TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF TURKEY CONCERNING THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS

The United States of America and the Republic of Turkey (each a "Party"):

Desiring to promote greater economic cooperation between them, particularly with respect to investment by nationals and companies of one Party in the territory of the other Party,

Recognizing that agreement upon the treatment to be accorded such investment will stimulate the flow of private capital and the economic development of the Parties.

Agreeing that fair and equitable treatment of investment is desirable in order to maintain a stable framework for investment and maximum effective utilization of economic resources, and

Having resolved to conclude a treaty concerning the Encouragement and Reciprocal Protection of investments,

HAVE AGREED AS FOLLOWS:

Article 1.

FOR THE PURPOSES OF THIS TREATY,

(a) "company" means any kind of juridical entity, including any corporation, company association, or other organization, that is duly incorporated, constituted, or otherwise duly organized, regardless of whether or not the entity is organized for pecuniary gain, privately or governmentally owned, or organized with limited or unlimited liability.

(b) "Company of a Party" means a company duly incorporated, constituted or otherwise duly organized under the applicable laws and regulations of a Party or a political subdivision thereof in which

(i) Natural persons who are nationals of such Party, or

(ii) Such Party or a political subdivision thereof or their agencies or instrumentalities have a substantial interest as determined by such Party. The juridical status of a company of a Party shall be recognized by the other Party and its political subdivisions.

(c) "Investment" means every kind of investment owned or controlled directly or indirectly, including equity, debt; and service and investment contracts; and includes;

(i) Tangible and intangible property, including rights, such as mortgages, liens and pledges;

(ii) A company or shares, stock, or other interests in a company or interests in the assets thereof;

(iii) A claim to money or a claim to performance having economic value, and associated with an investment;

(iv) Intellectual property, including rights with respect copyrights and related patents, trade marks and trade names, industrial designs, trade secrets and know-how, and goodwill.

(v) Any right conferred by law or contract, including rights to search for or utilize natural resources, and rights to manufacture, use and sell products; and

(vii) Reinvestment of returns and of principal and interest payments arising under load agreements

(d) "own or control" means ownership or control that is direct of indirect, including ownership or control exercised through subsidiaries or affiliates, wherever located.

(e) "national" or a Party means a natural person who is a national of a party under its applicable law.

(f) "return" means an amount derived from or associated with an investment, including profit; dividend; interest; capital gain; royalty payment; management, technical assistance or other fee, and payment in kind.

(g) "associated activities" include the organization, control, operation, maintenance and disposition of companies, branches, agencies, offices, factories or other facilities for the conduct of business; the making, performance and enforcement of contracts; the acquisition, use, protection and disposition of property of all kinds including intellectual property rights; the borrowing of funds; the purchase, issuance, and sale of equity shares and other securities; and the purchase of foreign exchange for imports;

2. Each Party reserves the right to deny to any of its own companies or to a company of the other Party company the advantages of this Treaty if nationals of any third country control such company, provided that, whenever one party concludes that the benefits of this Treaty should not be extended to a company of the other Party for this reason, it shall promptly consult with the other Party to seek a mutually satisfactory resolution of the matter. This right shall not apply with respect to recognition of juridical status and access to courts.

3. Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment.

Article 2.

1. Each Party shall permit in its territory investments, and activities associated therewith, on a basis no less favorable than that accorded in like situations to investments of nationals or companies of any third country, and within the framework of its laws and regulations, no less favorable than that accorded in like situations to investments of its own nationals and companies.

2. Each Party shall accord to these investments, once established, and associated activities, treatment no less favorable than that accorded in like situations to investments of its own nationals and companies or to investments of nationals and companies of any third country, whichever is most favorable.

3. Investments shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in a manner consistent with international law. Neither Party shall in any way impair by arbitrary or discriminatory measures the management, operation, maintenance, use, enjoyment, acquisition, expansion, or disposal of investments. Each Party shall observe any obligation it may have entered into with regard to investments.

4. Subject to the laws relating to the entry and sojourn of aliens, nationals of either Party shall be permitted to enter and to remain in the territory of the other Party for the purpose of establishing, developing, administering or advising on the operation of an investment to which they, or a company of the first Party that, employs them, have committed or are in the process of committing a substantial amount of capital or other resources.

5. Companies which are legally constituted under the applicable laws or regulations of one Party, and which are investments of nationals or companies of other Party, shall be permitted to engage top managerial personnel of their choice, regardless nationality.

6. The Parties recognize that, consistent with paragraphs 1 and 2 of this Article, conditions of competitive equality should be maintained where investments owned or controlled by a Party or its agencies or instrumentalities are in competition, with territory of such Party, with privately owned or controlled investments of national companies of the other Party.

7. Each Party shall seek to avoid performance requirements as condition of establishment, expansion or maintenance of investments, which require or enforce commitments to export goods produced, or which specify that goods or services must purchased locally, or which impose any other similar requirements.

8. Each Party shall provide effective means of asserting claims and enforcing rights with respect to investment, investment agreements, and investment authorizations.

9. Each Party shall make public all laws, regulations, administrative practices and procedures, and adjudicatory decisions that pertain to or affect investments.

10. The treatment accorded by the United States of America to investments and associated activities under the provisions of this Article shall in any State, Territory or possession of the United States of America be the treatment accorded therein to companies legally constituted under the laws and regulations of other States, Territories or possessions of the United States of America.

Article 3.

1. Investments shall not be expropriated or nationalized either directly or indirectly through measures tantamount to expropriation or nationalization ("expropriation") except for a public purpose; in a nondiscriminatory manner; upon payment of prompt, adequate and effective compensation; and in accordance with due process of law and the general principles of treatment provided for in Article II(2).

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriatory action was taken or became known. Compensation shall be paid without delay; be fully realizable; and be freely transferable. In the event that payment of compensation is delayed, such compensation shall be paid in an amount which would put the investor in a position no less favorable than the position in which he would have been, had the compensation been paid immediately on the date of expropriation.

3. A national, or company of either Party that asserts that all or part of its investment has been expropriated shall have a right to prompt review by the appropriate judicial or administrative authorities of the other Party to determine whether any such expropriation and any compensation therefore conforms to the principles of this article.

4. Nationals or companies of either Party whose investments suffer losses in the territory of the other Party owing to war or other armed conflict, revolution, state of national emergency, insurrection, civil disturbance or other similar events shall be accorded treatment by such other Party no less favorable than that accorded to its own nationals or companies or to nationals or companies of any third country, whichever is the most favorable treatment, as regards any measures it adopts in relation to such losses.

Article 4.

1. Each Party shall permit all transfers related to an investment to be made freely and without delay into and out of its territory. Such transfers include: (a) returns; (b) compensation pursuant to Article III; (c) payments arising out of an investment dispute; (d) principal and interest payments arising under loan agreements, and; (e) proceeds from the sale or liquidation of all or any part of an investment.

2. Transfers shall be made in a freely convertible currency at the prevailing market rate of exchange on the date of transfer with respect to spot transactions in the currency or currencies to be transferred.

3. Notwithstanding the provisions of paragraphs 1 and 2, either Party may maintain laws and regulations (a) prescribing procedures to be followed concerning transfers premitted by this Article, provided that such procedures are completed without delay by the party concerned and do not impair the substance of the rights set forth in paragraphs 1 and 2 of this article; (b) requiring reports of currency transfer; and (c) imposing income taxes by such means as a withholding tax applicable to dividends or other transfers. Furthermore, either Party may protect the rights of creditors, or ensure the satisfaction of judgments in adjudicatory proceedings, through the equitable, nondiscriminatory and good faith application of its law.

Article 5.

1. The Parties agree to consult promptly, on the request of either, to resolve any disputes in connection with the Treaty, or to discuss any matter relating to the interpretation or application of the Treaty.

2. If one Party requests in writing that the other Party supply information in its possession concerning investments in its territory by nationals or companies of the Party making the request, then the other Party shall, consistent with its applicable laws and regulations and with due regard for business confidentiality, endeavor to establish appropriate procedures and arrangements for the provision of such information.

Article 6.

1. For purposes of this Article, an investment dispute is defined as a dispute involving (a) the interpretation of application of an investment agreement between a Party and a national or company of the other party; (b) the interpretation or application of any investment authorization granted by a Party's foreign investment authority to such national or company; or (c) an alleged breach of any right conferred or created by this Treaty with respect to an investment.

2. In the event of an investment dispute between a Party and a national or company of the other party, the parties to the dispute should initially seek a resolution through consultations and negotiations in good faith. If such consultations and

negotiations are unsuccessful, the dispute may be settled through the use of a non-binding third party procedures upon which such national or company and the Party mutually agree. If the dispute cannot be resolved through the foregoing procedures, the dispute shall be submitted for settlement in accordance with any previously agreed, applicable dispute settlement procedures.

3.

(a) The national or company concerned may choose to consent in writing to the submission of the dispute to the International Center for the Settlement of Investment Disputes ("Centre") for settlement by arbitration, at any time after one year from the date upon which the dispute arose, provided:

(i) The dispute has not, for any reason, been submitted by the national or company for resolution in accordance with the applicable dispute settlement procedures previously agreed to by the parties to the dispute; and

(ii) The national or company concerned has not brought the dispute before the courts of justice or administrative tribunals or agencies of competent jurisdiction of the Party that is a party to the dispute.

(b) Each Party hereby consents to the submission of an investment dispute to the Centre for settlement of arbitration.

(c) Arbitration of such disputes shall be done in accordance with the provisions of the Convention on the Settlement of Investment Disputes Between States and Nationals of other States and the "Arbitration Rules" of the Centre.

4. Any dispute settlement procedures regarding expropriation and specified in the investment agreement shall remain binding and shall be enforceable in accordance with the terms of the investment agreement, relevant provisions of domestic laws, and applicable international agreements regarding enforcement of arbitral awards.

5. In any proceeding involving an investment dispute, a Party shall not assert, as a defense, counter-claim, right or set-off or otherwise, that the national or company concerned has received or will recieve, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

6. For the purposes of this Article, any company legally constituted under the applicable laws and regulations of either Party or a political subdivision thereof but that, immediately before the occurence of the event or events giving rise to the dispute, was an investment of nationals or companies of the other Party, shall be treated as a national or company of such other Party.

Article 7.

1. The Parties shall seek in good faith and in the spirit of cooperation a rapid and equitable solution to any disputes between them concerning the interpretation or application of this treaty. In this regard, the Parties agree to engage in direct and meaningful negotiations to arrive at such solutions. If such negotiations are unsuccessful, the dispute may be submitted, upon the request of either Party, to an arbitral tribunal for binding decision in accordance with the applicable rules of international law.

2. Within two months of receipt of a request, each Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who is a national of a third State. In the event either Party fails to appoint an arbitrator within the specified time, the other Party may request the President of the International Court of Justice to make the appointment.

3. The Tribunal shall have three months from the date of the selection of the Chairman in which to agree upon rules of procedure consistent with the other provisions of this Treaty. In the absence of such agreement, the Tribunal shall request the President of the International Court of Justice to designate rules of procedure, taking into account generally recognized rules of international arbitral procedure.

4. Upon a determination that the Party requesting arbitration has attempted to resolve the dispute through direct and meaningful negotiation, the Tribunal shall proceed to arbitrate the merits of the dispute.

5. Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within eight months of the date of selection of the third arbitrator, and the Tribunal shall render its decision within two months of the date of the final submissions or the date of the closing of the hearings, whichever is later.

6. Expenses incurred by the Chairman, the other arbitrators, and other costs of the proceedings shall be paid for equally by the Parties. The Tribunal may, however, at its discretion, direct that a higher proportion of the costs be paid by one of the Parties.

7. This Article shall not be applicable to a dispute which has been submitted to and is still before the Centre pursuant to

Article VI.

Article 8.

The provisions of Article VI and VII shall not apply to a dispute arising (a) under the export credit, guarantee or insurance programs of the Export-Import Bank of the United States or (b) under other official credit, guarantee or insurance arrangements pursuant to which the Parties have agreed to other means of settling disputes.

Article 9.

This Treaty shall not derogate from:

(a) Laws and regulations, administrative practices or procedures, or administrative or adjudicatory decisions of either Party;

(b) International legal obligations; or

(c) Obligations assumed by either Party, including those contained in an investment agreement or an investment authorization,

That entitle investments or associated activities to treatment more favorable than that accorded by this Treaty in like situations.

Article 10.

1. This Treaty shall not preclude the application by either Party of measures necessary for the maintenance of public order, the fulfillment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

2. This Treaty shall not preclude either Party from prescribing special formalities in connection with the establishment of investments, but such formalities shall not impair the substance of any of the rights set forth in this Treaty.

Article 11.

(1) With respect to its tax policies, each Party should strive to accord fairness and equity in the treatment of investment of nationals and companies of the other Party.

(2) The provisions of Articles II and V of this Treaty do not apply to taxation matters.

Article 12.

1. This Treaty shall enter into force thirty days after the date on which the exchange of instruments of ratification has been completed. It shall remain in force for a period of ten years and shall continue in force unless terminated in accordance with paragraph 2 of this Article. It shall apply to investments existing at the time of entry into force as well as to investments made or acquired thereafter.

2. Either Party may, by giving one year's written notice to the other Party, terminate this Treaty at the end of the initial ten year period or at any time thereafter.

3. This Treaty may be amended by written agreement between the Parties. Any amendment shall enter into force when each Party has notified the other that it has completed all internal requirements for entry into force of such amendment.

4. With respect to investments made or acquired prior to the date of termination of this Treaty and to which this Treaty otherwise applies, the provisions of all of the other Articles of this Treaty shall thereafter continue to be effective for a further period of ten years from such date of termination.

5. This treaty shall apply to political subdivisions of the parties.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Treaty.

DONE in duplicate at Washington, on the day of December 3, 1985 in the English and Turkish languages, both texts being

equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: Clayton Yeutter

FOR THE GOVERNMENT OF TURKEY: Sukru Elekdag

1.

(a) With respect to Article II(1) and (2), the United States reserves the right to limit the extent to which nationals or companies of Turkey or their investments may establish, acquire interests in, or carry on investments within U.S. territory in air transportation; ocean and coastal shipping; banking; insurance; energy and power production; use of land and natural resources; ownership in real estate; radio and television broadcasting; telephone and telegraph services; the provision of submarine cable services and satellite communications.

The United States reserves the right to limit the extent to which nationals or companies of Turkey or their investments may be eligible for government grants, insurance or loan programs. Other than with respect to ownership of real estate, the treatment accorded by the United States to investments of nationals or companies of Turkey shall be no less favorable than that accorded in like situations to investments of nationals or companies of any third country. Rights to engage in mining on the U.S. public domain shall be dependent on reciprocal rights being granted to investments of U.S. nationals or companies within the territory of Turkey.

(b) With respect to Article II(1) and (2), Turkey reserves the right to limit the extent to which nationals or companies of the United States or their investments may establish, acquire interests in, or carry on investments within Turkish territory with respect to tobacco; spirits and alcoholic beverages (except for wine and beer); the establishment, operation and broadcasting of radio and television programs; railways; ports and domestic maritime transportation; postal, telephone, telegraph, and telecommunications services; lotteries and football pools; armaments, explosives, and gun powder; public utilities (except the production of electricity); ownership of real estate by natural persons outside of municipal boundaries; insurance; banking; airports and domestic air transportation; and unincorporated retailing and service operations.

(c) Each Party agrees to notify the other Party before or on the date of entry into force of this Treaty of any laws, regulations and policies limiting the extent to which investment of nationals or companies of the other Party may within its territory establish, acquire interests in or carry on investments.

2.

(a) Concerning Article IV, paragraph 1, "without delay" means that transfers shall be completed as rapidly as possible in accordance with the normal commercial transaction procedures and in no case shall be delayed beyond two months from the date of application.

(b) In the exceptional financial or economic circumstances relating to foreign exchange, the Republic of Turkey may temporarily delay transfers of the type specified in Article IV (1)(e) but only (i) in a manner consistent with Article II; (ii) for the time period necessary to restore its reserves of foreign exchange to a minimally acceptable level, but not to exceed three years from the date when the transfer is requested; and (iii) provided that the national or company has an opportunity to invest the proceeds in a manner which will preserve their value until transfer occurs.

3. The Parties agree that this Protocol forms an integral part of the Treaty.