缔约国另一方居民，则所征税款不应超过该股息总额的百分之十。

三、本条“股息”一语应具有按照支付股息公司是其居民的缔约国的税法含义，并应包括按该税法视同股息或分配的任何项目。

四、本条第二款的规定，不应影响对公司支付股息前的利润所征收的公司利润税。

五、如股息受益所有人是缔约国一方居民，在支付股息的公司是其居民的缔约国另一方，通过设在该另一国的常设机构进行营业或者通过设在该另一国的固定基地从事

独立个人劳务，据以支付股息的股份与该常设机构或固定基地有实际联系的，不适用本条第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十五条的规定。

六、缔约国一方居民公司从缔约国另一方取得利润或所得，该另一国不得对该公司支付的股息征收任何税收。但支付给该另一国居民的股息或者据以支付股息的股份与设在该另一国的常设机构或固定基地有实际联系的除外。对于该公司的未分配的利润，即使支付的股息或未分配的利润全部或部分发生于该另一国的利润或所得，该另一国也不得征税。

第十一条

利 息

一、缔约国另一方居民取得的发生于缔约国一方的利息，可以在该另一国征税。

二、然而，这些利息也可以在该利息发生的缔约国，按照该国的法律征税。但是，如果该项利息的受益所有人是缔约国另一方居民，则所征税款不应超过利息总额的

百分之十。

三、虽有本条第二款的规定，发生在缔约国一方而为缔约国另一方政府、行政区、地方当局、该缔约国另一方中央银行或该政府的任何机构取得的利息；或者为该缔约国另一方的其他居民取得的利息，其债权是由该缔约国另一方政府、行政区、地方当局、该缔约国另一方中央银行或该政府的任何机构提供资金、担保或保险的，应在该缔约国一方免税。

四、本条“利息”一语是指从各种债权取得的所得，不论其有无抵押担保或者是否有权分享债务人的利润；特别是从公债、债券或者信用债券取得的所得，包括其溢价和奖金。但不包括按照本协定第十条的规定视为分配的任何项目。

五、如果利息受益所有人是缔约国一方居民，在该利息发生的缔约国另一方，通过设在该另一国的常设机构进行营业或者通过设在该另一国的固定基地从事独立个人劳务，据以支付该利息的债权与该常设机构或者固定基地有实际联系的，不适用本条第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十五条的规定。

六、如果支付利息的人为缔约国一方政府、行政区、地方当局或该国居民，应认为该利息发生在该国。然而，当支付利息的人不论是否为缔约国一方居民，在缔约国一方设有常设机构或者固定基地，支付该利息的债务与该常设机构或者固定基地有联系，并由其负担这种利息，上述利息应认为发生于该常设机构或固定基地所在国。

七、由于支付利息的人与受益所有人之间或者他们与其他人之间的特殊关系，支付的利息数额，不论什么原因，超出支付人与受益所有人没有上述关系所能同意的数额时，本条规定应仅适用于后来提及的数额。在这种情况下，对该支付款项的超出部分，仍应按各缔约国的法律征税，但应适当考虑本协定的其它规定。

第十二条

特许权使用费

一、缔约国另一方居民取得的发生于缔约国一方的特许权使用费，可以在该另一国征税。

二、然而，这些特许权使用费也可以在其发生的缔约国，按照该国的法律征税。但是，如果该项特许权使用费

的受益所有人是缔约国另一方居民，则所征税款不应超过：

（一）在本条第三款第（一）项所述的特许权使用费的情况下，该项特许权使用费总额的百分之十；

（二）在本条第三款第（二）项所述的特许权使用费的情况下，该项特许权使用费调整数额的百分之十。在该项中，“调整数额”是指特许权使用费总额的百分之七十。

三、本条“特许权使用费”一语包括：

（一）使用或有权使用文学、艺术或科学著作，包括电影影片、无线电或电视广播使用的胶片、磁带的版权，专利、专有技术、商标、设计、模型、图纸、秘密配方、秘密程序所支付的作为报酬的各种款项；

（二）使用、有权使用工业、商业、科学设备所支付的作为报酬的各种款项。

四、如果特许权使用费受益所有人是缔约国一方居民，在该特许权使用费发生的缔约国另一方，通过设在该另一国的常设机构进行营业或者通过设在该另一国的固定基地从事独立个人劳务，据以支付该特许权使用费的权利

或财产与该常设机构或固定基地有实际联系的，不适用本条第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十五条的规定。

五、如果支付特许权使用费的人是缔约国一方政府、行政区、地方当局或该国居民，应认为该特许权使用费发生在该缔约国。然而，当支付特许权使用费的人不论是否为缔约国一方居民，在缔约国一方设有常设机构或者固定基地，支付该特许权使用费的义务与该常设机构或者固定基地有联系，并由其负担这种特许权使用费，上述特许权使用费应认为发生于该常设机构或者固定基地所在国。

六、由于支付特许权使用费的人与受益所有人之间或他们与其他人之间的特殊关系，支付的特许权使用费数额，不论什么原因，超出支付人与受益所有人没有上述关系所能同意的数额时，本条规定应仅适用于后来提及的数额。在这种情况下，对该支付款项的超出部分，仍应按各缔约国的法律征税，但应适当考虑本协定的其它规定。

第十三条

技术费

一、缔约国另一方居民取得的发生于缔约国一方的技术费，可以在该另一国征税。

二、然而，这些技术费也可以在其发生的缔约国，按照该国的法律征税。但是，如果该项技术费的受益所有人是缔约国另一方居民，则所征税款不应超过技术费调整数额的百分之十。在本款中，“调整数额”是指技术费总额的百分之七十。

三、本条“技术费”一语是指技术、监督管理、咨询服务，包括使用或有权使用有关工业、商业、科学经验的情报，作为报酬支付给任何人的款项。但不包括支付给第十六条提及的从事非独立个人劳务的雇用人员的款项。

四、如果技术费受益所有人是缔约国一方居民，在技术费发生的缔约国另一方，通过设在该另一国的常设机构进行营业或者通过设在该另一国的固定基地从事独立个人劳务，该项技术费与该常设机构或固定基地有实际联系的，不适用本条第一款和第二款的规定。在这种情况下，

应视具体情况适用第七条或第十五条的规定。

五、如果支付技术费的人是缔约国一方政府、行政区、地方当局或该国居民，应认为该技术费发生在该国。然而，当支付技术费的人不论是否为缔约国一方居民，在缔约国一方设有常设机构或者固定基地，支付技术费的义务与该常设机构或固定基地有联系，并由其负担这种技术费，上述技术费应认为发生于该常设机构或固定基地所在国。

六、由于支付技术费的人与受益所有人之间或他们与其他人之间的特殊联系，支付的技术费数额，不论什么原因，超出支付人与受益所有人没有上述关系所能同意的数额时，本条规定应仅适用于后来提及的数额。在这种情况下，对该支付款项的超出部分，仍应按各缔约国的法律征税，但应适当考虑对本协定的其它规定。

第十四条

财产收益

一、除适用本条第二款规定外，发生于缔约国一方的财产收益，该国根据其国内法律的规定，可以征税。

二、转让从事国际运输的船舶或飞机，以及属于经营上述船舶、飞机的不动产以外的财产取得的收益，应仅在该企业实际经营管理机构所在的缔约国征税。

第十五条

独立个人劳务

一、除适用第十三条的规定外，缔约国一方居民由于专业性劳务或者其他独立性活动取得的所得，应仅在该国征税。但在以下情况，上述所得也可以在缔约国另一方征税：

（一）在缔约国另一方为从事其活动的目的，设有经常使用的固定基地。在这种情况下，该另一国可以对属于该固定基地的所得征税；或

（二）在有关会计年度中，在缔约国另一方停留连续或累计超过一百八十三天。在这种情况下，该另一国可以对其在该国进行活动取得的所得征税。

二、“专业性劳务”一语特别包括独立的科学、文学、艺术、教育或教学活动，以及医师、律师、工程师、建筑师、牙医师和会计师的独立活动。

第十六条

非独立个人劳务

一、除适用第十七条、第十九条、第二十条、第二十一条和第二十二条的规定以外，缔约国一方居民因受雇取得的薪金、工资和其它类似报酬，除在缔约国另一方受雇的以外，应仅在该缔约国一方征税。如果在该另一国受雇，取得的报酬，可以在该另一国征税。

二、虽有本条第一款的规定，缔约国一方居民在缔约国另一方受雇取得的报酬，同时具有以下三个条件的，应仅在该缔约国一方征税：

（一）收款人在有关会计年度中，在该另一国停留连续或累计不超过一百八十三天；

（二）该项报酬由并非该另一国居民的雇主支付或代表该雇主支付；

（三）该项报酬不是由雇主设在该另一国的常设机构或固定基地所负担。

三、虽有本条第一款和第二款的规定，受雇于经营国际运输的船舶或飞机而取得的报酬，可以在企业实际经营

管理机构所在缔约国征税。

四、虽有本条第一款和第二款的规定，缔约国一方国民由于为从事国际航空运输飞机经营的该缔约国企业提供服务，作为派驻在缔约国另一方的官员或者职员取得的薪金、工资和其它类似报酬，应仅在该缔约国一方征税。

第十七条

董 事 费

缔约国一方居民作为缔约国另一方居民公司的董事会成员取得的董事费和其它类似款项，可以在该另一国征税。

第十八条

表演家和运动员

一、虽有第十五条和第十六条的规定，缔约国一方居民，作为表演家，如戏剧、电影、广播或电视艺术家、音乐家或者作为运动员，在缔约国另一方从事其个人活动取得的所得，可以在该另一国征税。

二、虽有第七条、第十五条和第十六条的规定，表演

家或运动员从事其个人活动取得的所得，并非归属表演家或者运动员本人，而是归属于其他人，可以在这些表演家或运动员从事上述活动的缔约国征税。

三、虽有本条第一款和第二款的规定，按照缔约国双方的文化协定或安排，从事第一款所提及的上述活动取得的所得，如果完全或实质上是由缔约国任何一方公共资金或者政府资金资助的对该国的访问，在从事上述活动的缔约国，应予免税。

第十九条

退 休 金

除适用第二十条第二款的规定以外，因以前的雇佣关系支付给缔约国一方居民的退休金和其它类似报酬，应仅在该国征税。

第二十条

政 府 服 务

一、（一）缔约国一方政府、行政区或地方当局对向其提供服务的个人支付的退休金以外的报酬，应仅在该国

征税。

(二) 但是，如果该项服务是在缔约国另一方提供，而且提供服务的个人是该另一国居民，并且该居民：

1、是该国国民；或者

2、不是仅由于提供该项服务，而成为该国的居民，该项报酬，应仅在该缔约国另一方征税。

二、(一) 缔约国一方政府、行政区或地方当局支付的或者从其建立的基金中对向其提供服务的个人支付的退休金，应仅在该国征税。

(二) 但是，如果提供服务的个人是缔约国另一方居民，并且是其国民，该项退休金应仅在该另一国征税。

三、第十六条、第十七条、第十八条和第十九条的规定，应适用于为缔约国一方政府、行政区或地方当局进行营业提供服务所取得的报酬和退休金。

第二十一条

教师和研究人员

任何个人在直接前往缔约国一方之前曾是缔约国另一

方居民，为在该缔约国一方的大学、学院、学校或其它公认的教育或者科研机构从事教学、讲学或研究的目的，停留在该缔约国一方，从其第一次到达该国之日起不超过三年的，该缔约国一方应对其由于教学、讲学或研究取得的报酬，免于征税。

第二十二条

学生、学徒和实习人员

一、学生、企业学徒或实习生是、或者在直接前往缔约国一方之前曾是缔约国另一方居民，仅由于接受教育或者培训的目的，停留在该缔约国一方，该国应对以下款项免于征税：

（一）其为了维持生活、接受教育或培训的目的从国外取得的款项；

（二）其为了维持生活、接受教育或培训的目的，从政府、慈善、科学、文化或教育机构取得的奖学金、赠款、补助金和奖金；

（三）在该缔约国从事个人劳务的所得（企业学徒提供给其跟之学艺的人或合伙企业的劳务，或者实习生提供

给其提供培训的人的劳务除外)，在任何征税年度不超过一千镑英国货币或等值的中国人民币。

二、根据本条第一款，上述免税应仅持续到完成接受教育或培训所需的合理或通常的时间内。任何人从该项接受教育或培训开始起超过五年的，不应享受第一款的优惠。

第二十三条

双重征税的消除

一、在中国，消除双重征税如下：

(一) 中国居民从联合王国取得的利润、所得或财产收益，按照本协定规定对该项利润、所得或财产收益缴纳的联合王国税收，应允许在对该居民征收的中国税收中抵免。但是，抵免额不应超过对该项利润、所得或财产收益按照中国税法和规章计算的中国税额。

(二) 从联合王国取得的所得是联合王国居民公司支付给中国居民公司的股息，同时该中国居民公司拥有支付股息公司股份不少于百分之十的，该项抵免应考虑支付该股息公司对于从中支付股息的利润缴纳的联合王国税收。

二、从属于联合王国关于在联合王国以外地区缴纳的税收，在联合王国税收中抵免扣除的法律规定（该项法律规定不应影响下列的一般原则）

（一）按照本协定，根据中国的法律，对来源于中国的利润、所得或财产收益，不论是直接缴纳或扣缴的中国税收（不包括在股息情况下对从支付股息中利润缴纳的税收），应允许在根据中国税收计算的同一利润、所得或财产收益计算的联合王国税收中抵免。

（二）在中国居民公司支付给联合王国居民公司股息，同时该联合王国居民公司直接或间接控制该支付股息公司至少10%选举权的情况下，该项抵免应考虑该公司从支付股息利润中缴纳的中国税收（除根据本款第（一）项的规定可以允许抵免的任何中国税收外）。

二、本条第二款中，“缴纳的中国税收”一语，应视为包括任何年度可能缴纳的，但按照以下中国法律规定给予免税、减税的中国税收数额：

（一）1.《中华人民共和国中外合资经营企业所得税法》第五条、第六条和《中华人民共和国中外合资经营企业所得税法实施细则》第三条的规定；

2. 《中华人民共和国外国企业所得税法》第四条和第五条的规定：

只要以上自从本协定签字之日起仍有效，并未作修改，或仅在小的方面修改并不影响其一般性质；或者

(二) 今后可能制定的 并经缔约国双方主管当局同意，具有实质类似性质给予免税或减税的其它规定，如果该规定以后不作修改，或仅在小的方面修改并不影响其一般性质。

如果该项所得发生于对该项来源第一次给予中国税收的免税或减税后十年以上开始的时间 按照本条规定不再给予联合王国的税收优惠。

四、在本条第一款和第一款中，缔约国一方居民取得的按照本协定可以在缔约国另一方征税的利润、所得或财产收益，应认为发生于该缔约国另一方。

五、缔约国一方企业在该国已征税的利润 也包括在另一国企业的利润中 而且这些包括的利润是应计入该另一国企业的，企业之间所制订的条件又是独立企业之间在正常条件下进行交易，包括在两个企业利润中的数额，在本条中应视为该缔约国一方企业来源于该另一国的所得，

按照本条第一款或第二款的规定，相应地给予减免。

第二十四条

无差别待遇

一、缔约国一方国民在缔约国另一方负担的税收或者有关条件，不应与该另一国国民在相同情况下，负担或可能负担的税收或者有关条件不同或比其更重。

二、缔约国一方企业在缔约国另一方的常设机构税收负担，不应高于该另一国对其本国进行同样活动的企业。

三、缔约国一方企业的资本全部或部分，直接或间接为缔约国另一方一个或一个以上的居民拥有或控制，该企业在该缔约国一方负担的税收或者有关条件，不应与该缔约国一方其它同类企业的负担或可能负担的税收或者有关条件不同或比其更重。

四、除适用第九条、第十一条第七款、第十二条第六款或第十三条第六款规定外，缔约国一方企业支付给缔约国另一方居民的利息、特许权使用费、技术费和其它款项，在确定该企业应纳税利润时，应与在同样情况下支付给该缔约国一方居民同样予以扣除。

五、本条不应理解为缔约国任何一方在税收上仅给予本国居民个人的任何扣除、优惠和减税也必须给予并非该国居民的个人。

第二十五条

相互协商程序

一、当缔约国一方居民认为，缔约国一方或者双方的措施，导致或将导致对其不符合本协定规定的征税时，可以不考虑各国国内法律的补救办法，将案情提交本人为其居民的缔约国主管当局。

一、上述主管当局如果认为所提意见合理，又不能单方面圆满解决时，应设法同缔约国另一方主管当局相互协商解决，以避免不符合本协定规定的征税。

三、缔约国双方主管当局应通过协议设法解决在解释或实施本协定时发生的困难或疑义。

四、缔约国双方主管当局为达成本条第二款和第三款的协议，可以相互直接联系。

第二十六条

情报交换

一、缔约国双方主管当局应交换为实施本协定的规定所必需的情报，或缔约国双方关于本协定所涉及的税种的国内法律所必需的情报（以根据这些法律征税与本协定不相抵触为限），特别是防止欺诈、偷漏税的情报。情报交换不受第一条的限制。所交换的情报应作密件处理，仅应告知与本协定所含税种有关的查定、征收、执行、起诉或裁决上诉的有关人员或当局（包括法院和行政管理部门）。上述人员或当局应仅为上述目的使用该情报，但可以在公开法庭的诉讼程序或法庭判决中透露有关情报。

一、本条第一款的规定在任何情况下，不应被理解为缔约国任何一方主管当局有以下义务：

（ ）采取与缔约国任何一方法律和行政惯例相违背的行政措施；

（一）提供按照缔约国任何一方法律或正常行政渠道不能得到的情报；

（ ）提供泄露任何贸易、经营、工业、商业 专业

秘密、贸易过程的情报或者泄露会违反公共政策的情报。

第二十七条

外交代表和领事官员

一、本协定应不影响按国际法一般规则或特别协定规定的外交、常驻使团或领事成员的财政特权。

二、虽有第四条第一款的规定，缔约国一方或第三国位于缔约国另一方的外交、常驻使团或领馆成员的个人，如其仅从该另一国源泉取得所得在该另一国征税，不应视为该另一国的居民。

第二十八条

现行协定

本协定不影响中华人民共和国政府和大不列颠及北爱尔兰联合王国政府一九五三年三月十日在北京签订的关于对空运企业收入相互避免双重征税协定的规定，并适用上述协定所涉及的范围。但是，本协定任何规定对上述税收提供更多的优惠，应适用本协定。

第二十九条

生 效

缔约国各方应在履行本协定生效所必需的法律程序后通知对方。本协定自最后一方的通知发出之日后第二一天生效。本协定应有效：

(一) 在中国，对在本协定生效后的次年 月 日或以后开始的任何纳税年度中所发生的利润、所得和财产收益；

(一) 在联合王国：

1. 对在本协定生效后的次年四月六日或以后开始的征税年度中的所得税和财产收益税；

2. 对在本协定生效后的次年四月一日或以后开始的会计年度中的公司税。

第三十条

终 止

本协定应长期有效。但缔约国任何一方可以在本协定生效之日起五年后任何历年六月三十日或以前，通过外交途径书面通知缔约国另一方终止本协定。

在这种情况下，本协定应失效：

(一) 在中国，对终止通知发出后的次年一月一日或以后开始的纳税年度取得的利润、所得和财产收益；

(二) 在联合王国：

1. 对终止通知发出后的次年四月六日或以后开始的征税年度的所得税和财产收益税；

2. 对终止通知发出后的次年四月一日或以后开始的会计年度的公司税。

下列代表，经各自政府正式授权，已在本协定上签字为证。

本协定于一九八四年七月二十六日在北京签订，一式两份，每份都用中文和英文写成，两种文本具有同等效力。

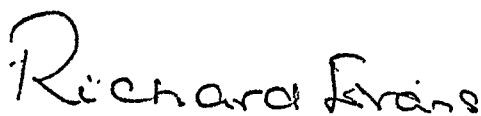
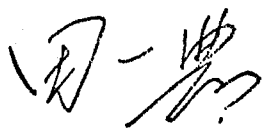
中华人民共和国政府

大不列颠及北爱尔兰

联合王国政府

代 表

代 表



[TIAN YINONG]

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