

## AGREEMENT

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

THE GOVERNMENT OF THE REPUBLIC OF TURKEY

AND

THE GOVERNMENT OF THE KINGDOM OF DENMARK

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

HAVE AGREED AS FOLLOWS:

Article 1

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 vocational and technical training (Çıraklık, Mesleki ve Teknik Eğitimi Geliştirme ve Yaygınlaştırma Fonu);

(hereinafter referred to as "Turkish tax");

- b) in the case of Denmark:
- i) the income tax to the state (indkomstskatten til staten);
  - ii) the municipal income tax (den kommunale indkomstskat);
  - iii) the income tax to the county municipalities (den amtskommunale indkomstskat);
  - iv) the special income tax (den saerlige indkomstskat);
  - v) the church tax (kirkeskatten);
  - vi) the tax on dividends (udbytteskatten);
  - vii) the tax on interest (renteskatten);
  - viii) the tax on royalties (royaltyskatten); and
  - ix) taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);

(hereinafter referred to as "Danish 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. At the end of each year, the competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

### Article 3

#### GENERAL DEFINITIONS

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

- a) i) the term "Turkey" means the Turkish territory, territorial waters, continental shelves and exclusive economic zones delimited by mutual agreement between the parties concerned.
- ii) the term "Denmark" means the Kingdom of Denmark including the territorial sea and any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the area; the term does not comprise the Faroe Islands and Greenland;
- b) the terms "a Contracting State" and "the other Contracting State" mean Turkey or Denmark 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 "legal head office" means in the case of Turkey the Registered Office under the Turkish Code of Commerce and in the case of Denmark the place of incorporation under Danish law;
- g) the term "national" means:
  - i) all individuals possessing the nationality of a Contracting State;

- ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
- h) 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;
- i) the term "competent authority" means:
  - i) in Turkey, the Minister of Finance and Customs or his authorised representative;
  - ii) in Denmark, the Minister for Taxation or his authorised representative;
- j) the term "international traffic" means any transport by a ship, an aircraft or a road vehicle operated by a Turkish or Danish enterprise, except when the ship, aircraft or road vehicle is operated solely between places situated in the territory of Turkey or of Denmark.

2. As regards the application of this 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 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 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 one of the States and its legal head office in the other 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 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, 2 and 3, 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 of the other.

## 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 and shall include any option or similar rights in respect thereof. 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 exploration and exploitation of mineral deposits, sources and other natural resources and rights to amounts computed by reference to the amount or value of production from such 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. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (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 head office of the enterprise or any of its other offices.

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. 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 in international traffic shall be taxable only in that State. However, such profits may also be taxed in the other Contracting State provided that the profits are derived from shipping from that other State but the tax chargeable in that other State shall be reduced by an amount equal to fifty per cent of such tax.

These profits also include income derived by the enterprise from the use, maintenance or rentals of containers (including trailers, barges and related equipment for the transport of containers) used for the transport in international traffic of goods and merchandise if this income is incidental to the profits referred to in the preceding subparagraph.

2. Profits of an enterprise of a Contracting State from the operation of aircraft or road vehicles in international traffic shall be taxable only in that State.

3. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph 2 shall apply, but only to such part of the profits as corresponds to the participation held in that Consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

4. 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 by the first-mentioned State claimed to be 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 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 dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends 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 competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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 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, and income derived from an investment fund and investment trust.

4. 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 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.

5. 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 Denmark independent personal services from a fixed base situated in Denmark, 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.

6. 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Notwithstanding the provisions of this paragraph, a State may impose tax according to paragraph 4 of this Article.

## 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 recipient is the beneficial owner of the interest 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 arising in:

- a) Denmark and paid to the Government of Turkey or to the Central Bank of Turkey (Türkiye Cumhuriyet Merkez Bankası) shall be exempted from Danish tax;
- b) Turkey and paid to the Government of Denmark or to the National Bank of Denmark (Danmarks Nationalbank) shall be exempted from Turkish tax.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

5. The provisions of paragraphs 1 and 2 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 Denmark independent personal services from a fixed base situated in Denmark, 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 Contracting 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 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 for whatever reason the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

8. Where a resident of one of the 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 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 recipient is the beneficial owner of the royalties 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, 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.

4. The provisions of paragraphs 1 and 2 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 Denmark independent personal services from a fixed base situated in Denmark, 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 right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or a 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 for whatever reason 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 a case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to other provisions of this Agreement.

#### 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 that other State.

3. Gains derived by an enterprise of a Contracting State 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.

With respect to gains derived by the Danish, Swedish and Norwegian air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

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. However, the capital gains mentioned in the foregoing sentence and derived from the other Contracting State, shall be taxable in the other Contracting State if the time period does not exceed one year between acquisition and alienation.

#### 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) 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 a Contracting State in respect of professional services including supervisory activities 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 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 enterprise may elect to be taxed in that other State 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 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 and 20, 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 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 in respect of an employment exercised aboard a ship, aircraft or road transport vehicle operated in international traffic, by an enterprise of a Contracting State, may be taxed in that State.

4. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS) such remuneration shall be taxable only in Denmark.

5. Notwithstanding the provisions of paragraphs 1 to 4 of this Article, salaries, wages and other similar remuneration derived by a national of a Contracting State in respect of an employment exercised in the other Contracting State through a permanent establishment of an air transport enterprise, or of an air transport consortium, of the first-mentioned Contracting State shall be taxable only in the State of which he is a national.

If the State of which the person is a national according to its legislation cannot tax the payments, such payments shall be taxable only in the State in which the employment is exercised.

#### Article 16

##### DIRECTORS' FEES

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

## Article 17

## ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 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 artistes 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.

## Article 18

## PENSIONS, ANNUITIES AND SIMILAR PAYMENTS

1. Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration in consideration of past employment, pensions, remunerations, disbursements and similar payments under the Social Security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State, but the tax chargeable in this State shall be reduced by an amount equal to fifty per cent of such tax.

Where the payments only consist of pensions, remunerations, disbursements and similar payments under the Social Security legislation, such payments shall be free from tax in the first-mentioned State.

2. 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 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 only 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

## TEACHERS AND STUDENTS

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting 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 are made to him from sources outside that state.

2. Notwithstanding the provisions of paragraph 1, remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training derived from services rendered in that other State shall not be taxed in that other State provided that such services are in connection with his education or training and that the remuneration for such services is necessary to supplement the resources available to him for the purpose of his maintenance.

3. Likewise, a teacher or an instructor who visits a Contracting State and who is or was immediately before such visit a resident of the other Contracting State and who is present in the first-mentioned Contracting State for the primary purpose of teaching or engaging in scientific research for a period or periods not exceeding two years shall be exempt from tax in that other State on his remuneration from personal services for teaching or research, provided that such payments arise from sources outside that other State.

4. The provision of paragraph 3 of 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

## OTHER INCOME

1. Items of income arising from a Contracting State, which are not expressly mentioned in the foregoing Articles of this Agreement may be taxed in that State.

2. Items of income arising outside the two Contracting States shall be taxable only in the Contracting State of which the person receiving the income in question is a resident.

## Article 22

## METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided as follows:

1. In Denmark:

- a) Subject to the provisions of sub-paragraph c), where a resident of Denmark derives income which, in accordance with the provisions of this Agreement, may be taxed in Turkey, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Turkey.

- b) Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Turkey.
- c) Where a resident of Denmark derives income which, in accordance with the provisions of this Agreement shall be taxable only in Turkey, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from Turkey.
- d) For the purpose of sub-paragraph a), the term "the income tax paid in Turkey" shall be deemed to include any amount of Turkish tax which would have been payable under Turkish taxation law but for any reduction or exemption of Turkish tax granted under the provisions concerning special incentive measures to promote economic development in Turkey.

Notwithstanding the preceding sentence the tax on income paid in Turkey shall be calculated,

- i) in the case of dividends referred to in sub-paragraph a) of paragraph 2 of Article 10, at a rate of 15 per cent;
- ii) in the case of dividends referred to in sub-paragraph b) of paragraph 2 of Article 10, at a rate of 20 per cent;
- iii) in the case of interest referred to in paragraph 2 of Article 11, at a rate of 15 per cent;
- iv) in the case of royalties referred to in paragraph 2 of Article 12, at a rate of 10 per cent.

However, if the general tax rates under Turkish Tax legislation applicable to dividends, interest and royalties derived by persons who are not residents of Turkey are reduced below those mentioned in this sub-paragraph, these lower rates shall apply for the purposes of this sub-paragraph.

## 2. In Turkey:

- a) Subject to the provisions of sub-paragraph c), where a resident of Turkey derives income which, in accordance with the provisions of this Agreement, may be taxed in Denmark, Turkey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Denmark.
- b) Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Denmark.
- c) Where a resident of Turkey derives income which, in accordance with the provisions of this Agreement shall be taxable only in Denmark, Turkey may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax, which is attributable, to the income derived from Denmark.

## Article 23

### 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.

2. Subject to the provisions of paragraph 4 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. This provision 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.

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.

#### Article 24

##### MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those 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 23, to that of the Contracting States 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 which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.



## Article 25

## 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).

## Article 26

## ADMINISTRATIVE ASSISTANCE

1. The Contracting States engage to provide aid and assistance mutually for the purpose of notification and collection in principle, increment additions, interest, expenses and fines without penal character, of taxes covered by Article 2.

2. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State will ensure, according to the provisions of laws and regulations applied to notification and collection of the above-mentioned taxes in the last State, notification and collection of fiscal claims covered by the first paragraph, which are recoverable in the first State. These claims shall not enjoy any privilege in the requested State and the latter is not obliged to apply means of execution which are not authorized by the provisions of laws and regulations of the requested State.

3. Requests covered by paragraph 2, shall be supported by an official copy of executory documents, accompanied, when needed by an official copy of judgments passed as res judicate.

4. With respect to fiscal claims susceptible to appeal, the competent authority of a Contracting State could, for the safeguard of its rights, request the competent authority of the other Contracting State, to take measures of conservation as prescribed in the legislation of the latter State; provisions of paragraphs 1 to 3 could be applied, mutatis mutandis, to these measures.

5. The provisions of Article 24, paragraph 1, shall apply equally to all information brought, for the application of preceding paragraphs of the present Article, to the knowledge of the competent authority of the requested State.

#### 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.

2. Notwithstanding the provisions of Article 4 an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Agreement to be a resident of the sending State if:

- a) in accordance with international law he is not liable to tax in the receiving State in respect of income from sources outside that State, and
- b) he is liable in the sending State to the same obligations in relation to tax on his total 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 any part of the territory of the Contracting States which is specifically excluded from the application of the Agreement or to any State or territory for whose international relations Denmark or Turkey is responsible, 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 between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Agreement by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Agreement to any part of the territory of the Contracting States or to any State or territory to which it has been extended under this Article.

#### Article 29

##### ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other of the completion of the constitutional requirements for the bringing into force of this Agreement.

2. This Agreement shall enter into force on the date of the latter of the notifications referred to in paragraph 1 and its provisions shall have effect in respect of taxes for the income year beginning on or after 1 st January 1991 and subsequent income years.

## Article 30

## TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement through diplomatic channels, by giving written notification of termination on or before the thirtieth day of June of any calendar year following after the period of five years from the year in which the Agreement enters into force. In such event, the Agreement shall cease to have effect, in respect of taxes for the income year beginning on or after 1st January in the calendar year next following the year in which the notification is given, and subsequent income years.

IN WITNESS WHEREOF the undersigned plenipotentiaries have signed the present Agreement and have affixed their seals thereto.

Done in duplicate at Ankara this 30<sup>th</sup> day of May 1991, in the Turkish, Danish and English Languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

FOR THE REPUBLIC OF TURKEY

FOR THE KINGDOM OF DENMARK

ALTAN TUFAN

NIELS CHRISTIAN TILLISCH

## PROTOCOL

At the moment of signing the Agreement between the Republic of Turkey and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion 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 Article 6, paragraph 2.

It is understood that the term "fishing places of every kind" shall be included in the concept of immovable property and open sea fishing shall not be treated under the same meaning.

2. With reference to Article 7, paragraph 5.

If a permanent establishment is allowed to change its method the competent authority of the Contracting State in which a permanent establishment of the other Contracting State is situated shall inform the other Contracting State about the method used in determining the profits of the permanent establishment and the new method approved by related authorities.

3. With reference to Articles 10, 11 and 12.

It is understood that, each Contracting State reserves its right to refuse to grant the benefit of the exemptions and reliefs provided for in these Articles in the case where the income is received by a resident of the other State which is controlled directly or indirectly by persons who are not residents of either State.

In such case, the competent authority of the State denying the benefit of the Agreement shall inform the competent authorities of the other State and the competent authorities shall settle the mode of application of this provision.

4. 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.

5. With reference to Article 15, paragraph 5; Article 22, paragraphs 1 and 2, sub-paragraphs (c).

It is understood that the provisions of sub-paragraphs (c) of paragraphs 1 and 2 of Article 22 shall not apply to the person mentioned in paragraph 5 of Article 15.

6. With reference to Article 23 paragraph 3.

It is understood that any debt of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if it had been contracted to a resident of the first-mentioned State.

7. With reference to paragraph 1 of Article 24.

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.

8 With reference to paragraph 2 of Article 24.

It is understood that with respect to paragraph 2 of Article 24 the taxpayer must in case of Turkey claim the refund resulting from such mutual agreement within a period of one year after the tax administration has notified the taxpayer of the result of the mutual agreement.

9 With Reference to Article 26.

It is understood that, unless otherwise agreed,

- a) ordinary costs incurred in providing assistance shall be borne by the requested State;
- b) extraordinary costs incurred in providing assistance shall be borne by the applicant State.

In the cases mentioned under subparagraph b) the requested State shall undertake the obligation to inform the applicant State of the expected amount of the costs.

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

Done in duplicate at Ankara this 30 th day of May 1991, in the Turkish, Danish and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

For the Republic of Turkey

For the Kingdom of Denmark

ALTAN TUFAN

NIELS CHRISTIAN TILLISCH