Chandrawat & Partners

HONG KONG – INDIA

DOUBLE TAXATION AVOIDANCE AGREEMENT

enquiries@chandrawatpartners.com | www.chandrawatpartners.com

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PREFACE

Double Taxation Avoidance Agreement ("DTAA") is a tax treaty signed between two or more countries to help taxpayers avoid paying double taxes on the same income. A DTAA becomes applicable in cases where an individual is a resident of one nation, but earns income in another. DTAAs can either be comprehensive, encapsulating all income sources or limited to certain areas. India presently has DTAA with 120+ countries.

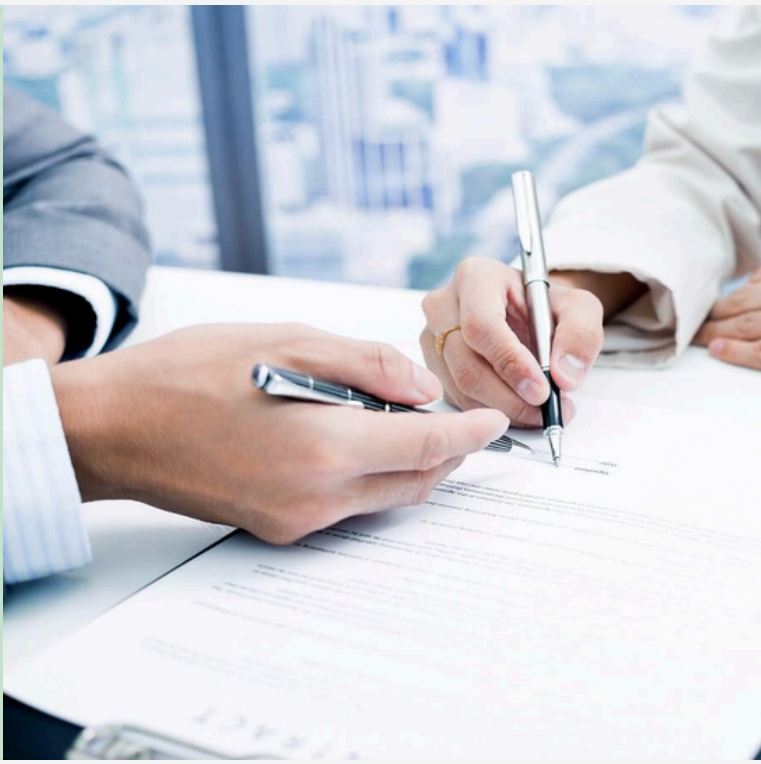
The government of India and the government of the Hong Kong Special Administrative Region of People's Republic of China ('Hong Kong") signed a DTAA on 18 March, 2018 which came into force from 01 April, 2019. Accordingly, benefits of these provisions can be claimed in respect of the income derived in any year starting from April 1, 2019. It is imperative to note that Hong Kong is an autonomous region under the Mainland China. Therefore, the DTAA which India has entered with China will not be applicable.

The articles of Hong Kong - India DTAA are aligned with 'Base Erosion and Profit Shifting ("BEPS") and 'The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting' ("MLI") in order to curb tax evasion/ avoidance, treaty shopping practices, conduit companies practices, etc. Now, the companies resident in India as well as Hong Kong are able to take shelter under the treaty, thereby, avoiding double taxation and/ or taxation at higher rates.

There are numerous provisions in this DTAA due to which it has proved to be successful. The tax treaty provides beneficial withholding rates in case of dividend, interest, royalty, and financial tracking service. However, such beneficial provisions are subject to anti-avoidance provisions. In-line with the recent trend of the introduction of limitation of benefit ("LOB") clause under the Indian tax treaties, such a clause has been introduced in this tax treaty as well. Further, the exchange of interest ("EOI") article helps both the states to comply with international standards with respect to transparency and reduce tax evasion as it mandates sharing of information.

KEY HIGHLIGHTS

The DTAA provides significant relief to investors looking for avenues of cross-border investment i.e. Indian investors looking to invest in Hong Kong and vice-versa. Aside from tax relief, there are several other benefits that the Hong Kong - India DTAA offers to the concerned businesses. Highlights of the tax treaty are as follows:



01

ANTI AVOIDANCE PROVISIONS

This clause was introduced so as to bring the DTAA in-line with India's focus and convergence towards the BEPS recommendations. This article specifically mentions that the domestic laws will override DTAA wherever there is tax evasion or tax avoidance. Legal entities not having bonafide business activities are covered under this article.

02

PRINCIPAL PURPOSE TEST

Apart from the blanket rule on purpose test for avoidance or evasion of tax, all the articles in the substantive provisions also contain a specific clause as per which if the main purpose or one of the main purpose is to take tax benefit, then the treaty shall not be applicable.

03

SHIPPING AND AIR TRANSPORT

- Profits from operation of aircraft in international traffic– taxable only in the state which is the place of effective management.
- Profits from operation of ships in international traffic- taxable in the state which is the place of effective management, however, it may also be taxed in other contracting states. The tax imposed on such profits has been reduced by 50%.

04 RESIDENCY AND DUAL RESIDENCY FOR NON-INDIVIDUALS

An individual who stays in Hong Kong for more than 180 days during the relevant assessment year or for more than 300 days in two consecutive assessment years is regarded as a resident. However, for companies, the residency criteria is based on its place of incorporation. For non-Individuals having dual resident in both countries, then the competent authorities shall determine their residency through the mutual agreement procedure (MAP).

05 CAPITAL GAINS

- Capital gain arising on sale of shares of an Indian company to be chargeable to tax in India;
- Capital gain arising on sale of Indian companies shares deriving more than 50% of its asset value directly or indirectly from immovable property, shall be taxed in Hong Kong;
- Residual property not covered above including indirect transfer cases, shall be taxed as per the provisions of the domestic laws.

06 PERMANENT ESTABLISHMENT

The DTAA covers the following permanent establishments ("PE"):

- Fixed PE;
- Service PE (more than 183 days in any 12 months period);
- Construction PE (six months threshold);
- Agency PE.

07 APPLICABLE RATES

The provisions relating to general anti-avoidance rules (GAAR) have been inserted in dividends, interest, royalty, financial tracking service and capital gains articles. Following are the applicable withholding tax rates:

- Dividends – 5% on gross basis;
- · Interest – 10% on gross basis;
- · Royalty and financial tracking service – 10% on gross basis.

08 EXCHANGE OF INFORMATION

Information pertaining to direct taxes, goods and services tax (GST), customs, etc. are to be exchanged between Hong Kong to India as part of the protocol under DTAA.

HONG KONG - INDIA DTAA

The original text of the DTAA as signed between Hong Kong - India can be referred to below:

AGREEMENT FOR EXCHANGE OF INFORMATION WITH RESPECT TO TAXES WITH FOREIGN COUNTRIES HONG KONG

Whereas, an Agreement between the Government of the Republic of India and the Government of the Republic of the Hong Kong Special Administrative Region of People's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed at Hong Kong on the 19th March, 2018 as set out in the Annexure to this notification (hereinafter referred to as the Agreement);

And whereas, the said Agreement entered into force on the 30th day of November, 2018, being the date of the later of the notifications of the completion of the procedures required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 2 of Article 29 of the said Agreement;

And whereas, sub-paragraph (b) of paragraph 3 of Article 29 of the said Agreement provides that the provisions of the Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April following the date on which the Agreement enters into force;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said Agreement, as annexed hereto, shall be given effect to in the Union of India.

NOTIFICATION: NO. S.O. 6247(E) [NO.89/2018/F.NO.500/124/97-FTD-II], DATED 21-12-2018

ANNEXURE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of India and the Government of the Hong Kong Special Administrative Region of the People's Republic of China, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

ARTICLE 1

PERSONS COVERED

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

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

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

(a) in the case of the Hong Kong Special Administrative Region,

(i) profits tax;

(ii) salaries tax; and

(iii) property tax;

whether or not charged under personal assessment;

(b) in the case of India, the income tax, including any surcharge thereon.

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes, as well as any other taxes falling within paragraphs 1 and 2 which a Contracting Party may impose in future. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their respective taxation laws.

5. The existing taxes, together with the taxes imposed after the signature of the Agreement, are hereinafter referred to as "Hong Kong Special Administrative Region tax" or "Indian tax", as the context requires. However, the term "Hong Kong Special Administrative Region tax" or "Indian tax" shall not include any penalty or interest or fine imposed under the laws of either Contracting Party relating to the taxes to which the Agreement applies.

ARTICLE 3

GENERAL DEFINITIONS

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

(a) (i) the term "Hong Kong Special Administrative Region" means any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;

(ii) the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the United Nations Convention on the Law of the Sea;

(b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(c) the term "competent authority" means:

(i) in the case of the Hong Kong Special Administrative Region: the Commissioner of Inland Revenue or his authorized representative;

(ii) in the case of India: the Finance Minister, Government of India, or his authorized representative;

(d) the term "Contracting Party" or "the other Contracting Party" means the Hong Kong Special Administrative Region or India, as the context requires;

(e) the term "domestic law", in relation to the Hong Kong Special Administrative Region means the internal law of the Hong Kong Special Administrative Region;

(f) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;

(h) the term "national", in relation to India means:

(i) any individual possessing the nationality of India; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in India;

(i) the term "person" includes an individual, a company, a trust, a partnership and any other body of persons which is

treated as a taxable unit under the taxation laws in force in the respective Contracting Parties;
(j) the term "tax" means Hong Kong Special Administrative Region tax or Indian tax, as the context requires;
(k) (i) the term "year of assessment", in the case of the Hong Kong Special Administrative Region, means the period of 12 months commencing on the first day of April in any year;
(ii) the term "fiscal year", in the case of India, means the financial year commencing on the first day of April in one calendar year and ending on the thirty-first day of March in the following calendar year.
2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means:
(a) in the case of the Hong Kong Special Administrative Region,
(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;
(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;
(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;
(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;
(b) in the case of India, any person who, under the laws of India, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in India in respect only of income from sources in India;
(c) in the case of either Contracting Party, the Government of that Party, or any political subdivisions or local authorities thereof.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:
(a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
(b) if the Party 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 Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
(c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party in which he has the right of abode (in the case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of India);
(d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of India, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of India, the competent

authorities of the Contracting Parties shall endeavour to settle the question by mutual agreement. In the absence of such agreement, he shall not be entitled to any relief or exemption from tax provided by the Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting Parties.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting Parties, the competent authorities of the Contracting Parties shall endeavour to determine by mutual agreement the Contracting Party of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting Parties.

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;

(f) a sales outlet;

(g) a warehouse in relation to a person providing storage facilities for others;

(h) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on; and

(i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" also encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months;

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting Party for a period or periods aggregating more than 183 days within any twelve-month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage or display 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 or display;

(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 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;
(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), 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 paragraph 6 applies - is acting in a Contracting Party on behalf of an enterprise of the other Contracting Party, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting Party in respect of any activities which that person undertakes for the enterprise, if such a person:
(a) has and habitually exercises in the first-mentioned Contracting Party an authority to conclude contracts in the name of 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; or
(b) has no such authority, but habitually maintains in the first-mentioned Party a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or
(c) has no such authority, but habitually secures orders in the first-mentioned Contracting Party, wholly or almost wholly for the enterprise or its associated enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting Party merely because it carries on business in that Party 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (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 Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party 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, quarries, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. Any property or right referred to in paragraph 2 shall be regarded as situated where the land, standing timber, mineral deposits, quarries, sources or natural resources, as the case may be, are situated or where the working may take place.

4. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

5. The provisions of paragraphs 1 and 4 shall also apply to the income from immovable property of an enterprise and to

income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party 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 Party 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 Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise 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 permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere, in accordance with the provisions of the tax laws of that Party.

4. Insofar as it has been customary in a Contracting Party 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, or on the basis of such other method as may be prescribed by the laws of that Party, nothing in paragraph 2 shall preclude that Contracting Party from determining the profits to be taxed by such apportionment or other method; the method 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 the preceding paragraphs, 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 of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, profits of an enterprise of a Contracting Party derived in the other Contracting Party from the operation of ships in international traffic may also be taxed in the other Contracting Party, but the tax imposed in that other Contracting Party shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include in particular:

(a) revenues and gross receipts from the operation of ships or aircraft for the transport of persons, livestock, goods, mail

or merchandise in international traffic, including income derived from the sale of tickets and the provision of services connected with such transport whether for the enterprise itself or for any other enterprise, provided that in the case of provision of services, such provision is incidental to the operation of ships or aircraft in international traffic;
(b) interest on funds directly connected with the operation of ships or aircraft in international traffic;
(c) profits from the lease of containers by the enterprise, when such lease is incidental to the operation of ships or aircraft in international traffic.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where
(a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or
(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,
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 Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 for this purpose the competent authorities of the Contracting Parties shall if necessary consult each other.

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Party.
2. However, such dividends may also be taxed in the Contracting Party of which the company paying the dividends is a resident and according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.
This paragraph shall not affect the taxation of the company in respect of 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 Party 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 Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that Party independent personal 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 15, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party 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 Party 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 Party, 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 Party.

6. The benefits of this Article shall not be available if the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividends are paid is to take advantage of this Article by means of that creation or assignment.

ARTICLE 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting Party in which it arises and according to the laws of that Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, 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 Party shall be exempt from tax in that Party provided that it is derived and beneficially owned by:

(a) the Government, a political subdivision or a local authority of the other Contracting Party; or

(b) (i) in the case of the Hong Kong Special Administrative Region, the Hong Kong Monetary Authority and the Exchange Fund;

(ii) in the case of India, the Reserve Bank of India and the Export-Import Bank of India; or

(c) any other institution as may be agreed upon from time to time between the competent authorities of the Contracting Parties.

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 Party, carries on business in the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other Party independent personal 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 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party 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 exceeds, for whatever reasons, the amount which would have been agreedupon 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 Party, due regard being had to the other provisions of this Agreement.

8. The benefits of this Article shall not be available if the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid is to take advantage of this Article by means of that creation or assignment.

ARTICLE 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting Party in which they arise, and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

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, or films or tapes used for television or radio broadcasting, any patent, 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 Party, carries on business in the other Contracting Party in which the royalties arise, through a permanent establishment situated therein , or performs in that other Party independent personal 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 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party 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 exceeds, for whatever reasons, 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 Party, due regard being had to the other provisions of this Agreement.

7. The benefits of this Article shall not be available if the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid is to take advantage of this Article by means of that creation or assignment.

ARTICLE 13

FEES FOR TECHNICAL SERVICES

1. Fees for technical services arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such fees for technical services may also be taxed in the Contracting Party in which they arise, and according to the laws of that Party, but if the beneficial owner of the fees for technical services is a resident of the other Contracting Party the tax so charged shall not exceed 10 per cent of the gross amount of the fees for technical services.

3. The term "fees for technical services" as used in this Article means payments of any kind as consideration for managerial, technical or consultancy services, including through the provision of services of technical or other personnel, but does not include payments for independent personal services and for dependent personal services as mentioned in Articles 15 and 16 respectively of this Agreement.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the fees for technical services, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the fees for technical services arise, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Fees for technical services shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the fees for technical services, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment or a fixed base in connection
with which the liability to pay the fees for technical services was incurred, and such fees for technical services are borne by such permanent establishment or fixed base, then such fees for technical services shall be deemed to arise in the Contracting Party 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 fees for technical services, 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 Party, due regard being had to the other provisions of the Agreement.

7. The benefits of this Article shall not be available if the main purpose or one of the main purposes of any person concerned with performance of services in respect of which the technical fees are paid is to take advantage of this Article by means of such performance of services.

ARTICLE 14

CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party or of movable property pertaining to a fixed base available to a resident of a Contracting Party in the other Contracting Party for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other Party.

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 Party of which the alienator is a resident.

4. Gains derived by a resident of a Contracting Party from the alienation of shares of a company deriving more than 50 per cent of its asset value directly or indirectly from immovable property situated in the other Contracting Party may be taxed in that other Party.

5. Gains from the alienation of shares other than those mentioned in paragraph 4 in a company which is a resident of a Contracting Party may be taxed in that Party.

6. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3, 4 and 5, may be taxed in each Contracting Party in accordance with the provisions of its domestic law.

7. The benefits of this Article shall not be available if the main purpose or one of the main purposes of any person concerned with the alienation of property in respect of which the capital gains are derived is to take advantage of this Article by means of that alienation.

ARTICLE 15

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting Party from the performance of professional services or other independent activities of a similar character shall be taxable only in that Party except in the following circumstances when such income may also be taxed in the other Contracting Party:

(a)if he has a fixed base regularly available to him in the other Contracting Party 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 Party; or

(b) if his stay in the other Contracting Party is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the year of assessment (in the case of the Hong Kong Special Administrative Region) or fiscal year (in the case of India) concerned; in that case, only so much of the income as is derived from his activities performed in that other Party may be taxed in that other Party.

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, surgeons, dentists and accountants.

ARTICLE 16

DEPENDENT PERSONAL SERVICES

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

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

(a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the year of assessment (in the case of the Hong Kong Special Administrative Region) or fiscal year (in the case of India) concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Party.

ARTICLE 17

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Party.

ARTICLE 18

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from personal activities as such exercised in the other Contracting Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting Party in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income from activities performed in a Contracting Party by entertainers or sportspersons if the activities are substantially supported by public funds of one or both of the Contracting Parties or of political subdivisions or local authorities thereof. In such a case, the income shall be taxable only in the Contracting Party of which the entertainer or sportsperson is a resident.

ARTICLE 19

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration (including a lump sum payment) paid to a resident of a Contracting Party, regardless of whether such pension or remuneration is paid in consideration of past employment, shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including a lump sum payment) made under a pension or retirement scheme, which is a scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in a Contracting Party, shall be taxable only in that Contracting Party.

ARTICLE 20

GOVERNMENT SERVICE

1.(a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or its political subdivision or local authority shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein and in the case of India, is a

national of India; or

(ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. Any pension (including a lump sum payment) paid by, or paid out of funds created or contributed by, the Government of a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or its political subdivision or local authority shall be taxable only in that Party.

3. The provisions of Articles 16, 17, 18 and 19 shall apply to salaries, wages and other similar remuneration and to pensions (including a lump sum payment) in respect of services rendered in connection with a business carried on by the Government of a Contracting Party or a political subdivision or a local authority thereof.

ARTICLE 21

STUDENTS

Payments which a student who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his education receives for the purpose of his maintenance or education shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

ARTICLE 22

OTHER INCOME

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

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

ARTICLE 23

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. in the Hong Kong Special Administrative Region:

Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), Indian tax paid under the laws of India and in accordance with the Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in India, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance

with the tax laws of the Hong Kong Special Administrative Region.

2. in India:

(a) Where a resident of India derives income which, in accordance with the provisions of this Agreement, may be taxed in the Hong Kong Special Administrative Region, India shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in the Hong Kong Special Administrative Region.

Such deduction shall not, however, exceed that portion of the tax as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in the Hong Kong Special Administrative Region.

(b) Where in accordance with any provision of the Agreement income derived by a resident of India is exempt from tax in India, India may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

ARTICLE 24

NON-DISCRIMINATION

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of India, are nationals, shall not be subjected in

the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Party (where that other Party is the Hong Kong Special Administrative Region) or nationals of that other Party (where that other Party is India) in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting Parties.

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. This provision shall not be construed as preventing a Contracting Party from charging the profits of a permanent establishment which a company of the other Contracting Party has in the first mentioned Party at a rate of tax which is higher than that imposed on the profits of a similar company of the first mentioned Contracting Party, nor as being in conflict with the provisions of paragraph 3 of Article 7.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12, or paragraph 3 of Article 13, apply, interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Party.

4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party 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 Party are or may be subjected.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting Parties 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 Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting Party in which he has the right of abode or is incorporated or otherwise constituted (in the case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of India). 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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.

3. The competent authorities of the Contracting Parties 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 the Agreement.

4. The competent authorities of the Contracting Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic law of the Contracting Parties concerning taxes of every kind and description imposed on behalf of the Contracting Parties, or of their political subdivisions or local authorities as covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic law of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1. 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. Notwithstanding the foregoing, information received by a Contracting Party may be used for other purposes when such information may be used for such other purposes under the laws of both Parties and the competent authority of the supplying Party authorizes such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting Party the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

(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 Party;

(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).

4. If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use

its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting Party to decline to supply information solely because there is no tax interest in such information to that Party.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27

MEMBERS OF GOVERNMENT MISSIONS

Nothing in this Agreement shall affect the fiscal privileges of members of government missions, including consular posts, under the general rules of international law or under the provisions of special agreements.

ARTICLE 28

MISCELLANEOUS RULES

1. The provisions of this Agreement shall in no case prevent a Contracting Party from the application of the provisions of its domestic law and measures concerning tax avoidance or evasion, whether or not described as such.

2. A Contracting Party is not required to grant benefits under the Agreement if the main purpose or one of the main purposes of any persons concerned is for the non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the Agreement for the indirect benefit of residents of third jurisdictions).

3. Cases of legal entities not having bona fide business activities shall also be covered by the provisions of this Article.

ARTICLE 29

ENTRY INTO FORCE

1. Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law for the entry into force of this Agreement.

2. The Agreement shall enter into force on the date of the later of the notifications referred to in paragraph 1 of this Article.

3. The provisions of the Agreement shall thereupon have effect:

(a) in the Hong Kong Special Administrative Region:

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April following the date on which the Agreement enters into force;

(b) in India:

in respect of income derived in any fiscal year beginning on or after the first day of April following the date on which the Agreement enters into force.

ARTICLE 30

TERMINATION

This Agreement shall remain in force indefinitely until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving the other Contracting Party written notice of termination at least six months before

the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

(a) in the Hong Kong Special Administrative Region:

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April following the date on which the notice is given;

(b) in India:

in respect of income derived in any fiscal year on or after the first day of April following the date on which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Agreement.

DONE in duplicate at Hong Kong this 19th day of March 2018, in the Chinese, Hindi and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

PROTOCOL

At the time of signing of the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of India for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (the "Agreement"), the two Governments have agreed upon the following provisions which shall form an integral part of the Agreement:

1. For the purposes of the Agreement, it is understood that in relation to the Hong Kong Special Administrative Region, the terms "ordinarily resides" and "normally managed or controlled" have the meaning they have under the law of the Hong Kong Special Administrative Region as amended from time to time without affecting the general principle thereof.

In addition to above, with reference to clause (i) of subparagraph (a) of paragraph 1 of Article 4 (Resident) of the Agreement, it is understood that an individual ordinarily resides in the Hong Kong Special Administrative Region if the individual has a substantial presence, permanent home or habitual abode in the Hong Kong Special Administrative Region, and he has personal and economic relations with the Hong Kong Special Administrative Region.

In addition to above, with reference to clauses (iii) and (iv) of subparagraph (a) of paragraph 1 of Article 4 (Resident) of the Agreement, it is understood that a company incorporated or any other person constituted outside the Hong Kong Special Administrative Region is normally managed or controlled in the Hong Kong Special Administrative Region if its executive officers and senior management employees make day-to-day key decisions in the Hong Kong Special Administrative Region for the strategic, financial and operational policies for the company or the person, and the staff of the company or the person conduct in the Hong Kong Special Administrative Region, the day-to-day activities necessary for making those decisions.

2. For the purposes of the Agreement, it is understood that in relation to the Hong Kong Special Administrative Region, the term "right of abode" has the meaning it has under the law of the Hong Kong Special Administrative Region as amended from time to time without affecting the general principle thereof.

3. With reference to paragraph 5 of Article 2 (Taxes Covered) of the Agreement, it is understood that the term "penalty or interest" includes, in the case of the Hong Kong Special Administrative Region, any sum added to Hong Kong Special Administrative Region tax by reason of default and recovered therewith and "additional tax" under Section 82A of the Inland Revenue Ordinance (Chapter 112 of the Laws of Hong Kong).

4. With reference to clause (i) of subparagraph (a) of paragraph 1 of Article 3 (General Definitions) of the Agreement, it is understood that the term "any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply" refers to the land and sea comprised within the boundary of the Hong Kong Special Administrative Region of the People's Republic of China, together with the Shenzhen Bay Port Hong Kong Port Area.

5. With reference to Article 26 (Exchange of Information) of the Agreement, it is understood that:

(a) information exchanged shall not be disclosed to any third jurisdiction.

(b) the competent authority of India may disclose information to:

(i) Parliamentary Committees;

(ii) Special Investigation Team (SIT) constituted by Government; and

(iii) any other oversight bodies mutually agreed upon in writing.

(c) the requested Contracting Party shall disclose any information that precedes the date on which the Agreement has effect for the taxes covered by the Agreement, insofar the information is foreseeably relevant for a fiscal year or taxable event following that date.

(d) in addition to the taxes covered by the Agreement, the provisions of this Article also apply to the following taxes that are administrated and enforced in India:

(i) the wealth tax;

(ii) the excise and customs duties;

(iii) the goods and services tax (GST); and

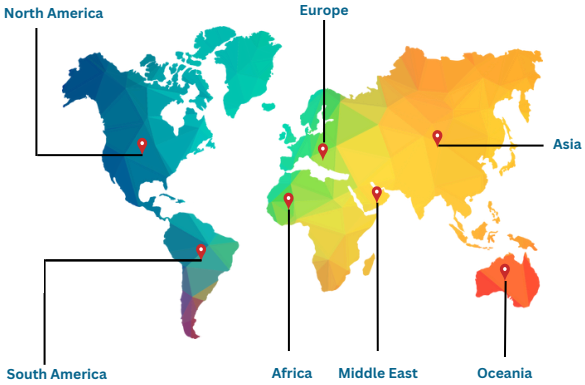
(iv) the sales and value added taxes.

6. It is understood that the Contracting Parties may review the provisions of the Agreement at the request of either Contracting Party.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Protocol.

DONE in duplicate at Hong Kong this 19th day of March 2018, in the Chinese, Hindi and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

SERVING CLIENTS WORLDWIDE



Key Contact

Surendra Singh Chandrawat

Managing Partner

surendra@chandrawatpartners.com

Connect Surendra on

LinkedIn WhatsApp

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