

**Agreement between
The Government of the Republic of Turkey and
The Government of the Republic of Kazakhstan
for the Avoidance of Double Taxation
with Respect to Taxes on Income**

THE GOVERNMENT OF THE REPUBLIC OF TURKEY
AND
THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN

Desiring to conclude an Agreement of the avoidance of double taxation with respect to taxes on income and with a view to promote economic cooperation between the two countries.

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 a 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.

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

a) in Turkey:

- i) the income tax;
- ii) the corporation tax;
- iii) the levy imposed on the income tax and the corporation tax;

(hereinafter referred to as "Turkish Tax");

b) in Kazakhstan:

- i) the tax on income of legal entities;
- ii) the tax on income of physical persons;

(hereinafter referred to as "Kazakhstan Tax").

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any 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 sea, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, pursuant to international law.
ii) the term "Kazakhstan" means the Republic of Kazakhstan. When used in the geographical sense, the term "Kazakhstan" includes the land, the territorial sea, waterways, the economic zone and continental shelf where Kazakhstan can exercise its sovereign rights, and extend its jurisdiction in accordance with international law.
- b) the terms "a Contracting State" and "the other Contracting State" mean Turkey or Kazakhstan 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 and in the case of Kazakhstan includes a joint stock company, a limited liability company or a partnership, joint venture or any other legal entity or other organisation organised under the laws of Kazakhstan which is liable to tax on profits.
- f) the term "registered office" means the legal head office registered under the Turkish Code of Commerce or under the Civil Code of Kazakhstan
- g) the term "national" means:
 - i) any individual possessing the nationality of a Contracting State
 - ii) any legal person, partnership or association deriving its 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 or his authorized representative;
 - ii) in Kazakhstan, the Minister of Finance or his authorized representative

- j) the term "international traffic" means any transport by a ship, an aircraft or a road vehicle operated by a Turkish or Kazakhstan enterprise, except when the ship, aircraft or road vehicle is operated solely between places situated in the territory of Turkey or of Kazakhstan.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the 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 a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, legal head office (registered office), place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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 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 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 registered office is situated.

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;
- g) The term "permanent establishment" likewise encompasses:
- i) a building site or construction, installation or assembly project, supervisory services connected therewith, or an installation used for the exploration of natural resources, but only if such site, project or installation lasts, or such services continue, for a period of more than 12 months; or
- ii) the furnishing of services, including consultancy services, by a resident through employees or other personnel engaged by the resident for such purposes, but only where activities of that nature continue (for the same or a connected project) within the country for a period of more than 12 months.

3. 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 of 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.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person -other than an agent of an independent status to whom paragraph 5 applies- is acting 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 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 3 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.

5. 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.

6. 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.

The term "immovable property" 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, boats, 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 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:

- a) that permanent establishment;
- b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
- c) other business activities carried on in that other State of the same kind as those effected through 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.

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 a Contracting State derived from the other Contracting State from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in the first-mentioned State.

2. For the purposes of this Article, profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall include inter alia:

- a) Profits derived from the rental on a full basis or on a bare boat basis of ships or aircraft;
- b) Profits derived from the use or rental of containers (including trailers and related equipment for the transport of containers) used in international traffic;

if such profits are incidental to profits to which the provisions of paragraph 1 apply. Such profits shall not include any use of ships, aircraft or road vehicles in connection with activities described in paragraph 2 (g) (i) and (ii) of Article 5.

3. The provisions of paragraphs 1 and 2 of this Article 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 the 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 10 per cent of the gross amount of the dividends

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 at a rate that does not exceed the rate set forth in 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 Kazakhstan independent personal services from a fixed case situated in Kazakhstan, 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.

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 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in:

a) Kazakhstan and paid to the Government of Turkey or to the Central Bank of Turkey (Türkiye Cumhuriyet Merkez Bankası) or Turkish Eximbank (Türkiye İhracat Kredi Bankası A.Ş.) shall be exempt from Kazakhstan tax;

b) Turkey and paid to the Government of Kazakhstan or to the National Bank of Kazakhstan or any institution of Kazakhstan to promote export in a manner similar to the Turkish Eximbank shall be exempt 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 as well as all other income assimilated to income from money lent in accordance with the taxation laws of the Contracting State in which the income arises.

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 Kazakhstan independent personal services from a fixed base situated in Kazakhstan, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

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, or the right to use, 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 Kazakhstan independent personal services from a fixed base situated in Kazakhstan, 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 a such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the 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 fixed base, may be taxed in that other State.

3. Gains derived by a resident 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 Contracting State.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident. 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

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 any consecutive twelve-months period, 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, salaries and other remuneration derived by a resident of a Contracting State for a work carried out in the other Contracting State are not taxed in that other Contracting State if it is performed by persons in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic by an enterprise of a Contracting State of which the enterprise is a resident.

Article 16**DIRECTORS' FEES**

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

Article 17**ARTISTES AND SPORTSMEN**

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 a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.

3. Income derived by an entertainer or a sportsman from activities exercised in a Contracting State shall be exempt from tax in that State, if the visit to that State is principally supported by public funds of the other Contracting State, a political subdivision or a local authority thereof.

Article 18**PENSIONS**

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

Article 19**GOVERNMENT SERVICE**

1. Salaries, wages and other similar remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority thereof in the discharge of functions of a governmental nature shall be taxable 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**STUDENTS AND TEACHERS**

1. Payments which a student who is a national of a Contracting State and who is present in the other 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 the other State, provided that such payments arise from sources outside that other State.

2. Likewise, remuneration received by a teacher or by an instructor who is a national of a Contracting State and who is present in the other Contracting State with the primary purpose of teaching or engaging in scientific research for a period or periods not exceeding two consecutive years shall be exempt from tax in the other State on his remunerations from personal services for teaching or research, provided that such payments arise from sources outside the other State.

3. Remuneration which a business apprentice or a trainee who is a national of a Contracting State derives from an employment which he exercises in the other Contracting 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 that other State.

Article 21**OTHER INCOME**

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply

Article 22**ELIMINATION OF DOUBLE TAXATION**

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

- a) Where a resident of Turkey derives income which, in accordance with the provisions of this Agreement, may be taxed in Kazakhstan, Turkey shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid on income in Kazakhstan, whether directly or by deduction. Such deduction shall not, however, exceed that part of the tax on income (as calculated before the deduction is given), which is attributable to the income which may be taxed in Kazakhstan.
- b) Where a resident of Turkey derives income which, in accordance with the provisions of this Agreement, shall be taxable only in Kazakhstan, Turkey may include this income in the tax base but only for purposes of determining the rate of tax on such other income as is taxable in Turkey.

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

- a) Where a resident of Kazakhstan derives income which, in accordance with the provisions of this Agreement, may be taxed in Turkey, Kazakhstan shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax on income paid in Turkey, whether directly or by deduction. Such deduction shall not, however, exceed that part of the tax on income (as calculated before the deduction is given), which is attributable to the income which may be taxed in Turkey.
- b) Where a resident of Kazakhstan derives income which, in accordance with the provisions of this Agreement, shall be taxable only in Turkey, Kazakhstan may include this income in the tax base but only for purposes of determining the rate of tax on such other income as is taxable in Kazakhstan.

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.

3. 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.

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

Article 24**MUTUAL AGREEMENT PROCEDURE**

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with 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.

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.

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. 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 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**MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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

Article 27**LIMITATION OF BENEFITS**

A person that is a resident of a Contracting State and derives income from the other Contracting State shall not be entitled to relief from taxation in that other State otherwise provided for in this Agreement if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of such item of income to take advantage of the provisions of this Agreement.

In making a determination under this Article, the appropriate competent authority or authorities shall be entitled to consider, among other factors, the amount and nature of the income, the circumstances in which the income was derived, the stated intention of the parties to the transaction, and the identity and residence of the persons who in law or in fact, directly or indirectly, control or beneficially own (i) the income or (ii) the persons who are resident(s) of the Contracting State(s) and who are concerned with the payment or receipt of such income.

Article 28**ENTRY INTO FORCE**

Each Contracting State shall notify to the other the completion of the procedure required as far as it is concerned for the bringing into force of this Agreement. This Agreement shall enter into force on the day when the latter of these notifications has been received and its provisions shall have effect in both Contracting States:

- a) with regard to taxes withheld at source in respect of amounts paid or credited on or after the first day of the second month following the month in which this Agreement enters into force;
- b) with regard to other taxes, in respect of taxable year beginning on or after first day of January next following the date upon which this Agreement enters into force.

Article 29**TERMINATION**

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect.

- a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and
- b) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

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

“Done in duplicate at Almatı this 15 th day of August, 1995, in the Turkish, Kazakh, Russian and English languages, all four texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one ”

**FOR THE GOVERNMENT OF
THE REPUBLIC OF TURKEY**

**FOR THE GOVERNMENT OF
THE REPUBLIC OF KAZAKHSTAN**

Erdal İnönü
Foreign Minister

Kasım Cömert Tokaev
Foreign Minister

PROTOCOL

At the moment of signing the Agreement between the Republic of Turkey and the Republic of Kazakhstan for the Avoidance of Double Taxation with respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. With respect to Article 5, paragraph 2 (g):

It is understood that the term “installation” shall include a drilling rig or ship. It is further understood that the 12 month period provided for in paragraph 2 (g) of Article 5 shall be determined without regard to any activity of a resident of one Contracting State in the other Contracting State prior to the first day of January of the year during which the Agreement enters into force.

2. With respect to Article 7, paragraph 1:

It is understood that, where an enterprise of a Contracting State has a permanent establishment in the other Contracting State, and the enterprise

- a) effects sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment, or
- b) carries on other business activities in that other State of the same or similar kind as those effected through that permanent establishment

profits derived from such sales and business activities may be taxed in that other Contracting State as part of the profits of the permanent establishment if the same or similar kind of sales or activities have been effected through the permanent establishment.

3. With respect to Article 11 and 12:

In the event that pursuant to any other agreement concluded after the date of signature of this Agreement by Kazakhstan, with a country that is on the date hereof a member of the organization for Economic Cooperation and Development, Kazakhstan agrees in provisions that correspond to paragraph 2 of Article 11 (Interest) or 12 (Royalties) of this Agreement to a rate of tax that is reduced below that provided in those paragraphs, then lowest reduced rate shall apply for the purpose of paragraph 2 of Article 11 or paragraph 2 of Article 12, as the case may be, with effect from the date on which the reduced rate under such other agreement becomes effective

4. The Contracting States agree that if and when the Republic of Kazakhstan joins the General Agreement on Trade in Services, then for purposes of paragraph 3 of Article XXII (Consultation) of that Agreement and notwithstanding that paragraph, any dispute between them as to the whether a measure falls within the scope of this Agreement may be brought the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubts as to the interpretation of this paragraph shall be resolved under paragraph 3 of Article 24 of the Kazakh-Turkish Tax Agreement or failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States

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

"Done in duplicate at Almatı this 15 th day of August, 1995, in the Turkish, Kazakh, Russian and English languages, all four texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one "

**FOR THE GOVERNMENT OF
THE REPUBLIC OF TURKEY**

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Erdal İnönü

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