

IN THE NAME OF GOD

AGREEMENT

BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN
AND THE GOVERNMENT OF THE
TURKMENISTAN FOR THE
AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN

AND

THE GOVERNMENT OF THE
TURKMENISTAN

Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital and with a view to Promoting economic cooperation between the two countries,

HAVE AGREED AS FOLLOWS:

**Article 1
PERSONAL SCOPE**

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 or local authorities, 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in Turkmenistan:

- (i) the profits (income) tax;
 - (ii) the income tax from the individuals;
 - (iii) the tax on natural resources;
 - (iv) the payment for the lands;
- (hereinafter referred to as "Turkmen tax");

b) in the case of the Islamic Republic of Iran: (i) the income tax;
(ii) the property tax
(hereinafter referred to as "the Islamic Republic of Iran direct tax").

4. The Agreement shall apply also to any identical or substantially similar taxes 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 within a reasonable period of any changes which have been made in their respective taxation laws.

Article 3 GENERAL DEFINITIONS

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

a) the terms "a Contracting State" and "the other Contracting State" mean the Turkmenistan
or the Islamic Republic of Iran, as the context requires;

the term "Turkmenistan" means the territories under the sovereignty of the Turkmenistan;

the term "Islamic Republic of Iran" means the territories under the sovereignty of the Islamic Republic of Iran;

b) the term "person" includes an individual, a company and any other body of persons ;

c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

d) the term "registered office" means head office registered under the relevant laws of either Contracting State;

e) 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;

f) the term "international traffic" means any transport by a ship, boat, aircraft, or road and railway vehicle operated by an enterprise of a Contracting State, except when the ship, boat, aircraft or road and railway vehicle is operated solely between places in the other Contracting State;

g) the term "competent authority" means:

i) in the case of Turkmenistan, the Head of the Main State Tax Inspection or his authorized representative;

ii) in the case of the Islamic Republic of Iran, the Minister of Economic Affairs and Finance or his authorized representative;

h) the term "national" means:

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

ii) any legal person, deriving its status as such from the laws in force in a Contracting State;

2. As regards in 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 concerning 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 the State is liable to tax therein by reason of his domicile, residence, place of registration, or any other criteria of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 of this Article 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 (center of vital interests);

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

c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the 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 State in which its registered office is situated.

Article 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which an enterprise of a Contracting State wholly or partly carries on the business in the other Contracting State.

2. The term "permanent establishment" includes especially:

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

3. The term "permanent establishment" likewise encompasses:

a) a building site, a construction assembly or installation project or supervisory activities in connection therewith constitutes a permanent establishment, but only where such site, project, or activities continue for a period of more than thirty six months.

b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than thirty six months.

4. Notwithstanding the preceding provisions of this Article, the following activities of an enterprise of a Contracting State in the other Contracting State shall be deemed not to be treated as carrying on through the permanent establishment:

a) the use of facilities solely for the purpose of storage or display 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 or display;

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 purpose of advertising, for the supply of information, for scientific research, 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 independent status to whom paragraph 7 applies - is acting in a Contracting State on behalf of an enterprise and has and habitually exercises in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such a 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.

6. Notwithstanding the preceding provisions of this article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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, where such persons are acting in the ordinary course of their business.

However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of an independent status if the transactions between the agent and the enterprise were not made under arm's length conditions.

8. 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, of which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of by itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (Including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the laws 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, oil or gas wells, quarries and other places of extracting of natural resources including timber or other forest products. Ships, boats, aircraft, or road and railway vehicles shall not be regarded as immovable property.

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

4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from direct use, letting, or use in any other form of such a right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. 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 from business activity derived by 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, of this Article, 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 including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise insofar as they are incurred for the purposes of the permanent establishment, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary, the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles embodied in this Article.

5. 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.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. 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

INTERNATIONAL TRAFFIC

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

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. 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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.
3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subject 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, 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 a permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, 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 the company's undistributed profits even if the

dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government, ministries, other Governmental institutions, municipalities, Central Bank and other banks wholly owned by the Government of the other Contracting State, shall be exempted from tax in the first-mentioned State.

4. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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, 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 a permanent establishment or fixed base. In such a case, the provisions of Article 7 or article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a 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 a permanent establishment or a fixed base then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt - claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a 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 recipient is the beneficial owner of the royalties the tax so charged shall not exceed 5 percent 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 cinematography 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 there in 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 a such permanent establishment or fixed base. In such a 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 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 Contracting 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 paid, 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 a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a 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 an enterprise of a Contracting State from the alienation of ships, boats, aircraft or road and railway vehicles operated in international traffic

or movable property pertaining to the operation of such ships, boats, aircraft or road and railway vehicles, shall be taxable only in that Contracting State in which the registered office of the enterprise is situated.

4. Gains derived by a resident of a Contracting State from the alienation of shares or other corporate rights in a company the assets of which directly or indirectly consist mainly of immovable property situated in the other Contracting State may be taxed in that other State.

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.

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 except in the following circumstances, when such income may also be taxed in the other Contracting State:

(a) if he has a fixed base, regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State;

or

(b) if his stay in the other Contracting State is for a period or periods aggregating 183 days or more in any 12-month period commencing or ending in the fiscal year concerned; in that case only so much of the income as is derived from his activities performed in that other State in the year 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 **DEPENDENT PERSONAL SERVICES**

1. Subject to the provisions of Article 16, 18, 19, and 20, of this Agreement, 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 that 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 that other State; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that 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, boat, aircraft or road and railway vehicle operated in international traffic, may be taxed in the Contracting State in which the registered office of the enterprise is situated.

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 ARTISTS 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 theater, motion picture, radio or television artist, 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. Notwithstanding the provisions of paragraphs 1 and 2, the income derived by an entertainer or a sportsman from the activities performed in the other Contracting State within the cultural agreement concluded between the Governments of the Contracting States, shall be exempted from tax in that other State.

Article 18 PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. This provision shall also apply to life annuities paid to a resident of a Contracting State.

2. Pensions and life annuities paid, and other periodical or occasional payments made by a Contracting State, in respect of insuring personal accidents, may be taxable only in that State.

Article 19 GOVERNMENT SERVICES

1.

(a) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or local authority shall be taxable only in that State.

(b) however, such 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 local authority thereof to an individual in respect of services rendered to that State 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 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

Article 20 TEACHERS AND STUDENTS

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

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

This paragraph shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

Article 21 OTHER INCOMES

1. Items of income of a resident of a Contracting State, which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that State, except that if such items of income are derived from sources in the other Contracting State. If such items of income are derived from sources in the other Contracting State, it may also be taxed in that other State.

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

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, boats, aircraft, road and railway vehicles, operated in international traffic and by movable property pertaining to the operation of such ships, boats, aircraft or road and railway vehicles, shall be taxable only in the Contracting State, in which the registered office of the enterprise is situated.

4. Capital represented by shares or other corporate rights in a company the assets of which consist mainly of immovable property situated in a Contracting State may be taxed in that Contracting State.

5. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23

METHOD OF ELIMINATION OF DOUBLE TAXATION

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow:

(a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State.

(b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State.

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

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

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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably

levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

5. 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.

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 him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24 to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

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 double taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the 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. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of or the determination of appeals in relation to, the taxes covered by the Agreement. 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. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and 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)

Article 27

COLLECTION ASSISTANCE

1. The competent authorities of the Contracting States undertake to lend assistance to each other in the collection of taxes, together with interest, costs, and civil penalties relating to such taxes, referred to in this Article as a "revenue claim".

2. Request for assistance by the competent authority of a Contracting State in the collection of a revenue claim shall include a certificate by such an authority that, under the laws of that State, the revenue claim has been finally determined. For the purposes of this Article, a revenue claim is finally determined when a Contracting State has the right under its internal law to collect the revenue claim and the taxpayer has no further rights to restrain collection.

3. A revenue claim of a Contracting State that has been accepted for collection by the competent authority of the other Contracting State shall be collected by the other State as though such claim were the other State's own revenue claim as finally determined in accordance with the provisions of its laws relating to the collection of its taxes.

4. Amounts collected by the competent authority of a Contracting State pursuant to this Article shall be forwarded to the competent authority of the other Contracting State. However, except where the competent authorities of the Contracting States otherwise agree, the ordinary costs incurred in providing collection assistance shall be borne by the first-mentioned State and any extraordinary costs so incurred shall be borne by the other State.

5. No assistance shall be provided under this Article for a revenue claim of a Contracting State in respect of a taxpayer to the extent that the revenue claim relates to a period during which the taxpayer was a resident of the other Contracting State.

6. Notwithstanding the provisions of Article 2 (Taxes Covered), the provisions of this Article shall apply to all taxes collected by or on behalf of a Contracting State.

7. Nothing in this Article shall be construed as imposing on either Contracting State the obligation to carry out administrative measures of a different nature from those used in the collection of its own taxes or that would be contrary to its public policy (order public).

Article 28 **MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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

Article 29 **ENTRY INTO FORCE**

1. This Agreement shall be ratified in either of Contracting States and the instruments of ratification shall be exchanged as soon as possible.

2. The Agreement shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(a) in respect of taxes withhold at the source, to amounts of income derived on or after the first January in the calendar year next following the year in which the Agreement enters into force;

(b) in respect of other taxes on income and on capital, to such taxes chargeable for any taxable year beginning on or after the first January in the calendar year next following the year in which the Agreement enters into force.

Article 30 **TERMINATION**

1. 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.

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

(a) in respect of taxes withheld at the source, to amounts of income derived on or after the first January in the calendar year next following the year in which the notice has been given; and

(b) in respect of other taxes on income and on capital, to such taxes chargeable for any taxable period beginning on or after the first January in the calendar year next following the year in which the notice has been given.

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

Done in duplicate at Ashgabat on the second of Dey 1374 (Twenty third of December 1995) in Persian, Turkmen, and English Languages, all three texts being equally authentic. In case of any divergence in interpretation, the English text shall be the operative one.

**For the Government
of the Islamic Republic of Iran**

**For the Government
of Turkmenistan**