

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF BAHRAIN
AND
THE GOVERNMENT OF THE REPUBLIC OF TURKEY
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Governments of the Kingdom of Bahrain 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,

HAVE AGREED AS FOLLOWS:

CHAPTER 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 imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Agreement shall apply are in particular:
 - a) in Bahrain to income tax payable under Amiri Decree No. 22/1979 ("The Oil Tax") (hereinafter referred to as "Bahrain Tax")
 - b) in Turkey:
 - i) the income tax; and
 - ii) the corporation tax (hereinafter referred to as "Turkish tax").
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

CHAPTER II DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

- a)
 - i) the term "Bahrain" means the territory of the Kingdom of Bahrain as well as the maritime areas, seabed and subsoil over which Bahrain exercises, in accordance with international law, sovereign rights and jurisdiction; and
 - ii) the term "Turkey" means the Turkish territory including territorial sea, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purpose of exploration, exploitation and conservation of natural resources, pursuant to international law.
- b) the terms "a Contracting State" and "the other Contracting State" mean Bahrain or Turkey, as the context requires;
- c) the term "tax" means any tax covered by Article 2 of this Agreement;
- d) the term "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes or any other entity constituted or recognised under the laws of one or other of the Contracting States as a body corporate;
- f) the term "national" means:
 - i) any individual possessing the nationality of a Contracting State;
 - ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- g) 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;
- h) the term "competent authority" means:
 - i) in Bahrain, the Minister of Finance or his authorised representative; and
 - ii) in Turkey, the Minister of Finance or his authorised representative;
- i) the term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State.

- 2. As regards the application of the Agreement at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means:
 - (a) in the case of Bahrain, an individual who is a national of Bahrain and who is present in Bahrain for a period or periods totalling in the aggregate at least 183 days in the fiscal year concerned, and a company or other legal person which is incorporated or has its place of management in Bahrain.
 - (b) in the case of Turkey, any person who, under the laws of Turkey, is liable to tax therein by reason of his domicile, residence, legal head office, place of management, or any other criterion of a similar nature;

This term, however, does not include any person who is liable to tax in a Contracting State in respect only of income or capital gains from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. However, where such person has its place of effective management in one of the States and its legal head office in the other State, then the competent authorities of the Contracting States shall consult to determine by mutual agreement whether the legal head office of such a person has to be considered as the actual place of effective management or not.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - g) a refinery;
 - h) a sales outlet; and
 - i) a warehouse in relation to a person providing storage facilities for others.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 9 months;
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State, on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first mentioned Contracting State, if such a person:
- a) has and habitually exercises in the first - mentioned State, an authority to conclude contracts on behalf of the enterprise; unless his activities are limited to the purchase of goods or merchandise for the enterprise; and
 - b) has no such authority, but habitually maintains in the first - mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
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.

CHAPTER III TAXATION OF INCOME

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 (including the breeding and cultivation of fish) 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 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.
4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
5. Where profits include items of income, which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING, AIR AND LAND TRANSPORT

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

2. Profits derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent thereof.
3. The provisions of paragraphs 1 and 2 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

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

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

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

Article 10

DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - a) 10 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; and
 - b) 15 per cent of the gross amount of the dividends in all other cases.
3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, 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. Profits of a company of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated and in accordance with the provision of domestic law of that 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Subject to the provision of paragraph 4 of this Article, 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 situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises.
4. The provisions of paragraph 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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
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 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, or the right to use any copyright of literary, artistic or scientific work including cinematograph films, or films, tapes and other means of image or sound reproduction, 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 paragraph 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this 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 fixed base, may be taxed in that other State.

3. Gains derived by a resident of a Contracting State from the alienation of ships, aircraft or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road vehicles, shall be taxable only in that State.
4. Gains derived by a resident of a Contracting State from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, and arising in the other Contracting State may be taxed in that other State.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. 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) he has a fixed base regularly available to him in that other State for the purpose of performing those services or activities; or
 - b) he 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 his 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.

Article 15

INCOME FROM EMPLOYMENT

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 fiscal year concerned, and

- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - c) the remuneration is not borne by a permanent establishment or a fixed base, which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND SPORTSMEN

- 1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.
- 3. Income derived by an entertainer or a sportsman from activities exercised in a Contracting State shall be exempt from tax in that State, if the visit to that State is supported wholly or mainly by public funds of the other Contracting State, a political subdivision or a local authority thereof.

Article 18

PENSIONS

- 1. Subject to the provisions of paragraph 2 of Article 19 of this Agreement, pensions and other similar remuneration paid in consideration of past employment and annuities as defined in paragraph (2) of this Article shall be taxable only in the State of which the recipient is a resident.

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

Article 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 State and the individual is a resident of that State who:
 - i) is a national of that State; or
 - ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - a) Any pension paid by, or out of funds created 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 pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and to pensions 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

TEACHERS AND STUDENTS

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

2. Likewise, remuneration received by a teacher or an instructor who is or was immediately before visiting a Contracting State a resident of the other Contracting State, and who is present in the first-mentioned State for 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 the first-mentioned State on his remuneration from personal services for teaching or research, provided that such payments arise from sources outside the first-mentioned State.

Article 21

OTHER INCOME

1. Items of income arising from a Contracting State, which are not expressly mentioned in the foregoing Articles of this Agreement may be taxed in that State.
2. Items of income arising outside the two Contracting States shall be taxable only in the Contracting State of which the person receiving the income in question is a resident.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Where a resident of a Contracting State derives income, which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State.

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

2. Where in accordance with any provision of the Agreement income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

CHAPTER IV SPECIAL PROVISIONS

Article 23

NON-DISCRIMINATION

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

2. Subject to the provisions of paragraph 4 of Article 10, the taxation on a permanent establishment, which an enterprise of a Contracting State has in the other Contracting State, shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. These provisions shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation, which is not in accordance with the Agreement.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Article and shall be treated as confidential in the manner provided in paragraph 7 of this Article. The rights and safeguards secured to persons by the laws or administrative practice of the requested State remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.
2. A requested State is not obligated to provide information, which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.
3. For the purposes of this Article:
 - a) the term “publicly traded company” means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold “by the public” if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
 - b) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
 - c) the term “recognised stock exchange” means any properly regulated stock exchange, which publicly trades shares and shall specifically mean in the case of Bahrain, the Bahrain Stock Exchange and in the case of Turkey, the Istanbul Stock Exchange;
 - d) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

- e) the term "applicant State" means the State requesting information;
 - f) the term "requested State" means the State requested to provide information;
 - g) the term "information gathering measures" means laws and administrative or judicial procedures that enable a State to obtain and provide the requested information;
 - h) the term "information" means any fact, statement or record in any form whatever;
 - i) the term "criminal tax matters" means tax matters involving intentional conduct, which is liable to prosecution under the criminal laws of the Applicant State;
 - j) the term "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.
- 4.
- a) The competent authority of the requested State shall provide upon request information for the purposes referred to in paragraph 1 of this Article. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested State if such conduct occurred in the requested State.
 - b) If the information in the possession of the competent authority of the requested State is not sufficient to enable it to comply with the request for information, that State shall use all relevant information gathering measures to provide the applicant State with the information requested, notwithstanding that the requested State may not need such information for its own tax purposes.
 - c) If specifically requested by the competent authority of an applicant State, the competent authority of the requested State shall provide information under this paragraph, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records whether in the Arabic, Turkish or English languages.
 - d) Each Contracting State shall ensure that its competent authorities for the purposes specified in paragraph 1 of this Article, have the authority to obtain and provide upon request:
 - i) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;
 - ii) information regarding the ownership of companies, partnerships, trusts, foundations, and other persons, including, within the constraints of paragraph 2 of this Article, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries. Further, this Article does not create an obligation on the Contracting States to obtain or provide ownership information with respect to

publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

- e) The competent authority of the Applicant State shall provide the following information to the competent authority of the requested State when making a request for information under this Article to demonstrate the foreseeable relevance of the information to the request:
 - (i) the identity of the person under examination or investigation;
 - (ii) a statement of the information sought including its nature and the form in which the Applicant State wishes to receive the information from the requested State;
 - (iii) the tax purpose for which the information is sought;
 - (iv) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - (v) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - (vi) a statement that the request is in conformity with the law and administrative practices of the applicant State, that if the requested information was within the jurisdiction of the applicant State then the competent authority of the applicant State would be able to obtain the information under the laws of the applicant State or in the normal course of administrative practice and that it is in conformity with this Article;
 - (vii) a statement that the Applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
- f) The competent authority of the requested State shall forward the requested information as promptly as possible to the Applicant State. To ensure a prompt response, the competent authority of the requested State shall:
 - i) Confirm receipt of a request in writing to the competent authority of the applicant State and shall notify the competent authority of the applicant State of deficiencies in the request, if any, within 60 days of the receipt of the request.
 - ii) If the competent authority of the requested State has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the applicant State, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

5. a) A Contracting State may allow representatives of the competent authority of the other Contracting State to enter the territory of the first-mentioned State to interview individuals and examine records with the written consent of the persons concerned. The competent authority of the second-mentioned State shall notify the competent authority of the first-mentioned State of the time and place of the meeting with the individuals concerned.
- b) At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State may allow representatives of the competent authority of the first-mentioned State to be present at the appropriate part of a tax examination in the second-mentioned State.
- c) If the request referred to in paragraph (b) is acceded to, the competent authority of the Contracting State conducting the examination shall, as soon as possible, notify the competent authority of the other State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the first-mentioned State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the State conducting the examination.
6. a) The requested State shall not be required to obtain or provide information that the applicant State would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws. The competent authority of the requested State may decline to assist where the request is not made in conformity with this Article.
- b) The provisions of this Article shall not impose on a Contracting State the obligation to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Notwithstanding the foregoing, information of the type referred to in sub-paragraph 4 (d) of this Article shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.
- c) The provisions of this Article shall not impose on a Contracting State the obligation to obtain or provide information, which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:
- (i) produced for the purposes of seeking or providing legal advice or
- (ii) produced for the purposes of use in existing or contemplated legal proceedings.
- d) The requested State may decline a request for information if the disclosure of the information would be contrary to public policy (ordre public).
- e) A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.
- f) The requested State may decline a request for information if the information is requested by the applicant State to administer or enforce a provision of the tax law of

the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State as compared with a national of the applicant State in the same circumstances.

7. Any information received by a Contracting State under this Article shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting State concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other person or entity or authority or any other jurisdiction without the express written consent of the competent authority of the requested State.
8. Incidence of costs incurred in providing assistance shall be agreed by the Contracting States.

Article 26

ANTI - AVOIDANCE MEASURES

1. The Provisions of Articles 10,11 and 12 which confer an exemption from, or a reduction in tax shall not apply if income arising in a Contracting State is received by a person (other than an individual) that is a resident of the other Contracting State and one or more persons who are not residents of that other Contracting State;
 - a) have directly or indirectly or through one or more person, wherever resident, a substantial interest in such person, in the form of a participation or otherwise; or
 - b) exercise directly or indirectly, alone or together, the management or control of such person.
2. A substantial interest shall be deemed to exist when at least 25 percent of the capital stock of the company is so held.

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions and consular posts under the general rules of international law or under the provisions of special agreements.

CHAPTER V
FINAL PROVISIONS
Article 28

ENTRY INTO FORCE

Each of the Contracting States shall notify to the other, through the diplomatic channels the completion of the procedures required by its domestic law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the latter of these notifications and its provisions shall have effect for taxes with respect to every taxable period beginning on or after the first day of January of the year following that of entry into force of the Agreement.

Article 29

TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect for taxes with respect to every taxable period beginning on or after the first day of January of the year following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned duly authorized hereto, have signed the present Agreement.

Done in duplicate at MANAMA.. this 14th..... day of NOVEMBER..2005, in the Arabic, Turkish, and English Languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

**For the Government of the
Kingdom of Bahrain**

**For the Government of the
Republic of Turkey**

**H.E. Ahmed bin Mohammed Al Khalifa
Minister of Finance**

**H.E. Mr. Kürşat Tüzmen
Minister of State**