

AGREEMENT BETWEEN THE REPUBLIC OF TURKEY AND
THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE
TAXATION WITH RESPECT TO TAXES ON INCOME

THE REPUBLIC OF TURKEY

AND

THE KINGDOM OF BELGIUM

Desiring to conclude an Agreement for the avoidance of double
taxation with respect to taxes on income,

HAVE AGREED AS FOLLOWS:

CHAPTER I.- SCOPE OF THE AGREEMENT

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

- a) in the case of Turkey :
- i) the income tax (Gelir Vergisi);
 - ii) the corporation tax (Kurumlar Vergisi);
 - iii) the levy on behalf of the fund for the support of the defense industry (Savunma Sanayii Destekleme Fonu);
 - iv) the levy on behalf of the fund for the encouragement of social charity and solidarity (Sosyal Yardımlaşma ve Dayanışmayı Teşvik Fonu); and
 - v) the levy on behalf of the fund for business apprentices and for the improvement and enlargement of the business and technical training (Çıraklık, Mesleki ve Teknik Eğitimi Geliştirme ve Yaygınlaştırma Fonu);

(hereinafter referred to as "Turkish tax");

- b) in the case of Belgium:
- i) the individual income tax;
 - ii) the corporate income tax;
 - iii) the income tax on legal entities;
 - iv) the income tax on non-residents;
 - v) the special levy assimilated to the individual income tax;

including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax;

(hereinafter referred to as "Belgian tax").

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

CHAPTER II.- DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

- a) i) the term "Turkey" means the Republic of Turkey and when used in a geographical sense means the territory of the Republic of Turkey, as well as the continental shelf over which Turkey has, in accordance with international law sovereign rights to explore and exploit its natural resources;
- ii) the term "Belgium" means the Kingdom of Belgium and when used in a geographical sense means the national territory, the territorial sea and any other area in the sea within which Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;
- b) the terms "a Contracting State " and " the other Contracting State" mean Turkey or Belgium as the context requires;
- c) the term "tax" means any tax covered by Article 2 of this Agreement;
- d) the term "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- f) the term "national" means,
- i) in relation to Turkey, any individual possessing Turkish nationality in accordance with the Turkish Nationality Code, and in relation to Belgium, any individual possessing the Belgian nationality;
- ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- h) the term "competent authority" means :
- i) in the case of Turkey, the Minister of Finance and Customs or his authorised representatives;
- ii) in the case of Belgium, the Director General of Direct taxes;
- i) the term "international traffic" means any transport by a ship, an aircraft or a land transport vehicle by an enterprise of a Contracting State, except when the ship, aircraft or land transport vehicle is operated solely between places in the other Contracting State.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Agreement applies.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, legal head office, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State 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 State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated. However, where such person has its place of effective management in a Contracting State and the place of its legal head office in the other Contracting State, then the competent authorities of the Contracting States shall determine by mutual agreement the State of which the person shall be deemed to be a resident for the purposes of the Agreement.

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 mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

3. The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site project or activities continue for a period of more than six months.

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, display or delivery 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, display or delivery;
- 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 sub-paragraphs 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 independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- a) has and habitually exercises in that State 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 State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State 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.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment or the other.

CHAPTER III.- TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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

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

4. The provisions of paragraphs 1 and 3 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 State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State 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 State 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 State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State 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 State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

4. 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.

5. 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.

6. Profits attributable to a permanent establishment situated in Belgium of a company which is a resident of Turkey or of an association having its place of effective management in Turkey may be taxed in Belgium according to its laws. However, the rate of tax shall not exceed the maximum rate applicable to profits of a company which is a resident of Belgium.

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, AIR AND LAND TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships, aircraft or land transport vehicles in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits from the operation in international traffic of ships, aircraft or land transport vehicles shall include:

- a) profits derived from the rental on a full basis or on a bareboat basis of ships, aircraft or land transport vehicles;
- b) profits derived from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) used in international traffic;

if such profits are incidental to profits to which the provisions of paragraph 1 apply.

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.

Article 9

ASSOCIATED ENTERPRISES

1. Where

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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 State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make a correlative adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified and appropriate. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

- a) 15 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 percent of the capital of the company paying the dividends;
- b) 20 per cent of the gross amount of the dividends in all other cases.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term means also in the case of Turkey income derived from an investment fund, and in the case of Belgium income—even paid in the form of interest—which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or in the case of a resident of Turkey, performs in Belgium independent personal services from a fixed base situated in Belgium, 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 14, as the case may be, shall apply.

5. Profits of a company of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated and in accordance with sub-paragraph a) of paragraph 2.

6. Subject to the provisions of paragraph 5, where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State 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 State 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 State, 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 State.

Article 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempt from tax in the Contracting State in which it arises if it is paid to the Government of the other Contracting State or the Central Bank thereof.

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, as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises. However, the term "interest" shall not include for the purpose of this Article income regarded as dividends under the second sentence of paragraph 3 of Article 10.

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 State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or in the case of a resident of Turkey, performs in Belgium independent personal services from a fixed base situated in Belgium, 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 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State 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 State 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, having regard to the debt-claim for which it is 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 in the Contracting State in which the interest arises according to the laws of that State.

Article 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State 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, or the sale of, any copyright of literary, artistic or scientific work including cinematograph films and recordings for radio and television, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning, industrial, commercial or scientific experience or for the use of, or the right to use, industrial, commercial, or scientific equipment other than that referred to in paragraph 2 of Article 8.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or, in the case of a resident of Turkey, performs in Belgium independent personal services from a fixed base situated in Belgium, 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 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State 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 State 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 paid, 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 payment shall remain taxable in the Contracting State in which the royalties arise according to the laws of that State.

Article 13

CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State 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 a fixed base, may be taxed in the other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft or land transport vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or land transport vehicles, shall be taxable only in that State.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of a Contracting State to levy according to its own law a tax on gains derived by a resident of the other Contracting State from the alienation of shares or bonds issued by a company which is a resident of the first-mentioned State (other than shares and bonds quoted on a stock exchange of that State) if the alienation takes place to a resident of the first-mentioned State and if the period between acquisition and alienation of such shares or bonds does not exceed one year.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character, shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- a) the resident has a fixed base regularly available to him in that other State for the purpose of performing those services or activities; or
- b) he is present in that other State for the purpose of performing those services or activities for a period or periods amounting in the aggregate in 183 days or more in any continuous period of twelve months.

In such circumstances, only so much of the income as is attributable to that fixed base or is derived from the services or activities performed during his presence in that other State, as the case may be, may be taxed in that other State.

2. Income derived by an enterprise of a Contracting State in respect of professional services or other activities of a similar character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- a) the enterprise has a permanent establishment in that other State through which the services or activities are performed; or
- b) the period or periods during which the services are performed exceed in the aggregate 183 days in any continuous period of twelve months.

In such circumstances only so much of the income as is attributable to that permanent establishment or to the services or activities performed in that other State, as the case may be, may be taxed in that other State. In either case, the enterprise may elect to be taxed in that other State in respect of such income in accordance with the provisions of Article 7 as if the income were attributable to a permanent establishment of the enterprise situated in that other State. This election shall not affect the right of that other State to impose a withholding tax on such income.

3. 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, dentists and accountants, and other activities requiring specific professional skill.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the resident is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or land transport vehicle operated by an enterprise of a Contracting State in international traffic, may be taxed in that State.

Article 16

DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or a similar organ of a company with share capital which is a resident of the other Contracting State, may be taxed in that other State. The provisions of this paragraph shall also apply to payments derived in respect of the discharge of functions which under the laws of the Contracting State of which the company is a resident are treated as functions of a similar nature as those performed by a person as referred to in the preceding sentence.

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

Article 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of paragraph 1 of Article 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that State is substantially supported by public funds of the other Contracting State or a political subdivision or a local authority thereof. In such case that income shall be taxable only in that other Contracting State.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration in consideration of past employment and annuities paid to a resident of a Contracting State shall be taxable only in that State.

2. Pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State or under a public scheme organised by a Contracting State for social welfare purposes may be taxed in that State. However, such pensions and other allowances shall be taxable only in the Contracting State of which the individual is a resident, if he is a national of that State.

3. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19

GOVERNMENT SERVICE

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority thereof in the discharge of functions of a governmental nature shall be taxable in that State.

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

PROFESSORS

Any remuneration paid to professors and other teachers who are residents of a Contracting State and who are temporarily present in the other Contracting State for the purpose of teaching or carrying on scientific research during a period not exceeding two years at a university or other officially recognized educational institution shall be taxable only in the first-mentioned State, provided that such remuneration arises from sources outside the other State.

Article 21

STUDENTS

An individual, who immediately before visiting a Contracting State, is a resident of the other Contracting State and is temporarily present in the first-mentioned State solely as a student at a recognised university, college or school, or as a business apprentice shall be exempt from tax in the first - mentioned State in respect of :

- a) any remittance from the other Contracting State for the purpose of his maintenance, education or training; and
- b) any remuneration for personal services rendered in the first - mentioned State for a period or periods not exceeding in the aggregate 183 days in a calendar year, to the extent of the sufficient amount for his maintenance, education or training and provided that such services are rendered in order to obtain practical experience related to his education or training.

Article 22

OTHER INCOME

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

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 State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State 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 14, as the case may be, shall apply.

CHAPTER IV.-ELIMINATION OF DOUBLE TAXATION

Article 23

ELIMINATION OF DOUBLE TAXATION

1. In Belgium, double taxation shall be avoided as follows:

- a) Where a resident of Belgium derives income not dealt with in sub-paragraphs b) and c) below which may be taxed in Turkey in accordance with the provisions of this Agreement, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraphs 2 and 6 of Article 12, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.
- b) Where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to sub-paragraph c) below, interest taxable in accordance with paragraphs 2 or 7 of Article 11, or royalties taxable in accordance with paragraphs 2 or 6 of Article 12, the fixed proportion in respect of the foreign tax for which provision is made under Belgian law shall, under the conditions and at the rate provided for by such law, be allowed as a credit against Belgian tax relating to such income.

Notwithstanding the provisions of its law, Belgium shall for a period of ten years from the year in which the Agreement became effective also allow the credit provided for in this sub-paragraph in respect of tax which may be charged in Turkey on dividends, interest and royalties by virtue of the Agreement and the law of Turkey, but which is remitted or reduced under special provisions designed to promote the economic development of Turkey. However, the scope of this provision shall not be extended to general tax rate reductions or exemptions provided for unilaterally by Turkey to all non-residents.

- c) Where a company which is a resident of Belgium owns shares in a company with share capital which is a resident of Turkey, the dividends which are paid to it by the latter company and which may be taxed in Turkey in accordance with paragraph 2 of Article 10, shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium.
- d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Turkey have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph a) shall not apply in Belgium to the profits of other taxable periods attributable to that permanent establishment to the extent that those profits have also been exempted from tax in Turkey by reason of compensation for the said losses.

2. In Turkey double taxation shall be avoided as follows:

- a) Where a resident of Turkey derives income not dealt with in sub-paragraphs b) and c) below which may be taxed in Belgium in accordance with the provisions of this Agreement, Turkey shall exempt such income from tax but may, in calculating the tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.
- b) The tax paid in Belgium according to the provisions of this Agreement, shall be deducted from the tax paid in Turkey on income which is shown below, under the provisions of Turkish tax laws concerning the deduction of foreign taxes :
 - i) dividends which are not covered by sub-paragraph c);
 - ii) interest ;
 - iii) royalties;
 - iv) gains from the alienation of property mentioned in paragraph 5 of Article 13, which may be taxed in Belgium.

Such deductions shall not, however, exceed that part of the income tax computed in Turkey before the deduction is given, which is appropriate to the income which may be taxed in Belgium.

- c) Where a company which is a resident of Turkey owns shares in a company with share capital which is a resident of Belgium, the dividends which are paid to it by the latter company and which may be taxed in Belgium in accordance with paragraph 2 of Article 10, shall be exempt from the corporate income tax in Turkey to the extent that intercorporate dividends would not have been taxed if the two companies had been residents of Turkey.

CHAPTER V.- SPECIAL PROVISIONS

Article 24

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances 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 States.

2. Subject to the provisions of paragraph 6 of Article 7 and of paragraph 5 of Article 10, the taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

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

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

5. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. 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 State, with a view to the avoidance of taxation not in accordance with the Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Contracting States shall agree on administrative measures necessary to carry out the provisions of the Agreement and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions in tax provided for in the Agreement.

5. The competent authorities of the Contracting States may communicate directly with each other for the application of the Agreement.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes 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. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. 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.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation :

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

3. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State. If the request is acceded to, the competent authority of the requested State shall notify the competent authority of the applicant State about the conditions and procedures of the tax examination. All decisions for the examination shall be made by the requested State.

Article 27

ASSISTANCE IN RECOVERY

1. The Contracting States shall provide assistance to each other in the service of documents relating to, and in the recovery of, claims in respect of taxes mentioned in Article 2 of this Agreement as well as surcharges, additions, interest, costs and fines of a non-penal nature.

2. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall, in accordance with its laws and administrative practice applying to the service of its own tax claims, serve upon the addressee the documents, including those relating to judicial decisions, which emanate from the first-mentioned State and which relate to tax claims referred to in paragraph 1.

3. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall, in accordance with the laws and administrative practice applying to the recovery of its own tax claims, recover tax claims referred to in paragraph 1 which are due in the first-mentioned State and which may no longer be contested. Such tax claims shall be enforceable in the requested State but shall not have any priority specially accorded to the tax claims of that State. The requested State shall not be obliged to apply any means of enforcement which are not authorised by the laws and administrative practice of the applicant State.

4. The request for assistance in the recovery of a tax claim shall be accompanied by an official copy of the instrument permitting enforcement in the applicant State and, where appropriate, by a certified copy of any final decision of an administrative body or of a court of law.

5. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall take measures of conservancy to guarantee recovery of a tax claim even if it is not finally assessed or is contested or is not yet the subject of an instrument permitting enforcement. The provisions of paragraph 3 shall apply, mutatis mutandis, to such measures.

6. The provisions of paragraph.1 of Article 26 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

Article 28

LIMITATION OF THE EFFECTS OF THE AGREEMENT

1. The provisions of this Agreement shall not limit the taxation in accordance with Belgian law of a company which is a resident of Belgium, in the event of the purchase of its own shares or in the event of the distribution of its assets.

2. Nothing in the Agreement shall affect the fiscal privileges of members of a diplomatic mission or consular post under the general rules of international law or under the provisions of special agreements.

3. For the purposes of the Agreement, persons who are members of a diplomatic mission or consular post of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are subjected therein to the same obligations in respect of taxes on income as are residents of that State.

4. The Agreement shall not apply to international organisations to organs or officials thereof and to persons who are members of a diplomatic mission or consular post of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income.

CHAPTER VI.- FINAL PROVISIONS

Article 29

ENTRY INTO FORCE

1. Each Contracting State shall notify to the other Contracting State the completion of the procedure required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the fifteenth day after the date on which the latter of these notifications has been received.

2. The provisions of the Agreement shall have effect:

a) in Turkey, for taxes with respect to every taxable year beginning on or after the first day of January of the calendar year next following that in which the Agreement enters into force;

b) in Belgium:

i) with respect to taxes due at source on income credited (attribues) or payable on or after the first day of January of the calendar year next following that in which the Agreement enters into force;

ii) with respect to other taxes charged on income of taxable periods ending on or after the thirty-first day of December of the calendar year next following that in which the Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2 of this Article, the provisions of Article 8 shall have effect with respect to profits from the operation of aircraft in international traffic for the taxes based on income derived on or after the first day of January 1987.

Article 30

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement for the end of any calendar year, through diplomatic channels, by giving at least six months prior notice of termination, after the expiration of the fifth year after the year in which the Agreement enters into force.

2. In such an event, the Agreement shall cease to have effect :

a) in Turkey, for taxes with respect to every taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given;

b) in Belgium:

i) with respect to taxes due at source on income credited (attribues) or payable on or after the first day of January of the calendar year next following that in which the notice of termination is given;

ii) with respect to other taxes charged on income of taxable periods beginning on or after the first day of January of the same year.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at Ankara this second day of June 1987 in English Language.

For the Republic of Turkey:

For the Kingdom of Belgium:

Ahmet Kurtcebe Alptemoçin

Herman De Croo

PROTOCOL

At the moment of signing the Agreement between the Republic of Turkey and the Kingdom of Belgium for the avoidance of double taxation with respect to taxes on income, the undersigned have agreed upon the following provisions which shall constitute an integral part of the Agreement.

1. With reference to paragraphs 5 and 6 of Article 5

It is understood that an otherwise independent agent does not lose his independent status by the mere fact that he holds a stock of goods or merchandise from which he delivers goods or merchandise on behalf of an enterprise under conditions customary between independent enterprises.

2. With reference to paragraph 1 of Article 7

Profits derived from the sale of goods or merchandise of the same or similar kind as those sold, or from other business activities of the same or similar kind as those carried on, through that permanent establishment may be considered attributable to that permanent establishment if it is proved that the sale or activities have been resorted to in order to avoid taxation in the Contracting State where the permanent establishment is situated.

3. With reference to paragraph 5 of Article 7

It is understood that the Contracting States are free to apply the provisions of their domestic legislation for the determination of profits attributable to permanent establishments of enterprises of the other Contracting State, to the extent that such provisions are not discriminating such permanent establishments compared to the enterprises of the first-mentioned State carrying on the same activities and provided that the result is in accordance with the principles contained in Article 7.

4. With reference to paragraph 2 of Article 10

Notwithstanding the provisions of paragraph 2 of Article 10, as long as:

a) under the provisions of the Turkish laws and of the future amendments thereto, a company which is a resident of Belgium is not charged to income taxes with respect to dividends which such company receives from a company which is a resident of Turkey, the percentages provided for in sub-paragraphs a) and b) of paragraph 2 of Article 10 shall be lowered to 5 per cent with respect to dividends paid by a company which is a resident of Belgium to a company which is a resident of Turkey;

b) under the provisions of the Belgian laws and of the future amendments thereto, a company which is a resident of Belgium is not charged to corporate income tax with respect to dividends the company receives from a company which is a resident of Turkey, the percentages provided for in sub-paragraphs a) and b) of paragraph 2 of Article 10 shall be lowered to :

- i) 10 per cent with respect to dividends paid by a company which is a resident of Turkey to a company which is a resident of Belgium;
- ii) 5 per cent with respect to dividends paid by a company which is a resident of Belgium to a company which is a resident of Turkey.

5. With reference to Articles 10, 11 and 12

It is understood that the "beneficial owner" clause should be interpreted in the meaning that a third country resident will not be allowed to get benefits from the Agreement with regard to dividends, interest and royalties derived from Turkey or Belgium but this restriction shall in no case be applied to residents of a Contracting State.

6. With reference to paragraph 4 of Article 11

Where a resident of a Contracting State sells industrial, commercial or scientific goods, equipment or merchandise to a resident of the other Contracting State, and the payments for such sales are made in a specified period after the delivery of such goods, equipment or merchandise, then not any part of such payments shall be regarded as interest for the purpose of this Article. In such case, the provisions of Articles 5 and 7 shall apply.

7. With reference to paragraph 3 of Article 12

Payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for engineering contracts, including blue-prints related thereto, or for consultant or supervisory activities shall be deemed not to be payments received as a consideration for information concerning industrial, commercial or scientific experience.

8. With reference to Articles 12 and 13

It is understood that in the case of any payment received as a consideration for the sale of the property as meant in paragraph 3 of Article 12, the provisions of Article 12 shall apply, unless it is proved that the payment in question is a payment for a genuine alienation of the said property. In such case, the provisions of Article 13 shall apply.

9. With reference to paragraph 1 of Article 25

It is understood that, in the case of Turkey, the case must be presented to the competent authority within one year from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement. However, if such period has expired, the taxpayer may, in any case, present the case to the competent authority in Turkey within a period of five years beginning on the first day of January of the calendar year next following the related taxable year. The related taxable year is the year in which the income subject to the action resulting in taxation not in accordance with the provisions of the Agreement is derived.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Ankara this second day of June 1987 in English Language.

For the Republic of Turkey:

Ahmet Kurtcebe Alptemoçin

For the Kingdom of Belgium:

Herman De Croo