

CANADA and THE REPUBLIC OF TURKEY,

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

HAVE AGREED as follows:

I. SCOPE OF THE AGREEMENT

Article 1

Persons Covered

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are, in particular:
 - (a) in the case of Canada, the taxes imposed by the Government of Canada under the *Income Tax Act*;
(hereinafter referred to as "Canadian tax");
 - (b) in the case of Turkey:
 - (i) the income tax (*Gelir Vergisi*);
 - (ii) the corporation tax (*Kurumlar Vergisi*); and
 - (iii) the levy imposed on the income tax and the corporation tax;
(hereinafter referred to as "Turkish tax").

4. The Agreement shall apply also to any substantially similar taxes and to taxes on capital which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes.

The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

II. DEFINITIONS

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

II. DEFINITIONS

Article 3

General Definitions

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

(a) the term "Canada" means the territory of Canada, including its land territory, internal waters and territorial sea, and includes the air space above these areas, as well as the exclusive economic zone and the continental shelf, as determined by its domestic law, consistent with international law;

(b) the term "Turkey" means the Turkish territory, territorial sea, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purposes of exploration, exploitation and conservation of natural resources, pursuant to international law;

(c) the terms "a Contracting State" and "the other Contracting State" mean Turkey or Canada as the context requires;

(d) the term "person" includes an individual, an estate, a trust, 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 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;

(g) the term "competent authority" means:

(i) in Canada, the Minister of National Revenue or the Minister's authorized representative;

(ii) in Turkey, the Minister of Finance or the Minister's authorized representative;

(h) the term "tax" means any tax covered by Article 2;

(i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places situated in the territory of the other Contracting State;

(j) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State.

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

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence,

ARTICLE 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence, place of registration, 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 the individual's status shall be determined as follows:
 - (a) the individual shall be deemed to be a resident only of the State in which the individual has a permanent home available; if the individual has a permanent home available in both States, the individual shall be deemed to be resident only of the State with which the individual's personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which the individual's centre of vital interests is situated cannot be determined, or if there is not a permanent home available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;
 - (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;
 - (d) if the individual 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 provision 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 only of the Contracting State in which it has been incorporated (registered) or, where that person has not been incorporated (registered) in either State, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Agreement to such person. In the absence of such agreement, such person shall not be entitled to claim any relief or exemption from tax provided by the Agreement.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" 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. The term "permanent establishment" shall also include:
 - (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities continue for a period of more than six months; and
 - (b) the furnishing of services, including consulting services, by an enterprise of a Contracting State through employees or other individuals engaged by the enterprise for such purposes in the other

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

(b) the furnishing of services, including consulting services, by an enterprise of a Contracting State through employees or other individuals engaged by the enterprise for such purposes in the other Contracting State, but only where such activities continue (for the same or a connected project) within that State for a period or periods aggregating more than 183 days within any twelve month period.

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 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 such person regularly delivers goods or merchandise on behalf of the enterprise.

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

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

III. TAXATION OF INCOME

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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, 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 and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed those deductible expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. No deductions shall be allowed for sums which are paid (other than the reimbursement of expenses actually incurred) by the permanent establishment to the head office or any other office of the enterprise as royalties, fees or other similar payments in respect of the use of licences, patents or other rights, as commission for services rendered or for management, or, except in the case of a banking enterprise, as interest on sums loaned to the permanent establishment.
4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
5. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and Air Transport

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

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1. Profits derived by 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 referred to in that paragraph derived by an enterprise of a Contracting State from its participation in a pool, a joint business or an international operation agency.

Article 9

Associated Enterprises

1. Where

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of that State.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or neglect.

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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed, as the case may be:

- (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 shares representing at least 10 per cent of the voting power of the company paying the dividends,

dividends is a resident of the other Contracting State, the tax so charged shall not exceed, as the case may be:

- (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 shares representing at least 10 per cent of the voting power of the company paying the dividends,
- (b) 20 per cent of the gross amount of the dividends in all other cases.

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

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

6. Nothing in this Agreement shall be construed as preventing a Contracting State from imposing on the profits of a company attributable to a permanent establishment in that State, a tax in addition to the tax which would be chargeable on the profits of a company which is a resident and, in the case of Canada, a national of that State, provided that any additional tax so imposed shall not exceed:

- (a) in the case of Canada, 15 per cent of the amount of such profits which have not been subjected to such additional tax in previous taxation years and which are attributable to the permanent establishment in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits by Canada;
- (b) in the case of Turkey, 20 per cent of the profits attributable to the permanent establishment situated in Turkey after deducting therefrom the tax which would be chargeable on the profits of a company which is a resident of Turkey.

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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

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

- (a) Canada and paid to the Government of Turkey or to the Central Bank of Turkey (*Türkiye Cumhuriyet Merkez Bankası*) shall be exempt from Canadian tax;

- (b) Turkey and paid to the Government of Canada or to the Bank of Canada shall be exempt from

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

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

(b) Turkey and paid to the Government of Canada or to the Bank of Canada shall be exempt from Turkish tax.

4. The term "interest" as used in this Article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises. However, the term "interest" does not include income dealt with in Article 10.

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

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

Article 12

Royalties

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

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

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

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether the payer is a resident of a Contracting State or not, has in a Contracting State a

the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether the payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

Capital Gains

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

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

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

4. Gains from the alienation of:

(a) shares of the capital stock of a company the value of which is derived principally from immovable property situated in a Contracting State, and

(b) an interest in a partnership, trust or estate, the value of which is derived principally from immovable property situated in a Contracting State,

may be taxed in that State. For the purposes of this paragraph, the term "immovable property" includes the shares of a company referred to in subparagraph (a) or an interest in a partnership, trust or estate referred to in subparagraph (b).

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, such gains derived from the other Contracting State may also be taxed in that other State provided that the alienation of the property giving rise to the gain occurs not later than one year after the acquisition of that property by the alienator.

6. The provisions of paragraph 5 shall not affect the right of a Contracting State to levy, according to its domestic law, a tax on gains from the alienation of any property (other than a property described in paragraph 7) derived by an individual who is a resident of the other Contracting State and who was resident in the first-mentioned State at any time during the five years immediately preceding the alienation of the property unless the property was never owned by the individual while the individual was a resident of the first-mentioned State.

domestic law, a tax on gains from the alienation of any property (other than a property described in paragraph 7) derived by an individual who is a resident of the other Contracting State and who was resident in the first-mentioned State at any time during the five years immediately preceding the alienation of the property unless the property was never owned by the individual while the individual was a resident of the first-mentioned State.

7. Where an individual who ceases to be a resident of a Contracting State, and immediately thereafter becomes a resident of the other Contracting State, is treated for the purposes of taxation in the first-mentioned State as having alienated a property and is taxed in that State by reason thereof, the individual may elect to be treated for the purposes of taxation in the other State as if the individual had, immediately before becoming a resident of that State, sold and repurchased the property for an amount equal to its fair market value at that time. However, this provision shall not apply to property from which any gain could have been taxed by the other State in accordance with the provisions of this Article, other than this paragraph, if the individual had realized the gain before becoming a resident of that other State.

Article 14

Independent Personal Services

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

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

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

2. 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 as well as other activities requiring specific professional skill.

Article 15

Dependent Personal Services

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

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned, and

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

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

183 days in any twelve month period commencing or ending in the calendar year concerned, and

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

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

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

Article 16

Directors' Fees

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

Article 17

Artistes and Sportspersons

1. Notwithstanding the provisions of Articles 7, 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 a sportsperson, from that resident's 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 a sportsperson in that individual's capacity as such accrues not to the entertainer or sportsperson personally 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 sportsperson are exercised.

3. The provisions of paragraph 2 shall not apply if it is established that neither the entertainer or the sportsperson nor persons related thereto, participate directly or indirectly in the profits of the person referred to in that paragraph.

4. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities as defined in paragraph 1 performed within the framework of cultural exchange programs between the Contracting States shall be exempt from tax in the Contracting State in which these activities are exercised.

Article 18

Pensions and Annuities

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

2. Pensions arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the laws of that State, but in the case of periodic pension payments, the tax so charged shall not exceed the lesser of

(a) 15 per cent of the gross amount of such periodic pension payments paid to the recipient in the calendar year concerned that exceeds twelve thousand Canadian dollars or its equivalent in Turkish liras at the dates of payment; and

(b) the rate determined by reference to the amount of tax that the recipient of the payment would otherwise be required to pay for the year on the total amount of the periodic pension payments received by the individual in the year, if the individual were a resident of the Contracting State in

calendar year concerned that exceeds twelve thousand Canadian dollars or its equivalent in Turkish liras at the dates of payment; and

(b) the rate determined by reference to the amount of tax that the recipient of the payment would otherwise be required to pay for the year on the total amount of the periodic pension payments received by the individual in the year, if the individual were a resident of the Contracting State in which the payment arises.

The competent authorities of the Contracting States may, if necessary, agree to modify the above-mentioned amount as a result of monetary or economic developments.

3. Annuities arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the law of that State; but the tax so charged shall not exceed 15 per cent of the portion thereof that is subject to tax in that State. However, this limitation does not apply to lump-sum payments arising on the surrender, cancellation, redemption, sale or other alienation of an annuity, or to payments of any kind under an annuity contract the cost of which was deductible, in whole or in part, in computing the income of any person who acquired the contract.

4. Notwithstanding anything in this Agreement:

(a) war pensions and allowances (including pensions and allowances paid to war veterans or paid as a consequence of damages or injuries suffered as a consequence of a war) arising in a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax in that other State to the extent that they would be exempt from tax if received by a resident of the first-mentioned State; and

(b) alimony and other similar payments arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax therein in respect thereof, shall be taxable only in that other State but the amount taxable in that other State shall not exceed the amount that would be taxable in the first-mentioned State if the recipient were a resident thereof.

5. For the purposes of the Agreement, the term "annuities" means a stated sum paid periodically at stated times during life or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered), but does not include a payment that is not a periodic payment or any annuity the cost of which was deductible for the purposes of taxation in the Contracting State in which it was acquired.

Article 19

Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that other State who:

(i) is a national of that other State but not a national of the first-mentioned State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. Notwithstanding paragraph 1, the provisions of Articles 15, 16 and 17 shall apply to salaries, wages and other similar remuneration 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

Payments which a student, apprentice or business trainee who is, or was immediately before visiting a

Article 20

Students

Payments which a student, apprentice or business trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of that individual's education or training receives for the purpose of that individual's maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21

Other Income

1. Subject to the provisions of paragraph 2, items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the law of that State.

IV. TAXATION OF CAPITAL

Article 22

Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 by 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, may be taxed in that other State.
3. Capital represented by ships and aircraft operated by an enterprise of a Contracting State in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

V. METHODS FOR PREVENTION OF DOUBLE TAXATION

Article 23

Elimination of Double Taxation

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

(a) subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions — which shall not affect the general principle hereof — and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Turkey on profits, income or gains arising in Turkey shall be deducted from any Canadian tax payable in respect of such profits, income or gains. For the purposes of this subparagraph, profits, income or gains of a resident of Canada which are taxed in Turkey in accordance with this Agreement shall be deemed to arise from sources in

in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions — which shall not affect the general principle hereof — and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Turkey on profits, income or gains arising in Turkey shall be deducted from any Canadian tax payable in respect of such profits, income or gains. For the purposes of this subparagraph, profits, income or gains of a resident of Canada which are taxed in Turkey in accordance with this Agreement shall be deemed to arise from sources in Turkey;

(b) subject to the existing provisions of the law of Canada regarding the allowance as a credit against Canadian tax of tax payable in a territory outside Canada and to any subsequent modification of those provisions — which shall not affect the general principle hereof — where a company which is a resident of Turkey pays a dividend to a company which is a resident of Canada and which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account the tax payable in Turkey by that first-mentioned company in respect of the profits out of which such dividend is paid; and

(c) where in accordance with any provision of the Agreement income derived or capital owned by a resident of Canada is exempt from tax in Canada, Canada may nevertheless, in calculating the amount of tax on other income or capital, take into account the exempted income or capital.

2. In the case of Turkey, double taxation shall be avoided as follows: where a resident of Turkey derives income or owns capital which, in accordance with the provisions of the Agreement, may be taxed in Canada and in Turkey, Turkey shall, subject to the provisions of Turkish taxation laws regarding credit for foreign taxes, allow as a deduction from the tax on income or capital of that person, an amount equal to the tax on income or capital paid in Canada. Such deduction shall not, however, exceed that part of the tax computed in Turkey before the deduction is given, which is appropriate to the income or capital which may be taxed in Canada.

3. For the purposes of applying subparagraphs (a) and (b) of paragraph 1 to a company that is a resident of Canada, tax payable in Turkey shall include any tax which would have been payable in Turkey in respect of profits attributable to an active business carried on in Turkey for a taxation year, but for an exemption from or reduction of tax granted for that year, or any part thereof, under special tax measures in Turkey insofar as such measures were in force on, and have not been modified since, the date of signature of the Agreement or have been modified only in minor respects so as not to affect their general character. This paragraph shall apply,

(a) in respect of subparagraph (a) of paragraph 1, to taxation years of the company that begin in the five-year period that begins on the first day of January in the calendar year following that in which the Agreement enters into force, and

(b) in computing the taxes payable by a company that is a resident of Turkey for taxation years that begin in that period, for the purpose of applying subparagraph (b) of paragraph 1 to taxation years of a company resident in Canada that begin in that period.

VI. SPECIAL PROVISIONS

Article 24

Non-Discrimination

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

2. 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-

2. 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, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

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

5. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

Article 25

Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

3. A Contracting State shall not, after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State. In the case of Canada, this paragraph shall not apply in the case of fraud, wilful default or neglect.

4. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

5. The competent authorities of the Contracting States may consult together for the elimination of double taxation in cases not provided for in the Agreement and may communicate with each other directly for the purpose of applying the Agreement.

Article 26

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2. 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) concerned with the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to taxes in that State. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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) concerned with the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to taxes in that State. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. Nothing in paragraph 1 shall be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though the other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 2 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

4. In no case shall the provisions of paragraph 2 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because the information relates to ownership interests in a person.

Article 27

Diplomatic Agents and Consular Officers

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

2. Notwithstanding Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Agreement to be a resident of the sending State if that individual is liable in the sending State to the same obligations in relation to tax on total income as are residents of that sending State.

3. The Agreement shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State or group of States, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total income as are residents thereof.

VII. FINAL PROVISIONS

Article 28

Entry into Force

1. Each Contracting State shall notify to the other the completion of the procedure required for the bringing into force of this Agreement in that State. The Agreement shall enter into force on the day when the latter of these notifications has been received.

2. The provisions of the Agreement shall have effect:

(a) in respect of tax withheld at the source, on amounts paid or credited to non-residents on or after

bringing into force of this Agreement in that State. The Agreement shall enter into force on the day when the latter of these notifications has been received.

2. The provisions of the Agreement shall have effect:

(a) in respect of tax withheld at the source, on amounts paid or credited to non-residents on or after the first day of January in the calendar year following that in which the Agreement enters into force; and

(b) in respect of taxes other than taxes withheld at the source, for taxation years beginning on or after the first day of January in the calendar year following that in which the Agreement enters into force.

Article 29

Termination

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement by giving to the other, through diplomatic channels, a notice of termination in writing at least six months before the end of any calendar year.

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

(a) in respect of tax withheld at the source, on amounts paid or credited to non-residents on or after the first day of January in the next following calendar year; and

(b) in respect of taxes other than taxes withheld at the source, for taxation years beginning on or after the first day of January in the next following calendar year.

IN WITNESS WHEREOF the undersigned have signed this Agreement and affixed their seals thereto.

DONE in duplicate at Ottawa, this 14th day of July 2009, in the English, French and Turkish languages, all three texts being equally authentic.

James Fox
Assistant Deputy Minister, Europe,
Middle East, Maghreb
Department of Foreign Affairs and
International Trade

Mehmet Kilci
Commissioner of Revenue
Ministry of Finance

FOR THE REPUBLIC OF TURKEY

FOR CANADA

PROTOCOL

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

1. The Agreement shall not apply to any company, trust or other entity that is a resident of a Contracting State and is beneficially owned or controlled, directly or indirectly, by one or more persons who are not residents of that State, if the amount of the tax imposed on the income or capital of the company, trust or other entity by that State (after taking into account any reduction or offset of the amount of tax in any manner, including a refund, reimbursement, contribution, credit or allowance to the company, trust, or other entity or to any other person) is substantially lower than the amount that would be imposed by that State if all of the shares of the capital stock of the company or all of the interests in the trust or other entity, as the case may be, were beneficially owned by one or more individuals who were residents of that State.

2. With reference to paragraph 1 of Article 6, it is understood that, in the case of immovable property situated in Canada, the provisions of that paragraph shall also apply to income from the alienation of

that State if all of the shares of the capital stock of the company or all of the interests in the trust or other entity, as the case may be, were beneficially owned by one or more individuals who were residents of that State.

2. With reference to paragraph 1 of Article 6, it is understood that, in the case of immovable property situated in Canada, the provisions of that paragraph shall also apply to income from the alienation of immovable property.

3. With reference to Article 7, it is understood that, where an enterprise of a Contracting State has a permanent establishment in the other Contracting State, and the enterprise

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

(b) carries on other business activities in that other State of the same or similar kind as those effected through that permanent establishment

profits derived from such sales and business activities may be taxed in that other Contracting State as part of the profits of the permanent establishment to the extent that the same or similar kind of sales or activities have been effected through the permanent establishment. However, the profits derived from such sales or activities shall not be taxed in that other Contracting State if the enterprise can prove that the sales or the activities have been carried on for other purposes than achieving benefits under this Agreement.

4. With reference to paragraph 1 of Article 7, it is understood that where an enterprise of a Contracting State which had carried on business in the other Contracting State through a permanent establishment situated therein, receives after it has ceased to carry on business as aforesaid, profits attributable to that permanent establishment, such profits may be taxed in that other State in accordance with the principles laid down in Article 7.

5. It is understood that, notwithstanding the provisions of Articles 7 and 8, profits derived from the operation of ships or aircraft used principally to transport passengers or goods exclusively between places in a Contracting State may be taxed in that State.

6. With reference to paragraph 3 of Article 10, it is understood that the term "dividends" in the case of Turkey shall also include the income from investment funds and investment trusts.

7. With reference to paragraph 2 of Article 21, it is understood that, in the case of income from an estate or trust, the tax charged by Canada shall, provided that the income is taxable in Turkey, not exceed 15 per cent of the gross amount of the income.

8. With reference to paragraph 1 of Article 25, it is understood that to be admissible, the application referred to in that paragraph must be submitted:

(a) in the case of Canada, within two years from the first notification of the action which gives rise to taxation not in accordance with the Agreement; and

(b) in the case of Turkey, within one year from the first notification of the action which gives rise to taxation not in accordance with the Agreement. However, if such period has expired, the taxpayer may, in any case, present an application to the competent authority of Turkey within a period of five years beginning on the first day of January of the calendar year next following the related taxable year. For that purpose, the related taxable year is the year in which the income subject to the action resulting in taxation not in accordance with the provisions of the Agreement is derived.

9. It is understood that nothing in the Agreement shall be construed as preventing Canada from imposing a tax on amounts included in the income of a resident of Canada with respect to a partnership, trust, or controlled foreign affiliate, in which that resident has an interest. It is also understood that this provision shall not give Canada any right in respect of the taxation of residents of Turkey.

10. It is understood that nothing in the Agreement shall be construed so as to restrict in any manner any exemption, allowance, credit or other deduction accorded

(a) by the laws of a Contracting State in the determination of the tax imposed by that State; or

.....
provision shall not give Canada any right in respect of the taxation of residents of Turkey.

10. It is understood that nothing in the Agreement shall be construed so as to restrict in any manner any exemption, allowance, credit or other deduction accorded

(a) by the laws of a Contracting State in the determination of the tax imposed by that State; or

(b) by any other agreement entered into by a Contracting State.

11. For the purposes of paragraph 3 of Article XXII (Consultation) of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of this Agreement may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 4 of Article 25 or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.

IN WITNESS WHEREOF the undersigned have signed this Protocol and affixed their seals thereto.

DONE in duplicate at Ottawa, this 14th day of July 2009, in the English, French and Turkish languages, all three texts being equally authentic.

James Fox
Assistant Deputy Minister, Europe,
Middle East, Maghreb
Department of Foreign Affairs and
International Trade

FOR CANADA