No. 26934

FRANCE
and
TURKEY

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

Authentic texts: French and Turkish.

Registered by France on 28 November 1989.

FRANCE
et
TURQUIE

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

Textes authentiques : français et turc.

Enregistrée par la France le 28 novembre 1989.

[TRANSLATION — TRADUCTION]

CONVENTION[1] BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF TURKEY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Government of the French Republic and

The Government of the Republic of Turkey,

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

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

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

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

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

(*a*) In the case of France:

(i) The income tax *(l'impôt sur le revenu)*;

(ii) The corporation tax *(l'impôt sur les sociétés)*;

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

(hereinafter referred to as "French tax");

(*b*) In the case of Turkey:

(i) The income tax *(gelir vergisi)*;

(ii) The corporation tax *(kurumlar vergisi)*;

(iii) The defence industry support fund *(savunma sanayii destekleme fonu)*;

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

(iv) The social work and solidarity support fund *(sosyal yardımlaşma ve dayanışmayı teşvik fonu)*;

(v) The fund for development and promotion of professional and technical apprenticeships and training *(çıraklık, mesleki ve teknik eğitimi geliştirme ve yaygınlaştırma fonu)*

(hereinafter referred to as "Turkish tax").

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

Article 3

GENERAL DEFINITIONS

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

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

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

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

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

(*d*) The term "person" includes an individual, a company and any other body of persons.

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

(*f*) The term "statutory head office" means the head office within the meaning of the French Code of Commerce or the Turkish Code of Commerce.

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

(*h*) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State.

(*i*) The term "competent authority" means:

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

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

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

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

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, statutory head office, place of management or any other criterion of a similar nature.

2. Where, by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:

(*a*) He shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(*b*) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(*c*) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(*d*) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where, by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its statutory head office is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

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

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

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

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

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

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

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

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

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such person:

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

(*b*) Has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

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

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent estab-