

## **PROTOCOL**

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

1. With reference to Article 2:

It is understood that the provisions of this Agreement should not include any penalty imposed for non-compliance of the laws and regulations relating to the taxes to which this Agreement applies.

2. With reference to Article 3:

It is understood that the definition of the term "company" as any body corporate or any entity which is treated as a body corporate for tax purposes referred to in sub-paragraph (e), paragraph 1, Article 3 should include partnership which is treated as a company or a body corporate for tax purposes.

3. With reference to Article 5:

- (a) The time period for determining permanent establishment provided in paragraph 3, Article 5, shall continue in force for 5 years from the date of the implementation of this Agreement, and the competent authorities of the Contracting States shall, after the expiration of the 5 years, consult with each other for the purpose of reaching an agreement upon the time period for determining permanent establishment other than the period provided in paragraph 3, Article 5, or upon the continuation of such period according to the results of the implementation of paragraph 3, Article 5.
- (b) Notwithstanding the provisions of sub-paragraph (b), paragraph 3, Article 5, the furnishing of consultancy services, by an enterprise of a Contracting State through employees or other engaged personnel in the other Contracting State, shall constitute permanent establishment only where such services continue for the same project or a connected project for a period or periods aggregating more than 12 months.

4. With reference to Article 8:

Income derived from China by an enterprise which is a resident of Ukraine from the operation of ships or aircraft in international traffic shall be exempt from the business tax in China; income derived from Ukraine by an enterprise which is a resident of China from the operation of ships or aircraft in international traffic shall be exempt from any tax similar to the business tax in China which may be imposed in Ukraine.

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

DONE at Beijing on the 4th day of December, 1995 in the Chinese, Ukrainian and English languages, all texts being equally authentic. In the case of divergence of interpretations, the English text shall prevail.

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

**For the Government  
of Ukraine**