

CHINA (UNITED STATES)

Agreement, with protocol and exchange of notes, signed at Beijing April 30, 1984;

And protocol signed at Beijing May 10, 1986;

Transmitted by the President of the **United States** of America to the Senate August 10, 1984 (Treaty Doc. No. 98-30,
98th Cong., 2d Sess.);

Cong., 1st Sess.);

Advice and consent to ratification by the Senate July 24, 1986;

Ratified by the President September 7, 1986;

GEORGE P. SHULTZ
Secretary of State

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF **CHINA** FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF TAX EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the **United States** of America and the Government of the People's Republic of **China**,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income,

Have agreed as follows:

Article 1

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

(f) the term "person" includes any individual who is treated as a body corporate for tax purposes;

(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" also includes:

(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.

resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a

4. For the purposes of paragraphs 1 through 6, the benefits to be attributed to the component establishment shall be

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

used for radio or television broadcasting, any patent, technical know-how, trademark, 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 transferee of the property shall be a citizen of the United States, or a resident of the United States, or a resident of a State of the United States, or a resident of a Territory of the United States, or a resident of a District of the United States, or a resident of a Possession of the United States, or a resident of a State of the United States, or a resident of a Territory of the United States, or a resident of a District of the United States, or a resident of a Possession of the United States.

[REDACTED]

1. Income derived by an individual who is 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, unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in

that other Contracting State for a period or periods exceeding in the aggregate 183 days in the calendar year concerned. If he has such a fixed base or remains in that other Contracting State for the aforesaid period or periods, the income may

be taxed in that other Contracting State, but only so much of it as is attributable to that fixed base as is decided in that

1. 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.

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Contracting State shall have the right to tax such pensions and other remuneration paid to the resident of another Contracting State.

Article 21

1. The provisions of Article 6 shall apply to income derived from the Contracting States.

Agreement shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall not apply to income other than that from real property as defined in paragraph 2 of Article 6 if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other Contracting State

7. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting

State shall not be less favorably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision 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

which are granted to its own residents.

(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.

Article 26

~~Nothing in this Agreement shall affect the inviolability of diplomatic agents or consular officers under the general~~

rules of international law or under the provisions of special agreements.

Each of the Contracting States shall notify the other Contracting State in writing, through diplomatic channels, upon the

3. The **United States** may impose its social security tax, its personal holding company tax and its accumulated earnings tax notwithstanding any provision of this Agreement. However, a Chinese company shall be exempt from the personal holding company tax or the accumulated earnings tax in the **United States** during a taxable year if during that taxable year the company is wholly-owned, directly or indirectly, either by one or more individuals who are residents of

thereof.

4. The term "person" as defined in Article 3 of the Agreement shall include an estate or a trust.

5. In applying paragraph 2 of Article 4 of this Agreement, the competent authorities of both Contracting States shall be guided by the rules contained in paragraph 2 of Article 4 of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

6. For purposes of paragraph 3 of Article 11 of this Agreement, it is agreed by both sides that, in the case of royalties paid for the rental of industrial, commercial or scientific equipment, the tax shall be imposed on 70 percent of the gross

I have the honor to request Your Excellency to confirm the foregoing understanding on behalf to Your Excellency's Government.

I avail myself of this opportunity to assure Your Excellency of my highest consideration.

Ronald Reagan,
President of the **United States** of America

II.

His Excellency Ronald Reagan,
President of the **United States** of America

Excellency:

BRAZIL/INDIA

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Brazil,India

1988 Income Tax Convention and Final Protocol

PUBLICATION-DATE: April 26, 1988

EFFECTIVE-DATE: March 11, 1992; In **Brazil**, from January 1, 1993. In **India**, from April 1, 1993. See Article 28.

STATUS: In Force

1671 UNTS 3, Reg. No. 28876;

93 TNI 116-12; Doc 93-31474

1988 Income Tax Convention and Final Protocol

TEXT:

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT

2. The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the above-mentioned taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation

laws.

Article 3
General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

a) the term "nationals" means:

I- all individuals possessing the nationality of a Contracting State;

II- all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;

b) the terms "a Contracting State" and "the other Contracting State" mean **Brazil or India**, as the context requires;

c) the term "person" includes an individual, a company and any other entity which is treated as a taxable unit under the

taxation laws in force in the respective Contracting States;

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

e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an

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 no 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.

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to

whom paragraph 5 applies-is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that 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 3 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.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting

concerned.

Other non-estate rights which is subjected to the same taxation treatment as income from charges by the laws of the State

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then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

2. Where the beneficial owner of the interest is a resident of the State in which the permanent establishment is situated, the interest shall be deemed to arise in that State.

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 effective management of the

enterprise is situated.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues

Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived from activities performed in a Contracting State by an entertainer or an athlete if the visit to that Contracting State is substantially supported by public funds of, or sponsored by the other Contracting State, including those of any political subdivision or local authority.

Article 18

Pensions and social security payments

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration, alimony and annuities paid to a resident of a Contracting State may be taxed in that State

other cultural institution of that first-mentioned State or under an official programme of cultural exchange is present in

that State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that State on his remuneration for such activity, provided that the payment of such remuneration is derived by him from outside that State.

2. This Article shall not apply to income derived from a permanent establishment in the Contracting State.

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 of a permanent establishment which an enterprise of a Contracting State has in the other Contracting

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

b) to supply information or documents which are 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 or documents which would disclose any trade, business, industrial, commercial or professional

b) in **India**:

in respect of income arising in any previous year beginning on or after the first day of April immediately following the calendar year in which the notice is given.

In witness whereof the undersigned being duly authorized thereto have signed this Convention.

Done at New Delhi this 24th day of April 1988 in duplicate in Hindi, Portuguese and English languages, all three texts

being equally authentic. In case of any divergence of interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF **INDIA**

P.K. Appachoo

FOR THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF **BRAZIL**

Octavio Rainho da Silva Neves

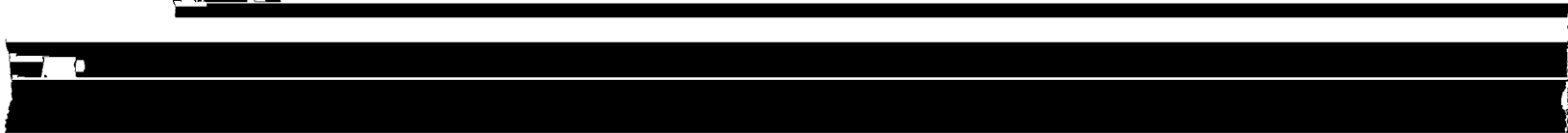
Final Protocol

At the moment of the signature of the Convention between the Republic of **India** and the Federative Republic of **Brazil** for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income the

FOR THE GOVERNMENT OF THE REPUBLIC OF INDIA

P.K. Appachoo

FOR THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL



Octavio Rainho da Silva Neves

China (P.R.C.), United States

1986 Protocol to the 1984 Agreement

PUBLICATION-DATE: May 10, 1986

EFFECTIVE-DATE: November 21, 1986; As indicated in Article 27 of the Agreement.

STATUS: In Force

Treaty Doc. 99-26

89 TNI 23-51; Doc 93-31066

TIAS 12065

1986 Protocol to the 1984 Agreement

LEGIS-HISTORY: U.S.- **China**: P.R.C.: 1984 Income Tax Agreement

93-02 20082 Treasury Department Technical Corrections (L.R. 20 1985)

The Government of the **United States** of America and the Government of the People's Republic of **China**, desiring to conclude a Protocol in addition to the Agreement between them for the avoidance of double taxation and the prevention

Both sides have agreed, with respect to the interpretation of Paragraph 7 of the Protocol to the Agreement, that their understanding is as follows:

1. A person (other than an individual) which is a resident of a Contracting State shall not be entitled under this Agreement to relief from taxation in the other Contracting State unless:

(a)

(i) more than 50 percent of the beneficial interest in such person (or in the case of a company more than 50 percent of

United States of America

Wang Bingqian
State Councillor and
Minister of Finance
People's Republic of **China**