

Convention between the Republic of Korea and
the Republic of Turkey
for the Avoidance of Double Taxation and for the Arrangement
of Matters with respect to Taxes on Income

Signed at Ankara December 24, 1983

Entered into force March 27, 1986

Desiring to conclude a Convention for the avoidance of double taxation and for the arrangement of matters with respect to taxes on income

Have agreed as follows:

Article 1. **【Personal Scope】** [1986.3.27]

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

Article 2. **【Taxes Covered】** [1986.3.27]

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

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income.

3. The existing taxes to which the Convention shall apply are, in particular;

(a) In the case of Korea:

(i) the income Tax;

(ii) the corporation Tax;

(iii) the inhabitant Tax where charged by reference to the income tax or the corporation tax;

(hereinafter referred to as "Korean Tax");

(b) In the case of Turkey:

(i) Income Tax;

(ii) Corporation Tax;

(hereinafter referred to as "Turkish Tax")

4. The Convention shall apply also to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws covered by this Convention.

Article 3. **【General Definitions】** [1986.3.27]

1. In this Convention, unless the context otherwise requires:

(a) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights of the Republic of Korea with respect to the sea-bed and sub-soil and their natural resources may be exercised;

The term "Turkey" means the territory of the Republic of Turkey, including any area in which the laws of Turkey are in force, as well as the continental shelf over which Turkey has, in accordance with international law, sovereign rights to explore and exploit its natural resources.

(b) The terms "a Contracting State" and "the other Contracting State" mean Korea or Turkey as the context requires;

(c) The term "tax" means Korean tax or Turkish tax covered by Article 2 of this Convention, as the context requires;

(d) The term "person" comprises an individual, a company and any other body of persons which is treated as an entity for tax purposes;

(e) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) The term "Registered Office", in the case of Korea means "the head office" or "the main office" under Korean laws or in the case of Turkey means the legal head office registered under the Turkish Code of Commerce;

(g) the term "nationals" means,

() In respect of Korea, all individuals possessing the nationality of Korea and all legal persons, partnerships; associations and other entities deriving their status as such from the laws in force in Korea

() In respect of Turkey, all individuals possessing the Turkish nationality from the "Turkish Nationality Code", and legal persons, partnerships and associations deriving their status as such from the law in force in 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;

() In the case of Korea, the Minister of Finance or his authorized representative;

() In the case of Turkey, the Minister of Finance or his authorized representative;

(j) The expression "international traffic" means any transport by a ship or an aircraft by a Korean or Turkish enterprise, except when the ship or the aircraft is operated solely between places situated in the territory of Korea or of Turkey.

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

Article 4. **【Resident】** [1986.3.27]

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 taxation therein, by reason of his domicile, residence, Registered Office, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

(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 (center of vital interests);

(b) If the Contracting State in which he has his center 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 25.

Article 5. **【Permanent Establishment】** [1986.3.27]

1. For the purpose of this Convention, the term "Permanent establishment" means a fixed place of

business in which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

- (a) A place of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, an oil or gas well, a quarry or other place of extraction of natural resources.

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith shall constitute a permanent establishment only if such site, project or activities continue for a period of 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 for 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, if it has a preparatory or auxiliary character of collecting information, or scientific research, or similar activities;

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent

establishment in the first mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in 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, where 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】** [1986.3.27]

1. Income from immovable property (including income from agriculture or forestry) may be taxed in the Contracting State in which such property is situated.

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

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

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

Article 7. **【Business Profits】** [1986.3.27]

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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction will be allowed in respect of the amounts paid by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, interests, commissions or other similar payments.

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

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

Article 8. **【Shipping and Air Transport】** [1986.3.27]

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

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

3. In respect of the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State, that enterprise, if an enterprise of Turkey, shall also be exempt from the value added tax in Korea and, if an enterprise of Korea, shall also be exempt from any tax similar to the value added tax in Korea which may hereafter be imposed in Turkey.

Article 9. **【Associated Enterprises】** [1986.3.27]

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.

Article 10. **【Dividends】** [1986.3.27]

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 be taxed in the Contracting State of which the company paying the dividends is a resident, in accordance with the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 15 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends ;

(b) in all other cases, 20 per cent of the gross amount of the dividends. The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the

company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

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

Article 11. **【Interest】** [1986.3.27]

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:

(a) 10 per cent of the gross amount of such interest where it is paid in respect of a loan or other debt claim for a period exceeding two years;

(b) 15 per cent of the gross amount of such interest in all other cases.

3. Notwithstanding the provisions of paragraph 2 interest arising in a Contracting State and received by the Government of the other Contracting State including a political subdivision or a local authority thereof or the central bank of that other Contracting State shall be taxable only in that other Contracting State.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent according to the taxation law of the State in which the income arises.

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

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

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

Article 12. **【Royalties】** [1986.3.27]

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 payments of any kind received as a consideration for the use of, or the right to use, the sale of 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 equipment.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State, in which royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment, in such cases the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment with which the right or property giving rise to the royalties is

effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 13. **【Capital Gains】** [1986.3.27]

1. Capital gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in the other State. However, gains from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State of which the enterprise is a resident.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2 shall be taxable only in the State of which the alienator is a resident. However, the capital gains mentioned in the foregoing sentence and derived from the other Contracting State, may be taxable in the other Contracting State if the time period does not exceed one year between acquisition and alienation.

Article 14. **【Independent Personal Services】** [1986.3.27]

1. Income derived by a resident of Contracting State in respect of professional services or other independent activities of an independent character shall be taxable only in that State unless such activities are exercised in the other Contracting State. If the activities are exercised in the other State, income derived therefrom may be taxed in the 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 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 Contracting State, and

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

Article 15. **【Dependent Personal Services】** [1986.3.27]

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 taxable 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 by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic, shall be taxable only in that State.

Article 16. **【Directors' Fees】** [1986.3.27]

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

Article 17. **【Artistes and Athletes】** [1986.3.27]

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, and musicians, 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 from activities performed in a Contracting State by entertainers or athletes when their visit to that State is substantially supported from the public funds of the other Contracting State, including those of any political subdivision, a local authority or statutory body thereof, and income derived by a nonprofit making organization in respect of such activities, provided no part of its income is payable to, or is otherwise available for the personal benefit of its proprietors, members or shareholders, shall not be taxed in the first mentioned Contracting State.

Article 18. 【Pensions】 [1986.3.27]

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 provisions shall also apply to life annuities paid to a resident of a Contracting State.

Article 19. 【Government Functions】 [1986.3.27]

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

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

Article 20. 【Teachers and Students】 [1986.3.27]

1. Payments which a student or business apprentice who is a national of a Contracting State and who resides temporarily 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 other State.

2. Likewise, remuneration received by a teacher or by an instructor who is a national of a Contracting State and who resides temporarily in the other Contracting State for the primary purpose of teaching or engaging in scientific research for a period or periods not exceeding two years shall be exempt from tax in that other State on his remunerations from personal services for teaching or research, provided that such payments are received from sources outside that other State.

3. Remuneration which a student or a trainee who is a national of a Contracting State derives from an employment which he exercises in the other Contracting State for a period or periods not exceeding 183 days in a calendar year, in order to obtain practical experience related to his education or formation shall not be taxed in that other State.

Article 21. **【Other Income】** [1986.3.27]

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.

Article 22. **【Relief from Double Taxation】** [1986.3.27]

1. In the case of a resident of Korea, double taxation shall be avoided as follows:

Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle of this Convention), the Turkish tax payable (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) under the laws of Turkey and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Turkey shall be allowed as a credit against Korean tax payable (including the income tax, the corporation tax and any other tax imposed instead of, or in addition to those taxes) in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Turkey bears to the entire income subject to Korean tax.

2. For the purposes of paragraph 1, the term "Turkish tax payable" shall be deemed to include the amount of Turkish tax which would have been payable in accordance with Turkish tax laws but for the exemption or reduction of Turkish tax in accordance with the laws relating to incentives for the promotion of economic development in Turkey which were in force on the date of signature of this Convention or any other provisions which may subsequently be introduced in Turkey in modification of, or in addition to, those laws so far as they are informed by the competent authorities of the Contracting State to be of a substantially similar character: Provided that the amount of the tax referred to in this paragraph shall be equal to:

(a) in the case of dividends referred to in paragraph 2 (a) of Article 10 an amount of 15 per cent of the gross amount of such dividends and, in the case of dividends referred to in paragraph 2 (b) of Article 10 an amount of 20 per cent of the gross amount of such dividends.

(b) in the case of interest referred to in paragraph 2 a) of Article 11 an amount of 10 per cent of the gross amount of such interest and, in the case of interest referred to in paragraph 2 b) of Article 11 an amount of 15 per cent of the gross amount of such interest; and

(c) in the case of royalties referred to in paragraph 2 of Article 12 an amount of 10 per cent of the gross amount of such royalties.

If, however, Turkey provides tax rates on the above-mentioned dividends, interest or royalties for nonresidents lower than the above-mentioned rates under its domestic laws, the amount of the tax referred to in this paragraph shall be that calculated according to those lower rates.

3. In the case of a resident of Turkey, double taxation shall be avoided as follows:

Subject to the provisions of Turkish tax law regarding the allowance as a credit against Turkish tax of tax payable in any country other than Turkey (which shall not affect the general principle of this Convention), the Korean tax payable under the laws of Korea and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Korea shall be allowed as a credit against Turkish tax payable (including the income tax, the corporation tax and any other tax imposed instead of or in addition to those taxes) in respect of that income. The credit shall not, however, exceed that proportion of Turkish tax which the income from sources within Korea bears to the entire income subject to Turkish tax.

4. For the purposes of paragraph 3, the term "Korean tax payable" shall be deemed to include the amount of Korean tax which would have been payable in accordance with Korea tax laws but for the exemption or reduction of Korean tax in accordance with the laws relating to incentives for the promotion of economic development in Korea which were in force on the date of signature of this Convention or any other provisions which may subsequently be introduced in Korea in modification of, or in addition to, those laws so far as they are informed by the competent authorities of the Contracting States to be a substantially similar character: Provided that the amount of the tax referred to in this paragraph shall be equal to:

(a) in the case of dividends referred to in paragraph 2 (a) of Article 10 an amount of 15 per cent of the gross amount of such dividends and, in the case of dividends referred to in paragraph 2 (b) of Article 10 an amount of 20 percent of the gross amount of such dividends.

(b) in the case of interest referred to in paragraph 2 (a) of Article 11 an amount of 10 per cent of the gross amount of such interest and, in the case of interest referred to in paragraph 2 (b) of Article 11 an amount of 15 per cent of the gross amount of such interest; and

(c) in the case of royalties referred to in paragraph 2 of Article 12 an amount of 10 per cent of the gross amount of such royalties. If, however, Korea provides tax rates on the above-mentioned dividends, interest or royalties for nonresidents lower than the above-mentioned rates under its domestic laws, the amount of the tax referred to in this paragraph shall be that calculated according to those lower rates.

Article 23. **【Non-Discrimination】** [1986.3.27]

1. The 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. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably 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 Contracting 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 that first-mentioned State are or may be subjected.

4. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and deduction for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

5. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 5 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.

Article 24. **【Exchange of Information】** [1986.3.27]

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention.

Any information so exchanged shall be treated as secret and shall not be disclosed to any person

or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Convention and with related complaints and resources as well as judiciary authorities for penal prosecutions related with the above mentioned taxes.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States 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 are 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.

Article 25. **【Mutual Agreement Procedure】** [1986.3.27]

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for 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.

5. The nationals of a Contracting State performing dependent personal activities in the other Contracting State may, in solving their taxation matters, seek the assistance of officials sent by an authorized agency of their State of origin to the other Contracting State; the authority and responsibilities of these agencies and offices shall be determined in accordance with the legal

provisions of the other Contracting State. If the activities concerned are subject to official licensing in the other Contracting State, they may only be performed in cooperation with persons or authorities authorized under the laws of the other Contracting State to perform such activities.

Article 26. **【Diplomatic and Consular Officers】** [1986.3.27]

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officers under the general rules of international law or under the provisions of special agreements.

Article 27. **【Entry into Force】** [1986.3.27]

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Seoul as soon as possible.

2. The Convention shall enter into force on the thirtieth day after the exchange of the instruments of ratification and its provisions shall have effect:

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

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

Article 28. **【Termination】** [1986.3.27]

1. This Convention shall remain in force for a limitless period.

2. After January 1st of the fifth year of the ratification of this Convention, either Contracting State may denounce the Convention through diplomatic channels, by giving notice of termination at least in the first six months of any calendar year. In such event, the Convention shall cease to have effect:

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

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

Terminal Clause

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at this day of of the year one thousand nine hundred and eighty on three

original copies each in the Korean, Turkish and English languages, all the texts being equally authentic. In case of divergence between the three texts, the English text shall be the operative one.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA
FOR THE GOVERNMENT OF THE REPUBLIC OF TURKEY

[1986.3.27]

PROTOCOL

At the moment of signing the Convention between the Republic of Korea and the Republic of the Turkey for the Avoidance of Double Taxation and for the arrangement of matters with respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. In respect of subparagraph a) of paragraph 3 of Article 2 of the Convention, it is understood that the Convention shall apply to the Korean defense tax where charged by reference to the income tax or the corporation tax.

2. In respect of paragraph 3 of Article 7 of the Convention it is understood that in determining the profits of a permanent establishment, reasonable amount of the executive and general administrative expenses of the enterprise shall be deducted.

The reasonable amount of such expenses shall be calculated according to one of following methods whichever is most favorable to taxpayers. However, such expenses shall be determined by the same methods year by year unless there is good and sufficient reason to the contrary:

a) a proportion between the total turnover of the enterprise and the permanent establishment (Turnover method);

b) a proportion between the total gross profit of the enterprise and the permanent establishment (Gross profit method);

c) a proportion between the total working capital of the enterprise and the permanent establishment (working capital method);

d) any other satisfactory method agreed by the competent authorities of the Contracting States.

3. In respect of Article 7 where an enterprise of a Contracting State derives profits or income from the other Contracting State through a permanent establishment, that other State may impose only the income tax or the corporation tax on such profits or income as the case may be; The

other Contracting State, many case, shall not impose any kind of additional taxes on such profits or income.

Especially the additional taxes include in the case of Korea the defense tax and the inhabitant tax and, in the case of Turkey the tax imposed as dividend income on the remaining amount after having been taxed under Article 7.

4. In respect of paragraph 1 of Article 7 it is understood that artificial sales arrangements will be prevented by communicating between competent authorities of the Contracting States.

5. In respect of Article 10, 11 and 12 it is understood that the "beneficiary owner" clause should be commented in the meaning that a third countries resident will not be allowed to get benefit from the Double Taxation Convention with regard to dividend, interest and royalty income derived from Korea or Turkey, and this prevention shall not be extended to the residents of the Contracting States.

6. In respect of paragraph 1 of Article 19, it is understood that a person resident in a Contracting State who performs dependent personal services in the other Contracting State for collecting information or similar activities in order to promote the trade between two States on behalf of his State, shall be deemed to have a governmental function referred to therein.

In witness whereof, the undersigned have signed the present Protocol which shall have the same force and validity as if it were inserted word by word in the Convention.

Done in duplicate at Ankara this twenty fourth day of December of year one thousand nine hundred and eighty three on three original copies each in the Korean, Turkish and English languages, all the texts being equally authentic. In case of divergence between the three texts, the English text shall be the operative one.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA
FOR THE GOVERNMENT OF THE REPUBLIC OF TURKEY
