AGREEMENT OF 27TH MARCH, 1986

AGREEMENT BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF TURKEY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Scope of the Agreement

Article 1
Personal scope

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

Article 2
Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of one of the States 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:

- income tax (gelir vergisi);
- corporation tax (kurumlar vergisi);
- levy on behalf of the fund for the support of the defense industry (savunma sanayii destekleme fonu);

(hereinafter referred to as "Turkish tax");

(b) in the case of the Netherlands:

- income tax (de inkomstenbelasting);
- wages tax (de loonbelasting);
- company tax (de vennootschapsbelasting); including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act of 1810 (Mijnwet 1810) with respect to concessions issued from 1967, or pursuant to the Netherlands Continental Shelf Mining Act of 1965 (Mijnwet Continental Plat 1965);
- dividend tax (de dividendbelasting);

(hereinafter referred to as "Netherlands 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 States shall notify to each other any substantial changes which have been made in their respective taxation laws.

Definitions

Article 3
General definitions

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

(a) the term "State" means Turkey or the Netherlands, as the context requires: the term "States" means Turkey and the Netherlands;

(b) **(i)** the term "Turkey" means the territory of the Republic of Turkey, including any area in which the laws of Turkey are in force, as well as the part of the sea bed and its sub-soil under the Black Sea, the Aegean Sea, and the Mediterranean to the extent that that area in accordance with international law has been or may hereafter be designated under Turkish laws as an area within which Turkey exercises sovereign rights with respect to the exploration and exploitation of the natural resources of the sea bed and its sub-soil;

(ii) the term "the Netherlands" means the part of the Kingdom of the Netherlands that is situated in Europe, including the part of the sea bed and its sub-soil under the North Sea, to the extent that that area in accordance with international law has been or may hereafter be designated under Netherlands laws as an area within which the Netherlands may exercise certain rights with respect to the exploration and exploitation of the natural resources of the sea bed or its sub-soil;

(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 "legal head office" means in the case of Turkey the Registered Office under the Turkish Code of Commerce and in the case of the Netherlands the place of incorporation under Netherlands law;

(g) the terms "enterprise of one of the States" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other State;

(h) the term "international traffic" means any transport by a ship, an aircraft or a road vehicle operated by an enterprise of one of the States, except when the ship, aircraft or road vehicle is operated solely between places in the other State;

(i) the term "nationals" means:

(i) in relation to Turkey, any individual possessing Turkish nationality in accordance with the Turkish Nationality Code and any legal person, partnership or association deriving its status as such from the law in force in Turkey;

(ii) in relation to the Netherlands, any individual possessing the nationality of the Netherlands and any legal person, partnership or association deriving its status as such from the law in force in the Netherlands;

(j) the term "competent authority" means:

(i) in Turkey, the Minister of Finance and Customs or his duly authorized representative;

(ii) in the Netherlands, the Minister of Finance or his duly authorized representative.

2. As regards the application of this Agreement by one of the States any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law 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 one of the States" 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 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 State in which he has an habitual abode;

(c) if he has an habitual abode in both 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 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 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 one of the States and its legal head office in the other State, then the competent authorities of the States shall determine by mutual agreement the State of which the person shall be deemed to be a resident for the purposes of this 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. A building site, a construction, assembly or installation project constitutes a permanent establishment only if it lasts 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 one of the States on behalf of an enterprise of the other State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned 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. The provisions of the foregoing sentence shall not apply, unless it is proved that in order to avoid taxation in the first-mentioned State, such person undertakes not only the regular delivery of the goods or merchandise, but also undertakes virtually all the activities connected with the sale of the goods or merchandise except for the actual conclusion of the sales contract itself.

6. An enterprise of one of the States shall not be deemed to have a permanent establishment in the other 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 one of the States controls or is controlled by a company which is a resident of the other 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 of the other.

Taxation of Income

Article 6
Income From Immovable Property

1. Income derived by a resident of one of the States from immovable property (including income from agriculture or forestry) situated in the other 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 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, fishing places of every kind, 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, aircraft and road vehicles 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 one of the States shall be taxable only in that State unless the enterprise carries on business in the other 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 one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each 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.

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. 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 one of the States from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in that State.

2. The provisions of paragraph 1 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 one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other 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 one of the States includes in the profits of an enterprise of that State--and taxes accordingly--profits on which an enterprise of the other 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 an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the States shall if necessary consult each other.

Article 10
Dividends

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

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

(a) 15 per cent of the gross amount of the dividends if the recipient is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

(b) 20 per cent of the gross amount of the dividends in all other cases.

The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraph 2.

4. 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 from other corporate rights 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.

5. Profits from a company of one of the States carrying on business in the other State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the State in which the permanent establishment is situated and the taxes so charged shall not exceed 50 per cent of the percentage provided for in sub-paragraph (a) of paragraph 2 of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of one of the States, carries on business in the other 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 the Netherlands independent personal services from a fixed base situated in the Netherlands, 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.

7. Where a company which is a resident of one of the States derives profits or income from the other 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 one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such interest may also be taxed in the State in which it arises and according to the laws of that State, but the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the interest if it is paid on a loan made for a period of more than two years;

(b) 15 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2:

(a) the Central Bank of Turkey shall be exempt from Netherlands tax with respect to interest arising in the Netherlands;

(b) the Central Bank of the Netherlands shall be exempt from Turkish tax with respect to interest arising in Turkey;

(c) the Government, the political subdivisions or the local authorities of one of the States shall be exempt from tax in the other State with respect to interest arising in that other State.

4. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraphs 2 and 3.

5. 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 attaching to such securities, bonds or debentures.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of one of the States, carries on business in the other State in which the interest arises, through a permanent establishment situated therein, or, in the case of a resident of Turkey, performs in the Netherlands independent personal services from a fixed base situated in the Netherlands, 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.

7. Interest shall be deemed to arise in one of the States 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 one of the States or not, has in one of the States 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.

8. Where, by reason of a special relationship between the payer and the recipient 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 recipient 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 State, due regard being had to the other provisions of this Agreement.

9. Where a resident of one of the other States sells industrial, commercial or scientific goods, equipment or merchandise to a resident of the other 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.

Article 12
Royalties

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

2. However, such royalties may also be taxed in the State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraph 2.

4. 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.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of one of the States, carries on business in the other State in which the royalties arise, through a permanent establishment situated therein, or, in the case of a resident of Turkey, performs in the Netherlands independent personal services from a fixed base situated in the Netherlands, 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.

6. Royalties shall be deemed to arise in one of the States 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 one of the States or not, has in one of the States a permanent establishment or a fixed base, with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment or a fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or a fixed base is situated.

7. Where, by reason of a special relationship between the payer and the recipient 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 recipient 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 State, due regard being had to the other provisions of this Agreement.

Article 13
Capital Gains

1. Gains derived by a resident of one of the States from the alienation of immovable property referred to in Article 6 and situated in the other 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 one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other 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 fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of one of the States from the alienation of ships, aircraft or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road 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 State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of one of the States to levy according to its own law a tax on gains derived by a resident of the other 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 does not exceed one year.

6. The provisions of paragraph 4 shall not affect the right of each of the States to levy according to its own law a tax on gains from the alienation of shares or "jouissance" rights in a company, the capital of which is wholly or partly divided into shares and which under the laws of that State is a resident of that State, derived by an individual who is a resident of the other State and has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or "jouissance" rights.

Article 14
Independent Personal Services

1. Income derived by a resident of one of the States 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 State if such services or activities are performed in that other State and if:

(a) he 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 to 183 days or more in any continuous period of 12 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 one of the States 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 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 12 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 Republic of Turkey may levy a withholding tax on such income. However, the recipient of such income, having been subjected to such a tax, may elect to be taxed on a net basis in respect of such income in accordance with the provisions of Article 7 of this Agreement as if the income were attributable to a permanent establishment of the enterprise situated in Turkey.

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 and 20, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 one of the States in respect of an employment exercised in the other State shall be taxable only in the first-mentioned State if:

(a) the recipient 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 by a resident of one of the States in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, by an enterprise of the other State, may be taxed in that other State.

Article 16
Directors’ Fees

Directors’ fees or other remuneration derived by a resident of one of the States in his capacity as a member of the board of directors, a “bestuurder” or a “commissaris” of a company which is a resident of the other State may be taxed in that other State.

Article 17

Artistes and Athletes

1. Notwithstanding the provisions of Article 14 and 15, income derived by a resident of one of the States 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 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 State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities performed in one of the States by entertainers or athletes when their visit to that State is substantially supported from the public funds of the other State, including those of any political subdivision, a local authority or statutory body thereof, and income derived by a non-profit-making organization in respect of such activities, provided no part of its income is payable to or is otherwise available for the personal benefit of its proprietors, members or shareholders, shall not be taxed in the first-mentioned State.

Article 18
Pensions, Annuities and Social Security Pensions

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

2. However, where such remuneration is not of a periodical nature and it is paid to a resident of one of the States who is not a national of that State, in consideration of past employment in the other State, it may be taxed in that other State.

3. Notwithstanding the provisions of paragraph 1, any pension whether or not paid in consideration of past employment and paid out under the provisions of a social security system of one of the States to a resident of the other State may be taxed in the first-mentioned State. However such pension shall be taxable only in the other State if the pension is paid to an individual who is a resident of, and a national of that other State.

4. 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, one of the States or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or authority thereof in the discharge of functions of a governmental nature may be taxed 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 one of the States or a political subdivision or a local authority thereof.

Article 20
Professors and Teachers

1. Payments which a professor or teacher who is a resident of one of the States and who is present in the other State for the purpose of teaching or scientific research for a maximum period of two years in a university, college or other establishment for teaching or scientific research in that other State, receives for such teaching or research, shall be taxable in the first-mentioned State, provided that such payments arise from sources outside that other State.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 21
Students

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

2. Remuneration which a student or business apprentice who is or was immediately before visiting one of the States a resident of the other State derives from an employment which he exercises in the first-mentioned State for a period or periods not exceeding 183 days in a calendar year, in order to obtain practical experience related to his education or formation, shall not be taxed in the first-mentioned State.

Article 22
Other Income

1. Items of income of a resident of one of the States, 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 one of the States, carries on business in the other 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.

Elimination of Double Taxation

Article 23
Elimination of Double Taxation

1. Double taxation for residents of Turkey shall be eliminated as follows:

(a) Where a resident of Turkey derives items of income, not being income covered by paragraph (b) hereafter, which, in accordance with the provisions of this Agreement, may be taxed in the Netherlands, Turkey shall exempt such income from tax but may, in calculating 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. For dividends the foregoing provision of this sub-paragraph shall apply to a resident of Turkey which directly holds at least 10 per cent of the capital of a company which is resident of the Netherlands.

(b) The tax paid in the Netherlands according to the provisions of this Agreement shall be deducted from the tax paid in Turkey for the taxes imposed 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 (a);

(ii) interest;

(iii) royalties;

(iv) gains from the alienation of property mentioned in paragraph 5 of Article 13 which may be taxed in the Netherlands.

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 the Netherlands.

(c) For the purposes of this paragraph in determining the taxes on income paid to the Netherlands, the investment premiums and bonuses and disinvestment payments as meant in the Netherlands Investment Account Law (Wet Investeringsrekening) shall not be taken into account. For the purposes of this paragraph, the taxes referred to in sub-paragraph (b) of paragraph 3 and paragraph 4 of Article 2 shall be considered taxes on income.

2. Double taxation for residents of the Netherlands shall be eliminated as follows:

(a) The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income which according to the provisions of this Agreement may be taxed in Turkey.

(b) However, where a resident of the Netherlands derives items of income which according to Article 6, Article 7, paragraph 6 of Article 10, paragraph 6 of Article 11, paragraph 5 of Article 12, paragraphs 1 and 2 of Article 13, Article 14, paragraph 1 of Article 15, Article 16, paragraph 3 of Article 18, Article 19 and paragraph 2 of Article 22 of this Agreement may be taxed in Turkey and are included in the basis referred to in sub-paragraph (a) the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of Netherlands law for the avoidance of double taxation. For that purpose the said items of income shall be deemed to be included in the total amount of the items of income which are exempt from Netherlands tax under those provisions.

(c) Further, the Netherlands shall allow a deduction from the Netherlands tax so computed for the items of income which according to paragraph 2 of Article 10, paragraph 2 of Article 11, paragraph 2 of Article 12, paragraph 5 of Article 13, paragraph 3 of Article 15, Article 17 and paragraph 2 of Article 18 of this Agreement may be taxed in Turkey to the extent that these items are included in the basis referred to in sub-paragraph (a). The amount of this deduction shall be equal to the tax paid in Turkey on these items of income, but shall not exceed the amount of the reduction which would be allowed if the items of income so included were the sole items of income which are exempt from Netherlands tax under the provisions of Netherlands law for the avoidance of double taxation.

(d) Where, by reason of the relief given under the provisions of Turkish laws for the purpose of encouraging investment in Turkey the Turkish tax actually levied on dividends paid by a company which is a resident of Turkey, on interest arising in Turkey or on royalties arising in Turkey is lower than the tax Turkey may levy according to sub-paragraphs (a) and (b) of paragraph 2 of Article 10, sub-paragraphs (a) and (b) of paragraph 2 of Article 11 and paragraph 2 of Article 12, respectively, then the amount of the tax paid in Turkey on such dividends, interest and royalties

shall be deemed to have been paid at the rates of tax mentioned in the said provisions.

However, if the general tax rates under Turkish laws applicable to the aforementioned dividends, interest and royalties are reduced below those mentioned in this sub-paragraph, these lower rates shall apply for the purposes of this sub-paragraph. The provisions of this sub-paragraph shall only apply for a period of ten years after the date on which the Agreement became effective. This period may be extended by mutual agreement between the competent authorities.

3. Where a resident of one of the States derives gains which may be taxed in the other State in accordance with paragraph 6 of Article 13, that other State shall allow a deduction from its tax on such gains to an amount equal to the tax levied in the first-mentioned State on the said gains.

Special Provisions

Article 24
Non-discrimination

1. Nationals of one of the States shall not be subjected in the other 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 States.

2. Subject to the provisions of paragraph 5 of Article 10, the taxation on a permanent establishment which an enterprise of one of the States has in the other 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 8 of Article 11, or paragraph 7 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of one of the States to a resident of the other 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 one of the States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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 one of the States to grant to residents of the other 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 person of one of the States considers that the actions of one or both of the 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 law of those States, present his case to the competent authority of the State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the State of which he is a national.

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 State, with a view to the avoidance of taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the States.

3. The competent authorities of the States 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 States may communicate with each other directly 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 States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the 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 one of the States 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.

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

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

Article 27
Diplomatic Agents and Consular Officers

1. Nothing in this Agreement shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements. However, the Agreement shall not apply to international organizations, organs and officials thereof and members of a diplomatic or consular mission of a third State, being present in one of the States, if they are not subjected therein to the same obligations in respect of taxes on income as are residents of that State.

2. For the purposes of the Agreement an individual, who is a member of a diplomatic or consular mission of one of the States in the other State or in a third State and who is a national of the sending State, shall be deemed to be a resident of the sending State if he is subjected therein to the same obligations in respect of taxes on income as are residents of that State.

Article 28
Territorial Extension

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to the part of the Kingdom of the Netherlands which is not situated in Europe and which imposes taxes substantially similar in character to those to which the Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed the termination of the Agreement shall also terminate any extension of the Agreement to the part of the Kingdom of the Netherlands to which it has been extended under this Article.

Final Provisions

Article 29
Entry Into Force

This Agreement shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect for taxable years and periods beginning on or after the first day of January in the calendar year following that in which the latter of the notifications has been received.

Article 30
Termination

This Agreement shall remain in force until terminated by one of the Contracting Parties. Either Party may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such event the Agreement shall cease to have effect for taxable years and periods beginning after the end of the calendar year in which the notice of termination has been given.