

PROTOCOL

At the signing of the Agreement between the Government of the People's Republic of China and the Government of Malaysia for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as "The Agreement"), both sides have agreed upon the following provisions which form an integral part of the Agreement.

1. In connection with Article 3, "General Definitions" :

The term "person" in paragraph 1 (e) includes any other body of persons which is treated as a person for tax purposes.

2. In connection with Article 8, "Shipping and Air Transport" :

For the purpose of paragraph 2, the tax imposed by the other Contracting State shall be reduced by 100 per cent if, after the date of signature of this Agreement, Malaysia and China have entered into a Shipping Agreement with each other. The reduction shall be effective from the date the Shipping Agreement enters into force. The tax to be exempt means all taxes in relation to the operation of ships imposed, in Malaysia, by the Income Tax Act 1967 and the Supplementary Income Tax Act 1967 and, in China, by the Income Tax Act and the Industrial and Commercial Consolidated Tax Act.

3. In connection with Article 14, "Independent Personal Service" :

Where a resident of Malaysia has a fixed base regularly available to him in China and is engaged in providing professional service or other independent activities, then the amount of income attributed to that fixed base may be taxed in China. Such regulation concerning taxes on the fixed base also applies in paragraphs 5 and 6 in Article 10, paragraphs 7 and 8 in Article 11, paragraphs 4 and 5 in Article 12, paragraph 2 in Article 13, paragraph 1 (b) in Article 14, paragraph 2 (c) in Article 15 and paragraph 2 in Article 22. The term "fixed base" in China means a fixed operating place where an individual is engaged in providing certain professional services.

4. In connection with Article 19, "Government Service" :

Employees performing Government Service in Article 19 of the Agreement shall also include other personnel carrying on the function of Government (who in

Malaysia include those employees working in statutory bodies) which is mutually recognised by the competent authorities of the Contracting States.

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

DONE in duplicate at Beijing this 23th day of November, 1985, each in Chinese Bahasa Malaysia, and the English language, the three texts being equally authentic. In the event of there being a dispute in the interpretations, the English text shall prevail.

For the Government

of the People's Republic of China

For the Government

of Malaysia