

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

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

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,
THE PRESIDENT OF THE TURKISH REPUBLIC,
of the other part,

ANXIOUS to promote an accelerated development of the Turkish economy in order to facilitate the pursuit of the objectives of the Agreement establishing an Association between the European Economic Community and Turkey,

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 TURKISH REPUBLIC:

Mr Ihsan Sabri CAGLAYANGIL,
Minister for Foreign Affairs;

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

HAVE AGREED AS FOLLOWS:

Article 1

Within the framework of the Association between the European Economic Community and Turkey, the Community shall supplement Turkey's own endeavours by participating, in the manner laid down in this Protocol, in measures to promote the development of that country.

Article 2

1. Requests for financing may be submitted to the European Investment Bank by the Turkish State, by an authority and by public or private undertakings which have their seat or a place of business in Turkey; the Bank shall notify them of the action taken on their application.

2. Investment projects shall be eligible for financing where they:

(a) help to increase the productivity of the Turkish economy and, in particular, aim to provide Turkey with a better economic infrastructure, higher agricultural output, and modern, efficiently-run public or private undertakings in the industrial and service sectors;

(b) further the aims of the Agreement of Association;

(c) are part of the Turkish Development Plan in force at the relevant date.

3. With respect to the choice of investment projects within the framework of the above provisions:

(a) only individual projects may be financed;

b) as a general rule, investment projects which are to be carried out on Turkish territory may be financed irrespective of the sectors of the economy to which they relate.

4. Special consideration shall be given to projects which could serve to improve the Turkish balance of payments.

Article 3

1. Requests which have been approved shall be financed by loans from the European Investment Bank acting on authority from the Member States of the Community.

2. These loans may be granted up to an aggregate amount of 195 million units of account, which may be committed in a period expiring on 23 May 1976. Any balance outstanding at the end of that period shall be used in accordance with the provisions of this Protocol until it is exhausted.

3. The funds committed each year as a result of the granting of loans shall be distributed as evenly as possible over the whole period in which this Protocol is in force. However, relatively large amounts may, within reasonable limits, be committed in the first part of this period.

4. To the amount specified in paragraph 2 there shall be added the undisbursed portion of loans committed pursuant to the first Financial Protocol but cancelled before the whole or a part of the relevant payments had been made.

Article 4

1. Requests for financing which are not submitted by the Turkish Government cannot be approved without the agreement of that Government.
2. Where a loan is granted to an undertaking or to an authority other than the Turkish State, that loan shall be subject to a guarantee from the Turkish State.
3. Undertakings whose risk capital comes wholly or partly from countries of the Community shall have access to the finance provided for in this Protocol on the same conditions as undertakings with Turkish capital.

Article 5

1. Loans shall be granted on the basis of the economic features of the projects which they are to finance.
2. Loans, especially those for capital investment projects, the return on which is indirect or long-term, may be granted for a maximum of thirty years, and may be redemption-free for up to eight years. The rate of interest on such loans must be not less than 2-5 % per annum.
3. Loans for the financing of projects showing a normal return, which must account for not less than 30 % of the amount of the loans granted to Turkey annually, may be made on the following terms:
 - (a) a loan period and a redemption-free period determined by the Bank, subject to the limits laid down in paragraph 2, with a view to facilitating the servicing of loans by Turkey;
 - (b) a rate of interest of not less than 4-5 % per annum.
4. The loans referred to in the preceding paragraph may be granted through the intermediary of appropriate Turkish agencies.

The choice of projects to be financed through these agencies and the terms on which loans by the Bank may be granted by the agency or agencies concerned to recipient undertakings, shall be subject to prior approval by the Bank.

5. Repayments by recipient undertakings which are not immediately needed by the intermediary agencies for the redemption of loans from the Bank, shall be paid into a special account; the use of such amounts shall be subject to approval by the Bank.

Article 6

1. All natural and legal persons who are nationals of Turkey or of Member States of the Community may participate on equal terms in tendering procedures, invitations to tender, transactions and contracts relating to projects for which loans have been granted.
2. The loans may be used to cover expenditure on imports or domestic expenditure, where such expenditure is necessary for carrying out approved capital investment projects, including expenditure on planning, on the services of consulting engineers and on technical assistance.
3. The Bank shall ensure that funds are used as judiciously as possible and in accordance with the objectives of the Agreement of Association.

Article 7

Turkey shall, for the whole period of a loan, make available to the recipients of the loan the currency necessary for the payment of interest and commission, and for the repayment of capital.

Article 8

Contributions under this Protocol for the execution of certain projects may take the form of participation in financing operations in which, in particular, third countries, international finance organisations or credit and development authorities and institutions in Turkey or of Member States of the Community may be concerned.

Article 9

1. While this Protocol is in force the Community shall examine the possibility of supplementing the amount of the loans specified in Article 3 by loans granted by the European Investment Bank from its own resources and on market terms and whose aggregate amount may total 25 million units of account.

2. These loans would be used to finance projects showing a normal return which are to be carried out in Turkey by private undertakings.

3. The Statute of the European Investment Bank and Articles 4, 7 and 8 of this Protocol shall apply to these loans.

Article 10

The Contracting Parties shall, one year before expiry of this Protocol, consider which of its provisions relating to financial assistance might be adopted for a further period.

Article 11

This Protocol shall be annexed to the Agreement establishing an Association between the European Economic Community and Turkey.

Article 12

1. This Protocol shall be ratified by the Signatory States in accordance with their respective constitutional requirements and, as regards the Community, shall become binding by a Council Decision taken in accordance with the Treaty establishing the Community and notified to the Contracting Parties to the Agreement establishing an Association between the European Economic Community and Turkey.

The above instruments of ratification and the act of 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 exchange of the instruments of ratification and act of notification of conclusion, referred to in paragraph 1.

Article 13

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 Financial Protocol.

Done at Brussels this 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,
Ihsan Sabri CAGLAYANGIL