

with return receipt, within five trading days of crossing that threshold. Any shareholder who fails to comply with these requirements may have all or part of its voting rights suspended for up to five years by the commercial court at the request of the Company's Chairman, any of the Company's shareholders or the *Autorité des marchés financiers*. In addition, every shareholder who, directly or indirectly, acting alone or in concert with others, acquires ownership or control of shares representing 10% or 20% of the Company's share capital must notify the Company and the *Autorité des marchés financiers* of its intentions for the 12 months following such acquisition. Failure to comply with this notification of intentions will result in the suspension of the voting rights attached to the shares exceeding this 10% or 20% threshold held by the shareholder for a period of two years from the date on which the shareholder has cured such default.

In addition, the Company's *statuts* provide that any person, whether a natural person or a legal entity, who comes to hold, directly or indirectly, 1% or more, or any multiple of 1%, of the Company's share capital or voting rights or of securities that may include future voting rights or future access to share capital or voting rights, must notify the Company by registered letter-with return receipt requested, within 15 calendar days of the acquisition. Failure to comply with these notification provisions will result in the suspension of the voting rights attached to the shares exceeding this 1% threshold held by the shareholder if requested at a shareholder's meeting by one or more shareholders holding shares representing at least 3% of the share capital.

Any individual or legal entity whose direct or indirect holding of shares falls below each of the levels mentioned must also notify the Company in the manner and within the time limits set forth above.

Specific rights of the French State in the share capital of Elf Aquitaine

The share capital of Elf Aquitaine previously included a specific share providing specific rights to the French Republic, following the conversion of a common share decided by the decree dated December 13, 1993. This decree provided in particular for a right of approval in case a party or a group of parties are increasing their ownership of capital or voting rights above defined thresholds. The French Government abrogated the specific share by decree on October 3, 2002.

MATERIAL CONTRACTS

There have been no material contracts (not entered into in the ordinary course of business) entered into by members of the Group since March 31, 2002.

EXCHANGE CONTROLS

Under current French exchange control regulations, no limits exist on the amount of payments that TOTAL may remit to residents of the United States. Laws and regulations concerning foreign exchange controls do require, however, that an accredited intermediary must handle all payments or transfer of funds made by a French resident to a non-resident.

TAXATION

General

This section describes the material United States federal income tax and French tax consequences of owning and disposing of shares and ADSs of Total to U.S. Holders that hold their shares or ADS as capital assets for tax purposes. A U.S. Holder is a beneficial owner of shares or ADSs that is (i) a citizen or resident of the United States for United States federal income tax purposes, (ii) a domestic corporation or other domestic entity treated as a corporation for United States federal income tax purposes, (iii) an estate whose income is subject to United States federal income tax regardless of its source, or (iv) a trust if a U.S. court can exercise primary supervision over the trust's administration and one or more U.S. persons are authorized to control all substantial decisions of the trust.

This section does not apply to members of special classes of holders subject to special rules, including:

- dealers in securities,
- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings,
- tax-exempt organizations,
- life insurance companies,
- persons liable for alternative minimum tax,
- persons that actually or constructively own 10% or more of the voting stock of Total,
- persons that hold the shares or ADSs as part of a straddle or a hedging or conversion transaction, or
- U.S. Holders whose functional currency is not the U.S. dollar.

In addition, the discussion of the material French tax consequences is limited to U.S. Holders that (i) are residents of the United States for purposes of the Treaty (as defined below), (ii) do not maintain a permanent establishment or fixed base in France to which the shares or ADSs are attributable and through which the respective U.S. Holder carries on, or has carried on, a business (or, if the holder is an individual, performs or has performed independent personal services), and (iii) is otherwise eligible for the benefits of the Treaty in respect of income and gain from the shares or ADSs.

This section is based on the Internal Revenue Code of 1986, as amended, its legislative history, existing and proposed regulations, published rulings and court decisions, and with respect to the description of the material French tax consequences, the laws of the Republic of France and French tax regulations, all as currently in effect, as well as on the Convention Between the United States of America and the Republic of France for the Avoidance of Double Taxation (the "Treaty"). These laws are subject to change, possibly on a retroactive basis.

Holders are urged to consult their own tax advisor regarding the United States federal, state and local, and French and other tax consequences of owning and disposing shares or ADSs of Total in their respective circumstances. In particular, a holder is encouraged to confirm whether the holder is a U.S. Holder eligible to the benefits of the Treaty with its advisor.

Taxation of Dividends

French taxes

Dividends paid to non-residents of France are subject to French withholding tax at a rate of 25% unless the rate is reduced pursuant to a tax treaty or similar agreement. Under the Treaty, a U.S. Holder generally is entitled to a reduced rate of French withholding tax of 15% with respect to dividends, provided the ownership of shares or ADSs is not effectively connected with a permanent establishment or a fixed base in France and certain other requirements are satisfied.

In France, companies may only pay dividends out of income remaining after tax has been paid. In general, under French law, a resident of France is entitled to the *avoir fiscal* (which is a tax credit) in respect of a dividend distributed pursuant to a decision by the responsible body of the distributing French corporation, such as the Company. The benefit of the *avoir fiscal*, if available under French law, is allowed to shareholders who are not residents of France only pursuant to a tax treaty or similar agreement between France and such non-resident's country of residence.

Note, however, that the 2004 French Finance Act contains significant amendments in respect of the tax regime of dividend distributions, including the elimination of the *avoir fiscal*.

Before the 2004 French Finance Act, a resident of France was entitled to an *avoir fiscal* in respect of a dividend received from a French corporation, such as Total. The *avoir fiscal* was generally equal to 50% of the dividend distributions paid for individuals (and companies which own at least 5% of the capital of the French

distributing company and meet the other conditions to qualify under the French participation exemption regime). The rate of the *avoir fiscal* was generally 10% of the dividend paid in 2003 for other shareholders.

The 2004 Finance Act passed in France tends to abolish incrementally the *avoir fiscal*. French resident individuals will continue to benefit from the *avoir fiscal* in respect of 2004 dividend distributions. However, dividends paid to French resident individuals as from January 1, 2005 would no longer carry an *avoir fiscal*. With respect to individuals, the *avoir fiscal* is replaced by a tax allowance of 50% applicable to amounts distributed pursuant to a decision by the responsible body of the distributing company. In addition, the shareholder benefits from a tax credit equal to 50% of the distributed amounts, before the application of the relevant tax allowance described above, subject to a threshold of € 115 or € 230, according to the familial situation of the taxpayer. This tax credit is deducted from the personal income tax due with respect to the year over the course of which such amounts were received and may be refunded, as the case may be. The elimination of the *avoir fiscal* and the benefit of the tax credit are solely with respect to distributions paid out as from January 1, 2005. With respect to legal entities subject to corporation tax, the possibility of off-setting the *avoir fiscal* against the tax to which such entities are liable, is eliminated with respect to tax credits which can be utilized as from January 1, 2005. Added to this, subject to certain exceptions, an exceptional levy of 25% will apply to amounts distributed in 2005.

Note that the 2004 French Finance Act does not clarify the situation of non-resident recipients. However, it would appear that two situations will emerge, i.e:

- (1) Individuals that are U.S. residents under the Treaty will remain entitled to the *avoir fiscal* in respect of dividends paid to them in 2004, even if in practice, the *avoir fiscal* is transferred not before the 15th January 2005. Dividends paid to these individuals after January 1, 2005 would no longer carry an *avoir fiscal*. Note further that such individuals should benefit from the tax credit equal to 50% of the distributed amounts subject to a threshold of € 115 or € 230 according to the familial situation of the taxpayer and, as the case may be, a refund of such tax credit, subject to guidance to be issued by the French tax authorities.
- (2) Other non-residents such as U.S. companies, pension trusts, any other organizations established in the United States whose purpose is to administer or provide retirement or employee benefits, not-for-profit organizations established in the United States should no longer be entitled to the *avoir fiscal* in respect of dividends distributed from January 1, 2004.

Therefore, in respect of dividends paid in 2004, an individual U.S. Holder is entitled to the payment of an amount equal to the *avoir fiscal* equal to 50% of the dividend (subject to a deduction of the 15% withholding tax). However, the payment of an amount equal to the entire *avoir fiscal* is not available to a U.S. Holder if the holder (i) is not subject to United States federal income tax on the payment of the *avoir fiscal* and the related dividend and (ii) does not comply with the procedural rules described below.

	U.S. Individual Holders taxable on the dividend	U.S. Holders (including U.S. Pension Funds) other than U.S. Individual Holders
Company's dividend per ADS	\$ 100	\$100
Withholding rate	15%	15%
Amount withheld	15	15
Company's dividend received in 2004	85	85
Avoir fiscal paid by French Government	50	0
Withholding rate under Treaty	15%	0%
Amount withheld	7.5	0
Avoir fiscal payable after January 15, 2005	42.5	0
Effective dividend before U.S. tax credit	127.5	85
Withholding recovered as U.S. tax credit	22.5	15
Effective dividend per ADS	\$ 150	\$100

Under the normal procedure provided in the French regulations, to (i) benefit from the withholding tax at 15% reduced rate at the time of the payment of the dividend and (ii) as the case may be, receive a refund of the

avoir fiscal (less the 15% withholding tax on that amount), a U.S. Holder must (i) have certified by the U.S. financial institution that is in charge of the administration of the shares or ADSs of TOTAL of that U.S. Holder, and (ii) file with the French tax authorities, French Treasury Form 5052 EU before the payment of the dividend.

Alternatively, under a so-called “simplified procedure”, if completion of the Form is not possible prior to the payment of dividends, an Individual eligible to the transfer of the *avoir fiscal* may complete and provide to the Depositary, before the date of payment of the dividend, a simplified certificate (the “Certificate”) stating that (i) the holder is a U.S. resident within the meaning of the Treaty, (ii) the holder’s ownership of the shares or ADSs is not effectively connected with a permanent establishment or fixed base in France, (iii) the holder owns all the rights attached to the full ownership of the shares or ADSs, including, but not limited to, dividend rights, and (iv) the holder meets all the requirements of the Treaty for obtaining the benefit of the reduced rate of withholding tax and the right to the transfer of the *avoir fiscal* and requests the transfer of the *avoir fiscal* subject to withholding tax at the reduced rate. Under this simplified procedure, before the dividend’s payment, the Depositary notifies the French Custodian bank of the aggregate total of the dividend payment subject to the 15% withholding tax rate.

Such simplified procedure will apply to individual and corporate shareholders in respect of the dividend distributed in 2004. In respect of 2005 and thereafter dividend distributions, the French tax authorities regulation indicate that they will issue further guidance as to the applicable procedure for obtaining the reduced rate of withholding tax.

The Form or Certificate, together with instructions, will be provided by the Depositary to all U.S. Holders registered with the Depositary and are also available from the IRS or from the French *Centre des Impôts des Non-Résidents* whose address is 9, rue d’Uzès, 75094 Paris Cedex 2, France. The Depositary will arrange for the filing with the French tax authorities of all Forms and Certificates completed by U.S. Holders that are returned to the Depositary within the time period specified by the Depositary in its distribution to registered U.S. Holders of ADRs.

Whichever procedure is followed, the *avoir fiscal* and the withholding tax refund are normally paid within 12 months following filing of the Form, but not before January 15 following the end of the calendar year in which the related dividend is paid.

If either of the procedures described above has not been followed prior to a dividend payment date or is not available to a U.S. Holder, TOTAL or the French paying agent will withhold tax from the dividend at the normal French rate of 25%, and the U.S. Holder will be entitled to claim a refund of the excess withholding tax and the payment of the related *avoir fiscal* by filing the French Treasury Form 5052 EU with the depositary or the French paying agent early enough to enable them to forward that form to the French tax authorities before December 31 of the year following the calendar year in which the related dividend was paid.

United States taxation

For United States federal income tax purposes, the gross amount of dividend a U.S. Holder must include in gross income equals the amount paid by TOTAL plus any amount of *avoir fiscal* or, as the case may be, 50% tax credit subject to a threshold of € 115 or € 230 described above (see “– French Taxes” above) transferred to the U.S. Holder with respect to this amount (including any French tax withheld with respect to the distribution made by TOTAL or *avoir fiscal*) to the extent of the current and accumulated earnings and profits of TOTAL (as determined for United States federal income tax purposes). The dividend will be income from foreign sources. Dividends paid to a noncorporate U.S. Holder in taxable years beginning after December 31, 2002 and before January 1, 2009 that constitute qualified dividend income will be taxable to the holder at a maximum tax rate of 15% provided that the shares or ADSs are held for more than 60 days during the 121 period beginning 60 days before the ex-dividend date and the holder meets other holding period requirements. TOTAL believes that dividends paid by TOTAL with respect to its shares or ADSs will be qualified dividend income. The dividend will not be eligible for the dividends-received deduction allowed to a U.S. corporation under Section 243 of the Code. The dividend is taxable to the U.S. Holder when the holder, in the case of shares, or the Depositary, in the case of ADSs, receives the dividend, actually or constructively. To the extent that an amount received by a U.S. Holder

exceeds the allocable share of the Company's current and accumulated earnings and profits, it will be applied first to reduce such holder's tax basis in shares or ADSs owned by such holder and then, to the extent it exceeds the holder's tax basis, it will constitute capital gain.

The amount of any dividend distribution includible in the income of a U.S. Holder equals the U.S. dollar value of the euro payment made, determined at the spot euro/ U.S. dollar exchange rate on the date the dividend distribution is includible in the U.S. Holder's income, regardless of whether the payment is in fact converted into U.S. dollars. Any gain or loss resulting from currency exchange fluctuations during the period from the date the dividend payment is includible in the U.S. Holder's income to the date the payment is converted into U.S. dollars will be treated as ordinary income or loss generally from sources within the United States and will not be eligible for the special tax rate applicable to qualified dividend income.

Subject to certain conditions and limitations, French taxes withheld in accordance with the Treaty will be eligible for credit against the U.S. Holder's United States federal income tax liability. The limitation on foreign taxes eligible for credit is not calculated with respect to all worldwide income, but instead is calculated separately with respect to specific classes of income. In addition, special rules apply in determining the foreign tax credit limitation with respect to dividends that are subject to the maximum 15% tax rate. For this purpose, dividends distributed by the Company and the related *avoir fiscal* payments generally will constitute "passive income", or, in the case of certain U.S. Holders, "financial services income". Alternatively, a U.S. Holder may claim all foreign taxes paid as an itemized deduction in lieu of claiming a foreign tax credit.

Taxation of Capital Gains

In general under the Treaty, a U.S. Holder will not be subject to French tax on any capital gain from the sale or exchange of the ADSs or redemption of the underlying shares unless those ADSs or shares form part of a business property of a permanent establishment or fixed base that the U.S. Holder has in France. Special rules may apply to individuals who are residents of more than one country.

If a transfer of shares of the Company is evidenced by a written agreement, such share transfer agreement is, in principle, subject to registration formalities and therefore to a 1% registration duty assessed on the higher of the purchase price and the market value of the shares (subject to a maximum assessment of €3.049 per transfer), provided that, under certain circumstances, no duty is due if such written share transfer agreement is executed outside France.

For United States federal income tax purposes, a U.S. Holder generally will recognize capital gain or loss upon the sale or disposition of shares or ADSs equal to the difference between the amount realized on the sale or disposition and the holder's tax basis in the shares or ADSs. The gain or loss generally will be United States source gain or loss and will be long-term capital gain or loss if the U.S. Holder's holding period of the shares or ADSs is more than one year at the time of the disposition. Long-term capital gain of a non-corporate U.S. Holder that is recognized on or after May 6, 2003 and before January 1, 2009 is taxed at a maximum rate of 15%. The deductibility of capital losses is subject to limitation.

French Estate and Gift Taxes

In general, a transfer of ADSs or shares by gift or by reason of the death of a U.S. Holder that would otherwise be subject to French gift or inheritance tax, respectively, will not be subject to such French tax by reason of the Convention between the United States of America and the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates, Inheritances and Gifts, dated November 24, 1978, unless the donor or the transferor is domiciled in France at the time of making the gift, or at the time of his death, or if the ADSs or shares were used in, or held for use in, the conduct of a business through a permanent establishment or a fixed base in France.