

**Agreement
Between the Republic of Turkey and the State of
Kuwait
for the Avoidance of Double Taxation
With Respect to Taxes on
Income and on Capital**

**the Republic of Turkey
and
the State of Kuwait**

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

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 and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 Kuwait:

- i) the corporate income tax;
- ii) any other contribution collected in place of the income tax including the percentage of the net profits of share-holding companies paid to the Kuwait Foundation for the Advancement of Sciences (KFAS); and
- iii) the Zakat;

(hereinafter referred to as "Kuwaiti tax");

b) in the case of Turkey:

- i) the income tax (Gelir Vergisi);
- ii) the corporation tax (Kurumlar Vergisi); and
- iii) the levy imposed on the income tax and the corporation tax;

(hereinafter referred to as "Turkish 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 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) the term "Kuwait" means the State of Kuwait and includes any area beyond the territorial sea which in accordance with international law has been or may be designated under the laws of Kuwait as an area in which Kuwait may exercise sovereign rights or jurisdiction;

b) 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 purposes of exploration, exploitation and conservation of natural resources, pursuant to international law;

c) the terms "a Contracting State" and "the other Contracting State" mean Kuwait or Turkey as the context requires;

d) the term "tax" means any tax covered by Article 2 of this Agreement;

e) the term "person" includes an individual, a company and any other body of persons;

f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

g) the term "registered office" means "the place of incorporation" under the laws of Kuwait or the legal head office registered under the Turkish Code of Commerce;

h) the term "national" means:

i) in relation to Kuwait, any individual possessing the nationality of the State of Kuwait; and any legal person, partnership or association deriving its status as such from the laws in force in Kuwait;

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

i) 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;

j) the term "competent authority" means:

i) in Kuwait, the Minister of Finance or his authorised representative;

ii) in Turkey, the Minister of Finance or his authorised representative;

k) the term "international traffic" means any transport by a ship, an aircraft or road vehicle operated by an enterprise of one of the Contracting States, except when the ship, aircraft or road vehicle is operated solely between places situated in the territory of Kuwait or of Turkey.

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 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:

a) in respect of Kuwait:

i) an individual who has his domicile in Kuwait and is a Kuwaiti national; and

ii) a company which is incorporated in Kuwait;

b) in respect of Turkey, any person who, under the laws of Turkey, is liable to tax therein by reason of his domicile, residence, registered office, place of management or any other criterion of a similar nature.

2. For the purposes of paragraph 1, a resident of a Contracting State shall include:

a) the Government of a Contracting State or any political subdivision or a local authority thereof; and

b) any corporation, authority, foundation, commission or other entity established in that Contracting State.

3. 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;

b) 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);

c) 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;

d) 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.

4. 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 Contracting State in which its place of effective management is situated. Where the place of effective management can not be determined, 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, and

g) a building site or construction or installation project but only if such site or project continues for a period of more than nine 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 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 and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for 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. However, when the activities of such an agent are devoted wholly on behalf of that enterprise, in any calendar year, he will not be considered an agent of an independent status within the meaning of this paragraph.

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 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 and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. 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 ROAD TRANSPORT

1. Profits derived by an enterprise from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in the Contracting State in which the registered office of the enterprise is situated.

2. The provisions of paragraph 1 shall also apply to profits derived 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, in accordance with the laws of that State, but if such resident 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, mining shares, 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 in accordance with paragraph 2.

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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 such resident 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. The term "interest" as used in this Article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

4. 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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment 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 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 such resident 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.

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 Kuwait independent personal services from a fixed base situated in Kuwait, 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 15 of this Agreement, 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 or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 a fixed base, may be taxed in that other State.

3. Gains from the alienation of ships, aircraft or road vehicles operated in international traffic or of movable property pertaining to the operation of such ships, aircraft or road vehicles, shall be taxable only in the Contracting State in which the registered office of the enterprise is situated.

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.

Article 14

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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 by 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, may be taxed in that other State.

3. Capital represented by ships, aircraft and road vehicles operated in international traffic and by movable property pertaining to the operation of such ships, aircraft and road vehicles shall be taxable only in the Contracting State in which the registered office of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 15

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 16

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned Contracting 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 vehicle operated in international traffic, may be taxed in the Contracting State in which the registered office of the enterprise is situated.

Article 17

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 18

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, 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, 15 and 16, 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 19

PENSIONS

1. Subject to the provisions of paragraph 1 of Article 20, 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. This provision shall also apply to life annuities paid to a resident of a Contracting State.

2. Pensions and life annuities paid, and other periodical or occasional payments made by a Contracting State, or one of its political subdivisions in respect of insuring personal accidents, may be taxed only in that State.

Article 20

GOVERNMENT SERVICE

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

2. The provisions of Articles 16, 17 and 19 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 21

TEACHERS AND STUDENTS

1. Payments which a student or business apprentice 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 that 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 and his primary purpose is teaching or engaging in scientific research for a period or periods not exceeding two years shall be exempt from tax in that other State, provided that such payments arise from sources outside that other State.

3. Remuneration which a student 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 22

OTHER INCOME

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.

Article 23

INCOME OF GOVERNMENT AND INSTITUTIONS

Notwithstanding the provisions of Article 11, interest arising in a Contracting State that is paid to:

- a) the Government of the other Contracting State, a political subdivision or a local authority thereof;
- b) an authority, Central Bank, a corporation, a foundation, a development fund or an agency or other financial institution wholly-owned by any Government referred to in sub-paragraph (a);
- c) a company created under the laws in force in the other Contracting State the capital stock of which is wholly-owned by one or more persons referred to in sub-paragraphs (a) or (b); or
- d) an entity which its headquarters is situated in the other Contracting State all the capital of which has been provided by that State either alone or together with the governments of other States,

shall be taxable only in the other Contracting State.

Article 24

ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either Contracting State shall continue to govern the taxation in the respective Contracting States except where the provisions to the contrary are made in this Agreement.

2. It is agreed that double taxation shall be avoided in accordance with the following sub-paragraphs:

- a) In the case of Kuwait:

Where a resident of Kuwait derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Turkey and in Kuwait, Kuwait shall allow as a deduction from the tax on income or capital of that resident an amount equal to the tax on income or capital paid in Turkey.

Such deduction shall not, however, exceed that part of the tax on income or capital as computed before the deduction is given, which is attributable to the income or capital which may be taxed in Turkey.

b) In the case of Turkey:

Where a resident of Turkey derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Kuwait and in Turkey, Turkey shall, subject to the provisions of Turkish taxation laws regarding credit for foreign taxes, allow as a deduction from the tax on income or capital of that resident an amount equal to the tax on income or capital paid in Kuwait.

Such deduction shall not, however, exceed that part of the tax on income or capital as computed in Turkey before the deduction is given, which is appropriate to the income or capital which may be taxed in Kuwait

3. Where in accordance with the laws of a Contracting State, taxes covered by this Agreement are exempted or reduced for a limited period of time, such taxes which have been exempted or reduced shall be deemed to have been paid for the purposes of the preceding paragraphs

Article 25

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. 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 Nothing in this Article shall 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

4. Nothing in this Article shall affect the right of a Contracting State to grant an exemption or reduction of taxation to its own nationals who are residents of that Contracting State. This paragraph shall not apply to companies the capital of which is partly or wholly owned by individuals possessing the nationality of the other Contracting State.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. 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, or

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

MUTUAL AGREEMENT PROCEDURE

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

of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national.

2 The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other 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 28

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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.

Article 29

MISCELLANEOUS

1 The competent authorities of the Contracting States shall mutually agree on arrangements concerning the manner in which the limitations and exemptions contained in the foregoing Articles are to be implemented.

2. This Agreement shall not affect the right of a resident of a Contracting State to benefit from tax and investment incentives, exemptions and allowances provided for by the other Contracting State, in accordance with its domestic laws, regulations and administrative practices.

Article 30

ENTRY INTO FORCE

1 Each Contracting State shall notify the other of 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 date when the latter of these notifications has been received

2. This Agreement shall have effect in both Contracting States.

a) in respect of taxes which are levied for the tax year beginning on or after January 1 st of the year in which the Agreement has been signed;

b) in respect of taxes withheld at source on dividends, interest and royalties paid on or after January 1 st of the year in which the Agreement has been signed.

Article 31

DURATION AND TERMINATION

This Agreement shall remain in force for a period of five years and shall continue in force thereafter for a similar period or periods unless either Contracting State notifies the other in writing six months before the expiry of the first or any subsequent period of its intention to terminate the Agreement.

In such event, the Agreement shall cease to have effect in both Contracting States

a) in respect of taxes which are levied for any tax period beginning on or after January 1 st of the year next following that in which the notice is given;

b) in respect of taxes withheld at source on dividends, interest and royalties paid on or after January 1 st of the year next following that in which the notice is given.

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

Done in duplicate at Kuwait this sixth day of October 1997 corresponding to fifth day of Jumada II, 1418 H. in the Turkish, Arabic and English Languages, all three texts being equally authentic

In case of divergency between the texts, the English text shall prevail

**FOR THE REPUBLIC OF
TURKEY**

**FOR THE STATE OF
KUWAIT**

Işın Çelebi
Minister of State

Nasser A. Al-Roudan
Deputy Prime Minister
and Minister of Finance

PROTOCOL

The Republic of Turkey and the State of Kuwait on signing at Kuwait on this sixth day of October 1997 corresponding to fifth day of Jumada II, 1418 H. the Agreement for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital have agreed upon the following provisions which shall form an integral part of the said Agreement.

1. With respect to Article 7:

In respect of paragraph 1 of this Article, payments of any kind received as a consideration for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, shall be deemed to be profits of an enterprise to which the provisions of Article 7 apply.

2. With respect to Articles 10, 11 and 12:

In respect of Articles 10, 11 and 12 it is understood that the term "beneficial owner" shall be interpreted in the way that a resident of a third country will not be allowed to get benefits from the Agreement with regard to dividends, interest and royalties derived from Turkey or Kuwait, but this restriction shall in no case be applied to residents of a Contracting State.

3. With respect to Article 20:

The remuneration paid to an individual in respect of services rendered to the Kuwait Airways or Government owned ships, and to the corresponding Turkish bodies, are covered by the provisions concerning governmental functions and consequently by Article 20

4. With respect to Article 23:

Under sub-paragraph (d) it is understood that the term "headquarters" means the place of effective management and the exemption shall apply in proportion to the Kuwaiti participation in the capital of the entity referred to in that sub-paragraph.

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

Done in duplicate at Kuwait this sixth day of October 1997 corresponding to fifth day of Jumada II, 1418 H. in the Turkish, Arabic and English Languages, all three texts being equally authentic

In case of divergency between the texts, the English text shall prevail

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