

## TAXATION OF SECURITY HOLDERS

The taxation of income and capital gains of holders of H Shares is subject to the laws and practices of the PRC and of jurisdictions in which holders of H Shares are resident or otherwise subject to tax. The following summary of certain relevant taxation provisions is based on current law and practice, is subject to change and does not constitute legal or tax advice. The discussion does not deal with all possible tax consequences relating to an investment in the H Shares. Accordingly, you should consult your own tax adviser regarding the tax consequences of an investment in the H Shares. The discussion is based upon laws and relevant interpretations in effect as of the date of this prospectus, all of which are subject to change.

### The People's Republic of China

The following is a discussion of the material PRC tax provisions relating to the ownership and disposition of H Shares purchased in connection with the Global Offering and held by the investors as capital assets. This summary does not purport to address all material tax consequences of the ownership of H Shares, and does not take into account the specific circumstances of any particular investors. This summary is based on the PRC tax laws as in effect on the date of this prospectus, as well as on the Treaty between the United States of America and the PRC for the Avoidance of Double Taxation (the "Treaty"), all of which are subject to change (or changes in interpretation), possibly with retroactive effect.

This discussion does not address any aspects of taxation other than income tax, capital tax, stamp duty and estate duty. Prospective investors are urged to consult their tax advisers regarding the PRC, Hong Kong and other tax consequences of owning and disposing of H Shares.

#### ***Taxation of dividends***

*Individual investors.* According to the Provisional Regulations of the PRC Concerning Questions of Taxation on Enterprises Experimenting with the Share System (the "Provisional Regulations"), and the Individual Income Tax Law of the PRC, as amended on October 31, 1993 and effective on January 1, 1994, and further amended and effective on August 30, 1999, dividends paid by PRC companies are ordinarily subject to a PRC withholding tax levied at a flat rate of 20%. For a foreign individual who is not a PRC resident, the receipt of dividends from a company in the PRC is normally subject to a withholding tax of 20% unless deductible by an applicable tax treaty. However, the SAT, the central government tax authority which succeeded the State Tax Bureau, issued on July 21, 1993, a Notice of the State Administration of Taxation (the "SAT") of the PRC Concerning the Taxation of Gains on Transfer and Dividends from Share (Equities) Received by Foreign Investment Enterprises, Foreign Enterprises and Foreign Individuals (the "Tax Notice"), which states that dividends paid by a PRC company to individuals with respect to shares listed on an overseas stock exchange (the "Overseas Shares"), such as H Shares, are not subject to any withholding tax in the PRC.

The Amendment to the Individual Income Tax Law of the PRC (the "Amendment"), was promulgated on October 31, 1993 and became effective on January 1, 1994. The Amendment states that it shall supersede the provisions of any contradictory prior administrative regulations concerning individual income tax. Under the requirements of the Amendment and the amended Individual Income Tax Law, foreign individuals are subject to withholding tax on dividends paid by a PRC company at a rate of 20% unless specifically exempted by the tax authority of the State Council. However, in a letter dated July 26, 1994 to the former State Commission for Restructuring the Economic System, the former State Council Securities Commission and the CSRC, the SAT reiterated the temporary tax exemption stated in the Tax Notice for dividends received from a PRC company listed overseas. In the event that this letter is withdrawn, a 20% withholding tax may be levied on dividends in accordance with the Provisional Regulations, the Amendment and the Individual Income Tax Law. The withholding tax may be reduced under an applicable treaty for the avoidance of double taxation.

*Enterprises.* According to the Income Tax Law of the PRC Concerning Foreign Investment Enterprises and Foreign Enterprises, dividends paid by PRC companies to enterprises are ordinarily subject to the PRC withholding tax levied at a flat rate of 20%. However, according to the Tax Notice, a foreign enterprise with no permanent establishment in the PRC receiving dividends paid with respect to a PRC company's Overseas Shares will temporarily not be subject to the 20% withholding tax. If the withholding tax becomes applicable in the future, the rate could be reduced under an applicable treaty for the avoidance of double taxation.

*Tax treaties.* Investors who do not reside in the PRC but in countries that have entered into treaties for the avoidance of double taxation with the PRC may be entitled to a reduction of the withholding tax imposed on the payment of dividends. The PRC currently has entered into treaties for the avoidance of double taxation with a number of countries, including Australia, Canada, France, Germany, Japan, Malaysia, the Netherlands, Singapore, the United Kingdom and the United States.

Under the Treaty, the PRC Government may tax a dividend paid by a joint stock limited company to an Eligible US Holder up to a maximum of 10% of the gross amount of the dividend. It is arguable that under the Treaty, the PRC may only impose taxes on gains from the sale or disposition by an Eligible US Holder of H Shares having an interest in the issued share capital of our Company of 25% or more, but this position is uncertain and the PRC authorities may take a different point of view. For the purposes of this Appendix, an "Eligible US Holder" is a US holder that (i) is a resident of the United States for the purposes of the Treaty, (ii) does not maintain a permanent establishment or fixed place in the PRC to which H Shares are attributable and through which the beneficial owner of the H Shares carries on or has carried on business (or, in the case of an individual, performs or has performed independent personal services) and (iii) is not otherwise eligible for benefits under the Treaty with respect to income and gains derived in connection with the H Shares.

### ***Taxation of capital gains***

The Tax Notice provides that gains realized by enterprises that are holders of Overseas Shares would, temporarily, not be subject to capital gains taxes. With respect to individual holders of H Shares, the Provisions for Implementation of Individual Income Tax Law of the PRC (the "Provisions"), issued on January 28, 1994, stipulated that gains realized on the sale of equity shares would be subject to income tax at a rate of 20% on the gains, and authorized the Ministry of Finance to draft detailed tax rules on the mechanism for collecting such tax, as per the official publication "China Securities News" of April 13, 1994. Gains on the sale of shares by individuals are temporarily exempted from individual income tax pursuant to notices issued by the SAT dated February 9, 1996 and March 30, 1998. In the event this temporary exemption is withdrawn or ceases to be effective, individual holders of H Shares may be subject to capital gains tax at the rate of 20% unless such tax is reduced or eliminated by an applicable treaty for the avoidance of double taxation. If tax on capital gains from the sale of H Shares becomes applicable, it is arguable that under the Treaty, the PRC may only tax gains from the sale or disposal by an Eligible US Holder of H Shares having an interest in 25% or more of the issued share capital of our Company, but this position is uncertain and the PRC authorities may take a different point of view.

On November 18, 2000, the State Council issued a notice entitled "State Council Notice on the Income Tax Reduction for Profit and Other Income that Foreign Enterprises Derive in China" (the "Tax Reduction Notice"). Under the Tax Reduction Notice, beginning from January 1, 2001, enterprise income tax at a reduced 10% rate will be applied to profit, rental, license fees and other income obtained in the PRC by foreign enterprises without representative office or principal establishment in the PRC, or by foreign enterprises without any substantive relationship with their representative office or principal establishment in the PRC. Therefore, if the exemption as described in the preceding paragraph does not apply or is no longer applicable, and the Tax Reduction Notice does not apply, a foreign enterprise shareholder may be subject to a 20% tax on capital gains, unless reduced by an applicable double taxation relief treaty.

**Additional PRC tax considerations**

*The PRC stamp duty.* The PRC stamp duty imposed on the transfer of shares of PRC publicly traded companies under the Provisional Regulations is not applicable to the acquisition and disposal by non-Chinese investors of H Shares outside the PRC by virtue of the Provisional Regulations of the PRC Concerning Stamp Duty, which became effective on October 1, 1988 and which provides that Chinese stamp duty is imposed only on documents executed or received within the PRC that are legally binding in the PRC and are protected under the PRC law.

*Estate duty.* Estate duty is not currently imposed under the PRC law. No liability for estate duty will arise under the PRC law for non-Chinese nationals holding H Shares.

**TAXATION OF OUR COMPANY BY THE PRC****Income tax**

Income tax payable by PRC domestic enterprises, including state-owned enterprises and joint stock enterprises, is governed by the PRC Enterprise Income Tax Provisional Regulations (the "EIT Regulations"), which took effect as from January 1, 1994 and provides for an income tax rate of 33% unless a lower rate is provided by laws, regulations or rules. We are generally subject to tax at a rate of 33% pursuant to the EIT Regulations.

**Business tax**

Pursuant to the Provisional Regulations and Implementation Rules of the PRC Concerning Business Tax, effective from January 1, 1994, business tax is imposed on enterprises which provide taxable services, transfer intangible property or sell real estate in the PRC. The business tax is levied at a rate from 3% to 20% on the provision of taxable services, transfer of intangible property or sale of real estate in the PRC.

Pursuant to the Cai Shui [2001] No. 21 Notice jointly issued by the Ministry of Finance and the SAT, business tax of financial and insurance industries has been reduced from 8% to 5% over a three-year period from 2001 to 2003 at a rate of 1% per annum. Currently the applicable rate is 5%.

**FOREIGN EXCHANGE**

The lawful currency of the PRC is the Renminbi, which is subject to foreign exchange controls and is not freely convertible into foreign exchange at this time. The SAFE, under the authority of the PBOC, is empowered with the functions of administering all matters relating to foreign exchange, including the enforcement of foreign exchange control regulations.

Prior to December 31, 1993, a quota system was used for the management of foreign currency. Any enterprise that needs foreign currency was required to obtain a quota from the local SAFE office before it could convert Renminbi into foreign currency through the PBOC or other designated banks. Such conversion had to be effected at the official rate prescribed by the SAFE on a daily basis. Renminbi could also be converted into foreign currency at swap centers. The exchange rates used by swap centers were largely determined by the demand for, and supply of, foreign currencies and the Renminbi requirements of enterprises in the PRC. Any enterprise that wished to buy or sell foreign currency at a swap center first had to obtain the approval of the SAFE.

On December 28, 1993, the PBOC, under the authority of the State Council, promulgated the Notice of the People's Bank of China Concerning Further Reform of the Foreign Currency Control System (the "Notice"), effective from January 1, 1994. The Notice announces the abolition of the system of foreign exchange quotas, the implementation of conditional convertibility of Renminbi in current account items, the establishment of the system of settlement and payment of foreign exchange by banks, and the unification of the official Renminbi exchange rate and the market rate for Renminbi

established at swap centers. On March 26, 1994, the PBOC promulgated the Provisional Regulations for the Administration of Settlement, Sale and Payment of Foreign Exchange, which set out detailed provisions regulating the sale and purchase of foreign exchange by enterprises, economic organizations and social organizations in the PRC.

On January 29, 1996, the State Council promulgated Regulations of the People's Republic of China for the Control of Foreign Exchange ("Control of Foreign Exchange Regulations"), which became effective on April 1, 1996. The Control of Foreign Exchange Regulations classify all international payments and transfers into current account items and capital account items. Most of the current account items can be freely converted from Renminbi and are no longer subject to SAFE approval while the settlement, sale and payment of foreign exchange under capital account items still are. The Control of Foreign Exchange Regulations were amended on January 14, 1997. This latest amendment affirmatively states that the State shall not restrict international current account payments and transfers.

On June 20, 1996, the PBOC promulgated the Regulations for Administration of Settlement, Sale and Payment of Foreign Exchange (the "Settlement Regulations"), which came into effect on July 1, 1996. The Settlement Regulations superseded the Provisional Regulations for the Administration of Settlement, Sale and Payment of Foreign Exchange and abolished the remaining restrictions on convertibility of foreign exchange in respect of current account items while retaining the existing restrictions on foreign exchange transactions in respect of capital account items. On the basis of the Settlement Regulations, the PBOC also published the Announcement on the Implementation of Foreign Exchange Settlements and Sales at Banks by Foreign-invested Enterprises (the "Announcement"). The Announcement permitted foreign-invested enterprises to open, on the basis of their needs, foreign exchange settlement accounts for current account receipts and payments of foreign exchange along with specialized accounts for capital account receipts and payments at designated foreign exchange banks.

On October 25, 1998, the PBOC and the SAFE promulgated the Notice Concerning the Discontinuance of Foreign Exchange Swapping Business, pursuant to which and with effect from December 1, 1998, all foreign exchange swapping business in the PRC for foreign invested enterprises was discontinued, while the trading of foreign exchange by foreign invested enterprises came under the banking system for the settlement and sale of foreign exchange.

On January 1, 1994, the former dual exchange rate system for Renminbi was abolished and replaced by a managed exchange rate system, which is determined in part by demand and supply. The PBOC sets and publishes daily the Renminbi-US dollar base exchange rate. This exchange rate is determined with reference to the transaction price for Renminbi-US dollar in the inter-bank foreign exchange market on the previous day. The PBOC will also, with reference to exchange rates in the international foreign exchange market, announce the exchange rates of Renminbi against other major currencies. In foreign exchange transactions, designated foreign exchange banks may, within a specified range, freely determine the applicable exchange rate in accordance with the exchange rate announced by the PBOC.

Save for foreign-invested enterprises or other enterprises that are specially exempted by relevant regulations, all entities in the PRC (with the exception of certain foreign trade companies and production-type enterprises with import-export operation rights, which may be permitted to retain certain amount of their foreign exchange income from their current account transactions and to use such monies to make foreign exchange payments for their current account transactions and permitted capital account transactions) must sell their foreign exchange income in excess of prescribed limit to designated foreign exchange banks. Foreign exchange proceeds from loans borrowed from organizations outside the PRC or from the issuance of bonds and shares (for example foreign exchange proceeds we receive from the sale of shares outside the PRC) are not required to be sold to designated foreign exchange banks, but may be deposited in foreign exchange accounts at the designated foreign exchange banks.

Enterprises in the PRC (including foreign-invested enterprises) that need foreign exchange for transactions relating to current account items, do not require the approval from SAFE, to effect payment from their foreign exchange account, or convert Renminbi into foreign exchange for payment at the designated foreign exchange banks, upon presentation of valid receipts and proof. Foreign-invested enterprises that require foreign exchange for the distribution of profits to their shareholders, and enterprises in the PRC that are required to pay dividends to shareholders in foreign exchange (like us) in accordance with regulations, may, upon presentation of board resolutions on the distribution of profits, effect payment from their foreign exchange account or convert Renminbi into foreign exchange for payment at the designated foreign exchange banks.

Convertibility of foreign exchange in respect of capital account items, like direct investment and capital contribution, is still subject to restriction, and prior approval from SAFE and its relevant branch must be obtained.

Dividends to holders of H Shares are fixed in Renminbi but must be paid in Hong Kong dollars.

## **HONG KONG**

### **Tax on Dividends**

Under the current practice of the Hong Kong Inland Revenue Department, no tax is payable in Hong Kong in respect of dividends paid by us, either by withholding or otherwise, unless such dividends are attributable to a trade, profession or business carried on in Hong Kong.

### **Taxation**

No tax is imposed in Hong Kong in respect of capital gains from the sale of property such as H Shares. Trading gains from the sale of property by persons carrying on a trade, profession or business in Hong Kong where such gains are derived from or arise in Hong Kong from such trade, profession or business will be chargeable to Hong Kong profits tax, which is currently imposed at the rate of 17.5% on corporations and at a maximum rate on individuals of 16%. Gains from sales of H Shares effected on the Hong Kong Stock Exchange will be considered to be derived from or arise in Hong Kong. Liability for Hong Kong profits tax would thus arise in respect of trading gains from sales of H Shares realized by persons carrying on a business of trading or dealing in securities in Hong Kong.

### **Stamp Duty**

Hong Kong stamp duty will be payable by the purchaser on every purchase and by the seller on every sale of H Shares. The duty is charged at a current aggregate rate of 0.2% of the consideration or, if higher, the fair value of the H Shares transferred (the buyer and seller each liable to pay 0.1% of the consideration or, if higher, the fair value of the H Shares transferred). In addition, a fixed duty of HK\$5 is currently payable on any instrument of transfer of shares.

If one of the parties to the sale is a non-resident of Hong Kong and does not pay the required stamp duty, the duty not paid will be assessed on the instrument of transfer (if any), and the transferee will be liable for payment of such duty.

### **Estate Duty**

The H Shares are Hong Kong property under Hong Kong law and, accordingly, these shares may be subject to estate duty on the death of the beneficial owner of these shares, regardless of the place of the owner's residence, citizenship or domicile. Hong Kong estate duty is currently imposed according to a progressive scale from 5% to 15%. No estate duty is payable when the aggregate value of the dutiable estate does not exceed HK\$7.5 million, and the maximum rate of duty of 15% applies when the aggregate value of the dutiable estate exceeds HK\$10.5 million.

On 16 March 2005, the Financial Secretary of the Hong Kong Special Administrative Region announced in his 2005/06 budget speech that the Hong Kong Government would propose for the abolition of estate duty. As of the Latest Practicable Date, the relevant law has not been passed and estate duty has not been abolished.