

TURKEY

SCREENING EXERCISE - CAPITAL MOVEMENTS AND PAYMENTS

NON-EXHAUSTIVE LIST OF ISSUES AND QUESTIONS TO FACILITATE THE PREPARATION OF THE BILATERAL MEETING OF 22 DECEMBER 2005

1. General situation concerning capital movements and payments

Please outline

- a. the present regime on capital movements, in particular the remaining restrictions on capital movements and payments;
- b. the envisaged pace and scope of further liberalization measures;
- c. any possible economic, political or legal difficulties in adopting specific parts of the Community acquis as regard capital movements
 - i. with respect to other Member States.
 - ii. with respect to third countries
- d. Do you foresee any need to change the approach to monetary and exchange rate policy in the context of liberalization?

2. Issues of preferential treatment / MFN

- a. Is there any difference in the regime of capital movements between Turkish and Community nationals or residents on the one hand, and between Turkish and other third countries' nationals or residents on the other hand (preference of Community over third countries or vice versa)?
- b. Please provide an overview of your bilateral agreements with third countries that include sections on investment and of the commitments entered into in that regard. Do all those agreements contain an exemption clause for regional integration (A REIO clause)?
- c. Please indicate where Turkish nationals residing abroad are treated differently than other non-residents (preference of Turkish nationality foreign residents over non-Turkish nationality foreign residents).

3. Authorization procedures

- a. Please describe in detail the authorization procedures applied to capital movements (also procedures involving other bodies than the Central Bank). Such procedures would be found typically in transactions still being restricted, like inward direct investment in Turkey. But they could possibly also exist for transactions, which otherwise are classified as unrestricted.

b. In particular:

- i. What are the criteria of granting or refusing such authorization?
- ii. What are the respective figures for 2004, for different kind of capital movements for applications, permission and refusal?
- iii. Where there is permission needed by two different bodies (e.g. the Central Bank and the Ministry), are there two independent procedures foreseen?
- iv. Is there any maximum time limit in which the authorization has to be granted?
- v. Is there a possibility of appeal to refusals for authorization?

4. Regime concerning direct investment

Inward

a. Can you confirm that there are no other *explicit* restrictions on inward direct investment than those concerning purchases of real estate by non-residents in the following activities?

- i. Maritime navigation and harbours.
- ii. Aviation and airports.
- iii. Telecommunications.
- iv. Radio and television broadcasting.
- v. Energy (electricity, oil, gas, coal).
- vi. Financial corporations.
- vii. Employment agencies.
- viii. Tourism.
- ix. Other:

Please explain the rationale of restrictions and how are they implemented. What are the obligations of foreign investors?

b. Can you confirm that there are no *implicit* restrictions on inward direct investment? Examples of such potential restrictions could be:

Favourable tax or subsidy regimes, being reserved for resident companies or persons, concerning investment with a specific purpose, or in a specific sector or region.

Lengthy and demanding information requirements requested from foreign companies before allowing them to invest in Turkey.

Special voting rights, golden shares or other special powers reserved for the government after the privatisation of companies (to be discussed below under item 6).

Outward

- c. A condition for outward investment is that the resident must have control of the enterprise. How is this condition being monitored? What happens if it is no longer fulfilled? Are the funds to be transferred back in each case?
- d. Has Turkey entered into any commitments (under bilateral or multilateral agreements) concerning direct investments and establishment towards non-EU countries which would constitute an infringement of existing European Community regimes towards non-EU countries in the same fields (according to Article 57 (2) of the EC Treaty)?

5. Regime concerning the acquisition of real estate

- a. Please describe the present regime (Arrangements applicable to capital movements table, Chapter II).
- b. In particular please explain in more detail the restrictions on the acquisition of real estate by foreigners in Turkey,
 - i. linked to foreign direct investment (other than those discussed above);
 - ii. linked to movement of workers;
 - iii. as acquisition for investment purposes;
 - iv. as acquisition of secondary residences.
- c. Is there a difference in the rules on the acquisition of buildings and the land on which they stand? What is the regime for the acquisition of agricultural land and forest land? Are there any specific provisions governing land in border areas? Are there specific concerns on acquisition by third country nationals or residents? If so, what was the nature of the regime on 31.12.1993?

6. Restrictions embedded in rules and procedures on privatization

- a. Please provide a short description of any privatisation measures which have been taken or are planned to be taken by Turkey.
- b. Has the Government of Turkey retained or is it planning to retain any special powers in privatized companies (e.g. “golden shares” or other special powers)? If so, please describe the precise nature of these powers, as applied to the companies involved¹.
- c. Are there plans for the privatisation of companies of strategic importance (e.g. gas, electricity, waterworks etc. *(if applicable)*)?

¹ Restrictions on inward direct or portfolio investments are connected with special powers retained by the Government in the privatization process. These are powers that go beyond the usual powers that stem from share-ownership in stock companies. Examples are “golden shares”, or special provisions in the Articles of Association that reserve special powers to the State. In contrast, a controlling interest due to majority ownership or to blocking minority ownership is not considered to be a special power retained by the State.

- d. What is the official position on foreign participation in the banking sector (*if applicable*)?

7. Regime concerning transactions in securities

- a. Please give some indication as to the time scale for the elimination of existing restrictions on transactions and admissions of capital market securities (Arrangements applicable to capital movement tables, Chapter III). Please detail the authorisation requirements for transactions in these securities.
- b. Please indicate any additional *implicit* restrictions that could still be in existence. Such implicit restrictions could stem from, e.g.

Investment rules for pension funds, insurance funds and collective investment funds (To be discussed under item 8 below).

Special powers reserved for the government after privatisation of companies. Those could constitute an implicit restriction on portfolio investments, in addition to direct investment (discussed under item 6).

A requirement that foreign securities owned by residents have to be deposited with resident custodians.

- c. Please indicate where the Turkish regime distinguishes between a transaction in a foreign/domestic derivative instrument by a resident/foreigner, and the respective transaction in the underlying security. Are all transactions concerning derivatives restricted in the same way as transactions in their underlying securities?
- d. As far as UCITs are concerned, under which rules are authorisation granted for acquisitions by residents? Is it correct to assume that no specific differential rules are applied here to OECD and other UCITs?
- e. On transactions in money market securities, besides issues of monitoring transactions and applying limits on foreign exchange exposure are there any other specific reasons for channelling operations through authorised entities? Please outline the rules on foreign exchange exposure.

8. Rules on the asset allocation of institutional investors

- a. Please provide a short description of the Turkish pension system, in particular, the supplementary pension scheme (second pillar) and the private pension scheme (third pillar).
- b. Please explain the investment rules and the restrictions on investments in foreign securities or other foreign assets for
- i. insurance companies,
 - ii. pension funds.

9. Regime on other kinds of capital movements

- a. Please describe the present regime on the items of Chapters VI – XIII in the “Arrangements applicable to Capital movements” tables.

- b. For operations carried out by residents with foreign financial institutions, it would be useful to learn of the procedures involved.
- c. What are the ceilings applied to physical transfers of means of payments? On what basis is authorisation granted? How is the control exercised on this and other means of payment? Is reporting at frontiers or through the banks?

10. Rules on taxation of capital and capital income

- a. Please explain the existing rules on the taxation of capital and capital income in Turkey.
- b. In particular, please indicate differences made, if any, in the tax legislation as regards capital, or income derived from, invested or taken up (as a loan) in Turkey as compared to capital, or income derived from, invested or taken up (as a loan) abroad. It might be useful to answer this question by filling in the table below:

Corporate profit tax	Domestic owners		Foreign owners	
	Legal persons	Private persons	Legal persons	Private persons
	<i>[please insert tax rate for each]</i>		<i>[please insert tax rate for each]</i>	

Dividend income	Domestic		Foreign	
	legal persons	private persons	legal persons	private persons
	<i>[please insert tax rate for each]</i>		<i>[please insert tax rate for each]</i>	

Interest income from bonds	Domestic		Foreign	
	legal persons	private persons	legal persons	private persons
	<i>[please insert tax rate for each]</i>		<i>[please insert tax rate for each]</i>	

Interest income from bank deposits	Domestic		Foreign	
	legal persons	private persons	legal persons	private persons
	<i>[please insert tax rate for each]</i>		<i>[please insert tax rate for each]</i>	

Capital gains from securities	Domestic		Foreign	
	legal persons	private persons	legal persons	private persons
	<i>[please insert tax rate for each]</i>		<i>[please insert tax rate for each]</i>	

11. Reporting requirements

- a. What are the obligations on residents or non-residents to report payments or capital movements? Are there additional special reporting requirements for foreign direct investment?

12. Safeguard measures relating to capital movements and payments

- a. Do the Turkish rules on capital movements and payments foresee any safeguard measures:
 - i. for reasons of public policy, public security or public health,
 - ii. in the field of balance of payments difficulties,
 - iii. monetary or exchange rate difficulties, or
 - iv. for reasons of foreign policy?

If yes, please describe the precise provisions and procedures.