

**LAW ON REGULATING PUBLIC FINANCE AND DEBT MANAGEMENT**  
**(Law on Regulating Public Finance and Debt Management and Law on Amending the Law on Duties and Organization of the Undersecretariat of Treasury and Undersecretariat of Foreign Trade and Law on Allocating Share from the General Budget Tax Revenues to Provincial Special Administrations)**

**Law No. 4749**  
**Accepted On: 28.3.2002**

**PART ONE**  
**Purpose, Scope and Definitions**

**Purpose**

**Article 1-** The purpose of this Law is to set the procedures and principles related with domestic and foreign borrowing, receipt of grants, lending and extension of grant and debts, cash management in a coordinated manner with fiscal and monetary policies, effective management and monitoring of the guarantees to be extended by the Treasury, the financial claims and State foreign and domestic debt arising from such borrowing and guarantees, arrangement of financial relations between the Treasury and institutions mentioned in Article 2 below and repaying all kinds of financial liabilities, budgeting and accounting of all kinds of obligations assumed by the Treasury, taking into consideration development targets of the country and maintaining confidence and stability of the markets and macroeconomic balances.

**Scope**

**Article 2-** This Law covers the institutions and establishments under the central government, establishments subject to provisions of private law with more than 50% of their capital belonging to the state, funds, state banks, investment and development banks, metropolitan municipalities, municipalities and establishments affiliated to municipalities, and other local government agencies, the establishments whose payment obligations have been guaranteed by the Undersecretariat of Treasury under the projects foreseen to be realized under such financing models as build-operate-transfer, build-operate, transfer of operational right and similar financing models and non-governmental organizations to be limited with grants.

**Definitions**

**Article 3-** In this law, the following terms have the meanings stated below:

**Minister:** The Minister, in charge of the Undersecretariat of Treasury,

**Undersecretariat:** Undersecretariat of Treasury

**Undersecretary:** Undersecretary of Treasury

**Debt Service:** Principal and interest payments arising from State domestic debt and State foreign debt and discount expenses, fees and other payments related with such debts,

**State Debt:** All kinds of financial obligations which have been assumed by the Undersecretariat or to which the Undersecretariat has become a party on behalf of the Republic of Turkey,

**State Foreign Debt:** Financing facilities obtained by the Undersecretariat from a Foreign Financing Source to be repaid according to a certain redemption plan and the financial obligations assumed by the Undersecretariat within the context of Treasury Guarantees.

**State Domestic Debt:** Domestic Borrowing Notes issued by the Undersecretariat within the country, Undersecretariat's borrowings from domestic market in order to meet its temporary cash requirement, and all kinds of financial obligations assumed by the Undersecretariat, regardless of whether the same are based on a note,

**Domestic Borrowing Notes:** Borrowing notes issued by the Undersecretariat domestically,

**Government Bond:** Domestic Borrowing Notes with a maturity of one year (364 days) or more as of the date of their issue,

**Transfer of Foreign Debt:** Foreign financing facility obtained by the Undersecretariat from any foreign financing source and transferred to the public agencies and establishments other than public administrations under the general government budget, Higher Education Council, universities and higher institutes of technology and to banks together with the financial terms and conditions of the related agreement, provided that such establishments shall be the principal debtor, in order to promote development in various sectors of the economy or/and to meet the financial requirement,

**Onlending of Foreign Debt:** Foreign financing obtained by the Undersecretariat from any foreign financing source and onlent to the public agencies and establishments other than public administrations under the general government budget, Higher Education Council, universities and higher institutes of technology and to investment and development banks without being bound by the terms and conditions of the related agreement when necessary, in order to promote development in various sectors of the economy and/or to meet the financial requirement,

**Allocation of Foreign Debt:** A foreign financing facility obtained by the Undersecretariat from any foreign financing source and disbursed to public administrations under the general government budget, Higher Education Council, universities and higher institutes of technology; and organizations under the special budget that execute the project where the end user is one of the public administrations covered under the general government budget limited to defense and security services sector in accordance with the purpose of the related agreement in order to promote development in various sectors of the economy or/and to meet the financial requirement,

**Foreign Financing:** State Foreign Debt, Guaranteed Facility and Grant or any of those obtained from a foreign financing source,

**Foreign Financing Source:** Foreign countries, associations formed by countries, official financing funds, international and regional organizations, banks, including the investment banks operating in international capital and finance markets, which provide Foreign Financing, and the establishments and firms which provide supplier or buyer credits or any of those,

**Foreign Facility:** The financial facility and grant obtained by all the organizations covered by this Law in their own name from any foreign financing facility without Treasury Guarantees,

**Other Treasury claim:** Claims arising from the transactions to which the Undersecretariat is a party as representing the legal personality of the State and other than the Treasury claims,

**Guarantee Fee:** The fee collected for only once, for each guarantee, from the party that the guarantee is provided due to Treasury Guarantee in a ratio determined by the Undersecretariat,

**Guaranteed Facility:** Treasury counter-guarantees, Treasury investment guarantees and Treasury country guarantees provided to the institutions mentioned in this Law.

**General Expenses:** Registration expenses for execution and management of state debts, fees paid to rating organizations, counseling fees, consultancy fees, exchange rate differences and commission payments, default interests and penalties, and all kinds of similar costs and printing and advertisement expenses for State's Domestic Borrowing Notes and commission expenses arising from the management of cash flows and bank accounts,

**Treasury Claim:** Claims arising from Treasury Guarantees given for financing facilities obtained from any foreign financing source or from disbursement of such facilities through onlending or from the transactions which, although remaining outside of the said items, stem from relevant legislation and which arise in connection with all kinds of payments which the Treasury becomes obliged to assume and/or with the State Domestic Borrowing Notes issued by the Treasury for lending,

**Treasury Bill:** State Domestic Borrowing Notes whose maturity is less than one year (up to 364 days) as of the date of their issue,

**Treasury Guarantees:** Treasury Reimbursement Guarantee, Treasury Investment Guarantee, Treasury Counter – Guarantee and Treasury Country Guarantee or any one of these,

**Treasury Reimbursement Guarantee:** Guarantees provided for reimbursement of foreign debts taken from foreign financing facility by state economic enterprises, establishments subject to provisions of private law with more than 50% their capital belonging to the state, funds, state banks, investment and development banks, metropolitan municipalities, municipalities and establishments affiliated to municipalities, and other local government agencies,

**Treasury Investment Guarantee:** Guarantees provided for build-operate-transfer, build-operate, transfer of operational right and similar financing models in accordance with the provisions of the Law and limited with these,

**Treasury Counter – Guarantee:** Guarantees provided against the guarantees by a foreign financing source for the financing facilities found from international markets as debtors by state economic enterprises, establishments subject to provisions of private law with more than 50% their capital belonging to the state, funds, state banks, investment and development banks, metropolitan municipalities, municipalities and establishments affiliated to municipalities, and other local government agencies within the framework of guarantee programs allocated by any foreign financing source and guarantees provided against the guarantees by a foreign financing source with regard to projects to be realized within build-operate-transfer, build-operate, transfer of operational right and similar financing models to be limited with the Treasury Guarantees envisioned in the legislation and conditions to be discussed by the Undersecretariat within the framework of guarantee programs allocated by any foreign financing source,

**Treasury Country Guarantee:** Guarantees provided for repayment of financing taken from any foreign financing source by foreign countries,

**Treasury Accounting Office:** Each one of the Treasury's Accounting Offices for Domestic Payments, External Payments and State Debts,

**Grant:** Real and/or cash aid obtained from any foreign financing source by the Republic of Turkey without an obligation to repay, and real and/or cash aid given by the Republic of Turkey to foreign countries, organizations of foreign countries, international organizations and international aid consortia to be established,

**Issue Amount:** The amount calculated by multiplying the sale price of each security with the nominal amount,

**Loan Fee:** The fee collected for once from the party receiving the loan upon the disbursed amount for the disbursement of Foreign Debt,

**Cash State Domestic Borrowing Notes:** State Domestic Borrowing Notes against with cash facility is provided to the Treasury,

**Net Debt Utilization:** The amount obtained by deducting principal repayments from the domestic and foreign borrowings made within a year,

**Special Category State Domestic Borrowing Notes:** State Domestic Borrowing Notes, which have been issued under the relevant legislation and the Budget Laws of the relevant year and against which no cash inflow is obtained,

**Money Market Cash Transactions:** Borrowings with a maximum maturity of 30 days, by issuing State Domestic Borrowing Notes not physically printed or using money market instruments in order to meet the short-term cash requirement of the Treasury,

**Market Making:** A system involving the Undersecretariat granting some rights and duties to the banks which have been selected according to pre-set criteria in order to increase effectiveness of the tenders for State Domestic Borrowing Notes and of the transactions of the secondary market for the said notes,

**Market Maker:** A bank which have been selected according to pre-set criteria in order to increase effectiveness of the tenders for State Domestic Borrowing Notes and of the transactions of the secondary market for the said notes,

**Program Credit:** A financing facility obtained from any foreign financing source by the Treasury, either directly or under its guarantee, in order to meet the public finance requirement within the framework of macroeconomic programs of the country,

**Project:** Projects, national defense projects included in annual investment programs, projects not subject to annual investment programs by nature and projects realized under such financing models as Build-Operate-Transfer, Build-Operate and Transfer of Operating Rights and similar financing models or individually any of the foregoing,

**Project Credit:** Financing facility obtained from a foreign financing source for realization of projects,

**Risk Account:** Within the framework of related provisions of this Law, the account established on behalf of the Central Bank of Republic of Turkey,

**Non-Governmental Organizations:** Non-profit organizations with administrative and financial independence, which do not take part in the governmental organization and which is determined to render services for public benefit by the Council of Ministers without any profit goal that have legal personality,

**Strategic criterion:** Any indicators and criteria that must be considered as basis for borrowing and risk management and express general risk/cost objectives of the debt management,

**Swap:** A financial instrument allowing barter of the cash flows relating to a State Debt directly or indirectly between two parties; one of them being the Undersecretariat,

**Derivative Product:** All kinds of financial instruments used in domestic or international capital markets in order to allow effective management of State Debt and risk management.

## PART TWO

### Authority

#### Authority

**Article 4** –In the name of the Republic of Turkey, the Minister is authorized to obtain Domestic and Foreign State Debt, to provide Treasury Reimbursement Guarantee, Treasury Counter – Guarantee and to make amendments in conditions of such guarantees, grant permission for obtaining foreign financing, to receive grants, to make available the foreign financing facility used through Transfer of Foreign Debt, Onlending of Foreign Debt and Allocation of Foreign Debt complying with the financial terms of the agreement and to create new financial liabilities, to manage these debts and liabilities and to manage the Treasury Claims stemming from these.

The Minister may transfer this authority and his authorities in undertaking the duties attributed to him by the Law to the Undersecretariat when necessary to be valid for the relevant budget year. Transfer of authority does not abrogate the liability of the Minister.

The Minister is authorized to use the economic and financial rights and authorities stemming from the economic and financial agreements concluded with international and regional organizations and associations established by countries.

The Council of Ministers is authorized to grant Treasury Investment Guarantee and Treasury Country Guarantee, to make amendments in the conditions of these guarantees and to provide debts and grants, identify projects that needs to be realized urgently and mandatorily upon the affirmative opinion of the Undersecretariat of the State Planning Organization and allocate the foreign financing obtained on behalf of the Republic of Turkey to such projects identified where necessary by onlending foreign facility without being subject to the terms of the agreement, upon the proposal of the Minister and with the opinion of the Undersecretariat.

Bond issues by the local governments under the general government and their affiliated organizations and economic enterprises in the domestic markets are subject to the permission by the Undersecretariat. The grant of permission does not mean an extension of Treasury guarantee. Procedures and principles regarding such permission shall be laid down in a regulation issued by the Undersecretariat. Provisions of the capital markets legislation are reserved.

The Undersecretariat can not be held responsible for the borrowings by organizations mentioned in Article 2 of this Law where the Treasury is not a party to the relevant agreements in any way.

**(Additional paragraph: 26/12.2006 – 5568/Art.1)** The affirmative opinion of the Undersecretariat of the State Planning Organization shall be sought for granting permission to obtain foreign financing for projects included in the annual investment program. The organization must comply with the legislation to which it is subject in respect of the projects, including the procurement legislation; and the grant of permission to obtain foreign financing shall not release the organization from obligations in this regard. Any and all responsibility for the project, including technical and economic feasibility, shall fall on the relevant organization. The power and responsibility of the Undersecretariat is limited to the supply and

conclusion of the requested foreign financing. The affirmative opinion of the Undersecretariat of the State Planning Organization shall also be sought for the place of projects in the annual investment program, their sum total and appropriations at the stage of obtaining foreign financing for such projects.

## **PART THREE**

### **Limit**

#### **Borrowing, Loan and Guarantee Limit**

**Article 5-** Within the fiscal year, in line with the principles of the Article 1 of this Law and fiscal sustainability, net debt utilization can be made up to the difference between the allocations mentioned in the budget law and estimated revenues.

The borrowing limit may not be changed. However, this limit can only be increased by up to 5% within the year by taking into account the development and requirements of debt management. When even this amount is not sufficient, there can be an additional 5% increase only through the decision of Council of Ministers upon the proposal of the Minister and opinion of the Undersecretariat. In case of a balanced budget, borrowing may also be increased by up to a maximum of 5% of the principal repayment. Borrowing limit can not be changed.

Except those repaid in cash upon maturity, special category State domestic borrowing notes that are onlent upon several different laws, cannot be taken into account in the calculation of this limit. The limit on the special category State domestic borrowing notes that will be onlent within the fiscal year is determined by the budget law every year.

The limit of Guaranteed Facility and onlending of foreign facility to be provided within the fiscal year shall be determined by budget laws every year.

## **PART FOUR**

### **Domestic and Foreign Borrowing**

#### **Domestic Borrowing**

**Article 6-** The Minister is authorized to determine all kinds of principles related with the types of State Domestic Borrowing Notes to be issued, as well as selling methods, interest terms, maturities, printing and payments related thereto and other conditions pertaining thereto.

Excluding the notes issued for onlending, Special Category State Domestic Borrowing Notes may be issued only on condition that sufficient appropriation exists in the Budget Law of the relevant year. The Special Category State Domestic Borrowing Notes could, in case of developments which arise within the year and which cannot be foreseen beforehand may be issued only by making transfers among appropriation items. **(Additional sentence: 21/04/2005 – 5335/Art.19)** The provisions of this paragraph shall not apply to the special category State domestic borrowing notes which shall be issued against debts to be assumed by the Treasury within the procedures and principles laid down in the subparagraph (c) of Provisional Article 2 of the Law no.4572 dated 01.06.2000.

In case of issuance of Special Category State Domestic Borrowing Notes for onlending, the Minister determines the maturity, interest and other conditions of the loan agreement to be drawn up. In case of elimination of Treasury Claims stemming from bills of onlending within the framework of related

legislation, these amounts shall be recorded as an expense in the budget. **(Additional sentence: 21/04/2005 – 5335/Art.19)** The provision of this paragraph shall not apply to the claims of the Undersecretariat of Treasury from the Savings Deposit Insurance Fund.

The printing costs of State Domestic Borrowing Notes, fees and banking transaction taxes to be paid to the financial institutions which will participate in the sales, all types of expenses arising from these sales, taxes, duties and charges to be paid to the financial institutions by the Treasury and principles and procedures that will be employed in issuing these notes are determined with a financial service agreement to be concluded between the Undersecretariat and the Central Bank of Republic of Turkey, without applying the provisions of the State Accounting Law No. 1050.

## **Foreign Borrowing**

**Article 7-** The Minister is authorized to provide foreign financing from any foreign financing source, to determine the conditions of the mentioned foreign financing facility including financial conditions in the name of the Republic of Turkey, and to bear the responsibility within the framework of the stated conditions. All kinds of preparations, contacts and negotiations related with foreign State debt are implemented and finalized by the Undersecretariat.

The agreements, except bond issuance agreements, to which the Republic of Turkey is a party as the borrower, enter into force on the date of signing upon the decision of the Council of Ministers, unless a further date is settled in the agreement.

The Minister is authorized to amend the financial terms of the agreements to which the Republic of Turkey is a party as borrower.

The Undersecretariat may transfer the foreign financing facilities obtained from foreign financing sources to public agencies and organizations other than public administrations under the general government, Higher Education Council, universities and higher institutes of technology and investment and development banks through an onlending agreement. In case of onlending of foreign debt, an onlending fee of up to one percent of the onlent amount provided, shall be collected from the related institutions for only once. The Minister has the authority to increase this ratio up to five times the above ratio.

In protocol and financing agreements of projects to be realized through foreign financing provided within the framework of dual cooperation protocols, in order to envision implementation of different tender procedures and principles based on competition than provisions of Public Procurement Law, prior to signing of the protocol, it is obligatory to get the positive opinion of the Ministry of Finance, Undersecretariat of Treasury and State Planning Organization and additionally the decision of Council of Ministers after the signing of the protocol.

## **PART FIVE**

### **Treasury Guarantees**

#### **Treasury Guarantees and Permission for Non-Guaranteed Debts**

**Article 8-** All kinds of preparations, contacts and negotiations relating to the granting of Treasury guarantees and making amendments in the conditions of granted guarantees are executed and finalized by the Undersecretariat.

Agreements on Treasury Guarantees and agreements for amending the conditions of such Guarantees enter into force on the date of their signing, unless stated otherwise in the agreement.

A one-time guarantee fee of up to 1% of the amount of the guarantee is collected for each guarantee from the beneficiary of the guarantee in Treasury Reimbursement Guarantees and Treasury Investment Guarantees. The Minister has the authority to increase this ratio up to five times the above ratio.

The principles and procedures regarding the guarantee fee, evaluation of the guarantee, inclusion in the budget, limiting and sharing of the risk and the disclosure to the public of the information regarding the guarantees and determination of the amount guaranteed within the investment guarantee of the Treasury with regard to Treasury Reimbursement Guarantee and Treasury Investment Guarantee for the projects shall be determined by a regulation to be issued by the Undersecretariat.

Provincial special administrations, metropolitan municipalities and municipalities, affiliated public establishments with legal personality and separate budget or/and legal persons and private administration companies with more than half of their capital belonging to legal establishments and legal persons and municipal economic organizations are jointly responsible for all the liabilities with regard to foreign financing facilities provided under Treasury Guarantee from a foreign financial source and repayment of Treasury credits emerging or that may emerge due to failure to fulfill these liabilities. Until the completion of all repayment liabilities emerging from foreign credit agreements concluded in this respect, the debted organization is liable to repay the debt regardless of all the administrative changes that may occur during the repayment period of the debt and new assignments.

Credit debted organizations are liable to reserve the amount necessary for repayment of foreign credits provided under Treasury Guarantee in their budget with priority compared to their investment expenditures.

The ones identified to lead to deferral of payment of foreign debts shall be responsible to the extent of the stemming damage.

The Treasury does not extend any guarantees for the borrowings of public and/or private agencies and establishments from domestic markets.

Treasury Guarantees may be granted fully or partially in accordance with the principles determined within the framework of Articles 1 and 2 of this Law.

Except for the public deposit banks and private investment and development banks, all foreign facilities to be obtained by organizations under this Law and guarantees to be extended in favor of other agencies and organizations are subject to permission by the Undersecretariat. Foreign facilities of one year or shorter term to be obtained by public investment and development banks are not subject to such permission. The grant of permission does not mean an extension of the Treasury guarantee. Procedures and principles regarding the grant of permission shall be laid down in a regulation.

## **PART SIX**

### **Grant**

#### **Grant**

**Article 9-** Except for the grants provided by European Union, the Minister is authorized to obtain grants from any foreign financing source in the name of the Republic of Turkey, to conclude the



agreements related therewith, to determine the principles and terms of such agreements and to disburse such grants to institutions and organizations mentioned in the Article 2 of this Law. All kinds of preparations, contacts and negotiations related to the said grant agreements are carried out and concluded by the Undersecretariat. Said agreements become effective on the date of signing thereof, unless stated otherwise in the agreement. The Minister is authorized to make amendments in the agreements on receiving grants.

The Council of Ministers is authorized, upon the affirmative opinion of the Ministry of Foreign Affairs and the Undersecretariat and a proposal from the Minister, to extend cash grants and designate the representatives of the Republic of Turkey to sign agreements to such effect. The amounts of the said grants shall be covered from the appropriations included in the budget of the Undersecretariat for this purpose. Preparations, contacts and negotiations for the agreements for extending cash grants shall be carried out by the Undersecretariat and concluded in consultation with the Ministry of Foreign Affairs. The Minister is authorized to amend the terms of the agreements for extending cash grants. Preparations, contacts and negotiations for the agreements for extending real grants shall be carried out and concluded by the relevant organizations. The Council of Ministers is authorized, upon a proposal from the relevant Minister, to extend real grants and designate the representatives of the Republic of Turkey to sign agreements to such effect. The Minister is authorized to amend the terms of the agreements for extending real grants. Agreements for extending grants shall go into force as of the date of the Decree of the Council of Ministers, unless otherwise provided. The provisions of this paragraph shall not apply to grants of defense and security purposes.

**(Additional paragraph: 31/7/2003 – 4969/Art.19)** Persons and organizations designated by a Decree of the Council of Ministers shall be authorized, without prejudice to the powers of the President of the Republic and the Prime Minister in this respect, to conduct negotiations and sign, in the name of the Turkish Republic, agreements for grants and aids of defense and security purposes with foreign countries and organizations. Provisions for grants and aids extended to foreign countries for such purposes shall be covered from an appropriation item included in the budget of the Ministry of National Defense. Said agreements shall go into force by a Decree of the Council of Ministers. Cash grants and aids laid down in the agreements shall be recorded as expense to the budget, and may be transferred to an account in foreign currency opened to the name of the recipient country at the Turkish Republic Central Bank. Payments shall be effected from the relevant account within the provisions of the agreement and principles laid down by the Ministry of Finance. (The expression "Ministry of Finance" in the second sentence of this paragraph has been amended as "Ministry of National Defense" by Article 19 of the Law no.5335 dated 21/04/2005, and thus entered in the text.)

## **PART SEVEN**

### **Claims of the Treasury**

#### **Lending**

**Article 10-** The Council of Ministers is authorized, upon recommendation of the Minister and opinion of the Undersecretariat, to lend to foreign countries, establishments of foreign countries, international organizations and international aid consortia to be formed, in the name of the Republic of Turkey, to determine the principles and terms and conditions of such lending and to restructure the loans extended and designate the representatives of the Republic of Turkey to sign agreements to such effect. The amounts of the loans to be extended, are met from the appropriation to be included in the budget of the Undersecretariat for this purpose. All kinds of preparations, contacts and negotiations relating to the agreements for the said loans are executed and finalized by the Undersecretariat. Agreements on the said loans will be affective on the date of its signing with the decision of the Council of Ministers unless stated otherwise in the agreement.

The Council of Ministers shall approve the Country Limits List set down in the annual program for the officially supported cash and non-cash export credits by the Higher Advisory and Credit Steering Committee of the Turkish Export Credit Bank Incorporated and for insurance transactions of two-year or longer term. The Minister is authorized to lay down the principles for and financial provisions of goods and/or service sales contracts of two-year or longer term or financial leasing transactions equivalent to such contracts and officially supported cash and non-cash export credits and insurance support of two-year or longer term to be lent by the Turkish Export Credit Bank Incorporated to banks and other institutions in the countries included in the Country Limits List. The Minister may delegate such power to the Board of Directors of the Turkish Export Credit Bank Incorporated within limits set by the Council of Ministers.

The Council of Ministers may, a proposal from the Minister, mandate the Turkish Export Credit Bank Incorporated to extend low-interest and/or low premium and/or long term favored, officially supported cash and non-cash export credits to organizations in the countries of specific importance to our country. Revenue losses incurred by the Bank under this paragraph due to such extension of favored officially supported cash and non-cash export credits shall be covered by the Treasury.

Losses that may be incurred by the Turkish Export Credit Bank Incorporated arising from loan, guarantee and insurance transactions due to political risks shall be covered by the Treasury. The Council of Ministers shall lay down the procedures and principles for the Treasury to cover the revenue losses due to favored, officially supported cash and non-cash export credits and losses arising from loan, guarantee and insurance transactions due to political risks incurred by the Bank. The Council of Ministers shall approve, upon the affirmative opinion of the Undersecretariat and a proposal from the Minister, the agreements on restructuring the favored or non-favored officially supported cash and non-cash export credits and claims from insurance transactions of two-year or longer term to foreign countries and banks and institutions in such countries extended by the Turkish Export Credit Bank Incorporated as three-year or longer term agreements. The Minister is authorized to lay down the principles and financial provisions for restructuring the claims from such credits and insurance transactions as agreements of less than three-year term. The Minister may delegate such power to the Board of Directors of the Turkish Export Credit Bank Incorporated within the amount and/or time limits set by the Council of Ministers.

### **Collection and Management of Treasury Claims**

**Article 11** - The Minister is authorized, to determine the conditions for, to collect, pursue and administer, by using all kinds of financial techniques, those portions of onlent credits that have not been repaid by user establishments to the Undersecretariat and the claims arising from the Treasury Guarantees undertaken by the Undersecretariat and claims arising from loans extended to foreign countries, institutions of foreign countries, international institutions and international aid consortia to be formed, in the name of the Republic of Turkey,

Those portions of the onlent credits that have not been repaid by the user establishments to the Undersecretariat on due date and the claims arising from the Treasury Guarantees undertaken by the Undersecretariat and the claims arising from non-repayment by the borrower of the State Domestic Borrowing Notes issued for lending purposes are pursued and collected under the provisions of the Law on Procedures of Collection of Public Receivables No 6183.

Interest and penalty is accrued for Treasury's claims not paid on due date, under the provisions of the Law No. 6183.

Provisions in the fifth paragraph of Article 8 of this Law shall also apply to the onlent foreign debt.

The Undersecretariat is authorized to audit the accounts, information and documents of organizations mentioned in Article 2 of this Law due to Treasury claims occurring within this Law and resources utilized through onlending of foreign debt and transactions realized within Treasury Guarantees. The Board of Treasury Auditors shall discharge the task of independent audit referred to in the loan, credit and grant agreements signed pursuant to this Law in accordance with the generally accepted international audit standards.

The Minister or the Finance Minister, as the case may be depending on the relevance of collection of Treasury claims at source, is authorized in transfers to be made from the general government budget to the organizations other than public administrations under the general budget.

Other than the exceptions to be introduced due to natural disasters, within the framework of credits provided under the guarantee of the Undersecretariat or utilized by onlending of foreign debt for the projects realized by metropolitan municipalities, municipalities and their affiliated organizations, in order to transfer certain amounts of their revenues with the purpose of meeting the repayment liabilities of the related municipality or affiliated organization, a Foreign Debt Payment Account shall be established with the decision of the competent organs of implementation organization of the project. The decision of the competent organ on establishing a Foreign Debt Payment Account is definite and can not be abrogated due to change of administration or another decision of the municipality or affiliated organization or can not be amended so as to decrease revenues. Principles and procedures on establishment and operation of Foreign Debt Payment Account will be arranged through a regulation.

Credits provided by the Turkish Export Credit Bank Incorporated can not be pursued in the context of Treasury claims.

The Undersecretariat is authorized to request any information and documents from the organizations listed in Article 2 of this Law for transactions under the guarantee, loan and grant agreements signed under this Law and for the Treasury claims arising from arising under this Law.

The Undersecretariat shall lay down the procedures and principles for registering other Treasury claims.

## **PART EIGHT**

### **Cash, Debt and Risk Management**

#### **Cash, Debt and Risk Management**

**Article 12-** The Undersecretariat is authorized, within the power delegated by the Minister on behalf of the Republic of Turkey, to execute actions and strengthen the relevant infrastructure as necessary for changing the loan structure where necessary in order to manage the cash flow in alignment with fiscal and monetary policies taking macroeconomic balances into account and create the borrowing structure that will ensure the optimal cost in the medium and long term within a reasonable risk frame. Interest payments required by the cash flows, payments arising from the employment of financial techniques under the debt and risk management shall be covered from an appropriation included in the budget of the Undersecretariat for this purpose.

The Undersecretariat is authorized to establish the market-making system, to determine the operational principles of the system, to take all kinds of measures to ensure the smooth working of the system, or to abolish the system.

The Minister is authorized to carry out or have it carried out, cash transactions at money markets in order to meet the short term cash requirement and/or to exploit the cash surplus that will accumulate in the Treasury's accounts through Central Bank of Republic of Turkey, with a view to making the payments under the general government budget on time, and to prevent unfavorable effects on payments of periodical differences between revenues and expenses, extend and accept security for such purposes. The principles and procedures with regard to value earning will be determined jointly by the Undersecretariat and the Central Bank of the Republic of Turkey. The total stock of money market cash transactions shall not exceed two percent of the initial appropriations of the relevant year's budget. The Minister is authorized to raise this rate up to twofold.

The administrations under the general government budget shall keep all financial resources under their budgets or control in accounts opened at the Turkish Republic Central Bank or its correspondent bank. Except for public banks, state administered foundations, professional organizations in the nature of public agency established by special laws and their upper organs, and guarantee and mutual funds; the administrations with special budgets, social security institutions, other public agencies, councils, higher councils and organizations established by special laws, circulating capitals, funds, municipalities, provincial special administrations, public economic enterprises and their partnerships, establishments and enterprises and associations of those enumerated in this article shall keep all financial resources under their budgets or control at accounts on their name opened at the Turkish Republic Central Bank or banks based in Turkey within principles approved by the Prime Minister upon a joint proposal from the Minister of Finance and the Minister. All agencies mentioned in this article shall make their due payments from such accounts. Interest growth found to have been obtained from utilizing the public funds in contradiction to the provisions of this article shall be appropriated as revenue to the general government budget. The officials and accounting officials of the relevant public agencies and organizations are personally and jointly accountable for fulfilling the requirements of the said provisions. The Prime Minister is authorized, upon a joint proposal from the Minister of Finance and the Minister, to allow exceptions to this paragraph, and lay down the implementation principles.

The Minister is authorized, in order to manage the obligations arising under the State foreign debt by various financial instruments in international capital markets, to utilize derivative instruments including swaps, take and use security in the form of domestic and foreign securities by cash, give security and purchase securities from abroad as necessary for this purpose, repurchase bonds issued earlier in the international capital markets, exchange with other bonds and make agreements for similar transactions. Said agreements shall go into force as of the date of signing, unless otherwise provided in the agreement. Contacts and negotiations for such agreements shall be carried out and conducted by the Undersecretariat.

The State Domestic Borrowing Notes issued earlier for the purpose of debt and risk management may be repurchased by paying their accrued interest or at market conditions, or may be replaced with other notes or if necessary without paying the principal of the said notes, only the accrued interest amounts may be subject to early redemption prior to coupon payment date. Furthermore, financial instruments related to any derivative product including swap may be used for this purpose. In this context, it is allowed to take and use security in the form of domestic and foreign securities by cash, give security and purchase securities from abroad as necessary for this purpose.

Financial transactions enumerated under this article and employed in the management of State domestic and foreign debt shall be done based on the strategic criteria without taking into account the value changes that may occur on the date of interest and principal payment.

The strategic criteria and implementation framework for the management of the Treasury's financial assets and liabilities shall be identified by the Debt and Risk Management Committee composed of the Minister, Undersecretary, Deputy Undersecretaries and General Directors in the Undersecretariat and approved by the Minister. The Minister shall preside in the meetings of the Debt and Risk Management Committee to determine the strategic criteria, propose loan and guarantee limits, lay down basic policies for the Treasury claims management and cash assets in the context of managing the State debts and Treasury guarantees.

The Undersecretariat shall preside in the meetings of the Debt and Risk Management Committee to monitor the practice, increase the efficiency, develop the infrastructure of the management of the Treasury's financial assets and liabilities, and meetings on other matters. The Debt and Risk Management Committee shall convene at least once a month.

The unit in charge of risk management shall conduct the secretariat of the Debt and Risk Management Committee. Meetings shall be held on the date set by the President upon a proposal from the risk management unit.

## **Risk Account**

**Article 13-** All the amounts paid by the Undersecretariat for the Treasury Guarantees and payments within the context of risk management that were not possible to foresee beforehand are met from a risk account of the Undersecretariat that has been established at the Central Bank of Turkey. No use of the account shall be made other than the situations mentioned in this Law.

Resources of the risk account are:

- a) Lending fees
- b) Guarantee fees
- c) Repayments made by the related institutions in exchange for the payments made out of the account and any type of payments received including late payment penalties.
- d) The incomes derived according to the last paragraph of this Article
- e) Appropriations envisioned to be transferred to risk account through Budget Laws.

Appropriation in the year's budget for this purpose can not be transferred to another item. If the revenues of the income and the appropriations in the budget do not cover the payments from the account, the Minister of Finance is authorized to add appropriation to the related item.

The amounts in the account shall be valued on a daily basis. The conditions of valuing shall be determined by the Central Bank of Republic of Turkey.

## **PART NINE**

### **Budgeting of State Debts**

#### **Budgeting, Accounting and Reporting of State Debts**

**Article 14-** The Minister is authorized to monitor during the fiscal year, in special accounts outside the budget, the repayments of State domestic and foreign debts to be paid and domestic and foreign

borrowing including derivative instruments, borrowing amounts of the Treasury from the money markets to meet short term cash needs and lending amounts, principal collections made from the foreign facility loan and State domestic borrowing notes issued in loans, security arising from derivative instruments and money market cash transactions.

Interest payments on State domestic and foreign debt, discount costs, general costs, interests for security and the interests on Treasury's borrowings from money markets in order to meet its short term cash requirement are, for any reason whatsoever, met by sufficient amount of appropriations that will be included in the budget for this purpose. The provisions of the third paragraph of Article 21 of the Public Debt Management and Control Law no.5018 dated 10.12.2003 shall not apply to such appropriations. The Ministry of Finance is authorized, upon a proposal from the Minister, to add appropriations up to five percent, to the initial appropriations included in the relevant year's budget lines relating to the State domestic and foreign debt interest and discount costs, general costs and interest for payment arising from borrowing, including the derivative instruments, and interest for borrowing made from the money markets to meet the Treasury's short-term cash needs. No transfers may be made from such appropriations to other items of the budget for any reason whatsoever.

**(Repealed third paragraph: 10/12/2003 – 5018/Art.81)**

All the user and debtor public agencies and organizations are obliged to provide, in order for the Undersecretariat to timely and accurately enter the domestic and foreign obligations to the accounting and statistical records, the information relating to loans lent and allocated, foreign loan agreements from any foreign financing source with or without Treasury guarantee and withdrawals and repayments under such agreements, and other information and documents as required by the Undersecretariat, the confirmation information relating to withdrawals recorded as foreign loans, and the information on withdrawals from grants obtained under the Law; agencies and organizations mediating the utilization of loans are to provide all information required relating to the said loans; public agencies and organizations to which the Undersecretariat transfers money are to provide any and all information; and the banks and other financial institutions are to provide the information on any and all assets and liabilities of public agencies and organizations, within the procedures and principles laid down.

Sufficient appropriation shall be allocated in the budget of the related year for the amounts to be used from project loans in relation to the request of the user organization by taking into account the utilization periods and amounts envisioned in the loan agreements. **(Additional sentences: 31/07/2003 – 4969/Art.10)** However, where no internal resource is found to cover the value added tax and special consumption tax arising from the foreign project loan and grant utilization, the Minister of Finance is authorized to add appropriations in the budget to cover such taxes and the cost increases arising from exchange variances not to exceed the taxes and cost increases in the existing budgets or newly created items of the public administrations under the general government budget, Higher Education Council, universities and higher institutes of technology upon revisions made in the relevant year's investment program, transfer the amounts not expended due to the incompleteness of accrual procedures resulting from disputes of progress payments within the relevant year as appropriations to the next year's budget, cancel the amounts transferred as appropriations which could no longer be utilized because the project has been completed.

All kinds of investment expenses made by the public administrations under the general government budget, Higher Education Council, universities and higher institutes of technology in the form of transfers, loans and credits located and Treasury Guarantees provided are associated with the relevant items of the budget for the year concerned. In this context, it is fundamental that all the facilities to be used as Project Credit by such organizations have to be included in the budget before utilization. Furthermore, all the facilities to be used as project loan by such organizations must be

recorded as appropriations and expenses in their own budgets and accounting systems before being utilized.

The Undersecretariat's responsibility is merely to register the foreign loans and keep accounting records for the foreign loans in the context of utilizing foreign project loans; all responsibility for the utilization, including the appropriateness of utilization exclusively falls on the user organizations.

Except for the payments made to the risk account, installments other than the principal repayment and default interest and surcharges paid to the Undersecretariat for the facilities extended by the foreign facility loan and State domestic borrowing notes issued in loan shall be appropriated as revenue to the budget.

All the utilizations from any foreign financing facility provided to the organizations mentioned in Article 2 of this Law obtained from any foreign financing source should be reported to the Undersecretariat to be recorded as foreign debt. Information regarding the amounts recorded as foreign debt is provided to the Ministry of Finance by the Undersecretariat. Principles and procedures regarding the recording of mentioned foreign debt should be determined by the Undersecretariat. Principles and procedures for budgeting and accounting of these utilizations shall be determined by the Ministry of Finance together with the Undersecretariat.

Debt service of foreign financing facilities utilized through allocation of foreign debt is undertaken by the Undersecretariat.

**(Amended tenth paragraph: 21/04/2005 – 5335/Art.19)** The Minister is authorized to pay commission fees, undertaking fees, guarantee fees, default interest and similar obligations in the context of transactions initiated by the Undersecretariat as the debtor or guarantor regarding any foreign financing or derivative product, which must be paid upfront before the relevant agreements are signed or until the legislative acts are enacted to put into force the agreements signed or amended the agreements previously signed. Said commission fees, undertaking fees, guarantee fees, default interest and similar obligations may be paid independently of the signing or going into force of the relevant agreements or agreements amending the previously signed agreements. Said obligations shall be covered from an appropriation included in the budget of the Undersecretariat for such purpose.

Where the accrual procedures could not be completed although the relevant appropriation is present in the relevant year's budget for any State domestic debt and State foreign debt which would accrue default interest if not paid on the due date, the payments may be made by the Undersecretariat by associating with the account of payments offset against the budget.

Commissions, fees and expenses related with bond issues realized in international capital markets may be paid by offsetting them against the amount of issue under the agreement for the bond issue, by associating them with the budget appropriations for the relevant year.

The Minister of Finance is authorized to record the grant amounts provided in cash and in kind in order to be used by the public administrations under the general government budget, Higher Education Council, universities and higher institutes of technology as special income and special appropriation upon the proposal of the Undersecretariat.

Sufficient appropriations are included in the form of local funding and taxes in the budget of the relevant year for the State Foreign Debt secured by the Undersecretariat from a foreign financing source and all relevant borrowing agreements and for all payments and transactions required for debt and risk management and for the materials and equipment imported to be financed from the grants

obtained by the Undersecretariat, and no transfers may be made from such appropriations to the other items of the budget.

(Amended fifteenth paragraph: 14/07/2004 – 5217/Art.3) All the revenues derived from consultancy services to foreign countries, establishments and institutions in foreign countries and international institutions by the Undersecretariat and software and similar assets that the Undersecretariat owns the legal rights for and are sold and/or made available to the foreign countries, establishments and institutions in foreign countries and international institutions in exchange for a fee are recorded in the budget as revenue.

The results of application of State Debt and Treasury Guarantees are prepared by the Undersecretariat and sent to the Ministry of Finance together with the schedule of final accounts for the relevant year, in order to be included in the Treasury General Account. State Debt Management Report that includes analysis on financial markets information regarding the domestic and foreign financing facilities, Treasury guarantees, grants taken and grants provided, transfers of foreign debt, onlending of foreign debt and allocation of foreign debt provided within the relevant budget year shall be presented at the end of every three months to the Presidency of Turkish Grand National Assembly in order to be submitted to Plan and Budget Commission of the Turkish Grand National Assembly, to the Prime Ministry to be submitted to the Council of Ministers, to the Ministry of Finance, to the Presidency of Court of Accounts and to the Undersecretariat of State Planning Organization. The Minister shall inform the Plan and Budget Commission of the Turkish Grand National Assembly at least once a year through a meeting with special agenda. Furthermore, the Commission may request an additional information meeting if deems necessary.

(Additional paragraph: 26/12/2006 – 5568/Art.2) Those serving as Treasury Experts in the job positions of the Undersecretariat of Treasury may be assigned as Accounting Officer or Assistant Accounting Officer in the accounting units of the Undersecretariat of Treasury, and the provisions of subparagraphs (b) and (c) of the first paragraph of Article 62 of the Law no.5018 shall not apply to such assignments.

#### Administrative fines

ARTICLE 14/A – An administrative fine of 750 New Turkish Liras shall be imposed on persons, who fail to observe the following obligations under this Law, where:

- a) Permission is not obtained from the Undersecretariat pursuant to the fifth paragraph of Article 4,
- b) The loan fee specified in the fourth paragraph of Article 7 is not paid within time limits required by the Undersecretariat,
- c) The guarantee fee specified in the third paragraph of Article 8 is not paid within time limits required by the Undersecretariat,
- ç) Obligations relating to the responsibility and joint responsibility stated in the fifth paragraph of Article 8 are not observed,
- d) The amount required for repayments relating to foreign loans obtained under the Treasury guarantee is not appropriated in the relevant year's budget in priority relative to investment expenditures pursuant to the sixth paragraph of Article 8,
- e) Permission is not obtained from the Undersecretariat pursuant to the fourth paragraph of Article 8,
- f) Obligations relating to the responsibility and joint responsibility stated in the fifth paragraph of Article 8 relating to the foreign loan pursuant to the fourth paragraph of Article 11 are not observed,
- g) Information and documents required by the Undersecretariat indicated in the ninth paragraph of Article 11 are not provided within the procedures and principles,
- h) Principles of the legislation and agreements are not complied with in opening and operating the Foreign Debt Service Account to be created pursuant to the seventh paragraph of Article 11,



i) Information and documents required pursuant to the fourth paragraph of Article 14 are not provided within the procedures and principles,

i) Obligations relating to associating with lines of the relevant year's budget, budgeting, and appropriating and revenue appropriating as stipulated in the sixth paragraph of Article 14 are not observed.

Where the offences that require imposition of administrative fines recur within three years, the amount of fine shall be doubled, and recur for a second time or further times, then tripled.

The administrative fine shall be paid within one month of notification to the offender.

## **PART TEN**

### **Various Provisions**

#### **Exclusions of Tax, Duty and Fee**

**Article 15-** The interest and principal payments for the State Domestic Borrowing Notes issued by the Undersecretariat and the payments covered by the financial service agreement mentioned in the last part of Article 6 of this Law and the expenses and transactions related with the other Domestic State Debts are exempt from all kinds of taxes, duties and charges reserving the provisions of Income Tax Law No: 193 and Corporate Tax Law No: 5520 dated 13/06/2006.

- a) Program credit, provision of project credits and grants, onlending, transfer, amendment or extension operations,
- b) Payments and transactions envisioned in borrowing agreements realized through financial instruments used in international capital markets and securities issued in such markets,
- c) Transactions envisioned in agreements regarding restructuring or management of State Foreign Debt through all kinds of financial instruments including Derivative Products used in international capital markets,
- d) (Addition: 17/09/2004 – 5234/Art.22) All payments and transactions contemplated in the credit agreements regarding State foreign debts (including payments in the framework of foreign project credits, excluding utilization of credits),

provided by the Undersecretariat as debtor or through Treasury Guarantees are exempt from all kinds of taxes, duties and charges.

Transactions and documents related to provision, transfer, amendment and utilization of the grants provided within the context of this Law and grants from the European Union shall also be subject to the above exemptions.

#### **Making Arrangements, Consulting Services and Keeping Documents regarding Agreements**

**Article 16-** Principles and procedures regarding the applications of borrowing, loan and guarantee limits, domestic and foreign borrowing, transfer, onlending and allocation of foreign lending, taking and extending grants, Treasury Guarantees, extending preliminary permission for non-guaranteed State debt, claims of the Treasury, cash, debt and risk management, processing of the risk account, granting permission for obtaining foreign financing and special tender procedures and the like shall be determined with communiqués to be issued.

Amendments with regard to issues within this Law may only be undertaken through annexing new provisions or through amending this Law. Arrangements in other laws with regard to the issues mentioned in this Law are invalid in relation to implementations of this Law.

In all kinds of arrangements that bring cash or non-cash liabilities to the Undersecretariat out of the provisions of this Law, the positive opinion of the Undersecretariat is necessary.

The Undersecretariat may provide consulting services related with cash, debt and risk management inside or outside the country in return for a fee or without charging a fee. In this context, the Undersecretariat may make available, sell, and donate, against a fee, software, license and similar assets whose legal rights belong to the Undersecretariat.

The Undersecretariat shall keep the originals of the agreements and relevant documents signed on behalf of the Republic of Turkey for matters under this Law.

### **Amended and Abrogated Provisions and Provisions Not to be Implemented**

**Article 17 – A)** It refers to the Law on Duties and Organization of Undersecretariat of Treasury and Undersecretariat of Foreign Trade dated 20.12.1994 numbered 4059, and has been duly entered.

**B) (Amended first paragraph: 31/07/2003 – 4969/Art.10)** Those provisions of the Law dated 5.5.1969, numbered 1173 on Execution and Coordination of International Relations and of the Law dated 31.5.1963, numbered 244 on Granting Power to the Council of Ministers for Conclusion, Effectiveness and Publication of International Agreements and Conclusion of Some Agreements and those provisions of the current year budget law, except provisions relating to and Agreements with regard to Baku-Tbilisi-Ceyhan Pipeline Project, which are in conflict with the articles of the present Law shall not be applied.

(It refers to the Law no.2380 dated 2.2.1981 on Granting a Share to Municipalities and Provincial Local Administrations from the Tax Revenues of the General Government Budget, and has been duly entered.)

**C) (Addition: 31/07/2003 – 4969/Art.10; annulled by the Decision of the Constitutional Court dated 28/01/2004 no.E.2003/86, k.2004/6; new legislation: 21/04/2005 – 5335/Art.19)** Pursuant to the provisions of this Law:

1) Credit, guarantee and grant agreements regarding financing provided for defense and security purposes,

2) Credit and guarantee agreements signed for credits obtained on behalf of the Turkish Republic from any foreign financing source other than foreign countries, associations formed by foreign countries, official financing funds, international and regional organizations,

3) Credit and guarantee agreements obtained for the purpose of program or project loan under the economic and commercial agreements signed on behalf of the Turkish Republic from any foreign financing source other than foreign countries, associations formed by foreign countries, official financing funds, international and regional organizations and exclusively governing the repayment of principal, interest and other financing costs

shall not be promulgated in the Official Gazette.

Except for the foregoing, other agreements made pursuant to this Law shall be promulgated in the Official Gazette.

## **PART ELEVEN**

### **Provisional and Final Articles**

**Provisional Article 1-** Applications introduced through Article 12 of this Law and necessary arrangements to establish the necessary infrastructure for risk management shall be completed by the Undersecretariat until 31.12.2002.

Principles and procedures regarding budgeting and accounting of utilizations mentioned in paragraph 8 of Article 14 of this Law shall be put into effect through a regulation to be prepared in three months following the date of publication of this Law.

**Provisional Article 2-** Claims arising from taking over debt subject to Treasury guarantees or/and surety on borrowing in domestic markets by public institutions and organizations before the effectiveness of this Law are assumed to have arisen from public service and connections; the Minister has the authority to administer, using any financial technique to determine the conditions of, to collect and to pursue these claims.

**Provisional Article 3 -** The amounts of late interest payments and fines accrued on Treasury Claims by the date of effectiveness of this Law will be informed to the related party until the end of the fourth month starting from the date of effectiveness of this Law. In this notification, the debtor will be informed that he is entitled to apply for conciliation. Institutions and organizations requesting conciliation within this period will be informed about the date of discussions by the conciliation committee. This period shall not exceed two months. For conciliation, the highest authorized official of the relevant party shall apply to the Undersecretariat in writing.

The decision for conciliation is taken by a three-member committee which is assigned by the Minister and which consists of one chairman and two members appointed from among the personnel charged with the administration, pursuit and collection of the Treasury's claims as well as one representative each from the Ministry of Finance, Undersecretariat of State Planning Organization and Presidency of Court of Accounts. The committee takes decisions by majority of votes. The amount of penalty on which the Committee may reach settlement and the general principles of its maturity structure are determined by the Minister and communicated in writing to the members prior to discussions on conciliation. Conciliation negotiations are concluded within a maximum of 10 business days from the date when the first meeting was held. If settlement is reached, this situation is recorded on a protocol to be signed by the parties and restructuring within new conditions pursuant to approval of the Minister shall be realized.

In case of failure to reconcile within the mentioned period, this situation is recorded on a protocol signed by the parties and required procedures are initiated in order to ensure that the claim is pursued and collected under the provisions of the Law No. 6183. In case of failure to reach settlement, a new demand for conciliation may not be made for the same claims.

However, regarding the amounts settled under this article, if those agencies and organizations which defaulted in the settlement installments since the settlement date pay up all the debts arising from the settlement and associated default interest by 31.12.2008, their settlements shall not be cancelled.

If the liabilities for reconciled amounts are not fulfilled by the debtor in the requested time, then the reconciliation will be accepted as not accomplished and the Treasury claim shall be followed and collected in accordance with the provisions of Law No. 6183.

Necessary transactions will be initiated in accordance with the provisions of Law No. 6183 to pursue and collect the claims for which the relevant party does not request settlement within the reconciliation application period.

**Provisional Article 4** – After Marmara and Duzce earthquakes, with the purpose of financing emergency aid, restructuring and rehabilitation projects, the Minister in charge of the Undersecretariat of Treasury is authorized to allocate the loans provided to the Republic of Turkey as debtor from the relevant financial organizations of the countries of World Bank, European Investment Bank, European Council Development Bank, Islam Development Bank, Gulf Cooperation Council, from foreign country governments and credit organizations of foreign countries and from international organizations to public agencies and organizations other than the public administrations under the general government budget.

**Provisional Article 5** – The provisions of Article 11 of this Law shall apply to Treasury claims that arose or will arise from the credits utilized through lending by agreements such as “Transfer Agreement”, “Loan Agreement” or the like concluded prior to the effective date of this Law.

**Provisional Article 6 - (Addition: 31/07/2003 – 4969/Art.11)** In the context of the Baku-Tbilisi-Ceyhan pipeline project, the Council of Ministers is authorized to:

- a) Sign relevant instruments and other documents regarding the host country agreement, turn-key delivery construction contract, government guarantee contract which have already been signed and other agreements to be signed for this project,
- b) Provide guarantees to the parties indicated in the relevant agreements for the performance of any and all payments, completion, performance and other obligations undertaken by the Turkish Republic and relevant public agencies and organizations under the agreements and other relevant instruments and agreements mentioned in paragraph (a), and guarantee, in the name of Turkish Republic, any and all payment obligations which may arise in case of failure to fulfill partially or fully the commitments as provided in the said agreements,
- c) Designate and authorize the relevant public agencies and organizations which have signed and are to sign the agreements and other relevant instruments and agreements mentioned in paragraphs (a) and (b).

**Provisional Article 7- (Addition: 31/7/2003-4969/Art.11)** Payments which have arisen under the repealed Foreign Loans Exchange Variance Fund and thus have to be paid shall be covered from appropriations included in the budget for such purpose.

The Council of Ministers is authorized to raise the amount in paragraph (h) of Article 26 of the Fiscal 2003 Budget Law no.4833 dated 29.03.2003 up to twofold.

**Provisional Article 8- (Addition: 21/4/2005 – 5335/Art.19)** The Council of Ministers is authorized, upon a proposal from the Minister in charge of the Undersecretariat of Treasury, to allocate, without consideration to the public agencies and organizations outside the general government budget, the loans obtained by the Turkish Republic as the debtor from any foreign financing source to finance the projects which will be created to prevent potential damages and act preventive measures and preparations against earthquake due to a risk of earthquake to which the Province of Istanbul is exposed. Provisions of the fifth and sixth paragraphs of Article 14 of this Law regarding public administrations covered under the general government budget, the Higher Education Council, universities and higher institutes of technology shall not apply to loans obtained based on this Article.

**Provisional Article 9- (Addition: 21/4/2005 – 5335/Art.19)** Provisions of the amended tenth paragraph of Article 14 of this Law shall apply to the commission fees, undertaking fees, guarantee fees, default interest and similar obligations, which, prior to the effect of this Article, have been initiated in the context of transactions by the Undersecretariat as the debtor or guarantor regarding any foreign financing or derivative product, which have arisen and thus must be paid upfront before the relevant agreements are signed or until the legislative acts are enacted to put into force the agreements signed or amended the agreements previously signed, independently of the signing or going into force of the relevant agreements or agreements amending the previously signed agreements.

**Provisional Article 10 – (Addition: 1/7/2006-5538/Art.17)** The Council of Ministers is authorized, upon a proposal from the Minister in charge of the Undersecretariat of Treasury, to allocate, without consideration to the Turkish Republic General Directorate of State Railroads, the loans obtained by the Turkish Republic as the debtor from any foreign financing source to finance the projects which are included in the relevant years' investment programs of the said General Directorate and have been permitted by the Undersecretariat to obtain foreign financing but for which the finance supply efforts have not yet been conclude, and the projects included in the 2006 Annual Investment Program. Provisions of the fifth and sixth paragraphs of Article 14 regarding public administrations included in the schedule (I) annex to the Law no.5018 dated 10/12/2003 shall not apply to loans obtained based on this Article.

**Provisional Article 11– (Addition: 26/12/2006-5568/Art.3)** The Minister of Finance is authorized, upon a proposal from the Minister of Transport, to delete, without associating them with revenue and expense accounts of the budget, the claims from the relevant organizations which have arisen from but not been executed under a loan agreement by the effective date of this Article from the World Bank, European Investment Bank, relevant finance organizations of the Gulf Cooperation Council countries and the National Westminster Bank for the financing of Emergency Aid for Flood and Earthquake Disaster Project, Emergency Restructuring for Marmara Earthquake Project, Turkish Infrastructure and Urban Restructuring Project, Permanent Housing Land Roads Project, Çınarcık-Teşvikiye-Kocadere-Esenköy-Armutlu Sewage Project, Social Risk Mitigation Project and Privatization Social Support Project, Industrial Technology Project and TÜBİTAK Bilten Research Satellite Project. The said loans and the utilized amounts which have been obtained under Provisional Articles 4 and 8 of this Law but not been executed under a loan agreement to be executed after the effective date of this Article shall be considered allocated without consideration to the relevant organizations without associating them with revenue and expense accounts of the budget. Provisions in the schedule (I) annex to the Law no.5018 regarding public administrations of the fifth and sixth paragraphs of Article 14 shall not apply to loans obtained based on this Article. Provisions of the fifth and sixth paragraphs of Article 14 regarding organizations included in the schedule (I) annex to the Law no.5018 dated 10/12/2003 shall not apply to the organization which has allocated the loan, regarding the loans so allocated.

**Provisional Article 12 – (Addition: 26/12/2006-5568/Art.3)** Loans obtained under the foreign loan agreements signed prior to 01/01/2006 for the financing of projects included in the relevant year's investment program of the organizations included in section (A) of the schedule (II) annex to the Public Financial Management and Control Law no.5018 shall continue to be extended as allocated to the said organizations. Provisions of the fifth and sixth paragraphs of Article 14 regarding organizations included in the schedule (I) annex to the Law no.5018 dated 10/12/2003 shall not apply to the organization which has allocated the loan, regarding the loans extended based on this Article.

The foreign loans under Treasury guarantee which have been provided to universities listed in the section (A) of the schedule (II) to the Law no.5018, signed prior to 01.01.2006 and is being repaid shall be extended as allocated to the said organizations. The Minister of Finance is authorized, upon a proposal from the Minister, to delete the Treasury claims arising from the assumptions by the Undersecretariat relating to Treasury guaranteed loans of universities signed prior to 01.01.2006, and Treasury claims of the said organizations under settlement, without associating them with revenue and expense accounts of the budget.

**Provisional Article 13 – (Addition: 26/12/2006-5568/Art.3)** The Council of Ministers is authorized, upon a proposal from the Minister in charge of the Undersecretariat of Treasury, to allocate to the Social Assistance and Solidarity Fund without associating them with revenue and expense accounts of the budget, the loans obtained by the Turkish Republic as the debtor from any foreign financing source to finance the programs and/or projects created under the said Fund. Provisions of the fifth and

sixth paragraphs of Article 14 regarding public administrations included in the schedule (I) annex to the Law no.5018 shall not apply to the organization which has allocated the loan, regarding the loans obtained based on this Article.

**Provisional Article 14 – (Addition: 24/5/2007-5667/Art.5)** The Undersecretariat of Treasury shall issue special category State domestic borrowing notes to the Savings Deposit Insurance Fund in order to make any and all payments to be made by the Savings Deposit Insurance Fund against the sums collected by Türkiye İmar Bankası Türk Anonim Şirketi under the name of the sale of State domestic borrowing notes at secondary markets although no corresponding State domestic borrowing notes existed. Provisions of the second paragraph of Article 6 of this Law shall not apply to the special category State domestic borrowing notes to be issued in this context.

**Provisional Article 15 – (Addition: 5787-16/7/2008/Art.18 – Effect Art.21/b)** For the organization expenses for the World Bank and International Monetary Fund Meeting to be realized in 2009 in İstanbul, and goods and service procurement in this context, the Undersecretariat of Treasury may hold tenders and make commitments in 2008 without being subject to the fifth paragraph of Article 5, the last sentence of the subparagraph (b) of Article 62 of the Public Procurement Law no.4734 dated 04.01.200, and Articles 26 and 27 of the Law no.5018 on Public Finance Management Control dated 10.12.2003. The said expenses shall be covered from the appropriation included in the budget of the Undersecretariat for this purpose.

**Provisional Article 16 – (Addition: 5787-16/7/2008/Art.18 – Effect Art.21/b)** The Minister of Finance is authorized, upon a proposal from the Minister of Transport, to delete the Treasury claims composed of principal, interest, charges and delay surcharges arising from the assumptions and facility loans by the Undersecretariat relating to the Treasury guaranteed loans of the Turkish Republic General Directorate of State Railroads which are past due as of the effective date of this article, by offsetting against the claims of road maintenance and repair expenses of the Turkish Republic General Directorate of State Railroads from the Ministry of Transport, without associating them with revenue and expense accounts of the budget; and if the said organization is still in debt after such offset, to offset such amount against the unpaid capital of the said organization.

**Provisional Article 17 – (Addition: 5787-16/7/2008/Art.18 – Effect Art.21/b)** The Minister of Finance is authorized, upon a proposal from the Minister, to delete the Treasury claims composed of principal, interest, charges and delay surcharges arising from special category State Domestic Borrowing notes given to the Savings Deposit Insurance Fund by 31.12.2007, without associating them with revenue and expense accounts of the budget. This transaction shall not abolish the rights and powers of the Savings Deposit Insurance Fund to enforce and collect the claims arising from the banks whose licenses to operate are revoked or whose management and supervision is transferred to the Fund.

The Savings Deposit Insurance Fund shall transfer, to the relevant accounts of the Undersecretariat within procedures and principles laid down by the Undersecretariat, the amount remaining after subtracting the existing and potential dissolution expenses and mandatory payments made to other agencies in this context from the cash proceeds it has or will have obtained from all property, rights and claims of the banks whose licenses to operate are revoked or whose management and supervision is transferred to it, except those consisting of the proceeds enumerated in Article 130 of the Banking Law no.5411 dated 19.10.2005 and held as insurance reserves. Where additional funds are needed for the dissolution expenses due to the transfer of dissolution proceeds, the Minister is authorized to issue special category State Domestic Borrowing notes through the Undersecretariat to the Savings Deposit Insurance Fund without referring to the insurance reserves.

**Provisional Article 18 – (Addition: 5787-16/7/2008/Art.18 – Effect Art.21/b)** State Domestic Borrowing notes may be issued by the Undersecretariat to the Emlak Housing Real Estate Investment Incorporated for the obligations of the Emlak Housing Real Estate Investment regarding the payments

to be made to the beneficiaries pursuant to the third paragraph of Article 4 of the Law no.5664 on Making Payments to Beneficiaries of Housing Owning Aid dated 22.05.2007. Special category State Domestic Borrowing notes may be issued by the Undersecretariat to the Emlak Housing Real Estate Investment Incorporated for the portion exceeding the obligations of the Emlak Housing Real Estate Investment. Provisions of the second paragraph of Article 6 of this Law shall not apply to the special category State Domestic Borrowing notes issued in this context.

**Provisional Article 19 – (Addition: 5838-18/2/2009/Art.25)** Special Category State Domestic Borrowing Notes may be issued to Turkish Grain Board to compensate its financial deficit of the year 2009, as a set off against Board's unpaid capital and duty cost claims to Treasury. Minister of Finance is authorized to add appropriation up to the amount of 1 Billion TL to relevant categories of the budget of the Undersecretariat for the Special Category State Domestic Borrowing Notes which will be issued in this context.

**Provisional Article 20 – (Addition: 5909-17/6/2009/Art.1)** The Minister is authorized to issue Special Category State Domestic Borrowing Notes and /or to transfer cash up to the amount of 1 Billion TL to Credit Guarantee Institutions which are issuing guarantee to firms, with the aim of improving their financing options and contributing to the efficiency of the credit system. Minister of Finance is authorized to transfer cash and/or to add appropriation up to the amount of 1 Billion TL to existing or new categories of the budget of the Undersecretariat for the Special Category State Domestic Borrowing Notes.

25th, 48th, 41th, 50th, 53th, 54th, 56th articles of Banking Law shall not be applied with respect to the shares of the banks in the Credit Guarantee Institutions which are subsidized by the Undersecretariat by transferring cash and/or by issuing Special Category State Domestic Borrowing Notes.

Along the lines of this article, transfer of cash resources and/or transfer of Special Category State Domestic Borrowing Notes to Credit Guarantee Institutions and the procedures and the principles of the utilization of the source is set by the Council of Ministers.

**Provisional Article 21 – (Addition: 5909-17/6/2009/Art.1)** Special Category State Domestic Borrowing Notes shall be issued for onlending by the Undersecretariat of Treasury to compensate Turkish Grain Board's financial deficit of the 2009 harvesting period.

**Provisional Article 22 – (Addition: 5917-25/6/2009/Art. 32)** For the year 2009, effective as of 01/01/2009, net debt utilization amount regulated in Article 5 is applied as 5 times the net debt utilization amount that can be increased by the Minister and the Council of Ministers.

**Provisional Article 23 – (Addition: 5917-25/6/2009/Art. 32)** The extra-budgetary advance and credit amounting to TL 755.50; which was borrowed by the State Investment Bank (Export Credit Bank of Turkey since 21/8/1987) from the Undersecretariat of Treasury and further transferred to the General Directorate of Turkish Coal (TKI) and which was reimbursed by the TKI to the State Investment Bank in 1977-1996 period but not further reimbursed to the Undersecretariat of Treasury by the borrower and which, is currently booked as "Other Treasury Receivables" under "140-Claims on Persons" account is written off according to the nominal amount in 1977.

## **Effectiveness**

**Article 18-** In this Law,

a) Article 5, first, third and fourth paragraphs of Article 6, third and fourth paragraphs of Article 8, second paragraph of Article 9, Article 13, fifth, sixth, thirteenth and sixteenth paragraphs of Article 14 will enter into force on 1.1.2003.

b) The second paragraph of Article 6 will enter into force on 1.1.2004.

c) Other articles will enter into force at the date of publication.

## **Execution**

**Article 19-** The provisions of the present Law are executed by the Council of Ministers.