

8 U.S.T. 202

TURKEY

Guaranty of Private Investments

TIAS 3761

8 U.S.T. 202

January 15, 1957, Date-Signed

January 15, 1957, Date-In-Force

STATUS:

[*1] Agreement effected by exchange of notes

Signed at Ankara January 15, 1957;

Entered into force January 15, 1957.

[NO LONG-TITLE IN ORIGINAL]

TEXT:

The American Ambassador to the Turkish Acting Minister of Foreign Affairs

AMERICAN EMBASSY

Ankara, January 15, 1957

No. 1351

EXCELLENCY:

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments with reference to Article III of the Economic Cooperation Agreement between the United States of America and the Republic of Turkey, signed at Ankara on July 4, 1948, as amended, and to Section 413 (b) (4) (B) (ii) of the Mutual Security Act of 1954, as amended. I also have the honor to confirm the following understandings reached as a result of these conversations:

The Governments of Turkey and of the United States of America will, upon the request of either of them consult respecting projects in Turkey proposed by nationals of the United States of America with regard to which guaranties under Section 413 (b) (4) (B) (ii) of the Mutual Security Act of 1954, as amended, have been made or are under consideration. With respect to such guaranties extending to projects which are approved [*2] by the Government of Turkey in accordance with the provisions of the aforesaid Section, the Government of Turkey agrees:

a. That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of Turkey will recognize the transfer to the United States of America of any right, title or interest of such person in assets, currency, credits, or other property on account of which such payment was made and the subrogation of the United States

of America to any claim or cause of action of such person arising in connection therewith. The Government of Turkey shall also recognize any transfer to the Government of the United States of America pursuant to such guaranty of any compensation for loss covered by such guaranties received from any source other than the Government of the United States of America.

b. That amounts in Turkish lira acquired by the Government of the United States pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, [*3] and that such amounts in Turkish liras will be freely available to the Government of the United States of America for administrative expenditures.

c. That any claim against the Government of Turkey, to which the Government of the United States of America may be subrogated as the result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If, within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government.

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of Turkey, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between the Governments on this subject, the agreement to enter into force on the date of your note in reply.

Please accept, [*4] Excellency, the renewed assurances of my highest consideration.

The Turkish Acting Minister of Foreign Affairs to the American Ambassador

TURKIYE CUMHURİYETİ

HARİCİYE VEKALETİ n1

-----Footnotes-----

n1 Republic of Turkey

Ministry of Foreign Affairs

-----End Footnotes-----

JANUARY 15, 1957

No: 1153/6

EXCELLENCY:

I have the honor to acknowledge receipt of Your Excellency's Note No. 1351 of this date which reads as follows:

"I have the honor to refer to conversations which have recently taken place between representatives of our two Governments with reference to Article III of the Economic Cooperation Agreement between the United States of America and the Republic of Turkey, signed at Ankara on July 4, 1948, as amended, and to Section 413 (b) (4) (B) (ii) of the Mutual Security Act of 1954, as amended. I also have the honor to confirm the following understandings reached as a result of these conversations:

The Governments of Turkey and of the United States of American will, upon the request of either of them consult respecting projects in Turkey proposed [*5] by nationals of the United States of America with regard to which guaranties under Section 413 (b) (4) (B) (ii) of the Mutual Security Act of 1954, as amended, have been made or are under consideration. With respect to such guaranties extending to projects which are approved by the Government of Turkey in accordance with the provisions of the aforesaid Section, the Government of Turkey agrees:

- a. That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of Turkey will recognize the transfer to the United States of America of any right, title or interest of such person in assets, currency, credits, or other property on account of which such payment was made and the subrogation of the United States of America to any claim or cause of action of such person arising in connection therewith. The Government of Turkey shall also recognize any transfer to the Government of the United States of America pursuant to such guaranty of any compensation for loss covered by such guaranties received from any source other than the Government of the United States of America.
- b. That amount in Turkish lira [*6] acquired by the Government of the United States pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such amounts in Turkish liras will be freely available to the Government of the United States of America for administrative expenditures.
- c. That any claim against the Government of Turkey, to which the Government of the United States of America may be subrogated as the result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If, within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government.

Upon receipt of a Note from Your Excellency indicating that the foregoing provisions are acceptable [*7] to the Government of Turkey, the Government of the United States of

America will consider that this Note and your reply thereto constitute an agreement between the Governments on this subject, the agreement to enter into force on the date of your note in reply."

I have the honor to inform Your Excellency that the terms of the foregoing Note are acceptable to the Government of the Republic of Turkey and that the Government of the Republic of Turkey consider Your Excellency's Note and the present reply thereto as constituting an Agreement between our two Governments on this subject, the Agreement to enter into force on to-day's date.

Accept, Excellency, the renewed assurances of my highest consideration.

SIGNATORIES:

Fletcher Warren
His Excellency

ETEM MENDERES,

Acting Minister of Foreign Affairs, Ankara.

For the Acting Minister of Foreign Affairs

MELIH ESENBEL
His Excellency

FLETCHER WARREN,

Ambassador of the United States of America, Ankara.