

1988 No. 932

INCOME TAX

The Double Taxation Relief (Taxes on Income)
(Turkey) Order 1988

Made - - - - 25th May 1988

At the Court at Buckingham Palace, the 25th day of May 1988

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 788(10) of the Income and Corporation Taxes Act 1988(a), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 788 of the said Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Turkey) Order 1988.
2. It is hereby declared-
 - (a) that the arrangements specified in the Agreement set out in the Schedule to this Order have been made with the Government of the Republic of Turkey with a view to affording relief from double taxation in relation to income tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Turkey;
 - (b) that those arrangements include provisions with respect to the exchange of information necessary for carrying out the domestic laws of the United Kingdom and the laws of Turkey concerning taxes covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes; and
 - (c) that it is expedient that those arrangements should have effect.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE

AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF TURKEY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The United Kingdom of Great Britain and Northern Ireland and the Republic 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 capital gains;
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 gains imposed by either Contracting State irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, on total capital gains, or on elements of income or of capital gains, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes which are the subject of this Agreement are:

- (a) in the Republic of Turkey:
 - (i) the income tax; and
 - (ii) the corporation tax;(hereinafter referred to as "Turkish tax");
- (b) in the United Kingdom of Great Britain and Northern Ireland:
 - (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax;(hereinafter referred to as "United Kingdom tax").

(4) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of 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 "Turkey" means the territory of the Republic of Turkey, and any area in which the laws of Turkey are in force, as well as the Continental Shelf over which Turkey has, in accordance with international law, sovereign rights to explore and exploit its natural resources;
- (b) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (c) the term "national" means:
 - (i) in relation to Turkey, any individual possessing Turkish nationality in accordance with the Turkish Nationality Code; and any legal person, partnership or association deriving its status as such from the law in force in Turkey;
 - (ii) in relation to the United Kingdom, any British citizen or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;

- (d) the terms "a Contracting State" and "the other Contracting State" mean Turkey or the United Kingdom as the context requires;
- (e) the term "tax" means any tax covered by Article 2 of this Agreement;
- (f) the term "person" comprises an individual, a company and any other body of persons;
- (g) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (h) the term "registered office" in relation to Turkey means the legal head office registered under the Turkish Code of Commerce;
- (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 "international traffic" means any transport by a ship, an aircraft or a road vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;
- (k) the term "political subdivision" in relation to the United Kingdom, includes Northern Ireland;
- (l) the term "competent authority" means, in the case of Turkey the Minister of Finance and Customs or his authorised representative, and in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative.

(2) As regards the application of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

ARTICLE 4

Residence

(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 management or any other criterion of a similar nature.

(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 of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting 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) of this Article 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. However, where such a person has the place of effective management of its business in one of the Contracting States and the place of its registered office in the other Contracting State, then the competent authorities of the Contracting States shall determine by mutual agreement the Contracting State of which the company 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" shall include 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) an installation or structure used for the exploration or exploitation of natural resources.

(3) A building site or a construction, assembly or installation project constitutes a permanent establishment only if it lasts more than six months.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) of this paragraph, 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) of this Article, where a person other than an agent of independent status to whom paragraph (6) applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- (b) has no such authority but habitually maintains in that first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise on behalf of the enterprise.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

(7) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

Income from immovable property

(1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, fisheries, 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. The term shall not, however, include any property or rights income from which is a royalty as defined in paragraph (3) of Article 12 of this Agreement.

(3) The provisions of paragraph (1) of this Article 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) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent 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 directly or indirectly attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3) of this Article, 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. No deductions shall be allowed for sums which are paid (other than the reimbursement of expenses actually incurred) by the permanent establishment to the head office or any other office of the enterprise as royalties, fees or other similar payments in respect of the use of licences, patents or other rights, as commission for services rendered or for management, or, except in the case of a banking enterprise, as interest on sums loaned 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

International transport

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

(2) The provisions of paragraph (1) of this Article 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 profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other Contracting 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 law of that State; but where the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends;
- (b) 20 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 assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident and also includes any other item (other than interest relieved from tax under the provisions of Article 11 of this Agreement) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

(4) Notwithstanding the other provisions of this Agreement, where a company which is a resident of a Contracting State, having a permanent establishment in the other Contracting State, derives profits through that permanent establishment, such profits may be taxed (in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of that other Contracting State) in accordance with the laws of the other Contracting State but the rate of tax so imposed shall not exceed 15 per cent of the amount of the profits.

(5) The provisions of paragraphs (1) and (2) of this Article 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 the United Kingdom independent personal services from a fixed base situated in the United Kingdom, 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 of this Agreement, as the case may be, shall apply.

(6) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that 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.

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State; but where the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2) of this Article:

- (a) interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or any agency of that Government or local authority;
- (b) interest arising in the United Kingdom which is derived and beneficially owned by the Central Bank of Turkey (*Türkiye Cumhuriyeti Merkez Bankası*) shall be exempt from tax in the United Kingdom.

(4) 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 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. The term "interest" shall not include any item which is treated as a distribution under the provisions of Article 10 of this Agreement.

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

(8) Any provision in the law of either Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be treated as a distribution or dividend by the company paying such interest. The preceding sentence shall not apply to interest paid to a company which is a resident of one of the Contracting States in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons who are residents of the other Contracting State.

(9) The provisions of paragraph (8) of this Article shall not apply to interest paid by a company which is a resident of Turkey so long as the law of Turkey, in determining whether a payment of interest is to be treated as a distribution or dividend, does not discriminate against non-resident companies.

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 be taxed in the Contracting State in which they arise and according to the law of that State; but where the beneficial owner of the royalties is a resident of the other Contracting State 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, or the sale of, any copyright of literary, artistic or scientific work, including cinematograph films and recordings for radio and television, or 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) of this Article 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 the United Kingdom independent personal services from a fixed base situated in the United Kingdom, 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 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 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 that 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 paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial

owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that 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 of this Agreement 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 together with the whole enterprise) or of such a 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 and road vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft and 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) of this Article shall be taxable only in the Contracting State of which the alienator is a resident. However, such gains which arise in a Contracting State from the alienation of property within a period of one year from the date of its acquisition may be taxed in that State.

ARTICLE 14

Independent personal services

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- (a) he has a fixed base regularly available to him in that other State for the purpose of performing those services or activities; or
- (b) he is present in that other State for the purpose of performing those services or activities for a period or periods amounting in the aggregate to 183 days or more in any continuous period of 12 months.

In such circumstances, only so much of the income as is attributable to that fixed base or is derived from the services or activities performed during his presence in that other State, as the case may be, may be taxed in that other State.

(2) Income derived by an enterprise of a Contracting State in respect of professional services or other activities of a similar character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- (a) the enterprise has a permanent establishment in that other State through which the services or activities are performed; or
- (b) the period or periods during which the services are performed exceed in the aggregate 183 days in any continuous period of 12 months.

In such circumstances only so much of the income as is attributable to that permanent establishment or to the services or activities performed in that other State, as the case may be, may be taxed in that other State. In either case, the enterprise may elect to be taxed in that other State in respect of such income in accordance with the provisions of Article 7 of this Agreement as if the income were attributable to a permanent establishment of the enterprise situated in that other State. This election shall not affect the right of that other State to impose a withholding tax on such income.

(3) The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants, and other activities requiring specific professional skill.

ARTICLE 15

Dependent personal services

(1) Subject to the provisions of Articles 16, 18, 19 and 21 of this Agreement, 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) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the 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 preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship, aircraft or road vehicle is a resident.

ARTICLE 16

Directors' fees

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

ARTICLE 17

Artistes and athletes

(1) Notwithstanding the provisions of Articles 14 and 15 of this Agreement, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Agreement, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, income derived from activities as defined in paragraph (1) performed in a Contracting State by a resident of the other Contracting State shall be exempt from tax in the Contracting State in which those activities are exercised if the visit to that State is supported by public funds of the other Contracting State, including, in the case of Turkey, funds provided by public service associations or organisations.

ARTICLE 18

Pensions

(1) Subject to the provisions of paragraph (2) of Article 19 of this Agreement, pensions and other similar remuneration paid in consideration of past employment and any payments made under the social security scheme of either Contracting State, and annuities as defined in paragraph (2) of this Article, shall be taxable only in the State of which the recipient is a resident.

(2) The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19

Government service

- (1)(a) Remuneration, other than a pension, paid 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 shall be taxable only in that State.

- (b) 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.
- (2) (a) Any pension 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 shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
- (3) The provisions of Articles 15, 16 and 18 of this Agreement shall apply to remuneration and pensions in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20

Students, apprentices and trainees

A student, business apprentice or trainee 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 shall be exempt from tax in that State on:

- (i) all remittances made from abroad for the purpose of his maintenance, education or training;
- (ii) all scholarships, grants, allowances and awards from governmental, charitable, scientific, literary or educational organisations for the purposes of his maintenance, education or training.

ARTICLE 21

Teachers

(1) An individual who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching or engaging in research at a university, college, school or other recognised educational institution in that Contracting State, and who immediately before that visit was a resident of the other Contracting State, shall be exempted from tax by the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that State for such purpose, provided that such remuneration arises from sources outside the first-mentioned Contracting State.

(2) This Article shall only apply to income from research if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

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, other than income paid out of trusts, shall be taxable only in that State.

ARTICLE 23

Elimination of double taxation

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

- (a) Turkish tax payable under the law of Turkey and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Turkey (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Turkish tax is computed.
- (b) In the case of a dividend paid by a company which is a resident of Turkey to a company which is resident in the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Turkish tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Turkish tax payable by the company in respect of the profits out of which such dividend is paid.

(2) For the purposes of paragraph (1) of this Article, the term "Turkish tax payable" shall be deemed to include any amount which would have been payable as Turkish tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under any of the following provisions of Turkish law:

(a) (i) Additional Articles 1 to 6 of Chapter VIII of the Income Tax Law (Law No. 193 of 31 December 1960, as amended);

(ii) Paragraph 9 of Article 8 of Chapter I, Part II, of the Corporation Tax Act (Law No. 5422 of 3 June 1949, as amended);

so far as they were in force on, and have not been modified since, the date of signature of this Agreement, or have been modified only in minor respects so as not to affect their general character; or

(b) any other provision which may subsequently be made granting an exemption from, or reduction of, tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Turkish tax was first granted in respect of that source.

(3) Subject to the provisions of the law of Turkey regarding the allowance as a credit against Turkish tax of tax payable in a territory outside Turkey, United Kingdom tax payable under the law of the United Kingdom and in accordance with this Agreement in respect of income (including profits and chargeable gains) derived by a resident of Turkey from sources within the United Kingdom shall be allowed as a deduction from the Turkish tax on such income. Such deduction, however, shall not exceed the amount of Turkish tax, as computed before the deduction is made, attributable to such income.

(4) For the purposes of paragraphs (1) and (3) of this Article, profits, income and capital gains derived by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Agreement shall be deemed to arise from sources in that 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.

(2) Subject to the provisions of paragraph (4) of Article 10 of this Agreement, 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) Except where the provisions of Article 9, paragraph (7) of Article 11, or paragraph (6) of Article 12 of this Agreement apply, and subject to the provisions of paragraph (8) of Article 11 of this Agreement, 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.

(5) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax 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 this Agreement, he may, irrespective of the remedies provided by the domestic laws 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 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.

(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.

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 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) of this Article be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the law and the administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the law 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 27

Diplomatic agents and consular officers

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

(2) Notwithstanding the provisions of paragraph (1) of Article 4 of this Agreement, an individual who is a member of the diplomatic or permanent mission or consular post of a Contracting State or any third State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

ARTICLE 28

Entry into force

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

- (a) in Turkey, in respect of income tax and corporation tax, for any fiscal year beginning on or after 1 January in the calendar year next following that in which the later of these notifications is given; and
- (b) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the later of these notifications is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the later of these notifications is given.

ARTICLE 29

Termination

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement by giving notice of termination, through the diplomatic channel, at least six months before the end of any calendar year beginning after the expiration 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, in respect of income tax and corporation tax, for any fiscal year beginning on or after 1 January in the calendar year next following that in which the notice is given; and
- (b) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given.

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

Done in duplicate at London this 19th day of February 1986, in the English and Turkish languages, both texts being equally authoritative.

For the United Kingdom
of Great Britain and
Northern Ireland:
Young

For the Republic of Turkey:

R. Gümrükçüoğlu

EXPLANATORY NOTE

(This note is not part of the Order)

The Agreement with the Republic of Turkey is set out in the Schedule to this Order.

Provision is made for business profits not arising through a permanent establishment to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated (Articles 5 and 7). Profits from international transport are to be taxed only in the country of residence of the enterprise (Article 8). The Agreement includes rules for determining taxable profits when a company in one country is related to a company in the other (Article 9).

Income arising from immovable property and capital gains from the alienation of that property may be taxed in the country in which the property is situated (Articles 6 and 13).

The rate of tax on dividends in the source country is not to exceed 15 per cent of the gross amount of the dividends flowing to the other country, if the beneficial owner controls directly or indirectly at least 25 per cent of the voting power of the paying company, and 20 per cent in all other cases (Article 10). An additional tax at a rate not exceeding 15 per cent may be charged on the profits of a permanent establishment in one country of a company which is a resident of the other.

The rate of tax on interest imposed in the source country is not to exceed 15 per cent of the gross amount of interest flowing to the other country. However, the country of source will exempt from tax interest payable to and beneficially owned by the Government or a local authority of the other country or any agency of the Government or a local authority (Article 11). Interest arising in the United Kingdom and beneficially owned by the Central Bank of Turkey will be exempt in the United Kingdom.

The rate of tax on royalties in the source country is not to exceed 10 per cent of the gross amount flowing to the other country (Article 12).

Income of an enterprise of one country in respect of professional or similar services performed in the other country may be taxed in that other country if the enterprise performs the services through a permanent establishment there or the services are

performed for more than 183 days in any 12 months. The enterprise may elect that the income be taxed on a net basis (Article 14).

The earnings of temporary business visitors (Articles 14 and 15) are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence. Income derived by entertainers and athletes from their personal activities may be taxed in the country in which those activities are exercised. Where, however, the activities performed in one country are supported by public funds of the other country, the income is taxable only in that other country (Article 17). Government service salaries and pensions are normally to be taxed by the paying Government only (Article 19) while other pensions are to be taxed only in the country of the taxpayer's residence (Article 18). The remuneration of visiting teachers (Article 21) and certain payments made to visiting students, business apprentices and trainees (Article 20) are, subject to certain conditions, to be exempt from tax in the country visited.

Where income continues to be taxable in both countries relief from double taxation is to be given by the country of the taxpayer's residence. The credit to be given in the United Kingdom for tax payable in Turkey includes credit for tax spared under certain provisions of Turkish law (Article 23).

There are provisions to safeguard nationals and enterprises of one country against discriminatory taxation in the other (Article 24) and for consultation and the exchange of information between the competent authorities of the two countries (Articles 25 and 26).

The Agreement is to enter into force on the date of the later of the notifications by each country of the completion of its procedures for the bringing into force of the Agreement. The Agreement takes effect in Turkey for any fiscal year beginning on or after 1st January and in the United Kingdom for any financial year beginning on or after 1st April for corporation tax, or, for income tax and capital gains tax, any year of assessment beginning on or after 6th April in the calendar year next following that in which the Agreement enters into force (Article 28).