

Additional Protocol annexed to the Agreement establishing an association between the EEC and Turkey (Brussels, 23 November 1970)

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Additional Protocol annexed to the Agreement establishing an association between the EEC and Turkey (23 November 1970)

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Preamble

HIS MAJESTY THE KING OF THE BELGIANS,
THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,
THE PRESIDENT OF THE FRENCH REPUBLIC,
THE PRESIDENT OF THE ITALIAN REPUBLIC,
HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,
HER MAJESTY THE QUEEN OF THE NETHERLANDS,
and
THE COUNCIL OF THE EUROPEAN COMMUNITIES,
of the one part, and
THE PRESIDENT OF THE REPUBLIC OF TURKEY,
of the other part,

WHEREAS the Agreement establishing an Association between the European Economic Community and Turkey provides that the preparatory stage of the Association is to be followed by a transitional stage;

ACKNOWLEDGING that the preparatory stage has done much, in accordance with the objectives of the Association Agreement, to strengthen economic relations in general, and to expand trade in particular, between the European Economic Community and Turkey;

BELIEVING that the conditions have been established for passing from the preparatory stage to the transitional stage;

RESOLVED to adopt, in the form of an Additional Protocol the provisions relating to the conditions, arrangements and timetables for the implementation of the transitional stage;

WHEREAS during the transitional stage the Contracting Parties are to ensure, on the basis of mutual and balanced obligations, the progressive establishment of a customs union between Turkey and the Community and the closer alignment of the economic policies of Turkey and the Community in order to ensure the proper functioning of the Association and the progress of the joint measures which this requires;

HAVE DESIGNATED as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Mr. Pierre HARMEL,
Minister for Foreign Affairs;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Mr. Walter SCHEEL,
Minister for Foreign Affairs;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr. Maurice SCHUMANN,

Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr. Mario PEDINI,
Under-Secretary of State for Foreign Affairs;

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG:

Mr. Gaston THORN,
Minister for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr. J. M. A. H. LUNS,
Minister for Foreign Affairs;

THE COUNCIL OF THE EUROPEAN COMMUNITIES:

Mr. Walter SCHEEL,
President in Office of the Council of the European Communities;
Mr. Franco Maria MALFATTI,
President of the Commission of the European Communities;

THE PRESIDENT OF THE REPUBLIC OF TURKEY:

Mr. İhsan Sabri ÇAĞLAYANGİL,
Minister for Foreign Affairs;

WHO, having exchanged their Full Powers, found in good and due form,

HAVE AGREED upon the following provisions, which shall be annexed to the Agreement of Association:

Article 1

This Protocol lays down the conditions, arrangements and timetables for implementing the transitional stage referred to in Article 4 of the Agreement establishing an Association between the European Economic Community and Turkey.

Title I

Free Movement of Goods

Article 2

1. Chapter I, Section I, and Chapter II of this Title shall apply:

- (a) to goods produced in the Community or in Turkey, including those wholly or partially obtained or produced from products coming from third countries which are in free circulation in the Community or in Turkey;
- (b) to goods coming from third countries and in free circulation in the Community or in Turkey.

2. Products coming from third countries shall be considered to be in free circulation in the Community or in Turkey if the import formalities have been complied with and any customs duties or charges having

equivalent effect which are payable have been levied in the Community or in Turkey, and if they have not benefited from a total or partial drawback of such duties or charges.

3. Goods imported from third countries into the Community or into Turkey and accorded special customs treatment by reason of their country of origin or of exportation, shall not be considered to be in free circulation in the territory of one Contracting Party if they are re-exported to the other Contracting Party. The Council of Association may, however, make exceptions to this rule under conditions which it shall lay down.

4. Paragraphs 1 and 2 shall apply only to goods exported from the Community on or after the date of signature of this Protocol.

Article 3

1. Chapter I, Section I, and Chapter II of this Title shall likewise apply to goods obtained or produced in the Community or in Turkey, in the manufacture of which were used products coming from third countries and not in free circulation either in the Community or in Turkey. These provisions shall, however, apply to those goods only if the exporting State charges a countervailing levy, the rate of which is a percentage of the duties laid down in the Common Customs Tariff for third country products used in their manufacture. This percentage, fixed by the Council of Association for each of such periods as it may determine, shall be based on the tariff reduction granted on those goods in the importing State. The Council of Association shall also lay down the rules for the countervailing levy, taking into account the relevant rules in force before 1 July 1968 in trade between Member States.

2. The countervailing levy shall not, however, be charged on exports from the Community or from Turkey of goods obtained or produced under the conditions mentioned in this Article while the reduction of customs duties on the majority of goods imported into the territory of the other Contracting Party does not exceed 20 %, taking into account the various timetables for tariff reductions fixed by this Protocol.

Article 4

The Council of Association shall determine the methods of administrative cooperation to be used in implementing Articles 2 and 3, taking into account the methods laid down by the Community with regard to trade between Member States.

Article 5

1. If either Contracting Party considers that differences arising from the application to imports of customs duties, quantitative restrictions or any measures having equivalent effect, or from any other measure of commercial policy, threaten to deflect trade or to cause economic difficulties in its territory, it may bring the matter before the Council of Association, which shall, if necessary, recommend appropriate methods for avoiding any harm liable to result therefrom.

2. Where deflections occur or economic difficulties arise and the Party concerned considers that they call for immediate action, that Party may itself take the necessary protective measures, and shall notify the Council of Association thereof without delay; the Council of Association may decide whether the Party concerned shall amend or abolish those measures.

3. In the choice of such measures preference shall be given to those which least disturb the operation of the Association and, in particular, the normal development of trade.

Article 6

During the transitional stage the Contracting Parties shall, in so far as may be necessary for the proper functioning of the Association, take steps to approximate their law, regulation or administrative action in respect of customs matters, taking into account the approximations already effected by the Member States of the Community.

Chapter I**The Customs Union****Section I****Elimination of Customs Duties between the Community and Turkey****Article 7**

1. The Contracting Parties shall refrain from introducing between themselves any new customs duties on imports or exports or charges having equivalent effect, and from increasing those already applied, in their trade with each other at the date of entry into force of this Protocol.

2. The Council of Association may, however, authorize the Contracting Parties to introduce new customs duties on exports or charges having equivalent effect if they are necessary for the attainment of the objectives of the Agreement.

Article 8

Customs duties on imports and charges having equivalent effect, in force between the Community and Turkey, shall be progressively abolished in accordance with Articles 9 to 11.

Article 9

On the entry into force of this Protocol, the Community shall abolish customs duties and charges having equivalent effect on imports from Turkey.

Article 10

1. For each product, the basic duty on which Turkey is to apply the successive reductions shall be the duty actually applied in respect of the Community at the date of signature of this Protocol.

2. The timetable for the reductions to be effected by Turkey shall be as follows: the first reduction shall be made on the entry into force of this Protocol. The second and third shall be applied three years and five years later. The fourth and subsequent reductions shall be made each year in such a way that the final reduction is made at the end of the transitional stage.

3. Each reduction shall be made by lowering the basic duty on each product by 10%.

Article 11

Notwithstanding Article 10 (2) and (3), Turkey shall progressively abolish, over a period of twenty-two years, in accordance with the following timetable, the basic duties in respect of the Community on the products listed in Annex 3: a reduction of 5 % on each duty shall be made on the entry into force of this Protocol. Three further reductions, each of 5 %, shall be made three, six and ten years later.

Eight further reductions, each of 10 %, shall be made twelve, thirteen, fifteen, seventeen, eighteen, twenty, twenty-one and twenty-two years respectively after the entry into force of this Protocol.

Article 12

1. Turkey may, during the first eight years of the transitional stage, make the amendments to Annex 3 which

are needed to protect the development of a processing industry which did not exist in Turkey at the time of entry into force of this Protocol, or to ensure the expansion in accordance with the Turkish development plan in force at the time, of an existing processing industry. Such amendments may, however, only be made on condition that:

- in aggregate they relate to not more than 10% by value of imports from the Community in 1967, calculated at 1967 prices;
- the value of imports from the Community of all products listed in Annex 3, calculated at 1967 prices, is not increased.

Products added to Annex 3 may immediately be made liable to duties calculated in accordance with Article 11; those products which are removed from that list shall immediately be made liable to duties calculated in accordance with the provisions of Article 10.

2. Turkey shall notify the Council of Association of the measures which it proposes to take pursuant to the above provisions.

3. To the same end as that mentioned in paragraph 1 above, and within the limit of 10% of imports from the Community in 1967, the Council of Association may authorize Turkey, during the transitional stage, to reintroduce, increase or impose customs duties on imports of products subject to the arrangements set out in Article 10. These tariff measures shall not, for any of the tariff headings which they affect, raise the duty on imports from the Community to more than 25% ad valorem.

4. The Council of Association may derogate from paragraphs 1 and 3.

Article 13

1. Irrespective of the provisions of Articles 9 to 11, each Contracting Party may suspend in whole or in part the collection of duties applied by it to products imported from the other Party, in particular, as regards Turkey, for the purpose of stimulating imports of certain products necessary for its economic development; the other Contracting Party shall be informed of such measures.

2. The Contracting Parties declare their readiness to reduce their duties in trade with the other Party more rapidly than is provided for in Articles 9 to 11 if its general economic situation and the situation of the economic sector concerned so permit. The Council of Association shall make recommendations to this end.

Article 14

Where, in respect of a country outside the Association, Turkey applies a shorter timetable than is provided for in Articles 10 and 11 to the elimination of a charge having effect equivalent to a customs duty, the same timetable shall be applied to the elimination of that charge in respect of the Community.

Article 15

Without prejudice to Article 7 (2), the Contracting Parties shall, at the latest four years after the entry into force of this Protocol, abolish between themselves, customs duties on exports and charges having equivalent effect.

Article 16

1. Article 7 (1) and Articles 8 to 15 shall also apply to customs duties of a fiscal nature.

2. On the entry into force of this Protocol the Community and Turkey shall inform the Council of Association of their customs duties of a fiscal nature.

3. Turkey shall retain the right to substitute for these customs duties of a fiscal nature an internal tax which complies with the provisions of Article 44.

4. If the Council of Association finds that substitution for any customs duty of a fiscal nature meets with serious difficulties in Turkey, it shall authorize that country to retain the duty on condition that it shall abolish it not later than the end of the transitional stage. Such authorization must be requested within twelve months of the entry into force of this Protocol.

Turkey may provisionally continue to apply such a duty until a decision has been taken by the Council of Association.

Section II

Adoption by Turkey of the Common Customs Tariff

Article 17

The Turkish Customs Tariff shall be aligned on the Common Customs Tariff during the transitional stage on the basis of the duties actually applied by Turkey in respect of third countries at the date of signature of this Protocol, and in accordance with the following rules:

1. In the case of products on which the duties actually applied by Turkey at the date indicated above do not differ by more than 15% either way from the duties in the Common Customs Tariff, the latter duties shall be applied one year after the second reduction of duties provided for in Article 10.
2. In any other case Turkey shall, one year after the second reduction of duties provided for in Article 10, apply duties reducing by 20% the difference between the duty actually applied at the date of signature of this Protocol and the duty in the Common Customs Tariff.
3. When the fifth and seventh reductions of customs duties provided for in Article 10 are applied, this difference shall be further reduced by 20%.
4. The Common Customs Tariff shall be applied in its entirety when the tenth reduction of customs duties provided for in Article 10 is applied.

Article 18

Notwithstanding Article 17 Turkey shall, for the products listed in Annex 3, align its customs tariff over a period of twenty-two years in accordance with the following rules:

1. In the case of products for which the duties actually applied by Turkey on the date of signature of this Protocol do not differ from the Common Customs Tariff duties by more than 15 % either way, the latter duties shall be applied from the date of the fourth reduction of duties provided for in Article 11.
2. In any other case Turkey shall, from the date of the fourth reduction of duties provided for in Article 11, apply duties reducing by 20% the difference between the duty actually applied at the date of signature of this Protocol and the duty in the Common Customs Tariff.
3. When the seventh and ninth reductions provided for in Article 11 are applied, this difference shall be further reduced by 30 % and 20 %, respectively.
4. The Common Customs Tariff shall be applied in its entirety at the end of the twenty-second year.

Article 19

1. In the case of particular products making up not more than 10 % of the total value of its imports in 1967, Turkey may, after consultation in the Council of Association, defer until the end of the twenty-second year after the entry into force of this Protocol the reductions of duties in respect of third countries which it should otherwise make under Articles 17 and 18.

2. In the case of particular products making up not more than 5% of the total value of its imports in 1967, Turkey may, after consultation in the Council of Association, retain after a period of twenty-two years customs duties in respect of third countries which are higher than those in the Common Customs Tariff.

3. However, the application of the preceding paragraphs must not prejudice the free movement of goods within the Association and shall not entitle Turkey to invoke the provisions of Article 5.

4. Where alignment of the Turkish Customs Tariff with the Common Customs Tariff has been accelerated, Turkey shall maintain in favour of the Community a preference equivalent to that resulting from the arrangements provided for in this Chapter. As regards the products listed in Annex 3, no such acceleration may take place before the end of the transitional stage, unless prior authorization has been given by the Council of Association.

5. As regards customs duties which have been authorized pursuant to the first subparagraph of Article 16 (4) or which Turkey may provisionally maintain in accordance with the second subparagraph of Article 16 (4), Articles 17 and 18 need not be applied. On expiry of the authorization, Turkey shall apply the duties provided for in Articles 17 and 18.

Article 20

1. To facilitate the importation of particular goods from countries with which Turkey has concluded bilateral trade agreements, Turkey may, with the prior authorization of the Council of Association, grant tariff quotas at reduced or zero rates of duty, if the functioning of those agreements is appreciably affected by the application of this Protocol or by measures taken in pursuance thereof.

2. Such authorization shall be deemed to have been given when the tariff quotas mentioned in the preceding paragraph comply with the following conditions:

(a) the total annual value of such quotas does not exceed 10 % of the average value of Turkish imports from third countries during the past three years for which statistics are available, excluding from such imports those which were made with the help of the means referred to in Annex 4. Imports from third countries admitted free of duty within the framework of Annex 4 shall be deducted from this 10 %;

(b) in the case of each product, the value of imports provided for within the framework of the tariff quotas shall not exceed one third of the average value of Turkish imports of that product from third countries in the past three years for which statistics are available.

3. Turkey shall notify the Council of Association of measures which it envisages taking in pursuance of paragraph 2. At the end of the transitional stage the Council of Association may decide whether the provisions of paragraph 2 should be repealed or amended.

4. In no case may the duty under a tariff quota be lower than that actually applied by Turkey to imports from the Community.

Chapter II

Elimination of quantitative restrictions between the contracting parties

Article 21

Quantitative restrictions on imports and all measures having equivalent effect shall, without prejudice to the following provisions, be prohibited between the Contracting Parties.

Article 22

1. The Contracting Parties shall refrain from introducing any new quantitative restrictions on imports or measures having equivalent effect.

2. However, as regards Turkey, this obligation shall, at the date of the entry into force of this Protocol, apply only to 35% of Turkish imports on private account from the Community in 1967. This percentage shall be increased to 40%, 45%, 60% and 80%, three, eight, thirteen and eighteen years after the entry into force of this Protocol.

3. Six months before each of the dates of the last three increases the Council of Association shall review the consequences for the economic development of Turkey of increasing the degree of liberalization and shall, if this is necessary for achievement of an accelerated development of the Turkish economy, decide to postpone the increase for a period which it shall determine. In the absence of a decision, the increase shall be postponed for one year. The review procedure shall be repeated six months before expiry of that period. A further postponement of a year shall take place if the Council of Association again takes no decision. At the end of this second period, Turkey shall implement the increase in the degree of liberalization unless a decision to the contrary has been taken by the Council of Association.

4. A list of products whose importation from the Community has been liberalized shall be supplied to the Community at the time of signature of this Protocol. The list shall be consolidated in respect of the Community. The lists of products liberalized at the deadlines mentioned in paragraph 2 shall also be supplied to the Community and consolidated in its respect.

5. Turkey may reintroduce quantitative restrictions on imports of products which have been liberalized but not consolidated pursuant to this Article, on condition that it opens quotas in favour of the Community equal to at least 75 % of the average imports from the Community during the three years preceding that reintroduction. These quotas shall be subject to the provisions of Article 25 (4).

6. In no case may Turkey apply to the Community a treatment less favourable than that accorded to third countries.

Article 23

Without prejudice to Article 22 (5) the Contracting Parties shall, in their trade with one another, refrain from making more restrictive the quantitative restrictions on imports and measures having equivalent effect existing at the date of entry into force of this Protocol.

Article 24

The Community shall, on the entry into force of this Protocol, abolish all quantitative restrictions on imports from Turkey. This liberalization shall be consolidated in respect of Turkey.

Article 25

1. Turkey shall progressively abolish quantitative restrictions on imports from the Community in accordance with the provisions of the following paragraphs.

2. One year after the entry into force of this Protocol quotas in favour of the Community shall be opened for imports of each product which has not been liberalized in Turkey. These quotas shall be fixed so as to correspond to the average imports from the Community in the last three years for which statistics are available, excluding imports financed:

- (a) by special aid resources connected with specific investment projects;
- (b) without allocation of foreign currency;

(c) under the law on the promotion of foreign capital investment.

3. Where, in respect of a product which has not been liberalized, imports from the Community in the first year after the entry into force of this Protocol amount to less than 7% of total imports of that product, a quota equal to 7% of those imports shall be opened one year after the entry into force of this Protocol.

4. Three years after the entry into force of this Protocol Turkey shall increase the aggregate of the quotas so opened by not less than 10% over the amount thereof for the preceding year and by not less than 5% by value of the quota for each product. These amounts shall be increased every two years in the same proportion in relation to the preceding period.

5. From the thirteenth year after the entry into force of this Protocol each quota shall be increased every two years by at least 20 % in relation to the preceding period.

6. Where, in respect of a product which has not been liberalized, there have been no imports into Turkey in the first year after the entry into force of this Protocol, the rules for opening and increasing quotas shall be laid down by the Council of Association.

7. If the Council of Association finds that during two successive years the imports of any product which has not been liberalized have been appreciably below the level of the quota opened, that quota shall not be taken into account in calculating the total value of the quotas. In such case Turkey shall abolish quota restrictions on that product in respect of the Community.

8. All quantitative restrictions on imports into Turkey shall be abolished not later than twenty-two years after the entry into force of this Protocol.

Article 26

1. The Contracting Parties shall, within twenty-two years, abolish all measures having an effect equivalent to quantitative restrictions on imports from each other. The Council of Association shall recommend the progressive adjustments to be made during this period, taking into account provisions adopted within the Community.

2. In particular, Turkey shall, in accordance with the timetables laid down in Articles 10 and 11, progressively abolish the deposits required from importers for imports of goods from the Community. Moreover, deposits amounting to more than 140% of the dutiable value for customs purposes of goods imported from the Community, in the case of motor vehicle spare parts and accessories falling within heading No 87.06 of the Turkish Customs Tariff, and to more than 120% of that value in the case of other products, shall be reduced to these levels on the entry into force of this Protocol.

Article 27

1. Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between the Contracting Parties. The Community and Turkey shall, by the end of the transitional stage at the latest, abolish between themselves all quantitative restrictions on exports and any measures having equivalent effect.

2. Notwithstanding the preceding paragraph, the Community and Turkey may, after consultation in the Council of Association, retain or introduce restrictions on exports of basic products to the extent necessary to promote the development of specific sectors of their economies or to meet any shortage of those products.

In that event, the Party concerned shall open in favour of the other Party a quota which takes into account the average exports for the last three years for which statistics are available and the normal development of trade resulting from the progressive achievement of the customs union.

Article 28

Turkey declares its readiness to abolish quantitative restrictions on imports from and exports to the Community more rapidly than is provided for in the preceding Articles, if its general economic situation and the situation of the economic sector concerned so permit. To this end the Council of Association shall make recommendations to Turkey.

Article 29

The provisions of Articles 21 to 27 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.

Article 30

1. The Contracting Parties shall progressively adjust any State monopolies of a commercial character so as to ensure that when the period of twenty-two years has ended no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States of the Community and nationals of Turkey.

The provisions of this Article shall apply to any body through which a Member State or Turkey, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between the Community and Turkey. These provisions shall also apply to monopolies delegated by the State to others.

2. The Contracting Parties shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the Articles dealing with the abolition of customs duties and quantitative restrictions between the Contracting Parties.

3. The procedure and the timetable in accordance with which the Turkish monopolies mentioned in this Article are to be adjusted and the barriers to trade between the Community and Turkey are to be lowered, shall be laid down by the Council of Association not later than six years after the entry into force of this Protocol.

Until the Council of Association takes the decision provided for in the preceding subparagraph, each Contracting Party shall apply to products subject to a monopoly in the territory of the other Contracting Party treatment at least as favourable as that applied to like products of the most-favoured third country.

4. The obligations on the Contracting Parties shall be binding only in so far as they are compatible with existing international agreements.

Chapter III

Products subject to specific rules on importation into the Community as a result of the implementation of the Common Agricultural Policy

Article 31

The arrangements for agricultural products set out in Chapter IV shall apply to products which are subject, on importation into the Community, to specific rules as a result of the implementation of the common agricultural policy.

**Chapter IV
Agriculture****Article 32**

This Protocol shall extend to agricultural products, save as otherwise provided in Articles 33 to 35.

Article 33

1. Over a period of twenty-two years Turkey shall adjust its agricultural policy with a view to adopting, at the end of that period, those measures of the common agricultural policy which must be applied in Turkey if free movement of agricultural products between it and the Community is to be achieved.

2. During the period mentioned in paragraph 1, the Community shall, in establishing and subsequently developing its agricultural policy, take into account the interests of Turkish agriculture. Turkey shall furnish the Community with all information which is relevant in this connection.

3. The Community shall inform Turkey of proposals from the Commission regarding the establishment and development of the common agricultural policy, and of the opinions issued and decisions taken with regard to such proposals.

4. The Council of Association shall decide what information on agriculture shall be supplied by Turkey to the Community.

5. The proposals from the Commission mentioned in paragraph 3, and the measures in respect of agriculture which Turkey envisages taking in accordance with paragraph 1, may be the subject of consultation in the Council of Association.

Article 34

1. At the end of the period of twenty-two years the Council of Association, having established that Turkey has adopted the measures of the common agricultural policy which are referred to in Article 33 (1), shall adopt the provisions necessary for achieving the free movement of agricultural products between the Community and Turkey.

2. The provisions referred to in paragraph 1 may include any necessary derogations from the rules laid down in this Protocol.

3. The Council of Association may alter the date referred to in paragraph 1.

Article 35

1. Pending the adoption of provisions under Article 34 and by way of derogation from Articles 7 to 11, 15 to 18, 19 (1) and (5), 21 to 27, and 30, the Community and Turkey shall grant each other preferential treatment

in their trade in agricultural products. The scope of such preferential treatment and the arrangements therefor shall be decided by the Council of Association.

2. The treatment to be accorded from the beginning of the transitional stage is, however, laid down in Annex 6.

3. One year after the entry into force of this Protocol and every two years thereafter, the Council of Association shall, at the request of either Contracting Party, review the results of the preferential treatment for agricultural products. It may decide upon improvements which prove to be necessary for progressive attainment of the objectives of the Agreement of Association.

4. Article 34 (2) shall apply.

Title II

Movement of Persons and Services

Chapter I

Workers

Article 36

Freedom of movement for workers between Member States of the Community and Turkey shall be secured by progressive stages in accordance with the principles set out in Article 12 of the Agreement of Association between the end of the twelfth and the twenty-second year after the entry into force of that Agreement.

The Council of Association shall decide on the rules necessary to that end.

Article 37

As regards conditions of work and remuneration, the rules which each Member State applies to workers of Turkish nationality employed in the Community shall not discriminate on grounds of nationality between such workers and workers who are nationals of other Member States of the Community.

Article 38

While freedom of movement for workers between Member States of the Community and Turkey is being brought about by progressive stages, the Council of Association may review all questions arising in connection with the geographical and occupational mobility of workers of Turkish nationality, in particular the extension of work and residence permits, in order to facilitate the employment of those workers in each Member State. To that end, the Council of Association may make recommendations to Member States.

Article 39

1. Before the end of the first year after the entry into force of this Protocol the Council of Association shall adopt social security measures for workers of Turkish nationality moving within the Community and for their families residing in the Community.

2. These provisions must enable workers of Turkish nationality, in accordance with arrangements to be laid down, to aggregate periods of insurance or employment completed in individual Member States in respect of old-age pensions, death benefits and invalidity pensions, and also as regards the provision of health services

for workers and their families residing in the Community. These measures shall create no obligation on Member States to take into account periods completed in Turkey.

3. The abovementioned measures must ensure that family allowances are paid if a worker's family resides in the Community.

4. It must be possible to transfer to Turkey old-age pensions, death benefits and invalidity pensions obtained under the measures adopted pursuant to paragraph 2.

5. The measures provided for in this Article shall not affect the rights and obligations arising from bilateral agreements between Turkey and Member States of the Community, in so far as these agreements provide more favourable arrangements for Turkish nationals.

Article 40

The Council of Association may make recommendations to Member States and Turkey for encouraging the exchange of young workers; the Council of Association shall be guided in the matter by the measures adopted by Member States in implementation of Article 50 of the Treaty establishing the Community.

Chapter II

Right of Establishment, Services and Transport

Article 41

1. The Contracting Parties shall refrain from introducing between themselves any new restrictions on the freedom of establishment and the freedom to provide services.

2. The Council of Association shall, in accordance with the principles set out in Articles 13 and 14 of the Agreement of Association, determine the timetable and rules for the progressive abolition by the Contracting Parties, between themselves, of restrictions on freedom of establishment and on freedom to provide services. The Council of Association shall, when determining such timetable and rules for the various classes of activity, take into account corresponding measures already adopted by the Community in these fields and also the special economic and social circumstances of Turkey. Priority shall be given to activities making a particular contribution to the development of production and trade.

Article 42

1. The Council of Association shall extend to Turkey, in accordance with the rules which it shall determine, the transport provisions of the Treaty establishing the Community with due regard to the geographical situation of Turkey. In the same way it may extend to Turkey measures taken by the Community in applying those provisions in respect of transport by rail, road and inland waterway.

2. If provisions for sea and air transport are laid down by the Community, pursuant to Article 84 (2) of the Treaty establishing the Community, the Council of Association shall decide whether, to what extent and by what procedure provisions may be laid down for Turkish sea and air transport.

Title III

Closer Alignment of Economic Policies

Chapter I

Competition, Taxation and Approximation of Laws

Article 43

1. The Council of Association shall, within six years of the entry into force of this Protocol, adopt the conditions and rules for the application of the principles laid down in Articles 85, 86, 90 and 92 of the Treaty establishing the Community.
2. During the transitional stage Turkey may be considered as being in the situation specified in Article 92 (3) (a) of the Treaty establishing the Community. Accordingly, aid to promote Turkish economic development shall be considered to be compatible with the proper functioning of the Association if such aid does not alter the conditions of trade to an extent inconsistent with the mutual interests of the Contracting Parties.

At the end of the transitional stage, the Council of Association shall, taking into account the economic situation of Turkey at that time, decide whether it is necessary to extend the period during which the preceding subparagraph shall apply.

Article 44

1. Neither Contracting Party shall impose, directly or indirectly, on the products of the other Party any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

Neither Contracting Party shall impose on the products of the other Party any internal taxation of such a nature as to afford indirect protection to other products.

The Contracting Parties shall, not later than the beginning of the third year after the entry into force of this Protocol, repeal any provisions existing at the date of its signature which conflict with the above rules.

2. In trade between the Community and Turkey, repayment of internal taxation in respect of exported products shall not exceed the internal taxation imposed on those products, whether directly or indirectly.
3. Where a turnover tax calculated on a cumulative multi-stage tax system is levied, average rates for products or groups of products may be established, in the case of internal taxation imposed on imported products or of repayments allowed on exported products, provided that there is no infringement of the principles laid down in the preceding paragraphs.
4. The Council of Association shall ensure that the above provisions are applied, taking into account the experience of the Community in the field covered by this Article.

Article 45

As regards trade between the Community and Turkey, and in the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports may not be granted, and countervailing charges in respect of imports may not be imposed, unless the measures contemplated have been approved in advance by the Council of Association and for a limited period.

Article 46

The Contracting Parties may adopt any protective measures which they consider to be needed to overcome

difficulties due to the absence of a decision by the Council of Association on the rules and conditions of application provided for in Article 43 (1), or to the non-application of those decisions or of Articles 44 or 45.

Article 47

1. If, during the period of twenty-two years, the Council of Association, on application by a Contracting Party, finds that dumping is being practised in trade between the Community and Turkey, it shall address recommendations to the person or persons with whom such practices originate for the purpose of putting an end to them.

2. The injured Party may, after notifying the Council of Association, take suitable protective measures where:

- (a) the Council of Association has taken no decision pursuant to paragraph 1 within three months from the making of the application;
- (b) despite the issue of recommendations under paragraph 1, the dumping practices continue.

Moreover, where the interests of the injured Party call for immediate action, that Party may, after informing the Council of Association, introduce interim protective measures which may include anti-dumping duties. Such measures shall not remain in force more than three months from the date of the application, or from the date on which the injured Party takes protective measures under (b) of the preceding subparagraph.

3. Where protective measures have been taken under (a) of the first subparagraph of paragraph 2, or under the second subparagraph of that paragraph, the Council of Association may, at any time, decide that such protective measures shall be suspended pending the issue of recommendations § under paragraph 1.

The Council of Association may recommend the abolition or amendment of protective measures taken under (b) of the first subparagraph of paragraph 2.

4. Products which originated in or were in free circulation in one of the Contracting Parties and which have been exported to the other Contracting Party shall, on reimportation, be admitted into the territory of the former Contracting Party free of all customs duties, quantitative restrictions or measures having equivalent effect. The Council of Association may make any appropriate recommendations for the application of this paragraph; it shall be guided by Community experience in this field.

Article 48

The Council of Association may recommend the Contracting Parties to take measures to approximate the laws, regulations or administrative provisions in respect of fields which are not covered by this Protocol but have a direct bearing on the functioning of the Association, and of fields covered by this Protocol but for which no specific procedure is laid down therein.

Chapter II Economic Policy

Article 49

In order to facilitate attainment of the objectives set out in Article 17 of the Agreement of Association, the

Contracting Parties shall regularly consult each other in the Council of Association to coordinate their economic policies. The Council of Association shall, where necessary, recommend appropriate measures.

Article 50

1. The Contracting Parties declare their readiness to undertake the liberalization of payments beyond the extent provided for in Article 19 of the Agreement of Association, in so far as their economic situation in general and the state of their balance of payments in particular so permit.

2. In so far as movements of goods, services and capital are limited only by restrictions on payments connected therewith, these restrictions shall be progressively abolished by applying, *mutatis mutandis*, the provisions relating to the abolition of quantitative restrictions, the provision of services and to capital movements.

3. The Contracting Parties undertake not to make more restrictive the arrangements which they apply to transfers connected with the invisible transactions listed in Annex III to the Treaty establishing the Community, without the prior agreement of the Council of Association.

4. If need be, the Contracting Parties shall consult each other on measures to be taken to enable the payments and transfers mentioned in Article 19 of the Agreement of Association and in this Article to be effected.

Article 51

In order to further the objectives set out in Article 20 of the Agreement of Association, Turkey shall, on the entry into force of this Protocol, endeavour to improve the treatment accorded to private capital from the Community which can contribute to the development of the Turkish economy.

Article 52

The Contracting Parties shall endeavour to avoid introducing any new foreign exchange restrictions on the movement of capital and current payments connected therewith between themselves, and shall endeavour not to make the existing arrangements more restrictive.

The Contracting Parties shall simplify to the maximum extent possible authorization and control formalities applicable to the conclusion and carrying out of capital transactions and transfers, and shall, in so far as is necessary, consult each other for the purpose of achieving such simplification.

Chapter III

Commercial Policy

Article 53

1. The Contracting Parties shall consult each other in the Council of Association in order to achieve, during the transitional stage, the coordination of their commercial policies in relation to third countries, in particular in the fields mentioned in Article 113 (1) of the Treaty establishing the Community.

For this purpose, each Contracting Party shall, at the request of the other Party, furnish all relevant information on agreements which it concludes and which contain tariff or commercial provisions, as well as on changes which it makes in its external trade arrangements.

Where such agreements or changes might have a direct and particular effect on the functioning of the

Association, there shall be appropriate consultation in the Council of Association in order to take into account the interests of the Contracting Parties.

2. At the end of the transitional stage, the Contracting Parties, meeting in the Council of Association, shall coordinate their commercial policies more closely' with the aim of achieving a commercial policy based on uniform principles.

Article 54

1. If the Community concludes an agreement of association or a preferential agreement having direct and particular effect on the functioning of the Association, appropriate consultation shall take place in the Council of Association in order to enable the Community to take into account the mutual interests stated in the Agreement of Association between the Community and Turkey.

2. Turkey shall, where necessary to prevent barriers to the movement of goods within the Community, endeavour to take all appropriate measures for the solution of any practical problem which may arise in connection with trade between Turkey and countries linked to the Community by an association agreement or a preferential agreement.

Where such measures have not been taken, the Council of Association may adopt the necessary provisions for ensuring the proper functioning of the Association.

Article 55

Consultations shall take place in the Council of Association on the implementation of 'Regional Cooperation for Development' (RCD). The Council of Association may adopt any necessary provisions. These must not impede the proper functioning of the Association.

Article 56

In the event of a third State acceding to the Community, appropriate consultations shall take place in the Council of Association so as to ensure that account can be taken of the mutual interests of the Community and Turkey stated in the Agreement of Association.

Title IV

General and Final Provisions

Article 57

The Contracting Parties shall progressively adjust the conditions for participation in contracts awarded by public authorities and public undertakings, and by private undertakings which have been granted special or exclusive rights, so that by the end of the period of twenty-two years there is no discrimination between nationals of Member States and nationals of Turkey established in the territory of the Contracting Parties.

The Council of Association shall determine the timetable and rules for this adjustment; when doing so it shall be guided by the solutions adopted by the Community in this field.

Article 58

In the fields covered by this Protocol:

- the arrangements applied by Turkey in respect of the Community shall not give rise to any discrimination between Member States, their nationals or their companies or firms;
- the arrangements applied by the Community in respect of Turkey shall not give rise to any discrimination between Turkish nationals or Turkish companies or firms.

Article 59

In the fields covered by this Protocol Turkey shall not receive more favourable treatment than that which Member States grant to one another pursuant to the Treaty establishing the Community.

Article 60

1. If serious disturbances occur in a sector of the Turkish economy or prejudice its external financial stability, or if difficulties arise which adversely affect the economic situation in a region of Turkey, Turkey may take the necessary protective measures.

The Council of Association shall be notified immediately of those measures and of the rules for their application.

2. If serious disturbances occur in a sector of the economy of the Community or of one of more Member States, or prejudice the external financial stability of one or more Member States, or if difficulties arise which adversely affect the economic situation in a region of the Community, the Community may take, or authorize the Member State or States concerned to take, the necessary protective measures.

The Council of Association shall be notified immediately of such measures and of the rules for their application.

3. In the choice of measures to be taken in pursuance of paragraphs 1 and 2, preference shall be given to those which will least disturb the functioning of the Association. These measures shall not exceed what is strictly necessary to remedy the difficulties that have arisen.

4. Consultations may take place in the Council of Association on the measures taken in pursuance of paragraphs 1 and 2.

Article 61

Without prejudice to the special provisions of this Protocol, the transitional stage shall be twelve years.

Article 62

This Protocol and the Annexes thereto shall form an integral part of the Agreement establishing an Association between the European Economic Community and Turkey.

Article 63

1. This Protocol shall be ratified by the Signatory States in accordance with their respective constitutional requirements and shall be validly concluded on behalf of the Community by a decision of the Council, taken in accordance with the provisions of the Treaty establishing the Community; the decision shall be notified to the Contracting Parties to the Agreement establishing an Association between the European Economic Community and Turkey.

The instruments of ratification and the notification of conclusion shall be exchanged at Brussels.

2. This Protocol shall enter into force on the first day of the month following the date of the exchange of the instruments of ratification and of the notification mentioned in paragraph 1.

3. If this Protocol does not enter into force at the beginning of a calendar year, the Council of Association may shorten or lengthen the periods laid down in this Protocol, in particular those in which free movement of goods is to be achieved, so that they may terminate at the end of a calendar year.

Article 64

This Protocol is drawn up in two copies in the Dutch, French, German, Italian and Turkish languages, each of these texts being equally authentic.

In witness whereof, the undersigned Plenipotentiaries have signed this Additional Protocol.

Done at Brussels on the twenty-third day of November in the year one thousand nine hundred and seventy.

For His Majesty the King of the Belgians,
Pierre HARMEL

For the President of the Federal Republic of Germany,
Walter SCHEEL

For the President of the French Republic,
Maurice SCHUMANN

For the President of the Italian Republic,
Mario PEDINI

For His Royal Highness the Grand Duke of Luxembourg,
Gaston THORN

For Her Majesty the Queen of the Netherlands,
J. M. A. H. LUNS

For the Council of the European Communities,
Walter SCHEEL
Franco Maria MALFATTI

For the President of the Republic of Turkey,
İhsan Sabri ÇAĞLAYANGİL