

AGREEMENT

**Between the Government of Ukraine
and
the Government of the Republic of Turkey
for the Avoidance of Double Taxation and the Prevention of Fiscal
Evasion with respect to Taxes on Income and on Capital**

The Government of Ukraine
and
the Government of Turkey

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital 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 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.
3. The taxes which are the subject of this Agreement are:
 - a) in the case of 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 the case of Ukraine:

- (i) the tax on profits of enterprises; and
- (ii) the income tax on citizens

(hereinafter referred to as "Ukrainian 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:

- 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 purposes of exploiting, conserving and managing natural resources, pursuant to international law;
- (ii) the term "Ukraine" means the Ukrainian territory, territorial sea, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purposes of exploiting, conserving and managing natural resources, pursuant to international law;
- b) the terms "a Contracting State" and "the other Contracting State" mean Ukraine or Turkey 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 "Registered Office" means the legal head office registered under the Turkish Code of Commerce or the permanent body of the entity registered as a legal person under the Ukrainian Civil Code;

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 Ukraine, the Ministry of Finance of Ukraine or its authorized representative;

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

j) the term "international traffic" means any transport by a ship, boat, aircraft or road vehicle operated by an enterprise of a Contracting State, except when the ship, boat, aircraft or road vehicle is operated solely between places in the other Contracting State.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the 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, registered office, place of

registration, 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 or capital situated therein.

2. Where by reason of the provisions of paragraph 1 of this Article 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 only 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 permanent home available to him in either State, he shall be deemed to be a resident only 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 only 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) an installation or structure for the exploration of natural resources;
- g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- h) a warehouse or other structure used as a sales outlet.

3. A building site or construction, assembly or installation project or supervisory activities in connection therewith constitute a permanent establishment, but only if such project or activities continue for a period of more than twelve months. A site exists from the date on which the contractor begins his work, including any preparatory work within a building site or a construction site.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e),

provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person -other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, or maintains a stock of goods or merchandise belonging to the enterprise, from which regular sales of such goods and merchandise is carried on 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 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.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that 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. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture (including the breeding or cultivation of fish) and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats, 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 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 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 case of a banking enterprise, by way of interest on money lent to the permanent establishment by the enterprise.
4. Insofar as it has been customary in a Contracting State to determine, according to its laws, the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its

various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. 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.

6. 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.

7. Where profits include items of income or capital appreciation 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 **INTERNATIONAL TRANSPORT**

1. Profits derived by a resident of a Contracting State from the operation of ships, boats, aircraft or road vehicles in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise; where such rental, such use or maintenance, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. Where profits within paragraph 1 of this Article are derived by a resident of a Contracting State from participation in a pool, a joint business or an international operating agency, the profits attributable to that resident shall be taxable only in the Contracting State of which he is a resident.

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, 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:

a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income 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.

4. Profits of a company of a Contracting State attributable to the permanent establishment situated in the other Contracting State through which the business of that company is carried on therein may, after having been taxed under provisions of Article 7, be taxed on the remaining amount in that other Contracting State provided such kind of taxation is imposed on a company which is a resident of that other Contracting State. The rate of the tax so charged may not exceed the rate provided in subparagraph 2(a) 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 performs in that other State independent personal services from a fixed base situated therein, 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. Subject to the provisions of paragraph 4 of this Article, where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 **INTEREST**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State if such resident is the beneficial owner of this interest.

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) Ukraine and paid to the Government of Turkey or to its local authorities or to the Central Bank of Turkey shall be exempt from Ukrainian tax;

b) Turkey and paid to the Government of Ukraine or to its political subdivisions or its local authorities or to the National Bank of Ukraine 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 as well as all other income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises 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 performs in that other State independent personal services from a fixed base situated therein, 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 if such resident is the beneficial owner of the royalties.
2. However, such royalties may be taxed in the Contracting State in which they arise and in accordance with the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of all payments.
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 records for radio and television broadcasting, 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 paragraph 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 performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties are paid was incurred, and such royalties are born 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 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. Nothing in this paragraph shall prevent other Contracting State to tax the capital gains derived from that other Contracting State on the sale or transfer the shares, the corporate rights or other securities 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 twelve month period commencing or ending in the fiscal 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 provisions of paragraphs 1 and 2, 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:

a) in connection with a building site, construction, assembly or installation project in connection with subparagraph 2 of Article 5 of the Agreement,

b) in respect of an employment exercised aboard a ship, boat, 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 supported wholly or mainly by public funds of the other Contracting State or political subdivision or local authority thereof.

Article 18
PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19 pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such resident shall be taxable only in that State.
2. The term "annuity" means a stated sum payable to an individual periodically at stated times during his 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.

3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration, and any annuity paid under social system of a Contracting State, its political subdivision or local authority, shall be taxed only in that State.

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 government nature shall be taxable only in that State.

2. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration, and to 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 State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. Likewise, remuneration received by a teacher or by an instructor 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 State with 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 the first-mentioned State on his remuneration from personal services for teaching or research, provided that such payments arise from sources outside the first-mentioned State and scientific research is merely for public interest.

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 **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, boats, aircraft and road vehicles operated by an enterprise of a Contracting State in international traffic and by movable property pertaining to the operation of such ships, aircraft, boats or road vehicles shall be taxable only in that Contracting State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23
ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided as follows:

- a) Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on income or on capital of that resident an amount equal to the income or capital tax paid in that other Contracting State, whether directly or by deduction. Such deduction shall not, however, exceed that part of income or capital tax (as paid before the deduction is given), which may be attributable to the income or capital which may be taxed in that other State,
- b) Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Agreement, shall be taxable only in that other State, the first-mentioned State may include this income or capital in the tax base but shall allow as a deduction from the income or capital tax that part of income or capital tax which is attributable to the income derived from or capital owned in other Contracting State.

Article 24
NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.
3. Subject to the provisions of paragraphs 4 and 6 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.

4. 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. Similarly, any debts 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 they had been contracted to a resident of the first-mentioned State.

5. 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.

6. 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 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with 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 24, to that of the Contracting State of which he is a national. The case must be presented within the period prescribed by the domestic laws of the Contracting States.

2. The competent authority shall endeavor, 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 within the period prescribed in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor 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 in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other, under the established procedure, 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 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, in particular to prevent fraud and to facilitate the administration of statutory provisions against legal avoidance. Any information received by a Contracting State shall be treated as confidential 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 the competent authority of either Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice prevailing in either Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of either 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.

Article 27

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 28

ENTRY INTO FORCE

Each Contracting States shall notify to the other, through the diplomatic channel the completion of the procedures required by its domestic law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

a) in Turkey:

- (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which this Agreement enters into force; and
- (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which this Agreement enters into force.

b) in Ukraine:

- (i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the Agreement enters into force;
- (ii) in respect of tax on income of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force;

(iii) in respect of income tax on citizens for any payments made on or after the sixtieth day following that day on which the 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 channel, 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) in Turkey:

(i) 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

(ii) with regard to other taxes, in respect of taxable years beginning after the the end of the calendar year in which such notice is given.

b) in Ukraine:

i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notice is given;

ii) in respect of tax on income of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the notice is given;

iii) in respect of income tax on citizens for any payments made on or after the sixtieth day following that day on which the notice is given.

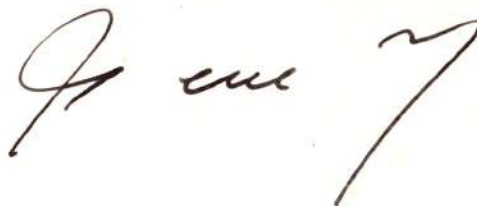
In witness whereof, the undersigned, duly authorized thereto, have signed the present Agreement.

"Done in duplicate at *Ankara*..... this *17*..... day of *November*.. 1996..
in the Ukrainian, Turkish 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 Government
of Ukraine



For the Government of
the Republic of Turkey



PROTOCOL

At the moment of signing the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, this day concluded between the Government of Ukraine and the Government of the Republic of Turkey, the undersigned have agreed that the following provision shall form an integral part of the Agreement.

With reference to paragraph 3 of Article 10:

It is understood that the term "dividends" in the case of Turkey shall also include the income from investment funds and investment corporations.

In witness whereof, the undersigned, duly authorized thereto, have signed the present Protocol.

"Done in duplicate at *Ankara*..... this *27*.... day of *November* 19*96*.. in the Ukrainian, Turkish 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 Government
of Ukraine



For the Government of
the Republic of Turkey

