

II. TRADE AND INVESTMENT REGIMES

(1) GENERAL FRAMEWORK

1. Turkey's overall institutional framework, as regards trade policy formulation, is broadly unchanged since its previous TPR in 1998.¹ 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.² 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 fulfil its function. Decisions of the Council of Ministers become decrees upon publication in the *Official Gazette*.³

2. 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; 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 Undersecretariat of Customs; the Central Bank of Turkey; the Turkish Patent Institute; the Competition Authority; the Public Procurement Authority; the Banking Regulation and Supervision Agency (BRSA); and the Export Credit Bank of Turkey (Turk Eximbank). Since its previous TPR, 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.

3. 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).

¹ Turkey's overall institutional framework is described in detail in WTO (1998).

² A decree is a decision of the Council of Ministers published in the *Official Gazette*.

³ 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.

4. A profound change has been observed in the legislative and institutional investment framework of Turkey with the adoption of the 2003 Foreign Direct Investment Law. The Undersecretariat of Treasury, through the General Directorate of Foreign Investment (GDFI), is responsible for foreign direct investment matters in Turkey (section (5)).

(2) LAWS AND REGULATIONS

5. 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. Since its last TPR, 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 (Table II.1). This, in turn, is likely to provide improved and more secure conditions to its trading partners.

6. 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.

7. 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 Law (section (5)).

8. 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 II.1
Trade-related legislation in Turkey, 2003

Area	Legislation	Entry into force
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)	1996
	Inward Processing Regime Decree (No. 13819 of 1999)	2000
	Outward Processing Regime Decree (No. 674 of 2000)	2000
Government procurement	Public Procurement Law (No. 4734 of 2002)	2002
	Public Procurement Contracts Law (No. 4735 of 2002)	2002
State aid	State Aid for Investments Decree (No. 4367 of 2002)	2002
	State Aid for the Investment of SMEs Decree (No. 1822 of 2000)	2001
	State Aid on Exports Decree (No. 6401 of 1994)	1994
Regional investment incentives	Organized Industrial Zones Law (No. 4562 of 2000)	2000
	Industrial Zones Law (No. 4737 of 2002)	2002

Table II.1 (cont'd)

Area	Legislation	Entry into force
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)	1930
	Agricultural Quarantine Law (No. 6968 of 1957)	1957
	Production, Consumption and Control of Foods Decree (No. 560 of 1995)	1995
	Turkish Foods Codex Regulation (<i>Official Gazette</i> No. 23172 (bis) of 1997)	1997
	The Law on Animal Health and Officers (No. 3285 of 1986)	1986
	Fisheries Law (No:1380 of 1971); amended by Law No. 3288 of 1986	1971
	Fisheries Regulation (No: 22223 of 1995)	1995
Anti-dumping and countervailing measures	Law on the Prevention of Unfair Competition on Imports (No. 4412 of 1999)	1999
	Decree on the Prevention of Unfair Competition on Imports (No. 23861 of 1999)	1999
	Regulation on the Prevention of Unfair Competition on Imports (No. 23861 of 1999 and Addendum No.24743 of 2002)	1999
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)	1951
	Additional Penalty Provisions to the Decrees No. 551, 554, 555, and 556 (Law No. 4128 of 1995)	1995
	Amendment of the Transition Period of Patent Protection of Pharmaceutical and Veterinary Products and Processes Decree (No. 566 of 1995)	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
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

Table II.1 (cont'd)

Area	Legislation	Entry into force
Telecommunications	Telegraph and Telephone Law	1924
	Law Amending Telegraph and Telephone Law (No. 4000 of 1994)	1994
	Law Amending Telegraph and Telephone Law (No. 4107 of 1995)	1995
	Law Amending Telegraph and Telephone Law (No. 4161 of 1996)	1996
	Telecommunications Law Amending Telegraph and Telephone Law (No. 4502 of 2000)	2000
	Law Amending Telegraph and Telephone Law (No. 4673 of 2001)	2001
	Telecommunication Services Regulation	2001
	Communiqué on Principles and Procedures Regarding the Granting of 2 nd Type Telecommunications License and General Authorization	2002
	Law Amending Establishment and Broadcast of Radio TVs Law (No. 4756 of 2002)	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
	Capital Market Law (No. 2499 of 1981, amended in 1992 by Law No. 3794, and in 1999 by Law No. 4487)	1981
	Insurance Supervision Law (No. 7397 of 1959, amended by Statutory Decree No. 539 in 1994)	1959
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).	1983
	Article 25 was changed on 19.04.2001 by Law No. 4647	
	Ports Law (No. 168 of 1925)	1925
	Turkish International Ship Register (No. 4490 of 1999)	1999
	Regulation on Commercial Air Transport Operations (No. SHY-6A of 1984 amended by Regulation No. 24362 of 03.04.2001)	1984
	Regulation on Airport Construction, Operation and Certification (SHY-14 A), issued by Regulation No. 24755 of 14.05.2002	2002
	Regulation on Airport Groundhandling (SHY-22), issued by Regulation No. 22741 of 28.08.1996 was amended on 19.09.1999	1999
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.

(3) POLICY OBJECTIVES

9. 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 Accession Partnership was revised by the European Council 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 Programme for the Adoption of the Acquis (NPAA) on 24 July 2003 (section (4)(ii)(a)).

10. 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.

11. 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.⁴

(4) TRADE AGREEMENTS

12. Turkey participates in several regional trade arrangements where the Customs Union with the EU is its priority. According to the Association Council Decision No. 1/95, dated 6 March 1995, which provides the Customs Union with the EU (Customs Union Decision-CUD), Turkey is progressively aligning its preferential regime with that of the EU. Turkey also has a free trade agreement with EFTA and is part of the Euro-Mediterranean Partnership aiming at establishing a free trade area in the region by 2010. It is working to conclude a set of bilateral trade agreements with southern Mediterranean countries. Turkey also participates in the Economic Cooperation Organisation and the Black Sea Economic Cooperation. Turkey's membership in several arrangements makes its trade regime complex and difficult to manage. Future trade agreements could further complicate its trade regime and detract from multilateral efforts, given the limited resources available.

(i) WTO

13. Turkey became an original Member of the WTO on 26 March 1995.⁵ Since its last TPR, Turkey has amended its domestic legislation on intellectual property rights and telecommunications, and enacted new legislation on, *inter alia*, customs, anti-dumping and countervailing measures, standards and technical regulations, banking, energy, and government procurement to comply with its obligations under the EU *acquis communautaire* and the WTO Agreements.

14. Turkey accords at least MFN treatment to all its trading partners.⁶ Turkey is not a signatory to the Plurilateral Agreements that resulted from the Uruguay Round; it is an observer to the Plurilateral Agreements on Government Procurement and Trade in Civil Aircraft; and party to the Information Technology Agreement (ITA). Turkey's most recent WTO notifications are listed in Table II.2.

Table II.2

Turkey's selected notification requirements to the WTO, as of September 2003

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
Agriculture (Article 18.2)	Domestic support	Annual	G/AG/N/TUR/14 30 May 2002	Domestic support commitments for 2001
Agriculture (Articles 10 and 18.2)	Export subsidies	Annual	G/AG/N/TUR/13 16 August 2001	Export subsidies commitments for 2000
Agriculture (Article 18.2)	Green box measures	Annual		Turkey has not notified any measures

Table II.2 (cont'd)

⁴ Undersecretariat of State Planning Organization (2001).

⁵ The full text of the Agreement establishing the WTO was published in the *Official Gazette* No. 22213 dated 25 February 1995 (see WTO document G/TBT/2/Add.33, 18 June 1997).

⁶ In the context of the accession of the Republic of Armenia to the WTO, Turkey invoked Article XIII (Non-Application of Multilateral Trade Agreements between particular Members) of the Marrakesh Agreement Establishing the WTO (see WTO document WT/L/501, 3 December 2002).

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
Implementation of Article VI of the GATT 1994 (Article 18.5)	Laws, Decrees, and Regulations	Once, then changes	G/ADP/N/1/TUR/3 17 April 2000 G/ADP/N/1/TUR/3/Suppl1 7 May 2002	Copies of the relevant legislation
Implementation of Article VI of the GATT 1994 (Article 16.4)	Anti-dumping actions taken	Semi-annual	G/ADP/N/98/TUR 27 January 2003	Anti-dumping actions taken during 1 July-31 December 2002
Implementation of Article VI of the GATT 1994 (Article 16.5)	Competent authorities	Once, then changes	G/ADP/N/14/Add.9 30 September 1999	
Import Licensing Procedures (Article 7.3)	Questionnaire on import licensing procedures	Annual	G/LIC/N/3/TUR/4 21 September 2001	
Import Licensing Procedures (Articles 1.4(a) and 8.2(b))	Laws and regulations	Once, then changes	G/LIC/N/1/TUR/3 13 October 1999	Copies of the relevant legislation
Rules of Origin (Article 5 and Annex (II)(4))	Non-preferential and preferential rules of origin	Within 90 days of the Agreement	G/RO/N/28 30 May 2000	
Sanitary and Phytosanitary Measures (Article 7, Annex B)	SPS to be notified promptly	Once, then changes	G/SPS/N/TUR/3 30 May 2000	Lifting import ban on, <i>inter alia</i> , eggs, egg products, milk, and milk products
Sanitary and Phytosanitary Measures (Annex B, para. 3)	Enquiry points	Ad hoc	G/SPS/ENQ/14 30 October 2002	
Safeguards (Article 12.5)	Suspension of concessions and other obligations under Article 2.	Ad hoc	G/SG/N/12/TUR/2 G/SG/N/12/TUR/3 28 April 2003	Turkey proposes to suspend substantially equivalent concessions to Jordan on pasta and sanitary ware products
Safeguards (Article 12.5)	Suspension of concessions and other obligations under Article 2.8	Ad hoc	G/SG/N/12/TUR/1 12 December 2002	Turkey proposes to suspend substantially equivalent concessions to the EU on some steel products
Safeguards (Article 12.6)	Laws and Regulations	Once, then changes	G/SG/N/1/TUR/2/Rev.1 11 July 1997	Copies of the relevant laws
Subsidies and Countervailing Measures (Article 25.1) and GATT 1994 (Article XVI:1)	Specific subsidies	Annual	G/SCM/N/71/TUR 25 October 2001	New and full notification
Subsidies and Countervailing Measures (Article 25.11)	Countervailing measures taken	Semi-annual	G/SCM/N/35/Add.1/Rev.1 18 October 2002	No countervailing actions during 1 July- 31 December 1997
Subsidies and Countervailing Measures (Article 25.12)	Competent authority	Ad hoc	G/SCM/N/18/Add.9 30 September 1999	
Subsidies and Countervailing Measures (Article 32.6)	Laws and Regulations	Once, then changes	G/SCM/N/1/TUR/3 17 April 2000 G/SCM/N/1/TUR/3/Suppl.1 7 May 2002	Copies of the relevant acts
Technical Barriers to Trade (Article 2)	Technical regulations	Ad hoc	G/TBT/Notif.98.232, 233, 234, and 274 May-June 1998	Notifications concerning refrigerators and cultivated mushrooms
Technical Barriers to Trade (Articles 10.1 and 10.3)	Enquiry point	Once, then changes	G/TBT/ENQ/11 April 1998	
Technical Barriers to Trade (Article 15.2)	Laws and regulations	Once, then changes	G/TBT/2/Add.33 June 1991	Notification about the duty and responsibility of UFT as the Enquiry Point under the TBT Agreement in the context of technical regulations and conformity assessment

Table II.2 (cont'd)

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
Technical Barriers to Trade (Annex 3(c))	Acceptance of code	Once, then changes	G/TBT/CS/N/35 March 1996	Notification about the responsibility of Turkish Standards Institute as the Enquiry Point for Standards under the TBT Agreement
Textiles and Clothing (Articles 2.6 and 2.7(b))	First integration	Once	G/TMB/N/44 April 1997	A list of products to be integrated in Stage I was provided
Textiles and Clothing (Articles 2.8(a) and 2.11)	Second integration	Once	G/TMB/N/228/Corr.1 16 April 1997 G/TMB/N/228/Add.2 29 August 1997	A list of products to be integrated in Stage II was provided
Textiles and Clothing (Articles 2.8(a) and 2.11)	Third integration	Once	G/TMB/N/364 5 January 2001	A list of products to be integrated in Stage III was provided
Textiles and Clothing (Article 6.1)	Transitional safeguards	Once	G/TMB/N/18 6 March 1995	Turkey retains the right to use the safeguard provision of Article 6
GATT 1994 (Article XVII:4(a) and Understanding on the interpretation of Article XVII:1)	State trading enterprises	Annual	G/STR/N/7,8/TUR 18 March 2003	State-trading activities of Tekel and Turkish Red Crescent (TRCS) during 1998-01.
GATT 1994 (Article VII) Customs Valuation	Implementation and administration	Ad hoc	G/VAL/N/2/TUR/1 25 April 2001	Information on implementation and administration of the Agreement
GATT 1994 (Article VII - 22.2) Customs Valuation	Laws and regulations	Once, then changes	G/VAL/N/1/TUR/2 18 May 2000	Customs valuation provisions of the new Turkish Customs Law
GATS (Article III:4 or IV:2)	Enquiry point	Once, then changes	S/ENQ/23 25 September 1996	
TRIPS	Checklist of issues on enforcement	Not specified	IP/N/6/TUR/1 17 May 2000	Responses from Turkey
TRIPS (Article 69)	Contact point	Once, then changes	IP/N/Rev.2/Add.2 January 1997	
TRIPS (Article 63.2)	Laws and Regulations	Once, then changes	IP/N/1/TUR/2 3 July 2000	Copies of the new laws and regulations
Quantitative Restrictions (Decision of the Council for Trade in Goods (G/L/59)	Notification procedures for quantitative restrictions	Every two years, from 31 January 1996	G/MA/NTM/QR/1/Add.7 16 June 2000	Changes in Turkey's quantitative restrictions

Source: WTO documents.

15. Turkey 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; future extension of the scope of protection of geographical indications to products other than wines and spirits; and an equitable agricultural trading environment. In line with Prime Ministry Circular No. 2002/39, of 13 September 2002, 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 can be considered provided that the developed countries substantially reduce or eliminate their export subsidies and domestic support. 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 subsectors of the Turkish economy.⁷

16. Turkey has been involved in 12 cases under the WTO dispute settlement mechanism, to date. Seven consultations have been requested regarding Turkey's trade measures; three involved quantitative restrictions on imports of textile and clothing products. Turkey has been the complainant in two cases (against Egypt and South Africa). In the case against Egypt, concerning the definitive anti-dumping measures on rebar from Turkey, the parties to the dispute agreed on the reasonable period of time to implement the DSB recommendations and rulings. With respect to South Africa, Turkey requested formal consultations on 15 April 2003 regarding the definitive anti-dumping duty on Turkish imports of blanketing in roll form. Turkey has also participated in WTO disputes as a third party, one against the United States on "definitive safeguard measures on certain steel products"; and another against Argentina on "definitive anti-dumping measures on imports of ceramic floor tiles from Italy". On 2 May 2003, Turkey communicated its desire to join the consultations requested by the United States and Australia regarding "the protection of trademarks and geographical indications for agricultural products and foodstuffs in the EC".⁸

Table II.3
WTO dispute settlement cases involving Turkey, 1995-03

Dispute	Raised by/against	Actions	Outcome
Restrictions on imports of textile and clothing products	Hong Kong, China/Turkey	Consultations requested on 12 February 1996, under GATT Articles XI, XIII and XXIV as well as WTO ATC Article 2 (WT/DS29/1).	Pending consultation
Restrictions on imports of textile and clothing products	India/Turkey	Consultation requested on 21 March 1996, under GATT Articles XI, XIII and XXIV as well as WTO ATC Article 2 (WT/DS34/1). Establishment of panel requested on 2 February 1998 (WT/DS34/2). DSB agreed to establish a panel on 13 March 1998 (WT/DSB/M/43). Panel report adopted on 19 November 1999 (WT/DS34/11). Appellate Body Report adopted on 19 November 1999 (WT/DS34/11).	Notification of mutually agreed solution on 6 July 2001 (WT/DS34/14)
Restrictions on imports of textile and clothing products	Thailand/Turkey	Consultation requested on 20 June 1996, under GATT Articles I, II, XI, XIII and XXIV as well as WTO ATC Article 2 (WT/DS47/1).	Pending consultation
Taxation of foreign film revenues	United States/Turkey	Consultation requested on 12 June 1996, under GATT Article III (WT/DS43/1). Establishment of a panel requested on 10 January 1997 (WT/DS43/2). DSB agreed to establish a panel on 25 February 1997 (WT/DS.M/29).	Notification of mutually agreed solution on 24 July 1997 (WT/DS43/3)
Anti-dumping duty on steel and iron pipe fittings	Brazil/Turkey	Consultation requested on 9 October 2000, under GATT Article XXIII and 17 of the Anti-Dumping Agreement (WT/DS208/1).	Pending consultation
Definitive anti-dumping measures on steel rebar from Turkey	Turkey/Egypt	Consultation requested on 6 November 2000, under GATT Article XXIII and 17.3 of the Anti-Dumping Agreement (WT/DS211/1). Establishment of a panel requested on 3 May 2001 (WT/DS211/2) and 11 May 2001 (WT/DS211/2/Corr.1). DSB agreed to establish a panel on 20 June 2001 (WT/DSB/M/106). Panel report adopted on 1 October 2002 (WT/DS211/5).	Parties notified DSB meeting of 29 August 2003 that matter would no longer be pursued with the DSB

Table II.3 (cont'd)

⁷ In this regard, a work programme that foresees close cooperation with the Turkish private sector is in place.

⁸ WTO documents WT/DS174/16 and WT/DS290/9, 7 May 2003.

Dispute	Raised by/against	Actions	Outcome
Certain import procedures for fresh fruit	Ecuador/Turkey	Consultation requested on 31 August 2001, under GATT Article XXII, Article 11 of the SPS Agreement, Article 6 of the Import Licensing Agreement, Article 19 of the Agreement on Agriculture, and GATS Article XXII (WT/DS237/1). Establishment of panel requested on 13 June 2002 (WT/DS237/3). DSB agreed to establish a panel on 29 July 2002 (WT/DSB/M/130).	Notification of mutually agreed solution on 29 October 2002 (WT/DS237/4)
Import ban on pet food from Hungary	Hungary/Turkey	Consultation requested on 3 May 2002, under GATT Article XXIII, Article II of the SPS Agreement, and Article 19 of the Agreement on Agriculture (WT/DS256/1).	Pending consultation
Definitive anti-dumping measures on blanketing from Turkey	Turkey/South Africa	Consultation requested on 9 April 2003, under GATT Article XXIII and Article 17 of the Anti-Dumping Agreement (WT/DS288/1).	Pending consultation
Definitive safeguard measures on imports of certain steel products	EC/US	Third party participation requested on 4 June 2002, under DSU Article 10. (WT/DS248/15, WT/DS249/9, WT/DS251/10, WT/DS252/8, WT/DS253/8, WT/DS254/8, WT/DS258/12, WT/DS259/11).	Participation in Panel (on 30 October 2002)
Definitive anti-dumping measures on imports of ceramic floor tiles from Italy	EC/Argentina	Third party participation requested on 17 November 2000 (WT/DS189/4).	Argentina implemented the DSB's recommendations and rulings (WT/DS189/8 of 7 May 2002)
Protection of trademarks and geographical indications for agricultural products and foodstuffs	US/EC (174) Australia/EC (290)	Third party participation requested on 2 May 2003, under DSU Article 4.11. (WT/DS174/16 and WT/DS290/9).	Pending consultation

Source: WTO Secretariat.

(ii) Regional agreements

(a) The Customs Union with the European Union

17. The Customs Union (CU) between Turkey and the EC entered into force on 1 January 1996 under Decision No. 1/95 of the Turkey-EC Association Council (CUD), which is the main decision-making body of the association. The CUD provides for free trade in, and a common external tariff (CET) on, industrial goods and the industrial component of processed agricultural goods⁹; there is no firm timetable for the integration of agriculture. However, the free movement of agricultural goods is set as a common objective. In 2002, 95% of Turkey's merchandise imports originated in the EU, and 97% of its exports to the EU were subject to the CU regime. The CUD also covers TRIPS, competition policies, commercial policies, customs provisions, and technical barriers to trade. Moreover, in 2000, the two parties began negotiations with the aim of reaching agreements on trade in services and government procurement. After three rounds, the negotiations have been halted since December 2001. The talks are planned to resume in autumn 2003. The negotiations on services and government procurement are conducted in parallel sessions with the understanding that nothing is agreed until everything is agreed on both issues.

⁹ During a transition period that ended on 1 January 2001, Turkey had maintained rates of protection above those specified in the CET for certain "sensitive" products, equivalent to 290 items at the HS twelve-digit level (passenger cars with engines smaller than 2,000 cm³, bicycles, leather cases and bags, footwear and their parts, furniture, chinaware and ceramic ware, iron and steel wires and ropes not electrically insulated, and paper or paperboard sacks and bags for cement fertilizers).

18. The scope of the CUD excludes Turkey from some of the crucial aspects of the EU's common market: the common agricultural policy (CAP); and moves towards a single currency. Unlike countries in the European Economic Area (EEA), Turkey may also be subject to anti-dumping and countervailing measures by the EU.¹⁰ Since the Helsinki European Council in December 1999, when Turkey was declared a candidate, these issues are being addressed in the perspective of accession.¹¹

19. The association relation between Turkey and the EU commenced in 1963, with the Ankara Treaty, which provided for several stages to enable Turkey to prepare itself for full membership. The timetable of the current CU was set by an Additional Protocol of 1973. The EC eliminated all customs duties and equivalent measures unilaterally on the entry into force of the Protocol. A transition stage of 22 years was set for Turkey. As of 1 January 1996, the parties established the CU in accordance with the 6 January 1995 Turkey-EU CUD. Turkey has already adopted a wide range of EU trade and trade-related legislation on manufactured goods (Table AII.1). Turkey has eliminated tariffs and levies on imports of non-agricultural products originating in the EU, and it applies the EU's CET on imports of these products from third countries. This has led to a substantial reduction of its tariffs on these imports. In the view of the EU, Turkey should, *inter alia*: (i) focus further efforts on aligning legislation on the customs aspects of control of dual-use goods, counterfeits and pirated goods, and cultural goods; (ii) work more on free zones and customs procedures with economic impact¹²; (iii) align tariff preferences, as free-trade agreements have not yet been concluded with all of the EU FTA partners; (iv) harmonize activities in sectors such as foodstuffs, pharmaceuticals, and cosmetics, and improve the functioning of various bodies (standardization, accreditation, and conformity assessment); (v) adopt competition implementing rules; (vi) strengthen the enforcement of intellectual property rights; and (vii) adjust state monopolies of a commercial character to ensure non-discrimination in market access between EC and Turkish operators.¹³

20. At the Copenhagen European Council of December 2002, it was agreed that "if the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria¹⁴, the European Union will open accession negotiations with Turkey without delay".

21. The CUD has strengthened the already strong trade relations between Turkey and the EU (Chart II.1). Total bilateral trade increased from US\$27.9 billion in 1995 to US\$41.6 billion in 2002. The EU has become Turkey's main trading partner, while Turkey has become the tenth largest trading partner of the EU. During 1995-00, Turkey experienced an increasing trade deficit with the EU which started to narrow in 2001. Imports from the EU rose from US\$16.8 billion in 1995 to

¹⁰ An anti-dumping investigation was initiated by the EU on imports of hot rolled coils from Turkey (among others) in December 2001. The investigation on imports of welded tubes and pipes (iron and non-alloy steel) led to the imposition of provisional duties in March 2002. European Commission (2002).

¹¹ See WTO (1998) for details on the CUD's requirements from Turkey.

¹² Concerning free zones, studies examining the differences between the EU *acquis* and Turkish continue. Republic of Turkey (2001).

¹³ European Commission (2002). According to the Turkish authorities, the requirements in the text relate to the Copenhagen economic criteria, and are not a prerequisite for the opening of accession negotiations.

¹⁴ The political and economic criteria for accession to be met by the candidate countries to the EU, as laid down by the Copenhagen European Council in June 1993, are: "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; the existence of a functioning market economy, as well as the ability to cope with competitive pressures and market forces within the Union; and the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union." The candidate country's ability to assume the obligations of EU membership, that is, the legal and institutional framework, is known as the *acquis*, and consists of 29 negotiating chapters. In this regard, in March 2001, Turkey adopted the Turkish National Programme for the Adoption of the Acquis (NPAA). European Commission (2002).

US\$23.3 billion in 2002, while exports to the EU went up from US\$11 billion to US\$18.3 billion in the same period. The textiles and clothing subsector has the largest share in Turkey's exports to the EU, accounting for 47% of total exports in 2002; followed by agricultural and processed agricultural goods, motor vehicles, and electrical goods. Main imports from the EU are chemical products, power engineering machinery, and transport equipment.

22. A new EU regulation concerning pre-accession financial assistance for Turkey entered into force in December 2001. This new regulatory framework is aimed at ensuring an accession-driven approach to the EC's financial cooperation with Turkey, and accelerating the process of disbursements. As for all candidate countries, financial assistance has to focus on the priorities identified in the Accession Partnership and the NPAA.¹⁵ The new system has led to an upturn in tendering and contracting in 2002 compared with previous years. Turkey also benefits from European Investment Bank (EIB) assistance.¹⁶ In total, Turkey received loan financing worth €544.5 million from 1992 to 1999. During 2000-02, the total allocation for Turkey was €1,506 million, of which €750 million has been disbursed.

(b) Free-trade agreement with the European Free Trade Association (EFTA)

23. The free-trade agreement between Turkey and the EFTA entered into force on 1 April 1992 (September 1992 for Iceland).¹⁷ The agreement covers: industrial products (within HS chapters 25 to 97); fish; and processed agricultural products, with the exception of nine agriculture-based tariff items at the HS six-digit level, including mannitol, sorbitol, casein, and egg and milk albumin and dextrin. In 2002, some 99% of Turkey's merchandise imports from EFTA and 90% of its exports to EFTA were covered by the free-trade agreement. The agreement also covers intellectual property, competition, state aid, and anti-dumping.

24. The agreement is based on an asymmetrical model similar to Turkey's agreement with the EU. Since 1 January 1993, Turkey has granted imports from EFTA countries the same customs duty treatment as imports from the EU as regards industrial products. For fish and fishery products, Turkey has provided better treatment to EFTA countries compared with the EU. Trade in processed agricultural goods follows the same system as between Turkey and the EU, i.e. the Mass Housing Fund (MHF) levy on agricultural components of processed agricultural goods was reduced on 1 January 1999 to achieve "target agricultural components". On 1 April 1992, EFTA countries abolished all customs duties on imports and any charges having equivalent effect on products from Turkey, except on textiles and apparel goods. For textiles and apparel products, tariffs were eliminated on 1 January 1996.

¹⁵ Technical assistance and investment are being provided. For example, following the 2001 economic crisis in Turkey, support has been provided, in particular to SMEs. European Commission (2002).

¹⁶ In 2001, around €375 million was granted by the EIB for four major investment projects. European Commission (2002).

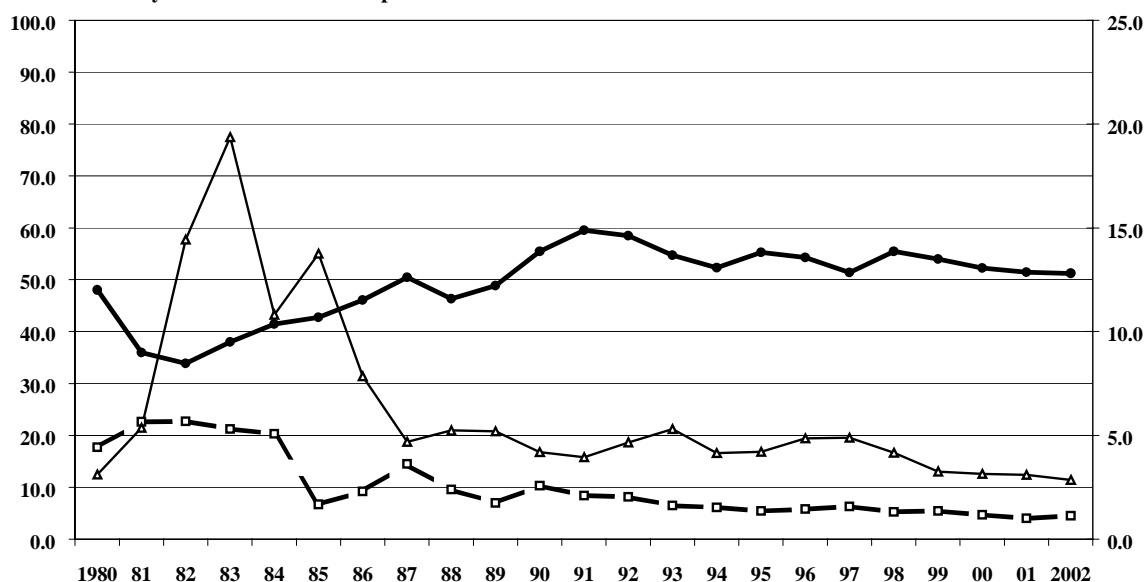
¹⁷ EFTA comprises Iceland, Liechtenstein, Norway, and Switzerland.

Chart II.1

Turkey's trade with EU, EFTA, and ECO partners, 1980-02

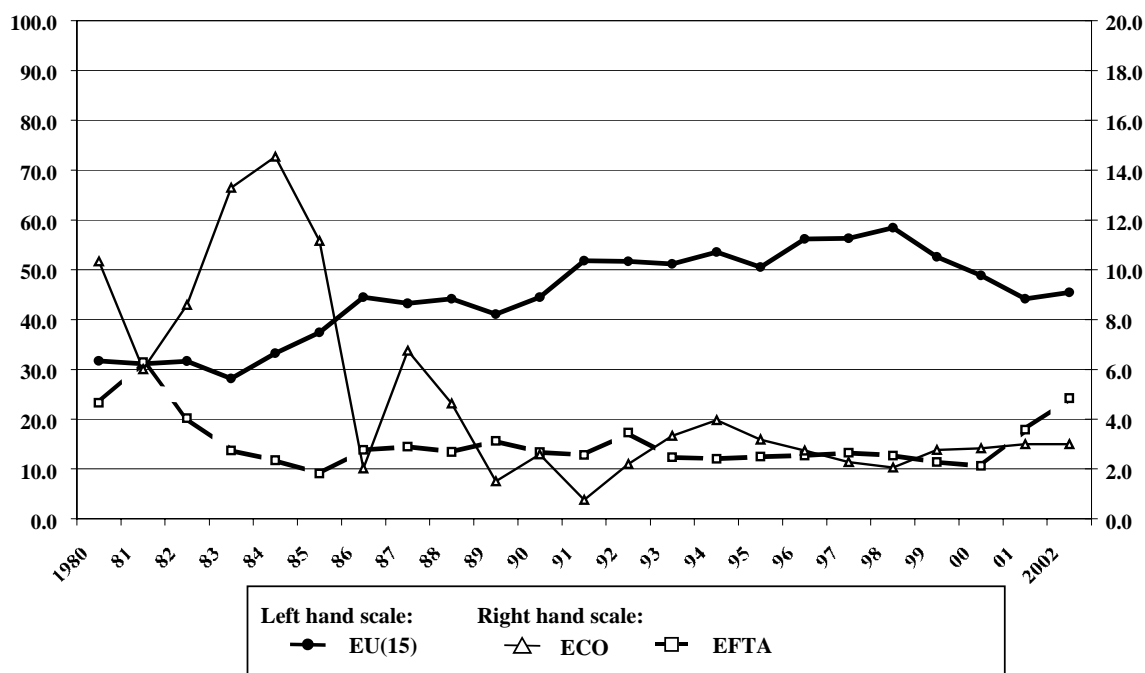
(a) Exports to EU, EFTA and ECO

Per cent of Turkey's total merchandise exports



(b) Imports from EU, EFTA and ECO

Per cent of Turkey's total merchandise imports



Note: Austria, Finland and Sweden are included in the EU(15) for the whole period.

Data for ECO before 1992 consisted of only Iran and Pakistan.

Source: UNSD, Comtrade database; and information provided by the Turkish authorities.

(c) Euro-Mediterranean Partnership

25. In November 1995, the EU and 12 Mediterranean partners embarked on the Euro-Mediterranean Partnership¹⁸, a political, economic, and social programme aimed at creating "an area of shared prosperity", including a Euro-Mediterranean Free-Trade Area by 2010. This is to be achieved through the Euro-Mediterranean Association Agreements negotiated between the EU and its Mediterranean partners, together with the Free Trade Agreements among the Mediterranean partners. Turkey has concluded a bilateral Free Trade Agreement with Israel, and is in the process of negotiating with its other non-EC Mediterranean partners to fulfil its obligations under the Euro-Mediterranean Partnership.

(d) Economic Cooperation Organization (ECO)

26. Economic Cooperation Organization (ECO) is an inter-governmental regional organization established in 1985 by Iran, Pakistan, and Turkey for the purpose of sustainable socio-economic development of the member states. ECO is the successor organization of Regional Cooperation for Development (RCD), active from 1964 to 1979. In 1992, the Organization was expanded to include seven new members: Afghanistan, Azerbaijan, Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan. ECO has embarked on several projects in priority sectors of cooperation, including energy, trade, transportation, agriculture, and drug control.

27. Trade liberalization is an important area in ECO. On 6 March 2000, the Framework Agreement on ECO Trade was signed to enhance trade relations among the members through the formulation of an agreement aimed at liberalizing regional trade. After three years of preparations, the ECO Trade Agreement (ECOTA) was finalized and signed between Afghanistan, Iran, Pakistan, Tajikistan, and Turkey on 17 July 2003. The Agreement foresees the reduction of tariffs (by not less than 10% per year) to a maximum of 15% within a maximum period of eight years. ECOTA has binding provisions on, *inter alia*, state monopolies, state aid, protection of intellectual property rights, dumping and anti-dumping measures.

(e) Black Sea Economic Cooperation (BSEC)

28. The Black Sea Economic Cooperation (BSEC) aims to improve and diversify economic and trade relations among its eleven members.¹⁹ Although the BSEC provides for cooperation in various fields, it does not as yet provide for preferential tariff concessions. The areas of cooperation include banking and finance, and exchange of statistical data and economic information regarding energy, transport, telecommunications, trade and industry, agriculture and agro-industry, environmental protection, tourism, and science and technology. In this context, the Black Sea Trade and Development Bank became operational in 1999. On 7 February 1997, a declaration of intent for the establishment of a BSEC free-trade area was adopted. The declaration envisages examination of the ways and means for the progressive establishment of such an area, taking into account each country's existing and future links with the EU. Recently, in the Working Group on Trade, two projects were launched: one, proposed by Turkey, is to eliminate non-tariff barriers on regional trade and the other is to harmonize trade documents in the region.

¹⁸ The Euro-Mediterranean Partnership was launched in Barcelona, hence it is also called the "Barcelona Process". The 12 Mediterranean Partners are: Morocco, Algeria, Tunisia, Cyprus, Egypt, Lebanon, Syria, Palestine, Jordan, Malta, Israel, and Turkey. At a later stage, it is also envisaged to include EFTA and Central and Eastern European candidates for EU enlargement as part of the Euro-Mediterranean free-trade area.

¹⁹ The BSEC Declaration was signed on 25 June 1992. The member countries are: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldavia, Romania, the Russian Federation, Turkey, and Ukraine.

(iii) **Bilateral agreements**

29. Turkey has signed bilateral trade agreements with 14 countries in the framework of aligning its trade regime on the EU's in the context of the CU (Table II.4). Since Turkey's last TPR, bilateral agreements have entered into force with: Czech Republic, Slovak Republic, Estonia, Latvia, Slovenia, Bulgaria, Poland, the Republic of Macedonia, Croatia, and Bosnia Herzegovina. The trade agreements have a standard model based on the preferences of each party with the EU; bilateral trade has been liberalized on industrial goods at the end of a transition period, and mutual concessions are granted on selected agricultural and processed agricultural goods. Turkey's free-trade agreements with Lithuania, Hungary, Estonia, Czech Republic, Slovak Republic, Poland, Slovenia, and Latvia will expire when these countries become EU members on 1 May 2004. As of that date, these countries will be included in the CU. Negotiations with Morocco, Egypt, Faroe Islands, Palestine, Lebanon, Albania, and Tunisia are in progress, while draft texts have been forwarded to Jordan, Malta, South Africa, Algeria, Syria, Serbia-Montenegro, and Mexico.

Table II.4
Turkey's bilateral trade agreements, 2003

Country	Date of agreement	Entry into force	Major Turkish exports and imports covered by the agreement ^a	Other areas of cooperation
Israel	14/3/1996	1/5/1997	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1/1/2000	All agreements include provisions on right of establishment and supply of services, internal taxation, structural adjustment, dumping, state monopolies, rules of origin, payments, rules of competition, state aid, balance-of-payments difficulties, protection of intellectual property, and government procurement
Hungary ^b	8/1/1997	1/4/1998	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1/1/2001	
Romania	29/4/1997	1/2/1998	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1/1/2002	
Czech Republic ^b	3/10/1997	1/9/1998	Phased reduction of tariffs on industrial goods, complete elimination on industrial goods on 1/1/2001	
Slovak Republic ^b	20/10/1997	1/9/1998	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1/1/2001	
Lithuania ^b	2/6/1997	1/3/1998	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1/1/2001	
Estonia ^b	3/6/1997	1/7/1998	Tariffs on industrial goods will be abolished by the entry into force of the Agreement	
Latvia ^b	16/6/1998	1/7/2000	Tariffs on industrial goods will be abolished by the entry into force of the Agreement (reduction of tariffs on limited number of textile products on 1/1/2000)	
Slovenia ^b	5/5/1998	1/6/2000	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1/1/2001	
Bulgaria	11/7/1998	1/1/1999	Phased reduction on industrial goods; complete elimination on industrial goods on 1/1/2002	
Poland ^b	4/10/1999	1/5/2000	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1/1/2002	
Macedonia (FYR of)	7/9/1999	1/9/2000	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1/1/2008	

Table II.4 (con'td)

Country	Date of agreement	Entry into force	Major Turkish exports and imports covered by the agreement ^a	Other areas of cooperation
Croatia	13/3/2002	1/7/2003	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1/1/2007	
Bosnia-Herzegovina	3/7/2002	1/7/2003	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1/1/2007	

a See Table III.2 for details on the relevant rules of origin, and Table III.5 for the coverage and the preferential margin.

b Turkey's trade agreements with these countries will expire when they become EU members on 1 May 2004. As of that date, these countries will be included in the Customs Union.

Source: Information provided by the Turkish authorities.

(iv) Other preferential trade arrangements

30. A Memorandum of Understanding (MOU) to establish the Southeast Europe Electricity Regulatory Forum (SEEERF), a regional electricity market, was signed by the countries of South East Europe in November 2002. It emphasizes, *inter alia*, the need to establish a basis for the free movement of goods and services in the region's energy sector. The basic aim of the MOU is to first, bring the national practices, legislation, and structures of the parties into line with the EU Internal Electricity Market Directive (96/92). After this phase, it is envisaged that the natural gas sector will be included in the process; the last phase is the full incorporation of energy into the European internal market. This overall objective is expected to be realized by 2006.

31. As part of the CUD with the EU, Turkey has to align itself with the EU's preferences under the Generalized System of Preferences (GSP). Turkey still has to adjust its GSP regime to the EU's changes to the scope and implementation procedures of its GSP scheme as from 1 January 2002.²⁰ As the CUD does not cover agricultural products, these are exempted from the GSP regime, and preferences are granted for selected industrial goods. While adopting EU's GSP, Turkey has given preferences to raw materials and semi-finished goods.²¹ Preferences on 2,884 twelve-digit tariff lines are classified according to the "sensitivity" of the products. Duties on non-sensitive products are fully eliminated, while those on sensitive products are reduced (most of the products under HS chapters 28, 29, and HS sub-headings 8540.11, 8540.12.00, 94.05 are defined as sensitive in accordance with the EU's practices). The reduction is by a flat rate of 3.5 percentage points of the MFN duty rate. In addition, where preferential rates under the EU's GSP scheme (applicable from 31 December 2001), provide a tariff reduction of more than 3.5 percentage points for the sensitive products, these higher rates will apply. Duties are eliminated for the least developed countries. In line with the EU, Turkey grants preferential treatment to selected countries and territories classified as developing countries. Beneficiary countries are announced annually in the Annexes of Turkey's Import Regime. Turkey is committed to extending the scope of the GSP system gradually, in line with its internal economic conditions. Discussions are on-going with the EU to establish a timetable.

32. Turkish exports receive preferential treatment under the GSP schemes of Australia, Canada, Japan, New Zealand, the Russian Federation, and the United States. Under the preference extended by the Russian Federation imports from Turkey are subject to tariffs at 75% of MFN rates on all products except those on a negative list; the United States extends duty-free treatment on 744 products.

²⁰ Turkey reserved the right to suspend the GSP treatment under certain circumstances different from those set by the EU.

²¹ Those items correspond to approximately 2,884 tariff lines (HS 12-digit level), i.e. about 15% of total tariff lines. The products concerned refer to, *inter alia*, HS Chapters 28,29,37,38,82,84, and 85.

33. Turkey is not a member of the Agreement on the Global System of Trade Preferences (GSTP) among developing countries.

(5) INVESTMENT FRAMEWORK

34. The institutional and legislative framework governing investment in Turkey has been changed significantly with the adoption of the Foreign Direct Investment Law No. 4875 in 2003. The authorities have also been implementing measures to improve the business and investment climate: an Investor Relations Office was established in 2001, within the Undersecretariat of Treasury to act as a focal point for two-way communication with investors. However, a number of sectors are subject to FDI restrictions (Table II.5).

35. Key features of the new Foreign Direct Investment Law include: (i) freedom to invest by dropping all former FDI-related screening, approval, share transfer, and minimum capital requirements; (ii) reassurance of existing guarantees of rights to foreign investors in one document; (iii) adoption of international standards for definitions of "foreign investor" (broadened to include Turks living abroad and international organizations), and "foreign direct investment" (broadened to include all possible types of assets); and (iv) a policy shift from ex-ante control to a promotion and facilitation approach, with minimal ex-post monitoring, to continuously improve an investor-friendly climate for growth and development. The new law guarantees national treatment and investor rights. All companies established with a foreign capital contribution and under the rules of the Turkish Commercial Code (existing and newly established foreign companies) are regarded as Turkish companies. Therefore, equal treatment, both in rights and responsibilities as stated in the Constitution and other laws, is applicable to all such companies.²²

Table II.5
Sectors subject to foreign direct investment restrictions, 2003

Sectors where foreign investment is restricted	Legal source	Restriction
Broadcasting	Establishment and Broadcasting of Radio and Television Law No. 3984	No more than 25% equity participation by foreigners.
Aviation	Civil Aviation Law No. 2920 SHY-6A (Regulation on Commercial Air Transport Operations) SHY-22 (Regulation on Airport Groundhandling)	No more than 49% equity participation by foreigners. Licences to operate airlines are only granted to locally incorporated companies whose management is under the control of Turkish citizens and majority of voting shares are owned by Turkish citizens. Airlines, of which majority of shares are controlled by foreigners, are not permitted to carry passengers from one national airport to another.
Maritime transportation	Cabotage Act No. 815, Turkish Commercial Code No. 6762	No more than 49% equity participation by foreigners. Cabotage is reserved to national flag carriers. Registration of commercial ships is granted only to locally incorporated companies whose management is under the control of Turkish citizens, and majority of voting shares are owned by Turkish citizens.
Port services	Cabotage Act No. 815, Turkish Commercial Code No. 6762, Privatization Law No. 4046	No more than 49% equity participation by foreigners. Only Turkish citizens, and companies that are majority owned by Turkish citizens, which are managed and represented by Turkish citizens with a majority, and majority voting is held by Turkish citizens, may exercise the rights related to the ports.
Fish-processing	Fishing Law No. 1380, Bylaw on Fishing Products No. 6710, Turkish Commercial Code No. 6762	No more than 49% equity participation by foreigners. Foreign-owned enterprises may engage in fish processing, but cannot obtain a fishing licence. Fishing vessels may not register in Turkey unless owned by Turkish nationals or by companies of which majority of voting shares are owned by Turkish citizens.

Table II.5 (cont'd)

²² This includes national treatment, a guarantee against expropriation without compensation, transfer of proceeds, access to real estate, the right to expatriate personnel, and access to international arbitration or to any other means of dispute settlement.

Sectors where foreign investment is restricted	Legal source	Restriction
Telecommunications Services provided under concession agreements	Telecommunications Services Regulation	No more than 49% equity participation by foreigners. A "Concession Agreement" is used when authorisation involves the allocation of scarce resources such as frequency, satellite position and numbering, and granting particular or special rights and obligations to each operator is necessary; or when the service in question has to be offered by a limited number of operators. Also a concession presupposes a nation-wide network. GSM operators are authorized by signing concession agreements.
Accounting, auditing and book-keeping services	Law No. 3568 on Accountancy, Financial Advisory and Certified Financial Advisory Services dated 1989	Special permission required. Foreign financial advisors that are the citizens of countries which have officially codified the principles of the profession of financial advisory may, under reciprocal conditions, be authorized by the approval of the Prime Minister upon the proposal of the Ministry of Finance, provided that these persons have the qualifications required for the Turkish financial advisors and have rights to perform similar services in their own countries.
Financial sector	Banks Act No. 4389 amended by Law No.4491, 4672 and 4743, Capital Market Law No. 2499 amended by Laws No. 3794 and 4487 and the relevant Communiqués, Financial Leasing Law No. 3226, Insurance Supervision Law No. 7397 and amended by Statutory Decree No. 539 of 1994.	Special permission required. Permission to establish a bank, which has to be founded in the form of a joint-stock company, or to open the first branch of a foreign bank in Turkey, shall be given by a decision taken by the Banking Regulation and Supervision Board. Only intermediary institutions (including banks) established in Turkey and authorized by the Capital Market Board can perform securities activities; however, banks cannot trade in the Istanbul Stock Exchange (ISE) equities market. Mutual funds may be founded only by authorized banks, insurance companies, non-bank securities intermediaries; and pension funds by private pension companies established in Turkey. The majority of the members of the board of directors of an investment company must be Turkish nationals. Portfolio management and investment advisory services may be performed by non-bank securities intermediaries, non-deposit taking banks and portfolio management companies established in Turkey. In insurance, foreign commercial presence or presence of foreign natural persons regarding services auxiliary to insurance is permitted only for consultancy and risk-management services. Establishment of an insurance or reinsurance company and opening a branch of a foreign insurance or reinsurance company in Turkey are subject to prior permission of the Ministry of State, to which the Undersecretariat of Treasury is attached. Those measures regarding special permission are applied equally to domestic and foreign investors.
Petroleum	Petroleum Law No. 6326	Special permission required. Foreign enterprises may invest in marketing and sales activities without restriction. They may invest in exploration and exploration activities provided they are not controlled or owned by a foreign State (this restriction may be lifted by the Council of Ministers). Petroleum related activities can be carried out through locally incorporated stock companies or Turkish branches of stock companies incorporated abroad. For investment in refining, transportation through pipelines and storage, approval by the Council of Ministers is required.
Mining	Mining Law No. 3213	Special permission required. Foreign nationals and companies may invest only through locally incorporated companies.
Real-estate trading	Title deeds Law No. 2644	No foreign investment allowed. Foreign legal and real persons in Turkey can acquire land in accordance with the mutuality principle; however, acquisition of land over 30 hectares is due to the permission of the Council of Ministers.
Fishing	Fishing Law No. 1380, Bylaw on Fishing Products No. 6710, Turkish Commercial Code No. 6762	No foreign investment allowed. Foreign-owned enterprises may engage in fish processing, but cannot obtain a fishing licence. Fishing vessels may not register in Turkey unless owned by Turkish nationals or by companies of which majority of voting shares are owned by Turkish citizens.

Source: Information provided by the Turkish authorities.

36. In December 2001, a Coordination Committee for the Improvement of the Investment Environment (CCIE) was appointed to review the entire legal framework on investment, under the guidance of the Minister of State Responsible for Economy. As a result of this work, the company establishment procedure, which took almost two and a half months and required excessive documentation and approval from several authorities, has been simplified and streamlined. The legislation to reduce the duration of registration to one day, and the number of required documents, was approved by the Parliament on 12 June 2002 and published in the *Official Gazette* on 17 June 2003. The Law on International Arbitration (No. 4686), enacted in July 2001, provides for solution through international arbitration of conflicts arising from public service concession contracts where any foreign element is involved.

37. A company can be 100% foreign owned in almost all sectors of the Turkish economy. The exceptions are: (i) broadcasting, where foreign shareholders' equity participation is restricted to 25%; and (ii) aviation, maritime transportation, ports, fish-processing and telecommunications services provided under concession agreements, where it is restricted to 49%. Acquisitions of over 30 hectares by foreigners are subject to permission from the Council of Ministers. Establishments in the financial, petroleum, and mining sectors require special permission, according to appropriate laws (Table II.5).

38. A variety of schemes provide incentives to investors; they are equally available to foreign and domestic investors, and include tariff and duty exemptions, investment allowances, and subsidized credits (Chapter III(2)(ii)(f) and III(3)(iv)). There are no special incentives available only to foreign or national investors. Outward foreign direct investment in excess of US\$5 million requires permission by the Undersecretariat of Treasury.²³

39. Turkey has signed 66 bilateral agreements (up from 53 in June 1998) for the promotion and protection of foreign direct investment, with: Albania, Algeria, Argentina, Austria, Azerbaijan, Bangladesh, Belarus, Bosnia-Herzegovina, Belgium, Bulgaria, Chile, China, Croatia, Cuba, the Czech Republic, Denmark, Egypt, Ethiopia, Estonia, Finland, Georgia, Germany, Greece, Hungary, India, Indonesia, Iran, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lithuania, Macedonia, Malaysia, Moldova, Mongolia, Morocco, the Netherlands, Nigeria, Pakistan, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Serbia and Montenegro, Slovakia, South Africa, Spain, Sudan, Sweden, Switzerland, Tajikistan, Tunisia, Turkmenistan, Ukraine, the United Kingdom, the United States, Uzbekistan, and Yemen.

40. Since 1987, Turkey has been a member of the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency. Since 1991, Turkey has also been a member of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards²⁴, and of the European Convention on International Commercial Arbitrations.²⁵

²³ European Commission (2002).

²⁴ Approved by Law No. 3731 of 21 May 1991.

²⁵ Approved by Law No. 3730 of 21 May 1991.