

No. 26562

**FINLAND
and
TURKEY**

Agreement for the avoidance of double taxation with respect to taxes on income (with protocol). Signed at Ankara on 9 May 1986

Authentic texts: Finnish, Turkish and English.

Registered by Finland on 24 May 1989.

**FINLANDE
et
TURQUIE**

Accord tendant à éviter la double imposition en matière d'impôts sur le revenu (avec protocole). Signé à Ankara le 9 mai 1986

Textes authentiques : finnois, turc et anglais.

Enregistré par la Finlande le 24 mai 1989.

AGREEMENT¹ BETWEEN THE REPUBLIC OF FINLAND AND THE REPUBLIC OF TURKEY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Finland and the Government of the Republic of Turkey,

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 a Contracting State or of its 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.

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

a) In Turkey:

- (i) The income tax; and
 - (ii) The corporation tax
- (hereinafter referred to as "Turkish tax").

b) In Finland:

- (i) The state income tax;
 - (ii) The communal tax;
 - (iii) The church tax; and
 - (iv) The tax withheld at source from non-residents' income
- (hereinafter referred to as "Finnish tax").

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

¹ Came into force on 30 December 1988, i.e., 30 days after the date on which the Contracting Parties had notified each other (on 30 November 1988) of the completion of the constitutional requirements, in accordance with article 27.

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, when used in a geographical sense, includes 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 “Finland” means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration and exploitation of the natural resources of the sea bed and its sub-soil may be exercised.

c) The term “a Contracting State” and “the other Contracting State” mean Turkey or Finland, as the context requires.

d) The term “tax” means any tax covered by Article 2 of the Agreement.

e) The term “person” includes an individual, a company and any other body of persons.

f) The term “company” means of any body corporate or any entity which is treated as a body corporate for tax purposes.

g) The term “registered office” means the legal head office of a company registered under the Turkish Code of Commerce, or the place of registration of a company under Finnish law, as the case may be.

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 “national” means:

- (i) In respect of Turkey, any individual possessing Turkish nationality under the Turkish Nationality Code, and any legal person, partnership and association deriving its status as such from the law in force in Turkey;
- (ii) In respect of Finland, any individual possessing the nationality of Finland, and any legal person, partnership and association deriving its status as such from the laws in force in Finland.

j) The term “international traffic” means any transport by a ship, aircraft or 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 “competent authority” means:

- (i) In Turkey, the Ministry of Finance and Customs;
- (ii) In Finland, the Ministry of Finance or its authorised representative.

2. For the purposes of Articles 18 and 19, the term “statutory body” means:

a) In the case of Turkey

- (i) The Central Bank of Turkey (Türkiye Cumhuriyeti Merkez Bankası);

- (ii) The obligatory Turkish social insurance institutions;
- (iii) The religious establishments; and
- (iv) Universities and other similar institutions for higher education.

b) In the case of Finland

- (i) The Bank of Finland (Suomen Pankki);
- (ii) The Social Insurance Institution (Kansaneläkelaitos);
- (iii) The Evangelical-Lutheran and Orthodox Churches and the local communities thereof; and
- (iv) The University of Helsinki (Helsingin yliopisto).

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

Article 4. FISCAL DOMICILE

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 taxation therein, by reason of his domicile, residence, legal head office (registered office), 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 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 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement in accordance with Article 24.

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

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith constitute a permanent establishment only if such site, project or activities last 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*), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting 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 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 the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a

broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

Article 6. INCOME FROM IMMOVABLE PROPERTY

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

2. *a)* The term “immovable property” shall, subject to the provisions of subparagraphs *b)* and *c)*, have the meaning which it has under the law of the Contracting State in which the property in question is situated.

b) The term “immovable property” shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, fishing places of every kind, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

c) Ships 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. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right of enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. 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.

6. The provisions of paragraph 4 shall also apply to the income from a right of enjoyment referred to in that paragraph of an enterprise and to income from such right of enjoyment used for the performance of independent personal services.

Article 7. BUSINESS PROFITS

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

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

under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts paid by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, interest, commission 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. INTERNATIONAL TRANSPORT

1. Profits of an enterprise of a Contracting State derived from the other Contracting State from the operation of ships in international traffic may be taxed in that other State, and in accordance with the law of that other State, but the tax chargeable in that other State on such income 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 transport vehicles in international traffic shall be taxable only in that State.

Article 9. ASSOCIATED ENTERPRISES

1. Where

- a) An enterprise of a Contracting State participates directly or indirectly in the management, control, financing or capital of an enterprise of the other Contracting State, or
- b) The same persons participate directly or indirectly in the management, control, financing 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 there on those profits, where that other State considers the adjust-

ment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but the tax so charged shall not exceed:

- a) 15 per cent of the gross amount of the dividends if the recipient is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 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 or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. A company which is a resident of a Contracting State and carries on business in the other Contracting State through a permanent establishment situated therein may be taxed, in addition to the taxation in accordance with Article 7, on an amount equal to the profits attributable to that permanent establishment less the tax imposed in that other State on those profits, at a rate referred to in sub-paragraph *a*) of paragraph 2.

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

Article 11. INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but 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) Finland and paid to the Government of Turkey or to the Central Bank of Turkey (Türkiye Cumhuriyeti Merkez Bankası) shall be exempt from Finnish tax;
- b) Turkey and paid to the Government of Finland or to the Bank of Finland (Suomen Pankki) 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 recipient 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 statutory body, 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 recipient 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12. ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the law of that State, but 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 recipient 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, 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 statutory body, 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 State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient 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.

7. The provisions of this Article shall similarly apply to payments of any kind received as a consideration for 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 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 paragraph 2 of Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains derived by a resident of a Contracting State from the alienation of shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property held by the company is situated.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

4. Gains 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 the Contracting State of which the enterprise is a resident.

5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

However, the gains mentioned in the foregoing sentence and derived from the other Contracting State may be taxed in the other Contracting State if the time period does not exceed one year between acquisition and alienation.

Article 14. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only

in that State unless the activities are exercised in the other Contracting State. If the activities are exercised in that other State, such income may be taxed in that other State.

2. Notwithstanding the provisions 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 payer 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, accountants and other activities requiring specific professional skill. This term includes such activities of individuals, companies and any other bodies of persons.

Article 15. DEPENDENT PERSONAL SERVICES

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

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

- a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
- b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, may be taxed in the Contracting State of which the enterprise is a resident.

Article 16. DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ 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. The provisions of paragraphs 1 and 2 shall not apply if the visit of the entertainer or athlete to a Contracting State is directly or indirectly supported wholly or substantially from public funds of that Contracting State or of the other Contracting State.

Article 18. PENSIONS

1. Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, any pension paid by, or out of funds created by, a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered to that State or body or authority, or any pension paid and other payment made under the social security legislation of a Contracting State shall be taxable only in that State. However, such pensions and other payments shall be taxable only in the Contracting State of which the individual is a resident if he is a national of that State.

Article 19. GOVERNMENT SERVICE

1. Remuneration, other than a pension, paid by a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered on behalf of that State or body or authority shall be taxable only in that State.

2. The provisions of Articles 15 and 16 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a statutory body or a local authority thereof.

Article 20. STUDENTS

1. Payments which a student or business, technical, agricultural or forestry 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. A student, or a business, technical, agricultural or forestry 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 for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, shall not be taxed in that first-mentioned State in respect of remuneration for services rendered in that State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

Article 21. OTHER INCOME

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

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

Article 22. ELIMINATION OF DOUBLE TAXATION

1. In Finland double taxation shall be eliminated as follows:

a) Where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in Turkey, Finland shall, subject to the provisions of sub-paragraph *b)*, allow as a deduction from the tax on income of that person, an amount equal to the tax on income paid in Turkey.

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

b) Dividends paid by a company which is a resident of Turkey to a company which is a resident of Finland shall be exempt from Finnish tax to the extent that the dividends would have been exempt from tax under Finnish taxation law if both companies had been residents of Finland.

c) Where in accordance with any provisions of the Agreement income by a resident of Finland is exempt from tax in Finland, Finland may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

d) For the purposes of sub-paragraph *a)*, the term "tax on income paid in Turkey" shall be deemed to include any amount of Turkish tax which would have been payable under Turkish taxation law but for any reduction or exemption of Turkish tax granted under the provisions concerning special incentive measures to promote economic development in Turkey.

Notwithstanding the preceding sentence, the tax on income paid in Turkey shall be calculated,

- (i) In the case of dividends referred to in sub-paragraph *a)* of paragraph 2 of Article 10 and not exempt under sub-paragraph *b)* of this paragraph, at a rate of 15 per cent;
- (ii) In the case of dividends referred to in sub-paragraph *b)* of paragraph 2 of Article 10 and not exempt under sub-paragraph *b)* of this paragraph, at a rate of 20 per cent;
- (iii) In the case of interest referred to in paragraph 2 of Article 11, at a rate of 15 per cent;
- (iv) In the case of royalties and other payments referred to in paragraphs 2 and 7 of Article 12, at a rate of 10 per cent.

However, if the tax rates under Turkish taxation law applicable to dividends, interest and royalties derived by persons who are not residents of Turkey are reduced below those mentioned in this sub-paragraph, these lower rates shall apply for the purposes of this sub-paragraph.

2. In Turkey double taxation shall be eliminated as follows:

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

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

b) Dividends paid by a company which is a resident of Finland to a company which is a resident of Turkey shall be exempt from Turkish tax to the extent that the dividends would have been exempt from tax under Turkish taxation law if both companies had been residents of Turkey.

Article 23. NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. Subject to the provisions of paragraph 4 of Article 10, the taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. 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. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

Article 24. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the

case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Subject to the provisions of the taxation laws of the Contracting States, in the event the competent authorities reach an agreement, taxes shall be imposed, and refund or credit of taxes shall be allowed by the Contracting States in accordance with such agreement.

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

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

Article 25. EXCHANGE OF INFORMATION

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

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

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

Article 26. 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 27. ENTRY INTO FORCE

1. The Governments of 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 later 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 1 January in the year next following the year in which the Agreement enters into force.

b) In Finland:

- (i) In respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Agreement enters into force;
- (ii) In respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

Article 28. 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 notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

a) In Turkey, for taxes with respect to every taxable year beginning on or after 1 January in the year next following the year in which the notice is given.

b) In Finland:

- (i) In respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given;
- (ii) In respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Ankara this ninth day of May 1986, in the Finnish, Turkish and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

For the Government of the Republic of Finland:

PAAVO VÄYRYNEN

For the Government of the Republic of Turkey:

V. HALEFOĞLU

PROTOCOL

At the moment of the signing of the Agreement between the Republic of Finland and the Republic of Turkey 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. *With reference to Article 6, paragraph 2*

It is understood that the term “fishing places of every kind” shall be included in the concept of immovable property in the case of Turkey only, and open sea fishing shall not be treated under the same meaning.

2. *With reference to Article 7, paragraph 1*

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

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

the sales and the business activities shall be taxed in that other State as part of the profits of the permanent establishment to the extent that the same or similar kind of sales or of activities have been effected through the permanent establishment. This taxation cannot be excluded by artificial sales arrangements.

The provisions of sub-paragraphs *a)* and *b)* above shall not apply if the enterprise proves that such sales or activities are not attributable to the permanent establishment.

3. *With reference to Article 10, paragraph 3*

It is understood that the term “dividends” in the case of Turkey shall also include the income from “*Jouissance*” shares or “*Jouissance*” rights, or founders’ shares and income from investment funds and investment trusts.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Ankara this ninth day of May 1986, in the Finnish, Turkish and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

For the Government of the Republic of Finland:

PAAVO VÄYRYNEN

For the Government of the Republic of Turkey:

V. HALEFOĞLU