

COMMISSION OF THE EUROPEAN COMMUNITIES

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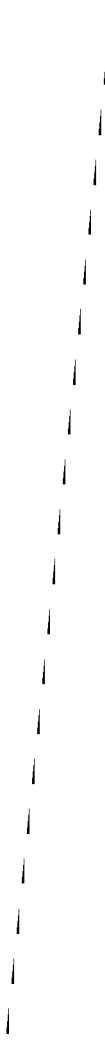
Brussels, 13 March 1978.

Proposal for a
COUNCIL REGULATION (EEC)

on the application of the provisions of the Financial
Protocols concluded with Greece, Turkey and Portugal

(submitted to the Council by the Commission)

1



EXPLANATORY MEMORANDUM

1. The implementation of the Financial Protocols with Greece, Turkey and Portugal justifies the adoption of more flexible administrative machinery than that which will be adopted for the Maghreb or Mashreq countries, Cyprus or Malta, since:

- (a) the Protocols in question do not provide for procedures for the programming or orientation of aid, unlike the agreements concluded with the other Mediterranean countries;
- (b) Greece, Turkey and Portugal, which have a higher overall development level than the Maghreb or Mashreq countries, already have experience of financial cooperation with the Bank; this has hitherto been conducted by means of very flexible procedures, which have helped towards rapid implementation of the aid. Furthermore, these countries are European and are eligible for accession to the Community sooner or later. In these circumstances, the adoption of more cumbersome procedures involving delays could well be seen as a backward step, which would be all the less justifiable in that the countries in question would have free access to loans from the Bank upon accession, for which Greece and Portugal have already submitted official applications.

2. The more flexible administrative machinery advocated above could be based on the system which has been in force for Turkey since 1964 and has proved entirely satisfactory. There would nevertheless have to be adjustments to it, for the inclusion in the budget of special loans and interest rate subsidies would be reflected in the role which the Commission would play in the institutional machinery set up to appraise and administer these loans.

This means that for each special loan or interest rate subsidy, the Member States and the Commission would be consulted in writing; this consultation would give rise either to tacit agreement by the Member States and by the Commission after a certain period laid down in the Regulation had elapsed, or to the convening of a Committee if a Member State or the Commission so requested¹. The legal consequences of a negative opinion from the Committee and/or the Commission would be the same as those envisaged for the Maghreb and Mashreq countries, Cyprus and Malta. This machinery is set out in Articles 8 and 9 of the draft regulation.

¹Under the system in force for Turkey (Article 10 of the Internal Agreement) the Commission did not have the possibility of requesting that the Committee be convened, and its opinion was obtained solely under Article 21 of the Bank's Statute. In other words, consultation of the Member States and of the Commission took place under different procedures and subject to different time-limits (four weeks for the Member States, two months for the Commission).

Given the enhanced role attributed to the Commission by the draft regulation and consequently the linking of the Commission with the Member States in the context of a single consultation, it is proposed that a uniform period be adopted for the Member States and the Commission. This period should be set at two months in order to take into account Article 21 of the Bank's Statute, which allows the Commission two months to express its opinion.

PROPOSAL FOR COUNCIL REGULATION (EEC) No

on the application of the provisions of the Financial Protocols
concluded with Greece, Turkey and Portugal

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 209 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Financial Protocols, which constitute integral parts of the Agreements with Greece, Turkey and Portugal, and are hereinafter referred to as the "Protocols", have fixed the aggregate amount of Community aid to those countries at 280, 310 and 230 million units of account respectively, comprising 230 million units of account in the form of loans on special terms, 75 million units of account in the form of grants and 515 million units of account in the form of loans granted by the European Investment Bank from its own resources;

Whereas the unit of account applicable for purposes of the Protocols was defined in a declaration annexed to the said Protocols;

Whereas the detailed rules for the administration of the aid not covered by the Bank's own resources must be laid down;

Whereas provision should be made to lay down the rules for the management of financial and technical cooperation, the procedure for examining and approving aid and the detailed rules for supervising the use of that aid;

Whereas a Committee of representatives of the Member States should be set up under the auspices of the Commission for operations directly administered by the Commission;

Whereas it should be stipulated that applications for the financing of operations not covered from the Bank's own resources should be submitted for opinion to a Committee of representatives of the Governments of the Member States and to the Commission,

HAS ADOPTED THIS REGULATION:

Article 1

The results of financial cooperation with Greece, Turkey and Portugal may be examined within the Association Councils and the Joint Committee respectively in accordance with Article 10 of the Financial Protocol with Greece, Article 13 of the Financial Protocol with Turkey and Article 9 of the Financial Protocol with Portugal.

Article 2

1. The appropriations for the financing of aid not covered from the Bank's own resources shall be administered by the Commission, in accordance with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities.

2. The Commission shall itself administer the grants provided for in Article 2(6) of the Protocol with Greece for the purpose of technical assistance schemes or projects.

3. A general mandate shall be given to the Bank by the Commission in the name of the Community to administer the interest rate subsidies for loans from its own resources in Greece and Portugal, and to administer special loans in Greece and Turkey.

4. Operations covered by the mandate established pursuant to paragraph 3 shall be undertaken by the Bank on behalf and at the risk of the Community. The Bank shall act in accordance with the procedures laid down by its Statute, subject to Articles 8 and 9 of this Regulation.

The special conditions of the mandate - in particular the provisions concerning movements of funds and the remuneration for executing the mandate - shall be the subject of an agreement between the Commission and the Bank.

Article 3

The unit of account used for the purpose of this Regulation shall be that defined in the Declaration by the European Economic Community relating to Article 2 of the Protocols.

Article 4

Periodic exchanges of views shall be held on the implementation of financial cooperation with Greece, Turkey and Portugal in the Committee provided for in Article 8. These exchanges of views shall relate inter alia to the information obtained by the Bank from the countries concerned regarding the financing sought and to operations which the Bank intends to submit for an opinion in accordance with Articles 8 and 9.

Periodic exchanges of views shall be held on the technical cooperation projects referred to in Article 2(6) of the Financial Protocol with Greece in the Committee provided for in Article 5. These exchanges of views shall relate inter alia to the information obtained by the Commission from Greece regarding the financing sought and to operations which the Commission intends to submit for an opinion in accordance with Article 7. 5

Article 5

1. There is hereby established under the auspices of the Commission a committee (hereinafter called the "Article 5 Committee") consisting of representatives of the Member States.

The Article 5 Committee shall be chaired by a representative of the Commission; its secretariat shall be provided by the Commission.

A representative of the Bank shall take part in its proceedings.

2. The Council, acting unanimously on a proposal from the Commission, shall adopt the rules of procedure of the Article 5 Committee.

3. Within the Article 5 Committee, the votes of the Member States shall be weighted in accordance with Article 148(2) of the Treaty.

The Article 5 Committee shall act by a majority of 41 votes.

Article 6

1. The Article 5 Committee shall give its opinion on draft decisions submitted to it by the Commission to finance technical assistance projects or schemes in Greece.

2. The Committee's assessment shall relate to the conformity of the projects with the objectives of technical cooperation laid down in the Protocol with Greece.

Article 7

The draft financing proposals referred to in Article 6, together with the Opinion of the Article 5 Committee, shall be submitted to the Commission for its decision.

The Commission shall take decisions and they shall be immediately applicable. However, should the Committee not deliver a favorable opinion, the Commission shall communicate its decisions to the Council forthwith.

In that event, the Commission shall defer by not more than two months from the date of such communication the application of the decisions which it has taken.

The Council, acting by a qualified majority, may take a different decision within two months.

Article 8

1. There is hereby established under the auspices of the Bank a committee, consisting of a representative of each Member State and with the participation of a Commission representative (hereinafter called the "Article 8 Committee"). It shall be chaired by the representative of the Member State currently chairing the board of the Governors of the Bank. Its secretariat shall be provided by the Bank.

2. The Council, acting unanimously, shall adopt the rules of procedure of the Article 8 Committee.

Within the Article 8 Committee, the votes of the Member States shall be weighted in accordance with Article 148 of the Treaty. The Article 8 Committee shall act by a majority of 41 votes.

3. Applications for loans with an interest rate subsidy or special loans submitted by the Greek, Turkish or Portuguese Government, or on which such Government has expressed a favourable opinion, shall be transmitted by the Bank to the Members of the Committee and to the Commission, accompanied by any relevant comments.

An application for a loan shall be considered acceptable if the Bank does not receive - within two months from the date of transmission of the application - any request for consultation of the Committee or from one of its members or from the Commission.

If such a request is received, the Committee shall examine whether the loan application is acceptable.

Article 9

1. The assessment by the Member States and the Commission shall relate to the conformity of the projects with the objectives of financial cooperation as laid down in the Protocols.

2. Where, in the case of an application for a loan with an interest rate subsidy, or for financing by special loan, the procedure provided for in Article 8 results in a tacit agreement or in a favourable opinion from the Committee and from the Commission, the application shall be submitted for a decision to the Board of Directors of the Bank, which shall act in accordance with the provisions of the Bank's Statute.

In the absence of favourable opinion from the Article 8 Committee or in the event of an unfavourable opinion from the Commission, the Bank shall either not take any action on the application or request that the Member State taking the chair of the Article 8 Committee bring the matter before the Council as soon as possible.

3. Where, in the absence of a favourable opinion from the Article 8 Committee or in the event of an unfavourable opinion from the Commission, the matter is brought before the Council in accordance with paragraph 2, the application shall be submitted to the Council together with the reasoned opinions of the Article 8 Committee and the Commission.

The Council shall act by a qualified majority. However, in the event of an unfavourable opinion of the Commission, it shall act unanimously.

If the Council decides to confirm the position taken by the Article 8 Committee or by the Commission, the Bank shall not take any action on the application.

If; however, the Council decides in favour of the application, the Bank shall implement the procedures provided for in its statute.

Article 10

1. The Commission shall ascertain from the Bank that the mandate laid down in Article 2 is being carried out.
2. It shall also ascertain how grants, which it administers directly, are used by the recipients.
3. The Commission shall inform the Council and the European Parliament at least once a year, and in addition whenever they so request, as regards the implementation of paragraphs 1 and 2.

Article 11

This Regulation shall be applicable for the same period as the Protocols.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the Council

The President

