

**SYNTHESISED TEXT OF THE MLI AND THE AGREEMENT BETWEEN THE
GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA AND THE
GOVERNMENT OF THE PEOPLE’S REPUBLIC OF BULGARIA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL**

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Agreement between the Government of the People’s Republic of China and the Government of the People’s Republic of Bulgaria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital signed on 6 November, 1989 (the “Agreement”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the People’s Republic of China on 7 June, 2017 and by the Republic of Bulgaria on 7 June, 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of the People’s Republic of China submitted to the Depositary upon approval on 25 May, 2022 and of the MLI position of the Republic of Bulgaria submitted to the Depositary upon ratification on 16 September, 2022. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Agreement.

The authentic legal texts of the Agreement and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of the Agreement. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Agreement (such as “Covered Tax Agreement” and “Agreement”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Agreement: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Agreement or to the Agreement must be understood as referring to the Agreement as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The authentic legal texts of the MLI and the Agreement can be found on the webpage of the State Taxation Administration of the People's Republic of China.

(<http://www.chinatax.gov.cn/n810341/n810770/index.html>)

The MLI position of the People's Republic of China submitted to the Depositary upon approval on 25 May, 2022 and the MLI position of the Republic of Bulgaria submitted to the Depositary upon ratification on 16 September, 2022 can be found on the MLI Depositary (OECD) webpage.

(<http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf>)

Disclaimer on the entry into effect of the provisions of the MLI

The provisions of the MLI applicable to this Agreement do not take effect on the same dates as the original provisions of the Agreement. Each of provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by the People's Republic of China and the Republic of Bulgaria in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 25 May, 2022 for the People's Republic of China and 16 September, 2022 for the Republic of Bulgaria.

Entry into force of the MLI: 1 September, 2022 for the People's Republic of China and 1 January, 2023 for the Republic of Bulgaria.

In accordance with paragraph 1 of Article 35 of the MLI, the provisions of the MLI have effect in the People's Republic of China with respect to this Agreement:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January, 2023; and
- b) with respect to all other taxes levied by the People's Republic of China, for taxes levied with respect to taxable periods beginning on or after 1 July, 2023;

and,

In accordance with paragraphs 1 and 3 of Article 35 of the MLI, the provisions of the MLI have effect in the Republic of Bulgaria with respect to this Agreement:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January, 2023; and

b) with respect to all other taxes levied by the Republic of Bulgaria, for taxes levied with respect to taxable periods beginning on or after 1 January, 2024.

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA AND
THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF BULGARIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME AND CAPITAL**

The Government of the People’s Republic of China and the Government of the People’s Republic of Bulgaria;

Desiring to promote and deepen the economic cooperation between the People’s Republic of China and the People’s Republic of Bulgaria in accordance with the principle of equality and mutual benefit, **[REPLACED by paragraph 1 of Article 6 of the MLI]** [through an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital;]

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Agreement:

**ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX
AGREEMENT**

Intending to eliminate double taxation with respect to the taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

**ARTICLE 1
PERSONAL SCOPE**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

**ARTICLE 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its local authorities irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income and on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are:

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

- (i) the individual income tax;
- (ii) the income tax concerning joint ventures with Chinese and foreign investment;
- (iii) the income tax concerning foreign enterprises; and
- (iv) the local income tax,

(hereinafter referred to as "Chinese tax") ;

(b) in the People's Republic of Bulgaria:

- (i) the tax on total income;
- (ii) the tax on income of single males and females, divorced persons and spouses without children;
- (iii) the tax on profits;
- (iv) the tax on buildings;

(hereinafter referred to as "Bulgarian tax") .

4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph 3. 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; 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 subsoil and superjacent water resources in accordance with international law;

- (b) the term "Bulgaria" means the People's Republic of Bulgaria; and when used in geographical sense means the territory over which it exercises its state sovereignty as well as the continental shelf and the exclusive economic zone on which it exercises sovereign rights according to international law;
- (c) the terms "a Contracting State" and "the other Contracting State" mean China or Bulgaria as the context requires;
- (d) the term "tax" means Chinese tax or Bulgarian tax, as the context requires;
- (e) the term "person" means an individual, a legal person, including 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 a Contracting State and all juridical persons created or organized under the laws of that Contracting State, as well as any organizations without juridical personality treated for tax purposes as juridical persons created or organized under the laws of that 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 Bulgaria, the Minister of Economy and Planning or his authorized representative.

2. As regards the application of this 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 this Agreement applies.

ARTICLE 4 RESIDENT

1. For the purposes of this Agreement, the term “resident” of a Contracting State means:

- (a) In the case of China, any person who, under the laws of China, is liable to tax therein by reason of his domicile, residence, place of head office;
- (b) In the case of Bulgaria, individuals who are nationals of Bulgaria and legal persons who have their place of head office or are registered therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall determine by mutual agreement the Contracting State of which that individual shall be deemed to be a resident for the purposes of this 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 Contracting 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 engaged personnel in the other Contracting State, provided that such activities continue for the same project or a connected project 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 temporary maintenance of a stock of goods displayed by the enterprise in a stock fair or an exhibition which is to be sold after the conclusion;
- (f) 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;
- (g) an assembly services carried on by an enterprise of a Contracting State in the other Contracting State in connection with the sale of machinery or equipment to that other Contracting State;
- (h) the maintenance of a fixed place of business solely for any combination of the activities mentioned in subparagraphs (a) to (g), 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 in a Contracting State on behalf of an enterprise of the other Contracting State, has and habitually exercises 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 person 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 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.

7. The fact that a company which is a resident of a Contracting State participates in the capital of a company which is a resident of the other Contracting State, or which carries on business in that other state (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other Contracting State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall 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 professional 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 the other Contracting State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate entity 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 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.
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 in which the place of head office of the enterprise is situated.
2. If the place of head office 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 paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other 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 or 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 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 Contracting State independent professional services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 13, as the case may be, shall apply.
5. 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 such other Contracting State.

ARTICLE 10

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other 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 arising in a Contracting State and derived by the Government of the other Contracting State, a local authority and the Central Bank thereof or any financial institution wholly owned by that Government, or by any other resident of that other Contracting State with respect to debt-claims indirectly financed by the Government of that Contracting State, a local authority, and the Central bank thereof or any financial institution wholly owned by that Government, shall be exempt from tax in the first-mentioned 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting State independent professional 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 13, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that 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 11

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:

(a) 7 per cent of the gross amount of the royalties in the case of the use, or the right to use industrial, commercial or scientific equipment;

(b) 10 per cent of the gross amount of the royalties in all other cases.

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 (certificate of invention), 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 professional 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 13, 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 Contracting State, a local authority there of 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 12

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other Contracting State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent professional 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 or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of head office of the enterprise is situated.

4. **[MODIFIED by subparagraph b) of paragraph 1 of Article 9 of the MLI]** [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.]

The following subparagraph b) of paragraph 1 of Article 9 of the MLI applies to paragraph 4 of Article 12 of this Agreement:

**ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF
SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE
PRINCIPALLY FROM IMMOVABLE PROPERTY**

Paragraph 4 of Article 12 of this Agreement shall apply to shares or comparable interests, such as interests in a partnership or trust (to the extent that such shares or interests are not already covered) in addition to any shares or rights already covered by the provisions of this Agreement.

**ARTICLE 13
INCOME FROM INDEPENDENT PROFESSIONAL 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 activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

**ARTICLE 14
INCOME FROM DEPENDENT PROFESSIONAL SERVICES**

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, salaries, wages and other similar remunerations derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in, the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
- (b) the remuneration is paid by or on behalf of, an employer who is not a resident of the other Contracting State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated by an enterprise of a Contracting State in international traffic, shall be taxable only in the Contracting State in which the place of head office of the enterprise is situated.

ARTICLE 15 DIRECTORS' FEES

Director's 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.

ARTICLE 16 ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television 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, 13 and 14, be taxed in the contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by entertainers or athletes who are residents of a Contracting State from the activities

exercised in the other Contracting State under a plan of cultural exchange between the Governments of the both Contracting States shall be exempt from tax in that other Contracting State.

ARTICLE 17

PENSIONS

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

ARTICLE 18

GOVERNMENT SERVICE

1. (a) Remuneration, other than 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 to which contributions are made 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 shall be taxable only in that Contracting State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by the Government of a Contracting State or a local authority thereof.

ARTICLE 19

TEACHERS AND RESEARCHERS

An individual who is, or immediately before visiting a Contracting State was, a resident of the other Contracting State and is present in the first-mentioned Contracting State for the primary purpose of teaching, giving lectures or conducting research at an university, college, school or educational institution or scientific research institution accredited by the Government of the first-mentioned Contracting State shall be exempt from tax in the first-mentioned Contracting State, for a period of five years from the date of his first arrival in the first-mentioned Contracting State, in respect of remuneration for such teaching, lectures or research.

ARTICLE 20

STUDENTS 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, training shall be exempt from tax in that first-mentioned State on the following payments received by him for the purpose of his maintenance, education or training:

- (a) payments derived from sources outside that Contracting State for the purpose of his maintenance, education, study, research or training;
- (b) grants, scholarships or awards supplied by the Government, or a scientific, educational, cultural or other tax-exempt organization.

2. In respect of remuneration from employment a student, business apprentice or trainee described in paragraph 1 shall be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the Contracting State, which he is visiting.

ARTICLE 21

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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 by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose or performing independent professional services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of head office of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 22

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In China, double taxation shall be eliminated as follows:

- (a) where a resident of China derives income from Bulgaria, the amount of the tax on that income payable in Bulgaria in accordance with the provisions of this Agreement, may be credited against the Chinese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Chinese tax on that income computed in accordance with the taxation laws and regulations of China.
- (b) where the income derived from Bulgaria is a dividend paid by a company which is a resident of Bulgaria to a company which is a resident of China and which owns not less than 10 per cent of the capital of the company paying the dividend, the credit shall take into account the tax paid to Bulgaria by the company paying the dividend in respect of its income.

2. In Bulgaria, double taxation shall be eliminated as follows:

- (a) **[REPLACED by paragraph 6 of Article 5 of the MLI]** [where a resident of Bulgaria derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in China, Bulgaria shall, subject to the provisions of subparagraphs (b) and (c) of this paragraph, exempt such income or capital from tax;]

The following paragraph 6 of Article 5 of the MLI replaces subparagraph a) of paragraph 2 of Article 22 of this Agreement with respect to the residents of Bulgaria:

ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR
ELIMINATION OF DOUBLE TAXATION (Option C)

Where a resident of Bulgaria derives income or owns capital which may be taxed in China in accordance with the provisions of this Agreement (except to the extent that these provisions allow taxation by China solely because the income is also income derived by a resident of China), Bulgaria shall allow

- i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in China;
- ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in China;

Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable to the income or the capital which may be taxed in China.

Where in accordance with any provision of this Agreement income derived or capital owned by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

- (b) where a resident of Bulgaria derives dividends, interest or royalties which in accordance with the provisions of Articles 9, 10 and 11 of this Agreement may be taxed in China, Bulgaria shall allow as a deduction from the tax on the dividends, interest and royalties of that resident an amount equal to the tax paid in China. such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such dividends, interest and royalties derived from China;
- (c) where in accordance with any provision of this Agreement income derived or capital owned by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria may, nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

3. In the case of business profits, arising in a Contracting State, according to the laws and regulations in force in both Contracting States may be entitled to tax reduction or exemption within a limited period, such tax reduction or exemption shall be deemed to have been paid at the total amount.

ARTICLE 23

NON-DISCRIMINATION

1. National 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 for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 7 of Article 10 or paragraph 6 of Article 11 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 State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or participated in, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

ARTICLE 24

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the

case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties 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 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. When it seems advisable for reaching agreement, representatives of the competent authorities of the Contracting States may meet together for an oral exchange of opinions.

ARTICLE 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement, insofar as the taxation there under is not contrary to the Provisions of this Agreement, in Particular for the prevention of fraud or fiscal 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 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 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 the administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public) .

ARTICLE 26
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.

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE

(Principal purposes test provision)

Notwithstanding any provisions of the Agreement, a benefit under the Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Agreement.

ARTICLE 27
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 country for the entry into force of this Agreement have been exchanged. This Agreement shall have effect as respects income derived during the taxable years beginning on or after the first day of January next following that in which this Agreement enters into force.

ARTICLE 28
TERMINATION

This Agreement shall continue in effect indefinitely but either of the Contracting State 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 written notice of termination to the other Contracting State through the diplomatic channel. In such event this 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.

DONE at Beijing on the 6th day of November, 1989 in duplicate in the Chinese, Bulgarian and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

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

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

PROTOCOL

At the signing of the Agreement between the Government of the People's Republic of China and the Government of the People's Republic of Bulgaria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (hereinafter referred to as "the Agreement") the undersigned have agreed upon the following provisions, which form an integral part of the Agreement:

1. Ad Article 5

Notwithstanding the provisions of paragraph 3 of Article 5 of the Agreement, an enterprise of a Contracting State shall be deemed not to have a permanent establishment in the other Contracting State if it furnishes in that other Contracting State consultancy services in connection with the sale or lease of machinery or equipment through employees or other personnel.

2. Ad Article 8

Nothing in this Agreement shall affect the provisions of the Agreement for Maritime transport between the Government of the People's Republic of China and the Government of the People's Republic of Bulgaria signed at Sofia on 4 June 1974, to the extent that they have effect as regards taxes to which the Agreement applies.

3. Each Contracting State shall apply its internal law in matter of transfer pricing between associated enterprises, if the case occurs. Any dispute occurred in connection with this matter should be settled through mutual agreement.

4. Ad Article 9

Profits derived by participants in joint ventures set up under the Decree No 535 / 1980 of the State Council of the People's Republic of Bulgaria and distributed according to their rights, shall not be regarded as dividends.

5. Ad Article 12

(a) Gains from the alienation of shares other than those mentioned in paragraph 4 of Article 12, 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.

(b) In the case of double taxation on gains from capital, other than those mentioned in paragraphs 1, 2, 3 and 4 of Article 12 and in subparagraph (a) of paragraph 5 of this Protocol, both Contracting States shall settle the question by mutual agreement.

6. Ad Article 18

The term “services rendered to the Government” includes services of employees who act on behalf of governmental institutions to perform non-commercial and non-productive activities in accordance with the internal law of the Contracting State, in which such activities are carried out, as well as press, radio or television reporters or correspondents.

7. In the case of double taxation on other income not dealt with in the Articles of this Agreement, both Contracting States shall settle the question by mutual agreement.

DONE at Beijing on the 6th day of November, 1989 in duplicate in the Chinese, Bulgarian and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

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

**For the Government
of the People’s Republic of
Bulgaria**

**PROTOCOL
BETWEEN
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
AND
THE GOVERNMENT OF THE REPUBLIC OF BULGARIA
ON
THE AMENDMENTS
TO
THE AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA AND THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF BULGARIA FOR
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON
CAPITAL**

The Government of the People's Republic of China and
The Government of the Republic of Bulgaria
(hereinafter referred to as “the Contracting States”),
Have agreed upon as follows:

Article 1

Article 2 (‘Taxes Covered’) of the Agreement shall be amended by omitting paragraph 3, subparagraphs a) and b) and substituting the following subparagraphs:

- “a) in the People's Republic of China:
- i) the individual income tax;
 - ii) the income tax on enterprises with foreign investment and foreign enterprises;
 - iii) the local income tax.
- (hereinafter referred to as “Chinese tax”);
- b) in the Republic of Bulgaria:
- i) the personal income tax;
 - ii) the corporate income tax;
 - iii) the real property tax;
 - iv) the final annual tax.
- (hereinafter referred to as “Bulgarian tax”).”

Article 2

In Article 3('General Definitions') of the Agreement, paragraph 1, subparagraph j) shall be amended as follows:

“j) the term “competent authority ” means in the case of China, the State Administration of Taxation or its authorised representative, and in the case of Bulgaria, the Minister of Finance or his authorised representative.”

Article 3

Article 4 ('Resident') of the Agreement, shall be amended by repealing paragraphs 1 and 2 and substituting the following paragraphs:

“1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head office, place of incorporation or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.”

“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 only 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 only 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 only 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 only 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.”

Article 4

A new Article 7a, titled “Associated enterprises ” shall be inserted and it shall read as follows:

“Article 7a 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 State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State may 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.”

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

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 5

The words “People's Republic of Bulgaria ”, wherever met in the Agreement, shall be replaced by the words “Republic of Bulgaria”.

Article 6

1. Each of the Contracting States shall notify in a written form to the other the completion of the procedures for the bringing into force of this Protocol.

2. This Protocol shall enter into force on the date of issuing the latter of the notifications referred to in paragraph 1 and shall be an integral part of the Agreement.

3. This Protocol shall have effect in respect of income and capital in the taxable year commencing on or after the first day of January in the calendar year in which this Protocol enters into force.

IN WITNESS whereof the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Sofia, on the 15th day of July, 2002, in the Chinese, Bulgarian and English languages, all texts being equally authentic. In case of divergence in interpretation the English text shall prevail.

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

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