

PROTOCOL

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

1. Notwithstanding the provisions of paragraph 5 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. With reference to paragraph 3 of Article 7 of the Agreement, no deduction shall be allowed in respect of amounts paid or charged (other than reimbursement of actual expenses) by a permanent establishment of an enterprise to the head office of the enterprise or any other offices thereof, by way of:
 - (a) royalties, fees or other similar payments in return for the use of patents or other rights;
 - (b) commission, for specific services performed or for management; and
 - (c) interest on moneys lent to the permanent establishment; except where the enterprise is a banking institution.

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

DONE at Beijing on the day of September 6, 1983, in duplicate in the Chinese, Japanese and English languages, all three texts being equally authentic. In case of any divergence of interpretations, the English text shall prevail.

For the Government
of the People's Republic of China

For the Government
of Japan