

**AGREEMENT
BETWEEN THE REPUBLIC OF TURKEY AND THE KINGDOM OF SWEDEN
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO
TAXES ON INCOME**

**THE REPUBLIC OF TURKEY
AND
THE KINGDOM OF SWEDEN**

Desiring to conclude an Agreement for the avoidance of Double Taxation with respect to taxes on income.

HAVE AGREED AS FOLLOWS :

Article 1

PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

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

a) in the case of the Republic of Turkey :

- i) the income tax (gelir vergisi);
- ii) the corporation tax (kurumlarvergisi);
- iii) the levy on behalf of the fund for the support of the defense industry (savunma sanayii destekleme fonu);
- iv) the levy on behalf of the fund for the encouragement of social charity and solidarity (sosyal yardımlaşmayı ve dayanışmayı teşvik fonu);
- v) the levy on behalf of the fund for business apprentices and for the improvement and enlargement of the business and technical training (çıraklık, meslekî ve teknik eğitimi geliştirme ve yaygınlaştırma fonu);

(hereinafter referred to as «Turkish tax»)

b) in the case of the Kingdom of Sweden :

- i) the State income tax (den stalliga inkomstskatten), including the sailors' tax (sjömansskatten) and the coupon tax (kupongskatten);
- ii) the tax on undistributed profits of companies (ersättningskatten) and the tax on distribution in connection with reduction of share capital or the winding-up of a company (utskiftningskatten);

- iii) the tax on public entertainers (bevillningsavgiften för vissa offentliga föreställningar);
 - iv) the communal income tax (den kommunala inkomstskatten);
 - v) the profit sharing tax (vinstdelningsskatten).
- (hereinafter referred to as «Swedish tax»).

4. The Agreement shall also apply 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 each year notify each other of any significant changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires :
- a) i) the term «Turkey» means the territory of the Republic of Turkey, including 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,
 - ii) the term «Sweden» means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;
 - b) the terms «a Contracting State» and «the other Contracting State» mean Turkey or Sweden 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 seat of the Board of Directors registered under Swedish law, as the case may be;
 - g) the term «nationals» means :
 - i) in respect of Turkey, all individuals possessing the Turkish nationality from the «Turkish Nationality Code», and all legal persons, partnerships and associations deriving their status as such from the law in force in Turkey;
 - ii) in respect of Sweden, all Swedish individuals and all legal persons, partnerships and associations deriving their status as such from the law in force in Sweden;
 - h) the terms «enterprise of a Contracting State» and «enterprise of the other Contracting State» mean respectively an enterprise carried on by a resident

of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

i) the term «competent authority» means:

- i) in Turkey, the Minister of Finance and Customs or his authorized representative,
- ii) in Sweden, the Minister of Finance or his authorized representative or the authority which is designated as competent authority for the purposes of this Agreement;

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 or aircraft or road vehicle is operated solely between places in the territory of Turkey or of Sweden.

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

Article 4

RESIDENT

1. For the purposes of this Agreement, the term «resident of 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 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be resident of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its registered office is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term «permanent establishment» means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term «permanent establishment» includes especially :

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

g) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities continue for a period of more than six months.

3 Notwithstanding the preceding provisions of this Article, the term «permanent establishment» shall be deemed not to include :

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person -other than an agent of independent status to whom paragraph 5 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 3 which, if exercised through a fixed place of business would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

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

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

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

2. The term «immovable property» shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, fishing places of every kind, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7

BUSINESS PROFITS

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction will be allowed in respect of participations to the expenses and losses of the head office or other permanent establishments situated abroad nor in respect of amounts paid by the permanent es-

establishment to the head office of the enterprise or any of its other offices, by way of royalties, interests, commissions or other similar payments.

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

5. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING, AIR AND LAND TRANSPORT

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

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

3. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph 2 shall apply, but only to such part of the profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

4. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State and taxes accordingly profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are by the first-mentioned State claimed to be profits which would have

accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustments, 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) 15 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 percent of the capital of the company paying the dividends;

b) 20 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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. The term likewise means income derived from Swedish share funds and from Turkish investment funds and investment trusts.

4. Profits of a company of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated. However, the tax so charged shall not exceed the rate provided for in subparagraph a) of paragraph 2.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Subject to the provisions of paragraph 4, where a company which is a resident of a Contracting State derives profits 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 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 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.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

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

a) Sweden and paid to the Government of Turkey or to the Central Bank of Turkey (Türkiye Cumhuriyet Merkez Bankası) shall be exempt from Swedish tax;

b) Turkey and paid to the Government of Sweden or to the Central Bank of Sweden (Sveriges Riksbank) shall be exempt from Turkish tax.

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

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

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 in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and recordings for radio and television, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning, industrial, commercial or scientific experience or for the use of, or the right to use, industrial, commercial or scientific equipment.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State carries on business in the other Contracting State in which royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

7. The preceding provisions of this Article shall also apply to payments of any kind received as a consideration for the alienation 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 information concerning industrial, commercial or scientific experience.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal

services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

3. Gains of an enterprise of a Contracting State from the alienation of ships, aircraft or road vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft or road vehicles shall be taxable only in that State.

4. Subject to the provisions of paragraph 7 of Article 12, gains from the alienation of any property other than that dealt with in paragraphs 1 to 3, shall be taxable only in the Contracting State of which the alienator is a resident.

5. Notwithstanding the provisions of paragraph 4, gains derived by a resident of a Contracting State from the alienation of shares or similar rights in a company which is a resident of the other Contracting State or of bonds issued in that other State may be taxed in that other 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 unless such activities are exercised in the other Contracting State. If the activities are exercised in the other State, income derived therefrom may be taxed in that other State.

2. Notwithstanding the provision of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character exercised in the other Contracting State shall be taxable only in the first-mentioned State if :

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned and
- b) the remuneration is paid by, or on behalf of, a person 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 said person has in the other State.

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 independent activities requiring specific professional skill.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20 and 21 salaries wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if :

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road transport vehicle operated in international traffic by an enterprise of a Contracting State, may be taxed in that State. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND ATHLETES

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2 income derived by an artiste or athlete from his personal activities as such shall be exempt from tax in the Contracting State in which these activities are exercised if the activities are exercised within the framework of a visit which is substantially supported by the other Contracting State, a political subdivision, a local authority or a public institution thereof.

Article 18

PENSIONS, ANNUITIES AND SIMILAR PAYMENTS

1. Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration in consideration of past employment, disbursements under the Social Security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State. However, if the recipient is a national of the other Contracting State such pensions, remuneration, disbursements and annuities shall be taxable only in that other State.

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

Article 18

GOVERNMENT SERVICE

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

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration, pensions and similar payments in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

STUDENTS

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. Remuneration which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State derives from an employment which he exercises in the first-mentioned Contracting State in order to obtain practical experience related to his education or formation shall not be taxed in the first-mentioned State, provided that

- this is his first employment in that State,
- his visit does not exceed a period of 183 days, and

— the remuneration does not exceed 12 000 Swedish kronor if the employment is exercised in Sweden, and the remuneration does not exceed the adequate amount to cover the necessary expenses for his maintenance and education or training if the employment is exercised in Turkey.

Article 21

TEACHERS AND RESEARCHERS

1. An individual who visits a Contracting State 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, provided that the visit does not exceed a period of two years from the date of his first arrival in that Contracting State for such purpose, provided

further that such remuneration arises from sources outside the first-mentioned Contracting State.

2. The exemption granted under paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or specific persons.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Agreement and arising in the other Contracting State may be taxed in that other State.

2. Items of income of a resident of a Contracting State arising outside both Contracting States shall be taxable only in the first-mentioned Contracting State.

Article 23

ELIMINATION OF DOUBLE TAXATION

1. In the case of Turkey, double taxation shall be avoided as follows :

a) Subject to the provisions of sub-paragraph 1 (b), where a resident of Turkey derives income which, in accordance with the provisions of this Agreement, may be taxed in Sweden, Turkey shall exempt such income from tax but may, in calculating the tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted. In the case of dividends from a company which is a resident of Sweden this provision shall apply only to a resident of Turkey which directly holds at least 10 per cent of the capital and voting power of the company which is a resident of Sweden.

b) The tax paid in Sweden according to the provisions of this Agreement shall be deducted from the tax paid in Turkey with respect to taxes imposed on income which is shown below, under the provisions of Turkish tax laws concerning the deduction of foreign taxes :

- i) profits mentioned in Article 8;
- ii) dividends which are not covered by sub-paragraph (a);
- iii) interest;
- iv) royalties;
- v) gains from the alienation of property mentioned in paragraph 5 of Article 13 which may be taxed in Sweden;
- vi) fees and similar payments mentioned in Article 16.

Such deduction shall not, however, exceed that part of the income tax calculated in Turkey before the deduction is given, which is appropriate to the income which may be taxed in Sweden.

2. In the case of Sweden double taxation shall be avoided as follows :

a) Where a resident of Sweden derives income which under the laws of Turkey and in accordance with the provisions of this Agreement may be taxed in Turkey, Sweden shall allow-subject to the provisions of the laws of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) - as a deduction from the tax on such income, an amount equal to the Turkish tax paid in respect of such income.

b) Notwithstanding the provisions of sub-paragraph a), where a resident of Sweden derives income or gains which, in accordance with the provisions of Article 7, paragraph 2 of Article 13 or Article 14 may be taxed in Turkey, Sweden shall exempt such income or gains from tax provided that the principal part of the income or gains arises from

i) business activities, other than the management of securities and other similar property, and such activities are carried on within Turkey through a permanent establishment, or

ii) independent personal services performed from a fixed base in Turkey.

c) Notwithstanding the provisions of sub-paragraph a), dividends paid by a company being a resident of Turkey to a company being a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies.

d) Where a resident of Sweden derives income which, in accordance with the provisions of paragraph 1 of Article 19, shall be taxable only in Turkey, or in accordance with sub-paragraph b) of this paragraph shall be exempt from Swedish tax, Sweden may take such income into account when determining the graduated rate of Swedish tax.

3. a) Where a resident of Sweden derives dividends from Turkey, not being exempt from Swedish tax under sub-paragraph c) of paragraph 2, and such dividends are taxed, in accordance with the special measures introduced in Turkish law to promote the economic development in Turkey, at a rate of tax which is reduced, in the case of dividends referred to in sub-paragraph a) of paragraph 2 of Article 10 to less than 15 per cent and in the case of dividends referred to in sub-paragraph b) of paragraph 2 of Article 10 to less than 20 per cent, then there shall be allowed as a deduction from the Swedish tax levied on the dividends, an amount equal to, in the case of dividends referred to in sub-paragraph a) of paragraph 2 of Article 10 15 per cent and in the case of dividends referred to in sub-paragraph b) of paragraph 2 of Article 10 20 per cent of the gross amount of such dividends. Such deductions shall not, however, exceed that part of the Swedish income tax, as computed before the deduction is given which is appropriate to the income which may be taxed in Turkey.

b) Where a resident of Sweden derives interest or royalties from Turkey and such interest or royalties are taxed, in accordance with the special measures introduced in Turkish law to promote the economic development in Turkey, at a rate of tax which is reduced, in the case of interest to less than 15 per cent and in the case of royalties to less than 10 per cent then there shall be allowed as a deduction from the Swedish tax on the interest or royalties, as the case may be an amount equal to, in the case of interest 15 per cent and, in the case of royalties 10 per cent of the gross amount of such interest or royalties. Such deduction shall not, however, exceed that part of the Swedish income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Turkey.

The provisions of this paragraph shall apply only for the first ten years for which this Agreement is effective. This period may be extended by mutual agreement between the competent authorities.

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 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. Except where the provisions of paragraph 3 of Article 7, paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. 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 this Agreement, he may, irrespective of the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national.

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

Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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

Article 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. The exchange of information is not restricted by Article. 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation :

- a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

Article 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

1. The Contracting States shall notify each other that the constitutional requirements for the entry into force of this Agreement have been complied with.

2. The Agreement shall enter into force thirty days after the date of the letter of the notifications referred to in paragraph 1 and its provisions shall have effect :

a) In Turkey, for taxes with respect to every taxable year beginning on or after the first day of January of the year following that of entry into force of the Agreement.

b) In Sweden, in the case of income derived on or after the first day of January of the year next following that of the entry into force of the Agreement.

Article 29

TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic

channels, by giving written notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such case, the Agreement shall cease to have effect.

a) In Turkey, for taxes with respect to every taxable year beginning on or after the first day of January of the year following that in which the notice of termination is given.

b) In Sweden, in the case of income derived on or after the first day of January of the year next following that in which the notice of termination is given.

PROTOCOL

At the moment of signing the Agreement between the Republic of Turkey and the Kingdom of Sweden for the avoidance of double taxation with respect to taxes on income, the undersigned have agreed upon the following provisions which shall constitute an integral part of the Agreement.

1. Ad Article 6, paragraph 2

It is understood that the term «fishing places of every kind» does not include open sea fishing places.

2. Ad Article 7

It is understood that,

where an enterprise of a Contracting State has a permanent establishment in the other Contracting State and the enterprise

a) effects sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment, or

b) carries on other business activities in that other State of the same or similar kind as those effected through that permanent establishment, profits derived from such sales and business activities may be taxed in that other State as part of the profits of the permanent establishment to the extent that such sales or activities had been effected through the permanent establishment.

However the profits derived from such sales or activities shall not be taxed in that other Contracting State if the enterprise can prove that the sales or the activities have been carried on for other purposes than achieving benefits under this Agreement.

3. Ad Articles 10, 11 and 12

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

4. Ad Article 25

a) It is understood that for cases related to paragraph 1 of Article 25 and arising from actions by Turkey the presentation must be made within the time limit provided for in the Turkish legislation.

b) It is further understood that if the presentation for cases related to paragraph 1 of Article 25 has been made within the legal time limit, any mutual agreement reached under the provisions of paragraph 2 of Article 25 shall be implemented notwithstanding any time limits provided for in the Turkish legislation. However, the taxpayer must claim the refund within a period of one year after the notification by the tax administration for the implementation of the result of such mutual agreement.

In witness whereof the undersigned, duly authorized thereto, have signed this Agreement and its Protocol.

Done in duplicate at Ankara this 21 st day of January 1988, in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF TURKEY
Altan TUFAN

FOR THE GOVERNMENT OF
THE KINGDOM OF SWEDEN
Lennart DEFGARD