

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

The the Government of the People’s Republic of China and Government of New Zealand;

Having regard to the Agreement between the Government of the People’s Republic of China and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income done at Wellington on the 16th day of September 1986 (hereinafter referred to as “the Agreement”).

Have agreed that the following provisions shall form an integral part of the Agreement:

**ARTICLE 1**

Paragraph 1 of Article 2 of the Agreement shall be deleted and replaced by the following:

“1. 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 for enterprises with foreign investment and foreign enterprises;

(hereinafter referred to as “Chinese tax” )

- (b) in New Zealand: the income tax;

(hereinafter referred to as “New Zealand tax” ).”

**ARTICLE 2**

Sub-paragraph (j) of paragraph 1 of Article 3 of the Agreement shall be deleted and replaced by the following:

“(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 New Zealand, the Commissioner of Inland Revenue or an authorised representative of the Commissioner.”

### **ARTICLE 3**

1. Sub-paragraphs (a) and (b) of paragraph 3 of Article 23 of the Agreement shall be deleted and replaced by the following:

“(a) the provisions of Articles 7, 8, 9, 10 and the provisions of paragraphs 1, 3 and 4 of Article 19 of the Income Tax Law of the People’s Republic of China for Enterprises with Foreign Investment and Foreign Enterprises and the provisions of Articles 73, 75, and 81 of the Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People’s Republic of China for Enterprises with Foreign Investment and Foreign Enterprises.”

2. Sub-paragraphs (c) and (d) of paragraph 3 of Article 23 of the Agreement shall be read as (b) and (c) respectively.

### **ARTICLE 4**

1. Notwithstanding Article 23 of the Agreement, a New Zealand resident deriving income from the People’s Republic of China, being income referred to in paragraph 3 of Article 23 of the Agreement, shall not be entitled to the benefit of that paragraph where:

- (a) arrangements have been entered into by any person for the purpose of taking advantage of paragraph 3 of Article 23 for the benefit of that person or any other person that are contrary to the spirit and intent of that paragraph; or
- (b) any benefit accrues or may accrue to any person who is neither a resident of New Zealand nor a resident of the People’s Republic of China.

2. The competent authority of New Zealand shall consult with the competent authority of the People’s Republic of China before imposing the above measures in every case.

### **ARTICLE 5**

1. Articles 1 and 3 of this Second Protocol shall apply to income derived on or after 1 July 1991.

2. Article 2 of this Second Protocol shall apply from the date on which the Second Protocol enters into force.

3. Article 4 of this Second Protocol shall apply to income derived on or after the first day of the month following the date on which this Second Protocol enters into force.

#### **ARTICLE 6**

1. Each of the Contracting States shall notify each other that the procedures required by its laws for the entry into force of this Second Protocol have been complied with.

2. This Second Protocol shall enter into force on the thirtieth day after the day of the later of the notifications referred to in paragraph 1 of this Article.

DONE at Wellington in duplicate this 7th day of October 1997 in the English and Chinese languages, both texts being equally authentic.

<b>On behalf of</b>	<b>On behalf of</b>
<b>the Government of the People's Republic of China</b>	<b>the Government of New Zealand</b>