

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement, and arising in the other Contracting State may be taxed in that other Contracting State.

ARTICLE 21

Elimination of Double Taxation

1. In the case of Canada, double taxation shall be avoided as follows:

(a) Subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions — which shall not affect the general principle hereof — and unless a greater deduction or relief is provided under the laws of Canada, tax payable in the People's Republic of China on profits, income or gains arising in the People's Republic of China shall be deducted from any Canadian tax payable in respect of such profits, income or gains.

(b) Subject to the existing provisions of the law of Canada regarding the determination of the exempt surplus of a foreign affiliate and to any subsequent modification of those provisions — which shall not affect the general principle hereof — for the purpose of computing Canadian tax, a company resident in Canada shall be allowed to deduct in computing its taxable income any dividend received by it out of the exempt surplus of a foreign affiliate resident in the People's Republic of China, and for this purpose, the Canadian participant in a Chinese-Canadian joint venture established according to the law of the People's Republic of China concerning joint ventures with Chinese and foreign investment shall be treated as having a foreign affiliate in respect of its interest in the joint venture.

2. For the purposes of paragraph 1(a), tax payable in the People's Republic of China by a company which is a resident of Canada shall be deemed to include any amount which would have been payable as Chinese tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under any of the following provisions of Chinese law:

(a) Articles 5 and 6 of the Income Tax Law of the People's Republic of China concerning Joint Venture with Chinese and Foreign Investment and Article 3 of the Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People's Republic of China concerning Joint Ventures with Chinese and Foreign Investment;

(b) Articles 4 and 5 of the Income Tax Law of the People's Republic of China concerning Foreign Enterprises;

(c) Articles I, II, III, IV and X of Part I, Articles I, II, III and IV of Part II and Articles I, II and III of Part III of the interim provisions of the State Council of the People's Republic of China concerning reduction or