

Procedure file

Basic information			
NLE - Non-legislative enactments Decision	2005/0091(NLE)	Awaiting committee decision	
EC/Turkey agreement: additional Protocol to the Agreement establishing an Association following the 2004 enlargement of the Union			
Subject 8.20.01 Candidate countries			
Geographical area Turkey			

Key players			
European Parliament	Committee responsible AFET Foreign Affairs	Rapporteur	Appointed
	Former committee responsible AFET Foreign Affairs		
	AFET Foreign Affairs		
	AFET Foreign Affairs		
	Committee for opinion INTA International Trade	Rapporteur for opinion	Appointed
		The committee decided not to give an opinion.	
	Former committee for opinion INTA International Trade		
	INTA International Trade		
	INTA International Trade		
Council of the European Union	Council configuration <u>General Affairs</u>	Meeting	Date
		<u>2667</u>	13/06/2005
European Commission	Commission DG <u>Neighbourhood and Enlargement Negotiations</u>	Commissioner	
		FÜLE Štefan	

Key events			
13/05/2005	Preparatory document	<u>COM(2005)0191</u>	
07/06/2005	Legislative proposal published	<u>09617/2005</u>	Summary
22/06/2005	Committee referral announced in Parliament		
28/09/2005	Results of vote in Parliament		

28/09/2005	Debate in Parliament		Summary
19/10/2009	Committee referral announced in Parliament		
02/12/2009	Additional information		Summary
20/10/2014	Committee referral announced in Parliament		

Technical information	
Procedure reference	2005/0091(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 218-p6a; Treaty on the Functioning of the EU TFEU 217
Stage reached in procedure	Awaiting committee decision
Committee dossier	AFET/9/00009

Documentation gateway					
Preparatory document		COM(2005)0191	13/05/2005	EC	
Legislative proposal		09617/2005	07/06/2005	CSL	Summary
Supplementary legislative basic document		09616/2005	08/06/2005	CSL	Summary
Commission response to text adopted in plenary		SP(2005)4139	20/10/2005	EC	

EC/Turkey agreement: additional Protocol to the Agreement establishing an Association following the 2004 enlargement of the Union

PURPOSE: to conclude an Additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey following the enlargement of the European Union.

PROPOSED ACT : Council Decision (conclusion of an Agreement)

CONTENT : ten new Member States acceded to the European Union on 1 May 2004. Under Article 6(2) of the Act of Accession 2003, the new Member States have undertaken to accede to, amongst others, the Agreement establishing an Association between the European Economic Community and Turkey. This Article provides for a simplified procedure, namely the conclusion of a protocol by the Council, acting unanimously on behalf of the Member States, and the third country concerned. This procedure is without prejudice to the Community's own competences and does not affect the allocation of powers between the Community and the Member States.

The aim of this proposal is to conclude this Additional Protocol on the basis of negotiation directives adopted by the Council on 9 March 2004.

Article 1 (1) of the Additional Protocol takes account of incomplete past ratification procedures with regard to previous accessions of six Member States. Even though these earlier procedures were not completed, there has nevertheless been a de facto and de jure association between these states and Turkey.

The Additional Protocol provides for the necessary technical adaptations of the Association Agreement that ensue from the accession of the new contracting parties. The Additional Protocol includes a number of adjustments brought about by the institutional and legal developments within the EC, as well as by the accession of the new Member States to this mixed agreement and an increase in the number of official languages.

The text of the Protocol negotiated with Turkey is annexed to the proposal (see Council document 9616/2005)

EC/Turkey agreement: additional Protocol to the Agreement establishing an Association following the 2004 enlargement of the Union

This document is the definitive protocol of the Agreement between the Union and Turkey following the accession of the ten new Member States.

EC/Turkey agreement: additional Protocol to the Agreement establishing an Association following the 2004 enlargement of the Union

The European Parliament postponed voting on the report by Elmar BROK (EPP-ED, DE), concerning approval of the protocol extending Turkey's association agreement with the EU to the ten new member states. Parliament voted 311 votes in favour, 285 against and 63 abstentions to postpone the vote. The postponement comes about due to the fact that, when signing the Protocol, Turkey issued a unilateral declaration restating its longstanding position of non-recognition of the Republic of Cyprus. Turkey has also refused to admit vessels and airplanes from Cyprus.

The EC and its Member States subsequently issued a declaration setting out its position on the issues raised. That declaration makes clear that the 'declaration by Turkey is unilateral, does not form part of the Protocol and has no legal effect on Turkey's obligations under the Protocol'. Furthermore, it states that 'Turkey must apply the Protocol fully to all European Union Member States' and that the 'European Union will monitor this closely and evaluate full implementation in 2006'. The declaration also restates that the European Community and its Member States 'recognise only the Republic of Cyprus as a subject of international law' and clarifies that 'recognition of all Member States is a necessary component of Turkey's accession process'. Finally, the statement makes it clear that the European Community and its Member States agree on the importance of supporting the efforts of the UN Secretary-General to bring about a comprehensive settlement of the Cyprus problem in line with the relevant UN Security Council resolutions and the very principles on which the EU is founded, so that a just and lasting settlement will contribute to peace, stability and harmonious relations on the island and in the region in a broader sense.

A majority of MEPs first wanted guarantees from the Turkish authorities that the declaration was not going to be part of the ratification in the Turkish parliament, fearing that it would then have legal implications.

Commissioner REHN stated during the debate in Parliament that the essence of the matter is that the declaration by Turkey is simply unilateral. It has no legal effect and it cannot in any way call into question the full and non-discriminatory implementation of the Protocol.

In a political resolution voted afterwards, Parliament noted "the Commission and the Council take the view that Turkey has formally fulfilled the last conditions for starting the accession negotiations on 3 October 2005." (Please refer to RSP20052576). It called on Turkey fully to implement all the provisions of the Protocol. The Commission is asked to make a full assessment of the implementation of the extended Ankara Agreement. Parliament stressed that failure in the implementation of this agreement would have serious implications for the negotiation process and could even lead to a halting of the negotiation process.

EC/Turkey agreement: additional Protocol to the Agreement establishing an Association following the 2004 enlargement of the Union

The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Decision on the conclusion of the Additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey following the enlargement of the European Union, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis ? Act/Accession/CEEC/Art 6 par 2; Treaty/EC/Art.300(2) and (3), Art.310 ? became Art. 217, Art. 218 (6)(a) of the TFEU. Please note that the numbering of the old legal bases corresponds to the consolidated versions of the Treaties that were applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old assent procedure (AVC), was classified as an interinstitutional non-legislative procedure (NLE).