

**TURKEY - CHILE**

**JOINT STUDY GROUP REPORT**

**ON THE FEASIBILITY OF AN FTA**

**(REPORT ON TURKEY)**

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# CHILE-TURKEY JOINT STUDY GROUP ON THE FEASIBILITY OF AN FTA

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## **TERMS OF REFERENCE**

1. Chile and Turkey are considering to form a Joint Study Group on the Feasibility of a Free Trade Agreement
2. For that purpose the General Directorate of European Union of the Prime Ministry, Undersecretariat for Foreign Trade of Turkey and General Directorate for International Economic Affairs (DIRECON) of the Ministry of Foreign Affairs of Chile will carry out a first meeting on 26-27 July 2007 in Chile. The following meeting will be carried out on 16-17 October 2007 in Turkey.
3. The contents which both delegations will consider for that study is included in the following pages.
4. The General Directorate of European Union of the Prime Ministry, Undersecretariat for Foreign Trade of Turkey is represented in this Study by Mr. Cemalettin Damlacı, Director General of the Directorate General for European Union. All communications are to be channeled by .....
5. The General Directorate for International Economic Affairs (DIRECON) of the Ministry of Foreign Affairs of Chile is represented in this study group by Mr. Sergio Ramos, Special Advisor of the General Director for International Economic Affairs. All communications will also be channeled between Mr. Sergio Ramos and Mr. Uğur Öztürk where necessary; any official communication will be carried out through diplomatic channels.

## EXECUTIVE SUMMARY

1. The exploratory talks towards establishing a free trade area between the Republic of Turkey and the Republic of Chile was held on 17 May 2007 in Ankara. Both sides agreed during the exploratory talks to commence the procedure for establishing a Joint Study Group between Turkey and Chile. In line with both Sides' request, it has been agreed to hold two exhaustive meetings of the Joint Study Group composed of government officials. The Joint Study Group has accomplished its work with the strong belief that its Report would act as an accelerator during the negotiating process since both countries get familiar with the sensitivities and priorities of their respective sectors.

2. The past decades have witnessed a significant transformation in the Turkish economy, from a protected and state-directed system to a free market system, particularly resulting from the reform initiatives since 1980. In this regard, the reforms introduced have, among other things, largely removed price controls and drastically reduced all government subsidies; reduced the role of the public sector in the economy through privatization while reforming the tax system; emphasized growth in the industrial and service sectors; encouraged private investment and savings; liberalized foreign trade, reduced tariffs and promoted export growth. They have also aimed at releasing capital transfers and exchange controls and encouraging foreign investment. Similarly, Turkey has made necessary regulations in line with its commitments arising from Customs Union with the EU and its WTO membership.

3. The major transformation process has been launched ensuing the severe economic crisis in 2001. Following the stabilization program and the structural reforms that were implemented afterwards, recovery from the 2001 crisis has been impressive. Over the 2002-2005 period, output increased by a third, representing the strongest pace of growth among OECD countries.

4. During the 2002-2005 period, GDP grew at an annual average rate of 7.5%. As a result of this, per capita income, which was 2.879 \$ in 2000, increased to 5.477 \$ in 2006. Private consumption increased at an annual average rate of 6.8% and the annual average increase of private investments reached 19.7% during 2002-2005 period. Turkish GNP, after contracting by 9.5% with the 2001 crisis, took off in 2002 and increased annually 7.9%, 5.9%, 9.9%, 7.6 % and 6.0 % between 2002 and 2006 respectively.

5. The economy grew by 6.1% in 2006, down from the 7.5% pace of previous years, as high interest rates and slowing credit growth dampened domestic demand. For 2007, expected growth rate is 5%, supported by stable economic conditions, gradually falling inflation, and a stronger contribution from the external sector.

6. Turkish economy recorded high levels of inflation (73.5% on average) during 1993-2002 period. As a result of tight monetary policy supported with fiscal discipline and structural reforms, the inflation rate went down to single digit levels in 2004, to 9.3% for the first time in 34 years, and the rate was 7.7% in 2005. After a gradual fall in the last quarter of 2006, inflation was recorded as 9.65% by the end of the year. In light of the current estimations made by the Central Bank of Turkey, the annual inflation rate is forecasted to be within the 3.6%-to-6.6 %

(midpoint 5.1) by the end of 2007 and within the 1.6%-to-5.2% range (midpoint 3.4) by the end of 2008.

7. Turkish economy has become a more integrated economy with the world and the trade volume has significantly increased in the last decade. From 82.3 billion \$ in 2000 to 223.8 billion \$ by 2006, trade volume increased 2.7 times in Turkey.

Volume of exports has followed a continuous and a considerable increasing trend since 2000. Exports, which were 27.8 billion \$ in 2000, were realized as 85.5 billion \$ in 2006.

Due to high levels of growth rates after 2001 crisis, appreciation of Turkish currency, the increasing imports of cheap products especially of Chinese origin, increasing dependency of exports on imports driven by the structural change in exports and the increasing oil prices, a considerable increase in imports in 2000-2006 period were observed. Imports, which were 54.5 billion \$ in 2000, increased by 2.5 times during 2001-2006 period, and reached 138.3 billion \$ in 2006.

8. Turkey's low FDI levels have begun to improve considerably starting from 2005 boom. While FDI inflows to the country were 1.1 billion US\$ on average during 1993-2002 period, it reached to 9.7 billion \$ in 2005, which financed 42% of the current account deficit in 2005. The net total international direct investment inflow has increased by 101.7% in 2006 and amounted to 19.8 billion \$, which financed 62% of the current account deficit. Equity investment inflow component of the international direct investment inflows reached up to 17.8 billion \$ in the January- December period in 2006.

9. As of July 2007, Turkey has 11 preferential trade agreements in force, along with its Customs Union with the EU, which represent around 63% of the total export and 48% of the total import of Turkey for the year 2006.

Regarding tariff reduction in the FTAs, Turkey – EU Customs Union covers industrial products; therefore, the FTAs with the third countries include gradual elimination of customs tariffs for industrial products in line with a specific tariff elimination schedule which provides the same treatment with the EU's FTAs. In other words, Turkey's tariff dismantling schedule is based on the same tariff dismantling schedule taking into consideration the same dates that all the customs duties are eliminated and the same product lists as provided in the EU's FTAs with the partner countries.

Regarding the agricultural products which are out of the scope of the Customs Union between Turkey and the EU, Turkey negotiates on the basis of limited number of products on which mutual concessions are granted as from the date of entry into force of the agreement and on the basis of tariff quotas.

10 . Non-preferential rules of origin are contained in the Turkish Customs Law and in the Implementing Regulation of the Turkish Customs Law. Preferential rules of origin are contained in free trade agreements to which Turkey is party and in autonomous arrangements granted by Turkey since 2001 in the general system of preferences.

11. Bilateral trade between Turkey and Chile has increased to 477 million US\$ in 2006 from 351 million US\$ in 2005. The main reason of this 36% change is the increase in imports

from Chile; a 116-million-dollar change in 2006 pushed the import value from 326 million US\$ in 2005 to 442 million US\$ in 2006.

Turkey's exports to Chile climbed up to a record high level of 34.8 million \$ in 2006, which points out a 39.4% increase compared to 2005.

Turkey's imports from Chile reached to a record high amount of 442 million US\$ in 2006. Since 2002, the total value of imports from Chile has been showing a significant continuous rise, and performed 84.8% and 35.4% growth rates in 2005 and 2006 respectively.

12. Trade impact analysis suggest that according to the values of 2005, there are 454 HS-6-Digit commodities that would be effected by a tariff reduction in the context of a prospective FTA between Turkey and Chile. Total bilateral trade effect of tariff elimination in a FTA with Turkey for Chile is 4.72 million US\$. On the other hand, while Chile faces 356.8 million US\$ increase in imports, the total tariff revenue decreases 216.6 million US\$. Moreover, consumer surplus is calculated to rise 12 million US\$.

13. In 2005, Turkey's exports to Chile were 24.96 million US\$. Comparing it with the results of the simulation, it is reasonable to claim that if the tariff rates were eliminated for Turkey in 2005, the total amount of Turkey's exports to Chile would be at least 4.7 million US\$ higher than the actual value, which accounts for 18.8% increase.

14. There are 40 HS-6-Digit commodities that would be effected by the tariff reduction in 2005 and the total bilateral trade effect of eliminating tariff rates in a FTA with Chile for Turkey is 2.5 million US\$. On the other hand, Turkey is expected to lose 260 million US\$ tariff revenue while a 190-million-dollar imports increase is predicted. In addition, consumer surplus is expected to increase about 33.5 million US\$.

15. The results of the analysis give rise to the idea that non-traded goods are essential to analyze to see the possible effects of the FTA. According to the data of 2005, there are 918 HS-4-Digit products which have 34.7 million US\$ export potential to Chile for Turkey. This potential is much higher than the actual exports value of Turkey to Chile in 2005 and equals to 2006 values, which is 39.4% higher than 2005 values. Another remarkable point is that Chile imported 21.75 billion US\$ of the 918 HS-4-Digit products in 2005. These results also give additional support to the selection and assumption we made in the beginning of this part.

16. The overall objective of comprehensive initiatives in the field of cooperation should be to facilitate and encourage Turkey and Chile partnership in the pursuit of increased competitiveness, therefore fostering innovation and creating new opportunities for trade and joint ventures, including mutual consultation on common interest issues. The areas to be included could be constructing and consulting services; free zones; tourism; energy; agriculture, trade and investment promotion, science and technology, and other areas of common interest to both parties.

## **I. INTRODUCTION**

### **I.1. Main Characteristics of Turkish Economy and Institutional Framework**

#### **I.1.A. Macroeconomic Features**

The past decades have witnessed a significant transformation in the Turkish economy, from a protected and state-directed system to a free market system, particularly resulting from the reform initiatives since 1980. In this regard, the reforms introduced have, among other things, largely removed price controls and drastically reduced all government subsidies; reduced the role of the public sector in the economy through privatization while reforming the tax system; emphasized growth in the industrial and service sectors; encouraged private investment and savings; liberalized foreign trade, reduced tariffs and promoted export growth. They have also aimed at releasing capital transfers and exchange controls and encouraging foreign investment. Similarly, Turkey has made necessary regulations in line with its commitments arising from Customs Union with the EU and its WTO membership.

These reforms have contributed significantly to the dynamism of the private sector and underpinned the flexibility of the Turkish economy in adapting itself to both internal and external shocks. The dynamism of the private sector and the flexibility of the economy have also been observed in the strong growth performance of Turkish economy particularly in the second half of last decade. In particular, the industrial base has been significantly broadened, and exports of goods and services have grown rapidly. Financial markets have become broader and more sophisticated. Although Turkey's external debt in relation to GNP increased in that period, Turkey continued to serve its external debt.

The major transformation process has been launched ensuing the severe economic crisis in 2001. Following the stabilization program and the structural reforms that were implemented afterwards, recovery from the 2001 crisis has been impressive. Over the 2002-2005 period, output increased by a third, representing the strongest pace of growth among OECD countries. At the same time, annual inflation fell steadily, reaching single digits in 2004 for the first time in three decades, while sound fiscal and monetary policies improved confidence and reduced risk premium, thereby enhancing business investment and FDI inflows.

The Central Bank of Turkey has achieved an impressive record in lowering inflation. Tight fiscal policies, structural reforms, high productivity growth and macroeconomic stability also contributed to the disinflation process. Furthermore, exchange rate appreciation played a particularly important role in reducing inflation while price rises in non-traded goods remained sticky at around 12–14% per annum.

In recent years, an improvement in the rank of Turkey in competitiveness has been observed. This improvement is seen more evident in company operations and strategies, the quality of the business environment and technology factors. As result of these structural changes, Turkey has been able to move up by 12 ranks to 59th place in the Global Competition Index in 2005.

## **i. Gross Domestic Product**

Turkish economy grew at a rate of 7.4% in 2000, however, it contracted at a rate of 9.5% as a result of the 2001 crisis. During the period following the crisis, important steps were taken towards ensuring macroeconomic stability and a high growth performance was achieved. Consequently, during the 2002-2005 period, GDP grew at an annual average rate of 7.5%. As a result of this, per capita income, which was 2.879 \$ in 2000, increased to 5.477 \$ in 2006. Private consumption increased at an annual average rate of 6.8% and the annual average increase of private investments reached 19.7% during 2002-2005 period.

Turkish GNP, after contracting by 9.5% with the 2001 crisis, took off in 2002 and increased annually 7.9%, 5.9%, 9.9%, 7.6% and 6.0% between 2002 and 2006 respectively. GNP growth was more pronounced in the first half of 2006 whereas it slowed down to 4.4% in the second half of the year.

Sectors that have a larger share in GNP are industry, trade, transportation and telecommunication, agriculture, and construction, contributing 30, 24, 13, 11 and 5% of GNP in 2006, respectively.

The economy grew by 6.0% in 2006, down from the 7.6% pace of previous years, as high interest rates and slowing credit growth dampened domestic demand. For 2007, expected growth rate is 5%, supported by stable economic conditions, gradually falling inflation, and a stronger contribution from the external sector.

Increases in productivity played an important role in this high growth performance. The contribution of the total factor productivity (TFP) to growth, which was 24.5 % annually on average during the 1996-2000 period, reached 42 % during the 2001-2005 period. During the same period, the contribution of capital accumulation to growth was 51.7%.

When the sectoral structure of growth is examined, it is observed that the greatest contribution came from industry. While the annual average growth rate of the agricultural sector was 1.1% during the 2001-2005 period, industry and services sectors grew by 5.1% and 4.3%, respectively. As a result of these developments, the share of the agricultural sector in the total value-added continued to decrease and it fell from 14.1% in 2000 to 10.3% in 2005. On the other hand, the share of the services sector increased from 62.6% to 64.4% and the share of the industry sector rose from 23.3% to 25.4%.

## **ii. Inflation**

The Turkish economy recorded high levels of inflation (73.5% on average) during 1993-2002 period. As a result of tight monetary policy supported with fiscal discipline and structural reforms, the inflation rate went down to single digit levels in 2004, to 9.3% for the first time in 34 years, and the rate was 7.7% in 2005.

An explicit inflation-targeting regime was adopted at the beginning of 2006. With the implementation of this regime, transparency and accountability of the monetary policy increased. After a gradual fall in the last quarter of 2006, inflation was recorded as 9.65% at the end of the year.

In light of the current estimations made by the Central Bank of Turkey, the annual inflation rate is forecasted with 70% probability to be within the 3.6-to-6.6 % range (midpoint 5.1) at the end of 2007 and within the 1.6-to-5.2% range (midpoint 3.4) at the end of 2008.

### **iii. Export Sector**

In order to further engage Turkish foreign trade with global trading system and the world economy, all necessary policy steps have been taken and as a result the ratio of foreign trade volume to national income has increased within the last four years. In addition, both sectoral and regional composition of exports and imports have changed in a way transforming Turkey from a peripheral, labor-intensive production center to an increasingly high tech and capital intensive goods exporting country. Turkey has re-emerged among the developing economies as having one of the rapidly growing trade and economic power.

Trade had a significant contribution to the growth of the economy in 2006 that grew by 6.1%. The contribution of export in goods and services to this growth was about 3.8 percentage points. In 2006, foreign trade volume surged by 17.6 % and reached 223.8 billion \$ from 190 billion \$ in 2005 while foreign trade deficit reached from 43.2 billion \$ to 52.8 billion \$ in 2006. Overall, trade openness continued to increase and the trade partners were diversified. The ratio of foreign trade to GDP in recent years reveals the importance of foreign trade in Turkey's economy. It was 48.9% in 2003, 53.3% in 2004 and 52.7% in 2005 and 55.9% in 2006.

Turkish exports reached to 85.5 billion \$ by increasing 16.3%. Meanwhile, growth rate of imports decreased relative to previous years, but it was still higher than that of exports in 2005 (18.4%) and reached to 138.3 billion \$. During 2002-2006 period, exports grew at an average of 22% annually.

In addition to the qualitative increases in exports volume, the sectoral composition of exports has also shown qualitative changes underlining a structural transformation in recent period. The share of "machinery and transport equipment", a product group dominated by high value added and high-tech products, increased from 23.9% in 2002 to 29.4% and about 30.5% in 2005 and 2006 respectively. As a result, "machinery and transport equipments", which is a capital-intensive sector, has become the largest component of Turkish exports since 2004, surpassing "textiles and clothing". But it is particularly the "automotive industry products" that played the most significant role in the increasing share of this relatively high capital-intensive product group.

Through the measures towards increasing competitiveness of the economy and shifting to a high value-added production structure, a sustainable high increase in exports is expected during 2007-2013 period. Accordingly, exports are targeted to reach 210 billion \$ in 2013 with an annual average increase of 14.2% during this period. Parallel with the sustainable high economic growth, imports are also projected to show an annual average increase of 11% and reach 275 billion \$ in 2013. Therefore, the trade volume will be realized as approximately 470 billion \$ at the end of 2013.

In parallel to the increase in the globalization of Turkish economy since early 1980s, inversely proportional relation between the current account deficit and growth has been reinforced. Through the years that Turkey has achieved high levels of growth rates, current account deficit reached to peak levels while, during recession periods, current account surplus

was observed. The ratio of trade volume to GDP was around 20% in 1980s, this ratio reached to 56% by 2006.

High current account deficits are normal among catching up economies, and that deficits driven by high private sector investments are relatively benign, because they will eventually deliver a significant increase in exports. A closer look in the composition of imports reveal that during 2001-2005 period, high growth rates, increase in energy prices, the change in the sectoral composition of exports with the increases in investment and exports, and real appreciation of the currency have led to high increases in imports of intermediate and investment goods in Turkey.

In line with its obligation to harmonize its industrial tariff rates against third countries with that of EU's, Turkey considerably reduced its tariff rates for industrial products after the establishment of Customs Union in 1996. 5.8% average tariff rate of 1996 was reduced to 5% in 2000 and to 4.5% by 2002. By 2007, the average applied tariff rate to third countries was reduced to 4.2% for industrial products. It should be noted that agricultural products is not included in Turkey's Customs Union with the EU and it is considered as a very sensitive sector in the country, hence, the tariff rates for agricultural products are much higher. By 2007, applied average tariff rate for agricultural products is 58.3% for the EU and 59.5% for third countries.

#### **iv. Foreign Investment**

Turkey's low FDI levels have begun to improve considerably starting from 2005 boom. While FDI inflows to the country were 1.1 billion US\$ on average during 1993-2002 period, it reached to 9.7 billion \$ in 2005, which financed 42% of the current account deficit in 2005. The net total international direct investment inflow has increased by 101.7% in 2006 and amounted to 19.8 billion \$, which financed 62% of the current account deficit. Equity investment inflow component of the international direct investment inflows reached up to 17.8 billion \$ in the January- December period in 2006, representing a two-fold increase with respect to the same period in 2005, which was 8.6 billion \$. The majority of the total 17.5 billion \$ of the equity capital entry is mainly in the financial intermediation, while transport, storage and communications, wholesale and retail trade and manufacturing sectors follow.

This tremendous increase in FDI inflows is expected to continue in the next few years, mainly due to a new Foreign Direct Investment Law (2003) which has established a liberal FDI regime, in line with international best practice, by eliminating additional permits and procedures that were originally required for foreign investors and by streamlining the foreign investment process. Improved macroeconomic stability, enhanced credibility generated through the EU accession process and expected microeconomic investment climate reforms were among the other main factors underlying the increasing FDI flows to Turkey.

During 1990-2006 period, the net reserves of Turkey increased to 90,8 billion dollars from 9,2 billion dollars in 1990. Net reserves reached to a record level of 116,6 billion dollars by June 2007 which is a reflection of the huge rise in FDI during last two years. The amount of FDI recorded contributed to the financing of the current account deficit leaving the net reserves mostly intact which has improved the sustainability of current account position of the country during the said period. On the other hand, Turkey has a net foreign debt stock of 109,6 billion dollars which corresponds to 27,4% of GNP by 2006. The ratio of net foreign debt to exports amounts to 0.78 per cent in 2006. This ratio displays exports' crucial and indispensable contribution to financing net foreign debt of the country.

## **v. Investment and Savings**

Along with the recovery that started following the 2001 crisis, significant increases have been observed in investments especially in manufacturing industry since 2002. Share of manufacturing industry in private sector investments increased 64% during 2001-2005 period and was realized as 35.5% on average. By 2006, the share of manufacturing industry in private sector investments remains high, 41.9%.

The share of total investments and savings in GNP has remained stable in the Turkish economy between 1990-2004 period, on average 22.3% and 20.8% of GNP, respectively.

While the share of savings to gross national product declined from 20.2 in 2004 to 16.6 in 2006, the share of fixed capital investments to GNP increased from 18.4 to 21.6 during the same period. The gap between the savings and investments were financed through the remarkable increase in FDI after 2004.

Following 2001 crisis, the composition of investments was dominated by machinery and equipment increasing its share from 45% in 2001 to 62% by in 2005.

Recently, in addition to achieving macroeconomic stability, as a result of carrying out various regulations, significant progress has been achieved in Turkey in improving the business environment and an increase in investments has been recorded. Within the scope of the Reform Program for Improving the Investment Environment, many regulations were realized towards the removal of administrative obstacles encountered during investment and operation periods. Accordingly, private and public sector fixed capital investments are expected to increase at annual average rates of 9.4% and 8.1%, respectively, and increase in the total fixed capital investments is estimated to be realized as 9.1%.

## **vi. Employment and Salaries**

The combination of demographic and structural factors as well as the influx of the 2001 crisis have meant that population growth has outpaced employment growth for many years in Turkey. Rapid increase in the working age population coincided with a structural transformation away from labor-intensive agriculture toward industry and services while 2001 crisis left many unemployed.

The share of the agricultural sector in total employment receded from 36% to 29.5% and employment in this sector was reduced by 1 million 276 thousand persons during 2001-2005 period. Employment increased substantially in non-agricultural sectors, especially following the year 2003, creating 1 million 742 thousand persons of employment during 2001-2005 period. Creation of employment for 1 million 162 thousand persons in 2005 suggests that this increase accelerated at the end of the period.

By 2006, the shares of agricultural sector, industry, construction and services in total employment were 27.3%, 19.7%, 5.7% and 47.3% respectively. The share of agricultural sector was 2.2 point less compared to the previous year while the share of services sector increased 1.4 points in 2006, compared to 2005.

It should be noted that for the last two decades employment growth in industry in Turkey has been much faster than in Spain, Portugal and Greece, countries that have already started

seeing the transition towards shrinking share of employment in industry. Employment growth in Turkey was roughly comparable to Brazil, Ireland and Korea, and much slower than Mexico.

Regarding real wages in Turkey, average real manufacturing wages were stagnant in the private sector and declining in the public sector during the 1980s. Averages in both the public and private sectors rose sharply during the 1989-91 period, as the gap in favor of the public sector widened. Public sector workers experienced additional real wage increases in 1992 and 1993. The gains were severely eroded in 1994 and 1995, as wages fell sharply following the economic crisis in 1994. In 1994 the average private manufacturing wage was one-half that in public manufacturing.

Subsequent events like the spill over from the Asian and Russian crises in 1997-98, and the earthquakes that hit the industrial heartland in 1999 affected the economy negatively and restrained real wage growth. The crash in 2001 that sent unemployment to record levels is likely to have had a major negative impact on real wages as -14,2%. Despite the introduction of the economic stability program in 2001, the real wages continued to be affected negatively for the years 2002 and 2003 as -7,2% and -6,3% respectively. After the Turkish economy get slowly stabilized, the real wages began to recover in 2004 with 1,3% increase and continued to increase in 2005 and 2006 1,8% and 0,9% respectively. The impact of the economic climate on the private sector is higher than the public sector for the year 2004 and 2006 whereas for the year 2005 the positive impact economy of the real wages on public sector is much higher than private sector.

In terms of unit labor costs (labor costs relative to productivity), Turkey remains in a strong competitive position vis-à-vis the other competitors. Labor cost per unit value added was 0.26 in 2004, substantially less than the other EU member states and accession countries. Turkey's nearest competitors were Greece and Mexico, but particularly in manufacturing Turkey had a significant edge with a 0.27 labor cost per unit value added.

Finally, Turkey has a demographic gift with its educated young and dynamic population that could facilitate rapid growth as experienced in East Asia where the correlation between the demographic gift and actual growth has been positive.

## **I.1.B. Trade Policy Regime: Formulation and Implementation**

### **i. Legal and Institutional Framework**

Turkey is a parliamentary republic based on constitution of 1982. A Unicameral Parliament of 550 members is directly elected for a five-year term. Universal direct suffrage is over the age of 18 and parties gaining more than 10% of the national vote are eligible for seats in parliament. Head of the State; President is elected by an absolute majority of the Parliament for a seven-year term.

The foundation and principles of the Turkish government are based on Central Administration and Local Administration concepts. Accordingly, the administrative structure of the Turkish Republic is divided into two, namely 'Central Administration' and 'Local Administrative Institutions'.

The organization of the Central Administration in the capital consists of the President of the Republic, the Council of Ministers, the Prime Minister, the Ministries and other auxiliary bodies such as the State Council, the Court of Accounts, and the National Security Council. The

provincial organization of the Central Government has been created to administer public services to its citizens throughout the entire country. In Turkey there are three kinds of provincial administrations: province, county, and district. The Province is the largest provincial administrative unit of the Central Administration. There are 81 provinces in Turkey.

Local administration bodies are divided into two categories, those bodies based on locality (local government organizations) and those based on services provided (public institutions).

These are public legal personalities that have been established outside Central Government to meet the common needs of provincial, municipal, and village residents. They have separate legal personalities from that of the State; a certain degree of autonomy; and their members are locally elected. According to the Constitution, there are three kinds of local Government Organizations: Provincial Administration, Municipality, and Village Administration. The Ministry of the Interior has jurisdiction over local government bodies. The Ministry exercises this authority through the General Directorate of Local Government.

Public Institutions have been set up for the delivery of services which require specialized information and expertise through an organization outside the State or Local Government. They are established through the granting of a separate legal personality. Public institutions have public legal personalities and they function under some form of public administration (State or Local Government). However, Public Institutions have a certain degree of independence from the Public Administrations which set them up. They are not subject to hierarchical control. They are self-administrated and internally monitored.

In general, policies are formulated and implemented by means of laws. Draft laws are presented to the Council of Ministers by the relevant Minister. After being signed by all the Ministers, the bills are submitted to the single-chamber Parliament (the Turkish Grand National Assembly) for approval. Members of Parliament can also present draft laws to the Turkish Grand National Assembly. Bills are first forwarded for assessment to the standing sub-commissions of the Parliament, together with non-governmental organizations (NGOs) and other relevant experts and authorities. After the Parliament's approval, the bills are signed by the President; the laws enter into force upon publication in the Official Gazette. Decisions with respect to policy proposals can also be made by means of decrees<sup>1</sup>. The Council of Ministers, led by the Prime Minister, has the main executive power; it may make decisions on a vast area of issues in order to fulfill its function. Decisions of the Council of Ministers become decrees upon publication in the Official Gazette<sup>2</sup>.

The Undersecretariat of the Prime Ministry for Foreign Trade (UFT) continues to formulate, administer, and coordinate Turkey's foreign trade policies. Depending on the nature of the issue, the UFT consults with relevant ministries and other institutions that also take part directly or indirectly in foreign trade policy formulation and/or its implementation. These include: the Ministry of Foreign Affairs; Secretariat General for EU Affairs (ABGS); the Ministry of Industry and Trade; the Ministry of Finance; the Ministry of Agriculture and Rural Affairs; the Ministry of Health; the Ministry of Culture and Tourism; the Ministry of Energy and Natural Resources; the Ministry of Environment and Forestry; the Undersecretariat of Treasury; the Undersecretariat of State Planning Organization; The Scientific and Technologic Research

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<sup>1</sup> A decree is a decision of the Council of Ministers published in the *Official Gazette*.

<sup>2</sup> The import and export regimes, safeguard measures, surveillance for imports, administration of quotas and tariff quotas, and the prevention of unfair competition on imports have all been regulated through decrees.

Council of Turkey (TUBITAK); the Undersecretariat of Customs; the Central Bank of Turkey; the Turkish Patent Institute; Turkish Standardization Institute (TSE); Turkish Atomic Energy Institute (TAEK); the Competition Authority; the Public Procurement Authority; the Banking Regulation and Supervision Agency (BRSA); and the Export Credit Bank of Turkey (Turk Eximbank). Turkey has undertaken a sectoral reform process, whereby many independent regulatory bodies have been established in addition to the BRSA. These include the Telecommunications Authority; the Energy Market Regulatory Authority; the Sugar Board; the Tobacco, Tobacco Products and Alcoholic Beverages Market Regulatory Authority; and the Public Procurement Agency.

The private sector and NGOs provide inputs to trade policy formulation by communicating their views either directly to the UFT or through the Union of Chambers and Commodity Exchanges of Turkey (TOBB), the Turkish Industrialists' and Businessmen's Association (TUSIAD), and the Foreign Economic Relations Board (DEIK), as well as individual and local chambers of commerce, and exporters' associations. Consultation is sometimes held with universities and research institutes, such as the Economic and Development Foundation (IKV), the Foreign Trade Association of Turkey (TURKTRADE), and the Export Promotion Centre (IGEME). The Undersecretariat of Foreign Trade conducts periodic reviews and assessments of trade policies. In this context, the export and import regimes and legislation on standardization for foreign trade are reviewed annually and updated as necessary. The views of the private sector, including NGOs, are customarily taken into consideration throughout the process (although this is not legally required).

## **ii. Trade Policy Objectives and Formulation**

The main factor in shaping Turkey's foreign trade policy has been the Customs Union with the EU. At the Helsinki European Council held on 10-11 December 1999, Turkey was officially recognized as a candidate State. In return, Turkey was required to align its legislative framework with the whole EU *acquis communautaire*. The European Council revised the Accession Partnership on 14 April 2003. In this regard, after approval of the Accession Partnership by the European Council on 8 March 2001, the Turkish Government announced its second National Program for the Adoption of the *Acquis* (NPAA) on 24 July 2003.

At the national level, an export-oriented, technology-intensive production structure, with emphasis on generating high value-added manufactured and services products, is one of the basic objectives stipulated in Turkey's long-term strategy for the period 2001-23, prepared by the Undersecretariat of State Planning Organization (SPO) and approved by the Parliament on 27 June 2000. The strategy aims to support export-oriented activities, particularly of small and medium size enterprises (SMEs) by, *inter alia*, providing credit, guarantee, and insurance mechanisms through the Turk Eximbank; further harmonizing foreign investment legislation with EU norms; reducing bureaucratic procedures for exporters; and improving basic infrastructure.

Turkey's long-term strategy also contains the eighth five-year development plan for the period 2001-05. Some of the main trade-related strategies to be pursued during this period are: enhancing the competitiveness of the economy by reducing direct state intervention through the privatization of public enterprises; promoting foreign direct investment by amending the legislation in line with the EU's legal framework and reducing the bureaucracy; making efficient use of subsidies, in accordance with the relevant WTO rules; continuing the industrialization policy with emphasis on technology-intensive activities; financing exports by providing sufficient resources through the Turk Eximbank; contributing to the efficiency of free zones via

the improvement of infrastructure; and fostering trade relations with the Caucasian region, Central Asia, and the Middle East.<sup>3</sup>

The WTO Agreements and Turkey's current and future trade relations with the European Union (EU) are the main factors influencing the Turkish trading system. Turkey has continued to progressively align its trade regime on that of the EU, and domestic legislation has been amended to reflect both its EU and WTO commitments. This, in turn, is likely to provide improved and more secure conditions to its trading partners.

The main legislation relating to international trade is the Foreign Trade Regulations Law (No. 2976 of 1984). The Law provides for the development and regulation of foreign trade, including export promotion, as well as the imposition or removal of "additional financial obligations" on foreign trade transactions.

In general, investment in Turkey is regulated by the Commercial Code. Foreign investment, in particular, is governed by the Foreign Direct Investment Law (No. 4875 of 2003), and the Communiqué Concerning the Law. FDI is generally free of restrictions in accordance with these regulations; however, some sectors are regulated through sector-specific acts, such as the Banks Act, the Fishing Law, and the Civil Aviation.

The hierarchy of legal instruments in Turkey is: the Constitution, international agreements duly put into effect, laws, decrees having force of law, regulations, implementing regulations, decisions of Council of Ministers, and other administrative Acts such as circulars. International agreements, including the WTO Agreements, duly put into effect carry the force of law in Turkey. Their provisions would apply in the case of any inconsistencies between them and domestic law, which has to be amended to reflect Turkey's international commitments.

**Table I.1.B. Trade-related legislation in Turkey, 2003**

<b>Area</b>	<b>Legislation</b>	<b>Entry into force</b>
Foreign trade; including export promotion, and "additional financial obligations" on foreign trade transactions	Foreign Trade Regulations Law (No. 2976 of 1984)	1984
Customs	Customs Law (No. 4458 of 2000)	2000
Import regulations	Import Regime Decree (No. 7606 of 1995)	1995
	Quota and Tariff Quota Administration Decree (No. 6814 of 1995)	1995
Export regulations	Law on Measures to be taken by the Government Relating to Taxes for the Purpose of Promoting Exports (No. 261 of 1963)	1963
	Export Regime Decree (No. 7623 of 1995)	1996
	Export Regulation ( <i>Official Gazette</i> No. 22515 of 1996)	2000
		2000

<sup>3</sup> Undersecretariat of State Planning Organization (2001).

Area	Legislation	Entry into force
	Inward Processing Regime Decree (No. 13819 of 1999) Outward Processing Regime Decree (No. 674 of 2000)	
Government procurement	Public Procurement Law (No. 4734 of 2002) Public Procurement Contracts Law (No. 4735 of 2002)	2002 2002
State aid	State Aid for Investments Decree (No. 4367 of 2002) State Aid for the Investment of SMEs Decree (No. 1822 of 2000) State Aid on Exports Decree (No. 6401 of 1994)	2002 2001 1994
Regional investment incentives	Organized Industrial Zones Law (No. 4562 of 2000) Industrial Zones Law (No. 4737 of 2002)	2000 2002
Subsidies	Adopting the Agreement on Interpretation and Application of Articles IV, XVI, and XXIII of the GATT (subsidies code) Decree (No. 9155 of 1985)	1985
Free-trade zones	Free Zones Law (No. 3218 of 1985)	1985
Technical standards and regulations	Technical Regulations and Standardization for Foreign Trade Decree (No. 7794 of 1996)	1996
General product safety	The Framework Law (4703) Relating to the Preparation and Implementation of the Technical Legislation on the Products, which transposes the Directive of General Product Safety 92/59/EEC of the EU	2002
Sanitary and phytosanitary measures	Sanitary Law (No. 1593 of 1930) Agricultural Quarantine Law (No. 6968 of 1957) Production, Consumption and Control of Foods Decree (No. 560 of 1995) Turkish Foods Codex Regulation ( <i>Official Gazette</i> No. 23172 (bis) of 1997) The Law on Animal Health and Officers (No. 3285 of 1986) Fisheries Law (No:1380 of 1971); amended by Law No. 3288 of 1986 Fisheries Regulation (No: 22223 of 1995)	1930 1957 1995 1997 1986 1971 1995
Anti-dumping and countervailing measures	Law on the Prevention of Unfair Competition on Imports (No. 4412 of 1999) Decree on the Prevention of Unfair Competition on Imports (No. 23861 of 1999) Regulation on the Prevention of Unfair Competition on Imports (No. 23861 of 1999 and Addendum No.24743 of 2002)	1999 1999 1999

<b>Area</b>	<b>Legislation</b>	<b>Entry into force</b>	
Safeguard measures	Decree No. 95/6814 on Safeguard Measures and Surveillance for Imports and the Administration of Quotas and Tariff Quotas ( <i>Official Gazette</i> No. 22300 of 1 June 1995)	1995	
	Implementing Regulation on Safeguard Measures and Surveillance for Imports ( <i>Official Gazette</i> No. 22300 of 1 June 1995)	1995	
Competition	The Act on the Protection of Competition (No. 4054 of 1994)	1994	
Intellectual property rights	Turkish Patent Institute Decree (No. 544 of 1994)	1994	
	Protection of Patent Rights Decree (No. 551 of 1995)	1995	
	Protection of Trade Mark Rights Decree (No. 556 of 1995)	1995	
	Protection of Industrial Designs Decree (No. 554 of 1995)	1995	
	Protection of Geographical Indications Decree (No. 555 of 1995)	1995	
	Intellectual and Artistic Works Law (No. 5846 of 1951; amended by Law No. 4110 of 1995 and Law No. 4630 of 2001)	1995	
	Additional Penalty Provisions to the Decrees No. 551, 554, 555, and 556 (Law No. 4128 of 1995)		
Amendment of the Transition Period of Patent Protection of Pharmaceutical and Veterinary Products and Processes Decree (No. 566 of 1995)			
Consumer protection	The Law No. 4822 of 2003 Amending the Law on the Protection of Consumers No. 4077 of 2001	2003	
Foreign investment	Foreign Direct Investment Law (No. 4875 of 2003)	2003	
Company establishment	The Law No. 4884 Amending Turkish Commercial Law, Tax Procedure Code, Stamp Tax Code, Business Law and Insurance Law	2003	
Agriculture	Seed Law (No. 308 of 1963)	1963	
	Decree on Seed Imports (No. 8231 of 1984)	1984	
	Decree on Customs Tax Exemption On Seed Imports (No. 4190 of 1999)	1999	
	Communiqué on Chemical Fertilizers Used in Agriculture (No. 24708 of 2002)	2002	
	Communiqué on Production, Import, Export, Marketing, And Control of Organic, Organomineral And Microbial Fertilizers And Soil Regulators Used in Agriculture (No. 25087 of 2003)	2003	

<b>Area</b>	<b>Legislation</b>	<b>Entry into force</b>	
Mining and energy	Mining Law (No. 3213 of 1985)	1985	
	Electricity Market Law (No. 4628 of 2001)	2001	
	Natural Gas Market Law (No. 4646 of 2001)	2001	
Telecommunications	Telegraph and Telephone Law	1924	
	Law Amending Telegraph and Telephone Law (No. 4000 of 1994)	1994 1995	
	Law Amending Telegraph and Telephone Law (No. 4107 of 1995)	1996 2000	
	Law Amending Telegraph and Telephone Law (No. 4161 of 1996)	2001	
	Telecommunications Law Amending Telegraph and Telephone Law (No. 4502 of 2000)	2001 2002	
	Law Amending Telegraph and Telephone Law (No. 4673 of 2001)		
	Telecommunication Services Regulation	2002	
	Communiqué on Principles and Procedures Regarding the Granting of 2 <sup>nd</sup> Type Telecommunications License and General Authorization		
	Law Amending Establishment and Broadcast of Radio TVs Law (No. 4756 of 2002)		
	Financial services	Banks Act (No. 4389 of 1999) (Amended by Law No. 4491 of 1999, Law No. 4672 of 2001, Law No.4743 of 2002)	1999 1981
		Capital Market Law (No. 2499 of 1981, amended in 1992 by Law No. 3794, and in 1999 by Law No. 4487)	1959
Insurance Supervision Law (No. 7397 of 1959, amended by Statutory Decree No. 539 in 1994)			
Transport	Turkish Commercial Law (No. 6762 of 1956)	1956	
	Cabotage Law (No. 815 of 1926)	1926	
	Public Law on Turkish Civil Aviation (No. 2920 of 1983). Article 25 was changed on 19.04.2001 by Law No. 4647	1983 1925	
	Ports Law (No. 168 of 1925)	1999	
	Turkish International Ship Register (No. 4490 of 1999)	1984	
	Regulation on Commercial Air Transport Operations (No. SHY-6A of 1984 amended by Regulation No. 24362 of 03.04.2001)	2002 1999	
	Regulation on Airport Construction, Operation and Certification (SHY-14 A), issued by Regulation No. 24755 of 14.05.2002		
	Regulation on Airport Groundhandling (SHY-22), issued by Regulation No. 22741 of 28.08.1996 was amended on 19.09.1999		

Area	Legislation	Entry into force
Tourism	Tourism Encouragement Law (No. 2634 of 1982)	1982
	Law on Travel Agencies and Association of Travel Agencies (No. 1618 of 1972)	1972

*Source:* Information provided by the Turkish authorities.

### iii. WTO – Turkey Relations

At the end of the Uruguay Round, Turkey signed and ratified the Marrakesh Agreement to become an original member of the World Trade Organization (WTO) on 26 March 1995. Turkey is listed under the Developing Countries roster, and it has taken measures to comply with its commitments under the Uruguay Round Agreements.

Turkey believes that a universally agreed international trade system embodied within the WTO on the principles of reciprocity and non-discrimination can serve the interests and welfare of the global community. The WTO and the multilateral trading system since the GATT era proved its validity and indispensability to open up markets and maintain trade liberalization in a transparent manner.

It should also be underlined that liberalization of trade at regional or bilateral level can also contribute to trade expansion in the global context. From this point of view, Turkey as a country bridging different regions of the world with wide range of economic and social features, considers establishing bilateral and regional trade relations as valuable opportunities to further enhance trade liberalization.

In the regional framework, the most important and boldest step taken by Turkey is the completion of the Customs Union with the European Union aiming at full integration. With the establishment of the Customs Union, Turkey has progressively aligned its preferential regime with that of the EU. The Customs Union with the EU takes Turkey’s trade regime beyond its Uruguay Round commitments, while going well ahead of the liberal trade practices of the other Developing Countries in WTO. Within the context of alignment with the Common Commercial Policy, by the end of 2006, Turkey signed preferential trade agreements with 21 countries (10 of which are in force)<sup>4</sup> and the negotiations with 6 countries are ongoing. Moreover Turkey is part of the Euro-Mediterranean Partnership aiming at establishing a free trade area in the region by 2010. Turkey also participates in the Economic Cooperation Organization and the Black Sea Economic Cooperation.

Turkey renders Most-Favored-Nation treatment to all of its trading partners, and at the same time, attaches great importance to the Doha Development Agenda (DDA). Its main interests in the DDA are a fair, competitive, and predictable trading environment that would stem from future multilateral reductions of tariffs, simplification of tariff structures, and elimination of non-tariff barriers; an equitable agricultural trading environment; future extension of the scope of protection of geographical indications to products other than wines and spirits; simplification of

<sup>4</sup> FTAs with the Central and Eastern European Countries are abolished due to their membership to the EU. For more detailed information see title 1.5.A.i. on p.56.

customs procedures and formalities, in addition to the classification of existing provisions in the rules area.

Various technical committees and working groups have been established to follow up issues related to the DDA and to determine the strategy to be pursued by Turkey in multilateral negotiations. In terms of the on-going WTO negotiations on agriculture, Turkey is of the view that further tariff reductions should be progressive and complemented by special products and special safeguard mechanisms. From Turkey's perspective, elimination of export subsidies and trade distorting support measures are extremely important. Special and differential treatment should also be reflected in all the negotiation issues. In general, Turkey is following with attention the position of the EU in the WTO negotiations, particularly on non-agricultural products, since any further reductions by the EU would affect sub-sectors of the Turkish economy.

Turkey has been involved in 26 cases under the WTO dispute settlement mechanism, to date. Turkey has been the complainant in two cases (against Egypt and South Africa), a respondent in 8 cases (Hong Kong/China, India, United States - 2 cases, Thailand, Brazil, Ecuador, Hungary). Turkey has also participated in other 16 WTO disputes as a third party.

### **I.1.C. Structure and Features of the Market**

The need for a formal competition policy was recognized at the outset of the reform process and work on a competition law began in the 1970s, producing some drafts but no legislation. The project was revived in 1991, when an expert panel was appointed to design a set of competition and consumer protection policies. Both internal and external forces supported the development of competition legislation, and closure on a legislative model was finally reached in 1994 during Turkey's negotiation of a Customs Union with the European Union.

The Customs Union included the EU's standard substantive provisions about competition, and obligated Turkey to enact those provisions as part of its own law (and establish a Competition Authority to enforce them) prior to the agreement's effective date of December 31, 1995. The Act No 4054 on the Protection of Competition (Competition Act) was approved by the Parliament on December 7, 1994 and entered into force pursuant to publication in the Official Gazette dated December 13, 1994. Beyond the economic and political incentives that played a role in developing Turkey's competition law, Article 167 of the Turkish Constitution provides an explicit foundation for competition policy by requiring that the state "take measures to ensure and promote the sound, orderly functioning of the money, credit, capital, goods and services markets; and ... prevent the formation, in practice or by agreement, of monopolies and cartels." In line with Article 167, the purpose of the Competition Act is stated simply as the "protection of competition" (Art.1), and the Act defines competition in terms of independent rivalry: "The contest among the undertakings in the markets for goods and services, which enables them to take economic decisions independently" (Art. 3). The Act's ultimate objective is to protect the competitive process in order to achieve efficient markets and promote consumer welfare.

The Competition Board, the decision making organ of the Competition Authority which is responsible for the enforcement of the Law, was appointed on February 27, 1997 two years after the Competition Act was adopted and the Competition Authority completed its organization within such a short period of 8 months, and announced it to public by a Communiqué issued as per the Temporary Article 2 of the Law on November 5, 1997 and started to operate thereafter.

On the way to the EU, Turkish Competition Authority took part in the screening meetings (explanatory and bilateral) of the Competition Chapter being the responsible authority of the harmonization and implementation of *EU acquis* within the field of antitrust rules. The screening report related to this chapter was sent to Turkey in 2006. The screening report in question clearly stated that Turkey is on a satisfactory harmonization level in respect of institutional capacity, legislation and enforcement related to antitrust rules and mergers/acquisitions, which are under the responsibility of the Competition Authority. In the same vein, 2006 Progress Report stated that “in the field of anti-trust, including mergers harmonization with the anti-trust *acquis* is well advanced. The Law on Protection of Competition and the regulation on mergers and acquisitions reflect the main principles of Community rules. The level of enforcement by the Competition Authority continued to be satisfactory”.

In year 2007, the Turkish Competition Authority celebrated its 10th year anniversary of enforcement with the participation of international and national participants that are competent in their field.

The substantive prohibitions in Turkey’s law appear in Articles 4, 6, and 7 of the Competition Act. Article 4 deals with agreements and concerted practices and therefore parallels Article 81(1) of the EU law. Article 6, directed to abuse of dominance, is designed to follow EU Article 82, while Article 7 on mergers and acquisitions follows the EU merger regulation. Under Article 4 of the Act, “agreements and concerted practices” that have as their object or effect the prevention, distortion, or restriction of competition, or that have the potential for such effects, are prohibited. The statutory text makes no distinction between agreements in the horizontal and vertical dimensions. Until now, the Competition Act amended for a couple of times. However, the widest amendment was done via Act No:5388<sup>5</sup> which was passed by the Parliament and taken into force as of 12<sup>th</sup> of July 2005. Some important amendments foreseen in Act No 5388 are realized mainly in the appeal process, number of the Board Members as well as on the following issues:

- a. Notification for exemption is abolished: Provisions that agreements, concerted practices and decisions within the scope of Article 4 of the Competition Act should be notified to the Competition Board within one month beginning from their conclusion; that exemption provisions are not applicable to agreements not notified; that in case exemption is granted to notifications not made on time, the exemption shall be valid as of the date of the notification; that exemption can be granted upon the request of those concerned have been abolished. Competition Board is now able to grant exemption to agreements, concerted practices and decisions for a specified or an unspecified period *ex officio* provided that all the conditions in Article 5 are satisfied. Moreover, the exemption decisions will have retroactive effect in the sense that “exemption decisions will be valid as of the date of concluding an agreement or committing a concerted practice or taking a decision of an association of undertakings.”
- b. Parallel to the amendment granted in “a” above, Article 16/1/c was amended to abolish the fine in case a merger or acquisition, or agreements, concerted practices and decisions falling under article 4 are not notified within due period and to introduce a fine if merger or acquisition transactions subject to authorization are committed without the authorization of the Competition Board.

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<sup>5</sup> The title of the Act No:5388 is “the Act on an Amendment to Particular Articles of the Act on the Protection of Competition”

Turkey is involved in international cooperation in the competition policy arena at various levels. Turkey actively participates at the meetings of OECD, International Competition Network (ICN) and UNCTAD. Turkey voluntarily was subject of a Peer Review by OECD in 2005 and again in November 2005 Turkey hosted 5<sup>th</sup> UN Conference to Review All Aspects of the Set of Multilaterally Agreed Principles and Rules for the Control of Restrictive Business Practices at which some 400 delegations participated from competition authorities around the world. This Conference convenes every 5 years and it was the first time that it was held outside of Geneva. Turkish Competition Authority participates in the activities of the ICN as well. To this end, it has been coordinating the “State-created monopolies project” under the Unilateral Conduct Working Group. Moreover, the Turkish Competition Authority attaches great importance to its bilateral relations. It has signed MoUs with the competition agencies of Romania and Korea via which it cooperates on the basis of free-will of the parties. Last but not least, the Turkish Competition Authority takes part in technical assistance activities of countries such as Mongolia, Ukraine and Azerbaijan in the field of competition law and policy.

#### **I.1.D. Banking System and Credit Policies**

##### **i. General Overview of the Turkish Banking System**

The history of the Turkish banking system goes back to the first half 19th century while the emergence of a widespread “modern” banking sector in the country dates from 1920s with the establishment of the Republic of Turkey. Following this period, number of both public and private banks has been increased to meet the growing demands of the economy. In this framework, till 1980 the Turkish economy was inward oriented and the banking sector was regulated through state intervention policies.

Major structural changes in Turkish banking sector occurred after the introduction of financial liberalization policies in the 1980s. During this decade, ceilings on interest rates were abolished, interbank money market was set up, Capital Market Board of Turkey (CMBT) and Istanbul Stock Exchange (ISE) were established to enhance the efficiency and competition in the financial markets. While these reforms took place, in order to increase the competition in the sector and access to the banking system, *de novo* entry in the banking sector was eased, too. For instance, the number of deposit banks which was 52 in 1988 increased to 62 in 1999<sup>6</sup>.

Another important structural change was the shift in the regulatory framework of the sector. Prior to the changes in the Banks Act No.4389, which was issued on June 23rd, 1999, the Undersecretariat of Treasury and the Central Bank of Turkey (CBRT) had been the two main regulatory and supervisory bodies in the banking sector. With this Act, the Banking Regulation and Supervision Agency (BRSA), with financial and administrative autonomy, was formed. The mission of the Agency is to safeguard the rights and benefits of depositors and create the proper environment in which, banks and financial institutions can operate with market discipline, in a healthy, efficient and globally competitive manner, thus contributing to the achievement of long-run economic growth and stability of the country. BRSA commenced its operations as of August 31, 2000. In 2005, the new banking law (act No. 5411) has been enacted to further enhance the soundness and stability of the sector.

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<sup>6</sup> Source: Banks Association of Turkey (BAT).

On the other hand, economic slowdown in late 1990s and financial crises of 2000-2001 in Turkey aggravated the weak financial stance of some banks operating in the sector. In the aftermath of the financial crises of 2000 and 2001, the sector was restructured by means of a restructuring program that consisted of (i) *restructuring of state banks*, (ii) *prompt resolution of SDIF banks*, (iii) *strengthening of private banks*, and (iv) *strengthening the regulatory and supervisory framework*<sup>7</sup>. Accordingly, a total of 20 banks were transferred to the Saving Deposits Insurance Fund (SDIF) between the years of 1997 and 2003<sup>8</sup>. Of these 20 banks, 12 banks were merged; 5 banks were sold to domestic and foreign investors; and license of 2 banks was revoked. By the end of 2006 there is only 1 bank (Bayındırbank) left under the administration of the SDIF as a bridge bank which is not accepting any new business and is thus well along towards resolution. Thus, as of December 2006, there are 33 deposit banks, 13 development and investment banks and 4 participation banks<sup>9</sup> operating in the sector.

**Table I.1.D.1: Number of Banks in Turkey**

	2000	2001	2002	2003	2004	2005	2006
State Commercial Banks	4	3	3	3	3	3	3
Private Commercial Banks	28	22	20	18	18	17	14
Foreign Commercial Banks	18	15	15	13	13	13	15
- Established company	5	3	4	4	6	6	8
- Branch	13	12	11	9	7	7	7
SDIF Banks	11	6	2	2	1	1	1
Development & Investment Banks	18	15	14	14	13	13	13
Participation Banks	6	5	5	5	5	4	4
<b>Total</b>	<b>85</b>	<b>66</b>	<b>59</b>	<b>55</b>	<b>53</b>	<b>51</b>	<b>50</b>

Source: BRSA

The banking system plays an important role in the Turkish financial system due to its large share in the total system. As of December 2006, 87% of the total assets of the financial system<sup>10</sup> is composed of the assets of the banking sector.

Restructuring of the sector, improvements in the regulatory framework and risk management practices, economic growth, Turkey's accession towards EU membership and increased financial stability have positively affected the sector. Total asset of the sector increased from 133 billion USD in the year 2002 (following the financial crisis year of 2001) to 354 billion USD as of December 2006. Moreover, financial intermediation function of the sector has been improved considerably in the past few years. While the sector was growing impressively in terms of total asset size, loans/GDP, loans/assets and loans/deposits ratios have been also increasing steadily since 2002 (Table 2).

**Table I.1.D.2: Asset Size and Financial Intermediation Indicators**

(%)	2000	2001	2002	2003	2004	2005	2006
Total Assets (Billion USD)	159	121	133	183	234	303	354
Total Assets / GDP	83.5	96.4	76.6	69.4	71.2	81.5	84
Total Loans / GDP	25.5	18.9	17.6	18.4	23.1	30.8	36.4
Loans / Total Assets	30.5	19.9	23	26.5	32.4	37.8	43.2
Loans / Deposits	54.1	30.5	35.5	42.6	52	61.7	70.5

<sup>7</sup> Details of the program can be found on the web site of BRSA: [www.bddk.org.tr](http://www.bddk.org.tr).

<sup>8</sup> Moreover two banks were liquidated directly without taking over by the SDIF.

<sup>9</sup> Participation banks (previously named as special finance institutions) operate on a non-interest basis and hence are slightly different than traditional commercial banks and are complementary institutions in the sector.

<sup>10</sup> When calculating this figure it is assumed the financial system includes banks (excluding the central bank), leasing companies, factoring companies, consumer finance companies, insurance companies (including pension funds), mutual funds, securities investment funds, real estate funds, and securities intermediary institutions.

## **ii. Banking Regulation in Turkey**

The Central Bank of Turkey is responsible for price stability and monetary policy of the country. Stability of the Turkish currency (New Turkish Lira) and stable functioning of payment systems are among the duties of the central bank. In this context, Central Bank of Turkey sets reserve requirements for banks, manages the money in circulation, maintains the exchange rate stability, sets short term interest rates for policy purposes and operates as a lender of last resort.

In order for the establishment of confidence and stability in financial markets, the sound operation of the credit system, the progress of the financial sector and the protection of the rights and interests of depositors, the BRSA, within the scope of the authority given by the Banking Law (5411) and other related legislation, is charged with and authorized to regulate, enforce and ensure the implementation of the establishment (licensing), activities, management and organizational structure, mergers, splits, transfer of shares and liquidation of banks, financial holding companies and with the reservation of the provisions of other laws and the related regulation, financial leasing, factoring and financing companies, and monitor and supervise enforcement of such.

In this context, according to banking law 5411 BRSA is responsible for regulating and supervising;

1. Deposit banks (state, private, foreign)
2. Participation banks,
3. Development and investment banks,
4. Financial leasing companies,
5. Financial holding companies,
6. Consumer finance companies,
7. Representative offices of foreign banks.

Moreover, BRSA's regulations are also valid to other type of organizations which are conducting business related with the institutions listed above. These are;

1. Independent audit companies that are authorized to examine banks,
2. Asset management companies,
3. IT audit firms which examine banks' IT systems,

The BRSA monitors and oversees these institutions via on site and off site audits and examinations. On the other hand, banks may carry out the following activities according to the current banking law<sup>11</sup> No. 5411:

- a) Accepting deposits,
- b) Accepting participation funds,
- c) Granting any sort of loan, either cash or non-cash
- d) Carrying out any type of payment and collection transactions, including cash and deposit payment and fund transfer transactions, correspondent bank transactions, or use of check accounts,
- e) Purchasing transactions of commercial bills,

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<sup>11</sup> The Banks Act Nr. 5411, which has been enacted on November 1, 2005 is coherent with the Acquis Communautaire, international principles and standards. An English version of the law can be found at the official web site of BRSA: [www.bddk.org.tr](http://www.bddk.org.tr).

- f) Safe-keeping services,
- g) Issuing payment instruments such as credit cards, bank cards and travel checks, and executing relevant activities,
- h) Carrying out foreign exchange transactions, trading of money market instruments, trading of precious metals and stones and safekeeping such,
- i) Trading and intermediation of forward, future and option contracts, simple or complex financial instruments which involve multiple derivative instruments, based on economic and financial indicators, capital market instruments, goods, precious metals and foreign exchange.
- j) Purchase and sale of capital market instruments and repurchasing or re-sale commitments,
- k) Intermediation for issuance or public offering of capital market instruments
- l) Transactions for trading previously issued capital market instruments for intermediation purposes,
- m) Guarantee transactions like undertaking guarantees and other liabilities in favor of other persons,
- n) Investment counseling services,
- o) Portfolio operation and management
- p) Primary market dealing for purchase-sales transactions within the framework of liabilities assumed by contracts signed with Treasury Undersecretariat and/or Central Bank and associations of institutions,
- r) Factoring and forfeiting transactions,
- s) Intermediating fund purchase-sale transactions in the inter-bank market,
- t) Financial leasing services,
- u) Insurance agency and individual private pension fund services,
- v) Other activities to be determined by the Board of BRSA.

Furthermore, in parallel with the new legal framework BRSA has prepared a Strategic Plan, which covers 2006-2008. Strategic planning determines the steps to be taken in order to fulfill the mission of the Agency and eliminates uncertainty. A part from these general goals which are also included in the Banks Act Nr. 5411, there are specific issues addressed such as Basel-II, EU Membership and BRSA's strategic goals and targets grouped in five categories.

Within this framework, the BRSA placed particular importance to the implementation of the Basel-II, prepared the road map and announced to the public. Within this scope, the Basel-II Guidance Committee was established, with the participation of the BRSA officials and top executives of the banks, responsible for risk management. In order to coordinate the subjects relating to Basel-II and to take consultative decisions, the Basel-II Coordination Committee, in coordination of the BRSA, was created, with the participation of the Turkish Treasury, CBRT and CMBT.

The stage that Turkey has come in the process of EU membership, develops a substantial opportunity for the BRSA and the economy. Taking EU regulations as a basis in carrying out the legislative activities and especially in preparing the Banks Act Nr. 5411, strengthens the compliance in this area. In addition to this, the BRSA has signed a number of Memorandum of Understandings (MoUs) with cross border supervisory authorities to enhance cross border collaboration.

As a final remark, the Turkish banking sector is highly integrated with international financial systems. There is a growing interest from the internationally active foreign banks towards the Turkish banking sector. In the past two years significant foreign direct investment, especially from EU countries, has been observed in the sector leading to an increase of foreign

participation in the sector. On the other side, Turkish banks have significant number of cross border activities in major European countries and countries in the neighborhood of Turkey. According to the banking law there is no discrimination between domestic and foreign banks or firms/customers operating in the sector.

### iii. Turkish Insurance System

Currently there are 47 insurance, pension and reinsurance companies operating in Turkey. The number of companies according to their type of activities is as follows;

**Table I.1.D.3.: The number of insurance Companies and their Activities**

<b>Type of Activities</b>	<b>Number of Company</b>
Non Life	25
Life	10
Life + Private Pension	10
Private Pension	1
Reinsurance	1
<i>TOTAL</i>	<i>47</i>

Banks and financial conglomerates are the main ownerships of the insurance companies in Turkey. Among the international investors, mostly European investors (insurance companies) are interested in the market especially during the last year.

The volume of direct premiums as of 31.12.2006 is 9.666 million YTL (approximately Eur 5.344 million). Turkish insurance industry has grown by 23.7% in 2006 in terms of direct premium production. The ratio of direct premium to GDP is 1.68% as of 31.12.2006. The share of non-life insurance premiums in total is 86% while life insurance represents a share of 14% in 2006. The share of insurance, pension and reinsurance companies' assets to GDP is 3.03%.

Following the establishment of relevant regulatory, IT, and administrative infrastructures, the pension companies started to sell their pension products as of October 27<sup>th</sup>, 2003. Currently there are 11 pension companies in operation.

According to the data as of May 7<sup>th</sup>, 2007 the number of pension contracts within the system is 1.293.757. The amount of contributions collected adds up to approximately 3.009 million YTL (approx. Eur 1.660 million).

The newly published Insurance Law (published in Official Gazette dated 14.06.2007 and numbered 5684) introduces a framework for the regulation of insurance sector. Basic regulation about the establishment, management, operational principles, winding up and supervision of insurance and reinsurance companies, establishment of specialty committees and institutions in relation with insurance business, activities of expertise, actuary, agency, broker, producer etc. is offered by this new law.

As part of the social security reform in 1999, Law No. 4632 on the Private Pension Savings and Investment System has been promulgated by the government. This law came into effect as of October 7, 2001 and laid down the features of the personal private pension system.

Foreign companies may establish branches and own subsidiaries in Turkey. Branches of foreign companies have to obtain an authorization and to fulfill the same requirements as domestic insurers, in particular as regards capital requirements. The rules and regulations

regarding the operations of foreign insurance and reinsurance companies will be determined by the Council of Ministers according to the new Insurance Law.

According to article 15 of Insurance Law, natural persons and legal entities residing in Turkey are obliged to insure their interests in Turkey from companies operating in Turkey. However some insurance contracts can be made abroad such as; transportation insurance of imported and exported goods; the hull insurance of aircrafts, helicopters and ships which are purchased through foreign credits or leased through a financial leasing contract from abroad; marine liability insurance; life insurance; personal injury, health and motor vehicle insurance during any travel abroad; hull insurance of ships and yachts. The Council of Ministers is authorized to widen the scope of insurance contracts that can be made abroad.

### **I.1.E. Employment Policies, Laws and Salaries**

The Turkish Labor Law No. 4857 came into force on 10.06.2003 (Official Gazette No: 25134). According to the Article 2 of the Labor Law: “The employee is a real person working under an employment contract; the employer is a real or corporate person or a noncorporate institution or organization employing employees; and the relationship established between the employee and employer shall be referred to as the employment relationship.”

The First Article of Labor Law states that with the exception of those cited in Article 4, this Act shall apply to all the establishments and to their employers, employer’s representatives and employees, irrespective of the subject matter of their activities.

On the other hand, Article 39 of the Labor Law expresses:

*“With the object of regulating the economic and social conditions of all employees working under an employment contract, either covered or uncovered by this Act, the minimum limits of wages shall be determined every two years at the latest by the Ministry of Labor and Social Security through the Minimum Wage Fixing Board.”*

The Minimum Wage Fixing Board, presided over by one of its members to be designated by the Ministry of Labor and Social Security, shall be composed of the General Director of Labor or his deputy, the General Director of Occupational Health and Safety or his deputy, the chairman of the Economic Statistics Institute of the State Institute for Statistics or his deputy, representative of the Undersecretariat of Treasury, the head of the relevant department of the State Planning Organization or his representative, five employees’ representatives from different branches of activity selected by the highest – ranking labor organization representing the majority of employees and five employers’ representatives selected by the employer organization representing the majority of employers. The Minimum Wage Fixing Board meets with at least ten members present. The Board takes its decisions by majority vote. In the event of a tie, the chairman has a casting vote.

Decisions of the Board are final. Decisions become effective upon their publication in the Official Gazette. The meeting and working methods, and rules that shall apply to fixing the minimum wage as well as the honorariums to be paid to the chairman, members and the reporter of the Board shall be set out in a regulation to be issued jointly by the Ministry of Finance and the Ministry of Labor and Social Security. Secretarial services of the Minimum Wage Fixing Board shall be handled by the Ministry of Labor and Social Security.

In accordance with the above-mentioned provision, the Minimum Wage Regulation was enacted by being published in Official Gazette dated 01.08.2004. The minimum wage is related to the public order and it is not possible to pay the amount that is under the minimum wage decided by the Minimum Wage Fixing Board. The minimum wage has been determined in gross and the residuary amount has been paid to the employee after making deductions of insurance premiums, income tax, stamp tax, etc.

The wages over the minimum wage and the additional social benefits have been defined independently by the service contracts and the collective agreements concluded between employer and employee.

Finally, there is no discrimination between foreign companies and domestic companies. Their demands have been assessed on the same procedural grounds.

### **i. Constitutional Assurance**

The right to form a trade union is covered by the Constitution of the Republic of Turkey. It is stated that Employees and employers have the right to form labor unions, employers' associations and higher organizations, without obtaining permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labor relations. No one shall be forced to become a member of a union or to withdraw from membership.

Collective Bargaining and The Right of Strike and Lockout are cited in the Constitution. It is stated that workers and employers have the right to conclude collective bargaining agreements in order to regulate reciprocally their economic and social position and conditions of work.

It is also stated that workers have the right to strike if a dispute arises during the collective bargaining process. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.

In the private sector, the issue of collective bargaining and strikes is regulated by two laws, slightly amended in 2001, which date back to the early 1980s. These laws require the existence of two basic conditions for allowing a trade union to sign a collective agreement at company level: it must represent at least 50 % of workers within the company and 10 % of workers within the relevant sector nationwide.

### **ii. Trade Unions Act No.2821**

The purpose of the Act is to establish the principles governing the constitution, organization, activities and audit of the trade unions and confederations formed by workers and employers in order to protect and promote their economic and social rights and interests in labor relations.

As defined by the Act, Trade Unions are organizations with corporate status constituted by workers or employers in order to protect and promote their common economic and social rights and interests in labor relations shall be called Trade Unions.

There is no provision relating to the required number of persons for being constituted a Trade Union. However, under the Associations Law No: 5253, at least seven natural or legal persons are required to establish a Trade Union.

Workers' trade unions shall be constituted on an industrial basis by workers employed in establishments in the same branch of activity with the purpose of their activity widespread throughout Turkey. Employers' unions can be established on service branch basis by employers in a certain service branch which is active though out Turkey. Public employers' unions are not required to be established by public employers in the same service branch and to be active in the service branch. It is possible to establish more than one union in the same service branch, but to establish a trade union on the basis of profession or workplace is prohibited. On the other hand, confederation is defined as a legal entity established by minimum five unions from different service branches.

#### Qualifications to be founders of trade unions

- a) To be a worker
- b) To be a Turkish citizen and to be able to use civil rights
- c) To be working in the same service branch which the trade union is established
- d) To be able read and write Turkish
- e) Not to be deprived from public services and not to be convicted by crimes pointed out by the laws,
- f) Minimum seven persons are needed to get together

The law does not designate any differences between the qualifications needed for founders of workers' unions and employers' unions. The only exception is that if a founder of an employers union is a legal entity, the rule of working in the same service branch does not apply for the representative of the legal entity.

#### **iii. Establishment Procedures**

In Turkey, Trade unions are established freely, without prior permission. If the founders of trade unions are qualified as described by law, submitting the by-laws of the trade union and other necessary documents to the Office of Governor of the district where the head office of the trade union is located is sufficient for establishment. Administrations are not authorized to accept or refuse the legal entity. Similar to trade unions, confederations with legal entity are established freely without prior permission.

#### **iv. Conditions for Trade Union Membership**

Those who are supposed workers in terms of the Trade Union Act can be a member of a Trade Union freely if they are over the age of 16. If they are younger, the written consent of their legal representative is required which means the workers under the level of this age are incapable to elect or to be elected.

#### **v. Assurance for Management of Labor Union and Confederation**

Labor unions, branches of labor unions and regions, the head and the members of Management Board of confederation are under this assurance. The condition to benefit from the

assurance is to quit the job; however, those who maintain to work in the workplace are not in the context of this assurance.

In case the worker quits the job, the work contract is supposed to be suspended. If one of the parties abolishes the contract, the suspension disappears. But it doesn't pose an obstacle to implement the provision dealing with the assurance even if the compensation is paid. The head and the members of the management board should not receive a sentence for their activities regarding with their duties.

To benefit from the assurance of re-employment, the head and the members of the management board should have to quit due to the conditions of not to participate to the election, not to be reelected and have to quit with his own decision.

If people, whose management duty is concluded due to these three reasons, demand to be reemployed in their ex-workplace, employer must employ them before anywhere else to their ex-job or to another job appropriate to their ex-job at the latest in a month from their application. This right must be used absolutely in three months.

As regards working conditions (other than working time), labor contracts with duration of one year or more have to be concluded in writing. However, the labor contract is not subject to a special form. The Labor Law includes provisions on full-time and part-time employment contracts. A fixed-term employment contract cannot be concluded successively more than once, unless there is an objective reason. In case there is no such reason, the employment contract is considered to be of indefinite duration. A temporary employment contract, not exceeding six months, shall be made in writing and can be renewed maximum twice. A by-law on Occupational Health and Safety of workers with fixed term and temporary employment relationships provides for the information and training of such employees as well as for the responsibility of the employer and/or the user undertaking.

As regards employer's insolvency, a regulation on the establishment of the wage guarantee fund was issued in October 2004. The fund is managed by the Turkish Employment Agency (ISKUR). Only the net monthly wages of the last three months are guaranteed.

In the area of information and consultation of workers, collective redundancies and transfers of undertakings are regulated in the Turkish legislation. A collective redundancy needs to be notified in writing at least 30 days in advance. Subsequently, there is consultation between the employer and workers' representatives. Notices of termination of the employment relationships become effective 30 days after the notification to the regional directorate. In cases of transfers of undertakings, employment contracts are transferred together with all rights and obligations arising from such contracts. A transfer cannot constitute the exclusive reason for terminating a labor contract.

#### **vi. Association in Public Sector**

The Trade Union Act of Public Employees with No. 4688 which envisages developing the association and working conditions of public employees, improving their inter-union democracy and participation to management and their right of collective bargaining is put into effect on 13.08.2001 after adopted in the Turkish Parliament on 25.06.2001.

The aim of this law is to determine the formation, organs, competencies and activities of the unions and confederations formed by public officials in order to protect and promote their joint economic, social and professional rights and benefits, and the rights and responsibilities of public officials who are going to be charged in unions and confederations; and to organize the rudiments concerning collective agreements which will be carried out between competent public officials unions in each service branch and their affiliated confederations and the Public Employer Board.

With this law, a path for social dialogue was opened for the first time between the public officials and the government. With this law, the public officials except the quality of “worker” within the scope of Trade Unions Law No. 2821 in the public sector, benefit from this law is being aimed.

Turkish Armed Forces, National Information Organization and Security Organization Members, the President and Members of High Judicial Bodies and high level public managers, having deputy employer status, are not within the scope of this law.

In this law, the unions are stipulated to be organized on the basis of service branch instead of profession and work place basis.

While service branches are being determined, main service branches where public services are carried out and the intensity of public officials are taken into consideration.

In order to protect the right of association, and not to restrict freedom of union and to ensure enough protection against every kind of discrimination, guarantees were brought for the members and managers of trade unions.

To ensure participation to the management and to build reconciliation areas between social and administrative settlements, the formation of “Institution Administrative Boards” were stipulated in order to deliver an opinion about public officials’ working conditions and equal implementation of laws on institutional level with “High Administrative Board” which public employer and the representatives of competent union and confederation participate.

Being a party to collective agreements, the law is being represented by a “Public Employer Board” made up of authorities of the related institution; collective agreements being made between the said board and competent public officials, unions and their affiliated confederations were embraced.

Collective agreement covers the parameter and indicators which will be implemented for the public officials, salaries and compensations, any kind of raise and compensations, extra working wages, subsistence, premium, lodging compensation, birth, death and family benefit allowances, treatment benefit and funeral expenses, food and clothing benefits and other benefits within this entity which raise efficiency and productivity.

Submitting of the agreement text as a result of collective agreement to the Council of Ministers, in case of conflicts, the calling out of “Reconciliation Board” for a peaceful solution was stipulated.

Competent public officials unions and their affiliated confederations determined according to service branches, and Public Employer Board meet without a call on the 15 th

August of every year at a place determined by State Presidency of Employees and the parties are informed a week before the meeting.

Secretariat services of collective agreement are conducted by State Presidency of Employees. In the Law No. 4688, the Right of Strike and Lockout does not take place.

### **I.1.F. Environmental Policies and Laws**

Turkey's environmental policy is based on the concept of sustainable development, which serves as the basis of a strategy aimed at reconciling environmental protection with economic development. The policy is based on the following principles summarized as follows:

1. The principle of gradualness which acknowledges that environmental management should be implemented progressively, given that reverting the course of environmental deterioration and reconciling development with the protection of the environmental heritage requires structural reforms that go beyond short-term measures;
2. The principle of realism, which establishes that the objectives should be reachable, given the magnitude of current environmental problems, and the resources available to do so;
3. The preventive principle which implies avoiding situations of deterioration before they are produced;
4. The "the polluter pays" principle;
5. The principle of responsibility, which holds that the party responsible for environmental damage should pay reparations to the victim and restore the deteriorated component;
6. The principle of efficiency that holds that measures adopted to confront environmental deterioration should involve the lowest social cost and privilege instruments that allow for optimal allocation of resources; and
7. The principle of citizen participation.
8. The principle of minimization of waste production and environmentally sound management of solid waste, hazardous waste, medical waste and special waste.

#### **i. The Environmental Agenda**

A set of coherent approaches guide the management of renewable natural resources, pollution control programs and actions, and the protection of the urban environment. They can be summarized as follows: Prioritizing tasks; Assigning real costs to the use of public goods; Minimizing social costs; Maintaining the State's role in the conservation of the environmental heritage; Respecting the right to property; Envisioning environmental quality as a comparative advantage; and Promoting cooperation between the public and private sectors. These points support the establishment of environmental priorities that could be summarized in the following areas: public health; defining limits to sustainable resource use; pollution prevention; promoting "zero discharge" principle; wetland protection; equality for all people in relation to the objective

of environmental quality ("environmental equity"); State intervention when environmental quality diminishes in an extreme manner; and Protection of nature and biodiversity.

## **ii. Legal Context**

The Turkish Constitution of 1982 grants all Turkish citizens the right to live in a healthy environment, and notes that it is the State's and the Citizens' responsibility to ensure to develop, to protect environment and to prevent environmental pollution. The Environmental Law aims the protection of environment in terms of sustainability and in the direction of the principles of sustainable development. It also identifies the conservation of the environmental heritage as one of its social functions.

Law 2872 – Environmental Law – was accepted in 1983 and amended in 2006. The Law defines and explains Precautions and Bans on Environmental Protection (Polluting Ban; Protection of Environment; Environmental Impact Assessment; Environmental Permissions; Treatment and Discharging/Disposing Liabilities; Monitoring; Exchanging Information and Noticing Liabilities; Hazardous Chemicals and Wastes; Noise; Abortion of Facilities' Operations; Abortion of Facilities' Operations in case of Dangerous Situations), Environmental Protection Fund and Penalty Provisions. There are also Environmental Regulations regarding the issues stated in Environmental Law.

## **iii. Institutional Framework.**

The Ministry of Environment and Forestry is responsible for the implementation of the Law 2872 and related Environmental Regulations. Ministry's responsibilities are defined in Law 4856 in 2003 – during when the Ministry of Environment and Ministry of Forestry are incorporated as the Ministry of Environment and Forestry. Central Institutions of the Ministry of Environment and Forestry located in the capital city, Ankara, and there are additional 81 local provincial directorates.

## **iv. International Cooperation.**

Turkey has a great desire to take part in solving “global environmental problems”. As a result, Turkey became a signatory of several environmental international conventions (for example, Barcelona Convention, Bucharest Convention, Biodiversity Convention, Convention on International Trade of Endangered Species of Wild Flora and Fauna (CITES), Framework Convention on Climate Change, Montreal Protocol on Substances That Deplete the Ozone Layer).

## **v. Trade and the environment.**

Turkey considers that a good comprehension of the ties between trade and environment optimizes the benefits of free trade and mitigates possible negative impacts on sustainability of the natural resources. It also considers that a country can ensure growth rates that help to improve the quality of life for its people, and, at the same time, protect the environment.

Turkey gives attention to acknowledging the importance of incorporating the environmental dimension in this process of economic internationalization. In fact, FTAs that include environmental issues can be a good starting point to consolidate the nexus between trade and environment.

## I.2. Trade

Turkish economy has become a more integrated economy with the world and the trade volume has significantly increased in the last decade. From 82.3 billion \$ in 2000 to 223.8 billion \$ by 2006, trade volume increased 2.7 times in Turkey.

**Table I.2. Turkey's Annual Foreign Trade (Million \$)**

	2000	2001	2002	2003	2004	2005	2006
<b>Exports</b>	27.775	31.334	36.059	47.253	63.167	73.476	85.502
<b>Imports</b>	54.503	41.399	51.554	69.340	97.540	116.774	138.295
<b>Volume</b>	82.278	72.733	87.613	116.593	160.707	190.251	223.798
<b>Balance</b>	-26.728	-10.065	-15.495	-22.087	-34.373	-43.298	-52.793
<b>Exports/ Import</b>	51.0	75.7	69.9	68.1	64.8	62.9	61.8
<b>Exports/ GDP</b>	13.9	21.5	19.9	19.8	21.1	20.4	21.4
<b>Imports/ GDP</b>	27.3	28.4	28.5	29.0	32.6	32.4	34.6
<b>Volume/GDP</b>	41.2	49.9	48.4	48.8	53.7	52.8	56

Volume of exports has followed a continuous and a considerable increasing trend since 2000. Exports, which were 27.8 billion \$ in 2000, were realized as 85.5 billion \$ in 2006. Turkey's export share in the total world export volume, 0.70% in 2005 (*WTO Statistics*), is expected to be 0.71% for 2006 (*SPO estimate*) and 0.74% targeted for 2007. The contribution of exports to growth also increased during this period and in 2006 it was recorded as 3.8%.

Due to high levels of growth rates after 2001 crisis, appreciation of Turkish currency, the increasing imports of cheap products especially of Chinese origin, increasing dependency of exports on imports driven by the structural change in exports and the increasing oil prices, a considerable increase in imports in 2000-2006 were observed. Imports, which were 54.5 billion \$ in 2000, increased by 2.5 times during 2001-2006 period, and reached 138.3 billion \$ in 2006.

Exports increased by 16.4% to 85.5 billion \$ and imports increased by 18.4% to 138.3 billion \$ in 2006. While export growth rate was almost stable compared to 2005, import growth rate marked a moderate slowdown.

Foreign trade volume to GDP, known as economic openness, increased from 52.7 to 56% in 2006 and foreign trade deficit increased by 21.9% to 52.8 billion \$.

Although the ratio of foreign trade deficit to volume has been increasing steadily after 2001, the trend is smooth and signals stability relative to the fluctuations before 2001. Also, the highest ratio since 2001 is 23.6, which is quite low, compared the ratios in 1996-1998 and 2000.

### I.2.A. Composition of Trade in Goods

**Table I.2.A.1. Turkey's Export According to ISIC (Million \$)**

	2000	2001	2002	2003	2004	2005	2006
Agriculture and Forestry	1.659	1.976	1.754	2.121	2.542	3.329	3.467
Fishery	25	30	51	81	103	140	131
Mining and quarry	400	349	387	469	649	810	1.146

	2000	2001	2002	2003	2004	2005	2006
Manufacturing Industry	25.518	28.826	33.702	44.378	59.579	68.813	80.228
Others	173	153	165	204	294	384	531
<b>TOTAL</b>	<b>27.775</b>	<b>31.334</b>	<b>36.059</b>	<b>47.253</b>	<b>63.167</b>	<b>73.476</b>	<b>85.502</b>

### i. Exports

The examination of the sectoral progress of exports indicates that the share of manufactures in total exports remained at high levels, around 93% on average in 2000-2006 period. This share reached to 94% at the end of 2006. On the other hand, the share of agricultural products in total exports diminished continuously and declined to 4% at the end of 2006.

In contrast to agricultural products, share of exports of mining products remained steady during 2000-2006 period and exports of mining products were 1.146 billion \$ in 2006.

**Table I.2.A.2 Turkey's Export According to ISIC (%)**

	2000	2001	2002	2003	2004	2005	2006
Agriculture and Forestry	6	6	5	4	4	5	4
Fishery	0	0	0	0	0	0	0
Mining and quarry	1	1	1	1	1	1	1
Manufacturing Industry	92	92	93	94	94	94	94
Others	1	0	0	0	0	1	1
<b>TOTAL</b>	<b>100</b>						

“The Foreign Trade Vision for 2023” lists “automotive industry products”, “office machines and telecommunications equipment” and “chemicals” as the sectors to be concentrated on. The total share of these sectors increased continuously from 15.2% in 2001 to about 22% in 2006.

Clothing, automotive industry, iron and steel are the products with the largest weight in the exports of industrial products. While the shares of these sectors in exports were 22.4%, 8.8% and 7.9% in 2002 respectively, they were 14.3%, 13.8% and 8.5% in 2006. The high-tech and capital-intensive sectors constituting an important portion of global trade are moving up in Turkish exports, as well. While the average annual rate of increase for total exports in 2002-2006 was approximately 24%, it was 37% for “vehicles and appliances” and 26% for “electrical and non-electrical machinery”.

**Table I.2.A.3. Turkey's Principal Export Products (Top 20 Products)**

HS		Value (Million \$)			Change
		2004	2005	2006	2000/2006
8703	Motor cars and other motor vehicles principally designed for the transport	3.933,7	4.373,4	5.645,0	29,07%
7214	Other bars and rods of iron or non-alloy steel, not further worked than for	2.155,0	2.327,8	3.376,9	45,07%
2710	Petroleum oils, other than crude	1.097,1	1.984,3	3.185,9	60,56%
8704	Motor vehicles for the transport of goods.	2.212,7	2.431,7	2.993,8	23,11%
8528	Reception apparatus for television	2.680,5	2.933,9	2.876,6	-1,95%
6109	T-shirts, singlets and other vests, knitted or crocheted.	2.486,3	2.765,0	2.867,6	3,71%
6204	Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts	2.069,2	2.209,1	2.152,1	-2,58%
8708	Parts and accessories of the motor vehicles of headings 87.01 to 87.05.	1.198,9	1.460,0	1.833,5	25,58%
6110	Jerseys, pullovers, cardigans, waist-coats and similar articles, knitted or ...	1.210,8	1.216,0	1.181,6	-2,83%
6302	Bed linen, table linen, toilet linen and kitchen linen.	1.087,1	1.204,3	1.173,9	-2,52%
6203	Men's or boys' suits, ensembles, jackets, blazers, trousers	1.099,4	1.243,8	1.164,7	-6,36%
8418	Refrigerators, freezers and other refrigerating or freezing equipment	730,3	916,4	1.158,5	26,41%
8544	Insulated (including enamelled or anodised) wire, cable	568,6	716,2	1.144,4	59,79%
7113	Articles of jewellery and parts thereof, of precious metal	955,2	1.157,9	1.139,0	-1,63%
8901	Cruise ships, excursion boats, ferry-boats, cargo ships, barges and similar ...	527,7	1.012,0	1.009,1	-0,29%
8409	Parts suitable for use solely or principally with the engines of heading 84 ...	710,8	848,4	991,8	16,90%
0802	Other nuts, fresh or dried	779,2	1.249,1	950,7	-23,88%
7306	Other tubes, pipes and hollow profiles	602,6	738,5	913,7	23,72%
8702	Motor vehicles for the transport of ten or more persons, including the driv ..	556,4	726,8	836,1	15,04%
6802	Worked monumental or building stone (except slate) and articles thereof	484,9	630,2	761,3	20,80%

Table I.2.A.3 reveals Turkey's first 20 exports products by 4-Digit HS Codes and the value of these products constitute 44% of total value of all export products. By looking through the details, it is possible to see the continuous rise in exports of "motor cars and other motor vehicles (8703)" which has the biggest share during 2004-2006 period. In addition, "Iron bars and rods" and "petroleum oils, other than crude" are the other essential export products in the same period.

## ii. Imports

In the period between 2002 and 2006, imports also increased significantly due to various reasons. First of all, the economic growth fed the need for intermediary and capital goods. Secondly, higher income levels accompanied with the postponed purchases in 2001 crisis caused a boom in domestic demand in the following years. Also, the appreciation of Turkish Lira created a cost advantage for imports. Last but not the least, energy prices rose dramatically pushing energy imports up in the world.

**Table I.2.A.4. Imports By Broad Economic Categories (BEC) (million dollars)**

	2000	2001	2002	2003	2004	2005	2006
<b>CAPITAL GOODS</b>	<b>11.365</b>	<b>6.940</b>	<b>8.400</b>	<b>11.326</b>	<b>17.397</b>	<b>20.363</b>	<b>23.148</b>
Capital Goods other than vehicles	9.264	5.882	7.571	9.823	13.494	17.120	19.489
Vehicles used for industrial purposes	2.101	1.058	828	1.503	3.904	3.243	3.658
<b>INTERMEDIATE GOODS</b>	<b>36.010</b>	<b>30.301</b>	<b>37.656</b>	<b>49.735</b>	<b>67.549</b>	<b>81.868</b>	<b>98.623</b>
Raw industrial materials	2.784	2.037	2.957	4.290	5.776	6.027	7.186
Processed industrial materials	16.099	13.884	18.032	24.105	33.407	39.549	46.079
Crude oil and fuel	4.835	4.181	4.957	5.718	7.329	14.699	19.754
Parts and accessories of capital goods (except transport equipment)	3.944	3.161	4.168	4.840	6.432	6.747	7.560
Parts and accessories of transport equipment	3.160	2.468	2.704	3.942	6.544	7.427	8.609
Food and beverages, primary	519	301	532	957	944	866	772
Food and beverages, processed	333	299	400	525	624	762	943
Fuels and lubricants, processed	4.336	3.969	3.906	5.356	6.492	5.791	7.720
<b>CONSUMPTION GOODS</b>	<b>6.928</b>	<b>3.813</b>	<b>4.898</b>	<b>7.813</b>	<b>12.100</b>	<b>13.975</b>	<b>16.018</b>
Passenger motor cars	2.596	587	813	2.220	4.214	4.296	4.255
Consumption goods nes, durable	1.126	632	687	917	1.440	1.839	2.274
Consumption goods nes, semi-durable	932	723	869	1.265	1.911	2.506	3.240
Consumption goods nes, non-durable	1.371	1.317	1.739	2.355	3.184	3.415	3.711
Food and beverages for consumption, primary	178	115	127	119	149	270	315
Food and beverages for consumption, processed	317	239	300	404	528	645	750
Fuels and lubricants, processed, motor spirit	344	166	329	494	556	712	1.062
Transport equipment, other	66	35	34	39	119	292	411
<b>OTHERS</b>	<b>199</b>	<b>344</b>	<b>600</b>	<b>466</b>	<b>493</b>	<b>567</b>	<b>506</b>
<b>TOTAL</b>	<b>54.503</b>	<b>41.399</b>	<b>51.554</b>	<b>69.340</b>	<b>97.540</b>	<b>116.774</b>	<b>138.295</b>

The growth rate for imports of consumption goods, which had been above the 50% level between 2002-2004 period, dropped to 15.2% in 2005 and continued the declining trend in 2006 and was recorded as 14.5%. Except the sharp decline due to the crisis conditions, imports of capital goods followed an increasing trend from 2001 till today. The greatest increase in imports of capital goods was recorded in 2003 by a rise of 53.6%.

According to BEC classification, the greatest share belongs to import of intermediate goods with 71%. Intermediate goods were the most dynamic product group of 2006 imports, increasing at a rate of 21%. Considerable rise in intermediate goods is in parallel with the great increase in exports during this period. While the share of consumer goods constitutes 12% of Turkey's imports, capital goods accounts for 17% of total imports.

**Table I.2.A.5. Imports by Broad Economic Categories (BEC) (%)**

	2000	2001	2002	2003	2004	2005	2006
<b>CAPITAL GOODS</b>	<b>21</b>	<b>17</b>	<b>16</b>	<b>16</b>	<b>18</b>	<b>17</b>	<b>17</b>
Capital Goods other than vehicles	17	14	15	14	14	15	14
Vehicles used for industrial purposes	4	3	2	2	4	3	3
<b>INTERMEDIATE GOODS</b>	<b>66</b>	<b>73</b>	<b>73</b>	<b>72</b>	<b>69</b>	<b>70</b>	<b>71</b>
Raw industrial materials	5	5	6	6	6	5	5
Processed industrial materials	30	34	35	35	34	34	33
Crude oil and fuel	9	10	10	8	8	13	14
Parts and accessories of capital goods (except transport equipment)	7	8	8	7	7	6	5
Parts and accessories of transport equipment	6	6	5	6	7	6	6
Food and beverages, primary	1	1	1	1	1	1	1
Food and beverages, processed	1	1	1	1	1	1	1
Fuels and lubricants, processed	8	10	8	8	7	5	6
<b>CONSUMPTION GOODS</b>	<b>13</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>12</b>	<b>12</b>
Passenger motor cars	5	1	2	3	4	4	3
Consumption goods nes, durable	2	2	1	1	1	2	2
Consumption goods nes, semi-durable	2	2	2	2	2	2	2
Consumption goods nes, non-durable	3	3	3	3	3	3	3
Food and beverages for consumption, primary	0	0	0	0	0	0	0
Food and beverages for consumption, processed	1	1	1	1	1	1	1
Fuels and lubricants, processed, motor spirit	1	0	1	1	1	1	1
Transport equipment, other	0	0	0	0	0	0	0
<b>OTHERS</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>100</b>						

According to the Table I.2.A.6, the first 20 HS 4-Digit products account for 46.6% of total import value in 2006. Crude oil and other petroleum products are having the greatest share among 20 products and account for 20% of total imports in 2006. It is also possible to claim that imports of manufactures have gained more importance over the years.

**Table I.2.A.6. Turkey's Principal Import Products (Top 20 Products)**

HS 4-Digit	Description Of Product	Value (million \$)			Change 2000/2006
		2004	2005	2006	
2709	Petroleum oils, crude	6.091,54	8.649,48	10.706,47	23,78%
2711	Petroleum gases and other gaseous hydrocarbons.	4.438,86	7.137,26	10.090,55	41,38%
2710	Petroleum oils, other than crude	2.419,31	3.606,82	5.570,28	54,44%
8703	Motor cars and other motor vehicles principally designed for the transport ...	4.214,59	4.297,92	4.257,24	-0,95%
8708	Parts and accessories of the motor vehicles of headings 87.01 to 87.05.	3.109,81	3.382,25	4.210,14	24,48%
7108	Gold (including gold plated with platinum)	3.497,39	3.894,77	4.010,80	2,98%
7204	Ferrous waste and scrap; remelting scrap ingots of iron or steel.	3.013,74	3.143,29	3.861,70	22,86%
7208	Flat-rolled products of iron or non-alloy steel	1.602,72	2.258,76	2.643,54	17,04%
3004	Medicaments (excluding goods of heading 30.02, 30.05 or 30.06)	2.146,26	2.235,37	2.327,31	4,11%
8408	Compression-ignition internal combustion piston engines (diesel or semi-die	1.419,93	1.806,84	2.126,88	17,71%
2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal.	1.217,53	1.573,09	1.968,48	25,14%
8517	Electrical apparatus for line telephony or line telegraphy	1.372,75	1.653,42	1.922,14	16,25%
8471	Automatic data processing machines and units thereof	1.079,14	1.579,48	1.800,29	13,98%
3902	Polymers of propylene or of other olefins, in primary forms.	928,86	1.202,21	1.473,65	22,58%
7403	Refined copper and copper alloys, unwrought.	644,94	883,14	1.436,16	62,62%
8802	Other aircraft (for example, helicopters, aeroplanes); spacecraft	1.107,13	200,51	1.366,70	581,61%
7601	Unwrought aluminium.	599,14	785,43	1.229,65	56,56%
7207	Semi-finished products of iron or non-alloy steel.	628,75	783,50	1.218,92	55,57%
8531	Electric sound or visual signalling apparatus	507,64	1.091,24	1.200,13	9,98%
8704	Motor vehicles for the transport of goods.	1.872,14	1.593,24	1.133,67	-28,84%

## I.2.B. Origin and Destination of Trade in Goods

### i. Exports

By 2006, top five countries in terms of Turkey's export markets are ranked as; Germany, England, Italy, USA and France. Germany has been the major export partner of Turkey in the last

decade while Turkey recorded the greatest increase in exports among the top five countries with France followed by Italy with a 20% increase in exports in 2006. Exports to both countries rose above the annual average increase in total exports.

Trade with Russian Federation followed a stable increasing trend in 2001-2006 period and recorded the second greatest increase in exports by 36% after Greece, exports to which rose by 42% in 2006. Soaring exports of “Machinery and transport equipment” and “oil and oil products” underlined the increase in export to Greece, while it was the increase in automotive products and in textiles that triggered the rise in exports to Russian Federation.

Share of top 30 countries in Turkey’s total exports declined 0.5 and 1.1 points during last two years and dropped to 79.8% by 2006. A sharp decline was observed particularly in exports with top five countries during this period which is a good indicator of regional diversification of exports of the country.

As Table I.2.B.1 reveals among the top 15 countries in terms of Turkey’s export markets, 10 of them are EU members pointing the importance of EU integration in Turkey’s foreign trade deepened after the establishment of Customs Union.

**Table I.2.B.1. Turkey's Principal Export Partners by Country (Billion \$)**

<b>COUNTRY</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
GERMANY	5.20	5.30	5.50	5.50	5.20	5.40	5.90	7.50	8.70	9.50	9.70
ENGLAND	1.30	1.50	1.70	1.80	2.00	2.20	3.00	3.70	5.50	5.90	6.80
ITALY	1.40	1.40	1.60	1.70	1.80	2.30	2.40	3.20	4.60	5.60	6.80
US	1.60	2.00	2.20	2.40	3.10	3.10	3.40	3.80	4.90	4.90	5.00
FRANCE	1.10	1.20	1.30	1.60	1.70	1.90	2.10	2.80	3.70	3.80	4.60
SPAIN	0.40	0.40	0.50	0.80	0.70	1.00	1.10	1.80	2.60	3.00	3.70
RUSSIAN FEDERATION	1.50	2.10	1.30	0.60	0.60	0.90	1.20	1.40	1.90	2.40	3.20
IRAQ	0.20	0.10	0.00	0.00	0.00	0.00	0.00	0.80	1.80	2.80	2.60
HOLLAND	0.80	0.80	0.90	0.90	0.90	0.90	1.10	1.50	2.10	2.50	2.50
ROMANIA	0.30	0.40	0.50	0.30	0.30	0.40	0.60	0.90	1.20	1.80	2.30
UNITED ARAB STATES	0.20	0.30	0.20	0.40	0.30	0.40	0.50	0.70	1.10	1.70	2.00
GREECE	0.20	0.30	0.40	0.40	0.40	0.50	0.60	0.90	1.20	1.10	1.60
BULGARIA	0.20	0.20	0.20	0.20	0.30	0.30	0.40	0.60	0.90	1.20	1.60
ISRAEL	0.30	0.40	0.50	0.60	0.70	0.80	0.90	1.10	1.30	1.50	1.50
BELGIUM	0.00	0.00	0.00	0.00	0.00	0.00	0.70	0.90	1.20	1.30	1.40
OTHERS	8.60	10.10	10.20	9.40	9.80	11.30	12.40	15.70	20.30	24.60	30.20
<b>TOTAL</b>	<b>23.20</b>	<b>26.30</b>	<b>27.00</b>	<b>26.60</b>	<b>27.80</b>	<b>31.30</b>	<b>36.10</b>	<b>47.30</b>	<b>63.20</b>	<b>73.50</b>	<b>85.50</b>

Examining the Turkey’s exports by country groups, by 2006, the EU (25) constituting approximately 56% of Turkish export volume is the main market destination for Turkish exporters. Since the establishment of Customs Union in 1996, exports to this country group achieved a record high increase of 296%.

By 2006 trade volume with the EU-25 accounted for 45% of total trade volume but 20% of trade deficit. Russian Federation, another attractive market for Turkish exporters, makes up about 9% of total trade volume and 27% of trade deficit. Africa accounts for about 5-5.5% of trade volume and trade deficit, about 3.5% resulting from the Northern countries.

Americas accounted for about 7% of total trade volume and 5.7% of trade deficit in 2006. The share of Americas in trade volume has been decreasing while the share in trade deficit has been increasing. This is mainly due to the regression in the clothing and textiles exports to the US. South America has a greater share in Turkish trade deficit than North America does, mainly contributable to the machinery imports from Brazil and copper imports from Chile.

Trade surplus with the Near and Middle Eastern countries roughly equaled 15% of the trade deficit with the Russian Federation or 20% of the deficit with the EU.

**Table 1.2.B.2. Turkish Exports By Country Groups 1996-2006 (Billion \$)**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>EU (25)</b>	<b>12.10</b>	<b>12.90</b>	<b>14.10</b>	<b>14.90</b>	<b>15.10</b>	<b>16.90</b>	<b>19.50</b>	<b>25.90</b>	<b>34.50</b>	<b>38.40</b>	<b>47.90</b>
<b>Turkey's Free Zones</b>	<b>0.40</b>	<b>0.60</b>	<b>0.80</b>	<b>0.80</b>	<b>0.90</b>	<b>0.90</b>	<b>1.40</b>	<b>1.90</b>	<b>2.60</b>	<b>3.00</b>	<b>3.00</b>
<b>Others</b>	<b>10.70</b>	<b>12.80</b>	<b>12.00</b>	<b>10.90</b>	<b>11.80</b>	<b>13.50</b>	<b>15.20</b>	<b>19.40</b>	<b>26.20</b>	<b>32.10</b>	<b>34.60</b>
<b>Other Europe</b>	<b>3.00</b>	<b>3.80</b>	<b>3.20</b>	<b>2.20</b>	<b>2.40</b>	<b>2.80</b>	<b>3.60</b>	<b>4.90</b>	<b>6.60</b>	<b>8.80</b>	<b>7.90</b>
<b>Africa</b>	<b>1.20</b>	<b>1.20</b>	<b>1.80</b>	<b>1.70</b>	<b>1.40</b>	<b>1.50</b>	<b>1.70</b>	<b>2.10</b>	<b>3.00</b>	<b>3.60</b>	<b>4.60</b>
North Africa	1.00	1.00	1.50	1.30	1.10	1.10	1.30	1.60	2.20	2.50	3.10
Other Africa	0.20	0.30	0.30	0.30	0.30	0.40	0.40	0.60	0.80	1.10	1.50
<b>Americas</b>	<b>1.90</b>	<b>2.40</b>	<b>2.70</b>	<b>2.90</b>	<b>3.60</b>	<b>3.70</b>	<b>3.90</b>	<b>4.30</b>	<b>5.70</b>	<b>6.00</b>	<b>6.30</b>
North America	1.70	2.10	2.40	2.60	3.30	3.30	3.60	4.00	5.20	5.30	5.40
Middle America and Caribbeans	0.10	0.10	0.10	0.20	0.20	0.20	0.20	0.20	0.30	0.40	0.50
South America	0.10	0.10	0.10	0.10	0.10	0.20	0.10	0.10	0.20	0.30	0.30
<b>Asia</b>	<b>4.50</b>	<b>4.80</b>	<b>4.00</b>	<b>3.80</b>	<b>3.90</b>	<b>4.60</b>	<b>5.20</b>	<b>7.80</b>	<b>10.50</b>	<b>13.20</b>	<b>15.30</b>
Near and Middle East	2.60	2.80	2.70	2.60	2.60	3.30	3.40	5.50	7.90	10.20	11.30
Other Asia	1.90	2.00	1.30	1.30	1.30	1.30	1.80	2.30	2.50	3.00	3.90
<b>Avustralia and New Zeland</b>	<b>0.10</b>	<b>0.20</b>	<b>0.30</b>	<b>0.30</b>	<b>0.30</b>						
<b>Other Countries and Regions</b>	<b>0.02</b>	<b>0.40</b>	<b>0.30</b>	<b>0.20</b>	<b>0.40</b>	<b>0.90</b>	<b>0.60</b>	<b>0.20</b>	<b>0.10</b>	<b>0.20</b>	<b>0.20</b>
<b>Selected Country Groups</b>											
OECD Countries	14.50	15.60	17.00	18.10	19.00	20.60	23.60	30.40	40.50	44.40	54.50
EFTA Countries	0.30	0.40	0.36	0.40	0.30	0.30	0.40	0.50	0.70	0.80	1.20
Black Sea Economic Cooperation	2.90	3.80	3.29	2.20	2.50	2.90	3.60	5.00	6.80	8.60	11.70
Economic Cooperation Organization	1.10	1.30	1.12	0.90	0.90	1.00	1.00	1.60	2.20	2.70	3.30
CIS	2.70	3.50	2.67	1.50	1.60	2.00	2.30	3.00	4.00	5.10	7.00
Turkish Republics	0.70	0.90	0.83	0.60	0.60	0.60	0.60	0.90	1.20	1.40	2.00
Organization of the Islamic Conference	4.10	4.20	4.39	4.00	3.60	4.20	4.70	7.20	10.20	13.10	15.00
<b>TOTAL EXPORTS</b>	<b>23.20</b>	<b>26.30</b>	<b>27.00</b>	<b>26.60</b>	<b>27.80</b>	<b>31.30</b>	<b>36.10</b>	<b>47.30</b>	<b>63.20</b>	<b>73.50</b>	<b>85.50</b>

## ii. Imports

The share of top 20 countries in Turkey's total value of imports amounts to 77.5% by 2006. Russian Federation ranks first with 12.7 % of import share among Turkey's principal import partners while Germany ranks second with 10.6% import share. Soaring oil prices as well as the increase of oil imports from Russian Federation contributed to the rise of Russian Federations' share in Turkey's total value of imports by 36%. Imports from Iran improved due to similar reasons with a record high of 62%.

**Table I.2.B.3. Turkey's Principal Import Partners by Country (billion \$)**

<b>COUNTRY</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
RUSSIAN FEDERATION	1.90	2.20	2.20	2.40	3.90	3.40	3.90	5.50	9.00	12.90	17.50
GERMANY	7.80	8.00	7.30	5.90	7.20	5.30	7.00	9.50	12.50	13.60	14.60
CHINA	0.60	0.80	0.80	0.90	1.30	0.90	1.40	2.60	4.50	6.90	9.60
ITALY	4.30	4.50	4.20	3.20	4.30	3.50	4.10	5.50	6.90	7.60	8.60
FRANCE	2.80	3.00	3.00	3.10	3.50	2.30	3.10	4.20	6.20	5.90	6.60
US	3.50	4.30	4.10	3.10	3.90	3.30	3.10	3.50	4.70	5.40	5.90
IRAN	0.80	0.60	0.40	0.60	0.80	0.80	0.90	1.90	2.00	3.50	5.60
UKRAYNA	2.50	2.80	2.70	2.20	2.70	1.90	2.40	3.50	4.30	4.70	5.10
SWITZERLAND	1.00	1.10	1.00	0.70	0.90	1.20	2.10	3.00	3.40	4.10	4.00
SPAIN	1.00	1.30	1.30	1.30	1.70	1.10	1.40	2.00	3.30	3.60	3.80
SOUTH KOREA	0.70	1.10	1.10	0.90	1.20	0.80	0.90	1.30	2.60	3.50	3.50
JAPAN	1.40	2.00	2.00	1.40	1.60	1.30	1.50	1.90	2.70	3.10	3.20
UKRAINE	0.80	0.90	1.00	0.80	1.00	0.80	1.00	1.30	2.50	2.70	3.00
ROMANIA	0.40	0.40	0.30	0.40	0.70	0.50	0.70	1.00	1.70	2.30	2.60
BELGIUM	0.00	0.00	0.00	0.00	0.00	0.00	1.20	1.50	2.00	2.20	2.50
OTHERS	14.10	15.60	14.40	13.80	19.70	14.30	16.90	21.30	29.30	35.00	41.20
<b>TOTAL</b>	<b>43.60</b>	<b>48.60</b>	<b>45.90</b>	<b>40.70</b>	<b>54.50</b>	<b>41.40</b>	<b>51.60</b>	<b>69.30</b>	<b>97.50</b>	<b>116.80</b>	<b>138.30</b>

China has a share of 7% in 2006 and recorded import volume of 9.9 billion \$ in 2006. Trade with China rose at its peak in 2004, by 70% and during 1996-2006 period annual average increase was 37.6%. Hence, China has become one of the main suppliers of Turkey within the last decade. 10 countries with the largest increase in the foreign trade volume in 2006 accounted for about 55% of total trade volume of Turkey.

Top three countries in the increase in the foreign trade deficit are also those with the largest increase in the foreign trade volume, namely the Russian Federation, China and Iran. 10 countries with the largest increase in the foreign trade deficit in 2006 accounted for about 78% of total trade deficit of Turkey.

**Table I.2.B.4. Imports by Country Groups (Billion \$)**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>EU (25)</b>	<b>23.5</b>	<b>25.3</b>	<b>24.6</b>	<b>21.8</b>	<b>27.4</b>	<b>18.9</b>	<b>24.5</b>	<b>33.5</b>	<b>45.4</b>	<b>49.2</b>	<b>58.9</b>
<b>Turkey's Free Zones</b>	<b>0.3</b>	<b>0.4</b>	<b>0.4</b>	<b>0.5</b>	<b>0.5</b>	<b>0.3</b>	<b>0.6</b>	<b>0.6</b>	<b>0.8</b>	<b>0.8</b>	<b>0.9</b>
<b>Others</b>	<b>19.8</b>	<b>22.9</b>	<b>20.9</b>	<b>18.3</b>	<b>26.6</b>	<b>22.1</b>	<b>26.5</b>	<b>35.3</b>	<b>51.3</b>	<b>66.8</b>	<b>78.4</b>
<b>Other Europe</b>	<b>4.8</b>	<b>5.3</b>	<b>5.1</b>	<b>4.9</b>	<b>7.3</b>	<b>6.6</b>	<b>8.7</b>	<b>12.00</b>	<b>18.4</b>	<b>23.9</b>	<b>25.3</b>
<b>Africa</b>	<b>2.00</b>	<b>2.2</b>	<b>1.8</b>	<b>1.7</b>	<b>2.7</b>	<b>2.8</b>	<b>2.7</b>	<b>3.3</b>	<b>4.8</b>	<b>6.00</b>	<b>7.3</b>
North Africa	1.6	1.8	1.5	1.4	2.3	2.1	2.1	2.5	3.2	4.2	4.8
Other Africa	0.4	0.4	0.3	0.3	0.5	0.7	0.6	0.8	1.6	1.8	2.5
<b>Americas</b>	<b>4.6</b>	<b>5.5</b>	<b>5.00</b>	<b>3.8</b>	<b>4.8</b>	<b>3.8</b>	<b>4.1</b>	<b>4.9</b>	<b>6.6</b>	<b>7.9</b>	<b>9.3</b>
North America	3.9	4.6	4.2	3.3	4.2	3.4	3.4	3.7	5.1	5.8	6.9
Middle America and Caribbeans	0.2	0.1	0.1	0.1	0.1	0.00	0.1	0.2	0.2	0.3	0.4
South America	0.5	0.7	0.7	0.5	0.6	0.4	0.5	1.00	1.3	1.7	2.1
<b>Asia</b>	<b>8.00</b>	<b>8.8</b>	<b>8.3</b>	<b>7.2</b>	<b>10.3</b>	<b>7.9</b>	<b>9.7</b>	<b>14.1</b>	<b>21.1</b>	<b>28.5</b>	<b>35.9</b>
Near and Middle East	3.3	2.8	2.1	2.1	3.4	3.00	3.2	4.5	5.6	8.00	10.5
Other Asia	4.6	6.00	6.2	5.1	6.9	4.9	6.5	9.6	15.5	20.6	25.4
<b>Avustralia and New Zeland</b>	<b>0.4</b>	<b>0.5</b>	<b>0.4</b>	<b>0.2</b>	<b>0.3</b>	<b>0.2</b>	<b>0.3</b>	<b>0.2</b>	<b>0.3</b>	<b>0.3</b>	<b>0.4</b>
<b>Other Countries and Regions</b>	<b>0.00</b>	<b>0.6</b>	<b>0.3</b>	<b>0.6</b>	<b>1.2</b>	<b>0.7</b>	<b>1.00</b>	<b>0.7</b>	<b>0.1</b>	<b>0.2</b>	<b>0.1</b>
<b>Selected Country Groups</b>											
OECD Countries	31.1	34.8	33.5	28.4	35.7	26.00	33.00	43.9	59.6	66.1	77.1
EFTA Countries	1.1	1.3	1.2	0.9	1.2	1.5	2.5	3.4	3.9	4.4	4.5
Black Sea Economic Cooperation	3.9	4.5	4.4	4.3	6.7	5.6	6.6	9.3	15.4	20.5	26.7
Economic Cooperation Organization	1.2	1.1	0.9	1.1	1.5	1.2	1.5	2.7	3.2	5.1	8.1
CIS	3.1	3.6	3.7	3.7	5.7	4.6	5.6	7.8	12.9	17.3	23.00
Turkish Republics	0.3	0.4	0.4	0.5	0.6	0.3	0.5	0.6	0.8	1.3	1.9
Organization of the Islamic Conference	5.6	5.2	4.2	4.1	6.3	5.5	6.1	8.2	10.6	14.5	19.00
<b>TOTAL IMPORTS</b>	<b>43.6</b>	<b>48.6</b>	<b>45.9</b>	<b>40.7</b>	<b>54.5</b>	<b>41.4</b>	<b>51.6</b>	<b>69.3</b>	<b>97.5</b>	<b>116.8</b>	<b>138.3</b>

Imports increased by 21.5 billion \$ in 2006. 4.8 billion US\$ of this increase were contributed by the EU-25, 4.8 billion \$ were acquired from Far East, 5.7 billion \$ from other Europe including Russia and 2.5 billion \$ increase were elicited from Near and Middle East.

Imports from Asia rose by 25.7% recording the greatest increase in terms of total imports. Imports from Africa and America also rose considerably, amounting to 21.4% and 18.9% respectively. The increase in imports from the EU has been relatively lower in 2006, with a growth rate of 9.8%.

### **I.3. Trade in Services**

#### **General Trends/Principal Characteristics:**

In the report of Ninth Development Plan, it is recorded that the annual average growth rate in services sector was 4.3% between 2001 and 2005, while the share of services in Gross Domestic Product (GDP) increased from 62.6% to 64.4% for the given period. Employment in the services accounted for 51.1% of total employment in 2005 grew faster than in other areas. Commercial services accounted for 32% in 2005 and constituted the largest share of the sector. Turkey's services exports amounted to 25.6 billion \$ and imports amounted to 10.7 billion \$ in 2005. Tourism services with 18.2 billion \$ of receipts in 2005 (up from 7.8 billion \$ in 1998) are

one of the most important sector in Turkey. The share of tourism receipts in the export income and in Gross National Product (GNP) was 24.8% and 5% in 2005 respectively.

**Table I.3. Sectoral Share of services in Turkey’s GDP**

	<b>2000</b>	<b>2002</b>	<b>2005</b>
<b>The Share of Services in GDP (%)</b>	62.6	63.2	64.4
<b>The Share in Total Services (%)</b>			
Construction	8.3	6.5	6.8
Commerce	31.9	31.9	31.8
Transportation and Communication	22.6	23.8	22.9
<b>The Share of Services in Employment (%)</b>	46.8	46.6	51.1

Source: Ninth Development Plan

## **I.4. Investment**

### **Foreign Direct Investment (FDI) in Turkey:**

Up to 2002, Turkey had been failing to attract FDI in amounts commensurate with its market size and economic potential due to poor and unstable performance of the economy plagued by chronic high inflation and budget deficits. From 1980 through 2002, approximately 16 billion \$ FDI had been invested in Turkey. FDI inflows over this period were only some 0.5% of Turkish GDP, compared to an average of 1.1% in middle income countries in Europe.

To analyze the reasons for Turkey’s underperformance in attracting FDI, three studies were undertaken in 2001 and 2002 by the World Bank/ IFC ‘Foreign Investment Advisory Service’ (FIAS): a diagnostic study of Turkey’s overall investment environment, a study focusing on administrative barriers to investments and a third study setting out the framework for an investment promotion strategy and recommending the creation of an investment promotion agency. These studies identified the main investment barriers: overall policy instability, a complex, slow and opaque bureaucracy, incomplete legislative reforms, inadequate administrative implementation and judicial enforcement of legislation. As a priority, a reform program for eliminating unnecessary administrative barriers was proposed. These studies set the stage for the preparation of a comprehensive ‘Reform Program for the Improvement of the Investment Environment in Turkey’ adopted by Council of Ministers Decree of 11th December 2001. In this framework, “Coordination Council for the Improvement of the Investment Environment (YOIKK)” was established as a coordinating body with a mandate to identify and remove regulatory and administrative barriers facing private investment. Having decision makers of relevant ministries and heads of NGOs representing private sector on board, this Council has proved to be a good example of collaboration between the government and business community to improve business environment.

Despite the initial emphasis on foreign direct investment, the YOIKK program from the outset aimed “to streamline the investment environment and attract more private direct domestic and foreign investment”. The YOIKK program sets out an action plan with a focus on 11 key reform areas: Company Registration; Employment of Foreigners; Sector Licenses; Taxation and State Aid; Customs and Technical Standards; Land Access and Site Development; Intellectual Property Protection; Foreign Direct Investment Legislation; Investment Promotion; the Promotion of Small and Medium-sized Enterprises; and Corporate Governance. The YOIKK process therefore was not limited narrowly to foreign investment but was assisting in improving

the business and investment environment for private domestic investors as well. So far, the activities of the YOIKK have been quite successful. The Government has taken several steps in compliance with the recommendations of Council and enacted 20 laws, including a very liberal Foreign Direct Investment Law and Company Registration Law among others.

**Enacted Laws as a result of the YOIKK Process:**

1. The Law for the Recruitment of Expatriates (No. 4817)
2. Labor Law (No. 4857)
3. Foreign Direct Investment Law (No. 4875)
4. Company Registration Law (No. 4884)
5. ISKUR Law (No. 4904)
6. Land Acquisition and Site Development Law (No. 4916)
7. Law on Fighting Smuggling (No. 4926)
8. Law on Social Insurance For Self Employed and Artisans (No. 4956)
9. Law on amendments of the Law on Encouragement of Tourism (No. 4957)
10. Law on Social Insurance for Workers (No. 4958)
11. Turkish Patent Institute Law (No. 5000)
12. Law on the Inflation Accounting (No. 5024)
13. Law on the Protection of Intellectual and Industrial Property Rights (No. 5117)
14. Trademark Law Agreement (No. 5118)
15. Law on Protection of Topographies of the Integrated Circuits (No. 5147)
16. Mining Law (No. 5177)
17. Changes about Definition of SMEs in the Law of Min. of Ind. and Trade (No. 5331)
18. Law on the Establishment of the Investment Support and Promotion Agency of Turkey (No. 5523)
19. Corporate Income Tax Law (No. 5520)
20. Law on Withholding Taxes on Capital Gains (No. 5527)

In addition to the YOIKK, Investment Advisory Council of Turkey was established in 2004 to provide an assessment of business climate from an international perspective for further improvement of business environment. This Council is chaired by the Prime Minister, and composed of Ministers in charge of investment related issues, the CEOs of multinational companies with investments in Turkey, high level representatives of International Organizations, such as IMF, the World Bank and the European Investment Bank, as well as the heads of leading Turkish Business Associations. Since 2004, Investment Advisory Council convened once a year, holding its last meeting on June 11, 2007. So far, concrete steps were taken regarding the recommendations of the Council such as, simplifying the tax regime; strengthening corporate governance; reducing administrative and bureaucratic barriers; accelerating the privatization program, and reforming the social security system.

As a result of the general improvement of the Turkish economy as well as the reform program to improve business environment, FDI inflows to Turkey started to increase in 2002 and reached to a record high level in 2006.

### FDI Inflows:

According to the balance of payment statistics of the Central Bank of Turkey, total value of FDI inflow reached to \$ 20.168 million in 2006, with a 205% increase relative to the 2005 value of \$9.801 million.

**Table I.4.1. FDI Inflows and Their Distribution by Components in 1995-2006 period (in million \$)**

	1995-2000	2001	2002	2003	2004	2005	2006
<b>Foreign Direct Investment (Net)</b>	<b>5.117</b>	<b>3.352</b>	<b>1.137</b>	<b>1.752</b>	<b>2.883</b>	<b>9.801</b>	<b>20.168</b>
<b>Foreign Direct Capital</b>	<b>5.117</b>	<b>3.352</b>	<b>1.137</b>	<b>754</b>	<b>1.540</b>	<b>7.960</b>	<b>17.246</b>
<b>Capital (Net)</b>	5.117	3.352	617	605	987	8.117	17.016
<b>Inflow</b>	6.173	3.374	622	613	1.087	8.453	17.673
<b>Outflow</b>	-1.056	-22	-5	-8	-100	-336	-657
<b>Reinvested Earnings</b>				132	204	81	144*
<b>Other Capital</b>	--	--	520	17	349	-238	86
<b>Real Estate (Net)</b>	--	--	--	<b>998</b>	<b>1.343</b>	<b>1.841</b>	<b>2.922</b>

### Number of Companies with Foreign Capital:

There has been a considerable increase in the number of companies with foreign capital since the “Foreign Direct Investment Law No.4875” was into force on June 17<sup>th</sup> 2003. The number of companies with foreign capital established between June 17<sup>th</sup> 2003 and December 31<sup>th</sup> 2006 is 101% more than that of the previous years total.

**Table I.4.2. The number of companies with foreign capital:**

	<b>Total</b>
1954-2000 (Cumulative )	4.588
2001	477
2002	495
2003	1.105
2004	2.095
2005	2.845
2006	3.350
<b>Total</b>	<b>14.955</b>

### By sector:

Majority of the total 14.955 companies with foreign capital is in wholesale and retail trade sectors while manufacturing, real estate renting and other business activities follow. Textile goods production leads the manufacturing sector investments followed by chemicals and food beverage products.

**Table I.4.3. The Distribution of Companies with International Capital by Sectors**

Sectors	1954-2000	2001	2002	2003	2004	2005	2006	1954-2006 Total
	( Cumulative )							
Agriculture, Forestry & Fishing	75	9	4	27	33	40	39	227
Mining&Quarrying	72	7	18	11	32	50	43	233
Manufacturing	1.254	93	80	267	369	456	459	2.978
Electricity, Gas and Water Supply	58	4	6	10	14	12	45	149
Construction	157	27	21	30	136	348	434	1.153
Wholesale and Retail Trade	1.593	165	207	434	888	792	862	4.941
Hotels and Restaurants	512	53	43	60	78	180	226	1.152
Transport, Storage, Communications	325	49	44	95	219	260	285	1.277
Real Estate, Renting and Business Activities	297	43	38	90	230	520	724	1.942
Other Community, Social and Personal Service Activities	245	27	34	81	96	187	233	903
<b>Total</b>	<b>4.588</b>	<b>477</b>	<b>495</b>	<b>1.105</b>	<b>2.095</b>	<b>2.845</b>	<b>3.350</b>	<b>14.955</b>

**By country:**

When the distribution of the companies with foreign capital according to their country of origin is concerned, it is seen that 8.207 of the total 14.955 companies with foreign capital are of EU origin, in which Germany leads with 2.627 firms followed by England (1.420 firms) and the Netherlands (1.189 firms)

**Table I.4.4. The Distribution of Companies with International Capital by Investor Countries**

Countries	1954-2006
	Number of Companies (Cumulative)
<b>EU Countries (25)</b>	<b>8.207</b>
<i>Germany</i>	2.627
<i>Netherlands</i>	1.189
<i>England</i>	1.420
<i>Other EU Countries</i>	2.971
<b>Other European Countries (Except EU)</b>	<b>1.804</b>
<b>Africa Countries</b>	<b>264</b>
<b>North America</b>	<b>821</b>
<i>USA</i>	733
<i>Canada</i>	88
<b>Middle and South America, Caribbean</b>	<b>90</b>
<b>Near and Middle East Countries</b>	<b>2.596</b>
<b>Other Asia Countries</b>	<b>969</b>
<b>Other Countries</b>	<b>204</b>
<b>Total</b>	<b>14.955</b>

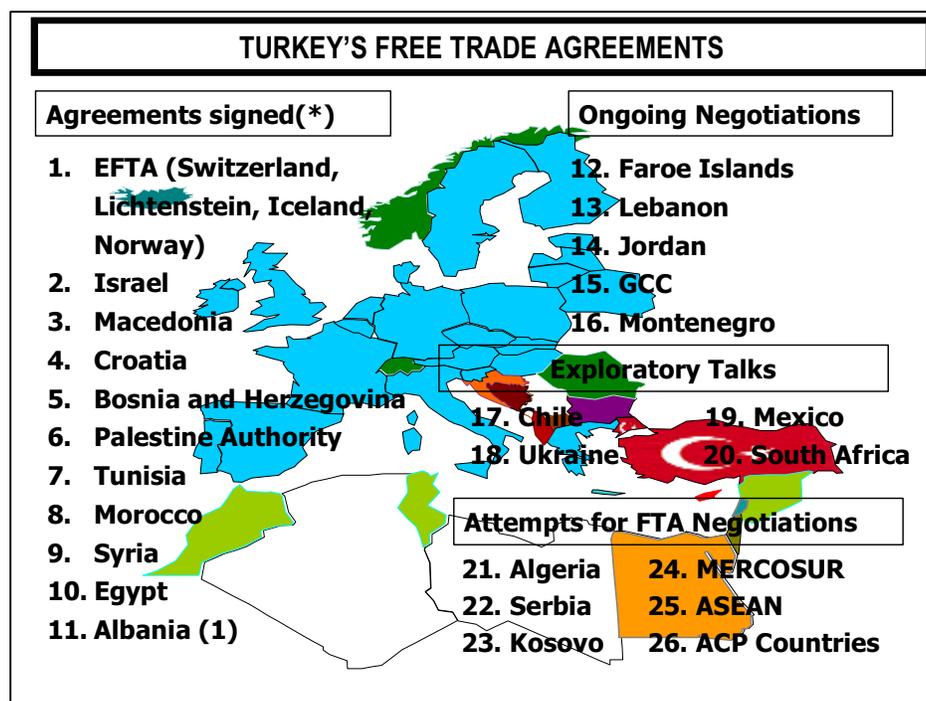
## I.5. Introduction of FTAs Negotiated by Turkey

### I.5.A. Modalities of Negotiation

The Customs Union between Turkey and the EU which entered into force on 1 January 1996 constitutes the legal basis of Turkey's FTAs. Article 16 of the Decision of the Association Council numbered 1/95 which establishes the Customs Union between Turkey and the European Union states that with a view to harmonizing its commercial policy with that of the Community, Turkey shall align itself progressively with the preferential customs regime of the Community as from the date of the entry into force of this Decision. This alignment will concern both the autonomous regimes and preferential agreements with third countries.

The composition of an FTA is quite extensive. More precisely, the tariff concessions for the industrial and agricultural products, quantitative restrictions on imports and exports, customs duties or measures having equivalent effect, basic duties, safeguard measures, internal taxation, technical barriers to trade, sanitary and phytosanitary measures, rules of origin, services and investment, general exceptions, security exceptions, state monopolies, payments, rules of competition, public procurement, intellectual property rights, dumping and subsidy, re-export and serious shortage and balance of payments difficulties are governed by FTAs. Moreover, rules of origin are a major component of an FTA.

**Table I.5.A. Turkey's Free Trade Agreements**



Source: Republic of Turkey, Prime Ministry, Undersecretariat for Foreign Trade.

(\*) FTAs with Lithuania, Hungary, Estonia, Latvia, Slovakia, Poland, Slovenia, Romania, Czech Republic and Bulgaria have not been mentioned since all these countries have become full members to the EU.

(1) Turkey-Albania FTA has been signed on 22 December 2006 and will enter into force once the internal ratification procedures are completed in both countries.

### **i. EFTA States and the Central and Eastern European Countries (CEEC)**

The Agreement between Turkey and the EFTA States<sup>12</sup>, which entered into force on 1 April 1992, constitutes the first step towards Turkey's undertaking of preferential customs regime of the EU.

Regarding the CEEC, following the FTA between Turkey and EFTA, between 1997 and 2000 Turkey concluded FTAs with Romania, Lithuania, Hungary, Estonia, Czech Republic, Slovakia, Bulgaria, Poland, Slovenia and Latvia respectively. The FTAs signed with these 10 CEEC have been terminated due to the enlargement of the EU in May 2004 and January 2007. As of these dates, preferential trade between Turkey and these countries is conducted within the scope of Turkey-European Community association relationship.

### **ii. Balkan countries**

Within the context of the Stabilization and Association process of the EU towards the Western Balkans countries<sup>13</sup> and due to Turkey's well-founded historic, social and cultural relations as well as trade and investment opportunities, trade relations with these countries constitute another major area of concern for Turkey. Accordingly, Turkey's FTAs with Macedonia (September 2000), Croatia (July 2003), and Bosnia and Herzegovina (July 2003) are in force and a FTA with Albania was signed on 22 December 2006 in Tirana which will enter into force once the internal ratification process in both countries are completed. Regarding Montenegro, after its independence in June 2006, the first round of negotiations are held in 24-25 May 2007 in Kolasin, Montenegro. The FTA negotiation process between Turkey and Serbia is supposed to be initiated before the end of 2007.

On the other side, the EU initiated Stabilisation and Association Agreement (SAA) negotiations with Serbia and Montenegro simultaneously on 10 October 2005, yet, since Serbia refused to bring a former Serbian General into the International Criminal Tribunal (ICT), the negotiations with Serbia has been suspended for an indefinite period and only after Serbia's cooperation with the ICT, EU-Serbia negotiations were resumed on 13<sup>th</sup> June 2007. In addition, SAA between the EU and Montenegro has been initialed on 14 March 2007.

### **iii. Barcelona Process**

Turkey is also part of the Pan-Euro-Mediterranean Partnership process. The EU initiated Barcelona Process in order to form a kind of political and economic partnership between the countries in the region and itself. The Pan-Euro-Med Partnership process is based on the Barcelona Declaration<sup>14</sup> which was accepted in Euro-Mediterranean Ministerial Conference dated on 27-28 November 1995. It envisages the formation of Euro-Mediterranean Free Trade Area as of the year 2010<sup>15</sup>.

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<sup>12</sup> EFTA states are Switzerland, Liechtenstein, Norway and Iceland.

<sup>13</sup> Western Balkan countries are Albania, Macedonia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Kosovo.

<sup>14</sup> Barcelona Declaration has been signed by EU Council, EU Commission, 15 Member States, Turkey, Algeria, Morocco, Tunisia, Egypt, Lebanon, Syria, Jordan, Palestine, Israel, Malta and Cyprus. Libya is an attending the Euro-Med Partnership as observer since 1999.

<sup>15</sup> The economic and Financial Chapter of the Barcelona Declaration envisages the gradual formation of a 'Free Trade Area' between the partner countries until 2010 where a region of shared prosperity is formed.

In this context, in addition to the FTA with Israel which entered into force as of 1 May 1997, Turkey started her initiatives to sign FTAs with the Mediterranean countries. After Israel, the FTAs with Palestine (2005), Tunisia (2006), Morocco (2006), Syria (2007) and Egypt (2007) entered into force respectively. Moreover, Turkey's FTA negotiations with Lebanon and Jordan are still continuing and FTA negotiations with Faeroe Islands which were brought to a standstill by the year 2000 are set to resume in the second half of 2007.

On the other hand, the EU completed all its FTAs with the partner countries of the Barcelona Process, except with Syria. Due to political circumstances, EU – Syria Euro-Med Association Agreement which has been initialed as of 19 October 2004 is not signed yet.

#### **iv. Ongoing Negotiations**

Turkey's FTA negotiations with the Gulf Cooperation Council (GCC) countries<sup>16</sup>, Jordan, Lebanon, Montenegro and Faroe Islands are under way. The exploratory talks with South Africa, Mexico, Chile and Ukraine were held in July 2005, May 2007 and June 2007 respectively. Moreover, Turkey has initiatives to start the FTA negotiations with MERCOSUR<sup>17</sup>, Algeria and ASEAN countries<sup>18</sup>.

With regard to Turkey's strategy to enhance economic relations with the countries of Africa as well as the prospective Economic and Partnership Agreement (EPA) between the EU and the Africa-Caribbean-Pacific<sup>19</sup> (ACP) countries which will replace the Cotonou Agreement by 31 December 2007, Turkey initiated attempts to start the FTA negotiations with ACP countries. Turkey's draft FTA texts are still under examination by 10 ACP countries (Cameroon, Sudan, Democratic Republic of Congo, Ethiopia, Kenya, Djibouti, Gabon and Congo).

Furthermore, the EU is planning to sign new FTAs with South Korea, ASEAN countries, India, Ukraine and Russian Federation as well as new Association Agreements with Central America<sup>20</sup> and ANDEAN countries<sup>21</sup> in accordance with its new "global strategy". Within the context of this new strategy, Turkey also envisages to start the FTA negotiations with the above-mentioned countries within the framework of Turkey – EU Customs Union. With this regard, the first invitation to start the negotiations was conveyed to ASEAN countries.

#### **I.5.B. Tariff Reduction in the FTAs, Customs Union and Preferential Trade Arrangements**

As of July 2007, Turkey has 10 Free Trade Agreements in force, along with its Customs Union with the EU, Turkey-ECSC (European Coal and Steel Community) Free Trade Agreement and Preferential Trade Arrangements with the EU for certain basic and processed agricultural products which totally represent around %63 of the total export and %48 of the total import of Turkey for the year 2006.

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<sup>16</sup> GCC countries are Bahrein, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates.

<sup>17</sup> MERCOSUR countries are Brasil, Argentina, Paraguay, Uruguay and Venezuela.

<sup>18</sup> ASEAN countries are Singapore, Philippenes, Indonesia, Malaysia, Brunei, Thailand, Vietnam, Cambodia, Laos and Myanmar/Burma.

<sup>19</sup> Benin, Burkina Faso, Burundi, Cape Verde, Djibouti, Congo, Democratic Republic of Congo, Ecuador Guinea, Eritrea, Ethiopia, Ivory Coast, Gabon, Gambia, Guinea, Guinea-Bissau, Cameroon, Kenya, Liberia, Madagascar, Malaysia, Mauritius, Mali, Niger, Nigeria, Central African Republic, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leona, Sudan, Togo, Uganda, Zambia, Zimbabwe.

<sup>20</sup> Central America countries are Costa Rica, El Salvador, Guatemala, Honduras, Panama and Nicaragua.

<sup>21</sup> ANDEAN countries are Bolivia, Colombia, Ecuador, Peru and Venezuela.

Regarding tariff reduction in the FTAs, due to the fact that Turkey – EU Customs Union covers all industrial products, the FTAs with third countries include gradual elimination of customs tariffs for industrial products in line with a specific tariff elimination schedule which provides the same treatment with the EU’s FTAs. In other words, Turkey’s tariff dismantling schedule is based on the same tariff dismantling schedule taking into consideration the same dates that all the customs duties are eliminated and the same product lists as provided in the EU’s FTAs with the partner countries. On behalf of Turkey, the FTAs with Macedonia, Croatia, Bosnia-Herzegovina, Israel, Palestine, Tunisia, Morocco, Egypt and Syria envisage tariff elimination for industrial products at the date of entry into force of the agreement. Due to Turkey–EU Customs Union, Turkey signs FTAs with FTA partners in line with the tariff elimination schedule determined between the EU and that particular FTA partner. Moreover, FTAs with these countries cover substantially all trade between two parties. The industrial products which are in the sensitive lists constitute negligible amounts in trade between the parties.

Regarding the agricultural products which are out of scope of the Customs Union between Turkey and the EU, Turkey negotiates on the basis of limited number of products on which mutual concessions are granted as from the date of entry into force of the agreement and on the basis of tariff quotas. Turkey’s FTAs and the date of the elimination of customs duties on industrial products are laid down in the table below:

**Table I.5.B. Customs Union and Preferential Trade Arrangements**

No.	Country	Date of Signature	Entry into Force
1	<b>EU</b> - Customs Union - ECSC (FTA) - Agriculture: JCD 1/98 (PTA)	06.03.1995 25.07.1996 25.02.1998	31.12.1995 01.08.1996 01.01.1998
2	<b>EFTA</b>	10.12.1991	01.04.1992
3	<b>Israel</b>	14.03.1996	01.05.1997
4	<b>Macedonia</b>	07.09.1999	01.09.2000
5	<b>Croatia</b>	13.03.2002	01.07.2003
6	<b>Bosnia and Herzegovina</b>	03.07.2002	01.07.2003
7	<b>Palestine</b>	20.07.2004	01.06.2005
8	<b>Tunisia</b>	25.11.2004	01.07.2005
9	<b>Morocco</b>	07.04.2004	01.01.2006
10	<b>Syria</b>	22.12.2004	01.01.2007
11	<b>Egypt</b>	27.12.2005	01.03.2007
12	<b>Albania</b>	22.12.2006	-

### **I.5.C. Rules of Origin**

- Non-preferential rules of origin are contained in the Turkish Customs Law and in the Implementing Regulation of the Turkish Customs Law.
- Preferential rules of origin are contained in free trade agreements to which Turkey is party and in autonomous arrangements granted by Turkey since 2001 in the general system of preferences.
- For a product to obtain origin in such cases it is necessary for it to have undergone a minimum process or number of processes during the course of its manufacture. The obligatory operations or processing required on non-originating goods are clearly outlined in Article 6 and in columns 3 and 4 of Annex II to the Origin Protocols.
- In Turkey, a proof of origin (EUR.1, EUR-MED Certificates of Origin, Form A Origin Certificate) is only required when goods are imported under preferential systems.
- Non-preferential rules of origin regulations apply to imports made under the MFN treatment, while preferential rules of origin regulations apply to the goods imported under preferential arrangements.
- The general criteria for the qualification of goods as originating are the following:
  - Goods wholly obtained or produced.
  - Goods incorporating non-originating materials that have been sufficiently transformed.
- There are three criteria used in determining sufficient working or processing:
  - value percentage, which means that the value of the non-originating materials must not exceed a certain percentage of the ex-works price of the finished product;
  - change of tariff heading: where the non-originating raw materials or components used must have a different HS tariff heading from the HS tariff heading of the finished product;
  - specific rules: where very specific criteria are laid down.
- Turkey takes part in the System of the Pan Euro-Mediterranean Cumulation of Origin which comprises the System of Pan European Cumulation of Origin. Pan-Euro-Mediterranean Cumulation is a diagonal cumulation system in operation between Turkey, European Community and a number of European and Mediterranean countries. (Faeroe Islands, Iceland, Liechtenstein, Norway, Switzerland, Turkey, Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Palestinian Authority of the West Bank and Gaza Strip).
- In this system the Parties operate the same rules of origin and have free trade agreements between them that they can cumulate origin.

- Bilateral Cumulation is also applicable within the meaning of Turkey’s Free Trade Agreements with Croatia, Bosnia-Herzegovina and Palestine.

**Table I.5.C. Pan-Euro-Med Zone: Diagonal Cumulation**

Parties to the Pan-Euro Med Diagonal Cumulation					
1	Turkey	Israel		EU	01.01.2007
2	Turkey	Morocco		EU	01.01.2007
3	Turkey	Tunisia		EU	01.01.2007
4	Turkey	Egypt		EU	01.03.2007
5	Turkey	Egypt		Tunisia	01.03.2007
6	Turkey	Egypt		Morocco	01.03.2007
7	Turkey	Tunisia		Morocco	06.07.2006

Parties to the Pan-Euro Med Diagonal Cumulation					
1	Turkey	Egypt	Morocco	EU	01.03.2007
2	Turkey	Tunisia	Morocco	EU	01.01.2007
3	Turkey	Tunisia	Morocco	Egypt	01.03.2007

Parties to the Pan-Euro Med Diagonal Cumulation						
1	Turkey	Egypt	Morocco	EU	Tunisia	1.03.2007

### **Allocation of origin**

In general, the origin of the final product will be determined through the ‘last working or processing’ carried out provided that the operations carried out go beyond minimal operations.

If, in the country of final manufacture, the originating materials from one or more countries are not subject to working or processing going beyond minimal operations, the origin of the final product shall be allocated to the country contributing the highest value. For this purpose, the value added in the country of final manufacture — including the value of non-originating materials which have been sufficiently processed — is compared with the value of the materials originating in each one of the other countries.

If no working or processing is carried out in the country of export, the materials or products simply retain their origin if they are exported to one of the countries concerned.

### **Diagonal Cumulation**

Cumulation can be only applied if the countries of final manufacture and of final destination have concluded free trade agreements, containing identical rules of origin, with all the countries participating in the acquisition of originating status, i.e. with all the countries from which all the materials used originate.

Materials originating in the country which has not concluded an agreement with the countries of final manufacture and of final destination shall be treated as non-originating.

The following example explains how to determine origin.

### Example for allocation of origin through the last working or processing carried out:

Fabrics (HS 5112; obtained from lambs' wool not combed or carded) originating in Turkey are imported into Morocco; lining, made of man-made staple fibre (HS 5513) is originating in Egypt. In Morocco, suits (HS 6203) are made up.

The last working or processing is carried out in Morocco; the working or processing (in this case, making up suits) goes beyond minimum operations. Therefore, the suits obtain Moroccan origin and can be exported to other countries with which cumulation is applicable.

If in this example there is no free trade agreement with Pan-Euro-Med rules of origin between Morocco and Egypt, the diagonal cumulation implies that the Egyptian lining would need to be treated as nonoriginating and thus the suits will not obtain originating status.

## II. ECONOMIC RELATIONS BETWEEN CHILE AND TURKEY

### II.1. Bilateral Trade in Goods

Bilateral trade between Turkey and Chile has jumped to 477 million US\$ in 2006 from 351 million US\$ in 2005. The main reason of this 36% change is the increase in imports from Chile; a 116-million-dollar change in 2006 pushed the import value from 326 million US\$ in 2005 to 442 million US\$ in 2006. Thus, Chile became Turkey's 0.21% global trading partner in 2006.

**Table II.1. Trade Figures**

Turkey's Trade with Chile (million US\$)											
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Exports</b>	7.01	12.56	27.25	11.73	16.28	19.92	19.80	15.53	24.53	24.96	34.79
<b>Imports</b>	10.14	26.19	25.13	35.75	92.27	73.47	79.27	160.49	176.45	326.18	441.92
<b>Balance</b>	-3.13	-13.62	2.13	-24.02	-76.00	-53.55	-59.47	-144.96	-151.92	-301.22	-407.14
<b>Volume</b>	17.15	38.75	52.38	47.49	108.55	93.39	99.07	176.02	200.98	351.14	476.71
<b>Export/Import</b>	0.69	0.48	1.08	0.33	0.18	0.27	0.25	0.10	0.14	0.08	0.08

Turkey's Global Foreign Trade (billion US\$)											
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Exports</b>	23.22	26.26	26.97	26.59	27.77	31.33	36.06	47.25	63.17	73.48	85.50
<b>Imports</b>	43.63	48.56	45.92	40.67	54.50	41.40	51.55	69.34	97.54	116.77	138.30
<b>Balance</b>	-20.40	-22.30	-18.95	-14.08	-26.73	-10.06	-15.49	-22.09	-34.37	-43.30	-52.79
<b>Volume</b>	66.85	74.82	72.90	67.26	82.28	72.73	87.61	116.59	160.71	190.25	223.80
<b>Export/ Import</b>	53	54	59	65	51	76	70	68	65	63	62

Share Of Chile in Turkey's Global Foreign Trade											
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Exports</b>	0.030%	0.048%	0.101%	0.044%	0.059%	0.064%	0.055%	0.033%	0.039%	0.034%	0.041%
<b>Imports</b>	0.023%	0.054%	0.055%	0.088%	0.169%	0.177%	0.154%	0.231%	0.181%	0.279%	0.320%
<b>Volume</b>	0.026%	0.052%	0.072%	0.071%	0.132%	0.128%	0.113%	0.151%	0.125%	0.185%	0.213%

In the last ten years, except 1998, the trade balance was in favor of Chile; and Turkey's trade deficit showed a steady increase after 1999. The trade balance in 2006 reached to -407.1 million US\$ in favor of Chile, which was only -24.02 million US\$ in 1999.

Turkey's exports to Chile was 16 million US\$ in 2000 and rose to 34.8 million US\$ level in 2006 which is more than double amount of 2000. On the other hand, Turkey's imports from Chile, increasing steadily since 2001, reached a record of 441.92 million \$ in 2006, which was only 10.14 million \$ in 1996. Moreover, the ratio of "exports/imports" has been below 10% level in the last two years, which refers to an outstanding trade deficit for Turkey.

### II.1.A. Exports

Turkey's exports to Chile climbed up to a record high level of 34.8 million \$ in 2006, which points out a 39.4% increase compared to 2005. Also, the share of Chile in total exports of Turkey in 2006 rose up to 0.04 % from 0.03 % in 2005, which is still below the level of 0.06% in 2000.

**Table II.1.A.1. Turkey's Exports to Chile (million dollars)**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Exports to Chile</b>	7.01	12.56	27.25	11.73	16.28	19.92	19.80	15.53	24.53	24.96	34.79
<b>Exports to World</b>	23.224	26.261	26.974	26.587	27.775	31.334	36.059	47.253	63.167	73.476	85.502
<b>Share Of Chile</b>	0.03%	0.05%	0.10%	0.04%	0.06%	0.06%	0.05%	0.03%	0.04%	0.03%	0.04%
<b>Growth Rate</b>	-10.26%	79.26%	116.89%	-56.94%	38.73%	22.37%	-0.61%	-21.56%	57.96%	1.76%	39.38%

According to Broad Economic Category (BEC) classification, "intermediate goods" have been the essential part of Turkey's exports to Chile during the last decade, which has been showing a continuous rise since 2003 and has 57% share in the total amount in 2006. Consumer goods and capital goods also displayed significant increase in 2006 in comparison to 2005, with 67% and 23% growth rates respectively.

**Table II.1.A.2. Turkey's Exports to Chile (million dollars)**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Capital Goods</b>	0.31	0.13	0.29	0.40	1.05	4.40	4.27	2.49	3.44	3.96	6.61
<b>Intermediate Goods</b>	3.50	6.52	22.19	7.63	10.67	12.62	10.26	8.77	15.26	14.40	20.06
<b>Consumer Goods</b>	3.19	5.91	4.77	3.70	4.56	2.90	5.26	4.07	5.83	6.60	8.11
<b>Not Specified Elsewhere</b>	0000	0.000	0.001	0.000	0.000	0.000	0.000	0.197	0.002	0.001	0.004
<b>Total</b>	7.01	12.56	27.25	11.73	16.28	19.92	19.80	15.53	24.53	24.96	34.79

The commodity composition of exports shows that "manufacturing" plays a vital role in Turkey's exports to Chile, which covers 92% of the total amount in 2006.

**Table II.1.A.3. Turkey's Exports to Chile (Million \$, ISIC Rev. 3)**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Agriculture, Hunting and Forestry</b>	1.35	3.06	2.30	1.45	0.99	1.75	2.21	1.46	2.15	0.51	1.66
<b>Fishing</b>	0.00	0.00	0.00	0.00	0.02	0.01	0.00	0.00	0.00	0.00	0.00
<b>Mining and Quarrying</b>	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.41	1.14
<b>Manufacturing</b>	5.66	9.51	24.91	10.28	15.28	18.16	17.59	14.06	22.38	24.03	31.99
<b>Wholesale and Retail Trade</b>	0.00	0.00	0.04	0.00	0.00	0.00	0.00	0.01	0.00	0.00	0.00
<b>Total Export</b>	7.01	12.56	27.25	11.73	16.28	19.92	19.80	15.53	24.53	24.96	34.79

According to data of the last decade, manufacturing covers more than ¾ of total amount of Turkey's exports to Chile in each year, and the rise in manufacturing exports to Chile had always been the main element of the rise in total amount exported to Chile.

**Table II.1.A.4. Turkey's Exports to Chile (Million \$, ISIC Rev. 3)**

	1998	1999	2000	2001	2002	2003	2004	2005	2006
101 Agriculture, hunting and related service activities	2,30	1,45	0,99	1,75	2,21	1,46	2,15	0,50	1,66
102 Forestry, logging and related service activities	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,01	0,00
205 Fishing	0,00	0,00	0,02	0,01	0,00	0,00	0,00	0,00	0,00
314 Other mining and quarrying	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,41	1,14
415 Manufacture of food products and beverages	0,33	0,26	0,41	0,45	0,88	1,07	1,52	1,10	1,48
416 Manufacture of tobacco products	0,00	0,00	0,00	0,33	0,89	0,06	0,00	0,00	0,00
417 Manufacture of textiles	2,21	1,42	1,13	0,87	1,60	1,36	1,57	2,31	2,72
418 Manufacture of wearing apparel; dressing and dyeing of leather	0,64	0,63	0,28	0,44	0,44	0,34	0,86	0,76	0,32
419 Tanning and dressing of leather; manufacture of luggage, vanity cases, vanity bags, purses and trunks	0,00	0,00	0,00	0,00	0,00	0,06	0,00	0,00	0,01
420 Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw, wicker, cane, raffia and similar materials	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
421 Manufacture of paper and paper products	0,00	0,00	0,00	0,00	0,00	0,00	0,01	0,05	0,12
422 Publishing, printing and reproduction of recorded media	0,48	0,08	0,00	0,00	0,00	0,09	0,03	0,01	0,05
423 Manufacture of coke, refined petroleum products and nuclear fuel	0,00	0,00	0,00	0,00	0,03	0,09	0,11	0,57	1,33
424 Manufacture of chemicals and chemical products	0,71	0,41	0,75	0,96	0,88	0,76	1,60	0,86	0,67
425 Manufacture of rubber and plastics products	0,96	1,04	0,81	0,84	1,00	1,06	1,16	1,21	1,63
426 Manufacture of other non-metallic mineral products	1,71	0,72	1,35	0,56	0,68	0,50	0,48	0,67	0,65
427 Manufacture of basic metals	12,22	3,12	6,50	7,20	4,26	2,66	6,78	6,22	8,68
428 Manufacture of fabricated metal products, except machinery and equipment	3,47	0,43	1,19	1,78	2,14	1,96	3,92	4,48	4,67
429 Manufacture of machinery and equipment n.e.c.	1,21	0,72	1,97	0,89	2,44	2,08	2,93	3,56	4,78
430 Manufacture of office, accounting and computing machinery	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
431 Manufacture of electrical machinery and apparatus n.e.c.	0,07	0,24	0,08	3,03	1,51	0,97	0,08	0,38	0,55
432 Manufacture of radio, television and communication equipment and apparatus	0,39	0,70	0,14	0,04	0,00	0,07	0,00	0,01	0,00
433 Manufacture of medical, precision and optical instruments	0,03	0,02	0,05	0,07	0,02	0,04	0,03	0,08	0,08
434 Manufacture of motor vehicles, trailers and semi-trailers	0,44	0,46	0,59	0,67	0,78	0,83	1,27	1,66	3,95
435 Manufacture of other transport equipment	0,00	0,00	0,00	0,00	0,00	0,00	0,01	0,01	0,14
436 Manufacture of furniture; manufacturing n.e.c.	0,03	0,02	0,02	0,03	0,04	0,06	0,04	0,09	0,14
<b>Total Exports</b>	<b>27,25</b>	<b>11,73</b>	<b>16,28</b>	<b>19,92</b>	<b>19,80</b>	<b>15,53</b>	<b>24,53</b>	<b>24,96</b>	<b>34,79</b>

By looking through details, the data shows that "Manufacture of basic metals" has the first place in Turkey's exports to Chile with 8.67 million US\$ amount in 2006 with 25% share and "Manufacture of machinery and equipment", "Manufacture of fabricated metal products, except machinery and equipment", "Manufacture of motor vehicles, trailers and semi-trailers" follows it respectively.

The Table II.1.6 displays the first 20 export products ranked by 2006. The first 20 products account for 25.7 million US\$ which have 74% share in the total amount of the exports to Chile.

**Table II.1.A.5. Turkey's Exports to Chile**

	Description Of Product	Value (1000 dollars)		Share		Change
		2005	2006	2005	2006	2000/2006
1	721420 Bars & rods of iron/non-alloy steel (excl. of 72,13), cont. indentatio	5.213,8	5.966,9	20,89%	17,15%	14,44%
2	732219 Radiators for central heating, non-electrically heated, & parts there	3.003,9	3.500,6	12,04%	10,06%	16,54%
3	870323 Vehicles (excl. of 87.02 & 8703.10) princ. designed for the tpt. of pe	221,6	2.177,0	0,89%	6,26%	882,42%
4	870190 Tractors n.e.s. in 87.01 (excl. of 87.09)	0,0	1.959,4	0,00%	5,63%	-
5	721310 Bars & rods, hot-rolled, in irregularly wound coils, of iron/non-allo	691,7	1.347,2	2,77%	3,87%	94,77%
6	271290 Micro-crystalline petroleum wax, slack wax, ozokerite, lignite wax,	537,5	1.332,8	2,15%	3,83%	147,96%
7	240110 Tobacco, not stemmed/stripped	302,1	1.184,2	1,21%	3,40%	291,99%
8	251741 Granules, chippings & powder, of marble, whether or not heat-trea	399,7	1.113,3	1,60%	3,20%	178,50%
9	210210 Active yeasts	876,5	1.015,1	3,51%	2,92%	15,81%
10	870840 Gear boxes for the motor vehicles of 87.01-87.05	777,5	992,5	3,12%	2,85%	27,64%
11	720840 Flat-rolled prods. of iron/non-alloy steel, of a width of 600mm/more	0,0	762,3	0,00%	2,19%	-
12	732410 Sinks & wash basins, of stainless steel	420,0	645,0	1,68%	1,85%	53,57%
13	611595 Hosiery, Varicose, Veins	853,8	598,2	3,42%	1,72%	-29,94%
14	630260 Toilet linen & kitchen linen, of terry towelling/sim. terry fabrics, of	518,6	578,2	2,08%	1,66%	11,50%
15	701328 Stemware drinking glasses, other than of glass-ceramics-other	524,0	543,6	2,10%	1,56%	3,74%
16	630532 Flexible intermediate bulk conts. of a kind used for the packing of	45,6	455,6	0,18%	1,31%	900,09%
17	570330 Carpets & oth. textile floor coverings, tufted, whether or not made	245,8	419,2	0,98%	1,20%	70,52%
18	845011 Household/laundry-type washing machines (incl. machines which	262,7	404,7	1,05%	1,16%	54,04%
19	721391 Bars & rods, hot-rolled, in irregularly wound coils, of iron/non-allo	0,0	366,8	0,00%	1,05%	-
20	391620 Monofilament of which any cross-sectional dim. exceeds 1mm; ro	0,2	360,9	0,00%	1,04%	163179,64%
	Sub-Total	14895,1	25723,4	59,68%	73,94%	2390,53%
	Total	24959,4	34788,1	100%	100%	39,38%

## II.1.B. Imports

Turkey's imports from Chile reached to a record high amount of 442 million US\$ in 2006. Since 2002, the total value of imports from Chile has been showing a significant continuous rise, and performed 84.8% and 35.4% growth rates in 2005 and 2006 respectively. According to this progress, the share of Chile in Turkey's total imports increased to 0.32%.

**Table II.1.B.1. Turkey's Imports from Chile (Million \$)**

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Imports From Chile	26,19	25,13	35,75	92,27	73,47	79,27	160,49	176,45	326,18	441,92
Imports From World	48558,72	45921,39	40671,27	54502,82	41399,08	51553,80	69339,69	97539,77	116774,15	138295,38
Share Of Chile	0,0005	0,0005	0,0009	0,0017	0,0018	0,0015	0,0023	0,0018	0,0028	0,0032
Growth Rate (%)	#REF!	-4,05	42,29	158,10	-20,37	7,89	102,46	9,94	84,86	35,49

According to BEC classification, it is obvious that "intermediate goods" account for nearly the total amount of Turkey's imports from Chile for the last decade and with 98.9% and 98.6% share in 2006 and 2005 respectively. On the other hand, the amount of "consumer goods" is also rising steadily after 2001, rising up to 4.8 million US\$ in 2006 from 0.7 million US\$ in 2001.

**Table II.1.B.2. Turkey's Imports from Chile (Million \$)**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Capital Goods</b>	0.00	0.84	0.00	0.00	0.00	0.00	0.00	0.48	0.00	0.00	0.06
<b>Intermediate Goods</b>	9.04	24.08	23.05	34.85	90.47	72.71	76.71	157.46	173.43	321.73	437.03
<b>Consumer Goods</b>	1.10	1.27	2.07	0.90	1.80	0.76	2.56	2.55	3.02	4.44	4.83
<b>Total</b>	10.14	26.19	25.13	35.75	92.27	73.47	79.27	160.49	176.45	326.18	441.92
<b>Share Of Intermediate Goods</b>	89.20%	91.96%	91.75%	97.48%	98.05%	98.96%	96.77%	98.11%	98.29%	98.64%	98.89%

Looked through the total imports data of Turkey, it can be claimed that Turkey maintains 0.44% of the total intermediate goods demand and 0.3% of the total consumer goods demand from Chile in 2006, while both of them show fluctuating share trends.

**Table II.1.B.3. Share of Chile in Turkey's Imports According to BEC**

	2000	2001	2002	2003	2004	2005	2006
<b>Capital Goods</b>	0.000%	0.000%	0.000%	0.004%	0.000%	0.000%	0.000%
<b>Intermediate Goods</b>	0.251%	0.240%	0.204%	0.317%	0.257%	0.393%	0.443%
<b>Consumer Goods</b>	0.026%	0.020%	0.052%	0.033%	0.025%	0.032%	0.030%

The commodity composition of imports shows that “manufacturing” has the major share in the total amounts of imports from Chile with 436.6 million US\$. In the second place, “agriculture, hunting and forestry” exists with 5.25 million US\$ and sum of these two sections account for 99% of the total imports in 2006.

**Table II.1.B.4. Turkey's Imports from Chile (Million \$, ISIC Rev. 3)**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Agriculture, Hunting and Forestry</b>	5.07	1.21	4.92	3.46	1.46	1.33	2.00	2.05	3.72	4.82	5.25
<b>Mining and Quarrying</b>	0.00	10.92	0.00	1.98	4.65	0.00	0.00	0.00	0.00	6.71	0.00
<b>Manufacturing</b>	5.06	14.06	20.17	30.32	86.16	72.14	77.27	158.37	172.69	314.51	436.59
<b>Social, Community and Individual Services</b>	0.001	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Wholesale and Retail Trade</b>	0.00	0.00	0.04	0.00	0.00	0.00	0.00	0.07	0.04	0.12	0.09
<b>Total Import</b>	10.14	26.19	25.13	35.75	92.27	73.47	79.27	160.49	176.45	326.18	441.92

By looking through the details in Table II.1.11, it can be claimed that “Manufacture of basic metals” has the biggest share in Turkey’s imports from Chile with 410 million US\$. “Manufacture of chemicals and chemical products”, “manufacture of paper and paper products” and “agriculture, hunting and related service activities” follow it with 14.17 million US\$, 10.88 million US\$ and 4.99 million US\$ respectively.

**Table II.1.B.5. Turkey's Imports from Chile (Million \$)**

	<b>Description</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
101	Agriculture, hunting and related service activities	1.17	1.21	1.75	0.99	1.46	0.42	1.98	2.03	3.52	4.58	4.99
102	Forestry, logging	3.90	0.00	3.17	2.46	0.00	0.91	0.02	0.02	0.20	0.25	0.26
313	Mining of metal ores	0.00	10.92	0.00	1.98	4.65	0.00	0.00	0.00	0.00	6.71	0.00
415	Manufacture of food products and beverages	2.53	5.75	8.56	1.72	0.70	0.09	0.76	0.69	0.54	1.24	1.13
417	Manufacture of textiles	0.09	0.00	0.00	0.03	0.00	0.04	0.94	1.26	0.29	0.80	0.03
418	Manufacture of wearing apparel	0.00	0.00	0.00	0.00	0.00	0.01	0.00	0.00	0.01	0.03	0.05
419	Tanning and dressing of leather; manufacture of luggage, handbags,	0.02	0.00	0.00	0.00	0.02	0.00	0.00	0.00	0.03	0.00	0.00
	<b>Description</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
420	Manufacture of wood and of products of wood and cork, except furniture;	0.00	0.05	1.35	0.31	0.46	0.09	0.11	0.10	0.03	0.04	0.08
421	Manufacture of paper and paper products	1.58	4.22	1.05	0.92	3.51	0.00	0.06	0.00	1.45	2.50	10.88
422	Publishing, printing and reproduction of recorded media	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
424	Manufacture of chemicals and chemical products	0.17	0.49	0.68	0.89	2.04	1.75	2.02	5.06	5.38	8.03	14.17
425	Manufacture of rubber and plastics products	0.01	0.01	0.01	0.00	0.05	0.01	0.14	0.11	0.02	0.06	0.02
426	Manufacture of other non-metallic mineral products	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01
427	Manufacture of basic metals	0.00	2.70	8.52	26.44	79.35	70.13	73.23	150.64	164.72	301.42	410.03
428	Manufacture of fabricated metal products, except machinery and equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.07	0.02	0.08
429	Manufacture of machinery and equipment n.e.c.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.50	0.15	0.00	0.09
430	Manufacture of office,	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
431	Manufacture of electrical machinery	0.00	0.01	0.00	0.00	0.03	0.00	0.01	0.00	0.00	0.03	0.00
432	Manufacture of radio, television	0.68	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.32	0.00
433	Manufacture of medical, precision and optical instruments,	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
434	Manufacture of motor vehicles, trailers and semi-trailers	0.00	0.84	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.00
436	Manufacture of furniture; manufacturing n.e.c.	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.02

	Description	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
792	Cinema, Radio, Television and other amusement activities	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
851	Recycling	0.00	0.00	0.04	0.00	0.00	0.00	0.00	0.07	0.04	0.12	0.09
	<b>Total Import</b>	10.14	26.19	25.13	35.75	92.27	73.47	79.27	160.49	176.45	326.18	441.92

Table II.1.12 shows the first 20 import products which formed into rank by 2006. According to the data, copper and chemical products has the majority in the total amount, while the first 20 products explain 99.5% of the total imports from Chile in 2006.

**Table II.1.B.6. Turkey's Imports from Chile**

	HS 6-Digit	Description	Value (1000 dollars)		Share		Change
			2005	2006	2005	2006	2006
1	740311	Cathodes & sections of cathodes, of ref. copper, unwrought	301.297.3	403.356.4	92.4%	91.27%	33.87%
2	283421	Nitrates of potassium	4.839.5	8.970.1	1.5%	2.03%	85.35%
3	740200	Unrefined copper; copper anodes for electrolytic refining	0.0	6.668.9	0.0%	1.51%	-
4	470321	Chemical wood pulp, soda/sulphate, other than dissolving grades, semi-bleac	2.033.8	6.299.7	0.6%	1.43%	209.76%
5	470329	Chemical wood pulp, soda/sulphate, other than dissolving grades, semi-bleac	415.1	3.936.6	0.1%	0.89%	848.25%
6	080810	Apples, fresh	1.813.8	1.983.6	0.6%	0.45%	9.36%
7	283691	Lithium carbonates	1.018.0	1.828.4	0.3%	0.41%	79.61%
8	120991	Vegetable seeds, of a kind used for sowing	1.567.0	1.073.3	0.5%	0.24%	-31.50%
9	380892	Pesticides, rodenticides, nes, for retail sale	529.5	946.8	0.2%	0.21%	78.82%
10	310430	Potassium sulphate	399.3	802.6	0.1%	0.18%	101.02%
11	120600	Sunflower seeds, whether or not broken	67.1	735.8	0.0%	0.17%	996.80%
12	282520	Lithium oxide & hydroxide	0.0	653.1	0.0%	0.15%	-
13	081050	Kiwifruit, fresh	381.4	577.6	0.1%	0.13%	51.46%
14	220421	Wine other than sparkling wine of fresh grapes, incl. fortified; grape must ...	350.8	444.3	0.1%	0.10%	26.66%
15	150420	Fats & oils & their fractions, of fish, other than liver oils, whether or n ...	143.3	391.4	0.0%	0.09%	173.17%
16	310250	Sodium nitrate	337.4	316.8	0.1%	0.07%	-6.11%
17	130239	Mucilages & thickeners (excl. of 1302.31 & 1301.32), whether or not modifie ...	243.8	263.4	0.1%	0.06%	8.04%
18	080610	Grapes, fresh	108.2	243.7	0.0%	0.06%	125.23%
19	481092	Multiply paper & paperboard, coated on one/both sides with kaolin...whether ...	20.9	211.3	0.0%	0.05%	910.94%
20	080820	Pears & quinces, fresh	17.0	168.9	0.0%	0.04%	893.29%
		<b>Sub-Total</b>	315.583.1	439.872.9	96.8%	99.54%	39.38%
		<b>Total</b>	326.177.0	441.924.5	100.0%	100.00%	35.49%

## **II.2. Bilateral Trade in Services:**

In this area of the bilateral relation there is no reliable data accounting the bilateral flow of services between Turkey and Chile. Yet, according to Turkish outward direct investment records there is no outward direct investment from Turkey to Chile.

## **II.3. Bilateral Investments:**

### **II.3.A. Turkish Investments in Chile:**

According to the statistics of the Undersecretariat of Treasury, there are not any registered Turkish investments in Chile.

### **II.3.B. Chilean Investments in Turkey**

According to the statistics of the Undersecretariat of Treasury, there are 3 companies operating in Turkey with varying percentages of Chilean capital. 2 of these companies are involved in agricultural services, mainly production and export of fresh fruits, whereas one company operates in the service sector.

## **III. TRADE AND INVESTMENT POLICIES**

### **III.1. Introduction**

The basic features of Turkey's trade and investment policies are based on its WTO obligation and the Common Commercial Policy of the EU. Moreover, the subject is also presented in Chapter I and will be further examined in this chapter.

### **III.2. Measures affecting Trade in Goods**

#### **III.2.A. Tariffs**

The Customs Union covering industrial products (excluding the products of the European Coal and Steel Community (ECSC)) and processed agricultural products which came into force on 1 January 1996 with Decision No: 1/95 of the Turkey - EC Association Council was an outcome of these calendars. In the context of the Customs Union, Turkey applies the Community's Common Customs Tariff (CCT) on the imports of industrial products from third countries. In this regard, the customs tariff duties on industrial products are determined annually at the Annex II of the Import Regime Decree.

The only exception was a limited number of sensitive products, such as automobiles, footwear, some leather products and furniture. With the end of five-year transitional period on 01.01.2001, customs duties of those products were lowered to the level of the EU's common customs tariffs.

With the Customs Union, Turkey's weighted average rates of protection through customs duties on industrial imports from the EU and the EFTA countries dropped from approximately 10% to zero. For products imported from third countries, the rates in question declined from

approximately 15% to 5.6% in 1996. As of January 2007, the average of customs duties decreased to 4.2%.

On the other hand, average customs tariff on the ECSC products which are not covered by the Customs Union is approximately 8.2 % as of January 2007 for third countries. The customs duty between Turkey and the EU are eliminated by the EU as of 1996 and by Turkey as of 1999.

As for the agricultural products, as a result of the Uruguay Round, Turkey has committed to the WTO to lower its tariffs by an average of 24% (minimum 10% for each tariff line) in ten years. Within the context of this commitment, Turkey lowered tariff rates applied in agricultural products by 2.4% annually between 1995 and 2004, and Turkey adopted the consolidated bound tariff rates in agricultural products in 2004. Under the 2007 Import Regime Decree, average applied tariff rate in agricultural products at the Annex I of the Import Regime Decree is currently 59.5% while average applied tariff rate is 1.73% for industrial products at the Annex II, and 8.6% for processed agricultural product at the Annex III. Most of the agricultural products listed in the Import Regime are subject to ad valorem duty while some of the agricultural products that are in the context of industrial products under the Customs Union are subject to specific duty. Processed agricultural products are subject to an agricultural rate in terms of EUR/100 kg/net while fish and fishery products listed at the Annex IV are subject to Mass Housing Fund between the values of 7% and 35% calculated on CIF value in addition to their applied tariff rates.

Import policies on the agricultural products are determined by considering production volumes at local and national levels, domestic and foreign market prices, the balance between the demand and supply, exchange rates, and the other macroeconomic variables. Besides these, the agricultural products can be imported within the framework of the Import Regime determined annually and published in the Official Gazette in accordance with the Annex of the Council Decision No:95/7606, the Import Regime Decree and other provisions of the Turkish Import Legislation as well as Turkey's commitments generating from international treaties. Importation of the agricultural products is subject to control of the Ministry of Agriculture and Rural Affairs for sanitary and phytosanitary safety purposes under the Communiqué 2007/21 on Standardization in Foreign Trade, issued by the Undersecretariat for Foreign Trade.

#### **i. Generalized System of Preferences and Free Trade Agreements (FTAs)**

Decision No: 1/95 obliges Turkey to adopt EU's Common Commercial and Competition Policies. In this line, Turkey initiated a Generalized System of Preferences (GSP) by harmonizing with the EU's GSP on 1 January 2002 and extended the system with the view of aiming to align itself with the EU's GSP scheme in the consecutive years. As of 1 January 2006, Turkey has fully aligned herself with the EU's GSP scheme for the products covered by the Customs Union. Thus, in line with the EU, Turkey grants preferential treatment to the selected countries and territories which are classified as "developing countries" and "least developed countries" by Worldbank. Beneficiary countries are announced annually in Annexes of the Import Regime Decree.

Within the framework of the FTAs Turkey has been committed to hold under the Turkey-EU Association Council Decision No:1/95, agricultural products are assessed differently when compared to industrial products; and concessions regarding certain agricultural products are given in terms of tariff quotas with reduced tariff rates or tariff exemptions.

## **ii. Suspension Regime and Tariff Quotas for Industrial Products**

As a part of the Common Commercial Policy within the framework of the Customs Union, Turkey participates in the relevant Committee of the EU Commission for tariff suspensions and quotas. The products on which tariff duties suspended are listed annually at the Annex V of the Import Regime Decree. The Suspension List is updated every six-month periods in line with the EU Suspension List.

Tariff quotas are granted in accordance with domestic industry needs.

### **III.2.B. Non-tariff Measures**

Essential principal of the Import Regime is free importation of the goods. Restrictions are applied only in exceptional cases for ensuring public morality, public order or public security; for protecting human, animal and plant health; or for protecting industrial and commercial property. Import Communiqués published annually for the transposition of international agreements and other import related legislation into foreign trade applications, and they list actual products which may be subject to conditions and specific requirements in import.

### **III.2.C. Import Customs Procedures**

The customs rules that shall apply to goods and means of transport entering into the customs territory of the Republic of Turkey have been determined by Customs Law No 4458 of 27 October 1999. The Implementing Regulation of Customs Law (IRCL) contains detailed provisions for the implementation of the Customs Law.

Article 3 of the Customs Law contains provisions on the customs status of the goods, which means that goods are or are not in free circulation in the customs territory of Turkey. Article 78 of the Customs Law contains provisions on the goods lose their customs status when (a) the declaration for release for free circulation is invalidated, or (b) when import duties are remitted or reimbursed.

Articles 36 to 50 of Customs Law contain the provisions applicable to goods brought into the customs territory, from the time of their entry to the time of their being assigned customs-approved treatment or use. These provisions cover customs supervision, presentation of goods to customs, summary declaration, unloading of goods presented to customs, obligation to assign a customs-approved treatment or use to goods presented to customs, as well as temporary storage of goods.

The Customs Law also contains provisions on:

- "Customs-approved treatment or use of goods", which covers: (a) the placing of goods under a customs procedure, (b) their entry into a free zone, (c) their re-exportation from the customs territory of Turkey, (d) their destruction, (e) their abandonment to the Exchequer.
- "Customs procedures", which are (a) release for free circulation; (b) transit, (c) customs warehousing, (d) inward processing, (e) processing under customs control, (f) temporary admission, (g) outward processing, (h) exportation.

Release for free circulation of the goods coming from outside the customs territory of Turkey shall entail the application of trade policy measures, the completion of the other formalities laid down in respect of the importation of goods and the charging of any duties legally due.

Turkey has a comprehensive computer system, BILGE, in place for customs control and trade facilitation. 99.7% of all import customs transactions are carried out electronically. Customs declarations are made on the single administrative document, in use since 1996. Traders can submit their declarations through kiosks located in automated customs offices, or via Internet, or from their own offices through EDI (Electronic Data Interchange) messages.

### **III.2.D. Measures Affecting Exports**

#### **i. Export Subsidies**

Regarding agricultural products Turkey provides export subsidies in conformity with the provisions of the WTO Agreement on Agriculture. With this respect, as any member country Turkey provides export subsidies only for products listed in her commitment schedule. Turkish commitment schedule is composed of 44 commodity groups and for each group Turkey has set up bound rates to be paid as export refunds. Within the period of 1995-2004 these export subsidies have been reduced by 14% with respect to volumes and 24% with respect to budgetary outlays. Effective export refund amounts are determined taking into account Turkey's WTO export subsidy commitments and as well as production, costs and market conditions. They are either given in indirect form or cash payments. Refund in basic agricultural products subject to processing or processed agricultural products is given indirectly, whereas refund for fresh fruits or vegetables paid in cash. However, these cash payments have also been converted to indirect payments.

Currently, Turkey provides a subsidy program titled "Export Subsidy Program for Agricultural Products" (Decree No. 2007/1) aiming to develop Turkey's export potential in 16 processed agricultural products. Authority for the subsidy is the Money-Credit and Coordination Council, which is comprised of the Ministers of State, the Undersecretariat of the Minister of Finance, the Undersecretariat for State Planning Organization, the Undersecretariat for Foreign Trade, the Undersecretariat for Treasury and the Head of the Central Bank. The subsidies are provided in the form of deduction of debts to the public corporations (taxes, social insurance premium costs, energy costs, telecommunication costs) from subsidy entitlements. This system has been used owing to the annual volume commitment of Turkey, originated in the WTO Agreement on Agriculture.

#### **ii. The Inward Processing System**

Since Custom Union Decision entered into force on January 1st 1996, between Turkey and European Union via 1/95 Decree of Turkey-EC Association Council, Turkey has adopted various regulations in conformity with EC's regulations. One of the mentioned regulations is Turkey's export incentive system which was abolished and replaced by Inward Processing Regime (IPR) via Decree No. 95/7615 put into force on January 1st 1996. On the other hand for today, implemented Inward Processing Regime (IPR) via Decree No. 2005/8391 put into force on January 27<sup>th</sup> 2005.

IPR is a system allowing Turkish manufacturers/exporters to obtain raw materials, intermediate unfinished goods that are used in the production of the exported goods without paying custom duty and being subject to commercial policy measures. Having granting IPR authorization, the owner of the IPR authorization is obliged to import goods stated on authorization and export them after processing the imported goods.

Two main types of system can classify inward processing;

#### **a) The Suspension System**

The suspension system provides tax concession to Turkish manufacturer-exporter/exporters by permitting manufacturer-exporter/exporters to import raw materials intended for use in production process and export final goods without subject to import duties and VAT during importation. Under this system, beneficiary of IPR has to submit security covering total amounts of all duties and VAT to the Custom authorities at importation.

In the suspension system, manufacturer-exporters/exporters can use equivalent goods instead of the import goods stated on the authorization certificate. Equivalence is a procedure, which allows the substitution of the goods in free circulation in place of the import goods stated on the authorization certificate. It should be emphasized that equivalence needs to be considered in terms of inputs (raw materials or unfinished intermediate goods) not in terms of the compensating goods (final goods). The equivalent goods must be of the same quality and have the same features with the import goods.

#### **b) Drawback System**

The import charges of the goods paid during importation can be subject to tax reimbursement after the export commitments are fulfilled. Under the drawback system import duty and VAT have to be paid when the goods enter the free circulation into Turkey. Reimbursement of VAT and import duty can be claimed when the compensating products are exported.

### **III.2.E. Technical Barriers to Trade**

Turkey has undergone a profound change as a result of its approximation in many respects to the European Union within the framework of the Turkey – EU Customs Union. This Customs Union stipulates the elimination of not only classical trade restricting measures but also the barriers to trade arising from different regulatory practices.

Turkey's restructuring its system is progressive. The transformation takes places on four main grounds which was described by law to transpose different elements of the EU technical legislation into Turkish order and to identify the rights and duties of the regulators, producers and third party conformity assessment bodies:

- Regulation on The Affixing and Use Of the CE Conformity Marking,
- Regulation on Conformity Assessment Bodies and Notified Bodies,
- Regulation on Market Surveillance of the Goods,

- Regulation on the Exchange of Information on Technical Legislation on Goods and Standards Between Turkey and the European Union.

### **i. Legal Framework of Technical Barriers to Trade**

The Undersecretariat of Foreign Trade (UFT) published the “Ministerial Decree on the Regime Regarding Technical Regulations and Standardization for Foreign Trade” and its supplementary legislation in 1995 with the aim of providing transparency in the implementation and assembling all the dispersed regulations regarding standardization policies in Turkey.

The Regime is amended by the Decree No: 2005/9454 on “The Regime Regarding Technical Regulations and Standardization for Foreign Trade” which was put into force by the Council of Ministers on 7.9.2005 and was promulgated in the Official Gazzette dated 13.10.2005.

The Regime is in conformity with the requirements laid down in the Agreement on Technical Barriers to Trade of the World Trade Organization. It prohibits discrimination among trading partners and it aims to ensure that import products comply with the requirements of protection of human health and safety, animal or plant life or health or the consumer or the environment.

This Decree covers the technical regulations, standards, conformity assessment and inspections to which import and export products are subject, the obligations of the importers and exporters, the powers and the obligations of the customs authorities and related authorities, the sanctions to apply and the notifications related to these issues.

The standardization policies and implementations concerning foreign trade shall be enforced in the framework of this Decree, the directives and the communiqués published depending on the Decree and the instructions given to the related authorities by the UFT under multilateral and bilateral international treaties.

### **Communiqué of Standardization for Foreign Trade No. (2007/1)**

About 380 industrial (at 12 digit) products within the scope of some Turkish Standards, which are at the same time mandated in the domestic market, are subject to inspection by the Turkish Standards Institution (TSE). The number of mandatory standards in that Communiqué is 184. The inspections are carried out in respect of minimum health, safety and protection of environment, providing adequate information to the consumers.

If the importer declares that the product is in conformity with the relevant international standards (ISO, CEN, IEC, CENELEC, ETSI), the inspection may be realized, upon request, according to these international standards.

For the products which are CE marked according to regulations of the European Communities and which are freely circulated in the European Union, a letter of conformity shall be issued directly in case that the “Declaration of Conformity” is submitted to Turkish Standards Institution before the import stage.

### **Communiqué of Standardization for Foreign Trade No. (2007/2)**

According to this Communiqué, agricultural products such as fresh fruits and vegetables, dry and dried fruits, legumes and vegetable oils within the scope of approximately 70 standards are subject to standardization controls in imports. These inspections are also carried out by the “Inspectorates of Standardization for Foreign Trade”, who are bound to Undersecretariat for Foreign Trade.

### **Communiqué of Standardization for Foreign Trade No. (2007/3)**

For the importation of wastes and scrap metal, the importer shall receive a Control Certificate approved by the Ministry of Environment and Forestry. This Communiqué also includes the list of wastes, whose imports are prohibited according to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

In order to receive the Control Certificate, the importer shall submit some documents such as the certificate of analysis, certificate of radiation to the Ministry of Environment and Forestry before the import stage.

### **Communiqué of Standardization for Foreign Trade No. (2007/4)**

According to this Communiqué, importation of certain goods such as pharmaceutical products, medicines, some chemicals, etc., is subject to the control of Ministry of Health.

For the importation of these goods, the importer shall submit some documents such as the proforma invoice or invoice, the health certificate and certificate of analysis etc. to the Ministry of Health before the import stage.

On the other hand, according to this Communiqué, for the products which are certified (CE Mark etc.) according to regulations of the European Communities and which are freely circulated in the European Union, the Ministry approves the Control Certificate directly in case that the “Declaration of Conformity” is submitted before the import stage.

### **Communiqué of Standardization for Foreign Trade No. (2007/5)**

According to this Communiqué, the importation of certain goods such as foodstuffs, agricultural and animal products and veterinary products is subject to the control of Ministry of Agriculture and Rural Affairs. In order to obtain the Control Certificate, the importer shall submit certain documents such as the proforma invoice or invoice etc. to the Ministry of Agriculture and Rural Affairs before the import stage.

### **Communiqué of Standardization for Foreign Trade No. (2007/6)**

For the importation of chemical products, which are listed at the Annexes of this Communiqué, the importer shall receive either the Control Certificate or the Certificate for the Import of Chemical Products, depending on the products, approved by the Ministry of Environment and Forestry. On the other hand, this Communiqué prohibits import of some kind of chemicals.

The documents that are required to get the Control Certificate are stated in the Communiqué, such as proforma invoice, certificate of analyses, the label of the product etc. The importer shall submit these documents before the import stage. The Control Certificate and the Certificate for the Import of Chemical Products should be söz konusu toplantı sonrasında submitted to the customs administration during the import stage.

#### **Communiqué of Standardization for Foreign Trade No. (2007/7)**

For the importation of certain (solid) fuels, which are listed at the Annex of this Communiqué, the importer shall receive the Control Certificate approved by the Ministry of Environment and Forestry.

The documents that are required to get the Control Certificate are stated in the Communiqué, such as proforma invoice, certificate of analyses etc. The importer shall submit these documents before the import stage. The Control Certificate should be submitted to the customs administration during the import stage.

#### **Communiqué of Standardization for Foreign Trade No. (2005/7)**

The importer shall receive the Certificate of Conformity from the Tobacco, Tobacco Products and Alcoholic Beverages Market Regulation Authority for the importation of tobacco, tobacco products and alcoholic drinks.

### **ii. Standards**

Standards are implemented voluntarily except for 184 products indicated in the corresponding legislation. Turkish Standards Institute, TSE, is a semi-autonomous entity, which is the only authority to develop standards. Scope of activity of TSE includes quality and system certification, Product and Service Site Certification, Personnel Certification, Laboratory testing, Calibration. TSE is also an affiliate member of European Committee for Electrotechnical Standardization (CEN/CENELEC) and it has been active in this arena since 1950s. The Institution is at the stage of applying full membership to the CEN/CENELEC as it will conclude a few remaining conditions of European standardization system. Having almost 95 % of international standards in Turkish system, it is certain that TSE will be an active stakeholder in European system very soon.

### **iii. Technical Regulations**

Significant progress has been seen in especially in the implementation of the EU's horizontal legislation. The alignment of the sector-specific legislation has also accelerated. Up to now, nearly 232 out of 300 technical legislations have been put into effect.

After the enactment of the horizontal legislation the concern shifted to the effective implementation of that legislation. Building up the required infrastructure and setting the administrative framework for conformity assessment and market surveillance have been the main focus.

#### **iv. Implementation of CE Directives**

Some New Approach Directives concerning medical devices, active implantable medical devices, machinery, low voltage equipment and electromagnetic compatibility are put into force by the relevant technical regulations in the domestic market. Import controls of medical devices, active implantable medical devices, machinery, low voltage equipment and electromagnetic compatibility are regulated by the Communiqué on the Imports of CE Marked Products, which was promulgated in the Turkish Official Gazette dated 14.2.2004 and numbered 25373.

According to this Communiqué, abovementioned products are subject to inspection of the TSE, which was authorized by the Ministry of Health to carry out these inspections, at the import stage. Products falling under the directives on machinery, low voltage and electromagnetic compatibility are also inspected by the TSE on behalf of the Ministry of Industry and Trade and the Ministry of Health. The inspections are carried out in respect of essential requirements, which are laid down in the technical regulations regarding these products.

A letter of conformity shall be issued by the TSE in case that the “Declaration of Conformity” is submitted to the TSE before the import stage. However, the TSE may still request the technical file and test the products, if required, with the aim of checking out whether the certificates and/or marks (CE mark) are issued in accordance with relevant Regulations.

Besides, products, which are certified according to directives of the European Communities mentioned above, and which are freely circulated in the European Union, are not subject to any inspection procedure at the import stage.

#### **v. Market Surveillance System**

Market surveillance concept has also deeply changed into a new direction in Turkey with the Customs Union. The Framework Law, which lays down the general principles of product safety and requires the rules on the product safety applicable on the Community market, brought about fundamental changes in the national market surveillance system.

Turkey is to transpose the “Council Regulation No.339/93 on Checks for Conformity with the Rules on Product Safety in the Case of Products Imported from Third Countries”. The transposition is supposed to abolish import controls at the borders between Turkey and the Community while establishing a common system against products coming from third countries.

The new system also employs new instruments of risk analysis method and the Product Safety System (PSS). The products that are subject to control at customs will be determined according to risk analysis method, which requires evaluation of the information from different sources such as results of market surveillance activities on the domestic market, notification from the Commission and complaints from consumers.

After transposing related EU directives to the Turkish order, Turkey started to perform import checks of a group of products such as toys, personal protective equipments, cosmetics, detergents, radio and telecommunication terminal equipment, batteries and accumulators according to the rules applicable in the new system.

## **vi. Accreditation and Conformity Assessment Activities**

In addition to technical harmonization process, Turkey has been establishing a comparable national quality infrastructure system since 1996. The main elements of this infrastructure are standardization, conformity assessment, testing, certification, accreditation, inspection, calibration and metrology.

In ensuring international acceptance of certificates issued by “conformity assessment bodies”, the most important element is accreditation. An independent, competent and impartial accreditation body in a country guarantees the confidence in the system.

In order to create an accreditation system, which is equivalent to that of the EU and functions according to internationally recognized principles; Turkish Accreditation Agency (TURKAK) was established in 1999 and started its accreditation activities in 2001 after completing organizational structuring.

To enhance international cooperation, TURKAK applied to European Cooperation for Accreditation (EA) and was admitted to the membership of EA in late 2002. EA membership, which is the first step for international acceptance, paves the way for membership of global organizations such as International Accreditation Forum (IAF) and International Laboratory Accreditation Cooperation (ILAC).

Therefore, TURKAK's structure and operations must comply with international standards and guidelines. Concluding Recognition Agreements with international or regional accreditation bodies can be taken as evidence for such compliance. To this end, TURKAK has already finalized Multilateral Agreement (MLA) with EA members in April 2006 with reference to the activities of system certification, inspection, testing and calibration. Hence, international acceptance of certificates issued by Turkish conformity assessment bodies is ensured.

Designation of Turkish notified bodies is another important step for the effective implementation of the EU legislation. Notified bodies are the special version of conformity assessment bodies which inspect, test and certificate products that are subject to New Approach Directives and require the CE marking. In this field, three Turkish notified bodies has been recently assigned in three new approach directives, namely “lifts”, “construction materials” and “appliances burning gaseous fuels”. It is expected that in 2007 the new directives will be granted to those bodies and also the new potential candidates which are under the technical competence assessment of TURKAK are going to join the conformity assessment market which is one of the emerging markets in Turkey. There are almost 5.000 public and private laboratories and 120 certification bodies in this sector.

## **vii. Checks and Inspections in the Area of Food Control**

For the controls on quality standards, Undersecretariat of Foreign Trade (UFT) has a total of 45 inspection units referred to as Group of Inspectors of Standardization in Foreign Trade, within the 8 Regional Directorates (Marmara, Western Anatolia, South Anatolia, Eastern Black Sea, Western Black Sea, South Eastern Anatolia, Central Anatolia and Eastern Anatolia) under the Directorate General for Standardization for Foreign Trade. The inspection units perform random quality checks of agricultural products and issue Inspection Certificates for some agricultural products to be exported/imported within the scope of the mandatory standards for exports and imports.

In five cities (İstanbul, İzmir, Mersin, Malatya and Trabzon), Directorates of Laboratories support the inspections and these laboratories are fully equipped. Besides these Directorates, two Directorates of Laboratories in Ankara and Edirne are planned to start operating. The results of the Chemical analyses being implemented on materials which are inspected by UFT Inspectors are sent to the Inspection Units being responsible. In the year 2002, 3931 analyses were performed and reported in the Directorates of Laboratories. The Directorates of Laboratories are under the administration of the Regional Directorates.

In these laboratories analyses are performed by chemists who take the responsibility for the analysis. For holding a position as the Director of a Directorate of Laboratory, it is obligatory to have a degree on Food Engineering, Chemical Engineering, or Chemistry. At most, oil analyses (olive, sunflower, corn, rose, bay, cottonseed) are performed in the Directorates of Laboratories. Besides these, rose, rose water, tobacco analyses and physical checks on such materials as apricot, Seedless Raisins, and hazelnut are done therein. Chemical analyses being implemented on materials that are inspected by UFT Inspectors are free of charge; where as other chemical analyses that are requested by private institutions are subject to a fee.

### **viii. Quality Infrastructure in Turkey**

According to the Customs Union between Turkey and the EU, Turkey has not only reduced tariffs and eliminated the measures of equivalent effect but has also been transposing EU's technical legislation and establishing a comparable national quality infrastructure system since 1996. The main elements of this infrastructure are standardization, accreditation, conformity assessment, certification and calibration-metrology.

In ensuring international acceptance of certificates issued by laboratories, inspection and certification bodies, defined as "conformity assessment bodies" in technical legislation, the most important tool is accreditation. As known globally, consumers expect to get safe and good quality products in any country. It is also important for any businesses and regulators to have confidence in the integrity and quality of the services supplied by national conformity assessment bodies that directly deal with the safety and quality of the products. This confidence is guaranteed by an independent, competent and impartial accreditation body in a country.

In order to create an accreditation system which is equivalent to that of the EU and functions according to internationally recognized principles, Turkish Accreditation Body (TURKAK) was established in 1999. It started accreditation activities in 2001 after completing organizational structuring.

To enhance international cooperation, TURKAK applied to European Cooperation for Accreditation (EA) and was admitted to the membership of EA in late 2002. The Membership of EA is the first step of international acceptance of any national accreditation body. Therefore, TURKAK's structure and operations must comply with international standards and guidelines. Concluding Recognition Agreements with international or regional accreditation bodies can be taken as evidence for such compliance. To this end, TURKAK has already finalized Multilateral Agreement (MLA) with EA members in early April, 2006 with reference to the activities of system certification, inspection, testing and calibration. Hence, international acceptance of certificates issued by Turkish conformity assessment bodies is ensured. It is planned that the scope of the MLA will be extended to the personnel and product certification by mid 2007. EA membership also paves the way for membership of global organizations such as International Accreditation Forum (IAF) and International Laboratory Accreditation Cooperation (ILAC). At

the end of 2006, TURKAK becomes the full member of ILAC, too which means that certificates given by TURKAK are recognized almost globally.

In metrology, National Metrology Institute, the UME, is getting known globally as it has signed MRA's with almost 40 countries and international organizations of AIEA and IRMM.

#### **ix. Obligations under WTO Agreement on Technical Barriers To Trade**

After the enactment of the Agreement on Technical Barriers to Trade, Turkey established national enquiry point to facilitate the implementation of the "transparency principle" by providing up-to-date information on national and other countries' technical regulations. The legal basis for the establishment of an enquiry point was outlined by the Regulation published in the Official Gazette No. 22965 dated 15 April 1997. According to this Regulation, the Undersecretariat of the Prime Ministry for Foreign Trade (UFT) is responsible for the implementation and the administration of the TBT Agreement in the fields of technical regulations and conformity assessment procedures. On the other hand, Turkish Standards Institution (TSE) is the National Enquiry Point regarding notifications in the field of standards.

The purpose of this Regulation is to establish the principles and procedures relating to the notification of the draft technical regulations, conformity assessment procedures and bilateral or multilateral agreements in the field of standards, technical regulations and conformity assessment procedures and to fulfill other obligations under the TBT Agreement.

As being the national enquiry point of Turkey under the TBT Agreement, Directorate General of Standardization of UFT has designed a website, [www.teknikengel.gov.tr](http://www.teknikengel.gov.tr) to facilitate the access to TBT notifications of other countries by private and public sector and to get the business opinion on the relevant field. The website allows its subscribers to provide suggestions on the draft legislation of other countries and also to prepare themselves for future technical requirements. The system also allows them to give feedback on the implementations of the administration as well as to acquaint them with most up-to-date information in the field of technical regulations through reports, announcements and notifications. Viewers and subscribers are also encouraged to submit their opinion on policy options to facilitate access to markets and to notify unnecessary obstacles they encounter in entering foreign markets.

Although the web service has just launched, it has proved to be a very useful tool to get the public's attention to the importance of the technical barriers to trade. It has also created a unique opportunity for the administration to get sound knowledge of reactions to the impediments to trade, to generate statistical analysis, to be familiar with market access failures, to overcome the impediments and to build a bilateral and multilateral understating of common rules in international trade.

#### **x. Bilateral Relations**

As the more international trade relations intensify, Turkey believes, the more institutional framework we will need in the future. With rules and guidelines of the WTO system and our experience from the Customs Union, Turkey concludes that elimination of bilateral barriers would generate no less advantage than they can be achieved by international approach, though it needs more concentration and more elaborate work. Through reiteration of bona fide in implementations and establishment of consultation mechanisms we work to form a framework of cooperation with our trading partners.

Turkey has initiated joint actions, within the context of cooperation building, with the China's AQSIQ to ensure quality and safety conditions are matched in the bilateral trade. As a result of the joint efforts, a Protocol has been signed between two sides to establish a consultation mechanism in the field of safety and quality conditions of industrial products on 27 June 2005. The Protocol entered into force on 4 September 2006 and first meeting of that context has been held on 21 September 2006 concluding with the establishment of the contact points on both sides.

On November 2004, Turkish-Russian sides have agreed to accelerate bilateral relations to eliminate the problems faced during bilateral trade. To that point, it has been decided to establish a system to facilitate the exchange of information between the countries and to overcome the difficulties in the field of technical regulations and conformity assessment procedures.

Turkey and Ukraine declared a memorandum of intent on cooperation in the fields of standardization, metrology, conformity assessment and consumer's right's protection. It has been signed on 1 March 2006 and entered into force in 8 August 2006. The purpose of this memorandum is to facilitate bilateral trade and eliminate difficulties in these areas by improving collaboration between national bodies of technical regulations, to conduct training programs for Ukrainian experts in the relevant fields and to hold joint workshops, research and development projects. The first meeting was held on 20-21 November 2006 and the parties decided to establish contact points. It has also been decided that joint projects of cooperation will be chosen by the end of January 2007.

Relations with Israel continue under FTA Joint Committee meetings. Realizing the importance of the need to enhance the flow of bilateral trade, and the effect of the technical regulations and conformity assessment procedures on trade both sides agreed to examine different methods including, but not limited to, mutual recognition of standards and mutual recognition on conformity assessment to achieve this goal. On March 2007 both sides have signed an agreement on technical cooperation.

On July 2004, Turkey and EFTA have decided to establish contact points to respond to technical problems in a timely manner. Furthermore, as EFTA and the EU has constructed an agreement to sustain free movement of goods between two customs areas, Turkey attached importance to create a similar understanding with the EFTA to not to cause the bilateral trade distorted between the EFTA and Turkey. To that end, preliminary consultations have been initiated to form a mutual recognition of conformity assessment procedures. There is a general intention to conclude MRA with the EFTA countries.

### **III.2.F. Sanitary and Phytosanitary**

#### **i. Introduction**

The importation and production of pharmaceuticals, drugs, some consumable medical products, cosmetics, detergents, foodstuffs, fishery products, and agricultural, animal, and veterinary products are subject to health and sanitary controls. Turkey's main legislation in this area is contained in:

- Sanitary Law No. 1593 of 1930,
- Agricultural Quarantine Law No. 6968 of 1957,

- Law on Animal Health Control (Law No. 3285 of 1986, as amended by Law No. 4648 of 2001),
- Decree No. 560 on Production, Consumption and Control of Foods, and Fishery
- Law No. 1380 as amended by Law No. 3288 of 1986.
- Decree No. 560 on Production, Consumption and Control of Foods (published in the official Journal on 24 June 1995) and The Turkish Food Codex Regulation (published in the official Journal on 16 November 1997) harmonize Turkish food norms with the norms of the EU as well as Codex Alimentarius Commission and other international norms. Total number of Turkish Food Product Regulations is sixty five.
- Decree on the Regime of Technical Regulations and Standardization for Foreign Trade regulates the controls to be carried out by Ministry of Agriculture and Rural Affairs. According to Communiqué No. 2003/5 which is related to human health imports require a Control Certificate issued by Ministry of Agriculture and Rural Affairs for agricultural products and foodstuffs

No distinction is made between domestically produced goods and imported goods. Imports of agricultural products and foodstuffs require a control certificate issued by the Ministry of Agriculture and Rural Affairs (MARA); imports of pharmaceutical products, drugs, certain consumable medical products, cosmetics and detergents require a control certificate issued by the Ministry of Health.<sup>22</sup>

In order to obtain a control certificate, depending on the type of product, the following documents must be presented to the relevant Ministry: a *pro forma* invoice, a health certificate, a certificate of analysis, a formula or list of contents of the product, a pedigree certificate, and a radiation analysis<sup>23</sup>. All documents should be obtained from and/or approved by the relevant authorities in the producer country. Documents should be in the original language; a translation into Turkish is required for each document. Control certificates can be obtained prior to import and should be presented to customs authorities upon import. The period of validity of the control certificates ranges from four to 12 months, depending on the product.

Turkey is continuously harmonizing its sanitary and phytosanitary regulations with EU norms, as well as with those of the Codex Alimentarius Commission, the Office International des Epizooties (OIE), and other international norms. This has been done on the basis of the Decree No. 560 on Production, Consumption and Control of Foods (published in the *Official Gazette* on 24 June 1995) and the Turkish Foods Codex Regulation (FCR) (published in the *Official Gazette* on 16 November 1997). Turkey has transposed some of the EU *acquis communautaire* by adopting legislation on packaging materials and food for particular nutritional uses.

Turkey has signed cooperation agreements to prevent animal diseases from entering the country through trade in and transit of live animals and animal products, veterinary medications,

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<sup>22</sup> In some cases, the certificate can be waived if the importer assures the authorities that the products are destined for specified purposes or for the manufacturer's own use.

<sup>23</sup> Radiation analysis is required for certain imported products listed in Commission Regulation no 1609/2000 (25/7/2000, L185)

fodder, and other products that may affect animal health.<sup>24</sup> Moreover, bilateral agreements on a product by product basis have been signed with Belgium, France, Germany, Italy, Netherlands, New Zealand, the United Kingdom, and the United States in relation to the use of sanitary and phytosanitary certificates.

## **ii. Implementation**

SPS measures of Turkey in terms of animal health consideration for international trade in live animals and products of animal origin are taken in accordance with the Law of 3285 on Animal Health and Officers. In order to protect the territory of Turkey from any external challenge of contagious or exotic which could be introduced into the country by means of import or transit of live animals and products of animal origin, SPS measures in terms of animal health consideration for international trade in live animals and products of animal origin are taken by MARA in accordance with the provisions of the Law of 3285 on Animal Health and Officers which was amended by the Law of 4648 in April 2001. All SPS measures are scientifically judged on the basis of the international standards such as International Animal Health Code of the OIE. Import Health Requirements for live animals and products of animal origin are separately prepared on the basis of the veterinary health status of the exporting countries according to the OIE records. No live animals or products of animal origin are allowed to be imported from the countries which are not free from the diseases that are exotic for Turkey.

In accordance with the Turkish communiqué on Standardization for Foreign Trade, all importers must get a permit to import (Control Document) from MARA for all live animals and products of animal origin prior to the importation. Moreover, according to the Communiqué of 96/4 on importing cattle, sheep and goats, animals to be imported must be selected, examined for health and identified with ear-tags in the exporting country by the veterinary officers of MARA. Such live animals must be kept under quarantine under the supervision of official veterinarians in the exporting country for 21 days in accordance with the Law of 3285. They must also be quarantined in Turkey under the control of official veterinarians of MARA for 21 days prior to the importation. Animals other than cattle, sheep and goats are quarantined at the destination premises of the importers for 21 days prior to the importation as well.

The General Directorate of Protection and Control of MARA strictly controls the entry of live animals and genetic materials into Turkey. The control services on export, import and transit of live animals and animal products in Turkey are mainly performed within the framework of the Law of 3285. The services of international trade and transit in animal and products of animal origin, such as issuing International Origin Veterinary Health Certificates for export, determining import health conditions, issuing control documents to import and checks during import and transit, are executed by the Central Veterinary Services of MARA, Provincial Directorates of MARA and Warehouses and Customs Veterinary Directorates (BIPS).

Import health conditions for live animals and animal products are determined by taking into account of Office International des Epizooties (OIE) rules by General Directorate of Protection and Control. Control documents to import of live animals and products of animal origin are issued by the Central Administrations of MARA. Compulsory veterinary checks during imports of live animals and animal products are made as follows:

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<sup>24</sup> Turkey has signed cooperation agreements with Algeria, Bulgaria, Germany, Iran, the Netherlands, Syria, and Tunisia. Negotiations continue with Albania, Azerbaijan, Croatia, Czech Republic, Georgia, Kuwait, Macedonia, Russia, Slovakia, and Ukraine.

- All live animals and products of animal origin to be imported are first subjected to documentary, identity and health checks by an authorized official veterinarian at the borders, in particular at the BIPS. Origin and Veterinary Health Certificates issued by the official veterinarian of the exporting country for live animals to be imported are checked for whether the animals comply with the health conditions or not. These first checks are made in transportation vehicles, such as trucks, wagons, ships and planes, at the border entry gates and ports by the official veterinarians. If the results of all documentary, identity and health checks show that the consignment of live animals or products of animal origin are healthy, then such a consignment is allowed to enter into the Turkish territory and dispatched to the destination place for the final checks,
- Mandatory final checks are made by the official veterinarians of MARA, at the places in the authorized provinces for import. All documentary, identity and health checks including microbiological examinations are repeated,
- If animals are found to be healthy, then they are allowed to be imported,
- If animals to be imported are found to be sick or suspicious, they are rejected,
- The checks of animal products are made at the warehouses in the Warehouses and Customs Veterinary Directorates or at the customs warehouses,
- If animal products are found to be healthy, they are authorized to be imported,
- If animal products are found to be carriers of disease agents or suspicious, they are rejected.

All import prohibitions were imposed in compliance with the OIE standards. There is no import ban for live animals or products of animal origin which can not transmit animal diseases. Turkey does not apply SPS measures more severe than the OIE standards for animal health considerations so that it has not notified any SPS measures applied with regard to animal health to the WTO.

### **III.2.G. Rules of Origin**

Rules of origin in the context of the preferential systems are referred under the heading “I.5.C. Rules of Origin”.

Non-preferential rules of origin regulations apply to imports made under the MFN treatment, while preferential rules of origin regulations apply to the goods imported under preferential arrangements.

In Turkey, a proof of origin (EUR.1, EUR-MED Certificates of Origin, Form A Origin Certificate) is only required when goods are imported under preferential systems. A certificate of origin is required when goods are imported under the MFN treatment

### **III.3.Agriculture**

Historically, agriculture has been one of the most important and sensitive sectors in Turkey. Although, in the recent years in terms of sectoral growth rate it shows a declining trend and has been lagging far behind industry, it still occupies 11.3% of the GDP. As a major

economic activity, the agricultural sector employs 27.2% of total civil workforce. Turkey's agriculture is endowed with rich natural and human resources. Agricultural activity is sustained with relatively low level of agro-chemical use and causes low environmental degradation. There is a rich bio-diversity with about 9600 species, 3000 of which are endemic to the country. Existence of great variety of microclimates and adequate rainfall permit a broad range of crops. Farming is conducted throughout the country, although it is less common in the mountainous eastern regions, where animal husbandry is the principal activity.

Despite its strength and importance in the country's general economy, there are also some deficiencies of the Turkish agriculture such as small farm size and lack of economies of scale, high input prices, dependency on rainfed agriculture (17% of the agricultural land is irrigated), internationally uncompetitive prices for certain products and lack of efficient market mechanisms. According to the general survey of 2001 there are 3.1 million farms in Turkey and average farm size is 6 hectares. This is a very low rate especially compared to the EU average of 16.5 ha. Farm output and average income therefore remains low.

Owing to its relative importance and potential for Turkey's economy, the agricultural sector has always been one of the priorities of the governments' policies. Traditionally self sufficiency, rural development, increasing nutritional level of the population and supplying raw material for the industry have been the main objectives of the agricultural policy in Turkey. In order to achieve the said objectives, market intervention and credit subsidies to the farmers have been the major agricultural policy instruments. Substantial change took place in the last five years due to certain external and internal factors. Internally, concern for efficient production, taxpayer and consumer welfare and externally commitments arising from the Agreement with IMF and the WTO and as well as the prospect for EU membership have triggered structural reform, which is oriented towards more market and environment friendly production patterns, rural development and food safety.

In terms of the composition of the total agricultural production, vegetal production accounts for 73% and animal products for 27%. Of 78 million hectares of Turkey's total area, 27 million hectares is agricultural land and 21 million hectares is forestland. The total agricultural land is divided as follows: 18 million hectares for crop production (76% of which belongs to cereals and wheat represents 67% of this percentage), 0.8 million hectares for vegetables, 1.56 million hectares for fruits, 0.5 million hectares for vineyards and 0.6 million hectares for olive.

According to *The Economist*'s world rankings, Turkey is one of the top 10 producers of fruit, wheat, and cotton in the world. More impressively, it ranks among the top 5 producers of vegetables, tea, and raw wool. As a result of this massive production base, Turkey enjoys a comparative advantage in many agricultural products such as wheat, barley, sugar beet, ginned cotton, raw tobacco, grape, sunflower, pulses (chickpeas and lentils), dried fruit (hazelnuts, seedless raisins, figs, apricots), fresh fruits (cherry, apples, citrus, olive, grape, melons), vegetables (tomatoes, potatoes, green pepper, onion) tea and small ruminants (sheep and goats).

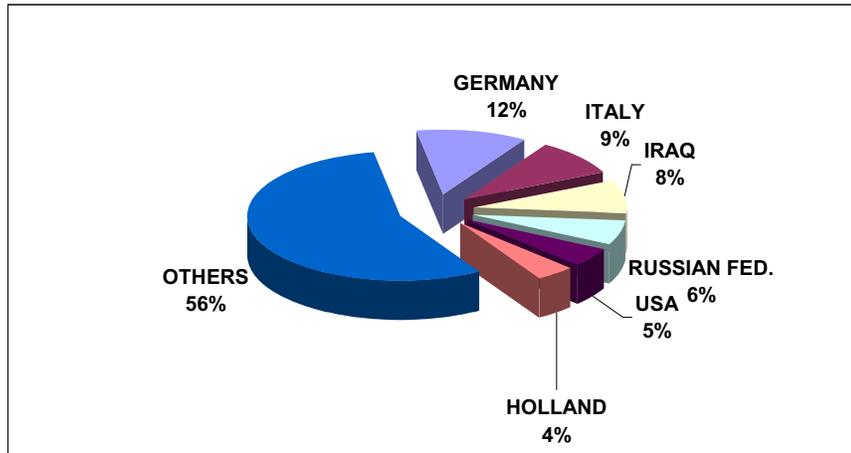
**Table III.3.1**  
**Turkey's production of some agricultural products for the years**  
**2004, 2005 and 2006**

	<b>2004 (TONS)</b>	<b>2005 (TONS)</b>	<b>2006 (TONS)</b>
<b>A) CEREALS</b>			
Wheat	21.000.000	21.500.000	20.010.000
Barley	9.000.000	9.500.000	9.551.000
Rye	270.000	270.000	271.000
Oat	275.000	270.000	208.787
Maize	3.000.000	4.200.000	3.811.000
Rice in the husk	490.000	600.000	696.000
<b>B) LEGUMINOUS VEGETABLES</b>			
Fava bean	30.000	28.000	21.316
Peas	3.500	3.600	4.373
Chickpea	620.000	600.000	551.746
Beans	250.000	210.000	195.970
Lentils	540.000	570.000	622.624
<b>C) INDUSTRIAL PLANTS</b>			
Tobacco	133.913	135.247	117.634
Sugar beet	13.517.241	15.181.247	14.452.162
Cotton	2.455.071	2.240.000	2.550.000
<b>D) OIL SEEDS</b>			
Sunflower	900.000	975.000	1.118.000
Sesame	23.000	26.000	26.545
Poppy seed	17.809	13.644	30.187
Groundnuts	80.000	85.000	77.454
Soya beans	50.000	29.000	47.300
<b>E) VEGETABLES</b>			
Potato	4.800.000	4.090.000	4.397.305
Cucumber	1.725.000	1.745.000	1.799.613
Tomato	9.440.000	10.050.000	9.854.877
Dried onion	2.040.000	2.070.000	1.765.396
Pepper	1.700.000	1.829.000	1.842.175
Cabbage	500.000	492.000	502.081
Lettuce	377.000	424.000	441.242
Spinach	213.000	238.000	242.231
Leek	295.000	326.000	320.091
Courgette	292.000	294.000	288.336
Eggplant	900.000	930.000	924.165
Beans	582.000	555.000	563.763
Scallion	207.000	200.000	200.875
Carrot	438.000	388.000	394.725
Radish	150.000	152.000	149.527
<b>F) FRUITS</b>			
Apple	2.100.000	2.570.000	2.002.033
Water melon	3.825.000	3.970.000	3.805.306

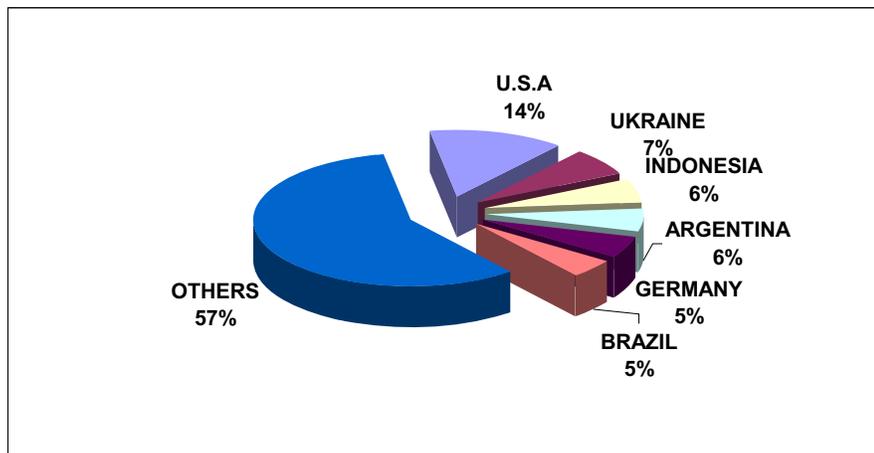
	<b>2004 (TONS)</b>	<b>2005 (TONS)</b>	<b>2006 (TONS)</b>
Melon	1.750.000	1.825.000	1.765.605
Grape	3.500.000	3.850.000	4.000.063
Olive	1.600.000	1.200.000	1.766.749
Orange	1.300.000	1.445.000	1.535.806
Mandarin	670.000	715.000	791.255
Lemon	600.000	600.000	710.401
Grapefruit	135.000	150.000	179.988
Pear	320.000	360.000	317.750
Fig	275.000	285.000	290.151
Plum	210.000	220.000	214.416
Apricot	320.000	860.000	460.182
Cherry	245.000	280.000	310.254
Peach	372.000	510.000	552.775
Sour cherry	138.000	140.000	121.499
Strawberries	155.000	200.000	211.127
Banana	130.000	150.000	178.205
<b>G) NUTS</b>			
Pistachios	30.000	60.000	110.000
Almonds	37.000	45.000	43.285
Walnuts	126.000	150.000	129.614
Hazelnuts	350.000	530.000	661.000
Chestnuts	49.000	50.000	53.814
<b>H) SPICES</b>			
Anise	11.000	9.500	8.479
Thyme	7.000	6.400	7.979
Paprika	30.000	45.000	45.861
Cumin	15.000	14.300	11.998
Tea	1.105.000	1.192.004	1.121.206

Traditionally, Turkey has positive trade balance in agriculture. In the year 2006 Turkish agricultural exports was recorded as 8 billion US\$, while agricultural imports was 3.7 billion US\$. Share of agricultural products in total exports of Turkey is 9%, whereas its share in total imports is 3%. In the last 3 years agricultural exports and imports of Turkey has increased by 33% and 13% respectively. Turkey's primary export destination is the European Union. In 2006, a substantial part of Turkish agricultural products were exported to the EU (27) with a rate of 46%. EU was followed by Iraq, the Russian Federation, USA, Saudi Arabia and Ukraine. On the other hand, Turkey's main supplier is the EU (27) that has a 27% share in our agricultural imports. It is followed by the USA, Ukraine, Indonesia, Argentina, Brazil, Malaysia and Russian Federation.

**Chart III.3.1:** Distribution of Agricultural Exports by country (2006)



**Chart III.3.2:** Distribution of Agricultural Imports by country (2006)



Main agricultural exports of Turkey are hazelnuts, other nuts, dried fruits (figs, apricot, and raisins), tobacco, wheat flour, citrus fruits, melons, cherry, tomato and tomato products, poultry meat, honey, pulses, prepared/preserved fruits and vegetables, yeast, eggs, canned tuna, margarine, olive oil, chocolates, biscuits, pasta etc. Main agricultural imports of Turkey, on the other hand, are cereals, sugar confectionary, pasta, chocolates, oilseeds (sunflower and soybeans), animal and vegetables fats and oils (soybean oil, palm oil), fruits and vegetable seeds, feedstuff, milk and milk products etc.

### **III.4. Services**

#### **III.4.A. Overall Commitments under the GATS:**

Within the framework of liberalization of services, Turkey is holding negotiations in services only on the basis of General Agreement on Trade in Services (GATS), but not through bilateral agreements. It has made commitments in several services categories under the GATS. Turkey recognizes the growing importance of trade in services for the growth and development

of the world economy and believes that by the effective application of the GATS, the efficiency and competitiveness of the services sectors of the developing countries will increase and expansion of their services exports will be achieved.

By taking into account the developments realized in services sectors, Turkey has been actively and constructively engaged in trade in services negotiations (both bilaterally and plurilaterally), since their inception in 2000. In this context, Turkey has submitted its initial conditional services offer to the WTO on 15 August 2003 and its revised conditional offer on 12 September 2005. They were circulated on 3 September 2003 as a document TN/S/O/TUR and on 29 September 2005 as a document TN/S/O/TUR/Rev.1, respectively. Turkey has recently been working on preparation of the second revised conditional offer planned to be submitted to WTO by this year.

Turkey has undertaken commitments according to the document W/120 which classifies services under 12 main sectors. Nine of them are scheduled on its consolidated commitments list; namely business services, communication services, construction and related engineering services, educational services, environmental services, financial services, health related and social services, tourism and travel related services, transport services.

Regarding Turkey's commitments undertaken under its revised offer, there are few regulations that discriminate between domestic and foreign service suppliers mainly related to legislative barriers. For instance, accounting, auditing and bookkeeping services, postal services, environmental services and road transport services are limited to domestic providers in terms of cross border supply. Likewise, there are some permission, residency or nationality requirements and/or limitations to the type of legal entity in some sub sectors where establishment is required; e.g. maritime transport services, telecommunication services, some sub sectors of financial services. On the other hand, very liberal commitments have been undertaken in many sub sectors of business services, financial services, construction and related engineering services, architectural, engineering and integrated engineering services, and computer and related services.

As regards MFN exemptions under Article II of the GATS, reserving the right to offer more favorable treatment to some WTO Members, Turkey has proposed to remove 4 MFN exemptions in its initial offer; two of them related to telecommunication services, one of them related to banking and the last one related to postal services. It currently has a few MFN exemptions in some specific areas of business and transport services.

#### **III.4.B. Telecommunications**

Regulation on Radio and Telecommunications Terminal Equipment, which is parallel to European Union Directive 1999/5/EC (Herein after R&TTE), was put into force on 11.5.2003 (Official Gazette numbered 25105). All R&TT equipment marketed after this date shall be compatible with the Regulation. According to this Regulation, equipments could be marketed only if they meet minimum safety requirements for protection of human health, life and assets and protection of environment and consumer.

Communiqué on Standardization of Foreign Trade numbered 2006/8 was put into force on 01.05.2006 based on Decision on Technical Regulation and Standardization of Foreign Trade numbered 2005/9454 (Official Gazette dated 13.10.2005 and numbered 25965) in order to reflect abovementioned Regulation and to ensure imported R&TT equipments meet criteria laid in the Regulation.

According to this Communiqué, assessment of whether the goods subject to frequency and/or license allocation, which are subject to free circulation and in the Annex and goods which are not subject to free circulation in the EU and goods which are desired to be in the Free Movement Regime and in the Annex, are in conformity with technical legislation and/or safe, shall be done by Undersecretariat of Foreign Trade (UFT) in parallel to EU practices. The rest will enter straight into free circulation without even UFT's assessment.

In this respect, with Communiqué 2006/8, UFT requires "Notification Form" provided by Spectrum Administration Department of Telecommunication Agency for imported R&TTE's with frequency/license restrictions from EU and third countries. This Department assesses imported or domestically produced equipment with frequency/license restrictions and compatible products are affirmed and published at Agency's website. If non-conforming products are notified to Technical Legislation and Standardization Department of the Agency, they will be added to risky equipment list and will be evaluated with priority at Market Surveillance.

To sum up, Telecommunication Agency is responsible for market surveillance in order to ensure equipment in the market carry minimum safety requirements for human health, life and assets; protection of environment and protection of consumer and evaluation of notification form for equipment imported or domestically produced with frequency/license restrictions.

### **III.5. Foreign Investment Regimes**

#### **III.5.A. Treatment of Foreign Investment:**

Enacted in 2003, the new Foreign Direct Investment Law (Law No: 4875) underlines the key elements of the liberal investment environment in Turkey. This new Foreign Direct Investment Law clearly reflects Turkey's balanced and liberal approach to international investments. It is the "legal guide", complete with very explicit explanations, to international investors concerning their rights and obligations. All companies established with a foreign capital contribution and which are set up under the rules of the Turkish Commercial Code (applies to existing as well as newly established foreign companies) are considered as Turkish companies. Therefore, such companies will be accorded an equal treatment both as regards rights and responsibilities as stated in the Constitution and other laws (this includes treatment as nationals, a guarantee against expropriation without compensation, a guarantee against the transfer of proceeds, access to real estate and to expatriate personnel, and access to international arbitration or any other means they may wish to have in case of dispute).

The new legislation removed the screening and pre-approval procedures for FDI projects; re-designed the company registration process on an equal basis for domestic and foreign firms; facilitated the hiring of foreign employees; included FDI firms in the definition of "domestic tenderer" in public procurement; and authorized foreign persons and companies to acquire real estate in Turkey.

### **III.5.B. Special Investment Regimes and/ or Zones:**

#### **Sectoral Limitations:**

##### **Maritime Transport:**

**Maritime Transport Cabotage Law No. 815:** Turkish flagged ships have the sole right to transport cargo and passengers between ports, engage in pilotage and tugging in and among ports and perform other port services. The maritime and marine occupations in Turkey are reserved for Turkish citizens and foreigners shall not engage in these occupations. The fishing in Turkish waters and occupations such as rescue, diving, and pilotage shall only be performed by Turkish citizens. The ships belonging to Turkish citizens or which Turkish citizens have the majority of the shares are registered to the national ship registry and hold the right to fly the Turkish flag.

**Turkish International Ship Registry Law No. 4490:** The ships belonging to foreigners may be registered to the Turkish international ship registry, but the owner of these ships has to be resident in Turkey. The ships belonging to foreigners and having no right to be recorded in the National Ship Registry are not entitled to the cabotage rights. More than 51% of crew of ships belonging to Turkish citizens shall be Turkish seafarers.

##### **Civil Aviation:**

According to the Turkish Civil Aviation Law, No. 2920 (19 October 2003), carriage of passengers, freight and mail between two points within the territory of the Republic of Turkey is provided only by Turkish civil aircrafts.

Article 48 of the abovementioned law defines Turkish civil aircraft. According to the law, a civil aircraft is defined as a Turkish civil aircraft if it belongs to a registered Turkish commercial company that has a Turkish majority in respect of the members of bodies authorized for the administration and representation of such company and the main contract of such company has to guarantee that the majority of the shareholders' votes belongs to Turkish citizens.

##### **Ground-handling Services:**

According to the Article 4(g,h,i) of the Civil Aviation By-law (SHY 22); three types of licenses regulated:

Type A: License for suppliers of ground-handling services (mandatory services)

Type B: Self-handling

Type C: License for suppliers of ground-handling services (non-mandatory services, e.g. supervision, catering etc.)

Within this framework, Article 7(e) of the same By-law provides that;

In respect of type A and C

Turkish majority in respect of the members of bodies authorized for the administration and representation of the undertaking is required.

Main contract of the ground-handling company has to guarantee that majority of shareholders' votes belongs to the Turkish citizens.

**Road Transportation:**

Vehicles registered in a foreign country cannot transport goods or passengers between two points within Turkey. Transport of goods or passengers can be provided to, from and through Turkey only with bilateral or multilateral permits or permits issued by the Council of Ministers.

**Radio and Television Broadcasting:**

According to the Article 29 (Ownership) of the Law on the Establishment of Radio and Television Enterprises (Broadcasting Law) No. 3984 (20 April 1994), the share of foreign capital in a private radio and television enterprise may not exceed 25 % of the capital paid up. A real or legal person of foreign nationality holding shares in a certain radio or television enterprise may not become a shareholder in another private radio or television enterprise.

**Electricity:**

According to the Electricity Market Law No. 4628 dated 20 February 2001 (its Article 14 regarding the privatization of the assets belonging to the Turkish Electricity Distribution Company (TEDAS) and Electricity Generation Co. Inc. (TEAS), their subsidiaries, affiliates, partnerships and operational units and facilities), the foreign real persons and legal entities engaged in the market activities (as defined by this Law) within the scope of privatization activities cannot have a market share that will enable them with a control power in the electricity generation, transmission and distribution sectors.

**Financial Corporations:**

Establishment of subsidiaries by non-resident banks, insurance companies and non-bank financial institutions is subject to authorization.

Banks, insurance companies and non-bank financial institutions, such as leasing, factoring and consumer credit companies can also operate by establishing branches upon authorization.

For the first branch of a non-resident bank or an insurance company the minimum capital requirement is the same with that of establishing a bank or an insurance company.

For each branch of non-resident leasing, factoring and consumer credit companies the minimum capital requirement is the same with that of establishing a subsidiary.

**According to Capital Markets Regulations:**

Non-residents can acquire shares or controlling stakes, exercise voting rights and manage a brokerage house and a portfolio management company under the conditions laid down for nationals.

Non-residents and nationals are not allowed to set up a new brokerage house by the decision of the State Ministry taken in 1991 to limit the number of brokerage houses.

Foreign brokerage houses are not allowed to open branches in Turkey.

Foreign banks authorized to engage in banking activities in Turkey are allowed to set up a new brokerage house and this brokerage house can open a branch.

National brokerage houses and portfolio management companies can open a branch abroad by the Capital Market Board's approval.

Founders of the mutual funds should be banks, insurance companies, brokerage houses, pension funds, etc. Under this limitation, foreign institutions authorized in Turkey can establish mutual funds.

Majority of the members of board of directors of the investment companies must be Turkish citizens

### **Private Employment Offices:**

Law No. 4904 on Turkish Employment Organization:

Article 17 of the Law stipulates that the persons, who have the binding authority to represent, act on behalf of and manage real and legal persons that'll set up a "private employment office" should be Turkish.

This, in turn, implies that a real foreign person cannot establish a private employment office but a foreign company can with the condition that the person who is authorized to represent it in Turkey is Turkish.

### **Tourism:**

The Law Concerning Travel Agencies and the Union of Travel Agencies No. 1618:

Class (A) Turkish travel agencies shall be granted two-year Provisional Operation Certificates. Such provisional certificates shall be converted to permanent Operation Certificates if the said travel agencies manage to obtain foreign Exchange Earnings of not less than USD 80.000 (€ 66.727) through tours they organize from abroad.

This requirement shall be three times as high in the case of non-resident travel agencies operating in Turkey or local branches of foreign travel agencies.

### **Education: Primary, Secondary and Other Educational Services**

Law No. 625 on Private Education Institutions:

Foreign real or legal persons may not set up education institutions unless all students thereof are foreigners

- International Private Education Institutions- (Article 1).

International Private Education Institutions might be set up by foreign real or legal persons upon authorization of the Council of Ministers (Article 5).

### **Tertiary Education:**

An indirect restriction arising from the Civil Code and the Legislation on Foundations

Supplementary 2nd and 3rd articles of the “Law on Higher Education” state that Private Universities can only be established by foundations constituted under the Civil Code.

Legislation on Foundations, in turn, requires that the majority in the administrative bodies of foundations must be Turkish citizens.

### **Defense Industry:**

Foundation, operation and supervision of public and private enterprises producing defense equipment and the security of Defense Industry Enterprises are regulated under the Laws (No. 5201 and 5202), which came into force in 2004.

Ministry of National Defense as the Defense Industry National Security Authority, carries out the tasks in scope of the mentioned law.

According to the Law (No.5201);

Establishment and operating of the enterprises producing defense equipment within the boundaries of the Turkish Republic.

Export, import and domestic marketing of materials mentioned in the annual List of Materials Subject to Control, require the authorization of the Ministry of National Defense.

### **III.5.C. Bilateral Investment Treaties and other Agreements:**

Since 1962, Turkey has been signing Bilateral Agreements for the Promotion and Protection of Investments (BITs) with countries with which there is the potential for the improvement of bilateral investment relations. The basic aim of Turkey’s BITs is to establish a favorable atmosphere for economic co-operation between the Contracting Parties by determining the special conditions relating to investments located within the boundaries of the countries concerned. In addition, these BITs also aim to settle investment disputes that might occur among the foreign investors and the State. They also endeavor to clarify the conditions for the expropriation of foreign direct investments by the Contracting Parties.

Generally, a typical BIT signed by Turkey contain clauses on treatment of investments and investors, expropriation and compensation, free transfer of profits and returns, subrogation and settlement of disputes between investor and the State. Most of these BITs contain clauses on both National Treatment and Most Favored Nation treatment. A typical Turkish BIT includes MFN Treatment for the pre-entry and post-entry, and NT for post entry phases.

So far, Turkey signed BITs with seventy-nine countries and sixty-two of these are now in force.

**Table III.5.C. Turkey's Bilateral Investment Treaties and Other Agreements**

<b>Partner</b>	<b>Date of Signature</b>	<b>Date of Entry into Force</b>
Germany	June 20, 1962	December 16, 1965
The United States	December 3, 1985	May 18, 1990
Netherlands	March 27, 1986	November 1, 1986
Belgium/Luxembourg	August 27, 1986	May 4, 1990
Bangladesh	November 12, 1987	June 21, 1990
Switzerland	March 3, 1988	February 21, 1990
Austria	September 16, 1988	January 1, 1992
Kuwait	October 27, 1988	April 25, 1992
Denmark	February 7, 1990	August 1, 1992
China	November 13, 1990	August 20, 1994
Romania	January 24, 1991	April 7, 1996
United Kingdom	March 15, 1991	October 22, 1996
Republic of Korea	May 14, 1991	June 4, 1994
Tunisia	May 29, 1991	April 28, 1994
Poland	August 21, 1991	August 19, 1994
Hungary	January 14, 1992	February 22, 1995
Japan	February 12, 1992	March 12, 1993
Kyrgyzstan	April 28, 1992	October 31, 1996
Uzbekistan	April 28, 1992	May 18, 1995
The Czech Republic	April 30, 1992	August 1, 1997
Kazakhstan	May 1, 1992	August 10, 1995
Turkmenistan	May 2, 1992	March 13, 1997
Argentina	May 8, 1992	May 1, 1995
Albania	June 1, 1992	December 26, 1996
Georgia	July 30, 1992	July 28, 1995
Finland	May 13, 1993	April 23, 1995
Jordan	August 2, 1993	January 23, 2006
Azerbaijan	February 9, 1994	September 8, 1997
Moldova	February 14, 1994	May 16, 1997
Bulgaria	July 6, 1994	September 22, 1997
Lithuania	July 11, 1994	July 7, 1997
Spain	February 15, 1995	March 3, 1998
Pakistan	March 16, 1995	September 3, 1997
Italy	March 22, 1995	February 3, 2004
Belarus	August 8, 1995	February 20, 1997
Republic of Macedonia	July 14, 1995	October 27, 1997
Croatia	February 12, 1996	April 21, 1998
Israel	March 14, 1996	August 27, 1998
Tajikistan	May 6, 1996	July 24, 1998
Egypt	October 4, 1996	July 31, 2002
Nigeria	October 8, 1996	
Ukraine	November 27, 1996	May 21, 1998
Iran	December 21, 1996	April 13, 2005
Latvia	February 18, 1997	March 3, 1999
Indonesia	February 25, 1997	September 28, 1998
Morocco	April 8, 1997	May 31, 2004
Sweden	April 11, 1997	October 8, 1998
Estonia	June 3, 1997	April 29, 1999

<b>Partner</b>	<b>Date of Signature</b>	<b>Date of Entry into Force</b>
The Russian Federation	December 15, 1997	May 17, 2000
Cuba	December 22, 1997	October 23, 1999
Bosnia and Herzegovina	January 21, 1998	January 29, 2002
Malaysia	February 25, 1998	September 9, 2000
Mongolia	March 16, 1998	May 22, 2000
Algeria	June 3, 1998	
Chile	August 21, 1998	
India	September 17, 1998	
Philippines	February 22, 1999	
Sudan	December 19, 1999	
Greece	January 20, 2000	November 24, 2001
Republic of South Africa	June 23, 2000	
Yemen	September 7, 2000	
Slovakia	October 9, 2000	December 23, 2003
Ethiopia	November 16, 2000	March 03, 2005
Portugal	February 19, 2001	January 19, 2004
Serbia	March 2, 2001	November 10, 2003
Qatar	December 25, 2001	
Malta	October 10, 2003	July 14, 2004
Syria	January 6, 2004	January 3, 2006
Slovenia	March 23, 2004	June 19, 2006
Afghanistan	July 10, 2004	July 19, 2005
Lebanon	May 12, 2004	January 4, 2006
Australia	June 16, 2005	
The U.A.E.	September 28, 2005	
Thailand	June 24, 2005	
Bahrain	February 15, 2006	
UNMIK for Kosovo	April 7, 2006	
France	June 15, 2006	
Saudi Arabia	August 8, 2006	

Additionally, Turkey is also a member of MIGA (Multilateral Investment Guarantee Agency) and a party to the ICSID Convention as well as the New York Convention for the Recognition of Foreign Arbitral Awards.

FDI inflow is an important indication that shows the long-term confidence of the business world into a country. In 2006, Turkey attracted about 19 billion US\$ of foreign investment and was the seventh emerging country in the world in terms of attracting FDI.

Turkish economy has been undergoing a structural transformation process. This dynamic process, which started in 2001 revealed the potential of Turkish economy. With determined implementation of macroeconomic policies, particularly of fiscal policy, accompanying a large number of significant economic reforms, the strong support of international institutions and the perspective of the European Union membership, this process, as a whole, has established a more reliable, stable and predictable economic environment for foreign investment.

As a result Turkey has become a production and distribution centre for Europe in diverse industries and a regional base for big companies like Microsoft, Coca-Cola, GE, Procter & Gamble, Phillip Morris and 3M.

In order to promote foreign direct investments, Turkish Government holds once a year investment advisory board meetings since 2004, a round-table discussion with participation of twenty CEOs from ten different countries and ten different sectors to assess the investment environment in Turkey and come up with suggestions, complaints and criticisms. Recently, the Investment Promotion and Support Agency was established to assist foreign investors coming to Turkey, functioning as a “one stop shop” where the investors can complete all the procedures and find the answers to all their questions.

Finally, the Agreements on Reciprocal Promotion and Protection of Investments, together with Avoidance of Double Taxation Agreements, are signed with the target countries within the framework of our comprehensive Trade Development Strategies towards the Neighboring and Surrounding Countries, American countries, African countries and Asian countries, to establish the necessary legal framework for economic and trade relations.

Unlike the Chilean implementation, Turkey does not include investment chapters in Free-Trade Agreements (FTAs) and make investment-related regulations with the context of the Agreements on Reciprocal Promotion and Protection of Investments.

### **III.6. Trade Defense Measures**

#### **III.6.A. Safeguards; Institutional Arrangement**

The Turkish Safeguard Legislation is fully in conformity with Article XIX of GATT 1994 and the WTO Agreement on Safeguards. Council of Ministers Decree No. 2004/7305 of 10 May 2004 concerning safeguard measures for imports was published in the Official Gazette No.25476 of 29 May 2004. Regulation on Safeguard Measures for Imports was published in the Official Gazette No.25486 of 8 June 2004.

According to the Turkish safeguard legislation, the Undersecretariat for Foreign Trade examines complaints, carries out investigations and submits proposal to the Board of Evaluation of Safeguard Measures. The Board takes decision to initiate and terminate investigation and imposes safeguard measures. The Board is composed of 8 members representing 5 different institutions including Union of Chambers of Commerce and Industry.

The relevant Minister ratifies the decision of the Board. If safeguard measures take the form of customs duties, the Council of Ministers ratifies the decision of the Board.

In the said legislation it is clearly stated which conditions are necessary to enforce a safeguard measure when there is properly documented safeguard application lodged by domestic producers. Turkey shall look into the matter and enforce safeguard measures only following an investigation as stipulated by the WTO Agreement on Safeguards.

A safeguard investigation shall normally be concluded within nine months by the Undersecretariat for Foreign Trade, Directorate General for Imports. In exceptional circumstances, this period can be extended for two months.

Turkey has been implementing safeguard measures for seven product groups (activated earth and clays, voltmeters-ammeters, footwear, steamed irons, electrical vacuum cleaners, salt and motorcycles).

Additionally, two safeguard investigations against imports of frames for spectacles and travel goods, handbags, similar containers were initiated respectively on February 11, 2007 and June 5, 2007.

### **III.6.B. Anti-dumping Measures and Countervailing Measures; Institutional Arrangement**

The national anti-dumping and anti-subsidy legislation of Turkey is the Legislation on the Prevention of Unfair Competition in Imports, implementing the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the Agreement on Subsidies and Countervailing Duties of the WTO. Pursuant to Article 90 of the Constitution of the Republic of Turkey, the Agreements constitute an integral part of the Turkish national legislation and have the legal power of internal laws.

The current Legislation on the Prevention of Unfair Competition in Imports in force is comprised of the Law on the Prevention of Unfair Competition in Imports No: 3577, amended by the Law on the Prevention of Unfair Competition in Imports No: 4412; the Decree on the Prevention of Unfair Competition in Imports No: 99/13482, amended by the Decree No: 2005/9840; and the Regulation on the Prevention of Unfair Competition in Imports published in the Official Gazette on 30.10.1999, amended with the Regulations published in the Official Gazette on 02.05.2002 and 26.01.2006, and is fully compatible with the WTO rules.

The Department of Dumping and Subsidy Investigations (the Department), operating under the Directorate General of Imports at the Undersecretariat for Foreign Trade, carries out dumping and subsidy investigations relating to unfair pricing practices of companies/countries exporting to Turkey. The Department submits its reports to the authorized decision making body, the Board of Evaluation of Unfair Competition in Imports (the Board), which is chaired either by the Director General of Imports or by the Deputy Director General assigned by the former, and consists of the representatives of the Ministry of Agriculture and Rural Affairs, the Ministry of Industry and Commerce, the Undersecretariat of the State Planning Organization, the Undersecretariat of Customs, the Union of Chambers of Commerce and Industry and the Chambers of Agriculture and the Head of Department. The Board is authorized to initiate and terminate dumping or subsidy investigations carried out by the Department, and to decide on the duties to be imposed on exporting companies/countries with the approval of the Minister to whom the Undersecretariat is attached.

Investigations are initiated, if the complaint, made by domestic producers, any natural or legal person or association acting on behalf of the domestic industry, includes evidence of dumping or subsidy, material injury and a causal link between the two. The Board can also initiate investigations ex officio provided with relevant evidence. After the decision of the Board to initiate an investigation, the government of the exporting country is notified and a notice is published in the Official Gazette. If the Board decides not to initiate an investigation, the complainant is so informed.

Following the initiation of a dumping or subsidy investigation, questionnaires are sent to known importers and exporters; as for subsidy investigations, a questionnaire is also sent to the government of the relevant exporting country. Interested parties are given 37 days (including delivery time) to reply on the questionnaires. The Department may also request additional information from the interested parties it deems relevant at any stage during the investigation. It may also organize public hearing meetings in order to allow interested parties to mutually

express their opinions. Before reaching the final decision, the Department notifies all cooperating parties on the findings for further opinions providing them a final opportunity to raise their views and comments. The investigation is terminated with the decision of the Board and the approval of the Minister. The notice to impose or not to impose an antidumping or countervailing duty is published in the Official Gazette.

Being aware of the prevalent use of anti-dumping measures by increasing number of WTO members on one hand, and recognizing the need of the WTO members for safeguarding their industries against unfair practices in international trade on the other, Turkey has been actively participating in the rules negotiations by giving due regard to the need for clarification and improvement of the Anti-Dumping Agreement, without causing any harm to its basic principles and effectiveness.

Currently, Turkey applies 94 anti-dumping and 5 anti-circumvention measures; while no countervailing duty has been imposed since the legislation took effect.

### **III.6.C. Institutional Arrangement**

Referred in III.6.A and III.6.B

### **III.7. Trade Agreements by Turkey**

#### **III.7.A Commercial and Economic Agreements Concluded by Turkey**

Turkey concludes Trade and Economic Cooperation Agreements, Bilateral Customs Cooperation Agreements and Multilateral Conventions, and Bilateral Investment Treaties to establish the legal basis ensuring a secure environment for developing bilateral trade, economic and investment relations.

Turkey's Customs Union with the European Union is of a great impact on Turkey's bilateral trade relations; as part of its commitment to alignment with EU Common Trade Policy, Turkey has to adopt Union's preferential trade regimes and agreements.

Taking the increasing number of regional trade integrations and complex web of bilateral agreements into consideration, Turkey negotiates new agreements with the target countries under the regional trade development strategies successfully carried out by the Undersecretariat for Foreign Trade.

**Table III.7.A.1: Commercial And Economic Cooperation Agreements Concluded By Turkey**

<b>AGREEMENT</b>	<b>COUNTRY</b>	<b>REMARK</b>
Trade Agreement	Algeria	
Trade Agreement	Morocco	
Economic Cooperation and Trade Agreement	Libya	
Trade Agreement	Libya	
Trade Agreement	Zaire	

<b>AGREEMENT</b>	<b>COUNTRY</b>	<b>REMARK</b>
Trade Agreement	Nigeria	
Trade Agreement	Sudan	
Commercial Cooperation Agreement	Tanzania	Pending Ratification
Economic Scientific and Technical Cooperation Agreement	Algeria	
Economic Scientific and Technical Cooperation Agreement	Morocco	
Economic Scientific and Technical Cooperation Agreement	Gambia	
Scientific and Technical Cooperation Agreement	Libya	
Economic Scientific and Technical Cooperation Agreement	Nigeria	
Economic Scientific and Technical Cooperation Agreement	Sudan	
Economic Scientific and Technical Cooperation Agreement	Zaire	
Economic and Technical Cooperation Agreement	Egypt	
Scientific and Technical Cooperation Agreement	Tunisia	
Economic Technical and Commercial Cooperation Agreement	Cameroon	
Economic Technical and Commercial Cooperation Agreement	Ivory Coast	Pending Ratification
Commercial Economic and Technical Cooperation Agreement	Sierra Leone	
Commercial Economic and Technical Cooperation Agreement	Djibouti	
Commercial Economic and Technical Cooperation Agreement	Tunisia	
Commercial Economic and Technical Cooperation Agreement	Senegal	
Commercial Economic and Technical Cooperation Agreement	Ethiopia	
Commercial Economic and Technical Cooperation Agreement	Guinea	
Commercial Economic and Technical Cooperation Agreement	Ghana	
Commercial Economic and Technical Cooperation Agreement	Eritrea	
Commercial Economic and Technical Cooperation Agreement	Chad	
Commercial Economic and Technical Cooperation Agreement	Mali	
Commercial Economic and Technical Cooperation Agreement	Uganda	Pending Ratification
Commercial Economic and Technical Cooperation Agreement	Rep. Of Congo	Pending Ratification
General Commercial Economic Cultural and Technical Cooperation Agreement	Gabon	Pending Ratification
Commercial and Economic Cooperation Agreement	Kenya	Pending Ratification
Commercial and Economic Cooperation Agreement	Rep. Of South Africa	Pending Ratification
Commercial Economic and Technical Cooperation Agreement	Mauritania	Pending Ratification
Commercial Economic and Technical Cooperation Agreement	Madagascar	Pending Ratification
Trade And Investment Framework Agreement	USA	
Economic Cooperation Agreement	USA	
Trade And Economic Cooperation Agreement	Mexico	
Trade And Economic Cooperation Agreement	Jamaica	

<b>AGREEMENT</b>	<b>COUNTRY</b>	<b>REMARK</b>
Trade And Economic Cooperation Agreement	Guyana	
Trade, Economic And Industrial Cooperation Agreement	Cuba	
Trade Cooperation Agreement	Colombia	
Trade, Economic Scientific And Technical Cooperation Agreement	Chile	
Memorandum of Understanding On High Level Commercial And Economic Consultations	Canada	
Trade, Economic And Industrial Cooperation Agreement	Brazil	
Trade And Economic Cooperation Agreement	Argentina	
Economic Industrial and Technical Cooperation Agreement	Bahrain	
Commercial and Technical Cooperation Agreement	United Arab Emirates	
Trade Agreement	Iraq	
Economic Industrial and Technical Cooperation Agreement	Iraq	
Trade Agreement	Iran	
Economic Industrial and Technical Cooperation Agreement	Iran	
Commercial Economic Industrial Technical and Scientific Cooperation Agreement	Israel	
Economic and Technical Cooperation Agreement	Qatar	
Trade Agreement	Kuwait	
Economic Industrial and Technical Cooperation Agreement	Kuwait	
Commercial Industrial Technical and Scientific Cooperation Agreement	Lebanon	
Commercial Economic Technical and Scientific Cooperation Agreement	Oman	
Commercial Economic Technical and Scientific Cooperation Agreement (Rev.)	Oman	Pending Ratification
Trade Agreement	Syria	
Long Term Economic Cooperation Agreement	Syria	
Trade Agreement	Saudi Arabia	
Economic and Technical Cooperation Agreement	Saudi Arabia	
Trade Agreement	Jordan	
Economic Industrial and Technical Cooperation Agreement	Jordan	
Commercial Economic and Technical Cooperation Agreement	Yemen	
Commercial and Economic Cooperation Agreement	Uzbekistan	
Commercial and Economic Cooperation Agreement	Turkmenistan	
Commercial and Economic Cooperation Agreement	Azerbaijan	
Commercial and Economic Cooperation Agreement	Kyrgyzstan	
Long Term Commercial and Economic Cooperation Agreement	Kyrgyzstan	
Commercial and Economic Cooperation Agreement	Georgia	
Commercial and Economic Cooperation Agreement	Kazakhstan	
Long Term Commercial and Economic Cooperation Agreement	Kazakhstan	
Commercial and Economic Cooperation Agreement	Tajikistan	
Commercial and Economic Cooperation Agreement	Belarus	
Commercial and Economic Cooperation Agreement	Russian Federation	
Commercial and Economic Cooperation Agreement	Ukraine	

<b>AGREEMENT</b>	<b>COUNTRY</b>	<b>REMARK</b>
Commercial and Economic Cooperation Agreement	Moldova	
Trade and Payment Agreement	Germany	
Technical Cooperation Agreement	Germany	
Trade Agreement	Albania	
Economic Commercial Industrial and Technical Cooperation Agreement	Albania	
Economic and Technical Cooperation Agreement	Austria	
Economic Industrial and Technological Cooperation Agreement	Belgium-Luxemburg	
Trade and Payment Agreement	Belgium-Luxemburg	
Commercial and Economic Cooperation Agreement	Bosnia-Herzegovina	
Commercial Economic Industrial and Technical Cooperation Agreement	Bulgaria	
Long Term Economic Technical Industrial and Scientific Coop. Agreement	Czech Republic	
Economic Industrial Scientific and Technical Cooperation Agreement	Denmark	
Residence Trade and Navigation Agreement	Denmark	
Commercial and Economic Cooperation Agreement	Estonia	
Economic Industrial and Technological Cooperation Agreement	Finland	
Trade Agreement	Finland	
Trade and Payment Agreement	France	
Commercial and Economic Cooperation Agreement	Croatia	
Trade and Payment Agreement	Netherlands	
Trade and Navigation Agreement	United Kingdom	
Economic and Industrial Cooperation Agreement	Spain	
Trade Agreement	Spain	
Trade and Payment Agreement	Sweden	
Trade Agreement	Switzerland	
Economic Industrial and Technical Cooperation Agreement	Italy	
Commercial and Economic Cooperation Agreement	Latvia	
Economic and Commercial Cooperation Agreement	Lithuania	
Long Term Economic Technical Industrial and Scientific Coop. Agreement	Hungary	
Economic Cooperation Agreement	Hungary	Pending Ratification
Commercial and Economic Cooperation Agreement	FYR of Macedonia	
Commercial Exchange Agreement	Malta	
Trade and Payment Agreement	Norway	
Commercial Economic Industrial and Technical Cooperation Agreement	Norway	
Trade Agreement	Poland	
Agreement on Developing Economic and Technical Cooperation	Poland	
Economic Industrial and Technical Cooperation Agreement	Portugal	
Long Term Agreement on Developing Trade Exchanges	Romania	
Long Term Economic Industrial and Technical Coop. Agreement	Romania	

<b>AGREEMENT</b>	<b>COUNTRY</b>	<b>REMARK</b>
Economic and Technical Cooperation Agreement	Romania	Pending Ratification
Long Term Agreement on Trade and Economic and Technical Coop.	Romania	
Trade Agreement	Serbia-Montenegro	Under Consideration
Economic Technical Industrial and Scientific Cooperation Agreement	Serbia-Montenegro	Under Consideration
Long Term Economic Technical Industrial and Scientific Coop. Agreement	Slovakia	
Commercial and Economic Cooperation Agreement	Slovakia	
Trade Agreement	Yugoslavia F. R.	
Trade and Payment Agreement	Greece	
Economic Cooperation Agreement	Greece	
Commercial and Economic Cooperation Agreement	Afghanistan	
Commercial Economic and Technical Cooperation Agreement	Australia	
Trade Agreement	Bangladesh	
Economic and Technical Cooperation Agreement	Bangladesh	
Trade Agreement	Rep. Of China	
Economic Industrial and Technical Cooperation Agreement	Rep. Of China	
Trade Agreement	Indonesia	
Economic and Technical Cooperation Agreement	Indonesia	
Trade Agreement	Philippines	
Economic and Technical Cooperation Agreement	Philippines	
Agreement on Developing Trade and Economic and Technical Coop.	South Korea	
Trade Agreement	India	
Economic and Technical Cooperation Agreement	India	
Trade and Payment Agreement	Japan	
Commercial and Economic Cooperation Agreement	Cambodia	
Commercial and Economic Cooperation Agreement	North Korea	Pending Ratification
Trade Agreement	Malaysia	
Economic and Technical Cooperation Agreement	Malaysia	
Commercial Economic and Technical Cooperation Agreement	Mongolia	
Commercial and Economic Cooperation Agreement	Myanmar	Pending Ratification
Trade Agreement	Pakistan	
Economic and Technical Cooperation Agreement	Pakistan	
Trade Agreement	Sri Lanka	
Economic and Technical Cooperation Agreement	Sri Lanka	
Trade Agreement	Thailand	
Economic and Technical Cooperation Agreement	Thailand	
Commercial Economic and Technical Cooperation Agreement	Vietnam	

<b>AGREEMENT</b>	<b>COUNTRY</b>	<b>REMARK</b>
TPSOIC Framework Agreement (Trade Preferential System Among OIC (Official Gazette No: 21107 10.1.1992	Multilateral	
ECOTA (ECO Trade Agreement)	Multilateral	Pending Ratification
D-8 Preferential Trade Agreement	Multilateral	Pending Ratification

### **III.7.A.2. Bilateral Agreements/Protocols between Turkey and Chile**

	<b>Date of Signature</b>	<b>Signature Venue</b>	<b>Turkish Official Gazette (Date and No.)</b>
Agreement on Trade and Economic, Technical and Scientific Co-operation between the Government of the Republic of Turkey and the Government of the Republic of Chile	09.10.1989	Ankara	08.12.1989-20336
Turkey-Chile Cultural, Scientific and Educational Cooperation Agreement	30.11.1990	Santiago	29.05.1995-22297
Agreement on Reciprocal Promotion and Protection of Investments	21.08.1998	Santiago	09.10.2003-25254

In addition to the above-stated treaties and protocols of economic nature, the Visa Relaxation Declaration providing the official passport holders exemption from visa was signed on November 30, 1990 and Cooperation Agreement between the Istanbul Chamber of Commerce and Santiago Chamber of Commerce was signed on March 5, 1997 through diplomatic channels.

The Turkish-Chilean Joint Commission, which was established in accordance with the Agreement on Trade and Economic, Technical and Scientific Co-operation, held its first meeting on September 21, 1998 in Santiago, and the Agreed Minutes of the Meeting was approved and published on the Turkish Official Gazette on February 8, 1999 (No. 23605).

During the first Joint Commission meeting both sides expressed their willingness to start the negotiations regarding the Agreement on the Avoidance of Double Taxation, which would further contribute to the creation of a secure environment for bilateral trade and economic relations.

The Agreement on Reciprocal Promotion and Protection of Investments will come into effect upon completion of the relevant procedure related to the coming into force of the Parliamentary approval and its announcement by the Chilean side.

In addition, the Agreement on Co-operation and Mutual Assistance in Customs Matters, Agreement on Judicial Cooperation in Civil and Trade Matters and Tourism Cooperation Agreement and the Free Trade Agreement are currently being negotiated by the relevant authorities of the two sides.

## IV. ANALYSIS OF THE EFFECTS OF TARIFF REDUCTION ON CHILEAN/TURKISH IMPORTS, EXPORTS AND INVESTMENT

### IV.1. Introduction

In this section, the effects of a tariff reduction between Turkey and Chile will be analyzed by using partial equilibrium analysis. On the other hand, all of the simulations will be set up under the assumption that “EU-27 members are also beneficiaries of the tariff reduction”, which will certainly effect the value of trade creation and trade diversion effects.

All of the tariff reduction scenarios are set up using WITS/SMART model<sup>25</sup>. WITS(The World Integrated Trade Solution) is a software developed by the World Bank, in close collaboration with the United Nations Conference on Trade and Development (UNCTAD). It brings together various databases ranging from bilateral trade, commodity trade flows and various levels and types of protection. WITS also integrate analytical tools that support simulation analysis. The SMART simulation model is one of the analytical tools in WITS for simulation purposes. SMART contains in-built analytical modules that support trade policy analysis such as effects of multilateral tariff cuts, preferential trade liberalization and ad hoc tariff changes. The underlying theory behind this analytical tool is the standard partial equilibrium framework that considers dynamic effects constant<sup>26</sup>. The database uses inter-regional data, hence it covers the values of 2005 for the time being.

### IV.2. Analysis

In this part of the section, the effects of a prospective FTA between Turkey and Chile on bilateral trade between these two countries have taken into account and abovementioned tools was used to bring out the possible effects.

The assessment considers the change that both Turkey’s imports and exports from and to Chile might experience, considering the present tariff duties and then assuming all custom items face a **zero tariff** simultaneously. The analysis also takes into account EU-27 member countries as beneficiary countries of the tariff reduction.

In order to calculate “trade creation and diversion” effects, WITS/SMART default supply price elasticities and import demand elasticities are used and the elasticity of substitution for imported goods is also considered as the default value, 1.5<sup>27</sup>.

It should not be forgotten that any methodology of estimates of trade impact produces underestimated results for some reasons. For example, they take into account only traded-commodities that will experience tariff reduction; or they don’t include “behavioral effects” of the agents in the economies which may change after a FTA. Therefore, it is reasonable to expect higher values than the ones presented in the tables hereafter.

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<sup>25</sup> For detailed information, visit the Worldbank website; link, 24.06.2007, [wits.worldbank.org/witsweb/download/docs/Explaining\\_SMART\\_and\\_GSIM.pdf](http://wits.worldbank.org/witsweb/download/docs/Explaining_SMART_and_GSIM.pdf)

<sup>26</sup> Source “The analytical Methodology – The GTAP and SMART models and related databases”, S. Karingi, ECA, TRID, 2004, Mimeo.

<sup>27</sup> For detailed information on trade creation and trade diversion effects, see [wits.worldbank.org/witsweb/download/docs/Explaining\\_SMART\\_and\\_GSIM.pdf](http://wits.worldbank.org/witsweb/download/docs/Explaining_SMART_and_GSIM.pdf)

#### IV.2.A. Change of Turkey's Exports:

In this part, the estimated change in exports from Turkey to Chile as a consequence of the FTA refers to “the potential change which would have occurred if the tariff duties were abandoned in 2005”. SMART simulation model functions on “import values” so it is better to use the title “The change of Chile’s imports” than using “The change of Turkey’s exports”. Table IV.2.1 shows the changes when Chile reduced the tariff rates to 0:

**Table IV.2.A. Change of Chilean Imports from Turkey (2005) After Tariff Rates Reduced to 0 (million \$)**

HS Code	Number Of 6 Digit HS Codes	Value of Imports (2005)	Trade Creation	Trade Diversion	Change of Imports	Old Simple Duty Rate (%)	New Simple Duty Rate (%)	Value Of Import After Tariff Reduction
07	1	0.071	0.002	0.005	0.006	6	0	0.077
08	1	0.193	0.012	0.003	0.015	6	0	0.208
09	4	0.177	0.012	0.012	0.024	6	0	0.201
10	1	0.005	0.000	0.000	0.001	6	0	0.006
12	2	0.253	0.010	0.015	0.026	6	0	0.279
18	1	0.051	0.003	0.004	0.007	6	0	0.058
21	3	0.660	0.043	0.022	0.065	6	0	0.724
24	2	1.024	0.023	0.070	0.093	6	0	1.118
25	1	0.007	0.000	0.000	0.001	6	0	0.008
26	1	0.046	0.005	0.000	0.005	6	0	0.051
27	2	0.639	0.058	0.022	0.085	6	0	0.723
28	4	1.760	0.164	0.102	0.267	6	0	2.026
29	5	0.348	0.032	0.010	0.042	6	0	0.390
30	2	0.494	0.046	0.024	0.070	6	0	0.564
32	2	0.036	0.004	0.002	0.006	6	0	0.042
34	2	0.014	0.003	0.001	0.004	6	0	0.018
39	20	0.705	0.135	0.048	0.184	6	0	0.889
40	13	0.679	0.229	0.051	0.280	5.94	0	0.959
42	4	0.001	0.000	0.000	0.000	6	0	0.001
44	1	0.007	0.001	0.001	0.001	6	0	0.008
48	2	0.000	0.000	0.000	0.000	6	0	0.000
49	2	0.005	0.000	0.000	0.001	6	0	0.006
52	1	0.000	0.000	0.000	0.000	6	0	0.000
55	1	0.003	0.000	0.000	0.000	6	0	0.003
56	2	0.027	0.002	0.002	0.004	6	0	0.031
57	10	0.800	0.059	0.041	0.101	6	0	0.900
58	3	0.051	0.004	0.004	0.007	6	0	0.059
59	3	0.081	0.006	0.006	0.012	6	0	0.093
61	29	1.753	0.373	0.139	0.512	6	0	2.265
62	36	0.204	0.042	0.017	0.059	6	0	0.263
63	11	0.303	0.024	0.025	0.049	6	0	0.352
65	1	0.000	0.000	0.000	0.000	6	0	0.000
66	1	0.002	0.000	0.000	0.001	6	0	0.003
68	3	0.063	0.003	0.003	0.007	6	0	0.070
69	5	0.072	0.018	0.006	0.024	6	0	0.096
70	11	0.515	0.049	0.031	0.081	6	0	0.595
71	5	0.021	0.004	0.002	0.006	6	0	0.027

HS Code	Number Of 6 Digit HS Codes	Value of Imports (2005)	Trade Creation	Trade Diversion	Change of Imports	Old Simple Duty Rate (%)	New Simple Duty Rate (%)	Value Of Import After Tariff Reduction
73	28	4.507	0.323	0.083	0.406	6	0	4.913
74	1	0.105	0.007	0.003	0.010	6	0	0.115
76	1	0.000	0.000	0.000	0.000	6	0	0.000
82	5	0.005	0.001	0.000	0.001	6	0	0.006
83	11	0.157	0.018	0.010	0.028	6	0	0.185
84	92	9.104	0.723	0.232	0.956	6	0	10.061
85	50	1.340	0.096	0.082	0.179	6	0	1.519
86	1	0.003	0.000	0.000	0.000	6	0	0.003
87	17	2.012	0.276	0.140	0.417	6	0	2.429
90	13	0.143	0.022	0.009	0.031	6	0	0.174
91	2	0.001	0.000	0.000	0.000	6	0	0.002
93	6	0.229	0.009	0.010	0.019	6	0	0.249
94	17	0.259	0.075	0.024	0.099	6	0	0.358
95	2	0.001	0.000	0.000	0.000	6	0	0.002
96	1	0.001	0.000	0.000	0.000	6	0	0.001

According to the values of 2005, there are 454 HS-6-Digit commodities that would be effected by tariff reduction, and the total bilateral trade effect of reducing tariff rates to 0 in a FTA with Turkey for Chile is 4.72 million US\$. On the other hand, while Chile faces 356.8 million US\$ increase in imports, the total tariff revenue decreases 216.6 million US\$. Moreover, consumer surplus is calculated to rise 12 million US\$.

84 (Nuclear reactors, boilers, machinery, etc), 72 (Iron and steel), 61 (Articles of apparel, accessories, knit or crochet), 87 (Vehicles other than railway, tramway), 73 (Articles of iron or steel) are the first 5 chapters which explains 60% of the total change in aggregate. Chapter 84 has 20.27% share in the total change while chapters 72, 61, 87, 73 have 11.15%, 10.85%, 8.83% and 8.61% shares respectively.

In 2005, Turkey's exports to Chile were 24.96 million US\$. Comparing it with the results of the simulation, it is reasonable to claim that if the tariff rates were 0 for Turkey in 2005, the total amount of Turkey's exports to Chile would be at least 4.7 million US\$ higher than the actual value, which accounts for 18.8% increase.

Of course, it is possible to make assumptions for 2006 to get some clues about the effects of tariff reductions on exports of Turkey to Chile. For example, let the total exports of Turkey to Chile be 29.68 million US\$ in 2005 (the sum of the actual value and the result of the simulation) and the same growth ratio(39.4%) was experienced. Then the total value of Turkey's exports to Chile would become 41.37 million US\$ in 2006, which refers to 6.58 million US\$ change in the actual value of 2006.

#### **IV.2.B. Change of Turkey's Imports:**

By using the same tools and methodology above, Table IV.2.2 is formed below. According to the results, there are 40 HS-6-Digit commodities that would be effected by the tariff reduction in 2005 and the total bilateral trade effect of reducing tariff rates to 0 in a FTA with Chile for Turkey is 2.5 million US\$. On the other hand, Turkey is expected to lose 260

million US\$ tariff revenue while a 190-million-dollar imports increase is predicted. In addition, consumer surplus is expected to increase about 33.5 million US\$.

The first five commodities explain 83% of the expected total change. On the other hand, there are 10 HS-6-Digit commodities under “chapter 08” and they account for 47% of the total change. For example, 080810 experiences 0.68 million US\$ change which refers to 27% share of the total change only by itself.

The results give rise to the idea that non-traded goods are essential to analyze to see the possible effects of the FTA. For this reason, the potential effects of the non-traded goods between Turkey and Chile will be analyzed in the next part of this section.

**Table IV.2.B. Change of Turkey's Imports from Chile (2005) After Tariff Rates Reduced to 0 (1000 \$)**

	HS Code	Before	After	Change	Old Simple Duty Rate (%)	New Simple Duty Rate (%)
1	080810	1813.819	2494.933	681.114	60.3	0
2	120991	1566.953	2092.338	525.385	19.3	0
3	081050	381.371	758.101	376.73	55.8	0
4	220421	350.755	704.037	353.282	70	0
5	520942	801.789	936.955	135.166	6.4	0
6	854011	321.593	380.337	58.744	9.8	0
7	071333	354.577	413.116	58.539	9.65	0
8	080610	108.215	155.542	47.327	54.9	0
9	150420	2477.144	2518.585	41.441	2.48	0
10	230120	620.554	652.335	31.781	2	0
11	030490	56.25	83.894	27.644	28.42	0
12	081320	35.17	59.949	24.779	41	0
13	121190	37.041	58.646	21.605	35	0
14	120600	67.087	85.371	18.284	16.75	0
15	080820	17.002	33.048	16.046	60.3	0
16	081330	18.708	30.729	12.021	41	0
17	550510	122.746	133.714	10.968	3.2	0
18	392321	53.097	63.779	10.682	3	0
19	080930	6.47	13.384	6.914	55	0
20	080920	5.714	11.933	6.219	55	0
21	030749	9.086	14.418	5.332	37.5	0
22	080940	8.407	12.249	3.842	55	0
23	310250	337.429	340.847	3.418	1.5	0
24	071310	14.907	17.381	2.474	9.65	0
25	441119	18.414	20.23	1.816	3.5	0
26	081340	4.657	6.274	1.617	15.4	0
27	740710	37.19	38.42	1.23	1.3	0
28	110630	0.994	1.486	0.492	23.1	0
29	611780	1.313	1.795	0.482	7.47	0
30	611710	0.912	1.334	0.422	9.6	0
31	320649	8.5	8.898	0.398	1.5	0
32	070920	0.888	1.175	0.287	19.5	0
33	210500	0.704	0.847	0.143	8.17	0

	HS Code	Before	After	Change	Old Simple Duty Rate (%)	New Simple Duty Rate (%)
34	590320	0.832	0.974	0.142	6.4	0
35	610510	0.2	0.293	0.093	9.6	0
36	610910	0.199	0.29	0.091	9.6	0
37	611691	0.197	0.266	0.069	7.1	0
38	610210	0.102	0.149	0.047	9.6	0
39	630790	0.248	0.289	0.041	6.15	0
40	560900	0.207	0.233	0.026	4.6	0

#### IV.2.C. Potential Trade (Non-Traded Goods Perspective)

The results of the simulations above clearly showed that the basket of goods that Turkey and Chile export to each other is small. Because of this, the potential of non-traded goods between countries begin to capture much more attention.

There are various ways to calculate such potential. For example, in this study we examined “*the group of goods that Turkey sells to world except Chile*” which intersects with “*the group of goods that Chile buys from the world except Turkey*”. Then we made an assumption that “For these selected non-traded goods, Turkey is able to satisfy the demand of Chile at most **its share** in total imports of Chile”, which is **0.1%** in 2005. The logic behind this selection and assumption is that we aimed to satisfy the necessities of both supply and demand sides of the economies and we expect to bring out some product groups that Turkey really can export to Chile (supply side) while Chile has the adequate demand for them. As a result, by multiplying the trade values of the specified goods with 0.1%, we got the potential export values due to 2005 values, which are shown in the Table IV.2.3.

**Table IV.2.C. Potential Export Values for Turkey**

HS Code	Number Of 4 Digit HS Codes	Potential Export (\$)	Chile's Total Import (\$, 2005)
01	3	5.180	4.342.187
02	9	36.217	364.649.294
03	7	206.040	17.264.515
04	10	79.885	77.492.355
05	6	40.638	31.277.882
06	4	36.230	8.641.728
07	12	331.126	9.224.073
08	13	2.310.175	52.519.197
09	8	12.926	52.855.221
10	6	114.646	227.675.890
11	9	483.572	21.983.291
12	10	54.178	87.618.108
13	1	950	2.393.778
14	2	17.083	173.255
15	15	498.097	200.982.218
16	5	42.300	34.874.006
17	3	24.964	88.380.358

HS Code	Number Of 4 Digit HS Codes	Potential Export (\$)	Chile's Total Import (\$, 2005)
18	3	51.813	21.639.638
19	3	336.519	35.825.171
20	9	1.281.470	45.315.013
21	4	49.232	16.555.320
22	9	148.627	60.461.619
23	8	15.435	277.318.568
24	2	121.787	2.628.286
25	25	1.074.795	105.328.098
26	15	275.282	806.862.315
27	13	2.616.595	6.465.139.053
28	46	362.290	331.333.398
29	37	227.304	360.529.816
30	4	19.434	85.134.192
31	5	37.755	257.798.749
32	14	193.053	239.975.857
33	7	256.755	232.207.968
34	6	410.644	122.112.585
35	7	34.606	56.930.103
36	5	11.641	14.803.251
37	7	7.539	59.951.697
38	23	160.766	376.158.922
39	17	436.536	692.375.098
40	12	41.089	113.078.485
41	7	65.920	12.235.257
42	4	249.201	25.314.759
43	4	155.342	1.085.685
44	17	248.298	115.227.586
45	4	320	39.956.878
46	2	514	3.021.841
47	4	937	33.668.569
48	18	379.414	407.888.678
49	9	28.274	20.617.778
50	4	4.283	1.519.827
51	10	180.033	20.863.236
52	11	934.859	66.505.238
53	9	25.087	3.128.854
54	6	76.965	8.261.572
55	16	963.201	102.189.623
56	8	166.435	70.985.441
57	2	24.165.203	3.824.441
58	9	351.656.341	11.029.761
59	11	260.766.503	54.050.118
60	2	82.094.282	9.549.945
61	5	464.207.903	31.519.588
62	12	2039060.76	255.304.346
63	6	122.864.518	40.397.048
64	6	215.792.757	306.486.852
65	6	8.152.151	13.211.535
66	3	6.313.511	4.281.727
67	4	456.498	3.201.097
68	13	116.615.702	42.828.991

HS Code	Number Of 4 Digit HS Codes	Potential Export (\$)	Chile's Total Import (\$, 2005)
69	10	258.973	42.641.906
70	14	206.001	44.545.589
71	13	152.422	1.266.288
72	25	1.806.797	527.955.817
73	15	1.169.070	241.768.471
74	12	298.607	19.642.664
75	6	1.960	4.923.456
76	15	843.599	183.385.362
78	3	3.510	8.749.505
79	6	9.617	17.779.547
80	3	610	7.242.372
81	10	2.665	2.765.628
82	14	53.830	122.399.863
83	5	43.107	21.745.902
84	54	1.091.643	2.527.962.321
85	32	3.780.343	1.675.391.889
86	7	30.938	218.641.499
87	11	3.600.791	1.805.415.252
88	5	254.890	15.706.468
89	7	1.188.000	76.152.129
90	22	35.132	193.409.805
91	13	7.267	24.080.388
92	7	5.114	11.490.597
93	4	22.852	3.085.269
94	2	121.542	16.513.081
95	5	19.306	117.635.256
96	14	67.018	45.881.894
97	4	435	812.597

According to the data of 2005, there are 918 HS-4-Digit products which have 34.7 million US\$ export potential to Chile for Turkey. This potential is much higher than the actual exports value of Turkey to Chile in 2005 and equals to 2006 values, which is 39.4% higher than 2005 values. Another remarkable point is that Chile imported 21.75 billion US\$ of the 918 HS-4-Digit products in 2005. These results also give additional support to the selection and assumption we made in the beginning of this part.

The first five HS chapters are 85 (Electrical, electronic equipment), 87(Vehicles other than railway, tramway), 27(Mineral fuels, oils, distillation products, etc), 08(Edible fruit, nuts, peel of citrus fruit, melons) and 62(Articles of apparel, accessories, not knit or crochet) which include 81 HS-4-Digit products and account for 14.34 million US\$ and refers to 41.3% of the total potential.

### IV.3. Bilateral Liberalization of Trade in Services

There is no reliable data regarding bilateral flow of services between Turkey and Chile to make an analysis in this area.

#### IV.4. Bilateral Liberalization of Investment

There is no reliable data regarding bilateral flow of investments between Turkey and Chile to make an analysis in this area.

#### IV.5. Effects and Influence for the Respective Regions (Latin America/Asia)

In Turkey's point of view, a prospective FTA between Turkey and Chile would help to develop enhanced relations with Latin America and facilitate Turkey's access to this region.

South and Central America reached to 298 billion US\$ merchandise imports in 2005, with 28% and 22.6% growth rates in 2004 and 2005 respectively. Brazil, Chile and Argentina showed up as the main importer countries in 2005. The Table IV.5.1 displays detailed information about Latin America's merchandise imports.

**Table IV.5. Merchandise Imports (billion dollars)**

Country	Value	Share (%)				Annual Percentage Change (%)			
	2005	1980	1990	2000	2005	2000-05	2003	2004	2005
South and Central America	297.639	100	100	100	100	7.609	5.657	27.967	22.618
Andean Community	46.356	10.098	12.54	11.88	15.574	13.59769	7.802	20.562	25.566
MERCOSUR	113.856	37.31	34.102	43.566	38.253	5.418398 1	10.573	37.942	19.737
Brazil	77.585	24.64	26.22	28.628	26.067	5.611	2.27	30.658	16.788
Chile	32.542	5.722	9.012	8.972	10.933	11.949	13.399	28.327	30.842
Argentina	28.692	10.405	4.745	12.195	9.64	2.667	53.882	62.247	27.831
Bolivarian Rep. of Venezuela	24.249	11.675	8.539	7.86	8.147	8.384	-28.597	81.806	44.099
Colombia	21.204	4.678	6.507	5.594	7.124	12.941	9.263	20.575	26.621
Peru	12.502	2.54	3.066	3.595	4.2	11.013	12.291	20.05	23.77
Guatemala	10.493	1.577	1.92	2.323	3.525	16.975	6.124	16.607	10.709
Ecuador	10.309	2.224	2.166	1.804	3.463	22.605	4.225	22.73	25.313
Costa Rica	9.798	1.52	2.317	3.089	3.292	8.986	6.608	7.895	18.505
Dominican Republic	9.614	1.939	3.499	4.595	3.23	0.283	-13.702	3.422	21.881
Cuba	7.125	6.421	5.355	2.348	2.394	8.027	11.988	14.317	34.79
El Salvador	6.766	0.954	1.47	2.398	2.273	6.463	10.995	9.976	6.922
Honduras	4.484	0.996	1.088	1.384	1.507	9.449	9.896	19.536	14.505
Jamaica	4.46	1.081	2.244	1.612	1.499	6.045	3.085	3.569	18.248

Source: [www.wto.org](http://www.wto.org)

According to the Table IV.5.1, the total amount of merchandise imports in South and Central America is increasing steadily and this region stands out as an important growing market with 298 billion US\$ imports value in 2005. The prospective FTA would enable to increase the share of Turkey in South and Central America and also trigger investment attempts. In the long run, with the help of the enhanced relations, Turkey may also have a chance to access more easily to Asia market.

## **V. ECONOMIC COOPERATION AND INFORMATION EXCHANGE ON OTHER ISSUES**

### **V.1. Government Procurement**

The Turkish public procurement system underwent a major reform in 2002 in order to address shortcomings identified such as:

1. Most public agencies were not covered by the law, and had the right to issue their own regulations on procurement. This resulted in a dozen of regulations covering different public agencies.
2. Publication of notices was not required for all procurement methods and even when it was obligatory, announcement periods were too short to inform interested economic operators.
3. Selection and evaluation criteria were not objectively determined and pre-announced.
4. Unsuccessful bidders were not informed about the decision of the contracting entity.

Public procurement process in Turkey was restructured throughout in Public Procurement Law (PPL) no. 4734 of 2002 taking into account United Nation Model Law on Procurement of Goods, Construction and Services (UNCITRAL) and EU's Public Procurement Directives. PPL was put into force 1st January 2003.

Total public entity procurement represents 8%-9% of Gross National Income, which is approximately 30 Billion \$. Each administration does its own procurement. All public entities both using public resources and under supervision of public administration are covered by PPL.

The very basic principles of public procurement, which are stated in Article 5 of the PPL are transparency, competition, equal treatment, reliability, confidentiality, public supervision, and carrying out procurement of needs under appropriate conditions and in a timely manner, and for the efficient use of resources.

Procurement of departments included in the general budget, annexed budget, special provincial administrations and municipalities and their related revolving funds organizations, associations, legal entities and state economic enterprises, consisting of public corporations and state economic establishments, and any institutions, organizations, associations, enterprises and corporations which more than half of their capitals, directly or indirectly, together or separately are owned by these entities are under the scope of the PPL.

Besides it is also stated in the Article 5 of the PPL that the procurement proceedings shall not be initiated unless there is a sufficient budget allocation and an Environmental Impact Assessment (EIA) Report, a document indicating positive comments on EIA in various works must be obtained before the initiation of procurement proceedings.

In order to have parallel provisions related to threshold WTO and EU law, different monetary limits are drawn taking into account types of the jobs and structure of the public entity. Tenders below threshold might be open only to domestic bidders depending on discretion of public entity and tenders above threshold might include up to 15% price advantage for domestic bidders.

Domestic bidder description incorporates legal entities, which are established under Turkish Law.

Since it was inconsistent with international practices and based on unit prices determined by public authorities that did not reflect market price, exercise of estimated price was annulled and estimated cost practice has been put into force. Prior to the procurement proceedings of goods, services or works, contracting entity shall conduct all necessary price investigations and shall determine an estimated cost excluding the value added tax and the estimated cost shall be indicated on a calculation chart with its justifications.

Adequacy criteria for public procurement bidders are restructured accordingly international tender practices. Furthermore, inspection of extremely low bid practice has been laid down in accordance to EU law.

It is mandatory to use standard tender documents prepared by the Public Procurement Authority (Hereinafter referred as PPA) while conducting any procurement. Preparation of administrative and technical specifications that constitute the subject matter of procurement by the contracting entities is essential. The technical criteria specified in technical specifications shall aim efficiency and functionality, shall not consist of elements impeding competition and shall ensure equal opportunities for all tenderers.

Principally, all procurements should be announced with notices in order to enhance the transparency, competition and public supervision. Time limits for announcements are regulated in respect of procurement procedures and in parallel with the EU legislation. Contract award information regarding public contracts exceeding certain monetary values stated in the PPL is announced in Public Procurement Bulletin in order to inform all related parties and public about the use of public resources, thus realizing transparency not only before the procurement but also after it.

For the procurements to be held in accordance with the PPL the principal procurement methods are open procedure and restricted procedure. Purchasing with bargaining is limited in PPL. In accordance with internationally accepted practices, the PPL includes special provisions on consultancy services. Bargaining is restructured for determination of technical specifications.

Public entities cannot do the tenders by inviting specific firms. Tender between certain tenderers requires announcement of preliminary adequacy. Announcement period is in consistency with EU legislation.

With PPL, PPA was established as an administratively and financially autonomous entity at the central governmental level to regulate and monitor whether public procurements are conducted in accordance with the basic principles stated in the Article 5 of the PPL through an administrative review mechanism.

In this respect, the PPL envisages provisions that any procurement dispute arising in public procurement process from commencement of the tender proceeding to concluding the contract has to be resolved in an administrative way. Provisions in the PPL provide candidates, tenderers to file a “complaint” to the contracting entity at first and then to the Public Procurement Authority for “objecting complaint”. Before applying for the Administrative Court it is obligatory to file a complaint before the PPA. Only after this mandatory administrative procedure is exhausted it is possible to resort to the administrative courts.

The final decisions made by the Public Procurement Board with regard to the complaints can be referred to the administrative courts. Court of Accounts is authorized for financial audit on contracting authorities in relation to the implementation of contracts. Apart from this financial ex post audit, internal control mechanism within the contracting authorities plays role in supervising public procurements.

After initial evaluation by tender commission, if a tender is found abnormally low compared with other tenders or estimated cost, the commission requests the relevant tenderers to submit, details relating to components of the tender that are deemed to be significant in writing within a specified period. Tenders of the tenderers whose written explanations are found insufficient or who fail to make a written explanation shall be rejected.

In coherent with internationally accepted practices, there are three types of contracts in the PPCL, namely in procurement of works; turn key lump-sum and unit price contracts, in procurement of goods or services; lump-sum and unit price contracts. Form contracts prepared in connection with procurement of goods, services, and works by the PPA are published in the Official Gazette in order to assure uniformity. Any contract that is awarded by public administrations is drawn up in accordance with the provisions of the Form Contract.

Tender is awarded to most advantaged economic tenderer. It could be the lowest price but if lowest price criterion is not enough other factors shall be considered parallel to EU legislation.

Furthermore, there are provisions in the PPCL regarding limitation for assignment of contract, detailed regulations for termination of contract, regulations for liability of the carried works and inspection, criminal sanctions for contractor and contracting entity officials who fail to fulfill his obligations in due manner.

With the 2002 PPL, the Public Procurement Authority (PPA) was established as an administratively and financially autonomous entity at the central governmental level to regulate and monitor public procurement process. The Authority is comprised of the Public Procurement Board, the Presidency and service units. Complaints are heard before the Public Procurement Board (PPB), which is served service units.

Information on tendering requirements is available via PPA's website. In 2006, 4.602 complaints were filed out of a total number of 47.743 calls for tender. The system is broadly in line with international standards: tender is required for all contracts under the scope of PPL, decisions are open to audit and a clear system of complaint procedure is in place. However, the procurement law has been subject to a number of amendments that have narrowed the scope of the PPL. For instance the extent of utilities sector under the scope of PPL has been narrowed. Procurements below 428.537-YTL – (approximately 2.341.732 €) are not covered by PPL. However, procurements above this limit are under the scope of PPL. Taking into account the average magnitude of monetary value of procurements, i.e. those undertaken by SEEs operating in energy sector, it is observed that the procurements which fall out of the scope of PPL are quite limited. It has been regulated by interim Article 4 of PPL that the utility sectors are subject to Article 3/g of PPL until the necessary legislative arrangement is made and utility sectors are subject to other provisions of PPL for the procurements of works, goods and services which are not in the scope of Article 3/g article thereof. The goods and services, which are under the scope of Art.3/g are determined by PPA (Interim Article 4). Consequently, the procedure seems simplified in this field, but procurements should be awarded in line with basic principles and the same announcement procedures.

Turkey has observer status by Public Procurement Agreement.

## **V.2. Transparency**

Transparency is one of the most important principles in the Turkish administrative law and in the Free Trade Agreements.

### **i. Transparency in the Administrative Law**

In the framework of the transparency policy, The Law on Right to Information was adopted unanimously by the Parliament in October 2003 and went into effect in April 2004.

Citizens and legal persons have right to have information from public institutions and private organizations that qualify as public institutions. Non-citizens and foreign corporations based in Turkey also have right to have information related to them or their interests if their country allows Turkish citizens to demand information from their authorities. Requests are to be made in writing or in electronic form if the identity of the applicant and their signature can be verified using a digital signature.

Government bodies are required to respond in 15 working days. They must provide either a certified copy of the document or when it is not possible to make a copy, requestors can examine them at the institution. Oral requests are to be treated "with hospitality and kindness" and immediately reviewed and resolved if possible.

Moreover, the e-government project is another pillar of the transparency policy. In this context, Turkey has become a party to the e-Europe+ Initiative, which has been designed for EU candidate countries in 2001. The "e-Transformation Turkey Project" was launched in 2003 and hence all individual studies being carried out in our country have been gathered under an umbrella project and accelerated. The e-Transformation Turkey Project aims to carry out the process of transformation into an information society in a harmonious and integrated structure all over the society with all citizens, enterprises and public segments. General coordination of the Project has been assigned to the State Planning Organization and the e-Transformation Turkey Executive Board with the participation of the State Minister and Deputy Prime Minister, Minister of Transportation, Ministry of Industry and Trade, top-level bureaucrats and non-governmental organizations (NGOs), and the Advisory Council with the participation of public and private sectors and NGOs have been established.

### **ii. Transparency in Free Trade Agreements**

In the respect of the rules of the World Trade Organization (WTO), the transparency rules are crucial for the efficiency and the objectivity of the free trade agreements. For this purpose, in accordance with the GATT Article 24 and the transparency mechanism of WTO regional trade agreements procedures, Turkey dully notifies its bilateral trade agreements to the related WTO bodies.

Furthermore, a Joint Committee is established in the free trade agreements. In this Joint Committee each party is represented and it is responsible for the administration of the Agreement and ensures its proper implementation.

For the proper implementation of the free trade agreement and facilitate communication, Parties exchange information and, at the request of any Party, hold consultations within the Joint Committee. The Joint Committee keeps under review the possibility of further removal of the obstacles to trade between the Parties.

### **V.3. Movement of Business Persons**

Visa Regime between Turkey and Chile is regulated with a Visa Exemption Agreement signed between both Parties on 30 November 1990 in Santiago. According to this Agreement, citizens of both countries holding valid passports are exempt from visas for tourist travels not exceeding 3 months.

However, since the Chilean Side notified that according to Chile's internal legislation the mentioned Agreement can not take effect for diplomatic, special and service passports, another similar agreement covering official passports has been signed between Turkey and Chile in 24 April 1997 in Ankara. The Agreement has been immediately ratified by Turkey and in 28 June 2000 by Chile.

### **V.4. Intellectual Property Rights (IPR)**

#### **V.4.A. Turkish Policy Regarding the Main IPR Treaties**

The history of industrial property rights in Turkey dates back to the 19th century. The first regulation, which was enacted in 1871, was on trademarks, "Distinctive Signs Regulation" and the first patent law, "Invention Certificate Law", was enacted in 1879. So, the first legislation for protection of trademarks and patents is much earlier than most of the developed countries. This legislation was also in use after the foundation of the Republic of Turkey. From 1925 to 1994, Turkey ratified some of the international agreements that were important in patent and trademark field. In 1925 and 1930, Turkey ratified two of the main agreements in this area, Paris Convention and Madrid Agreement respectively. Turkey became a Member state of the World Intellectual Organization (WIPO) in 1976. Turkey was also a member of the former International Patent Institute (IIB). IIB was integrated into European Patent Office in 1978. Turkey participated in the preparatory work establishing a centralized European patent granting system especially Luxembourg Inter-Governmental Conference in 1969 and Munich Diplomatic Conference in 1973. Therefore, Turkey entitled to accede to the European Patent Convention (EPC) at any time. The great progress in the industrial property rights in Turkey started in 1994. The industrial property system was administered by the Industrial Property Department under the Ministry of Industry and Trade until 1994: Turkey established a government authority with the Decree Law 544; named Turkish Patent Institute (TPI), to adapt the modern industrial property system of the developed world. Turkish Patent Institute celebrates 135th anniversary of Industrial Property System in Turkey in 2006.

The main task of TPI is to perform registration pursuant to provisions of relevant acts of industrial property, which concern currently patents and utility models, trademarks, industrial designs, topographies of layout-designs of integrated circuits and geographical indications. In addition, TPI acts as a mediator in the performance of license transactions, acts as an expert before courts; guides technological transfers and submits such information to the benefit of the public; cooperates with national/international institutions and ensures the implementation of

agreements in the field of industrial property rights. This attempt in modernization resulted in various laws, decree laws, and regulations entered into force between 1994 and 2005.

In addition to the revision of the national legislation and institutional infrastructure; Turkey became a Member of the leading international organizations that is important in the area of industrial property rights after 1994: World Trade Organization (WTO; 1995) and European Patent Organization (EPO, 2000).

Turkey is a founding member of the World Trade Organization. Although having totally 5 years transition period up to the year 2000, Turkey adopted its national industrial property legislation for patents, trademarks, industrial designs and geographical indications in 1995. As a result, Turkey's intellectual property legislation was reviewed successfully in November 2000 session in TRIPS Council for reflecting the provisions of TRIPS to their national legislation.

Turkey is the 20th member of the European Patent Organization. European Patent Convention (EPC) makes it possible to obtain patent protection in up to 35 [32 Member States + 5 Extension States] European countries on the basis of a single application. The applicant decides which countries the European patent should cover. With its centralized grant procedure, the European Patent Office (EPO) offers applicants a cost-effective and time-saving way of applying for patent protection in up to 35 European countries at once.

Turkish industrial property protection revolution is a continuous process. Recent developments include the revision of some legislation. TPI prepared a draft law amending "Decree Law: 544 dated June 24, 1994 for Establishment and Functions of Turkish Patent Institute". This law no: 5000 was put into force in November 2003. Besides, "Law on the Protection of Topographies of Layout-Designs of Integrated Circuits" was promulgated in the Official Gazette dated 30 April 2004. The Implementing Regulation of the Law also entered into force in 30 December 2004. In the field of international agreements, ratifications of the "Trademark Law Treaty" and "Geneva Act of the Hague Agreement Concerning the International Deposit of Industrial Designs" were completed. Both agreements were published at the Official Gazette and implementation started on January 1, 2005.

Currently, out of 12 specialized courts for IPR, there are five specialized judges working in three specialized civil courts in addition to five specialized judges working in five criminal courts in the field of industrial property rights.

On March 13, 2007, the Turkish Parliament voted on the ratification of EPC 2000. The Turkish Parliament adopted the law on ratification of EPC 2000. The Law No: 5598 was published in Official Gazette on March 17, 2007. The EPC 2000 is the version of the European Patent Convention as revised by the Act Revising the Convention on the Grant of European Patents (Revision Act) signed in Munich on November 29, 2000.

A diplomatic conference was held from 20 to 29 November 2000 in Munich to revise the Convention on the Grant of European Patents of 5 October 1973, amongst other things to integrate in the EPC new developments in international law, especially those of the TRIPS Agreement and of the Patent Law Treaty, and to add a level of judicial review of the Boards of Appeal decisions. Turkey participated in Munich Diplomatic Conference in 2000 as a member states and also signed Revision Act.

TPI also aims to improve its infrastructure and staff's quality. According to the World Bank Project signed in August 1999 between TPI and World Bank under World Bank Loan Agreement for Modernization of Industrial Property System of Turkey, construction of "Industrial Property Campus" was completed on April 26, 2004. Within the cover of the World Bank credit, training and promotion activities related to industrial property rights in Turkey, which are necessary for increasing knowledge and awareness of industrialists, attorneys, lawyers, judges, researchers and briefly for all individuals, are also determined and detailed.

Turkey, starting from 1994, which is the foundation year of the TPI, has established a modern, strong and contemporary protection system and performed the implementation of the international agreements concerning the protection of industrial property rights. All these efforts opened the way for creating the best protection of environment of the Industrial Property Rights by means of a modern and strong legal infrastructure and a proper implementation system.

TPI prepared "the Strategic Plan for the Period 2005–2009" by which the situation is examined, strategic targets are determined and the actions necessary to reach these targets and goals are planned. In this context, the vision of TPI was redefined: The vision is "The Turkish Patent Institute provides effective protection and widespread usage of industrial property rights ensuring that Turkish industry and technology play a leading role in global competition. It strives to be a leading and model institution in Europe for the development of industrial property worldwide." Having a customer-oriented approach, TPI has tried to improve the quality of its products and services. In this context, particular importance will be attributed to:

- Raising awareness and dissemination of information,
- Consolidation of industrial property culture in the overall society and in the stakeholders.

TPI closely cooperates with universities, with chambers of industry and trade, with governmental institutions, such as the Small and Medium Industry Development Organization (KOSGEB) and the Scientific and Technological Research Council Of Turkey (TUBITAK), and with non-governmental organizations in order to create synergy in the IPR awareness activities. Various training programs are organized in this context. SME experts of KOSGEB, R&D project managers of TUBITAK, and representatives of other related bodies participated in these activities. In addition, training activities for judges are organized in cooperation with Ministry of Justice.

Besides, 29 Information Bureaus are opened throughout the country in cooperation with universities, chambers of commerce and industry.

TPI has carried out the search and examination of patent applications in some IPC classes since January 1, 2005. EPOQUE database system of European Patent Office started to be used for this purpose in 2005. In addition to this, search and examination reports are also prepared by some other (Swedish, Danish, Russian, Austrian, EPO-only search reports) Patent Offices on behalf of TPI.

Close international cooperation has been developed with national industrial property offices and international organizations such as World Intellectual Property Organization (WIPO), World Trade Organization (WTO) and European Patent Office (EPO) in order to strengthen industrial property protection in our region. For this purpose, TPI organized several activities such as symposiums, workshops and conferences with the support of abovementioned organizations.

The 9th Annual EPO Member States Meeting on “International Cooperation” was held in the TPI headquarters in 2005, and many activities were planned.

The President of TPI was elected as one of the seven members of Supervisory Board of European Patent Academy by Administrative Council of European Patent Organization in March 2005.

A Turkish judge was appointed to the Enlarged Board of Appeal of European Patent Office by Administrative Council of European Patent Organization in October 2005.

The Chairman of Turkish Industrialists’ and Businessmen’s Association (TUSIAD) International was appointed to the Standing Advisory Committee before the European Patent Office (SACEPO) by the President of European Patent Office in 2006.

TPI organized the High Level Workshop on “Strengthening Administrative & Innovation Support Capacity in Industrial Property Offices” with the support of EPO in Ankara on April 10-11, 2006 with the participation of 23 countries. WIPO and Eurasian Patent Office (EAPO) were also represented in this event. The main objectives of the workshop were to exchange of views and to share unique experiences with other participated offices. The workshop was based on five topics, which were institutional capacity building, innovation support, awareness and promotion activities, IT infrastructure and financing. In the sessions each topic was discussed in a structured manner and was moderated by countries, which had specific experience in the field. As a result of the discussions, it was decided to create a network called as Ankara Network amongst the participants. (<http://ankaranet.tpe.gov.tr>). Ankara Declaration is another conclusion of this workshop.

Ankara Network is an online platform for the National Industrial Property (IP) Offices to share their experiences in order to contribute to the development of a better IP World. By utilizing the Network, National IP Offices may exchange their experience, knowledge and best practices. The network will serve the purposes of publishing and disseminating experiences of various IP offices and enabling further discussion on questions of mutual interest via web discussion groups.

A Regional Workshop, organized by WTO on certain Topical issues in regard to intellectual property for Central and Eastern European and Central Asian Countries, took place at TPI’s premise in Ankara on May 16-18, 2006 with the participation of 18 countries. This event is the first WTO Regional activity in Turkey. The purpose of this Workshop was to address a number of important policy issues under negotiation or consideration in the field of intellectual property in the WTO, including the protection of geographical indications and the relationship between the TRIPS Agreement and the Convention on Biological Diversity. The aim was to provide information and an opportunity for an exchange of views among countries of the region that will facilitate their effective participation in these ongoing negotiations and discussions. With regard to TRIPS and Public Health, the Workshop aimed to support participants in the implementation and the use of the system established under the WTO Decision on Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, was recently transposed into the Protocol Amending the TRIPS Agreement and submitted to WTO Members for acceptance. Experts from WTO, World Health Organization (WHO), WIPO and representatives from United States and Turkey Missions in Geneva made presentations during the workshop.

There is a project proposed by TPI on “Technical Cooperation Project Among Industrial Property Offices in OIC Member States”. OIC, The Organization of the Islamic Conference is an

inter-governmental organization grouping fifty-seven States. The project is on establishment of mechanisms for the promotion of technical co-operation in the field of industrial property (IP) rights among the OIC Member States for establishing efficient industrial property protection system compatible to international standards. This project will also provide economic and technological development by supporting innovation activities in industry and harmonizing IP legislation to international standards for the welfare of the people of the OIC Member States. In order to launch this project, Turkish Patent Institute organized a meeting in Ankara on 14-16 December 2006. 16 OIC Member States participated the conference in addition to the representatives from ICDT, IDB, WIPO, WTO, EPO, and GCC. In early February 2007, a coordination meeting was held in Casablanca to finalise the terms of reference, the questionnaire and the background paper of the project.

Turkey is also the coordinator country in the field of industrial property in Economic Cooperation Organization (ECO). ECO member states are Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyz Republic, Pakistan, Tajikistan, Turkey, Turkmenistan and Uzbekistan. A training needs assessment survey was prepared by TPI and distributed to the ECO Member States.

Besides these activities, close international cooperation has been developed with national IP offices of France, Italy, Czech Republic, Macedonia, Azerbaijan, Morocco and Mongolia in parallel to the mission statement of the TPI.

Turkey believes that IPR protection has a great impact on the innovation and economic development. Hence, the approach of Turkey is to make use of IPR system as an essential tool for technological and economic development, which will in turn increase the wealth of the society. For this purpose, Turkey has conducted a very serious work and obtained very concrete results in establishing a new and contemporary industrial property system. Turkish industrial property protection revolution containing establishment of all the elements of industrial property system compatible to the TRIPS and EU standards has been realized. This achievement created a reliable and competing environment that supports the developments in Turkey's own industry and trade; as well, it created a very suitable environment for investment and technology transfer of the international enterprises.

**Table V.4.A.1. National Laws**

<b>Law</b>	<b>Entry into force</b>
Decree-Law No: 551 Pertaining to the Protection of Patent Rights	27 June 1995
Decree Law No: 554 Pertaining to the Protection of Industrial Designs	27 June 1995
Decree-Law No. 556 Pertaining to the Protection of Trademarks	27 June 1995
Decree-Law No.555 Pertaining To The Protection Of Geographical Signs	27 June 1995
Law No: 5147 Pertaining to the Protection of Integrated Circuits' Topographies	22 April 2004

**Table V.4.A.2. International Agreements**

<b>Treaty</b>	<b>Status</b>	<b>Entry into Force</b>
Budapest Treaty	In Force	November 30, 1998
Hague Agreement	In Force	January 1, 2005
Locarno Agreement	In Force	November 30, 1998
Madrid Agreement (Indications of Source)	In Force	August 21, 1930
Madrid Protocol	In Force	January 1, 1999
Nice Agreement	In Force	January 1, 1996
Paris Convention	In Force	October 10, 1925
PCT	In Force	January 1, 1996
PLT	Signature	
Singapore Treaty	Signature	
Strasbourg Agreement	In Force	October 1, 1996
TLT	In Force	January 1, 2005
Vienna Agreement	In Force	January 1, 1996
WIPO Convention	In Force	May 12, 1976
TRIPS Agreement	In Force	March 26, 1995
EPC (European Patent Convention)	In Force	November 1, 2000

**Table V.4.A.3. Trademark Applications in Turkey between 1994 and 2005**

<b>Years</b>	<b>Domestic</b>	<b>Foreign</b>	<b>Total</b>
<b>1994</b>	11.591	2.668	<b>14.259</b>
<b>1995</b>	12.650	3.248	<b>15.898</b>
<b>1996</b>	15.652	4.515	<b>20.167</b>
<b>1997</b>	15.908	4.803	<b>20.711</b>
<b>1998</b>	14.578	4.964	<b>19.542</b>
<b>1999</b>	17.837	5.855	<b>23.692</b>
<b>2000</b>	20.866	7.761	<b>28.627</b>
<b>2001</b>	19.054	9.123	<b>28.177</b>
<b>2002</b>	28.225	7.480	<b>35.705</b>
<b>2003</b>	29.476	8.443	<b>37.919</b>
<b>2004</b>	36.898	9.558	<b>46.456</b>
<b>2005</b>	48.979	10.133	<b>59.112</b>
<b>2006</b>	54.788	12.067	<b>66.855</b>

The increase is more than doubled within last five years in the field of trademark applications.

**Table V.4.A.4. Patent Applications in Turkey between 1994 and 2005**

<b>Years</b>	<b>Domestic</b>	<b>Foreign</b>	<b>Total</b>
<b>1994</b>	148	1.244	<b>1.392</b>
<b>1995</b>	178	1.520	<b>1.698</b>
<b>1996</b>	187	718	<b>905</b>
<b>1997</b>	210	1.329	<b>1.539</b>
<b>1998</b>	214	2.280	<b>2.494</b>
<b>1999</b>	273	2.755	<b>3.028</b>
<b>2000</b>	266	3.178	<b>3.444</b>
<b>2001</b>	299	2.989	<b>3.288</b>
<b>2002</b>	388	1.491	<b>1879*</b>
<b>2003</b>	465	697	<b>1162*</b>
<b>2004</b>	636	1.589	<b>2.225</b>
<b>2005</b>	944	2.575	<b>3.519</b>
<b>2006</b>	1.090	3.915	<b>5.165</b>

\*The decrease is due to the effect of European Patent Convention (EPC), where European patents are expected to enter in Turkey in huge numbers in the following years.

**Table V.4.A.5. Utility Model Applications in Turkey between 1995 and 2005**

<b>Years</b>	<b>Domestic</b>	<b>Foreign</b>	<b>Total</b>
<b>1995</b>	34	3	<b>37</b>
<b>1996</b>	178	3	<b>181</b>
<b>1997</b>	213	11	<b>224</b>
<b>1998</b>	279	18	<b>297</b>
<b>1999</b>	308	9	<b>317</b>
<b>2000</b>	444	16	<b>460</b>
<b>2001</b>	624	16	<b>640</b>
<b>2002</b>	913	14	<b>927</b>
<b>2003</b>	1.196	16	<b>1.212</b>
<b>2004</b>	1.461	50	<b>1.511</b>
<b>2005</b>	1.882	21	<b>1.903</b>
<b>2006</b>	2.424	32	<b>2.456</b>

**Table V.4.A.6. Industrial Design Applications in Turkey between 1995 and 2005**

<b>Years</b>	<b>Domestic</b>	<b>Foreign</b>	<b>Total</b>
<b>1995</b>	1.506	28	<b>1.534</b>
<b>1996</b>	1.658	166	<b>1.824</b>
<b>1997</b>	1.951	185	<b>2.136</b>
<b>1998</b>	1.831	219	<b>2.050</b>
<b>1999</b>	1.697	244	<b>1.941</b>
<b>2000</b>	2.200	263	<b>2.463</b>
<b>2001</b>	2.557	274	<b>2.831</b>
<b>2002</b>	3.630	274	<b>3.904</b>
<b>2003</b>	3.998	286	<b>4.284</b>
<b>2004</b>	4.528	373	<b>4.901</b>
<b>2005</b>	4.928	406	<b>5.334</b>
<b>2006</b>	5.527	496	<b>6.023</b>

## **i. Combating Piracy**

### **1. Banderol System**

According to the Article 81 of the Law No. 5846, it is obligatory to use banderol in the reproduced copies of cinematographic and musical works and non-periodical publications. Furthermore, on copies of other groups of work, which can easily be reproduced, banderol use is obligatory, when demanded by the right holder.

In practice, banderol is given to the carrying materials such as magnetic cassette, CD, VCD, DVD on which cinematographic and musical works are fixed and non-periodical publications.

Banderols related with cinematographic and musical works are given by Istanbul Copyright and Cinema Head Office while banderols related to non-periodical publications are given by the same Head Office in Istanbul and by Culture and Tourism Offices in other provinces.

“The Web-Based Banderol Automation System” has been activated since 15 May 2006 in 81 provinces. It is a web based automation system for giving banderols to non-periodicals. By this system, the application forms can be filled in on the internet for the required number of banderols to be obtained from Provincial Directorates. 16.847.625 banderols have been sold by the Provincial Directorates since 15.05.2006. Authorized staff (with passwords) of Provincial Directorates can inquire information on previous sales as well.

### **2. Inspection Commissions**

The Article 81 was amended to include the provision for setting up inspection commission by the provincial administrative authorities, ex-officio or upon request from the Ministry in the provinces. On the other hand, since the provincial administrative authorities are given the responsibility to establish inspection commissions, inspection of banderol application (in parallel with the terms of security force and the municipal police mentioned in Article 81) is mainly performed by the Ministry of Interior. The Ministry of Culture and Tourism carries out the procedures within its jurisdiction (the issuance of banderol, determining its originality, identifying forged banderols etc.) during these inspections.

The amendment reorganized authorization in combating piracy and made it possible to take immediate action, on the spur of the moment.

The local administrative authorities may form an “inspection commission” in provinces either on their own initiative or upon the Ministry’s mandate. Representatives of the Ministry and the collective societies can also take part in these commissions. The Ministry of Culture and Tourism provides logistics to inspection commissions for the enhancement of their technical infrastructure. The ongoing technical studies for the amendment of the Law No.5846 foresee an awarding system for the public officers of inspection commissions responsible for combating piracy.

To promote the coordination among relevant public authorities, an inter-ministerial Anti-piracy Commission, named as “Fight against Piracy Commission”, was established in December 2005. The duty of the Commission is to evaluate the legal and administrative regulations and

enforcement thereof. The Commission consists of the representatives of 5 related Ministries and collective societies.

Similar activities have been carried out by the Ministry of Interior in the area of piracy.

### **3. Certification**

In the framework of Law No. 5101 which amended the Law No. 5846; the enterprises recording, reproducing and selling or disseminating the materials on which intellectual and artistic works are fixed, are obliged to obtain a certificate. "By-Law on Procedures and the Principles Regarding the Certification of the Enterprises Recording, Reproducing and Selling or Disseminating of the Materials on Which Intellectual and Artistic Works are Fixed" was put into force on April 18, 2005.

In this framework:

- a) Business premises that produce or import, disseminate or sell the blank carrying materials,
- b) Recording plants that reproduce the intellectual and artistic works and productions that involve these works by fixing the carrying materials,
- c) Printing or publishing houses which reproduce, disseminate or sell the intellectual and artistic works,
- d) Exhibition halls and similar places that project and transmit cinema films,
- e) Business premises that sell, distribute, import and market or rent intellectual and artistic works and the carrying materials related to the productions including these works through any kind of procedure and technique, including digital transmission are obliged to obtain a certificate from the Ministry specifying the activities they are entitled to carry out.

To ensure an effective monitoring of the certification enforcement electronically and enable application processing on the Internet, 81 provinces of Turkey have been furnished with ADSL connection and necessary technical equipments including training programs for the staff responsible for processing certification applications during the year 2005.

### **4. Recording Plants**

One of the most important tools in combating piracy is the close surveillance of the recording plants. Therefore, a special procedure has been developed to certify these plants. According to this procedure these plants are obliged to submit the following documents along with the license issued for business initiation:

- capacity report issued by the provincial offices of the Ministry of Industry and Trade or Turkish Standards Institute indicating the adequacy of technical infrastructure required for a recording plant,
- inventory of technical equipments at the establishment and related invoices or a copy of the sale transfer warrants,
- SID code document

## **V.4.B. Related Provisions for Foreigners**

The Law No 5846 on Intellectual and Artistic Works

### ***“E. Conflict of Laws***

*Art. 88. The provisions of this Law shall apply:*

- 1. Irrespective of the nationality of the author, to all works first disclosed to the public in Turkey and to all works in Turkey, which have not been disclosed to the public, as well as to letters and pictures in Turkey;*
- 2. To all works of Turkish nationals which have not yet been disclosed to the public or which have been first disclosed to the public outside Turkey;*
- 3. To all works of foreigners which have not yet been disclosed to the public or which have been disclosed to the public outside Turkey, provided that an international treaty, to which Turkey is a party, has suitable provisions.*

*Where the state of which the author is a national, grants adequate protection to the rights of Turkish authors or an international treaty allows exceptions and limitations with respect to the matters concerning foreign authors, the Council of Ministers may agree certain exceptions to the provisions of subparagraphs (1) and (3) of this Article.”*

*“Additional Art. 2- (Amendment: 7.6.1995- 4110/ 29) The protection granted by this Law shall apply to;*

- 1- All works, fixed performances and phonograms existing in Turkey at the moment of entering into force of the amendment of this Article, which have been produced by authors and related rights holders who are nationals of the Republic of Turkey,*
- 2- Foreign works, fixed performances and phonograms, which have been produced in other countries that are party to international conventions and agreements to which Turkey is also a party and which have not fallen into the public domain since the term of protection has not expired at the moment of entering into force of the amendment of this Article.*

*Persons, who own the legal copies of works, fixed performances and phonograms which fall under protection as a result of application of the first paragraph, may sell or dispose of such copies until the end of six months following the date of entry into force of this Law without the requirement of any written permission.*

*The exercise of rights granted to the authors and other rightholders within the framework of this Law concerning works, fixed performances and phonograms shall, however, be subject to the permission of authors or related rights holders.*

*The provisions of this Law pertaining to the ownership of cinematographic works shall apply to cinematographic works the production of which has been commenced after 12.06.1995 when the Law No. 4110 entered into force.”*

#### **V.4.C. Geographical Indications**

Geographical indications and designations of origin are protected in Turkey with Decree Law No. 555 since 1995. With this decree law, it is possible to protect geographical indications and designations of origin through a registration system both for Turkish Nationals and other third parties. Therefore, foreign nationals, who like to protect their geographical indications and designations of origin in Turkey, can file an application for registration of their products in Turkish Patent Institute.

Geographical Indications and Designations of Origin are protected in EU through 510/2006/EEC. Any member country or third party can file an application for the registration of a product as a geographical indication or designation of origin. When a product is registered through EU geographical indication legislation, that product is protected in all EU member states. But this protection is limited with the EU borders.

Similarly, a registration through Turkish Geographical Indications system is valid only in Turkey. To protect any product as geographical indication or designations of origin in any country, one has to apply for registration or protection in that country depending on the protection system of that country in question.

Once Turkey becomes a member of EU all EU registrations shall be protected in Turkey as well. But till that day, only responsibility of Turkey is just to adopt domestic legislation, which is equivalent to the legislation adopted in the Community or its Member States.

During the acceptance period, it is a possibility that some Turkish geographical indications and EU indications may conflict. Another thing is that some Turkish generic names might be a registered geographical indication in EU or vice versa. In such kind of situations, through negotiations with EU experts, some solutions have to be found. These solutions might be as following:

If Turkish and EU registrations conflict with each other, either

- Both indications may go on and on the labels of related products detailed information about the origin of the product is supplied and this becomes a must for all producers of that particular product, or
- EU or Turkish registration might be cancelled and through a transmission period use of one of the registrations become invalid and forbidden.

If a Turkish or EU registration conflicts with a generic name of other party either

- Both indication and generic name may go on to be used under specific rules, or
- Registration or generic name might be forbidden to use

All these alternatives might be discussed and after negotiations, a solution might be found. However, of course, all these alternatives shall come to picture only after the acceptance of Turkey as a EU member state. During the accession period, neither EU nor Turkey has any power to apply any protection or that kind of measure to other party. During this stage, any party might produce, import or export products that are protected as geographical indications or designations of origin in other party.

## **V.5. Environment and International Trade**

(Also included under heading I.1.F.)

In accordance with the CITES Convention, CITES Application Regulation and The Law 4915 – Land Hunting, Ministry of Environment and Forestry gives internationally valid “Permission Certificates” for importing/exporting/reexporting of viviparous birds and reptiles (except sea mammals). Doing so, sustainable use of wildlife habitat is ensured, and international trade of plant and animal species included under CITES Convention is controlled.

## **V.6. Labor and International Trade**

Turkey, as having ratified all the fundamental ILO Conventions concerning freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labor, the effective abolition of child labor and the elimination of discrimination in respect of employment and occupation and having committed to their full application in good faith, respects the principles enshrined in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998.

Turkey firmly believes that labor standards should not be used for protectionist trade purposes, as stated in article 5 of the above mentioned Declaration.

## **V.7. Science and Technology**

Industrial and technological development is the core to Turkey’s progress to increase its global competitive strength. Turkish industry must produce its own technologies and to do so, must restructure itself and allocate more resources for R&D.

Know-how, capabilities and products will create the difference. These are only possible through technological development. Gradually, Turkish industrialists have started to see this necessity. So, the establishment of technoparks has become a technological focal point where advanced technologies are turned into an asset and create economic value through R&D.

The Scientific and Technological Research Council of Turkey (TUBITAK) is the leading agency for management, funding and conduct of research in Turkey. TUBITAK is responsible for promoting, developing, organizing, conducting and coordinating research and development in line with national targets and priorities.

TUBITAK not only supports innovation, academic and industrial R&D studies but also in line with national priorities develops scientific and technological policies and manages R&D institutes, carries out research, technology and development studies.

In TUBITAK Marmara Research Centre (MRC) Technopark there are firms that carry out R&D activities and focus on technology development. Many top companies have located in TUBITAK Technopark, where they develop, design and market a wide range of leading-edge products for global markets.

These main areas are the followings:

- Software Development
- Multimedia Technologies
- Simulation Software
- Wireless And Mobile Communication Systems
- Web Based B2B and B2C E-Commerce Applications
- ERP Applications Using Feature Definition Methodology
- Fiber And Other Terrestrial Communication Systems And Technologies
- Defense And Security Technologies
- Analytical Budget Automation Software
- Energy Production and Transformation Technologies
- Automotive Prototype Production Sector
- Aircraft Engine Design
- Chemistry and Material Science Technologies
- Genetic Engineering and Biotechnology
- Nanotechnology

The Support in R&D Projects:

- Personnel expenditures
- Expenditures on tools and software used in the R&D activity
- Expenditures on consultancy for R&D activity and other services which have equal value
- The R&D services taken from domestic R&D institutions
- The expenditures on official registrations of patents, useful models and industrial design certificates
- The expenditures on materials for R&D activities

TUBITAK is ready to cooperate with relevant institutes of Chile. TUBITAK will also promote direct relations between TUBITAK-MRC Technopark and R&D aimed companies or technoparks in Chile.

## V.8. Other Areas of Cooperation

- **Constructing and consulting services:** The contracting services sector plays an important part in the progress of the Turkish economy and will continue to contribute to the development of the relations with the other countries. Currently, Turkish contractors have undertaken projects in 65 countries and total volume of international construction jobs between 1972 and 2006 has reached to nearly 84 billion dollars. If we look at the construction works carried out in 2006; Turkish firms undertook 4.935 million dollar projects in the Middle East, 4.941 million dollar projects in CIS, 1.864 million dollar projects in Africa, 839 million dollar projects in Europe and 152 million dollar projects in Asia. Today, the work of Turkish contractors abroad has come to be accepted world-wide and the quality of the construction; their relative cheapness and speed have impressed both the employer institutions and the ultimate users extensively. Turkish construction and contracting companies are interested in undertaking the construction of infrastructure projects in Chile.

- **Free Zones:** There are 21 free zones in Turkey, and with 20 years of experience, they successfully operate as logistical centers of Turkish foreign trade. Turkish free zones are close to the EU and Middle East Markets, adjacent to the major Turkish ports on the Mediterranean, Aegean and Black seas and have easy access to international airports and highways. And, infrastructure of the Turkish free zones is competitive with international standards.

The total trade volume in Turkish free zones was 11 billion dollars in 2002. It rose to 17 billion dollars in 2003 and then to 22 billion dollars in 2004. The latest trade volume figures of Turkish free zones reflect the continuing economic revival, which had already started by the beginning of 2007, and give rise to the expectations about the good performance of Turkish free zones for 2007. Total trade volume in the first quarter of this year has reached 5.6 billion dollars, showing an increase of 4.4% as compared to the same period of the previous year.

Turkey is ready to cooperate in this field through exchange of information, expertise and experts, and invites Chilean experts to utilize the strategic location of and the incentives and advantages provided by the Turkish free zones.

- **Tourism:** Tourism plays a vital role in both countries' economies. Therefore, cooperation in tourism investments, tourism promotion activities, as well as exchange of information and experts should be among the priorities. Within this context, completion of the Agreement on the Cooperation of Tourism is deemed necessary.
- **Energy:** Joint investment projects in the field of energy can be regarded as another field of cooperation. The Turkish Side is ready to exchange technical information with the related Chilean organization in the fields like energy saving, primary equipment manufacturing, installation and design aspects, design and operation of distribution networks.
- **Agriculture (Also referred under the heading III.2. Agriculture):** Turkey has a large population dealing with agriculture, an enormous potential for various agricultural crops and ambitious agricultural development projects like the Southeastern Anatolia Regional Development Project (GAP). The Turkish Side is eager to evaluate with the Chilean Side the prospects for cooperation in agriculture.

## **VI. CONCLUSIONS**

### **VII.1. Why Turkey-Chile?**

As analyzed throughout this report, a prospective FTA between Turkey and Chile offers wide opportunities, in terms of trade development and investment promotion generally. Taking into consideration the rising investment opportunities offered by both countries and their pace for economic development; mutual cooperation on common interest issues would create a hub of economic prosperity and welfare for both regions. Since Turkey and Chile consider each other as springboards to penetrate into their respective regional markets, both trade and investment opportunities offered by the prospective FTA create a win-win situation for each party.

Taking into account Turkey's geographical proximity to Balkans, Caucasus, Russian Federation, the Middle East and the Mediterranean region as well as its distinctively liberal foreign investment regime and its egalitarian domestic market; a prospect for Chile will be created, to safely and concretely penetrate into a regional market having a population for approximately 1 billion, a total GDP of 5 trillion US\$, exports of 750 billion US\$ and imports of 645 billion US\$. Moreover, Turkey's FTAs with the countries of the region (EU, EFTA, Israel, Macedonia, Croatia, Bosnia and Herzegovina, Palestine, Tunisia, Morocco, Syria, Egypt and Albania) offer a wide range of trade and investment opportunities for Chilean entrepreneurs.

As for Turkey on the other side, the Latin American market is a new and emerging market to discover. Chile, as one of the most liberal and trade oriented countries in the region and by being an axis for Turkey to enter into the Latin American market, would offer a lucrative advantage, in terms of both trade creation and investment promotion. Turkish industry is based on the most up to date technology. Some of the leading sectors in Turkish economy emerge as automotive and spare parts industry, textiles and clothing, machinery, electric and electronic industry, iron and steel production as well as chemical industry. Bearing in mind that these sectors offer vivid opportunities for foreign investors, Turkey presents a profitable and productive investment environment for Chilean investors looking for direct investment and joint ventures.

A neat observation of both countries' trade related legislation and implementation suggests that the areas to be included into a prospective FTA emerge as constructing and consulting services; free zones; tourism; energy; agriculture, trade and investment promotion, science and technology, and other areas of common interest to both parties.

### **VII.2. Strategic Framework**

Within the framework of the Decision No. 1/95 of the Turkey-EC Association Council Establishing a Customs Union between Turkey and the European Union, Turkey has the obligation to undertake the EU's Common Commercial Policy. In this context Turkey aligns its customs tariff for industrial products with the Common Customs Tariff (CCT) applied by the EU for third countries. Hence, in order to avoid a possible trade diversion within the single customs union area created by Turkey-EU Customs Union, Turkey negotiates FTAs in parallel with the FTAs of the EU. In other words, for those FTAs signed up until now, Turkey's tariff dismantling schedule has been parallel to the tariff dismantling schedules and the product lists existing in the EU's FTAs with the partner country.

Moreover, bearing in mind both Turkey's and Chile's applied tariff rates for industrial products which are 4.5% on average and 6% flat respectively, as well as their liberal open markets, it is estimated that full liberalization in terms of industrial products would not be a hard objective to achieve.

As for agricultural products that are not covered by the Customs Union, Turkey does not have the obligation to undertake the CCT and applies its own customs tariffs. In this context, FTA negotiations are carried out on the basis of mutual concessions. For specific agricultural products unlimited concessions or concessions based on tariff quotas are granted which are applicable from the date of entry into force of the agreements.

At this stage it shall be highlighted that, in Chile, agriculture accounts for one of the fastest growing sector of the economy for the 2003-2006 period<sup>28</sup> and for the year 2006 overall agriculture, fruit and livestock exports of Chile accounted for 2.622,8 million US\$<sup>29</sup>. Moreover, since Chile grants tariff quotas as a result of reciprocity to quotas imposed by the counterpart<sup>30</sup> and Turkey always negotiates on the basis of either unlimited amounts or tariff quotas, tariff elimination schedule for agricultural products on a prospective FTA between Turkey and Chile is expected to be based on mutual concessions.

### **VII.3. Effects of Free-Trade Agreement Chile-Turkey**

#### **VII.3.A. General Effects**

In general, bilateral trade between Turkey and Chile has jumped to 477 million US\$ in 2006 from 351 million US\$ in 2005. The main reason of this 36% change is the increase in imports from Chile; a 116-million-dollar change in 2006 pushed the import value from 326 million US\$ in 2005 to 442 million US\$ in 2006. Moreover, in the last ten years, except 1998, the trade balance was in favor of Chile; and Turkey's trade deficit showed a steady increase after 1999. The trade balance in 2006 reached to -407.1 million US\$ in favor of Chile, which was only -24.02 million US\$ in 1999.

More precisely, Turkey's exports to Chile climbed up to a record high level of 34.8 million \$ in 2006, which points out a 39.4% increase compared to 2005. Also, the share of Chile in total exports of Turkey in 2006 rose up to 0.04 % from 0.03 % in 2005, which is still below the level of 0.06% in 2000. Turkey's imports from Chile reached to a record high amount of 442 million US\$ in 2006. Since 2002, the total value of imports from Chile has been showing a significant continuous rise, and performed 84.8% and 35.4% growth rates in 2005 and 2006 respectively.

Yet, according to this progress, the share of Chile in Turkey's total imports increased to 0.32% and also, the share of Chile in total exports of Turkey in 2006 rose up to 0.04 % from 0.03 % in 2005, which is still below the level of 0.06% in 2000 which does not reflect the potential trade volume between both countries.

In this part, the figures for the year 2005 will be taken as the basis for the sake of precision. According to the values of 2005, there are 454 HS-6-Digit commodities that would be effected by tariff reduction, and the total bilateral trade effect of reducing tariff rates to zero in a

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<sup>28</sup> Chilean Report, Title I.1.A.a. Gross Domestic Product.

<sup>29</sup> Chilean Report, Table I.4. Agriculture, Fruit and Livestock Exports, 1994-2006.

<sup>30</sup> Chilean answer to the question no.3 raised by Turkey.

FTA with Turkey for Chile is 4.72 million US\$. On the other hand, while Chile faces 356.8 million US\$ increase in imports, the total tariff revenue decreases 216.6 million US\$. Moreover, consumer surplus is calculated to rise 12 million US\$.

In 2005, Turkey's exports to Chile were 24.96 million US\$. Comparing it with the results of the simulation<sup>31</sup>, it is reasonable to claim that if the tariff rates were zero for Turkey in 2005, the total amount of Turkey's exports to Chile would be at least 4.7 million US\$ higher than the actual value, which accounts for 18.8% increase.

By using the same tools and methodology above, there are 40 HS-6-Digit commodities that would be effected by the tariff reduction in 2005 and the total bilateral trade effect of reducing tariff rates to zero in a FTA with Chile for Turkey is 2.5 million US\$. On the other hand, Turkey is expected to lose 260 million US\$ tariff revenue while a 190-million-dollar imports increase is predicted. In addition, consumer surplus is expected to increase about 33.5 million US\$.

On the other hand, since the basket of traded goods between Turkey and Chile is small, the general effects of a prospective FTA will be exclusive form the non-traded goods perspective. Accordingly, data for the year 2005 shows that, there are 918 HS-4-Digit products which have 34.7 million US\$ export potential to Chile for Turkey. This potential is much higher than the actual exports value of Turkey to Chile in 2005 and equals to 2006 values, which is 39.4% higher than 2005 values. Another remarkable point is that Chile imported 21.75 billion US\$ of the 918 HS-4-Digit products in 2005.

### **VII.3.B. Effects on Trade and Investment by main economic sectors**

According to Broad Economic Category (BEC) classification, "intermediate goods" have been the essential part of Turkey's exports to Chile during the last decade, which has been showing a continuous rise since 2003 and has 57% share in the total amount in 2006. Consumer goods and capital goods also displayed significant increase in 2006 in comparison to 2005, with 67% and 23% growth rates respectively.

The commodity composition of exports shows that "manufacturing" plays a vital role in Turkey's exports to Chile, which covers 92% of the total amount in 2006, and the rise in manufacturing exports to Chile had always been the main element of the rise in total amount exported to Chile.

By looking through details, the data shows that "Manufacture of basic metals" has the first place in Turkey's exports to Chile with 8.67 million US\$ amount in 2006 with 25% share and "Manufacture of machinery and equipment", "Manufacture of fabricated metal products, except machinery and equipment", "Manufacture of motor vehicles, trailers and semi-trailers" follows it respectively.

As for imports, according to BEC classification, it is obvious that "intermediate goods" account for nearly the total amount of Turkey's imports from Chile for the last decade and with 98.9% and 98.6% share in 2006 and 2005 respectively. On the other hand, the amount of "consumer goods" is also rising steadily after 2001, rising up to 4.8 million US\$ in 2006 from 0.7 million US\$ in 2001.

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<sup>31</sup> Turkish Report, Title IV.2.B. Change of Turkey's Imports.

Looked through the total imports data of Turkey, it can be claimed that Turkey maintains 0.44% of the total intermediate goods demand and 0.3% of the total consumer goods demand from Chile in 2006, while both of them show fluctuating share trends.

The commodity composition of imports shows that “manufacturing” has the major share in the total amounts of imports from Chile with 436.6 million US\$. In the second place, “agriculture, hunting and forestry” exists with 5.25 million US\$ and sum of these two sections account for 99% of the total imports in 2006.

By looking through the details, it can be claimed that “Manufacture of basic metals” has the biggest share in Turkey’s imports from Chile with 410 million US\$. “Manufacture of chemicals and chemical products”, “manufacture of paper and paper products” and “agriculture, hunting and related service activities” follow it with 14.17 million US\$, 10.88 million US\$ and 4.99 million US\$ respectively.

According to the data, for the first 20 import products which formed into rank by 2006, copper and chemical products has the majority in the total amount, while the first 20 products explain 99.5% of the total imports from Chile in 2006.

As for the change of Chilean imports from Turkey for the year 2005, 84 (Nuclear reactors, boilers, machinery, etc), 72 (Iron and steel), 61 (Articles of apparel, accessories, knit or crochet), 87 (Vehicles other than railway, tramway), 73 (Articles of iron or steel) are the first 5 chapters which explains 60% of the total change in aggregate. Chapter 84 has 20.27% share in the total change while chapters 72, 61, 87, 73 have 11.15%, 10.85%, 8.83% and 8.61% shares respectively.

Finally, the potential export values for Turkey to Chile indicate that, the first five HS chapters would be 85 (Electrical, electronic equipment), 87(Vehicles other than railway, tramway), 27(Mineral fuels, oils, distillation products, etc), 08(Edible fruit, nuts, peel of citrus fruit, melons) and 62(Articles of apparel, accessories, not knit or crochet) which would include 81 HS-4-Digit products and account for 14.34 million US\$, referring to 41.3% of the total potential.

## **VII. RECOMMENDATIONS**

The “Common Conclusions and Recommendations of the Joint Study Group on the prospective Free Trade Agreement between Chile and Turkey” of 26 October 2007 is annexed.

## ANNEXES

### Annex I – Turkey’s Answers to the Questions Raised by Chile

**1. Please provide a copy in English of the Ministerial Decree on the Regime regarding Technical Regulations and Standardizing for Foreign Trade.**

The “Ministerial Decree on the Regime Regarding Technical Regulations and Standardisation for Foreign Trade” is attached to this document (**Annex I.1**).

**2. Do local governments issue technical regulations and conformity assessment procedures?**

The local administrative bodies in Turkey neither issue technical regulations nor execute conformity assessment procedures. Thus, technical regulations and enforcement of conformity assessment are under the responsibility of central governmental bodies in Turkey.

**3. Could you please provide the regulation that establishes the principles and procedures relating the notification of draft technical regulations and conformity assessment procedures?**

The legal basis for the establishment of an enquiry point was outlined by the Regulation published in the Official Gazette No. 22965 dated 15 April 1997. According to this Regulation, the Undersecretariat of the Prime Ministry for Foreign Trade (UFT) is responsible for the implementation and the administration of the WTO Agreement on Technical Barriers to Trade (TBT Agreement) in the fields of technical regulations and conformity assessment procedures. On the other hand, Turkish Standards Institution (TSE) is the National Enquiry Point regarding notifications in the field of standards. Full text of the regulation can be reached at “<http://www.teknikengel.gov.tr/ktmllite/files/uploads/TBT-Yonetmelik.DOC>” in the original language.

**4. How is the coordination with the different Agencies with power to regulate, for the purposes of notification to the WTO?**

In Turkey, if a governmental body to regulate a field in its area of operation, it consults to other governmental agencies to which the matter in question affects. If such an action affects foreign trade, the relevant authority informs the UFT. Then, under the rules set by the WTO TBT agreement, it is decided whether drafted regulation is to be notified to WTO or not.

**5. How has been the experience with the private sector’s involvement in TBT matters? (For instance, do they actively participate with comments on Turkish draft regulations).**

According to domestic legislation process, when a new legislation is planned to be introduced, usually all stakeholders including the private sector are asked to provide comment on the issue. Private sector’s participation is represented by the chamber of commerce or industry.

Regarding other countries’ draft legislation; Turkish firms depend on conventional methods for expressing their concerns or exchange of views. Thus a website has been established from where Turkish firms can reach other countries’ draft legislation and send their comments. By using that website, it has been aimed to encourage the Turkish firms to use more rapid ways to

get into contact with the administration. It can be said that Turkey is on an early stage in terms of private sector's active participation in the process of commenting on other countries' draft regulations.

**6. Has Turkey signed any MRA with any country? If the answer is yes, in what sector.**

No MRA has been signed with any country up till now.

**7. Do Turkish authorities recognize test reports or certificates in the regulated areas issued by signatories of the IAF and ILAC?**

Turkish Accreditation Agency (TURKAK) recognize the test reports and certificates in the regulated areas issued by the signatories of ILAC. As the legal basis has not been fully established for IAF (TURKAK is a party to IAF but the MRA has not been signed yet), the test reports and certificates in the regulated areas issued by the signatories of IAF are not recognized yet.

**8. The Investment Committee of the OECD has its Guidelines for the Multinationals. Please refer how has been the experience of the National Contact Point of Turkey on Labour Issues.**

In fact, the only issue that has so far been raised with the Turkish National Contact Point (NCP) was relevant to the Labour Relations Chapter of the OECD Guidelines. Once the application was received, the case regarding allegations of breach of trade union membership rights of the workers of a multinational company operating in Istanbul, Turkey, was investigated. Since it was found out that the issue concerned had already been brought to the court by the relevant parties, the NCP of Turkey decided not to accept the case in line with its principles regarding "parallel legal procedures"

**9. Turkey is in a process in order to incorporate into the EU. What is the vision of Turkey regarding the social dimension of that process? Has Turkey addressed the issue of labour in any way with the EU? How?**

The accession negotiations started between EU and Turkey on October 3, 2005. The chapters of accession negotiations have been classified under 35 policy areas (headings). The screening for acquis regarding to these chapters were completed in 2006.

The EU acquis concerning Social Policy, Working Life and Employment has been handled within the 19th heading of the Negotiating Framework named "Social Policy and Employment". Likewise, the "Union Rights", "The Handicapped", "Women Rights", "Children's Rights" under the same heading have been taken up within the Copenhagen Political Criteria.

In this context, the explanatory screening meetings -related to this chapter under the EU legislation of Social Policy and Employment that the Turkish Ministry of Labour and Social Security is directly responsible- was held on February 8-10, 2006 and the comprehensive screening meetings were held on March 20-22, 2006. The EU Acquis concerning Occupational Health and Safety, the Disabled, European Social Fund, Labour Law, Social Dialog, Employment Policy, Discrimination, Social Protection, Social Inclusion and Equal Opportunities that constitute the EU Social Policy area, as well as the legal status and institutional capacity of Turkey in view of the compliance were handled within these meetings. Furthermore, the

explanatory screening meeting for the “Freedom of Movement for Workers” composing the second chapter of the Negotiating Framework has been held on July 19, 2006, while the comprehensive screening meeting was held on September 18, 2006. In these meetings; the subjects such as Accession to the Labour Market (including Supplementary Pension System), Eures (The European Job Mobility Portal), the Coordination of Social Security Systems and the European Health Insurance Card as well as the relevant Acquis were taken up.

Moreover, the presentations made under both headings and displaying the legal process and institutional developments have been accessed from the website: <http://ab.calisma.gov.tr/web>.

**10. Turkey has many FTAs and other trade and investments agreements. Have any of these agreements a social dimension or an approach to labour issues?**

Turkey’s FTAs does not make particular reference to labor issues. In terms of other investment agreements, although particular reference is not made for labor issues, on the occasion that any labor related issue is brought to the agenda of a Joint Economic Committee (JEC) meeting between Turkey and a third country, the mentioned issue can be forwarded to the relevant governmental institutions.

**11. Has Turkey any agreements on labour cooperation with their trade partners? Please refer.**

Turkey has bilateral labour agreement with 9 countries; Germany, Australia, Belgium, France, The Netherlands, Sweden, Turkish Republic of Northern Cyprus, Qatar, Libya and Jordan. However these agreements are not functional except bilateral agreement with Libya. Turkey has an exceptional labour agreement with Germany. Turkey also concluded bilateral social security agreements with 22 countries; Germany, France, The Netherlands, Belgium, Denmark, Austria, Swiss, Switzerland, United Kingdom, Libya, Turkish Republic of Northern Cyprus, Azerbaijan, Albania, Bosnia Herzegovina, Czech Republic, Luxembourg, Macedonia, Norway, Romania, Canada, Georgia, Quebec.

**12. How has been the experience of Turkey with the GSP system of the EU? Does Turkey apply to that system? And with the USA?**

Article 16 of Decision No 1/95 of the Association Council states “With a view to harmonizing its commercial policy with that of the Community, Turkey shall align itself progressively with the preferential customs regime of the Community within five years as from the date of entry into force of this decision. This alignment will concern both autonomous regimes and preferential agreements with third countries.”

Turkey initiated a Generalised System of Preferences by harmonising with the EC’s GSP on 1 January 2002 and extended the system with the view of aiming to align itself fully with EC’s GSP scheme in the consecutive years. With the 2006 Import Regime put into force on 1 January 2006, full alignment to the EC’s GSP scheme has been achieved.

It should be stressed that, Turkey has adopted the EC’s GSP scheme as for the consequences with the aim of a fully-fledged implementation. In that sense, a column indicating the applied tariff rates for GSP countries has been added to the List II of the Import Regime Decree. Thus, all of the preferential tariffs determined in the EC’s GSP regulation have been exactly adopted.

## Product Coverage

The products under the EC's GSP scheme are listed as the annex of the EC Regulation No: 980/2005 concerning the application of Generalised System of Preferences entering into force as of 1 January 2006. Turkey granted tariff preferences to the same products listed at the annex of the abovementioned EC GSP regulation. In this regard, the products granted tariff preferences are specified in the List II of the Import Regime.

The List II of Import Regime includes the products under customs union and indicates their applied tariff rates to the GSP countries (namely Least Developed Countries (LDCs), Developing Countries (DCs) and Countries of Special Incentive Arrangement (CSIAs)), Free Trade Agreements Countries (FTACs) and other countries.

European Coal and Steel Community (ECSC) products are not in the scope of Turkey's GSP regime as they are not covered by 1/95 Association Council Decision. Products subject to tariff preferences are listed at the annex 5 of the Import Regime Decree which is fully in line with the Annex II of the EC Regulation No: 980/2005 and is presented here as an annex to this document.

### Sample from the List II of Import Regime Decree

CN CODES	DESCRIPTION	CUSTOMS DUTY RATES (%)				
		EU AND FTA COUNTRIES	GSP COUNTRIES			Ocs
			LDCs	CSIAs	DCs	
3901.10.10.00.00	Lineer polietilen	0	0	0	3	6.5
3901.10.90.00.11	Low density polietilen	0	0	0	3	6.5
3901.10.90.00.12	Polietilen compounds	0	0	0	3	6.5
3901.10.90.00.19	Others	0	0	0	3	6.5

Preferences are differentiated according to the sensitivity of the products fully in harmony with the EC's. It is sufficient to differentiate between two product categories, namely non-sensitive and sensitive products for the developing countries.

Tariff duties on non-sensitive products are suspended, while duties on sensitive products are subject to a tariff reduction.

Turkey grants preferential treatment to selected countries and territories which are classified as developing countries or least developing countries in World Bank in line with EC.

Beneficiary countries are announced annually in Annex 3 of the Import Regime Decree taking into consideration the changes made in the EC's regime. There are three groups of countries namely developing countries, least developed countries and countries of special incentive arrangements parallel to the Annex 1 of the current EC GSP regime. Annex 3 of Import Regime Decree entered into force as of 1<sup>st</sup> January, 2006 which is also presented at the annex to this document.

Least Developed Countries have duty and quota free access to Turkish market for all industrial products falling under chapters 25-97 (except chapter 93) and for some agricultural products covered by customs union between Turkey and EU in the framework of the EBA incentive of EC GSP scheme.

While all duties on products covered by Turkish GSP scheme has been suspended for the countries benefiting from the special incentive arrangements in line with the EC's GSP scheme, for developing countries the duties have been suspended or reduced in accordance with sensitivities of the products.

Finally, Turkey adopted the same tariff duties with the EC, neither higher nor lower, for GSP products.

### **Graduation Mechanism (Country/Sector)**

Turkey applied graduation mechanism in line with EC's application. Beneficiary countries have been incorporated to the Annex III of the Import Regime. Some chapters have been excluded from tariff preferences for related countries in accordance with the graduation mechanism of the EU GSP scheme as shown in the Annex to this document regarding the beneficiary countries.

On the other hand, chapters referred to in the EC's GSP Regulation are grouped in the same manner in the Annex 3 of Import Regime Decree presented at the annex to this document (**Annex I.2**).

List of products covered under the GSP scheme of Turkey, by sectors is annexed to this document (**Annex I.3**).

### **U.S. Generalized System of Preferences and Turkey**

The U.S. Generalized System of Preferences (GSP), a program designed to promote economic growth in the developing world, provides preferential duty-free treatment for 3,400 products from 134 designated beneficiary countries and territories, including Turkey. In the scope of this system, most of the dutiable manufactures and inputs are certain agricultural, fishery, and primary industrial products (metals, chemicals). In 2006, the GSP-eligible imports from the beneficiary countries increased by 22% with respect to the previous year and reached to the level of 32.6 billion dollars.

This system gives Turkish exports an advantage in U.S. market, providing cheaper goods to U.S. industry and consumers. Between the years 2004-2006, the 21% of U.S. imports from Turkey had been made under the GSP program. For the first 4 months of the year 2007, this ratio has risen to the level of 24%. In 2006, imports from Turkey amounting to 1.13 billion dollars placed Turkey on the sixth rank among the 131 beneficiary countries of U.S. GSP. By this way, U.S. importers saved 47.5 million dollars in duties. The main items of the U.S. imports from Turkey under the GSP have been jewelry, refined copper wire, building stone, vehicle engine parts and shotguns. In 2006, Turkey realized duty free exportation in 931 tariff lines out of the 3474 GSP-eligible tariff lines.

### **13. We would appreciate to have information on how the Ministry for the Environment and Forestry is structured and how it coordinates with other national authorities.**

Detailed information on the structure of the Ministry is attached to this document (**Annex I.4**).

**14. We would like to know whether Turkey has incorporated environmental provisions in their FTAs.**

Turkey does not incorporate any specific environmental provision on its FTAs however, reference is made to environment in general exceptional clause in some of Turkey's FTAs which makes reference to the protection of environment. The wording of the article in Turkey – Israel FTA as an example is given below:

Article on General Exceptions:

*“Nothing in this Agreement shall preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants and of the **environment**; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of intellectual, industrial and commercial property, or rules concerning gold or silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Turkey and Israel.”*

**15. How many tariff lines have bound tariffs in the WTO? How many are agricultural and non agricultural?**

46.3% of Turkey's tariff lines are bound (all tariff lines for agricultural products are defined in related WTO Agreement, and about 36% of the lines for non-agricultural products). Since 2005, final bindings range from zero to 225% on agricultural products, and from zero to 102% on non-agricultural goods.<sup>32</sup>

**16. Is there a difference between the current and bound tariffs?**

There is a difference between the current and bound tariffs. For certain products, applied MFN rates are well below the bound rates, the simple average bound rate has declined to 33.9%, compared with a simple average applied MFN rate of 11.6% in 2007. In accordance with its obligations under the Customs Union Declaration, Turkey largely aligned its tariff binding (mainly on non-agricultural products) on the EC's applied tariff rates.

**17. Does Turkey use any system of variable tariffs as compensatory tariffs or minimum or entry prices?**

Turkey does not use any system of variable tariffs. Therefore, there are no variable tariffs on Turkey's import regime.

**18. Does Turkey use any WTO quota or other quotas?**

Since 1 January 1996, Turkey has been applying import quotas on certain textile and clothing products as a requirement for harmonizing its import policy with that of the EU. Currently, Turkey applies quotas to products from Belarus (country with which an agreement has been reached) in 34 categories under the double checking system, and to the goods from the Democratic People's Republic of Korea (48 categories), Montenegro and Kosovo (12 categories),

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<sup>32</sup> The reduction in bound tariffs was implemented in equal annual installments between 1995 and 2004. GATT (1994), Schedule XXXVII.

and Uzbekistan (2 categories) with which an agreement has not been reached under the single checking system.

In addition, Turkey applies quota restriction on 44 categories of textile and apparel products originating in China in accordance with the 242<sup>nd</sup> paragraph of the Report of the Working Party on the Accession of China to the WTO.

Finally, Turkey applies quota restriction on float glass (HS code:70.05) originating in China until April 2009 in accordance with Transitional Product-Specific Safeguard Mechanism (Article 16 of the Protocol on the Accession of the People's Republic of China to the WTO).

**19. Are there products in which there are import permits or licenses? Are they automatic? How does the import system operate? For which products?**

Prior import licenses are required for 13 groups of items<sup>33</sup>, including some machinery, some motor vehicles, transmission apparatus, some chemicals, endangered species of wild fauna and flora, and some high intensity sweeteners. No agricultural product is subject to the import licenses. These products are subject to the SPS controls by the Ministry of Agriculture and Rural Affairs.

All these licenses are automatic.

**20. Are there prohibited imports? For which products?**

The importation of 10 items is prohibited on the ground of protection of environment, public security, public morals, health, or the fulfillment of international obligations. These products are narcotics, hashish and prepared opium; ozone depleting substances; certain coloring matters having cancerous character; certain chemicals used in production of chemical weapons; measurement instruments not conforming to the Turkish legal norms (non-metric or double standard); arms and ammunitions; gambling instruments; products making illegal use of a trade mark; leaf, soil, stalk, straw, grass and natural manure used for agricultural purpose and counterfeit labels and products for packing (please see the table below).

Description of items	Invocation of WTO Article	Domestic/International legislation
Narcotics, hashish and prepared opium (2 items) <sup>a</sup>	Health, IA <sup>b</sup> (Article XX:b, h)	Law No. 2313 on the Control of Narcotics, and the International Agreement on Narcotics Goods (1961)
Ozone depleting substances (1 item) <sup>a, c</sup>	Environment (Article XX:b, d)	Montreal Protocol on Substances that Deplete the Ozone Layer; London Amendments to the Montreal Protocol; Kopenhagen Amendment to Montreal Protocol; Import Regime Communiqué No. 2007/14 (Lists I, II, and III)
Colouring matters (1 item)	Health (Article XX:b)	Law No. 1593 on the Protection of the Public Health; Regulation on Special Conditions of Foodstuffs and Supplies and Objects Concerning Public Health; Import Regime Communiqué 2007/15 Add II (List)
Schedule I and II of the Convention (4 items) <sup>c</sup>	Environment (Article XX:b, d)	The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction; Import Regime Communiqué No. 2007/17 (List I)
Measurement instruments not conforming to Turkish legal norms (non-metric or double standard) (6 items)	Compliance with domestic law (Article XX:d)	Law No. 3516 on Standards and Accords

<sup>33</sup> Details are presented in the WTO documents of G/LIC/N/1/TUR/5 for Turkey's notification on import licenses.

Arms and ammunition, propellant powders, prepared explosives, fuses, caps igniters detonators <sup>a</sup> (3 items)	Security (Article XXI:b(i),(ii))	Law on Firearms (No. 6136 of 1953); Import Regime Communiqué No. 2007/2
Gambling instruments (except for specified tourism purposes) <sup>a</sup> (1 item)	Public morals (Article XX:a)	Law No. 1072 on Gambling Instruments like Roulette, Tilt, and Pinball
Products making illegal use of a trade mark (all industrial products)	Compliance with domestic law; IA <sup>b</sup> (Article XX:d,h)	Paris Convention 1883 annexed to the Law of 1930 on Accession to 1925 Hague Agreement on International Industrial Property (1925); Statutory Decree No. 556 on the Protection of the Trademarks Customs Law (No. 4458 of 1999)
Soil, leaf, stem, straw, and natural manure used for agricultural purpose (excluding turf and perlites cultivated in culture environment)	Public morals (Article XX:a)	Regulation on Agricultural Quarantine
Spawn of silk-worm	Health (Article XX:b)	..
	..	Law No. 859 on Cultivation and Sale of Silk-worm and Silk-worm Spawn

.. Not available.

- a Prohibited except when imported by authorized government bodies.  
b IA: Undertaken in pursuance of obligations under intergovernmental commodity agreements.  
c Imports prohibited only from non-members of the international agreements.

Note: Number of items refers to the Harmonized System classification at the four-digit level.

Source: WTO Secretariat, based on information provided by the Turkish authorities.

## 21. How are the sanitary certificates or permits obtained? Are them parallel processes or are sequential?

In the importation of the agricultural products, an importer has to obtain a control certificate issued by the Ministry of Agriculture and Rural Affairs (to ensure sanitary and phytosanitary compliance).

Imports permits for animal and animal products are issued by Directorate General of Protection and Control (GDPC) within the Ministry of Agriculture and Rural Affairs. The sanitary certificate (veterinary health certificate) is issued by the exporter country. The exporter applies to the Ministry of Agriculture and Rural Affairs with sanitary certificate and other related documents in order to get the import permit.

With regard to the exports of animal and animal products, the sanitary certificate is issued by Provincial Directorates under Ministry of Agriculture and Rural Affairs.

### Fisheries:

Protectionist measures on sanitary certification operations and avoiding counterfeiting:

Regarding the fisheries products exports, the sanitary certification model designated by the European Commission Directive (1664/2006 EC) is used for European Union (EU) countries. For fisheries products exports to the countries other than the EU, sanitary certification model designated by Turkey (except Russian Federation and China where the models are designated by these countries) is used. In fisheries exports, a separate certificate is issued for every export installment.

- 1- In every sanitary certificate models used;
  - Cold seal exists,
  - Certificates are published with sequential serial numbers and are distributed in line with these serial numbers to municipal authorities for registration.
- 2- During the approval stage by the municipal authorities each sanitary certificate is given a sanitary certificate registration number and their export records are held.
- 3- The part of the sanitary certificate that stays with the municipal authority and the part that goes with the product are given the hologram label carrying the same number. Hologram labels are issued by the Ministry of Agriculture and Rural Affairs in exchange for debit.
- 4- The sanitary certificates are approved by the Veterinary Doctors listed in the “Fishery Products Auditor List” assigned in the Municipal Directorship which are authorized by the Ministry of Agriculture and Rural Affairs.
- 5- For the exports of live, fresh and refrigerated fishery products inspection and organoleptic inspection are required. For exports of refrigerated and processed fishery products (refrigerated, fume, canned, etc.) by exemplification for designated periods, several analyses are required. For the products having approved institutional audit results along with the inspection and analysis results sanitary certificates are issued.

### **Food:**

For exports to the EU and other countries certification is made in line with the importer country’s applied legislation and request. In case a Sanitary Certificate is required by the importer country, that particular country shall consult the Control Division of the Municipal Agricultural Directorate which exists in 81 municipalities in Turkey.

For the food imports made by Turkey, certificates holding the security reliability of the product are required. As for the animal products, a certificate approved by the authorized institutions of the country where the products originate and/or freighted; stating that raw materials obtained from the animal and to be used in the product shall be free from contagious and/or epidemic animal diseases.

### **Phytosanitary:**

For plant and plant products Phytosanitary Certificates carrying the ISPM 12 standards are required. Moreover, export permits are required for production materials. Detailed information can be found in the website of Agrarian Quarantine Directive of the Ministry of Agriculture and Rural Affairs ([http://www.kkgm.gov.tr/yonetmelik/zir\\_kar.html](http://www.kkgm.gov.tr/yonetmelik/zir_kar.html)).

For some industrial products, if an imported product falls under the category of a relevant legislation to be controlled by a certain Ministry for sanitary purposes, it is so certified by the relevant institution. For example, for some medical devices, a certificate is issued by the Ministry of Health and for some hazardous materials for health a control certificate is issued by the Ministry of Environment. The process to obtain a sanitary certificate for a product is then neither parallel nor sequential since, as the case may be, there can only be one institution responsible for issuance of the certificate.

**22. GDP and employment figures: are they referred only to primary sector or to agro industrial sector as well?**

Since there is no such distinction between the agro industrial sector and primary sector in the figures calculated by Turkey, the GDP and employment figures stated in Turkey's Report cover both the primary and the agro industrial sectors.

**23. Have you considered in the short or medium term any Irrigation Investment Program? If your answer is positive, how many financial resources (US\$) are you going to allocate for that purpose and how many new hectares will be irrigated?**

In accordance with the Development Plans and Programs, 2006-2010 National Agriculture Strategy and the Law on Agriculture, and with a view to improving the infrastructure of the agricultural irrigation for the projected investments which the producers will make individually and/or collectively on the basis of equity, and in order for supporting the investments in the Integrated Compressive Irrigation Facilities and for the more effective and the more economic use of the water, the Ministry of Agriculture and Rural Affairs provides %50 granted aids for the individual investments in compressive irrigation facilities and %75 granted aids for the investments in compressive irrigation facilities for the collective infrastructure rehabilitation within the scope of the Program for the Support of Rural Development Investments.

Moreover, it was planned to establish a compressive irrigation system for the area of approximately 20000 hectares and to grant 20 million New Turkish Liras (NTL) in 2007.

**24. Dealing with market intervention: Are there buying powers of the State for agricultural products, and/or, is there any price-fixing scheme?**

Turkish Grain Board (TMO) is a state owned enterprise and responsible for the intervention buyings of cereals, paddy rice and hazelnut. Also TMO carries out the state monopoly on opium and narcotic substances. TMO determines the intervention buying prices.

**25. Would you please inform us the sugar-beet cultivated area and the average production by hectare (yields in tons).**

**Production Figures for Sugar Beet (2006)**

<b>Product Name</b>	<b>Area Sown (Hectare)</b>	<b>Area Harvested (Hectare)</b>	<b>Production (Tonnes)</b>	<b>Average Production (Kg/Hectare)</b>
Sugar Beet	325.699	323.714	14.452.162	44.640

**26. Would you please give us some data for apple trees and table grapes area?**

**Production Figures for Apple and Table Grapes (2006)**

<b>Product Name</b>	<b>Area covered (Decares)</b>	<b>Production (Tonnes)</b>
Apple	1.626.406	2.002.033
Table Grape	3.038.161	2.060.167

**27. Would you please tell us the main destination markets of poultry meat?**

The main destination markets of poultry meat are Azerbaijan, Vietnam, China, Iraq, Macedonia, Hong Kong, Bosnia Herzegovina, Tajikistan, Uzbekistan, Turkish Republic of Northern Cyprus, and Singapore.

Statistical information on the main destination markets of poultry meat is annexed to this document (**Annex I.5**).

**28. Would you please inform us the amount of dairy product imports and its composition?**

The amount of dairy product imports and its composition are annexed to this document (**Annex I.6**).

**29. Could Turkey provide us with a copy of the “New Foreign Direct Investment Law”**

The “New Foreign Direct Investment Law” is attached to this document (**Annex I.7**).

**30. Is Turkey’s position to incorporate investment chapters in the context of Free Trade Agreements?**

Given the fact that Turkey’s Bilateral Investment Treaty web includes 79 countries, it is not our practice to incorporate very detailed investment chapters to the texts of FTAs. Generally, a short text (1-2 articles) is included to some of the FTAs illustrating the well intention of the both Parties for promoting the flow of capital between their countries. The Article on “Investment Promotion” in the FTA between Turkey and Egypt is given below as an example:

*“The Parties recognize the importance of promoting investment and technology flows between them as a means of achieving economic growth and development. Co-operation in this respect shall include:*

- a) appropriate means of identifying investment opportunities and information channels on investment regulations;*
- b) the provision of information on the Parties’ measures promoting investment abroad (technical assistance, financial support, investment insurance, etc.);*

- c) *the planning and implementation of development projects, including for the participation of foreign investors;*
- d) *encouraging the creation of joint ventures, especially for SMEs and, when appropriate, the conclusion of agreements between Turkey and Egypt.”*

**31. Do you have bilateral agreements that include this issue?**

Turkey has not signed any other bilateral agreements including investment chapters other than its Bilateral Investment Treaties which has been referred to under Title “**III.5.C. Bilateral Investment Treaties and Other Agreements**” in Turkey’s Report.

**32. Under the assumption of “no movement” in the Doha Round Negotiations. Is Turkey’s position to assume bilateral commitments in matters of cross-border trade in services? If Doha Round Negotiations move forward, will this position change?**

Turkey’s existing commitments under GATS are already very liberal in terms of cross border supply of services (Mode 1) and Turkey undertakes full commitments in many services sectors. Besides, Turkey does not intend to assume bilateral GATS plus commitments in matters of cross-border trade in services for the time being.

**33. Are there bilateral agreements subscribed by Turkey which include commitments in the subject of cross-border trade in services?**

There are not any bilateral agreements subscribed by Turkey which include commitments in the subject of cross-border trade in services

**34. Which categories of Business Persons are contemplated in Turkey’s domestic legislation and how is it regulated?**

There are two types of visas in the Turkish practice:

- a) Entry visa (single entry, multiple entry and entry with special annotations)
- b) Transit visa (single and double transit)

Turkey applies a simple and expeditious visa procedure for the businessmen regardless of their nationality. Foreign businessmen could be issued multiple entry visas valid up to five years, provided that they meet certain conditions.

These conditions include;

- that the applicant should not be among those whose entry to Turkey is banned,
- that the applicant should be a businessmen in any field in the country of his/her residence,
- that the applicant should be a member of the business delegations assigned to by leading companies,
- that the applicant has traveled to Turkey previously and/or he/she has an intention to establish continuous links with Turkey,

- that the applicant should be in possession of visas from EU countries, or the USA; Canada, Switzerland, Norway, Australia, New Zealand and Japan.

### **35. How is regulated the temporary entrance of Business Persons in the Agreement subscribed with the E.U.? Is any kind of visa required?**

Visa is not required for eight EU Member Countries' nationals and sixteen Member Countries' nationals (including the businessmen) can get their sticker type visa at border gates upon their arrival.

### **36. Does Turkey have any cooperation programs on IPR protection with the EU?**

In the scope of membership to the EU, a Twinning Project "To Support Turkey's Efforts in the Full Alignment and Enforcement in the Field of Intellectual Property Rights with a Focus on Fight Against Piracy" has been started in May 2006 and scheduled to end by November 2007. The project envisages supporting the Turkish Government in its efforts towards strengthening the capacity in legal, institutional, technical and investment matters related to intellectual property rights protection with specific focus on fight against piracy; and promoting effective protection through developing a well-structured strategy for cooperation among IPR related bodies and awareness raising activities together with collecting societies, national police, the customs and user and improving the existing legal environment by assessing and contributing to its further alignment with the EU legislation.

Moreover, Turkish Patent Institute (TPE) is having great steps in the way to be "**a leading contributor to the national innovation system by raising awareness and stimulating use of IP through a range of customer-oriented products and value-adding services to make Turkey more innovative and competitive.**" which is the new IP Awareness&Use Strategy of TPE.

In the beginning of year 2006 TPE has started an innovation project that covers the inside innovation (revision in the infrastructure, services and products of TPE) and creating outside innovation that is helping SME's to develop innovation based culture with the help of industrial property. At the end of year 2006 TPE has completed the restructuring of its departments and services and prepared the background for the studies in the field.

Nowadays TPE implements a pilot project "HEZARFEN" in one of the biggest industrial zones in Turkey: OSTIM OSB. The project includes SME consultancy (one-to-one), **use of IP information in each phase of innovation**, helping SME's to understand the strategic use of IP information in the innovation management process etc. In the Project HEZARFEN, TPE develops its practical knowledge, enhances communication with the industry, in other words TPE nowadays transforms knowledge into practice. TPE cooperates with Small&Medium Industry Development Organization and OSTIM OSB management.

OSTIM OSB has nearly 5000 companies from different sectors including service sector. Hezarfen has designed for the different types of companies with different needs from innovation concept. First group consists of all companies in OSTIM, who are clients of promotional products&events such as press products, guides and brochures on industrial property and innovation etc. With the contribution of Dutch consultant group, TPE has developed a new online survey KOBİHİT ®. KOBİHİT ® helps SME's to evaluate their innovative capacity, urge

for innovation, innovative capabilities and behaviors by themselves. This scan is general promotional instrument for all SME's in order to raise awareness on innovation related issues.

Second target group of Hezarfen, nearly 500 manufacturing SME's of OSTIM OSB, is clients of information products, listed below:

- Workshops (3 sets of workshops, to be repeated for 3 times)
- Monitoring technology and competitors, use of patent databases for innovation management,
- Business plan, integrating industrial property to business plans,
- Creating innovative environment inside the company, managing innovation
- Website (on the project, industrial property, innovation for SME's) <http://hezarfen.tpe.gov.tr>
- Publications on the innovation, strategic use of industrial property concepts,
- Upgrading front desk&information centers,
- Other SME oriented products of TPE (searches, newsletters, interviews etc)

Besides the informational products, detailed consultancy services on innovation is planned to be served in Hezarfen. This consultancy, including orientation products of TPE covers all the steps in product/process innovation to be taken in the company. The consultancy service, to be served by company visits, will be given only 20 companies of OSTIM. The following path of inside company workshops is planned:

- Innovation Basics Scan,
- Innovation Field Priorities Workshop,
- Innovative Idea Generation Workshop,
- SME Innovation Project Roadmap Workshop.

Hezarfen project started in March 2007 and ends at the end of year 2007. The Pilot Project got its own name '**Hezarfen**', derived from the first man flying and thereby crossing the Bosphorus. The word also has a meaning "people who knows thousands of science", which is interpreted in Hezarfen as "SME's who know thousands of business strategies". In addition, it has a slogan '**Its time to make new things**', paraphrasing a well-known Turkish philosopher, Mevlana's words when referring to the need 'to turn the page'.

**37. Please explain with more detail the functioning of the GI registration process according to the Turkish law**

GI registration process is regulated under the "DECREE-LAW No. 555 on the Protection of Geographical Signs". Moreover, in Turkish legislation there is "the Implementing Regulations under the Decree-Law No. 555 Pertaining to the Protection of Geographical Signs". Both texts are attached to this document (**Annex I.8**).

**38. In page 100 in your report, in the paragraph that is after the chart, it says: "On the other hand, while Chile faces 356.8 million dollars increase in imports, the total tariff revenue decreases 216.6 million dollars". These figures, where do their come from? or how were calculated?**

**We assume that Turkish exports to Chile are the same that the Chilean imports from Turkey. The Chilean imports from Turkey were 31.89 million dollars. If the Chilean imports from Turkey in the year 2005 were 31.9 million dollars, and the estimated change**

**in the Turkish exports would be 4.7 million dollars, then the total sum would be 36.6 million dollars and not 356.8 million dollars.**

Basically, in the related literature, a tariff reduction in partial equilibrium analysis has 4 major results:

- Trade Creation Effect
- Trade Diversion Effect
- Tariff Revenue Effect
- Market Effect (which can also be divided into “consumer welfare effect” and “producer welfare effect” )

In FTA feasibility reports of Chile with the other countries, the main focus was on trade creation and diversion effects. However this time, as the Turkish side, we think that all of these four effects should be calculated at the same time while we have the necessary data, which will better help to see the whole picture.

In the very beginning of the IV<sup>th</sup> section, in “IV.1.Introduction” part, it is clearly stressed that “*all of the tariff reduction scenarios are set up using WITS/SMART model*” which is a partial equilibrium model and uses WITS database that brings together various databases ranging from bilateral trade, commodity trade flows and various levels and types of protection. **SMART** simulation model enables us to see all these four effects in a practical and user friendly way.

**Also**, different from the previous studies of the Chilean side with other countries, we took into account the 27 EU-member countries as beneficiary countries by mentioning in our report that “*On the other hand, all of the simulations will be set up under the assumption that “EU-27 members are also beneficiaries of the tariff reduction”, which will certainly effect the value of trade creation and trade diversion effects.*”. It means the 27 countries will also benefit from the tariff reductions on the applied rates and the total trade values can also change in respect to the trade relations with these 27 countries.

Accordingly, this approach leads to different “*total import*” results than the “*total import results of the bilateral view*” which the Chilean side has preferred to use. This means, in our report, the effect of Turkey on ‘*the change of Chilean imports*’ accounts for 4,7 million dollars of 356,8 million dollars, and the rest of the effects, 352,1 million dollars, belongs to the 27 EU-member states.

To sum up, all of the calculations are made with the help of “WITS/SMART model” and the 4 major results calculated in our report with the help of this model are directly related with *the literature on “partial equilibrium analysis of trade policy changes”*. You can also find additional information about the theoretical background of the SMART model attached to this document (**Annex I.9**). In addition, the estimated increase of 356,8 million dollars in the total imports of Chile is calculated by taking into account 27 EU-member countries together with Turkey as all of the countries will benefit from the tariff reductions on applied rates.

### **39. In the experience of Turkey after the trade agreements with other countries, which has been the trade increase? Has it been more than originally calculated?**

In the experiences of Turkey, generally both Turkey’s exports and imports values showed significant rise and the total volume performed increasing trend after the FTA’s. Below there are

some tables showing 2000-2006 period trade figures of Turkey related with the FTA partners and shaded areas refer to the time period that the FTA's are in force<sup>34</sup>.

	Turkey's Exports (million dollars)						
	2000	2001	2002	2003	2004	2005	2006
Israel	650.14	805.22	861.43	1083.00	1315.29	1466.91	1529.16
EFTA	324.25	316.11	409.04	538.09	666.59	820.85	1189.17
Morocco	70.41	98.15	138.33	180.78	330.06	370.82	551.38
Tunusia	162.27	140.59	121.14	220.02	256.16	294.79	324.89
Croatia	23.59	30.11	42.87	85.60	118.06	167.99	213.88
Macedonia	107.77	89.82	101.32	122.72	149.33	162.48	172.76
Bosnia and Herzegovina	26.87	27.59	43.26	63.23	99.94	128.22	150.84
Gazze	5.62	6.00	4.73	6.49	9.03	9.40	21.15

	Turkey's Imports (million dollars)						
	2000	2001	2002	2003	2004	2005	2006
EFTA	1155.27	1480.93	2512.00	3395.68	3911.43	4439.55	4520.18
Israel	505.48	529.49	544.47	459.49	714.14	804.69	782.13
Morocco	72.98	38.19	68.31	76.99	105.78	143.23	173.90
Tunusia	64.84	72.94	71.80	98.14	100.41	117.37	150.09
Croatia	25.37	17.33	9.39	16.70	35.23	85.57	60.56
Macedonia	10.47	9.11	14.91	27.34	51.94	52.08	55.94
Bosnia and Herzegovina	7.50	4.93	6.32	8.34	11.48	15.40	9.38
Gazze	0.15	0.10	0.01	0.45	0.54	0.30	0.50

	Trade Volume (million dollars)						
	2000	2001	2002	2003	2004	2005	2006
EFTA	1479.52	1797.04	2921.04	3933.76	4578.02	5260.40	5709.35
Israel	1155.62	1334.71	1405.90	1542.49	2029.44	2271.60	2311.29
Morocco	143.40	136.34	206.65	257.77	435.84	514.06	725.27
Tunusia	227.11	213.53	192.94	318.15	356.57	412.16	474.99
Croatia	48.96	47.44	52.26	102.29	153.29	253.56	274.44
Macedonia	118.24	98.93	116.23	150.06	201.27	214.56	228.70
Bosnia and Herzegovina	34.37	32.51	49.58	71.57	111.41	143.62	160.22
Gazze	5.77	6.10	4.74	6.94	9.57	9.71	21.65

Looking through the tables, it is obvious that FTA's have significant effects on Turkey's trade figures. Furthermore, in the experiences of Turkey, the total trade after an FTA has generally exceeded the expected values, which have been the case in trade with Israel and the EFTA countries.

<sup>34</sup> It is not given in the tables but the FTA with EFTA entered into force in 1992 and the FTA with Israel entered into force in 1997. In addition, the FTA's with Egypt and Syria entered into force in 2007. However, the FTA with Albania which was signed in 22.12.2006 has not entered into force yet.

**Annex I.1 - The Ministerial Decree on the Regime Regarding Technical Regulations and Standardizing for Foreign Trade**

**THE MINISTERIAL DECREE  
ON THE REGIME REGARDING TECHNICAL REGULATIONS  
AND  
STANDARDIZING FOR FOREIGN TRADE**

**PART ONE  
Objective, Scope, Definitions and Authorization**

**Objective**

**Article 1**– In the framework of the technical regulations, standards, conformity assessment and inspections regarding foreign trade, the objective of this Decree is;

a) To avoid the technical regulations, standards, conformity assessment and inspections, which are implemented in the foreign trade, be an unnecessary barrier to international trade and to develop trade;

b) To increase the competitiveness of export products and to make the foreign buyers prefer our products by providing that export products are safe and of high quality;

c) To avoid the unfair competition and deceiving practices resulting from poor quality of the import products, to take the consumer-protective and quality-raising measures;

d) To provide the import products be in conformity with the technical regulations and/or be safe without making a discrimination between import products and domestic products, to protect the health and safety of persons, presence of animals and plants and environment and to fulfil out the requirements for public morality, public policy and public security;

e) To provide the technical legislation in the content of the international treaties and the Customs Union established between Turkey and the European Union be adapted to the foreign trade system;

f) To lay down the technical regulations, standards, conformity assessment and authorities responsible for inspections, the actions to take and the principles and procedures for foreign trade.

**Scope**

**Article 2**- This Decree covers the technical regulations, standards, conformity assessment and inspections to which import and export products are subject, the obligations of the importers and exporters, the powers and the obligations of the customs authorities and related authorities, the sanctions to apply and the notifications related to these issues.

The technical regulations, standards, conformity assessment and inspections regarding foreign trade shall be enforced in the framework of this Decree, the regulations and communiqués published relying on this Decree and the instructions given to the related authorities by the Undersecretariat and multilateral and bilateral international treaties.

## **Definitions**

**Article 3** – For the purposes of this Decree;

**a) Undersecretariat** shall mean the Undersecretariat for Foreign Trade;

**b) Technical regulation** shall mean any mandatory document which lays down the characteristics or processing and production methods of a product, including the administrative provisions, as well as one or more of the related terminology, symbols, packaging, marking, labelling and the conformity assessment procedures aspects;

**c) Standard** shall mean any voluntary document which is accepted by consensus and ratified by an authorised body; aims to provide an optimum order under the existing conditions; lays down, for common and repeated use, the characteristics, processing and production methods of a product, as well as one or more of the related terminology, symbols, packaging, marking, labelling and conformity assessment procedures aspects;

**d) Market surveillance** shall mean the market surveillance mentioned in the Law Relating to the Preparation and Implementation of the Technical Legislation on the Products;

**e) Safe product** shall mean any product, which under normal conditions of use, does not present any risk or presents only risks considered as acceptable and brings a high level of protection with respect to the essential requirements;

**f) Essential requirements** shall mean the minimum safety conditions which the product shall present regarding the level of protection for the health of persons, safety of persons and their properties, life and health of animals and plants, environment and the consumer;

**g) Inspection** shall mean the activity carried out to determine whether a good subject to foreign trade is in conformity with this Decree and the legislation published relying on this Decree;

**h) Authority responsible for inspection** shall mean the public authority making the inspections in the content of this Decree;

**i) Related authority** shall mean the authority of which the activities and/or decisions affect the actions in the content of this Decree in a direct or indirect manner;

**j) Standardization** shall mean the process of putting and applying rules, which contain the standards, technical regulations, conformity assessment, with the assistance and cooperation of all relevant parties in order to provide economical and social benefits from an activity.

**k) Conformity assessment** shall mean any procedure concerning the testing, inspection and/or certification of a product's conformity with the relevant technical regulation;

**l) Code of good practice** shall mean any specific practical principles related to the health and safety in the framework of the existing technological level and scientific criteria in the sector concerned.

## **Authorization**

**Article 4-** In the framework of this Decree, the Undersecretariat is authorized;

**a)** To make the inspections to find out whether the products subject to foreign trade are in compliance with the technical regulation and/or safe or to authorize or designate the institutions to make these inspections with the coordination of the authorities responsible for market surveillance, giving priority to these authorities;

**b)** To determine or let them be determined the specifications, which would be the principle for the inspections regarding foreign trade, for products with no technical legislation until the technical regulation is prepared by taking the international practices into account and to make the necessary inspections or make them be made.

**c)** With the approval of the Minister responsible for the Undersecretariat, to make the required Turkish standards mandatory or to abolish mandatory standards, to make the necessary inspections regarding these standards or make them be made by taking the export and domestic market practices into account;

**d)** To harmonize the technical legislation, which is published in the framework of the competencies given by the legislation to the Undersecretariat and the Ministries and other institutions, into the foreign trade and to lay down the application principles;

**e)** To carry out the coordination regarding technical regulation, standards, conformity assessment and inspections regarding foreign trade between the related authorities;

**f)** When needed, to determine the entry and exit customs authorities for some import and export products in coordination with the Undersecretariat of Customs by taking the opinion of the related authorities into account in order to carry out the technical regulations, standards, conformity assessment regarding foreign trade effectively, fast and efficient, to provide the exchange of information between market surveillance activities and import and export controls, to establish the information infrastructure regarding this exchange, to found the national and international notification systems and to make the notifications, to make the necessary studies to inform the public about these activities and to prepare reports;

**g)** To make the regulations regarding the import and export of the substances, which are out-of, standard, scraps, remains and risk-presenting to environment, by taking the opinion of the related authorities into account;

**h)** To start inquiry for the producer firm about the technical specifications and the compliance of these specifications of the import products which are determined as hazardous to the health of persons or facility or environment, to control each kind of import of the said product until the enquiry is finalized, to take the necessary measures regarding the inspection of the product when the enquiry is finalized;

**i)** To take the necessary actions to abolish the foreign countries' practices those create technical barriers to Turkey's export products, to have meetings with these countries, to make mutual recognition agreements and to take the necessary measures within the framework of the international treaties;

**j)** To make the necessary changes and to take measures at the each step of the technical regulation, standards, conformity assessment and inspections regarding foreign trade, to lay down the principles regarding sample taking in the content of the inspection, to determine the maximum and minimum level of charges to repay the services of inspection and to lay down the

principles regarding payments, to ask the related persons or authorities for every kind of information and certificates regarding these activities;

**k)** To determine the requirements that have to be conformed by the international survey firms, which would act in the supervision activities of the products subject to foreign trade anticipated in the regulations based on this Decree, by taking the opinion of the Ministry of Industry and Trade, to give the statute of international surveillance firms and to cancel that statute, to identify the area of activity of these firms and to control their activities;

**l)** To establish a committee of the related persons appointed by the Undersecretariat, in order to determine the suitable dates for pruning, collecting and exporting of the products subject to export by taking the type, the characteristics of the land and the condition of transportation into account in order to guarantee that these export products meet the demand of the target market;

**m)** To examine the special and imperative cases which are required by the needs and economical conditions of the country and to finalize them regarding the technical regulations and standardization processes for foreign trade, to give the necessary permission and to make the necessary amendments in the related directives, communiqués and instructions, to make exceptions regarding conformity assessment and certification processes and to define the scope of these exceptions.

## **PART TWO**

### **Uniformity in Application of Technical Legislation and Inspections Regarding Foreign Trade**

#### **Uniformity in Application of Technical Legislation**

**Article 5-** The coordination, monitoring, transparency and notification of technical regulations, standards, conformity assessment and inspection shall be carried out in accordance with this Decree in a uniform and harmonious way.

Any regulation dealing with documents and signs that show that an import or export product is in conformity with the rules applicable, such as control certificate, conformity certificate, type approval certificate, “CE” marking and “e” marking, shall be notified to the Undersecretariat. The Undersecretariat shall assess these proposals and –if appropriate- publish in the Official Journal.”

#### **Inspections Regarding Foreign Trade**

**Article 6-** The inspections to find out whether the products subject to import and export are in compliance with the technical legislation and/or standards shall be carried out in accordance with this Decree, the Regulation, No 6/7677, of 7 February 1967 about the application of the Turkish standards, the principles laid down in the technical regulations and standards, the directives, communiqués published and instructions given by the Undersecretariat.

**PART THREE**  
**Product Safety and the Obligations of the**  
**Importers, Exporters and the Related Authorities**

**Product Safety**

**Article 7-** The new products subject to import shall be in conformity with the relevant technical regulation and/or be safe.

The product in compliance with the relevant technical regulation shall be assumed as safe. In the absence of a relevant technical regulation, safety of a product shall be assessed in accordance with the national or international standards and in the absence of these, with the codes of good practice in the sector concerned or with the state of science and technology or with the safety which consumers may reasonably expect.

**Obligation of the Importer**

**Article 8-** The importer shall be responsible for importing products that are in compliance with the relevant technical regulations and safe.

**Obligation of the Exporter**

**Article 9-** The exporter shall be responsible when the products subject to export would present serious and close risk regarding the essential requirements of health of persons, safety of persons and their properties, life and health of animals and plants, environment and the protection of consumers.

**Obligation of the Related Authorities**

**Article 10-** The related authorities shall be responsible for participating in the information and notification systems, which are established by the Undersecretariat to carry out the activities in the content of this Decree effective, fast and in a coordinated manner, and for providing the necessary cooperation.

**PART FOUR**  
**Free Movement of Goods Between Turkey and European Union**

**Article 11-** The import of the products, which are under the scope of the Customs Union, manufactured in compliance with the EU technical legislation and/or the national legislation of the Member States and/or which are put into free circulation shall not be restricted or banned.

This provision shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property.

Such prohibitions or restrictions shall not, however, constitute a means of discrimination between import and domestic products or a disguised restriction on trade.

The justifications of the prohibitions or restrictions stated in the second paragraph shall be notified to the European Union Commission by following the procedures anticipated in the related legislation and Customs Union.

The principles regarding the above mentioned issues shall be determined in the directive.

## **PART FIVE Other Provisions**

### **Measures To Take**

**Article 12-** Even if it is certified that a product subject to foreign trade complies with the technical regulation, when the authority responsible for inspections finds out that it does not comply with the technical regulation and/or it is not safe, on condition that the expenses be covered by the importer or exporter, one or few of the below mentioned measures shall be taken in proportion with the level of risk:

- a) Prohibition of the import of the product by the customs authority;
- b) Warning the importer or exporter in case where it is possible for the importer or exporter to render the product in compliance with the technical legislation and/or to render them safe;
- c) Whole or partial disposal of the product according to the risk level it presents in case where the importer or exporter does not render the product safe or where it is impossible to render it safe;

### **Sanctions To Apply**

**Article 13-** One or few of the below mentioned sanctions shall be applied in proportion with the seriousness of the acts of the ones who act against this Decree and the directives, communiqués, instructions and written engagements based on this Decree and who uses imitated certificates and who make distortions in the certificates, in addition to the provisions of the related legislation:

- a) Warning the firm;
- b) Forbiddance of the firm temporarily or permanently for the exemptions that are brought in the content of the legislation relying on this Decree;
- c) Halting of the import of the firm temporarily or permanently;
- d) Forbiddance of the international survey firms temporarily or permanently for its activity or cancelling its statute;
- e) Collection of the fine in accordance with the provisions of the “Law Regarding the Procedures of Collecting the Public Receivables”, No. 6183 by the tax department where a written engagement is taken, the fine shall be equal to the 60 % of the CIF value of the product defined in the written engagement.

The sanctions to apply in the content of this article, except the warning the firm and the fine, shall be published in the Official Journal.

### **The Abolished Legislation**

**Article 14-** Ministerial Decree of 8/1/1196 on the Regime Regarding Technical Regulations and Standardisation for Foreign Trade, No 96/7794, which was published in the Official Journal on 1/2/1996, No 22541, shall be abolished. The attributions in the related legislation made to the said Decree shall be assumed to be made to this Decree.

**Entry into Force**

**Article 15** – This Decree shall be put into force on the date of publication.

**Implementation**

**Article 16-** This Decree shall be enforced by the Minister responsible for the Undersecretariat.

**Annex I.2 - List of Turkey's GSP beneficiary countries and territories (Annex 3 of Import Regime Degree)**

**List of Turkey's GSP beneficiary countries and territories (Annex 3 of Import Regime Degree)**

<b>Countries</b>	<b>Sectors Excluded</b>
United Arab Emirates	
Antigua and Barbuda	
Anguilla	
Netherlands Antilles	
AQ Antarctica	
Argentina	
American Samoa	
Aruba	
Azerbaijan	
Barbados	
Bahrain	
Bermuda	
Brunei Darussalam	
Botswana	
Brazil	4 ; 9
Bahamas	
Bouvet Island	
Belarus	
Belize	
Cocos Islands (or Keeling Islands)	
Congo	
Côte d'Ivoire	
Cook Islands	
Chile	
Cameroon	
People's Republic of China	6; 7; 8; 9; 10; 11(a); 11(b); 12; 13; 14; 15; 16; 17; 18; 20
Cuba	
Christmas Islands	
Dominica	
Dominican Republic	
Algeria	5
Egypt	
Fiji	
Falklands Islands	
Federated States of Micronesia	
Gabon	
Grenada	
Ghana	
Gibraltar	
Greenland	
South Georgia and South Sandwich Islands	

<b>Countries</b>	<b>Sectors Excluded</b>
Guam	
Guyana	
Heard and McDonald Islands	
Indonesia	3; 9
India	11(a); 14
British Indian Ocean Territory	
Iraq	
Iran (Islamic Republic of)	
Jamaica	
Jordan	
Kenya	
Kyrgyzstan	
St Kitts and Nevis	
Kuwait	
Cayman Islands	
Kazakhstan	
Lebanon	
St Lucia	
Libyan Arab Jamahiriya	
Morocco	
Marshall Islands	
Macau	
Northern Mariana Islands	
Montserrat	
Mauritius	
Mexico	
Malaysia	3
Namibia	
New Caledonia	
Norfolk Island	
Nigeria	
Nauru	
Niue Island	
Oman	
French Polynesia	
Papua New Guinea	
Philippines	
Pakistan	
St Pierre and Miquelon	
Pitcairn	
Palau	
Paraguay	
Qatar	
Russian Federation	6; 10; 15
Saudi Arabia	
Seychelles	
Santa Helena	

<b>Countries</b>	<b>Sectors Excluded</b>
Suriname	
Syrian Arab Republic	
Swaziland	
Turks and Caicos Islands	
French Southern territories	
Thailand	14; 17
Tajikistan	
Tokelau	
Tonga	
Trinidad and Tobago	
Turkmenistan	
Tunisia	
Ukraine	
United States Minor Outlying Islands	
Uruguay	
Uzbekistan	
St Vincent and Northern Grenadines	
Virgin Islands (British)	
Virgin Islands (USA)	
Viet Nam	
Wallis and Futuna Islands	
Mayotte	
South Africa	17
Zimbabwe	

### **Beneficiary Countries of Special Incentive Arrangements**

Bolivia	Mongolia
Ecuador	Moldova (Republic of)
El Salvador	Nicaragua
Guatemala	Panama
Georgia	Peru
Honduras	Sri Lanka
Colombia	Venezuela
Costa Rica	

### **Least Developed Countries (LDCs)**

Afghanistan	Malawi
Angola	Maldives
Bangladesh	Mali
Benin	Mauritania
Bhutan	Mozambique
Burkina Faso	Myanmar*
Burundi	Nepal
Cape Verde	Niger
Djibouti	Central African Republic

Chad	Rwanda
Equatorial Guinea	Samoa
Eritrea	São Tomé and Príncipe
Ethiopia	Senegal
Gambia	Sierra Leone
Guinea	Solomon Islands
Guinea-Bissau	Somalia
Haiti	Sudan
Cambodia	Timor-Leste
Kiribati	Tanzania (United Republic of)
Comoros	Togo
Democratic Republic of Congo	Tuvalu
Lao People's Democratic Republic	Uganda
Lesotho	Vanuatu
Liberia	Yemen
Madagascar	Zambia

\* The preferences in all chapters granted under GSP are suspended for a temporary period for Myanmar. The customs duty rates indicated in the column of MFN is applied for this country.

**Annex I.3 - List of products covered under the GSP scheme of Turkey, by sectors (Annex 4 of the Import Regime Degree)**

**List of products covered under the GSP scheme of Turkey, by sectors (Annex 4 of the Import Regime Degree)**

<b>Sector Number</b>	<b>Description</b>	<b>Product Coverage</b>
<b>1</b>	Other products of animal origin	0509.00.90.00.11,12
<b>2</b>	Lac, gums and resins	1302.12.00.10.11,12; 1302.12.00.90.11,12; 1302.13; 1302.20.10.90; 1302.20.90.90
<b>3</b>	Waxes of animal and vegetable origin	1505.00.10; 1516.20.10; 1517.90.93; 1518.00.10; 1518.00.91; 1518.00.95.10,90; 1518.00.99; 1521.90.99.00.11,19; 1522.00.10
<b>4</b>	Edible preparations and beverages; products of tobacco	1702.90.10; 1704.90.10; 18.03; 18.04; 18.05; 1806.10.15; 1901.90.91; 2001.90.60; 2008.11.10; 2008.91; 2101.11.11.10,90; 2101.11.19.10,90; 2101.12.92.10,90; 2101.20.20.00.11,19; 2101.20.92; 2101.30.11,91; 2102.10.10,90; 2102.20.11.10,90; 2102.20.19.1
<b>5</b>	Mineral products	Chapters 25-27 (Including chapters 25 and 27)
<b>6</b>	Products of chemical or allied industries	Chapters 28-38 (Including chapters 28 and 38)
<b>7</b>	Plastics and rubber	Chapters 39 and 40
<b>8</b>	Leather, raw hides, and skins	Chapters 41-43 (Including Chapters 41 and 43)
<b>9</b>	Wood	Chapters 41-46 (Including Chapters 44 and 46)
<b>10</b>	Paper	Chapters 47-49 (Including Chapters 47 and 49)
<b>11 (a)</b>	Textile	Chapters 50-60 (Including Chapters 50 and 60)
<b>11 (b)</b>	Clothing	Chapters 61-63 (Including Chapters 61 and 63)
<b>12</b>	Footwear	Chapters 64-67 (Including Chapters 64 and 67)
<b>13</b>	Glass and ceramic	Chapters 68-70 (Including Chapters 68 and 70)
<b>14</b>	Jewellery and precious metals	Chapter 71
<b>15</b>	Base metals and articles of base metals other than ECSC products	Chapters 72-83 (Including Chapters 72 and 83 ) other than ECSC products
<b>16</b>	Electro-mechanics	Chapters 84 and 85
<b>17</b>	Transport equipment	Chapters 86-89 (Including Chapters 86 and 89)
<b>18</b>	Optical and clocks	Chapters 90-92 (Including Chapters 90 and 92)
<b>20</b>	Miscellaneous	Chapters 94-96 (Including Chapters 94 and 96)
<b>21</b>	Works of art collectors' pieces and antiques	Chapters 97-99 (Including Chapters 97 and 99)

## **Annex I.4 – The organization of the Turkish Ministry of Environment and Forestry**

The organization of the Turkish Ministry of Environment and Forestry consists of the central and rural organizations along with the affiliated institutions.

### **Central Organization**

The central organization of the Turkish Ministry of Environment and Forestry is made up of main service units, advisory and auditing units and auxiliary services units.

The central organization of the Ministry is shown in the table given below.

### **Minister**

The Minister is the highest ranking officer of the Ministry and he/she is charged with conducting the services provided by the Ministry in accordance with the legislation, general politics of the government, national security strategy, development plans and annual programs and also establishing cooperation and coordination with the other ministries on the subjects that are within the scope of activities of the Ministry, and the Minister is responsible to the Prime Minister.

The Minister is separately responsible of the activities and operations of the people under his authority. The Minister is charged and authorized with inspecting the activities, operations, and accounts of the central and rural organization of the Ministry as well as the affiliated institutions.

### **Undersecretary**

Undersecretary is under the authority of the Minister and he/she is also the Minister's assistant. The Undersecretary arranges and executes the operations of the Ministry on behalf of the Minister and in line with his/her directives and orders and in accordance with the objective and policies, development and annual plans as well as the legislation. With this purpose, he can give the necessary orders to the institutions of the Ministry except the Ministry Inspection Committee and he observes their implementation and makes sure that these are implemented.

The Undersecretary is responsible against the Minister in the execution of the aforesaid services.

### **Assistant Undersecretary**

Four separate assistant Undersecretaries can be appointed to the Ministry to help with the Undersecretary.

### **Main Service Units**

The main service units of the Turkish Ministry of Environment and Forestry are as follows;

- a) Environmental Management General Directorate
  - Air Management Department
  - Waste Management Department
  - Water and Soil Management Department
  - Chemicals Management Department

- Sea and Coastal Management Department
- Measurement and Control Department
- Finance and Planning Department
- Administrative and Financial Affairs Department
- b) Environmental Impact Assessment and Planning General Directorate
  - Industrial Investment EIA Department
  - Planning and SEI Department
  - Infrastructure Investment EIA Department
  - EIA and Plan Monitoring Control Department
  - Environment Inventory Department
  - Administrative and Financial Affairs Department
- c) Forestation and Erosion Control General Directorate
  - Planning Department
  - Forestation Department
  - Erosion Control and Pasture Improvement Department
  - Special Forestation and Projects Department
  - Plantation and Seed Affairs Department
  - Administrative and Financial Affairs Department
- d) Forest-Village Relations General Directorate
  - Planning Department
  - Individual Loans Department
  - Cooperatives Department
  - Marketing and Settlement Department
  - Administrative and Financial Affairs Department
- e) Nature Protection and National Parks General Directorate
  - Hunting and Wildlife Department
  - National Parks Department
  - Nature Protection Department
  - Promenade Areas Department
- f) Research and Development Department
  - Forestry Research and Development Division
  - Environment Research and Development Division
  - Soil, Water, Air Study and Analysis Division
  - Coordination and Evaluation Division
  - Administrative and Financial Affairs Division
- g) Foreign Relations and European Union General Directorate
  - Protocol and Coordination Division
  - Regional and Bilateral Relations Division
  - Externally Financed Projects Division
  - Relations with International Institutions Division
  - Relations With European Union Division
  - Administrative and Financial Affairs Division
- h) Training and Publications General Directorate
  - Publicity, Collecting Information and Evaluation Division
  - Edition, Publication and Documentation Division
  - Public, Non-governmental Organizations and Public Relations Division
  - Formal and Mass Education Division
  - Administrative and Financial Affairs Division

## **Advisory and Inspection Units**

The Advisory and Inspection Units of the Turkish Ministry of Environment and Forestry are as follows;

- a) Presidency of Inspection Committee
- b) Presidency of Research, Planning and Coordination Committee
- c) Legal Counseling Department
- d) Ministry Advisors
- e) Press and Public Relations Advisors

## **Presidency of Inspection Committee**

The Presidency of the Inspection Committee, under the instructions and with the approval of the Minister, carries out the following duties;

- a) To carry out functions of inspection, examination and investigation with respect to all the activities and operations of the Ministry Organization and the institutions that are affiliated with the Ministry.
- b) To prepare and submit to the Minister the necessary proposal to ensure that the Ministry better realizes its objectives and conforms to the legislation, plan and programs in the work it conducts.
- c) To conduct the duties assigned by the special laws as well as the similar duties which may be assigned by the Minister.

The following are arranged by regulations; the hiring of assistant inspectors, their training and appointment as inspectors along with the duties, authorities and responsibilities of the inspectors and the principles and procedures pertaining to the working of the Inspection Committee.

## **Presidency of Strategy Development**

The duties of Presidency of Strategy Development are as follows;

- a) For the Ministry, within the framework of Government Program, Development Plans, annual programs, Cabinet Decisions and national security strategy, to coordinate the determination of the work principles for performing the responsibilities, which are assigned to the Ministry and to help in preparation of the Ministry's main service policies and plans in line with these principles.
- b) To ensure the determination of services and measures, along with the fundamental policies pertaining to these and to send these to the Undersecretariat of State Planning Organization after receiving the approval of the Minister.
- c) To prepare, and follow up the implementation of the budget of the Ministry in line with the principles of the plan and the program.
- d) To prepare the annual work programs of the Ministry and to monitor their implementation.
- e) To help determine the opinions of the Ministry with respect to the drafts of Laws, statutes and regulations.

- f) For the purposes of supporting the local administrations, to establish the cooperation and coordination pertaining to projects of environmental protection and improvements which will be prepared and implemented by the institutions and establishments.
- g) To carry out the processes and procedures related with some expenses pertaining to the prevention and cleaning of environmental pollution, and credits to be extended with regards to this subject, as well as services performed for forestation and erosion control, national park protection and development services and services provided for the development of the villages in the forested areas.
- h) To carry out research and analysis on the subjects that will be assigned by the Ministry and to perform similar services.

### **Legal Counseling Department**

The duties of Legal Counseling Department are as follows;

- a) To give opinion with respect to the legal issues which are asked about by the other departments of the Ministry as well as the transactions that may give rise to legal, financial and penal outcomes.
- b) To take the necessary legal measures in a timely manner so that the interests of the Ministry are protected and the conflicts are avoided.
- c) To prepare the necessary information pertaining to the legal and administrative actions as per the provisions of 8 January 1943 dated and 4353 numbered Law, and to represent the Ministry in the administrative cases that do not interest the Treasury.
- d) To prepare the legal proposals, which makes it possible for the Ministry to achieve its objectives and work in compliance with the legislation, plan and program, and to submit these to the Minister.
- e) To examine the law, statute and regulation drafts which are prepared by the institutions of the Ministry or sent by the ministries, under a legal perspective and to submit opinion with respect to these.

### **Ministry Advisors**

Thirty Ministry Advisors can be assigned to aid the Minister on the subjects that carry priority and special importance at the Ministry.  
The Ministry Advisors report to the Minister.

### **Press and Public Relations Advisors**

For planning the activities of the Ministry related with the Press and Public Relations a Press and Public Relations Consulting section will be established and this section makes sure that the said activities of the Ministry are conducted in accordance with the principles and procedures to be determined.

### **Auxiliary Service Units**

The Auxiliary Service units of the Central Organization of the Turkish Ministry of Environment and Forestry are as follows;

- a) Personnel Department
- b) Administrative and Financial Affairs Department

- c) Information Processing Department
- d) Defense Secretary
- e) Principal Clerk's Office

### **Continuous Committees**

The continuous Committees of the Turkish Ministry of Environment and Forestry are as follows;

- a) Higher Environment Committee
- b) Local Environment Committee
- c) Environment and Forestry Supreme Council
- d) Central Hunting Commission

The establishment, duties and working principles and procedures of these committees are arranged by the regulations.

### **Rural Organization**

In accordance with the provisions of 27 September 1984 dated and 3046 numbered Law, 10 June 1949 dated and 5442 numbered Provincial Management Law and 13 December 1983 dated and 190 numbered Decree Law on General Payroll and Procedures, the Ministry is authorized to establish rural organizations in the provinces that are deemed to be necessary.

### **Affiliated Institutions**

The institutions that report to the Turkish Ministry of Environment and Forestry are as follows;

- a) Forestry General Directorate
- b) State Meteorology Works General Directorate
- c) Private Environmental Protection Association
- d) State Hydraulic Works General Directorate

### **Coordination and Cooperation**

The Ministry, in accordance with the legislation, is responsible for and authorized to determine the principles that other ministries and public institutions and establishments will comply to on the subjects that are related with its duties and to take the measures necessary to prevent waste and establish coordination.

The Ministry is responsible for establishing the necessary cooperation and coordination with respect to its activities on the subjects that are within the scope of other ministries and to do this in line with the principles that are set out by the Prime Ministry and after consulting the related ministry.

The Ministry establishes the coordination with the local leaders on the subject that are within its service area

**MINISTRY OF ENVIRONMENT AND FORESTRY CENTRAL ORGANIZATION**

<b><u>Undersecretariat</u></b>	<b><u>Assistant</u></b>	<b><u>Main Service Units</u></b>	<b><u>Advisory and Inspection Units</u></b>	<b><u>Auxiliary Service Units</u></b>
	<b><u>Undersecretariat</u></b>			
Undersecretariat	Undersecretariat Ass.	General Directorate of Environmental Management	Presidency of Inspection Committee	General Directorate of Personnel
	Undersecretariat Ass.	General Directorate of Environmental Impact Assessment and Planning	Presidency of Strategy Development	General Directorate of Administrative and Financial Affairs
	Undersecretariat Ass.	General Directorate of Forestation and Erosion Control	Legal Counseling	General Directorate of Information Processing
	Undersecretariat Ass.	General Directorate of Forest-Village Relations	Ministry Advisors	Defense Secretary
		General Directorate of Nature Protection and National Parks	Press and Public Relations Advisor	Principal Clerk
		General Directorate of Research and Development		
		General Directorate of Foreign Relations and European Union		
		General Directorate of Training and Press		

### Annex I.5 – Turkey’s Exports of Poultry Meat (0207) 2004 – 2007

		2004	
	EXPORT DESTINATION	KG	\$
1	CHINA	12.292.000	5.703.350
2	MACEDONIA	2.408.928	3.730.756
3	AZERBAIJAN	3.186.160	2.746.322
4	HONG-KONG	6.171.914	2.565.565
5	IRAQ	1.460.540	1.746.387
6	TURKISH REPUBLIC OF NORTHERN CYPRUS	460.705	872.153
7	TURKMENISTAN	602.163	338.183
8	UKRAINE	538.000	274.774
9	SAUDI ARABIA	110.516	261.287
10	BULGARIA	700.537	244.854

		2005	
	EXPORT DESTINATION	KG	\$
1	CHINA	11.947.405	6.829.289
2	AZERBAIJAN	6.991.388	6.140.264
3	IRAQ	4.179.921	4.996.622
4	MACEDONIA	3.372.295	4.613.643
5	HONG-KONG	4.956.194	2.323.452
6	UZBEKISTAN	4.027.778	1.913.976
7	SINGAPUR	2.016.000	876.528
8	BOSNIA HERZEGOVINA	1.379.985	807.736
9	TURKISH REPUBLIC OF NORTHERN CYPRUS	636.179	775.627
10	UKRAINE	1.355.000	588.183

		2006	
	EXPORT DESTINATION	KG	\$
1	AZERBAIJAN	9.402.373	9.379.534
2	VIETNAM	16.612.452	8.756.444
3	IRAQ	2.159.001	3.472.231
4	BOSNIA HERZEGOVINA	2.060.501	1.314.993
5	CHINA	2.172.000	1.022.644
6	TAJIKISTAN	2.034.514	973.437
7	SINGAPUR	2.072.000	904.029
8	HONG-KONG	978.005	429.459
9	TURKISH REPUBLIC OF NORTHERN CYPRUS	72.474	194.898
10	INDIA	100.000	50.000

		2007 (Jan.-June)	
	EXPORT DESTINATION	KG	\$
1	VIETNAM	10.967.922	7.825.459
2	AZERBAIJAN	3.874.987	4.569.967
3	TAJIKISTAN	2.400.973	1.164.955
4	HONG-KONG	1.697.979	1.065.301
5	CHINA	2.781.000	905.445
6	IRAQ	331.709	538.977
7	BOSNIA HERZEGOVINA	676.288	475.218
8	TAILAND	83.000	91.934
9	TURKISH REPUBLIC OF NORTHERN CYPRUS	21.066	82.897
10	RUSSIA	26.000	36.400

The main export destinations of Turkey for poultry meat are Azerbaijan, Vietnam, China, Iraq, Macedonia, Hong Kong, Bosnia Herzegovina, Tajikistan, Uzbekistan, Turkish Republic of Northern Cyprus, and Singapore.

**Annex I.6 – Turkey’s Imports of Dairy Products 2004 – 2007**

HS CODE	DESCRIPTION	2004		2005		2006		2007 (Jan.-June)	
		KG	\$	KG	\$	KG	\$	KG	\$
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	202.193	197.472	184.110	265.589	25.839	39.746	450	1.097
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	11.881.684	25.228.819	9.714.759	23.049.305	16.826.633	38.724.214	4.168.271	13.020.199
0403	Butter milk, curdled milk and cream, yoghurt, kephir and other	338.125	502.368	259.861	435.125	7.944	20.672	3.200	15.196
0404	Whey	535.027	1.631.651	390.635	1.582.869	538.768	1.537.895	163.873	390.927
0405	Butter and other fats and oils derived from milk	4.293.681	10.209.140	6.193.424	14.687.400	6.328.372	12.994.487	3.012.244	6.956.940
0406	Cheese and curd	5.366.238	16.517.365	5.227.860	20.034.168	4.619.592	16.453.784	2.399.927	9.283.880
<b>TOTAL</b>			<b>54.286.815</b>		<b>60.054.456</b>		<b>69.770.798</b>		<b>29.668.239</b>

## Annex I.7 – Turkish Foreign Direct Investment Law

### FOREIGN DIRECT INVESTMENT LAW

Law No. 4875

Date of Passage: 5 June, 2003

Date of Official Gazette: 17 June, 2003

#### OBJECTIVE AND SCOPE

**Article 1.** The objective of this Law is to regulate the principles to encourage foreign direct investments; to protect the rights of foreign investors; to define investment and investor in line with international standards; to establish a notification-based system for foreign direct investments rather than screening and approval; and to increase foreign direct investments through established policies. This Law establishes the treatment to be applied to foreign direct investments.

#### DEFINITIONS

**Article 2.** The terms used in this Law shall have the following meanings:

**a) Foreign investor:**

- 1) Real persons who possess foreign nationality and Turkish nationals resident abroad, and
- 2) Foreign legal entities established under the laws of foreign countries and international institutions,

who make foreign direct investment in Turkey.

**b) Foreign direct investment:**

- i) Establishing a new company or branch of a foreign company by foreign investor,
- ii) Share acquisitions of a company established in Turkey (any percentage of shares acquired outside the stock exchange or 10 percent or more of the shares or voting power of a company acquired through the stock exchange)

by means of, but not limited to the following economic assets:

- 1) Assets acquired from abroad by the foreign investor:
  - Capital in cash in the form of convertible currency bought and sold by the Central Bank of the Republic of Turkey,
  - Stocks and bonds of foreign companies (excluding government bonds),
  - Machinery and equipment,
  - Industrial and intellectual property rights;
- 2) Assets acquired from Turkey by foreign investor:
  - Reinvested earnings, revenues, financial claims, or any other investment-related rights of financial value,
  - Commercial rights for the exploration and extraction of natural resources.

**c) The Undersecretariat:** The Undersecretariat of Treasury.

## **PRINCIPLES CONCERNING FOREIGN DIRECT INVESTMENTS**

### **Article 3.**

#### **a) Freedom to Invest and National Treatment**

Unless stipulated by international agreements and other special laws:

1. Foreign investors are free to make foreign direct investments in Turkey,
2. Foreign investors shall be subject to equal treatment with domestic investors.

#### **b) Expropriation and Nationalization**

Foreign direct investments shall not be expropriated or nationalized, except for public interest and upon compensation in accordance with due process of law.

#### **c) Transfers**

Foreign investors can freely transfer abroad: net profits, dividends, proceeds from the sale or liquidation of all or any part of an investment, compensation payments, amounts arising from license, management and similar agreements, and reimbursements and interest payments arising from foreign loans through banks or special financial institutions.

#### **d) Access to Real Estate**

Companies may freely acquire real estate or limited rights in rem through a legal entity established or participated by foreign investors in Turkey, provided that such acquisitions are permitted for Turkish citizens.

#### **e) Dispute Settlement**

For the settlement of disputes arising from investment agreements subject to private law and investment disputes arising from public service concessions contracts and conditions which are concluded with foreign investors, foreign investors can apply either to the authorized local courts, or to national or international arbitration or other means of dispute settlement, provided that the conditions in the related regulations are fulfilled and the parties agree thereon.

#### **f) Valuation of Non-Cash Capital**

Non-cash capital is valued within the regulations of Turkish Commercial Law. In case that stocks and bonds of companies established abroad are used as foreign capital share of foreign investors, the values determined by the relevant authorities in the home country, or by the experts designated by the courts of the home country, or any other international institutions performing valuations will be accepted.

#### **g) Employment of Expatriates**

Work permits are issued by the Ministry of Labour and Social Security for foreign personnel to be employed in the companies, branches and entities established within the scope of this Law.

In accordance with the Article 23 of the Law on Work Permits for Foreigners No. 4817 dated 27 February 2003, the definition of the key personnel within the scope of the Regulation the companies and the entities with foreign capital which shall be in the context of the Regulation, and other special procedures and principles concerning the work permits of the

key personnel will be determined in a Regulation to be prepared jointly by the Undersecretariat of Treasury and the Ministry of Labour and Social Security,

Provisions stipulated in Article 14, paragraph 1, sub-paragraph (b) of Law No. 4817 will not be applicable to those personnel to be employed within the context of this Regulation. The conditions under which the provisions stipulated in paragraph 1 of Article 13 of Law No. 4817 are to be applied to key foreign personnel employed will be specified in the Regulation.

#### **h) Liaison Offices**

The Undersecretariat is authorized to permit foreign companies established under the laws of foreign countries to open liaison offices, provided that they do not engage in commercial activities in Turkey.

### **DETERMINATION OF POLICIES AND DATA COLLECTION**

**Article 4.** Considering the objectives of the development plans and annual programs, the general economic status of the country, trends in international investments and the opinions of the relevant public institutions and private sector professional organisations, the Undersecretariat is authorised to determine the general framework of policies concerning foreign direct investments, and for this purpose to participate in the activities of other organisations. The consent of the Undersecretariat shall be taken before any amendment or enactment of a regulation related with foreign direct investments.

For the purpose of establishing and developing an information system related to foreign direct investments, the Undersecretariat is authorized to request statistical information concerning the investments from all public establishments and institutions and private sector professional organizations.

Foreign investors shall submit the statistical information on their investments according to the procedures and principles to be determined by a regulation to be enacted by the Undersecretariat. Such information cannot be used as evidence other than for statistical purposes.

### **OTHER PROVISIONS**

#### **Article 5.**

##### **a) Existing Companies with Foreign Capital**

The companies with foreign capital established pursuant to Law No. 6224 dated 18 January 1954 shall be subject to this Law, reserving their granted rights.

##### **b) Regulations**

The implementing principles for this Law will be determined in a regulation to be prepared by the Undersecretariat within one month following the publication of the Law.

##### **c) Repealed Provisions**

The Law for Encouragement of Foreign Capital No. 6224 dated 18 January 1954 is repealed.

The references made to Law No. 6224 in the legislation are considered as referring to the related provisions of this Law.

d) Any amendments concerning the articles of this Law can only be done by means of amending or appending provisions to this Law.

**PROVISIONAL ARTICLE 1.** The provisions of the decrees, communiqués and circulars in effect, which are in conformity with this Law, shall remain in force until new regulations for the implementation of this Law take effect.

#### **EFFECTIVENESS**

**Article 6.** This Law shall come into force on the date of its publication.

#### **ENFORCEMENT**

**Article 7.** The provisions of this Law shall be enforced by the Council of Ministers.

**Annex I.8 – “DECREE-LAW No. 555 on the Protection of Geographical Signs” and the  
Implementing Regulations under the Decree-Law No. 555 Pertaining to the  
Protection of Geographical Signs**

**DECREE-LAW NO. 555  
ON THE PROTECTION OF GEOGRAPHICAL SIGNS**

**PART I  
GENERAL PROVISIONS**

**Section I**

**Aim, Scope, Persons Entitled to Protection, Definitions**

*Aim and Scope*

1. The aim of this Decree-Law is to protect natural, agricultural, mining and industrial products and handicrafts under geographical signs when they conform to the provisions thereof.

*Persons Entitled to Protection*

2. The protection conferred by this Decree-Law shall be available to natural and legal persons domiciled or having industrial or commercial establishments within the territory of the Turkish Republic, or to persons having application rights deriving from the terms of the Paris or Berne Conventions or the Agreement Establishing the World Trade Organization. Natural or legal persons other than those referred to in the first paragraph of this Article who are nationals of States that accord legal and *de facto* protection to nationals of the Turkish Republic shall enjoy protection in Turkey according to the principle of reciprocity.

*Definitions*

3. For the purposes of this Decree-Law, "geographical sign" means a sign indicating the origin of a product that possesses a specific quality, reputation or other characteristics attributable to that place, area, region or country of origin. For the purposes of this Decree-Law, geographical signs shall be divided into two groups as appellations of origin and geographical indications. The name of the place, area or region of origin of a product shall be its appellation of origin when all of the following conditions are met:

(a) the product originates in a place, area or region, or in exceptional cases a country, the geographical boundaries of which have been defined;

(b) the quality or characteristics of the product are essentially or exclusively due to the inherent natural and human factors of the place, area or region;

(c) the production, processing and preparation of the product take place within the defined boundaries of the place, area or region.

Traditional geographical or non-geographical names that have become customary in the current language to designate a product originating in a place, area or region which fulfill the conditions referred to in the third paragraph above may also be used as appellations of origin.

The name of the place, area or region of a product's origin shall be its geographical indication when the following conditions are met:

(a) the product originates in a place, area or region the geographical boundaries of which have been defined;

(b) the product possesses a specific quality, reputation or other characteristics attributable to the place, area or region;

(c) at least one of the activities of production, processing or preparation of the product takes place within the defined boundaries of the place, area or region.

Also, for the purposes of this Decree-Law:

(a) "Institute" means the Turkish Patent Institute assigned to implement the provisions of this Law;

(b) "Paris Convention" means the Paris Convention for the Protection of Industrial Property of March 20, 1883;

(c) "Agreement Establishing the World Trade Organization" means the international agreement of April 15, 1994, establishing the World Trade Organization;

(d) "producer" means a producer of agricultural, industrial or handcrafted products, a processor of natural products or a trader of such products.

## **Section II**

### **General Conditions**

#### *Protection by Registration*

4. The protection afforded by this Decree-Law to signs constituting appellations of origin or geographical indications in relation to products shall be obtained by registration.

#### *General Conditions*

5. The following may not be registered as geographical signs:

(a) names and signs that do not conform to the definitions given in Article 3;

(b) names that have become the generic designation of the product; for the purposes of this Decree-Law, the generic name of a product is the name that has become the common name for that product even where it relates to a region or an area associated with the production or marketing origin thereof; use by the public in the area of origin and use by consumers in general shall be taken into consideration in order to determine whether or not a name is generic;

(c) names of plant varieties, animal breeds or similar names that are likely to mislead the public as to the true origin of the product;

(d) signs contrary to public policy or general principles of morality;

(e) names that are not protected or the period of protection of which has expired or names and signs the use of which is not allowed by the countries referred to in Article 2.

*Registration Authority*

6. The authorized body for the registration of geographical signs is the Institute. All applications shall be filed with the Institute or with any body that it may authorize for the purpose.

**Section III**  
**Application Conditions**  
*Right to Apply*

7. The following natural and legal persons shall be entitled to file applications:

- (a) natural or legal persons who are producers of the product;
- (b) consumer associations;
- (c) public institutions concerned with the product or the geographical region.

*Application Procedure*

8. An application for the registration of a geographical sign shall be filed together with the following:

(a) a request for registration including information identifying the applicant and information concerning the applicant association or institution within the meaning of Article 7;

(b) the name of the product and the appellation of origin or geographical indication to be registered;

(c) a description of the product, namely technical information and documents explaining the physical, chemical, microbiological and similar characteristics of the product and if necessary of the raw material;

(d) a definition of the geographical area, with information and documents that clearly identify the geographical boundaries;

(e) product manufacturing techniques including, if relevant, authentic and specific local techniques and conditions;

(f) evidence that the product complies with the provisions of Article 3 in relation to the sign filed for registration;

(g) information on the inspection facilities provided for in Article 20;

(h) information on labeling and marking and the means of using the registered appellation of origin or geographical indication;

(i) proof that the application fee has been paid;

(j) other particulars as specified in the Implementing Regulations.

Subject to international agreements, the Institute shall, in relation to applications concerning geographical signs for products originating in other countries, apply the provisions of Articles 9, 10, 11, 12 and 13 to determine whether the registration requirements in the country of origin conform to the provisions of this Article, whether inspection is available as provided in Article 20 and whether the country of origin affords reciprocal protection in response to applications for the registration of geographical signs from Turkey. Where a geographical sign registered in another country is the same as a geographical sign protected in Turkey, registration shall be granted after the regional and traditional use of the name and the possibility of confusion have been evaluated. The use of such a sign shall be allowed only on condition that the name of the country of origin is clearly and visibly stated on the label.

#### **Section IV** **Examination, Registration, Publication and Fees** *Examination*

9. The application shall be examined by the Institute for compliance with Articles 3, 5, 7 and 8. The Institute may, if it sees fit, request additional information and documents and ask for deficiencies to be remedied within the period prescribed in the Implementing Regulations.

The Institute may require examination of the application by one or more public institutions or universities or independent private bodies to verify the technical information. The examination fees to be paid to such institutions and the fees for the services of the Institute shall be borne by the applicant and be payable to the Institute.

Applications that comply with the provisions of Articles 3, 5, 7 and 8 shall be published in the Official Gazette, in the two national newspapers with the widest circulation and in one local newspaper.

Publication shall include the identity of the applicant, the name of the product, information on the appellation of origin or geographical indication, conditions governing the use of the registered name and other particulars laid down in the Implementing Regulations.

On being published, an application shall be entered in the register of geographical signs. The entry shall be provisional and shall become final on fulfillment of the provisions of Article 12.

#### *Deficiencies*

10. Where the Institute finds deficiencies in relation to Articles 3, 5, 7 and 8, the applicant shall be requested to remedy those deficiencies within the period specified in the Implementing Regulations.

If the deficiencies referred to in the first paragraph of this Article are not remedied as provided in this Decree and within the period specified in the Implementing Regulations, the application shall be refused.

### *Objections and Examination*

**11.** Within six months of the publication of the application, any person having a legitimate interest may object to the registration by filing an objection with the Institute regarding the application's conformity with Articles 3, 5, 7 or 8.

On receiving the objection, the Institute shall have it examined by one or more of the public institutions or universities or independent private institutions that have expertise in the subject matter concerned. The examination fees charged by those institutions and the fees for the services of the Institute shall be borne by the applicant and be payable to the Institute. Objections filed by public institutions shall not be subject to fees.

### *Registration and Publication*

**12.** If no objection is filed within six months of its publication in the Official Gazette, the geographical sign or name shall become effective as of the publication date and entered in the Register of Geographical Signs.

Applications that have undergone changes of form and content during the examination process shall be republished according to the procedure laid down in Article 9. The publication shall clearly explain the changes, and the application with its revised form and content shall become effective as of the new publication date and be entered in the Register of Geographical Signs.

Where an objection is found to be valid, the application shall be refused and the decision published in the Official Gazette and entered in the Register of Geographical Signs.

### *Fees, Payment Periods and Effects*

**13.** Filing, registration and publication fees and any other fees specified in the Implementing Regulations shall be payable by the applicant or his agent.

The payment dates of the fees specified in the Implementing Regulations shall be notified to the applicant or his agent by the Institute.

An application shall be considered withdrawn where any of the fees have not been paid within the prescribed period.

## **Section V**

### **Persons Having the Right to Practice, Agents**

#### *Persons Having the Right to Practice Before the Institute*

**14.** The following persons shall have the right to practice before the Institute in relation to geographical signs:

(a) natural or legal persons who are applicants;

(b) authorized trademark agents who are registered in the Trademark Agents Register in accordance with Decree-Law No. 544.

Legal persons shall be represented by natural persons duly empowered by their respective authorized bodies.

Persons domiciled outside the country may only be represented by trademark agents.

Where an agent has been appointed, all procedures shall be conducted through the agent. All notices served on the agent shall be considered served on the principal.

## PART II SCOPE OF PROTECTION AND USE

### **Section I** **Scope of Protection** *Scope of Protection*

**15.** Persons entitled to file an application for a geographical sign and those entitled to use a protected geographical sign shall have the right to prevent third parties from engaging in the following:

(a) direct or indirect commercial use of a registered name in connection with goods that are similar or comparable to the registered goods, or any use of the name that would exploit its reputation;

(b) any use as a word of a name denoting a real geographical place in a manner that conveys a false impression of origin, or use of the name in translation or accompanied by expressions such as "style," "type," "method," "as produced in" or other similar qualifying terms;

(c) any use of false or misleading information as to the origin, nature or essential qualities of the product on its packaging, or in advertising material or documents relating to the product;

(d) any packaging of the product in a container that is liable to convey a false impression as to its origin, or any other practice liable to mislead the public.

#### *Use Beyond the Scope of Protection*

**16.** Where a registered name contains the generic name of the product, the use of that generic name shall not fall within the scope of Article 15. A registered geographical sign may not be the generic name of the product.

### **Section II** **Use of Geographical Names and Inspection** *Use of the Registered Name*

**17.** A registered geographical name shall be used only on goods that comply with the conditions laid down in this Decree-Law.

A registered appellation of origin shall be used commercially by the producers active in the registered geographical area in connection with goods specified in the Register, subject to compliance with the quality and other requirements likewise specified in the Register. The use of a registered geographical indication shall be conditional on at least one of the activities of

production, processing or preparation of the product being performed within the boundaries of the place, area or region specified in the Register and on the product complying with the quality and other requirements likewise specified in the Register.

#### *Relation to Trademarks*

**18.** Where a geographical sign has been filed for registration in accordance with this Decree-Law, the application for the registration of a trademark that is covered by the provisions of Article 15 or is to be used in connection with the same product shall be refused.

A claim under Article 15 of this Decree-Law may be asserted against an application for the registration of a trademark within five years of the general recognition in Turkey of the violation of the registered geographical sign. A claim may also be asserted against a registered trademark within five years of the date of registration, provided that the date of general recognition of the violation of the geographical sign is earlier than the publication date of the trademark.

Claims under the second paragraph of this Article may be asserted only for a valid geographical sign registered in good faith.

Trademarks registered in breach of the first paragraph of this Article shall be declared invalid.

The validity of a registered trademark shall be upheld and its use in good faith may continue where the application for registration of the trademark was filed in good faith and registered, or where the right of use was acquired before the registered geographical sign had been granted protection in its country of origin or before this Decree-Law came into force.

A previously registered trademark with features that are liable to mislead the public as to the actual characteristics of the product shall not be registered as an appellation of origin or as a geographical indication.

#### *Use in Good Faith*

**19.** The provisions of Article 15 shall not extend to geographical signs that have been used in good faith for a continuous period of at least 10 years prior to April 15, 1994, that is, the date of the signature of the Agreement Establishing the World Trade Organization.

#### *Inspection*

**20.** Any association, regardless of its legal form, of producers or processors of a product that has registered the related geographical sign in accordance with this Decree-Law shall possess sufficient qualified staff, equipment and resources with which to inspect the production, marketing and medium of use of registered appellations of origin or geographical indications, and the labeling details of the product bearing the protected geographical sign. The cooperation of competent experts and independent bodies may be sought.

The scope and form of the inspection procedures shall be governed by the Implementing Regulations.

PART III  
INVALIDITY OF GEOGRAPHICAL SIGNS AND  
TERMINATION OF THE PROTECTION PERIOD

**Section I**  
**Invalidity of Geographical Signs**

21. A registered sign shall be declared invalid by the court in the following cases:

(a) where it is proved that the conditions for protection specified in Articles 3, 5 and 8 of this Decree-Law have not been fulfilled;

(b) where it is proved that the right provided for in Article 7 of this Decree-Law actually belongs to another person or persons;

(c) where it is proved that the inspection provided for in Article 20 of this Decree-Law has not been properly conducted.

Claims relating to entitlement under Article 7 may only be asserted by those who have rights under Article 7.

*Request for Invalidation*

22. Any person may request the invalidation of a geographical sign.

*Effects of Invalidation*

23. Where a geographical sign has been declared invalid, the declaration of invalidity shall have retroactive effect. The legal protection afforded to a registered geographical sign

by this Decree-Law shall therefore be deemed never to have existed from the outset when the sign is declared invalid.

The retroactive effect of invalidity shall not extend to the following:

(a) any final judgment for infringement of the rights in a geographical sign that has been reached and enforced prior to the declaration of invalidity;

(b) contracts concluded and executed prior to the declaration of invalidity;

(c) however, partial or total repayment of sums paid under the contract may be claimed, on grounds of equity, to an extent justifiable by the circumstances.

A final declaration of invalidity shall be effective against all persons. The court decision received by the Institute shall be entered in the Register and published within the period prescribed by the Implementing Regulations.

PART IV  
INFRINGEMENT OF GEOGRAPHICAL SIGNS  
AND PROCEEDINGS FOR INFRINGEMENT

**Section I**

**Infringement of Rights Arising from a Registered Geographical Sign**

*Acts of Infringement*

**24.** The following uses of a geographical sign by third parties not entitled to engage in such uses shall be regarded as infringement:

(a) any use that would exploit the reputation of the registered name or any direct or indirect commercial use of the registered name for products that are similar or comparable to the products registered;

(b) any use of the name in a form which, by indicating a real geographical place as a word, conveys a false impression of the origin of the product, or use of the name either in translation or accompanied by expressions such as "style," "type," "method," "as produced in" or the like;

(c) any use of false or misleading information as to the origin, nature or essential qualities of the product on the packaging thereof or in advertising material or documents relating thereto;

(d) any form of packaging or representation of the product that is liable to convey a false impression as to its origin, or any other practice liable to mislead the public;

(e) participation or assistance in or any form of encouragement or furtherance of the acts referred to in subparagraphs (a), (b), (c) and (d), above;

(f) failure to explain where and how an illegally produced and marketed product has been obtained when found to be in possession thereof.

Where the application for a geographical sign has been published under Article 9 of this Decree-Law, the holder of the application rights may institute civil and criminal proceedings against infringing parties.

**24A.-(a)** Persons who make false statements as to the true identity of the holder of geographical sign rights, or who remove without authority the notice of geographical sign rights properly placed on a product or on its packaging, or who falsely present themselves as owners of the rights in a geographical sign application or geographical sign shall be sentenced to imprisonment for a term of between one and two years and to a fine of between 300 million and 600 million liras\*.

(b) Persons who affix signs on a product produced or placed on sale by themselves or by others, or on the packaging thereof or in commercial documents or advertising material in such a way as to convey the impression that a relationship exists with legally protected geographical sign rights, or who use to the same end written matter, signs or expressions in advertisements and commercials in the published and visual media without being the rightful owner of the geographical sign rights, or for such acts performed after the expiry of the term of protection or

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\* With the Economic Stabilization Programme introduced by the government Turkey removed six zeros from its currency. Hence, since the year 2005, 1.000.000 liras (TL) is equal to 1 New Turkish Lira (NTL).

after the invalidation or termination of the geographical sign rights shall be sentenced to imprisonment for a term of between two and three years and to a fine of between 600 million and one billion liras.

(c) Persons who have committed any of the offenses specified in Article 24 shall be sentenced to imprisonment for a term of between two and four years and to a fine of between 600 million and one billion liras, in addition to which the judgment shall order the closure of the premises of their undertaking for a period of not less than one year, during which time they shall also be prevented from practicing any commercial activity.

Where the offenses specified above are committed by persons working in the undertaking, either on their own initiative or on instructions given them in the course of their duties, the staff and the owner or manager or their representative or the person holding whatever title who is *de facto* managing the undertaking who have not prevented the offense shall be punished in the same manner. Where the offenses specified in Article 24 have been committed in the performance of tasks on behalf of a legal entity, the legal entity shall also be liable for the fines, expenses and damages in place of the actual persons who have committed the offense. For those assisting in the acts, depending on the nature of the action, the provisions of Articles 64, 65, 66 and 67 of the Turkish Penal Code shall apply. Prosecution for the offenses specified above shall take place on a complaint.

Subparagraph 8 of paragraph 1 of Article 344 of Criminal Procedure Code No. 1412 shall not apply to the implementation of the provisions of this Article. The right of complaint shall belong to the person whose geographical sign rights have been infringed, and also to the Institute for all offenses except those provided for in Article 24; it shall belong to consumer associations and to establishments governed by Law No. 5590 or 507 for false statements as to the true identity of the holder of the geographical sign rights, and for the affixing of signs on a product produced and placed on sale by oneself or by others, or on the packaging thereof or in commercial documents or advertising material in such a way as to convey the impression that a relationship exists with legally protected geographical sign rights, or for the use to the same end of written matter, signs or expressions in advertisements and commercials in the published and visual media without being the rightful owner of the geographical sign rights, or for such acts performed after the expiry of the term of protection or after invalidation or termination of the geographical sign rights.

Proceedings against such offending acts should be initiated within two years of the date on which the offending act and the offender became known. Complaints concerning acts falling within the scope of this provision shall be treated as urgent matters. The provisions of Article 36 of the Turkish Penal Code and the relevant Articles of the Criminal Procedure Code shall apply to the seizure, confiscation or destruction of the goods, and of the equipment and machinery used to produce the goods, in relation to which offenses have been committed through infringement of the rights arising from a geographical sign application or a protected geographical sign in accordance with this Decree-Law.

## **Section II**

### **Civil Proceedings**

#### *Action by the Holder of Rights and the Competent Court*

**25.** The holder of the rights in a geographical sign whose rights have been infringed may in particular apply to the court for the following:

- (a) recognition of the existence of an infringement;
- (b) prohibition and prevention of the acts infringing the rights in a geographical sign;
- (c) remedies for infringement and compensation for damages incurred;
- (d) confiscation of the goods produced or marketed and of the equipment used directly to produce such goods;
- (e) enforcement measures to prevent the continued infringement of geographical sign rights, in particular the destruction of the goods and equipment if essential for the prevention of the acts of infringement or the alteration of the goods and equipment confiscated under subparagraph (d), above;
- (f) disclosure of the court judgment to the public and to those concerned, the cost thereof to be met by the offending party.

With regard to the measures, the court shall rule on precautionary measures in accordance with the relevant provisions of the Civil Procedure Code.

The competent court for the institution of civil proceedings against third parties by the holder of the rights in a geographical sign shall be the court of the domicile of the plaintiff, the place in which the act was committed or the place in which the act had effect.

Where the plaintiff is not a citizen of the Republic of Turkey, the competent court shall be that of the domicile of the authorized agent entered in the Register or, if the agent's registration has been cancelled, that of the domicile of the Institute.

The competent court for the institution of proceedings by third parties against the holder of the rights in a geographical sign shall be the court of the domicile of the defendant. If the applicant for or holder of the rights in a geographical sign is not domiciled in Turkey, the provisions of the third paragraph above shall prevail.

Where there are several competent courts, the court at which the proceedings are instituted first shall be the competent court.

#### *Compensation*

**26.** Infringers who have committed acts provided for in Article 25 shall be liable for the damages incurred by the holder of the rights in a geographical sign.

#### *Documents Evidencing Infringement*

**27.** The holder of the rights in a geographical sign may request from the infringing party the documents relating to the use of the geographical sign for the assessment of the injuries suffered as a result of the exploitation of the sign without his consent.

#### *Compensation Not to Be Requested*

**28.** The holder of the rights in a geographical sign may not institute proceedings under this Section of this Decree-Law against persons who have used goods placed on the market by a

person who has paid compensation to the holder of the rights in a geographical sign. This provision shall not apply if there is evidence of bad faith.

*Time Limit*

29. The provisions of the Code of Contractual Obligations on time limits shall apply to the time limits for action against infringements of the rights in geographical signs.

**Section III**  
**Special Courts**  
*Competent Courts*

30. Special courts to be established by the Ministry of Justice shall have jurisdiction over all actions and claims provided for in this Decree-Law.

The High Council of Judges and Prosecutors shall determine which of the commercial courts of first instance and criminal courts of first instance are to be appointed as special courts, and shall specify the jurisdiction of each one on a request from the Ministry of Justice.

The special courts referred to in the first paragraph above shall have jurisdiction over actions brought against decisions of the Institute under this Decree-Law and over actions brought against the Institute by third parties who have suffered from its decisions.

*Publication of the Court's Decision*

31. Where a court judgment has become final, the successful party may request the publication in full or in summary form of the final judgment in a daily paper, local paper or other medium, the cost thereof to be met by the other party.

The nature and extent of the publication shall be specified in the judgment. The right of publication shall be void if not exercised within three months of the judgment becoming final.

**Section IV**  
**Special Provisions**  
*Claims of Non-Infringement*

32. Any interested party may institute proceedings against the holder of the rights in a geographical sign to obtain a non-infringement ruling.

*Action to Secure Evidence*

33. Any person legally entitled to assert rights arising from a geographical sign may request the court to determine and secure evidence of acts of infringement.

*Request for Precautionary Measures*

34. Any person legally entitled to bring action under this Decree-Law may request the court to order precautionary measures.

The request for precautionary measures may be filed before or on the institution of proceedings or later. The request for precautionary measures shall be examined separately.

*Nature of the Precautionary Measures*

**35.** The precautionary measures shall be of such a nature as to permit the securing of the judgment and shall in particular provide for the following:

(a) cessation of acts of infringement of the rights of the plaintiff arising from a geographical sign;

(b) seizure within the borders of Turkey, including at the customs or in free ports or free trade areas, and the holding in custody, of produced or imported goods that have infringed the rights in a geographical sign;

(c) provision of security for such damage as may have to be compensated.

*Civil Procedure Code*

**36.** The provisions of the Civil Procedure Code shall apply to other securing actions and precautionary measures.

*Seizure at Customs*

**37.** The customs authorities shall as a precautionary measure withhold infringing goods as fraudulent copies on either importation or exportation.

Withholding procedures shall be laid down by legislation enacted for the purpose.

The withholding measure applied by the customs authorities shall cease to have effect if proceedings are not instituted before the special court or if a preventive injunction is not obtained from the court within 10 days of the said measure.

TRANSITIONAL PROVISION

*Jurisdiction Pending Appointment of the Special Courts*

**Transitional Provision 1.** For the purposes of this Decree-Law, until the special courts are established, at the request of the Ministry of Justice, the High Council of Judges and Prosecutors shall select, from among the commercial courts of first instance and the criminal courts of first instance, those to be appointed as special courts, and shall specify the jurisdiction of each.

*Entry Into Force*

**38.** This Decree-Law shall enter into force on the day of its publication.

*Execution*

**39.** This Decree-Law shall be executed by the Council of Ministers.

**THE IMPLEMENTING REGULATIONS UNDER THE DECREE-LAW NO. 555  
PERTAINING TO THE PROTECTION OF GEOGRAPHICAL SIGNS**

PART ONE  
GENERAL PROVISIONS

**Section One**

**Object, Scope, Foundation and Definitions**

*Object*

1. The object of this Regulation is to specify the procedures and the rules to be followed concerning the preparation of the application documents for registering a geographical sign, and other matters related with geographical signs as provisioned in The Decree-Law No. 555 Pertaining to the Protection of Geographical Signs.

This Regulation encompasses the principles, the rules and the conditions for the protection of geographical signs by the registration of the appropriate geographical signs.

*Legal Foundation*

2. This regulation has been prepared based on the provisions of The Decree-Law No. 556 Pertaining to the Protection of Geographical Signs.

*Definitions*

3. For the purposes of this Regulation following shall mean:

Geographical Sign: Signs indicating the origin of a product which possesses a specific quality, reputation or other characteristics attributable to that place, area, region or country of origin.

Designation of origin: The name of a place, an area or a region of a product originating from that particular place, area, region or in exceptional cases a country, of which the geographical boundaries have been defined, and that the quality or characteristics of the product are essentially or exclusively due to the inherent natural and human factors of this place, area or region, and that the production, processing and preparation activities of all of which take place within the defined boundaries of this place, area or region.

Geographical indication: The name of a place, an area or a region of a product originating from that particular place, area or region of which the geographical boundaries have been defined, and that the product possesses a specific quality, reputation or other characteristics attributable to this place, area or region, and that at least one of the activities of production, processing or preparation of which take place within the defined boundaries of this place, area or region.

Institute: Turkish Patent Institute

Circular:

Circular on the schedule of fees to be administered by the Turkish Patent Institute in accordance with Articles 6/f and 25 of the Decree-Law No. 544.

**Section Two**  
**Application, Examination, Publication**  
*Application*

4. Natural or legal persons who are producers of the product, consumers associations, public institutions related with the product or the geographical region may apply for the registration of a geographical sign.

*Conditions of Application*

5. When applying for the registration of a geographical sign, a petition, conforming to the sample form attached to this Regulation as Annex-1, shall be prepared on an A4 size plain white paper using a typewriter or a computer printer, and all of the questions shall be answered.

The application petition must include information identifying the applicant, and information concerning the applicant's group as specified in Article 4 of this Regulation.

Following documents must be filed with the application:

a) 15 copies of the (8x8) representation of the designation of origin or the geographical indication to be registered,

b) the name of the product with respect to the designation of origin or the geographical indication to be registered,

c) the original receipt for the payment of the application fee,

d) the description of the product, technical information and documents explaining the physical, chemical, micro biological and similar characteristics of the product and if necessary of the raw material,

e) production techniques of the product and if relevant the authentic and specific local techniques and conditions,

f) information and documents evidencing that the product conform to the respective definition of the geographical sign,

g) the definition of the geographical area, information and the documents clearly indicating the geographical boundaries,

h) information detailing the labeling, marking and the means of using the registered designation of origin or geographical indication,

i) information detailing the inspection structure,

j) the original receipt for the payment of publication fee.

#### *Examination*

6. The application shall be examined by the Institute as to the compliance with Articles 3, 5, 7 and 8 of the Decree-Law No. 555. The applicant shall be asked to remedy the deficiencies, and if deemed necessary shall be requested to supply additional information and documents, and shall be allowed three months to comply. If the deficiencies are not remedied within this period the application shall be rejected by the Institute.

Institute may require that the application be examined by one or more public institutions or universities, or by independent private institutions to verify the technical information. The applicant shall be informed of the examination fees to be paid to these institutions and the fees for the services of the Institute as prescribed in the Circular, and requested to execute the payments within three months. The application shall be considered withdrawn where these fees are not paid within the prescribed period.

#### *Publication*

7. The applications which comply with the provisions of Articles 3, 5, 7 and 8 of the Decree-Law No. 555 shall be published in the Official Gazette and in two of the highest circulating national newspapers and in one local newspaper. Publication shall include the following:

- a) information on the identify of the applicant,
- b) name of the product,
- c) the designation of origin or geographical indication,
- d) conditions relating to the use of the registered geographical sign.

The publication fee shall be requested from the applicant. A published application shall be provisionally entered in the geographical signs register.

### **Section Three** **Opposition, Registration, Payment of Fees** *Objections and Examination*

8. Within six months of the publication of the application of a geographical sign, anybody legitimately concerned may object to the registration by filing an objection at the Institute as to the invalidity of the sign with respect to the Articles 3, 5, 7 and 8 of the Decree-Law No. 555. The opposition fee prescribed in the Circular has to be paid before the examination can start. After receiving the opposition if the Institute finds it necessary to have the objection examined by one or more of the public institutions or universities or independent private institutions which have the expertise in the related subject matter, the applicant shall be informed of this decision and requested to pay within three months the examination fee and the fee for the Institute's services as prescribed in the Circular.

Oppositions by Public Institutions are not subject to the opposition fee prescribed in the Circular.

#### *Registration and Recording in the Register*

9. If no objection is filed within six months of the publication at the Official Gazette, the geographical sign or name shall become effective as of the publication date and shall be recorded in the geographical sign register.

The following particulars are entered in the geographical sign register:

- a) application date and number,
- b) registration date and number,
- c) the identity and address of the holder of the right to the geographical sign,
- d) conditions relating to the use of the registered geographical sign.

Applications which have undergone changes with respect to form and content during the examination process shall be re-published within the framework of the provisions of Article 9 of the Decree-Law No. 555, and shall become effective as of the new publication date. This status will be recorded in the geographical sign register.

#### *Payment of Fees*

10. The filing, registration and publication fees, the examination fees to be paid to outside institutions, and fees due to the Institute shall be payable by the applicant or his agent. The applicant or his agent shall be notified by the Institute with regard to the dates of payment of fees. Where the fees are not paid within the prescribed periods the application shall be considered withdrawn.

### **Section Four Copy and Register**

#### *Copy*

11. A copy of the Geographical Sign Certificate shall be supplied upon the request of the trademark proprietor or of the agent. Following documents have to be submitted for obtaining a copy:

- a) a petition,
- b) the original receipt for the payment of the fee

#### *Register*

12. Upon request and payment of the prescribed fee a copy of the register shall be available to the any requesting party.

PART TWO  
**Section One**  
**Use of Geographical Names and Inspection**  
*Use of the Registered Name*

**13.** The geographical names registered in compliance with the conditions specified in the Decree-Law No. 555, shall be used only on products they are registered for.

The provisions of Article 15 of the Decree-Law No. 555 shall not extend to geographical signs which have been continuously used in good faith for minimum period of ten years prior to 15 April 1994.

Provided that the sign has not been used to mislead the public, the use of the names of the right holder and of the successor in title during business intercourse shall not be considered breach of Article 15. However, where the use of the name within the meaning of the provision of Article 15 of Decree-Law No. 555, is liable to mislead the public as to the actual geographical origin of the product, the Institute shall request that the necessary measures are taken to prevent the public from being misled.

*Inspection*

**14.** Any association, irrespective of its legal form, of the producers or the processors of the product which has registered the related geographical sign within the provisions of this Decree Having the Power of Law, shall possess sufficient qualified staff, equipment and resources to inspect the production, marketing, medium of use of registered designation of origin or geographical indication, labelling details of the product bearing the protected geographical sign. Co-operation of the related experts and independent bodies may be enlisted.

The scope and the form of inspection procedures shall be ruled by the Implementing Regulation.

**Section Two**  
**Invalidity of the Geographical Sign**

**15.** Where a claim of invalidity has been made under Article 23 within the provisions of Article 21 of the Decree-Law No. 555, and upon which a geographical sign has been declared invalid by the court, the decision of invalidity shall have effect against all third parties. The Institute shall record the court decision in the register and make the decision public by publishing.

**Section Three**  
**Last Provisions**

**Transitional Article 1.** The fees which have not been paid before coming into force of this Regulation and of the Circular of Fees to be Administered by The Turkish Patent Institute in accordance with the provisions of Articles 6/f and 25 of the Decree-Law No. 544, shall be paid within two months of the Institute's notice to the applicant. The applications shall be considered withdrawn if the fees are not paid within this period

*Entry into Force*

**16.** These Regulations shall enter into force on the day of publication.

*Execution*

**17.** These Regulations shall be executed by the President of the Turkish Patent Institute.

## **Annex II – Chile’s Answers to the Questions Raised by Turkey**

**1. On page 51 of the Chilean Part of the Joint Study Group Report a reference is made to the Preferential Trade Agreement with India. What is the difference between Chilean Free Trade Agreements and Preferential Trade Agreements in the context of the product coverage and other provisions?**

In the case of the Partial Trade Agreements it is a negotiation with a limited number of products, disciplines exclusively related to the tariff rebate and in the case of India the sanitary and technical barriers to trade issues were included.

The Free Trade Agreements include the full range of the tariff codes, as coverage of products. Additionally are developed in depth disciplines- among others- as the rules of origin, the sanitary subjects, technical barriers to trade, services and investments.

**2. We observe that in its FTAs with third countries Chile defines tariff reduction lines for sensitive products (page 52 of the Chilean Report). Are these lines defined during the negotiations or after the negotiations in Joint Committee meetings?**

Sensitivities are defined during the negotiation and negotiations that may occur in the Agreement Committees are usually focused towards liberalization

**3. Do you give bilateral concessions in terms of tariff quotas especially for agricultural products, how do you allocate tariff quotas, and what kind of a certificate is required in imports for this purpose?**

Chile does not have as a policy to grant preferences through tariff quotas. Usually quotas that have been established are the result of reciprocity to quotas imposed by the counterpart and the most used form to administer these quotas is through the logic of first to ask is the first to use it.

In the case of quotas granted for sugar imports under the WTO, these are to be asked to the National Customs Service (“Servicio Nacional de Aduanas”) and are granted in function of the use by firms in earlier years.

**Could you please elaborate more on market access to the banking sector in Chile by providing answers to the following questions;**

**4. In which forms is it possible for foreigners to enter to the market (branch, subsidiary, participation in capital)?**

Foreign banks can establish subsidiaries, branches and offices of representation in Chile. Subsidiaries are Chilean corporations. Branches are agencies of foreign corporations. Regulatory requirements are the same for subsidiaries and branches, the only difference being that the latter do not have to have a board of directors in Chile. Both subsidiaries and branches are considered to be separate entities from their parents for regulatory purposes.

**5. Is there any limit to foreign participation in capital in a bank in Chile?**

No.

**6. Is there any other barrier regarding the market access to the banking sector?**

No.

**Concerning Paragraph 3 of section III.2.C:**

**7. Isn't the implementation of "bona fide self valuation" for the goods imported on a temporary basis also valid for the goods which are imported definitively? If not, what is the implementation for the goods which are not imported temporarily?**

The importer declares the price of the merchandise according to that indicated in the commercial invoice. Ad-valorem duties are applied over the CIF value indicated in the import declaration and, over this, the VAT.

If Customs has a reasonable doubt with respect to the declared value, it will initiate, according to article VII of GATT 1994, a procedure that compares values with respect to identical or similar imported merchandise in a similar period; a variation of up to 10% of this declared value with respect to the value of identical goods is allowed.

**8. Which functions of the Customs administration have been transferred to customs agents?**

Custom agents are governed by customs regulation, which deals with matters relative to applicable responsibilities and sanctions. Specifically, they are regulated in articles 191 to 211 of the abovementioned customs regulation.

**9. With regard to government procurement policy in Chile, could you state full list of current procurement legislation including works and secondary legislation in your report?**

For goods and services:

Ley de Compras Públicas (Ley N° 19.886) y Reglamento / Procurement Law and Regulations

For construction services:

Ley Orgánica del Ministerio de Obras Públicas (DFL N° 859)/ Public Works Law

Reglamento para Contratos de Obras Públicas (D.S. MOP N° 75) / Public Works Regulation

Reglamento para Contratación de Trabajos de Consultoría (DECRETO MOP N° 48) / Consultancy Regulation

Ley de Concesiones de Obras Públicas (Decreto N° 900) / Concessions Law

Reglamento de Concesiones. (D.S. N° 956) / Concessions Regulation

Procurement Law (N° 19.886) applies for additional provisions not considered by the laws and regulations mentioned above.

These can be found in

[https://www.chilecompra.cl/Portal/Portalproveedor/centro\\_informacion/centro\\_informacion\\_home.asp](https://www.chilecompra.cl/Portal/Portalproveedor/centro_informacion/centro_informacion_home.asp)

and

[www.mop.cl](http://www.mop.cl)

**10. In order to analyze Chilean public procurement market, could you provide us with some statistics regarding supply, service and works contracts, number of contracting entities and number of complaints against public contracts?**

Government Procurement (2006. Excludes state enterprises and concessions):

Total amount: US\$ 4.000 millions.

Of which:

Services	44%
Goods	35%
Public Works	21%

- Number of Contracting Entities:

900 (includes all municipalities)

- Number of complaints presented to the Tribunal de Contratación Pública (Chilean Court of Public Procurement):

YEAR	#
2005	46
2006	100
2007 (July)	47

**11. In Chapter III.4, Foreign Investment Regimes, it is emphasized that “There is a free entrance of capitals. Thus, subject to domestic regulations, investors can materialize their investments freely”. Are there any exceptional sectoral limitations to National Treatment principle?**

Regarding the free entrance of capitals there is no discrimination. Thus, both the Constitution and the Chilean law guarantee the equal protection of the Law to nationals and foreigners. However, in our domestic regulation there are exceptional sectoral limitations to National Treatment principle.

**12. In Chapter III.4.A., Treatment of Foreign Investment, it is emphasized that Central Bank of Chile, pursuant to its Basic Constitutional Act and in order to provide for stability of the currency and the normal functioning of the internal and external payment system, is entitled to issue regulations on foreign exchange transactions. Could you elaborate more on the conditions and to what extent such regulations can be issued?**

The Basic Constitutional Act (BCA) of the Central Bank establishes that the legal purpose of the Bank is to provide for the stability of the currency and the normal functioning of both internal and external payments. For this purpose, the Bank has the exclusive authority for regulating the amount of currency and credit in circulation, the performance of credit transactions and foreign exchange, as well as the issuance of regulatory provisions regarding monetary, credit, financing and foreign exchange matters.

In this regard, it must be considered that Constitutional Provisions and the BCA prescribe that the authority of the Bank shall not be exercised in a manner which, directly or indirectly, may result in the establishment of regulations or requirements different or discriminatory to any person, institution or entity conducting business of similar nature. In simple words, when the Bank issues regulations or by-laws regarding its scope of competence they must be of general application.

According to this legal framework, the Central Bank is entitled to impose certain restrictions on foreign exchange transactions. Such measures include, inter alia, the establishment of restrictions or limitations on current payments and transfers (capital movements) to or from Chile, as well as transactions related to them, such as requiring that deposits, investments or credits from or to a foreign country, be subject to a reserve requirement ("encaje"). These restrictions are clearly listed in Article 49 of the Basic Constitutional Act, as well as the conditions and the circumstances required to impose them, which are set in article 50 of said legislation. Article 50 establishes that these restrictions may only be imposed by resolution adopted by the majority of all Central Bank's Council members. This resolution may be subject to veto by the Minister of Finance, in which event the respective restriction may be adopted only pursuant to a favorable vote of all the Council members.

All of these restrictions are related to the need of fulfilling the legal purpose of the Central Bank. It is worth noting that these measures must be temporary and applied on a non-discriminatory basis

In the past, the Central Bank did impose some restrictions on foreign exchange transactions, which were gradually removed, as the circumstances and the economic conditions that made them necessary were changing. These restrictions were completely eliminated in 2001, in accordance with the full liberalization of the capital account. Since then, and up until now, there are no foreign exchange restrictions in place, nor is their use foreseeable in the short and mid-term. Nevertheless, they are an important tool of Chile's economic policy.

Should the Central Bank Council decide to impose restrictions on foreign exchange transactions, such resolution must be published on the Official Gazette of the Republic of Chile, and would be available on the Central Bank's web page, [www.bcentral.cl](http://www.bcentral.cl).

**13. Could you inform us on the current status of the Investment Promotion and Protection Agreement between Turkey and Chile Agreement which has been signed on August 21, 1998?**

The policy of the Chilean Government, regarding protection and promotion of the foreign investments, has been to grant a high level of protection and legal certainty to the foreign capitals, granting, at the same time, the authority of the State to reach its economic and social legitimate objectives. In this issue, Chile has made a complete study of the disciplines contained in this kind of agreements and its importance in the economic and regulatory policies applicable to the foreign investment. In this context, the Chilean Government has decided through a technical and political agreement, adopted altogether by the Ministry of Foreign Affairs and the Ministry of Finance, the application of a moratorium in the negotiation, update, modification or renegotiation of this type of instruments. Furthermore, Chile considers that it is better to regulate investment through a specific self contained Chapter in a context of a Free Trade Agreement.

**14. On page 2, the moderate increase in inflation in 2000 is mentioned. What has triggered the rise in inflation?**

In 2000, there was an annual increase of 19.5% in the transport group of the CPI, due to a rise in the international markets of oil prices. The transport group had an impact of 2.55 percentage points in the CPI of that year<sup>35</sup> (December to December CPI)

**15. What are the major sectors attracting FDI in Chile? Which countries mostly direct their investment to the country?**

As is presented in the Report, “Between 1974 and 2006, Mining accounted for 34% of foreign investment materialized via D.L. 600, followed by the Electricity, Gas and Water industries (20%); Services (19%); Manufacturing (12%); Transport and communications (11%); Construction (2%); and Agriculture, Forestry and Fishing (1%). In the Services sector, the most important segments were Financial Services (52%), Insurance (17%), and the Wholesale and Retail Trade (11%)”<sup>36</sup>. Concerning the countries of origin of foreign investment, “Between 1974 and 2006, 25% of D.L. 600 investments in Chile originated in the United States, followed by Spain (22%), Canada (16%), the United Kingdom (10%), Australia (5%), and Japan (3%). During that period, the 15 pre-enlargement European Union member states accounted for 42.1% of total FDI materialized through D.L. 600, while, as a group, the OECD countries accounted for 94.3% of the total”<sup>37</sup>

**16. What is the share of Chilean copper exports in world copper export market?**

In 2005, the share of Chile in copper ores and concentrates<sup>38</sup> world exports was of 35%, in refined copper and copper alloys, unwrought<sup>39</sup>, it was 37% and in copper unrefined, copper anodes for electrolytic refining it was 34%.<sup>40</sup> The share of Chile in world copper mine production in 2006 was of 36%.

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<sup>35</sup> [http://www.ine.cl/canales/chile\\_estadistico/home.php](http://www.ine.cl/canales/chile_estadistico/home.php)

<sup>36</sup> Page 46 of the Report

<sup>37</sup> Page 49 of the Report

<sup>38</sup> HS code 2603 Trade Map

<sup>39</sup> HS code 7403 Trade Map

<sup>40</sup> HS code 7402 Trade Map

**17. What is the commodity composition of exports to China?**

In 2006, Chilean exports to China were: copper 79.8%, cellulose and paper products 6.5%, food products 5.6%, other minerals (non copper) 4.2% and other products 4.0%

**18. As regards Table 1.18 on page 43, we noticed that information on construction services is not given. In the Chilean report in general, information on constructing services seems limited. What are the Chilean regulations in terms of foreign contractors? Are there any measures with regard to contracting services or employees working in sector related with contracting?**

In general terms, in its trade agreements Chile does not include commitments on construction services. In a positive list approach Chile either doesn't offer this sector (WTO) or it doesn't adopt commitments on mode 3) (Agreement with EU). When there is a negative list approach, Chile reserves in an Annex II, the right to adopt or maintain any measure with respect to the provision of construction services. However, construction service is not a sector with many restrictions; there are many regulations in this sector – as in the majority of the countries- which could be classified as market access restrictions in a non-discriminatory basis.

**19. With regard to Chile's implementation of the ILO Convention No.26 on the Evaluation of Minimum Wage, ILO Convention No.87 on the Freedom of Association and Protection of the Right to Organize Convention, ILO Convention No.98 on the Right to Organize and Collective Bargaining, ILO Convention No.100 on Equal Remuneration and ILO Convention No.111 on Discrimination (Employment and Occupation), the ILO Experts Committee notes a number of discrepancies. Could the Chilean side further elaborate on the ILO experts' report?**

Many of the observations made by the ILO Experts Committee relates to on- going process and are actually being under study to answer them in detail to ILO. Nevertheless, Chile is devoted to the commitment of all its ILO conventions. As soon as possible we will give more detailed information about the specific issues mentioned in the Experts Report.

**20. Could you please briefly explain the import procedure of agricultural products (number of checks and analyzes, required certificates and permissions to be obtained from official organizations etc.)?**

The import procedure of the agricultural products is the same one of the general imports and should also comply with the health and phyto-sanitary and zoo-sanitary requirements.

**21. Could you please update the information given in the report regarding the safeguard and anti-dumping measures imposed by Chile to be in line with the WTO notifications of the Chilean government?**

In enclosed file is presented the information

**22. Could you confirm the investigation period for anti-dumping measures that are stated in the report?**

In Chile, the antidumping investigations undertaken by the Commission must, except in special circumstances, be concluded within one year and in no case more than 18 months, after their initiation.

**23. Could you please provide the list of capital goods established by the Ministry of Economy that are exempt from value added tax?**

Please find attached the decree with the list of capital goods. It is the decree N° 370, from the Ministry of Economy, published in the Official Gazette on May 9, 2007.

**24. Could you please provide the type of local taxes that are imposed on several products including the ones mentioned in the draft report?**

Chile's tax system operates at the national level. There are no taxes on goods or services applied at the local (municipal or regional) level.

**25. On page 63, under the heading of quantitative restrictions-import licenses, quotas, it has been stated that Chile applies a duty free quota of 60.000 tons for sugar within the framework of WTO and contingents have been listed as follows;**

- a. Sugar HS code 1701.99.00-60.000 tons
- b. Sugar HS code 1701.91.00-30.000 tons
- c. Sugar HS code 1701.91 and 1701.99- 15.000 tons

**Where these aforementioned quotas come from? Do they result from Chile's WTO commitments or from the FTAs?**

**What kind of criteria is used in the allocation of the quotas resulting from the FTAs?**

The quotas assignment has been the consequence of negotiations under the WTO, which, in some cases have been reflected in the bilateral agreements.

**26. What kind of criteria is used in the allocation of the quotas resulting from the FTAs?**

It is reiterated that Chile does not have as a policy to negotiate quotas. When negotiated in an agreement, the traded bilateral quantities and the country productive capacity are considered, besides obviously of the demands by the counterparts.

**27. Are the quota amounts total or separate for every tariff line defined on the report?**

Quotas are usually assigned to a group of tariff lines, corresponding to a family of products (e.g. red meats, dairy products)

**28. What is the actual amount of duty drawbacks that Chile grants to its exporters? And what is the dollar correspondence of the duty drawback level referred to in your Report?**

For the general duty drawback system, the total amount in year 2006, was US\$ 59.6 million. In the case of the Simplified duty drawback, for the same year was approximately US\$ 2.3 million.

Regarding the second question, could you please clarify the information needed?

**29. Is there a preferential interest rate for exporters, if yes, what is the actual amount?**

No. Export activities do not have any access to preferential rates.

**30. What are the local taxes and duties for motor vehicles?**

No taxes or duties on motor vehicles are applied at the local level.

**31. Are there any mandatory standards being implemented for imports into Chile? If yes, how many and in which sectors?**

Is the question referred to TBT and SPS matters? Could you please clarify the question? Chilean standards (voluntary) and technical regulations (mandatory) do not distinguish between foreign and domestic goods

**32. On page 64 of your report, it is stated that imports of used motor vehicles are prohibited due to environmental and health protection. What are the specifications defined by Chilean authorities in terms of the legislation on sanitary and environmental standards? On the occasion that these standards are complied with, is it possible to import used motor vehicles?**

Pursuant to article 21 of Law N° 18.483 of December 1985, Chile prohibits the importation of used vehicles, with the exception of those that the referred article indicates (attached). This decision was taken due to environmental reasons, which still remain. This measure was notified to the Gatt Secretary in 1985 and later ratified to the WTO in 1996. The notification was made under the article XX General Exceptions of the GATT, letter b). In summary, it is not possible to import used motor vehicles.

**33. As for the import of any other product, are there any other restrictions than those defined in the Chilean Report (such as licenses, etc.)?**

There are not any other restrictions than those defined in the Chilean Report

**34. Are the “Other local taxes” that are defined under the heading III.2.B.1. applicable for both imports and domestic products? Could you provide us with the lists mentioning the level of these taxes?**

There are no local taxes applied on either imported or domestic goods or services.

**35. What are the technical regulations that are not aligned with international standards that are stated on page 73 in your report? What do domestic regulations relate to, which are the old regulations that are not updated?**

Technical regulations that are not aligned, refer to those regulations that are not based on international standards. Domestic regulations relate to regulation and/or conformity assessment procedures that products have to comply with in the Chilean market. This applies for instance to electrical and fuel products, sanitary artifacts, toys, vehicles, etc. There is not a record of which would be the regulations that have not been updated.

**36. At which stage do Chilean authorities make conformity assessment in terms of standards, during importation or at the market?**

In most cases products have to comply with technical regulations at the market (in some cases a certification is required). In few cases such as pharmaceuticals and cosmetics, control is during importation.

**37. Which authorities are responsible for conformity assessments?**

The authorities that issue the technical regulations are responsible for conformity assessment. Where there is a certification requirement, this is generally performed by Conformity Assessment Bodies authorized by the competent authority.

**38. Could you explain how the price band system will work?**

The PBS currently operates as it is described in the document of Chile (page 65). At the beginning of September a bill was sent to the Chilean Congress, which, nevertheless, has not been yet approved. The bill replaces the mechanism of calculation of the specific duties and tariff reductions for wheat and wheat flour respectively for a specific duty of 30 US\$/ton and 47 US\$/ton.

**39. Are agricultural investments realized on a planned manner in Chile, if yes, what are the planned agricultural investments in Chile for the next 10 years?**

There is no a public long-term investment plan for the agricultural sector.

Public investment to the agricultural sector are made mainly in irrigation facilities, research and development, education and technical assistance, on an annual basis taking into account the sector needs and the budgetary constraints.

**40. Is there any market intervention as regards the agricultural sector in Chile?**

Chile is a free market oriented economy, thus there are no market intervention tools or mechanisms.

**41. Are there any market regulatory authorities in terms of agricultural products? If yes, at which products do these authorities regulate the market and how do these authorities function?**

No, in Chile there are no market regulatory authorities for agricultural products.

**42. What kind of state aids is granted for investments, production, exports and overseas commercial activities? Which authorities are responsible for the granting of these state aids? Are they compatible with the internationally accepted competition standards? Is there any authority responsible for the coordination, control and inspection of the compatibility of the state aids?**

Chile has focused its efforts in providing sound grounds for the country development, allowing those who want to produce, invest, export or import to do it under clear rules, with across the board measures and without discrimination. The key elements that have allowed this to happen, have been the macroeconomic stability of the country with a solvent fiscal sector; robust and sound financial sector; strong and stable institutional setting; competitive open-market economy and a comprehensive social network.

Then, Chile has not a state policy towards State Aids and there is not a central institution that governs the provision of assistance that Ministries or public institution administer under their competence. These instruments are compatible with the country's international obligations, including those of the WTO and its Agreements and are all related to capture positive externalities benefits, reduce negative externalities impacts, and prevent specific market failures.

Chile provides public assistance for R&D and environmental initiatives; support for small and medium enterprises, through programs on quality and productivity, innovation and financing through the banking system at a competitive market interest rate; it provides domestic support for agricultural research as well as training, inspection, infrastructure and other related services; assistance to disadvantaged regions.

Finally, the Competition Authorities have been given the mandate to apply the Competition Law in order to safeguard free competition in the market and their decisions affect both state and private owned enterprises acting in the market place.

**43. What is the Chilean view of the FTAA process?**

Given the series of political changes and economic difficulties within the region, the FTAA negotiations have been mired since 2003. At the end of 2003 it was established there had to be a degree of flexibility within the FTAA so as to incorporate the sensitivities of the different countries. However, Chile still favors the creation of a comprehensive and ambitious FTAA, that recognizes the necessity of flexibility so as to accommodate different countries sensitivities. The de-facto suspension of the FTAA negotiations, in which our country has invested so many efforts and resources, is disappointing. However, taking into account regional reality, we are willing to continue working towards a consensus and try to bring together the different positions. We see that the renewal of negotiations involves effort in terms of political will by the two larger parties, Brazil and the USA; also possibly, by advances within the WTO and the positions of detractors within Latin American countries

**44. What is the Chilean view of the US initiative at the WTO to further liberalize trade in used goods?**

Chile has not endorsed the US proposal concerning used goods in the WTO

**45. Could you provide a list of countries Chile has Mutual Recognition Agreements with?**

Chile has Mutual Recognition Agreements with the following countries:

- a. Ecuador ( signed in 1917)
- b. Uruguay (signed in 1916)
- c. Colombia (signed in 1921)
- d. Spain (signed in 1967)
- e. Brasil (signed in 1976)
- f. Perú (signed in 1978)
- g. <sup>41</sup>Multilateral Convention of Mexico (signed in 1902)

**46. Could you provide a general idea about products where the conformity assessments are based on voluntary standards?**

In the voluntry area, some cases are related to plastics, packaging materials and storage tanks for corrosive substances.

In the regulated area, most of the regulation establishes the conformity assessment procedures, which are mandatory. In some cases, like in the emission regulation for vehicles, it is allowed the use of EPA 94 Federal or Euro III (gasoline vehicles). They are voluntary in the sense that there is an option between the two standards.

**47. What is the current requirement applied for broadcasting Chilean content on TVs?**

According to law 18.838 of 1989, the *Consejo Nacional de Televisión* may establish, as a general requirement, that programs broadcast through public (open) television channels include up to 40 percent of national production. This percentage is not applied to cable television. The *Consejo* monitors the percentage of national content by calculating at the end of the year the content level based on a two months sample of that year. As the level of national content has never been less than that required by law, the *Consejo* has never imposed the requirement. Chile, in its FTA, has a reservation of this measure (Annex I, existing non conforming measures).

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<sup>41</sup> This Agreement is in force for the following countries: Bolivia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Peru.