

No. 26934

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**FRANCE
and
TURKEY**

Convention for the avoidance of double taxation with respect to taxes on income (with protocol). Signed at Paris on 18 February 1987

Authentic texts: French and Turkish.

Registered by France on 28 November 1989.

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**FRANCE
et
TURQUIE**

Convention en vue d'éviter les doubles impositions en matière d'impôts sur le revenu (avec protocole). Signée à Paris le 18 février 1987

Textes authentiques : français et turc.

Enregistrée par la France le 28 novembre 1989.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC
OF TURKEY FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME

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

Desiring to conclude a convention for the avoidance of double taxation with
respect to taxes on income have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

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

2. There shall be regarded as taxes on income all taxes imposed on total in-
come 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 Convention shall apply are, in particular:

(a) In the case of France:

- (i) The income tax (*l'impôt sur le revenu*);
- (ii) The corporation tax (*l'impôt sur les sociétés*);

including any withholding tax, prepayment (*précompte*) or advance payment with
respect to the aforesaid taxes

(hereinafter referred to as “French tax”);

(b) In the case of Turkey:

- (i) The income tax (*gelir vergisi*);
- (ii) The corporation tax (*kurumlar vergisi*);
- (iii) The defence industry support fund (*savunma sanayii destekleme fonu*);

¹ Came into force on 1 July 1989, i.e., the first day of the second month following the date of receipt (23 May 1989) of the last of the notifications by which the Contracting Parties had informed each other of the completion of the required procedures, in accordance with article 29 (1).

- (iv) The social work and solidarity support fund (*sosyal yardımlaşma ve dayanışmayı teşvik fonu*);
- (v) The fund for development and promotion of professional and technical apprenticeships and training (*çıraklık, mesleki ve teknik eğitimi geliştirme ve yaygınlaştırma fonu*)

(hereinafter referred to as “Turkish tax”).

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

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

(a) i) The term “Turkey” means the territory of the Republic of Turkey, including its territorial sea and any area outside it, including the continental shelf, which is, in accordance with international law, an area within which the Republic of Turkey may exercise sovereign rights or exclusive jurisdiction.

ii) The term “France” means the territory of the European and overseas departments of the French Republic, including its territorial sea and any area outside it which is, in accordance with international law, an area within which the French Republic may exercise sovereign rights or exclusive jurisdiction.

(b) The terms “a Contracting State” and “the other Contracting State” mean France or Turkey, as the context requires.

(c) The term “tax” means any tax designated in article 2 of this Convention.

(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 “statutory head office” means the head office within the meaning of the French Code of Commerce or the Turkish Code of Commerce.

(g) The term “nationals” means, with respect to France or Turkey, any individual possessing French or Turkish nationality under the French or Turkish Nationality Code, and any body corporate, partnership or association treated as such an individual under the laws in force in France or Turkey.

(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 the case of the Republic of Turkey, the Minister of Finance and Customs or his authorized representative;

(ii) In the case of the French Republic, the Minister in charge of the Budget or his authorized representative.

(j) The term “international traffic” means any transport by a ship, aircraft or road vehicle operated by a French or Turkish enterprise, except when the ship, aircraft or road vehicle is operated solely between places within France or Turkey.

2. As regards the application of the Convention 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 Contracting State concerning the taxes to which the Convention applies.

Article 4

RESIDENT

1. For the purposes of this Convention, 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, statutory head 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 Contracting State in which he has an habitual abode;

(c) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident 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 statutory head office is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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.

3. A building site or an assembly or installation project shall constitute a permanent establishment only if it lasts more than six months.

4. Notwithstanding the preceding provisions of this article, the term “permanent establishment” shall be deemed not to include:

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

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

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

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

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

(f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (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 Contracting State in respect of any activities which that person undertakes for the enterprise, if such person:

(a) Has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the use of such authority is limited to the powers 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 estab-

lishment 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 grounds, 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, springs and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. Where the holder of shares or other rights in a company is thereby entitled to enjoyment of immovable property held by that company, then income from the direct use, rental, or any other form of enjoyment of that property shall be taxable in the Contracting State in which the immovable property is situated.

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

5. The provisions of paragraphs 1, 3 and 4 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 or 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 the determination of the profits of a permanent establishment there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. No such deduction shall be allowed in respect of amounts

paid (other than towards reimbursement of actual expenses) by the permanent establishment to the statutory head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of licences, patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

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

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

Article 8

SHIPPING, AIR TRANSPORT AND ROAD TRANSPORT

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

2. The provisions of paragraph 1 shall also apply to profits from 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 first-mentioned State considers that the profits so included are 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 two independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to

the other provisions of this Convention 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) Fifteen 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 10 per cent of the capital of the company paying the dividends;

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

3. (a) A resident of Turkey who receives from a company which is a resident of France dividends which, if received by a resident of France, would entitle such resident to a fiscal credit (*avoir fiscal*), shall be entitled from the French Treasury to a payment equal to such fiscal credit, subject to the deduction of tax at source as provided for under paragraph 2 (b) of this article.

(b) The provisions of subparagraph (a) of this paragraph shall apply only to a resident of Turkey who is:

- (i) An individual; or
- (ii) A company which owns directly or indirectly less than 10 per cent of the share capital of the French company distributing the dividends.

(c) The provisions of subparagraph (a) of this paragraph shall not apply if the recipient of the payment from the French Treasury as provided thereunder is not subject to Turkish tax in respect of the payment.

(d) Payments from the French Treasury provided for in subparagraph (a) of this paragraph shall be deemed to be dividends for the purposes of this Convention.

4. 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, as well as income subject to the distribution regime under the tax laws of the State of which the company making the distribution is a resident, including income from an investment fund or investment trust.

5. Profits made by a company of a Contracting State that carries on business in the other Contracting State through a permanent establishment situated therein may, after being taxed pursuant to article 7, be subject to tax on the surplus in the Contracting State wherein the permanent establishment is situated, but the rate of the tax so levied shall not exceed 50 per cent of the percentage provided for in subparagraph 2 (a) of this article.

6. The provisions of paragraphs 1 and 2 of this article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends

is a resident, through a permanent establishment situated therein, or, in the case of a resident of Turkey, performs independent personal services in France from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14 of this Convention, as the case may be, shall apply.

7. A resident of Turkey who receives dividends paid by a company which is a resident of France, and who is not entitled to the payment from the French Treasury referred to in paragraph 3 for such dividends, may obtain a refund of the relevant prepayment (*précompte*), in the event it has been paid by such company. Such refund shall be taxable in France in accordance with the provisions of paragraph 2.

The gross amount of the prepayment (*précompte*) refunded shall be deemed to be dividends for the purposes of the provisions of this Convention.

8. Subject to the provisions of paragraph 5, where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

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

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:

(a) In France and paid to the Government of Turkey or to the Central Bank of Turkey (Türkiye Cumhuriyet Merkez Bankası) shall be exempt from French taxation;

(b) In Turkey and paid to the French Government or to the Central Bank of France (Banque centrale de France) shall be exempt from Turkish taxation;

(c) In one Contracting State in connection with a loan or credit backed by the Government of the other Contracting State shall be exempt from taxation in the first-mentioned State.

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

income from money lent by the law of the Contracting State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 of this article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or, in the case of a resident of Turkey, performs independent personal services in France from a fixed base situated therein, and the debt-claim in respect of which interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of article 7 or article 14 of this Convention, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of the State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if 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 payment of any kind received as a consideration for the use or marketing of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or for the use of, or the right to use, industrial, commercial or scientific equipment.

4. The provisions of paragraphs 1 and 2 of this article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or, in the case of a resident of Turkey, performs

independent personal services in France from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14 of this Convention, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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 shares in a company or other body corporate whose assets consist mainly of immovable property or of rights to such property may be taxed in the State where such immovable property is situated when, under its legislation, they are subject to the same tax treatment as gains from the alienation of immovable property. In the application of this provision there shall not be taken into consideration any building employed by such company or body corporate in its own industrial, commercial or agricultural operation or in performing independent personal services.

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 a 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 of movable property pertaining to the operation of such ships, aircraft or road vehicles, shall be taxable only in the Contracting State in which the statutory head office of the enterprise is situated.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident. However, the capital gains mentioned in the preceding sen-

tence, if acquired in the other Contracting State, may be taxed in that other Contracting State if the interval between acquisition and alienation does not exceed one year.

Article 14

INDEPENDENT PERSONAL SERVICES

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

(a) The said resident has a fixed base regularly available to him in the other State for the purpose of performing his services or activities; or

(b) He resides in the other State to perform his services or activities for a period or periods totalling 183 days or more in the course of 12 consecutive months.

In such circumstances, only that part of the income that is attributable to the said fixed base or derived from services or activities performed during residence in the other State may be taxed in the other State.

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

(a) The said enterprise has a permanent establishment in the other State through which such services or activities are performed; or

(b) The period or periods during which the services or activities are performed exceed 183 days in the course of 12 consecutive months.

In such circumstances, only that part of the income that is attributable to the permanent establishment or to the services or activities performed in the other State, as the case may be, may be taxed in that other State. In either case, the enterprise may choose to be taxed on that income in the other State pursuant to the provisions of article 7 of this Convention as if that income were attributable to a permanent establishment of the enterprise situated in that other State. That option shall be without prejudice to the right of that other State to apply a deduction at source to such income.

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

Article 15

DEPENDENT PERSONAL SERVICES

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

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

(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 only in the Contracting State in which the statutory head office of the enterprise is situated.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments received 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

ENTERTAINERS 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 a resident of a Contracting State from activities referred to in paragraph 1 and exercised in the other Contracting State may be taxed only in the first-mentioned State if these activities in the other State are financed directly or indirectly by the first-mentioned State, one of its territorial authorities, or by a public-service association or organization.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 1 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. This provision shall also apply to life annuities paid to a resident of a Contracting State.

2. Pensions and life annuities paid, and other periodic or occasional payments made by a Contracting State or one of its territorial authorities in respect of personal accident insurance, shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. Remuneration, including pensions, paid by a Contracting State or a political subdivision or local authority thereof, either directly or by disbursement from funds established for that purpose, to an individual in respect of services rendered to that State or subdivision or authority, shall be taxable only in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration and pensions paid 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 a national of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that State.

2. Remuneration which a student or business apprentice who is a national of a Contracting State receives in respect of services rendered in the other Contracting State during his education or training and which are related thereto shall not be taxed in that other State.

Article 21

TEACHERS AND RESEARCH WORKERS

1. A teacher or research worker who is a national of a Contracting State and who is present in the other Contracting State principally for the purpose of teaching or carrying out research work shall be exempt from tax for one or more periods not exceeding two years on the remuneration for his services to teaching or research, on condition that such remuneration shall be paid from sources outside that other State.

2. The provisions of paragraph 1 shall apply to income derived from research only if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income other than income from immovable property as defined in article 6, paragraph 2, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply.

Article 23

PROVISIONS FOR THE AVOIDANCE OF DOUBLE TAXATION

Double taxation shall be avoided as follows:

1. In the case of Turkey:

Where a resident of Turkey derives income which, in accordance with the provisions of this Convention, may be taxed in France and in Turkey, Turkey shall, subject to the provisions of Turkish tax legislation on foreign tax credits, grant an abatement of that person's income tax equal to the amount of the income tax paid in France.

Such abatement shall not, however, exceed that part of the income tax, as computed in Turkey before the abatement is granted, which is appropriate to the income taxable in France.

2. In the case of France:

(a) Where a resident of France derives income which, in accordance with the provisions of this Convention, may be taxed in Turkey and in France, France shall grant an abatement of that resident's income tax equal to the amount of the income tax paid in Turkey.

Such abatement shall not, however, exceed that part of the income tax, as computed before the abatement is granted, which is appropriate to the income taxable in Turkey.

(b) For the purposes of subparagraph (a), the phrase "income tax paid in Turkey" shall be deemed to include any Turkish tax that would have been due under Turkish tax legislation, with the exception of any tax abatement or exemption granted under the special incentive measures to encourage economic development in Turkey.

Notwithstanding the preceding sentence, income tax payable in Turkey is computed:

- (i) At the rate of 15 per cent with respect to the dividends referred to in article 10, paragraph 2 (a);
- (ii) At the rate of 20 per cent with respect to the dividends referred to in article 10, paragraph 2 (b);
- (iii) At the rate of 15 per cent with respect to the interest referred to in article 11, paragraph 3;
- (iv) At the rate of 10 per cent with respect to the royalties referred to in article 12, paragraph 2.

However, if the rates of tax applicable under Turkish tax legislation to dividends, interest and royalties received by persons not resident in Turkey are less than the rates mentioned in this subparagraph, those lower rates shall apply for the purposes of this subparagraph.

Article 24

NON-DISCRIMINATION

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

2. Subject to the provisions of article 10, paragraph 5, the taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

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

4. Except where the provisions of article 9, of article 11, paragraph 7, or of article 12, paragraph 6, 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.

5. The provisions of this article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and deductions 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 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 this Convention, 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 article 24, paragraph 1, 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 State, with a

view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time-limits in the domestic law of the Contracting States.

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 Convention.

The competent authorities of the Contracting States may consult together to endeavour to agree:

(a) To the same attribution in both States of the profits attributable to a permanent establishment situated in a Contracting State of an enterprise situated in the other Contracting State;

(b) To the same allocation of income between a resident of a Contracting State and an associated person within the meaning of article 9 who is a resident of the other Contracting State.

They may also consult together with a view to the elimination of double taxation in cases not provided for in the Convention.

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.

5. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of the Convention and, especially, the requirements to which the residents of one Contracting State shall be subjected in order to obtain, in the other Contracting State, the tax reliefs or exemptions provided for by the Convention.

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention. 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 which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes but 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 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Convention 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. However, the Convention shall not apply to international organizations, to organs or officials thereof or to persons who are members of a diplomatic mission or consular post of a third State, being present in the territory of a Contracting State and not liable during their stay to the same income tax obligations as residents of that State.

2. For the purposes of this Convention, any individual who is a member of a diplomatic mission or consular post of a Contracting State in the other Contracting State or in a third State and who is a national of the sending State shall be deemed a resident of the sending State if he is liable to the same income tax obligations as are residents of that State.

Article 28

TERRITORIAL SCOPE

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the overseas territories of the French Republic, which levy taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date as may be specified and agreed between the States, by means of an exchange of notes through the diplomatic channel or in any other manner in accordance with their constitutional procedures. Such agreement shall also provide for any necessary modifications to the Convention and specify how it shall apply to the overseas territories to which it is extended.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under article 30 shall also terminate, in the manner provided for in that article, the application of the Convention to any territory to which it has been extended under this article.

Article 29

ENTRY INTO FORCE

1. Each Contracting State shall notify the other of the completion of the procedures required by it for the entry into force of this Convention, which shall enter into force on the first day of the second month following the date of receipt of the latter of these notifications.

2. Its provisions shall apply for the first time:

(a) In Turkey, to taxes relating to each fiscal year beginning on or after 1 January of the year following the year of entry into force of the Convention;

(b) In France, in respect of taxes on income, to income derived during the calendar year following that in which the Convention enters into force or relating to the accounting period ending during that year.

Article 30

TERMINATION

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention by giving at least six months' notice, before the end of the calendar year, through the diplomatic channel.

2. In such an event, the Convention shall cease to have effect:

(a) In Turkey, for taxes due for every taxation year beginning on or after 1 January of the year following that in which notice of termination is given;

(b) In France, in respect of taxes on income, to income derived during the calendar year following that in which the notice of termination is given or relating to the accounting period ending during that year.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Paris on 18 February 1987, in duplicate in the French and Turkish languages, both texts being equally authentic.

For the Government
of the French Republic:

[JEAN-BERNARD RAIMOND]

For the Government
of the Republic of Turkey:

[VAHID HALEFOGLU]

PROTOCOL

At the time of signature of the Convention between the Government of the French Republic and the Government of 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 form an integral part of the Convention.

1. With respect to article 7, paragraph 1, it is agreed that, when an enterprise of a Contracting State has a permanent establishment in the other Contracting State and when that enterprise:

(a) Sells goods or merchandise in the other State that are identical or similar to those sold through the permanent establishment, or

(b) Carries on in the other State business activities that are identical or similar to those carried on through the permanent establishment,

the profits derived from such sales or business activities shall be taxable in the other Contracting State as part of the profits of the permanent establishment to the extent that sales or business activities of the same kind were undertaken through the permanent establishment.

However, the profits derived from such sales or business activities shall not be taxable in that other Contracting State if the enterprise can prove that the sales or business activities were undertaken for reasons other than to take advantage of the provisions of this Convention.

2. In respect of article 7, paragraphs 1 and 2, where an enterprise of a Contracting State sells goods or merchandise or carries on a business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall be determined not on the basis of the total amount received by the enterprise, but only on the basis of the remuneration which is attributable to the actual activity of the permanent establishment for such sales or business.

In the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits of such permanent establishment shall be determined not on the basis of the total amount of the contract, but only on the basis of that part of the contract that is effectively carried out by the permanent establishment in the Contracting State where the permanent establishment is situated. The profits related to that part of the contract that is carried out by the head office of the enterprise shall be taxable only in the Contracting State of which the enterprise is a resident.

3. With respect to articles 10, 11 and 12, it is agreed that the “beneficial owner” clause shall be interpreted to mean that a resident of a third State cannot take advantage of this Convention in respect of dividends, interest or royalties arising in France or in Turkey, but that such restriction shall in no way apply to residents of a Contracting State.

4. With respect to article 12, paragraph 3, remuneration paid for technical services, including scientific, geological or engineering analyses or studies, or for project study work, including related plans, or consultancy or supervisory services, shall not be regarded as remuneration paid for information relating to experience acquired in the industrial, commercial or scientific field.

5. With respect to articles 10, 11 and 24, Contracting States shall in no way be barred from applying the provisions of their domestic legislation relating to under-capitalization.

6. With respect to article 24, paragraph 1, it is agreed that the expression “in the same circumstances” used therein refers to taxpayers (individuals, bodies corporate, partnerships and associations) whose situation with regard to the applicable legislation and tax instructions is substantially the same in fact and in law.

This agreement means, *inter alia*, that a national of one Contracting State residing in a third State and carrying on business in the other Contracting State shall be subject in that other Contracting State to the same taxation or to the same obligations relating thereto as those to which a national of that other Contracting State residing in a third State and carrying on business in that other Contracting State is or may be subject.

7. With respect to article 25, paragraph 2, it is agreed that the taxpayer must, in the case of Turkey, claim the tax abatement arising from the mutual agreement procedure within one year from the notification by the tax administration of the result of the said procedure.

8. With respect to article 30, it is agreed that the provisions of this Convention relating to the elimination of double taxation, to the mutual agreement procedure and to administrative assistance shall continue to apply after 31 December of the calendar year for the end of which notice of termination has been given for the purposes of assessment of tax on the income covered by this Convention.

DONE at Paris on 18 February 1987, in duplicate in the French and Turkish languages, both texts being equally authentic.

For the Government
of the French Republic:

[JEAN-BERNARD RAIMOND]

For the Government
of the Republic of Turkey:

[VAHID HALEFOGLU]