

**Recommendation for a Council Decision (EEC) on the conclusion of a Protocol on financial and technical cooperation between the European Economic Community and the Republic of Cyprus**

*COM(89) 431 final*

*(Submitted by the Commission on 12 October 1989)*

*(90/C 53/04)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 238 thereof,

Having regard to the recommendation from the Commission,

Having regard to the assent of the European Parliament,

Whereas the Protocol of financial and technical cooperation between the European Economic Community and the Republic of Cyprus should be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Protocol on financial and technical cooperation between the European Economic Community and the Republic of Cyprus is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

*Article 2*

The President of the Council shall give the notification provided for in Article 21 of the Protocol <sup>(1)</sup>.

*Article 3*

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

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<sup>(1)</sup> The date of the entry into force of the Protocol will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

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**PROTOCOL**

**on financial and technical cooperation between the European Economic Community  
and the Republic of Cyprus**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

of the one part, and

THE GOVERNMENT OF THE REPUBLIC OF CYPRUS,

of the other part,

ANXIOUS to promote the development of the Cypriot economy and the objectives of the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus;

MINDFUL of the declaration of the European Economic Community concerning a third Financial Protocol contained in the Final Act annexed to the Protocol laying down the conditions and procedures for the implementation of the second stage of the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus and adapting certain provisions of the Agreement and taking into account the newly established relationship between the Community and Cyprus as it results from the said Protocol;

HAVE DECIDED to conclude this Protocol and to this end have designated as their Plenipotentiaries:

THE COUNCIL OF THE EUROPEAN COMMUNITIES

THE GOVERNMENT OF THE REPUBLIC OF CYPRUS

WHO, having exchanged their full powers, found in a good and due form,

HAVE AGREED AS FOLLOWS:

#### *Article 1*

Within the framework of the financial and technical cooperation provided for in the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus, the Community shall participate on the terms set out in this Protocol in the financing of projects intended to contribute to the economic and social development of Cyprus with special emphasis on the productive sectors of Cyprus' economy, thus facilitating their adjustment to the new competitive conditions.

#### *Article 2*

1. For the purposes specified in Article 1, and for a period expiring on 31 December 1993, an aggregate amount of ECU 62 million may be committed as follows:

- (a) ECU 44 million in the form of loans from the European Investment Bank, hereinafter referred to as 'the Bank', made from its own resources;
- (b) ECU 13 million from the Community's budgetary resources, in the form of grants;
- (c) ECU 5 million from the Community's budgetary resources, in the form of contributions to risk capital formation.

2. The loans referred to in point (a) of paragraph 1 shall carry a 1,5 % interest rate subsidy financed by means of the funds referred to in point (b) of paragraph 1.

3. The risk capital referred to in point (c) of paragraph 1 shall contribute to the cooperation objectives and operations defined in Article 3, in particular those indicated in the first indent of paragraph 2 of that Article.

It shall be used primarily to make equity capital or the like available to Cypriot private undertakings, public undertakings and undertakings with State participation, preferably those with which natural or legal persons who are nationals of a Community Member State are associated. It may be used under the same conditions to finance specific studies for the preparation and development of such undertakings'

projects and to assist such undertakings in their starting-up period.

It shall be granted and administered by the Bank and may take the form of:

- (a) subordinated loans, where repayment and payment of any interest will not be made until other bank claims have been settled;
- (b) conditional loans, where repayment or duration will depend on the fulfilment of conditions specified at the time when the loan is granted;
- (c) acquisition of temporary minority holdings on behalf of the Community in the capital of undertakings established in Cyprus;
- (d) finance for the acquisition of holdings, in the form of conditional loans granted to Cyprus or, with the Cypriot Government's agreement, to Cypriot undertakings, either directly or through the intermediary of Cypriot financial institutions.

#### *Article 3*

1. The total amount fixed in Article 2 shall be used primarily for the financing or part-financing of cooperation projects or operations aimed at strengthening the economic links between the Community and Cyprus in their mutual interest by developing cooperation in the fields of industry, agriculture, training and research, technology, commerce and other services in order to restructure and modernize the Cypriot economy and to increase its competitiveness. Economic infrastructure and capital projects which are complementary to the above operations may also be financed.

2. Priority shall be given to those of the eligible projects and operations having the following aims:

- in the industrial, agricultural and service sectors, promotion of joint ventures between firms from the Community Member States and Cypriot firms, direct contacts, exchange of information, promotion of

investment and private-sector capital flows, and support for small and medium-sized enterprises, including craft businesses, in order to promote employment,

- in the field of science and technology, expansion of Cypriot training and research capability and the establishment or development of links between Cypriot and European private and public sector training and research institutions,
- in the trade sector, diversification and promotion of exports and organization of contacts between Cypriot firms and firms from the Community Member States,
- in the priority areas referred to above, practical training schemes linked to projects or operations in firms and research institutions.

3. The Community's financial contributions shall be used to cover internal and external costs necessarily incurred in carrying out approved projects or schemes (including costs in respect of studies, consultants and technical assistance).

They may not be used to cover current administrative, maintenance or operational expenditure.

#### Article 4

1. Capital projects shall be eligible for financing either by loans from the Bank, combined with interest rate subsidies on the terms set out in Article 2 (2), or by risk capital, or by grants, or by a combination of these means.
2. Technical and economic cooperation shall normally be financed by grants.

#### Article 5

1. The amounts to be committed each year shall be as far as possible distributed throughout the period of application of this Protocol.
2. Any funds not committed at the end of the period referred to in Article 2 (1) shall be used until exhausted in accordance with the arrangements laid down in this Protocol.

#### Article 6

1. Loans granted by the Bank from its own resources shall be made in accordance with the arrangements, conditions and procedures laid down in its statute. They shall, as regards their duration, be subject to terms established on the basis of the economic and financial characteristics of the projects for which these loans are intended, also taking into account the conditions obtaining on the capital markets on which the Bank procures its resources. The

interest rate shall be determined in accordance with the Bank's practice at the time of signature of each loan contract, subject to the interest rate subsidy referred to in Article 2 (2).

2. The terms and arrangements for contributions to risk capital formation shall be determined on a case-by-case basis.
3. Aid from the Community's budget resources, other than that intended for interest rate subsidies for loans from the Bank of that intended for risk capital operations shall be granted and administered by the Commission.
4. The funds referred to in Article 2 may be granted through the intermediary of the State or appropriate Cypriot bodies, on condition that they allocate the amounts to the recipients on terms decided, by agreement with the Community, on the basis of the economic and financial characteristics of the projects and operations for which they are intended.

#### Article 7

Aid contributed by the Community for the execution of certain projects may, with the agreement of Cyprus take the form of cofinancing in which, in particular, credit and development bodies and institutions of Cyprus, of Member States or of third States or international finance organizations would take part.

#### Article 8

The following shall be eligible for financial and technical cooperation:

- (a) in general:
  - the State of Cyprus;
- (b) with the agreement of the Cypriot Government, for projects or operations approved by it:
  - official Cypriot development agencies,
  - private agencies working in Cyprus for economic and social development,
  - undertakings carrying on their activities in accordance with industrial and business management methods and set up as legal persons within the meaning of Article 12,
  - groups of producers who are nationals of Cyprus and, exceptionally, where no such groups exist, the producers themselves,
  - scholarship holders and trainees sent by Cyprus and the training schemes referred to in Article 3.

#### Article 9

1. With a view to making optimum use of the instruments and means provided for in this Protocol and achieving the objectives laid down in Article 3, the Community and

Cyprus shall, by mutual agreement on the basis of information provided by Cyprus draw up an indicative programme committing both parties and determining the specific objectives of financial and technical cooperation, the priority sectors for intervention and the action programmes envisaged by reference to the priorities set out in Cyprus's development plan.

2. The indicative programme may be reviewed by mutual agreement to take account of any changes in Cyprus's economic situation or in the objectives and priorities laid down by its development plan.

3. The Community and Cyprus shall continue their exchanges of views within the appropriate bodies and shall, at least once during the period of implementation of this Protocol and at the latest before the end of the third year following its entry into force, make an assessment of the implementation of the indicative programme.

#### Article 10

1. Within the framework laid down in accordance with Article 9, the State of Cyprus or, with the agreement of its Government, the other possible beneficiaries referred to in Article 8, shall submit their requests for financial aid to the Community.

2. The Community shall appraise the requests for financing in collaboration with the competent Cypriot authorities and other beneficiaries, in accordance with the objectives referred to in Article 9, and shall inform them of the decisions taken on such requests.

#### Article 11

1. The execution, management and maintenance of schemes that are the subject of financing under this Protocol shall be the responsibility of Cyprus or of the other beneficiaries referred to in Article 8.

The Community shall make sure that this financial aid is expended in accordance with the agreed allocations and to the best economic advantage.

2. The projects and action programmes shall be the subject of appropriate evaluation, the outcome of which shall be communicated to both parties, which shall take appropriate measures by mutual agreement.

3. Certain rules for administering the financial aid granted by the Community shall be the subject of an exchange of letters or a framework agreement between the Commission and Cyprus upon conclusion of this Protocol.

#### Article 12

1. All natural and legal persons falling within the scope of the Treaty establishing the European Economic Community and all natural and legal persons of Cyprus may participate on equal terms in tendering procedures and

other procedures for the award of contracts likely to be financed. Any such legal person formed in accordance with the law of a Member State of the European Economic Community or of Cyprus must have its registered office, its administrative head office or its principal establishment in the territories in which the EEC Treaty is applied or in Cyprus; however, where only its registered office is in the said territories or in Cyprus the activities of such legal person must be effectively and continuously linked with the economy of those territories or of Cyprus.

2. In agreement with Cyprus, natural and legal persons who are nationals of developing countries associated with the Community by comprehensive cooperation or association agreements may exceptionally, on a case-by-case basis, be authorized by the Community to participate in the operations referred to in paragraph 1 which are financed by the Community. The eligibility of such natural or legal persons shall be assessed, *mutatis mutandis*, on the terms set out in paragraph 1.

#### Article 13

To promote participation by Cypriot undertakings in the performance of contracts and to ensure the rapid and effective implementation of projects and operations financed from resources administered by the Commission:

(a) an accelerated procedure for issuing invitations to tender involving shorter time limits for the submission of tenders, may be used by Cyprus in agreement with the Commission for works contracts which, because of their scale, are mainly of interest to Cypriot undertakings.

The organization of this accelerated procedure shall not rule out the possibility of issuing an international invitation to tender where it appears that the nature of the works to be carried out or the usefulness of widening participation justifies recourse to international competition;

(b) in urgent cases or where the nature, small scale or particular characteristics of certain works or supplies so warrant, Cyprus may exceptionally, in agreement with the Commission, authorize the placing of contracts following restricted invitations to tender, the conclusion of contracts by direct agreement and the performance of contracts through public works departments.

The procedures referred to in points 1 and 2 may be used for operations with an estimated cost of less than ECU 3 million.

#### Article 14

1. Cyprus shall apply to contracts awarded for the execution of projects or schemes financed by the Community fiscal and customs arrangements no less favourable

than those applied *vis-à-vis* the most favoured State or the most favoured international organization.

2. The content of arrangements referred to in paragraph 1 shall be established by means of an exchange of letters between the Parties.

*Article 15*

Cyprus shall take the necessary measures to ensure that interest and all other payments due to the Bank in respect of transactions concluded under this Protocol are exempted from any national or local tax or levy.

*Article 16*

Where, as foreseen in Article 8 above, a loan is accorded with the agreement of the Cyprus Government to a beneficiary other than the State, the provision for a guarantee by the latter or other adequate guarantee shall be required by the Bank as a condition of the grant of the loan.

*Article 17*

Throughout the duration of the loans and risk capital operations provided for in Article 2, Cyprus shall undertake to:

- (a) place at the disposal of the beneficiaries or of their guarantors the currency necessary for the payment of interest and commission and amortization of loans and risk capital aid granted for the implementation of operations on its territory;
- (b) make available to the Bank the foreign currency necessary for the transfer of all sums received by it in national currency which represent the net revenue and proceeds from transactions involving the acquisition by the Community of holdings in the capital of companies or firms.

*Article 18*

The results of financial and technical cooperation may be examined within the Association Council which shall establish, where appropriate, the general guidelines for such cooperation.

*Article 19*

One year before the expiry of this Protocol, the Contracting Parties shall examine what arrangements could be made for financial and technical cooperation during a possible further period.

*Article 20*

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

*Article 21*

1. This Protocol shall be subject to approval in concordance with the Contracting Parties' own procedures; the Contracting Parties shall notify each other that the procedures necessary to this end have been completed.
2. This Protocol shall enter into force on the first day of the second month following the date on which the notifications provided for in paragraph 1 have been given.

*Article 22*

This Protocol is drawn in two original copies in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, each of these texts being equally authentic.