

### III. TRADE POLICIES AND PRACTICES BY MEASURE

#### (1) INTRODUCTION

1. Goods imported into Turkey may be subject to various charges: customs taxes and levies (customs tariffs, and the mass housing fund levy); and internal taxes (excise duties also known as the Special Consumption Tax, the VAT, and the stamp duty). As a result of its participation in the customs union with the EC, Turkey has, since 1996, based its tariff on all industrial products and the industrial components of processed agricultural products (imported from third countries), on the EC common external tariff. Aside from the EC, Turkey provides tariff preferences to EFTA member states, and under nine bilateral trade agreements; negotiations are continuing with several other countries. It is also part of the Euro-Mediterranean Partnership aimed at establishing a free-trade area in the region by 2010.

2. Turkey's tariff comprises *ad valorem* rates, which apply to 97.9% of total lines, and non-*ad valorem* rates (specific, mixed, compound, and variable duties), applied to 378 items at the HS twelve-digit level (284 in 2003). The average applied MFN tariff is substantially higher in agriculture than in other sectors: using the WTO definition, the coverage is 47.6% on agricultural products, and 5% on non-agricultural goods. Some 46.3% of the tariff lines are bound. The simple average bound rate is 33.9%, and the simple average applied MFN rate 11.6% in 2007; the ceiling bound rates leave Turkey ample margins for tariff increases. Moreover, the imposition of non-*ad valorem* tariff rates does not ensure compliance by Turkey with its WTO binding commitments made at *ad valorem* rates. In addition to applied and bound tariffs, Turkey also maintains the so-called statutory tariff.

3. The government still has an influence on the economy, mainly through its control of public enterprises, although the implementation of its privatization programme has been accelerated recently. Export promotion continues to be one of the main objectives of Turkey's trade regime. The incentives system comprises duty and tax concessions, finance, marketing assistance, and promotion. There are 20 free zones in Turkey (21 in 2003), and new arrangements were made in February 2004 regarding the tax incentives provided under this regime.

4. Since its last TPR in 2003, Turkey has redrafted or amended legislation on safeguards, standards and technical regulations, and intellectual property rights. Under the government procurement regime, supplies of Turkish origin are eligible for price preferences of up to 15%. Import licences are maintained on tariff-quota administration, health, sanitary, phytosanitary and environmental grounds. The Competition Authority has developed a reputation as one of Turkey's most effective and best administered agencies, having played an important role in moving it towards the competition-based and consumer-welfare-oriented economies.

#### (2) MEASURES DIRECTLY AFFECTING IMPORTS

##### (i) Customs procedures, clearance, and valuation

5. The basic customs legislative framework in Turkey consists of Customs Law No. 4458 (as amended), and its Regulations.<sup>1</sup> According to the authorities, the coordination between customs administration and other relevant authorities has improved over the last few years through various protocols, and effectiveness in combating smuggling and other customs-related problems has increased. Nonetheless, the main problems of Turkey's customs service are in its administrative and operational capacity; coordination between customs and other relevant authorities, such as the

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<sup>1</sup> Customs Law No. 4458 replaced Customs Law No. 1615/1972 in February 2000. For a description of the main changes, see WTO (2003).

Ministry of Culture, the Turkish Patent Institute, Turkish police force, and intellectual property rights courts also needs to be further improved.<sup>2</sup> Turkey is taking steps to align its customs legislation with the EC's *acquis communautaire*. In this regard, a new draft Customs Law has been prepared and submitted to Parliament for approval.

6. Turkey's customs procedures have been modernized by the launch of GUMSIS (a customs security system, risk analysis process and expertise on anti-smuggling activities) in 2001, and the introduction in 2002 of BILGE (a system developed to carry out all real-time customs formalities).<sup>3</sup> The format of the Turkish customs declaration has been aligned on the single administrative document (SAD) used for customs procedures in the EC.<sup>4</sup> A EUR.1 or EUR.MED movement certificate is required for imports from non-EC countries with which Turkey has free-trade agreements, and from EC countries for imports of agricultural, and coal and steel products.<sup>5</sup> The fee for the SAD is YTL 2.20. The customs authority may grant permission to simplify formalities and procedures (Simplified Procedure Authorization), including by waiving the requirement for some documentation.<sup>6</sup> The use of a clearing agent is not compulsory.

7. A summary declaration must be presented at the customs office before the end of the working day following the arrival of goods at Customs. This declaration, for imported and exported goods, contains all the information required for the identification of the goods; it has a predetermined layout, and can be found in Annex 9 of the Customs Regulations.<sup>7</sup> The most common method used for summary declarations is BILGE; this requires a user code and a password, which are provided by the customs office.

8. Certain goods continue to be imported only through specialized customs offices. According to the authorities, the aim of such specialized offices is to, *inter alia*, preserve the quality standards of imports, and prevent tax smuggling. For example, the release for free circulation of motor vehicles, tractors, motorcycles, and their spare parts and accessories is carried out by Yesilkoy and Gebze Customs Directorates; textile products, by Halkali, Atatürk Havaliman, Gemlik, Mersin, Izmir Denizli, Ankara, Kayseri, and Gaziantep Customs Directorates; and some solvents and petrochemical products, by Gebze Petrochemical Customs Directorate. Exceptional circumstances for importation of these products through other Directorates are defined in the legislation establishing such specialized customs directorates.

9. Articles 23 to 31 of Customs Law No. 4458 provide for the determination of the value of goods for customs purposes.<sup>8</sup> The customs value of imported goods is the transaction value, that is, the price actually paid or payable for the goods when sold for export to Turkey.<sup>9</sup> All customs duties

<sup>2</sup> European Commission (2006).

<sup>3</sup> To date (August 2007), 119 customs offices have been automated, and 99.9% of all customs transactions are carried out electronically.

<sup>4</sup> Traders can submit declarations through kiosks located in the customs offices, or via internet, or from their offices through electronic data interchange (EDI) messages.

<sup>5</sup> Decision 1/98 of EC-Turkey Association Council, and Agreement between Turkey and the European Coal and Steel Community (ECSC).

<sup>6</sup> The simplified procedures are based on Article 71 of Customs Law No. 4458, and Articles 20-61 of Customs Regulations and General Customs Notification (Customs Procedures No. 15).

<sup>7</sup> It is obligatory to attach the original manifest or bill of landing to the summary declaration. The Undersecretariat of Customs may allow the use of another internationally approved commercial or official document containing the details required for the identification of goods.

<sup>8</sup> WTO document G/VAL/N/1/TUR/2 of 18 May 2000.

<sup>9</sup> The currency for customs value of goods is the new Turkish lira (YTL). Foreign currencies on invoices and other documents are converted into YTL using the Central Bank exchange rate on the date the customs debt occurs.

are computed on the c.i.f. value of the import. If the transaction value cannot be determined, the customs value is to be calculated by proceeding through the basic methods set by the WTO Customs Valuation Agreement (CVA).<sup>10</sup> Under paragraph 3 of Annex III of the CVA, Turkey has reserved indefinitely the right not to reverse the deductive and computed valuation methods at the importer's request.<sup>11</sup> The customs value of perishable goods may be determined, at the request of the importer, under simplified procedures.<sup>12</sup>

10. Import clearance generally takes a maximum of 24 hours (if all the required documents are in order), regardless of the mode of transport. Import duties must be paid or guaranteed at the time of customs clearance. In the second quarter of 2007, physical inspection by Turkey's customs administration was carried out on 29% of total imports and 11% of total exports. The selection criteria is based on BILGE.

11. Appeals against customs authorities' decisions are governed by Title XII of Customs Law No. 4458. Any person has the right to appeal customs decisions. Appeal procedures on tax issues are different from those related to administrative decisions: tax appeals can be brought before the relevant customs administration, where a decision must be taken and notified to the relevant person within 30 days. Appeals against decisions by the customs administration can be brought, within seven days, before the Regional Directorate for Customs; the decision and notification must be made within 30 days. Decision taken by the Regional Directorate for Customs can be appealed before the Undersecretariat of Customs, and the decision and notification is to be made within 30 days. After a final decision by the Regional Directorate or by the Undersecretariat, the complainant has the right to file a law suit before the tax courts.

12. Appeals against administrative decisions can only be brought against the Regional Directorate of Customs, i.e. an appeal cannot be brought against the customs office itself; the decision and notification to the person concerned must be made within 30 days. The time limit to rule upon actions brought to the administrative courts is 60 days, and 30 days for tax courts.<sup>13</sup> During 2004-06, 11,486 appeals per year were submitted, on average, to the Regional Directorates for Customs (80% on the value of goods, 15% on tariff classification, and 5% on other issues).

## **(ii) Rules of origin**

13. Turkey applies non-preferential and preferential rules of origin. As part of its obligations under the Customs Union Decision with the EC (CUD), since 1 January 1996, Turkey applies the same rules of origin as the EC with respect to imports from third countries. The non-preferential rules of origin, set out in Articles 17 to 21 of Customs Law No. 4458, assign origin to the country where the good has been wholly obtained or where it underwent its last substantial transformation and an important stage of manufacture.<sup>14</sup>

14. Preferential rules of origin, under various trade agreements, are based on the degree of processing or value-added criteria, with scope for cumulation (Table III.1).<sup>15</sup> Bilateral cumulation applies, for instance, under GSP (donor-country content) and bilateral trade agreements. Since 1 January 1999, Turkey has been part of the diagonal Pan-European Origin Cumulation System,

<sup>10</sup> WTO (2003).

<sup>11</sup> WTO document G/VAL/2/Rev.15 of 21 October 2002.

<sup>12</sup> Article 45 of the Implementing Regulation of Customs Law No. 4458 (Exceptional Customs Value Declaration), regulates the implementation of the simplified procedures on customs valuation.

<sup>13</sup> Law on Administrative Trial Procedure No. 2577.

<sup>14</sup> Article 19 of Customs Law No. 4458.

<sup>15</sup> Article 22 of Customs Law and Article 34 of the Customs Regulations.

which allows the use of material from any country within the zone (i.e. EC, EFTA, and Turkey) to produce a good while retaining preferential origin. The Pan-Euro-Mediterranean Cumulation System is another example.<sup>16</sup>

**Table III.1**  
**Preferential rules of origin, 2007**

Agreement	Rules of origin
Customs Union with the European Communities	Wholly obtained or sufficiently transformed products <sup>a</sup>
Free-trade agreement with the European Free Trade Association (EFTA)	Wholly obtained or sufficiently transformed products <sup>a</sup>
Economic Cooperation Organization (ECO) (Iran, Turkey, Pakistan)	Minimum of 50% of the f.o.b. value <sup>b</sup>
Egypt; Israel; Morocco; Syria; Tunisia	Protocols on rules of origin based on the origin protocol as concluded by the EC with the country: wholly obtained or sufficiently transformed products are eligible for preferences <sup>a</sup>
Albania <sup>c d e</sup> ; Bosnia-Herzegovina <sup>d e</sup> ; Croatia <sup>d e</sup> ; Macedonia (FYR) <sup>d e</sup> ; Palestinian Authority <sup>d</sup>	Protocols on rules of origin based on the "Pan-Euro-Mediterranean Model" as concluded by the EC with the country: wholly obtained or sufficiently transformed products are eligible for preferences <sup>a</sup>

- a The criteria for sufficient transformation are largely product-specific, and include the use of certain inputs or value-added requirements.
- b The minimum local content in the exporting country is expressed as a percentage of the imported product's factory cost.
- c Bilateral trade agreement expected to enter into force during 2007.
- d Protocol on rules of origin is based on bilateral cumulation of origin.
- e Albania, Bosnia-Herzegovina, Croatia, and Macedonia (FYR) are not currently parties to the Pan-Euro-Mediterranean Cumulation System.

Source: WTO Secretariat, based on information provided by the Turkish authorities.

### (iii) Tariffs, other duties, and taxes

15. Goods imported into Turkey are subject to various charges: customs taxes and levies (customs tariffs, and the mass housing fund levy); and internal taxes (excise duties, i.e. special consumption tax, VAT, and the stamp duty). As a result of the CUD, Turkey applies the EC common external tariff (CET) to all industrial products and to the industrial component of processed agricultural products imported from third countries (since 1 January 1996). Turkey's tariff is based on the 2007 Harmonized Commodity Description and Coding System (HS), and comprises 18,253 lines (19,478 in 2003) at the HS twelve-digit level (Table AIII.1).<sup>17</sup> The tariff has 214 bands (372 in 2003), including *ad valorem* equivalents. Turkey does not have seasonal tariffs.

16. Law No. 474 on Customs Tariff Schedule enables the Government to increase applied MFN tariff rates (adopted by the Council of Ministers for a given year) when they are deemed not high enough to provide "adequate" protection to domestic industries.<sup>18</sup> The Law has set the so-called statutory tariff (different from the applied MFN tariff which is adopted annually by the Council of Ministers). Under the Law, the Government can replace applied MFN tariff rates by 150% of the corresponding rates of the statutory tariff, with a view to ensuring higher protection to local industries. In the case of products subject to tariff bindings, when the new rate (i.e. 150% of the statutory tariff rate) is higher than the corresponding bound tariff rate, then the latter applies.

<sup>16</sup> In addition to the EC, EFTA, and Turkey, the current members of the Pan-Euro-Mediterranean Cumulation System are: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, and Tunisia. Diagonal cumulation can be applied between partner countries, provided that a free-trade agreement, based on identical rules of origin, is applicable between the countries involved in the acquisition of the originating status and the country of destination.

<sup>17</sup> For a full description of Turkey's national tariff, see WTO (1998).

<sup>18</sup> Law No. 474 (Law on Customs Tariff Schedule) published in the *Official Gazette* of 25 May 1964, and amended by Law No. 4217, published in the *Official Gazette* of 8 December 1996.

(a) MFN applied tariff structure

17. Turkey's tariff comprises *ad valorem* rates – 97.9% of total lines (98.5% in 2003) – and non-*ad valorem* rates (specific, mixed, compound, and variable duties), which apply to 378 items at the HS twelve-digit level (up from 284 in 2003). Specific duties are levied on 30 lines, including some alcoholic beverages, salt, and cinematographic films. Mixed duties apply to 151 lines (58 in 2003), such as carpets, glass and glassware products, and watches. Compound duties are levied on 113 lines (112 in 2003), mainly processed agricultural products such as yoghurt and pasta. Variable duties apply to 84 lines (the same as in 2003), such as butter, sugar confectionary, chocolate, malt, and prepared potatoes (Table III.2 and Table AIII.2).

**Table III.2**  
MFN tariff distribution, by type of duty, 2007

Type of duty	Number of lines (12-digit HS)	Examples (HS chapters)
<i>Ad valorem</i>	17,875	All chapters
Specific	30	22, 25 and 37
Compound	113	04, 15, 17, 18, 19, 20, 21, 22, 35 and 38
Mixed	151	21, 33, 57, 70, 72 and 91
Variable	84	04, 17, 18, 19, 20, 21 and 33
<b>Total lines</b>	<b>18,253</b>	

Source: WTO Secretariat estimates, based on data provided by the Turkish authorities.

18. Turkey has reduced somewhat its simple average MFN applied tariff from 11.8% in 2003 to 11.6% in 2007 (taking into account *ad valorem* equivalents of non-*ad valorem* rates) (Tables III.3 and AIII.1)). The coefficient of variation of 2.3 (2.2 in 2003) reveals high dispersion of tariff rates, which range from zero to 225% (0-227.5% in 2003). Overall, the distribution is skewed towards rates between zero (excluded) and 10%; 57% of tariff lines are within this range. Duty-free items represent 23.6% of all tariff lines and include products under the Information Technology Agreement (ITA), pharmaceutical products, pulp of wood, some cement, and products of animal origin. Therefore, 80.6% of tariff lines are subject to duties of up to 10%, while 6.2% of tariff lines have rates above 50% (Chart III.1). The most tariff-protected items include meat products and edible meat offal (with a rate of 225%).

**Table III.3**  
Structure of MFN tariffs, 2003 and 2007  
(Per cent)

	2003	2007
1. Bound tariff lines (% of all tariff lines)	46.3	46.3
2. Duty free tariff lines (% of all tariff lines)	20.0	23.6
3. Non- <i>ad valorem</i> tariffs (% of all tariff lines)	1.5	2.1
4. Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	0.6	1.7
5. Simple average applied rate	11.8	11.6
Agricultural products (WTO definition) <sup>a</sup>	43.3	47.6
Non-agricultural products (WTO definition) <sup>b</sup>	5.4	5.0
Agriculture (Major Division 1 of ISIC Rev.2)	25.0	28.3
Mining and quarrying (Major Division 2 of ISIC Rev.2)	0.2	0.3
Manufacturing (Major Division 3 of ISIC Rev.2)	11.1	10.9
6. Domestic tariff "spikes" (% of all tariff lines) <sup>c</sup>	8.3	8.6
7. International tariff "spikes" (% of all tariff lines) <sup>d</sup>	15.5	13.4
8. Overall standard deviation of applied rates	25.8	26.4
9. "Nuisance" applied rates (% of all tariff lines) <sup>e</sup>	11.2	5.8

a WTO Agreement on Agriculture.

b Excludes petroleum.

c Domestic tariff spikes are defined as those exceeding three times the overall simple average applied rate (indicator 5).

d International tariff peaks are defined as those exceeding 15%.

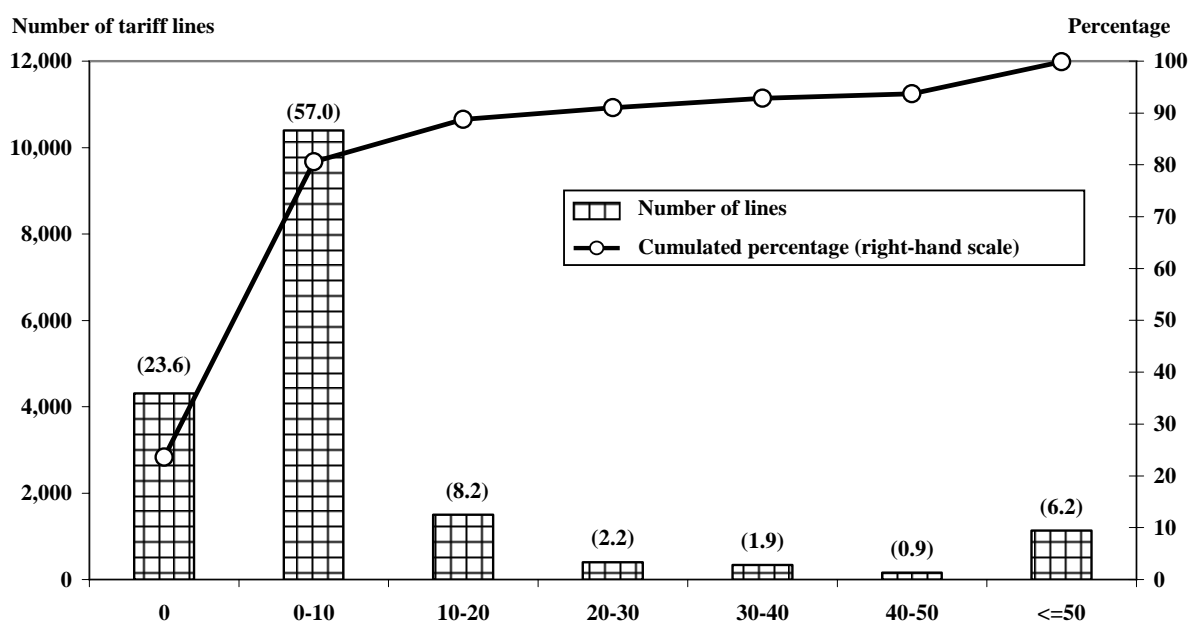
e Nuisance rates are those greater than zero, but less than or equal to 2%.

Source: WTO Secretariat calculations, based on data provided by the Turkish authorities.

19. The average applied MFN tariff is substantially higher in agriculture (28.3%, up from 25% in 2003) than in manufacturing (10.9%, down from 11.1% in 2003), and in mining and quarrying (0.3%, against 0.2% in 2003). Using the WTO definition<sup>19</sup>, average tariff protection is 47.6% on agricultural products (compared with 43.3% in 2003), and 5% on non-agricultural products (5.4% in 2003).

### Chart III.1

#### Breakdown of applied MFN tariff rates, 2007



Note: The figures in brackets correspond to the percentage of total lines. They do not add to 100% due to non-ad valorem duties.

Source: WTO Secretariat calculations, based on data provided by the Turkish authorities.

20. In aggregate, Turkey's tariff displays mixed escalation, negative from first-stage processed products, with an average tariff rate of 28.3% (up from 19% in 2003), to semi-finished goods, with an average rate of 0.3% (6.4% in 2003); and positive from semi-finished to fully processed products, on which tariffs average 10.9% (down from 13.6% in 2003). This structure is strongly influenced by the high tariffs on raw agricultural products, and to a lesser extent, by the tariff structure in certain industries. The simple average MFN tariff on first-stage processed goods is almost three times higher than on semi-processed products. However, tariff escalation is positive in industries such as textiles and apparel, with escalation most pronounced in food, beverages and tobacco products (Table III.4 and Chart III.2). It is positive from first-stage processed goods to semi-finished products, and negative from semi-finished to finished goods, in chemical and plastic industries. Tariff rationalization, through simplification of the structure and reduction of rates, would introduce more transparency in the tariff regime, reduce the need for concessions, and help improve competitiveness.

<sup>19</sup> WTO definition of agriculture: HS Chapters 01-24 less fish and fishery products (HS 0301-0307, 0509, 051191, 1504, 1603-1605 and 230120) plus some selected products (HS 290543, 290544, 290545, 3301, 3501-3505, 380910, 382311-382319, 382360, 382370, 382460, 4101-4103, 4301, 5001-5003, 5105-5103, 5201-5203, 5301 and 5302).

Table III.4  
Summary analysis of Turkish MFN tariff, 2007

Analysis	No. of lines <sup>a</sup>	Applied 2007 rates				CV	Imports 2005 <sup>b</sup> (US\$ million)
		No. of lines used	Simple avg. tariff (%)	Range tariff (%)	Std-dev (%)		
<b>Total</b>	18,253	18,235	11.6	0-225	26.4	2.3	116,774.2
<b>By WTO definition<sup>c</sup></b>							
Agriculture	2,865	2,847	47.6	0-225	51.9	1.1	4,755.9
Live animals and products thereof	418	418	114.3	0-225	71.1	0.6	14.5
Dairy products	178	178	109.4	8.3-170	55.6	0.5	60.1
Coffee and tea, cocoa, sugar, etc.	440	440	31.7	0-145	36.2	1.1	651.3
Cut flowers and plants	116	116	10.1	0-46.8	14.6	1.4	77.2
Fruit and vegetables	677	677	41.4	0-145.8	22.0	0.5	270.1
Grains	65	65	48.3	0-130	40.7	0.8	189.6
Oil seeds, fats, oils, and their products	250	250	19.5	0-50	12.6	0.6	1,557.7
Beverages and spirits	296	278	46.7	0-70	28.5	0.6	63.2
Tobacco	36	36	35.6	10-74.9	20.5	0.6	275.5
Other agricultural products	389	389	7.5	0-46.8	9.3	1.2	1,596.8
Non-agriculture (excl. petroleum)	15,307	15,307	5.0	0-81.9	6.8	1.4	93,547.0
Fish and fishery products	405	405	33.6	0-81.9	19.2	0.6	104.3
Mineral products, precious stones, and precious metals	919	919	2.4	0-20	2.8	1.2	9,694.6
Metals	1,952	1,952	3.7	0-23.4	4.7	1.2	14,919.4
Chemicals and photographic supplies	3,365	3,365	4.5	0-17.3	2.6	0.6	15,936.7
Leather, rubber, footwear, and travel goods	514	514	4.5	0-17	4.5	1.0	1,943.1
Wood, pulp, paper and furniture	858	858	0.7	0-10	1.8	2.5	3,354.9
Textiles and clothing	3,072	3,072	8.0	0-12	3.0	0.4	6,232.9
Transport equipment	442	442	5.1	0-22	4.8	0.9	11,832.3
Non-electric machinery	1,633	1,633	1.7	0-9.7	1.4	0.8	16,374.7
Electric machinery	936	936	2.8	0-14	3.0	1.1	9,313.1
Non agricultural articles n.e.s.	1,211	1,211	2.3	0-18.3	2.0	0.9	3,841.0
<b>By ISIC sector<sup>d</sup></b>							
Agriculture, hunting, forestry, and fishing	928	928	28.3	0-150	32.7	1.2	2,711.5
Mining	255	255	0.3	0-20	1.7	5.7	10,933.1
Manufacturing	17,069	17,051	10.9	0-225	25.9	2.4	96,896.4
<b>By stage of processing</b>							
Raw materials	1,856	1,856	19.0	0-150	27.5	1.4	17,257.3
Semi-processed products	6,527	6,527	6.4	0-135	11.1	1.7	34,833.7
Fully-processed products	9,870	9,852	13.7	0-225	32.2	2.4	58,468.2

a Total number of lines is listed. Tariff rates are based on a lower frequency (number of lines) since lines with no *ad valorem* equivalents are excluded.

b The total of imports is higher than the sum of sub-items as US\$6,215.0 million are not classified in the Harmonized System.

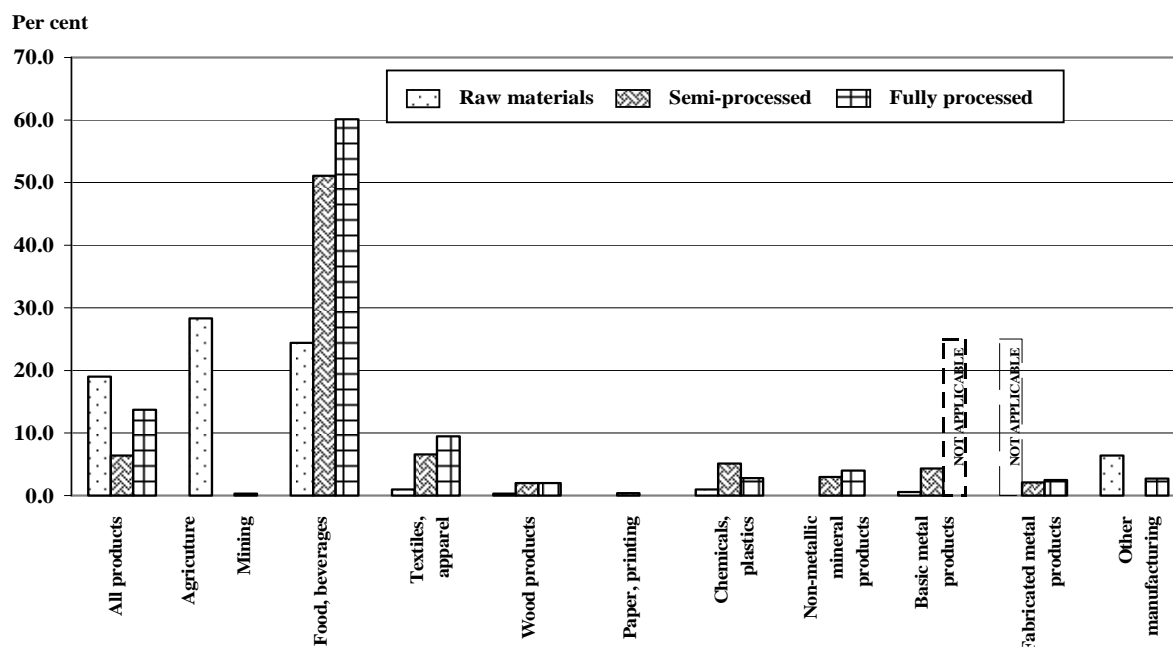
c 81 tariff lines on petroleum products are not taken into account.

d International Standard Industrial Classification (Rev.2). Electricity, gas, and water are excluded (1 tariff line).

Note: CV = coefficient of variation.

Source: WTO Secretariat estimates, based on data provided by the Turkish authorities. Imports 2005 from UNSD, Comtrade database.

**Chart III.2**  
**Tariff escalation by ISIC 2-digit industry, 2007**



Source : WTO Secretariat estimates, based on data provided by the Turkish authorities.

(b) MFN bound tariffs

21. As a result of the Uruguay Round, 46.3% of Turkey's tariff lines were bound (all tariff lines for agricultural products (WTO definition), 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>20</sup> For certain products, applied MFN rates are well below the bound rates, thus allowing Turkey margins to increase its import tariffs; the simple average bound rate has declined to 33.9%, compared with a simple average applied MFN rate of 11.6% in 2007. The imposition of non-*ad valorem* tariff rates does not ensure compliance by Turkey with its WTO binding commitments made at *ad valorem* rates. In accordance with its obligations under the CUD, Turkey largely aligned its tariff binding (mainly on non-agricultural products) on the EC's. Nonetheless, Turkey's tariff binding leaves room for improvement: the tariff regime would gain in transparency and predictability through extension of the scope of products covered by the binding commitments, and reduction of bound rates.

(c) Duty and tax concessions

22. Duty and tax concessions on imports are granted under the Investment Encouragement Programme (IEP) (section (4)(i)).<sup>21</sup> In addition, the inward-processing (IP) scheme still benefits exporters. Imports of certain products for disabled persons or certain public administrations, financial leasing, projects financed by donors, and some temporary imports are eligible for tariff concessions. All imports by the Ministry of National Defence in the context of the North Atlantic Treaty Organization (NATO) are exempt from payment of customs duties (Table III.5).<sup>22</sup>

<sup>20</sup> The reduction in bound tariffs was implemented in equal annual instalments between 1995 and 2004. GATT (1994), Schedule XXXVII.

<sup>21</sup> Decree No. 2006/10921 of 28 August 2006, amended by Decree No. 2007/12142 of 21 May 2007.

<sup>22</sup> For a description of the exemption programmes eliminated up to 1998 see WTO (1998).

**Table III.5**  
**Key features of concessional entry schemes, 2007**

Scheme	Eligibility	Incentives	Performance requirement
Investment encouragement programme	Feasible investment projects by some found by the Undersecretariat of Treasury to reduce regional imbalances within the country, create new employment opportunities, and increase competitiveness while using technologies with greater value added	Exemption from customs and fund levies for imported machinery and equipment on the Machinery and Equipment list approved by the Undersecretariat of the Treasury <sup>a</sup> VAT exemption for imported and locally purchased machinery and equipment on the list	None
Inward processing regime			
(a) Conditional exemption for imports (suspension system)	Any exporter	Intended for goods to be re-exported; suspension of duty and VAT on raw materials, auxiliary materials, semi-finished and finished products, packaging materials	None
(b) Use of equivalent goods	Any exporter	Suspension of customs duties and VAT on imported inputs after export of compensating products	None
(c) Repayment of duties collected on imports	Any exporter	After export of goods with imported inputs, refund of customs duty and VAT paid on imported inputs, based on a drawback method	None
NATO Defence	North Atlantic Treaty Organization Ministry of National Defence or by public institutions on behalf of the Ministry	0% on all imports 0% on all imports	None None
Donations	State administrations; certain items to be used mainly for the public interest approved by relevant Ministries. Vehicles produced especially for disabled persons	.. ..	None
Financial leasing	Vessels, air carriers, medical equipment, and high-tech products	Suspension of all customs duties and taxes up to the date the leasing contract is over; VAT reductions	None
Temporary imports	Any importer; certain commercial or personal items	Tariff suspension on temporary use in Turkey for three to 12 months without any substantial transformation	None
Project credit (donor)	Project evaluation criteria of Turk Eximbank	Terms and conditions of the project loan are in accordance with the provisions of the OECD Consensus	None
Encouragement of tourism	..	..	..
Private (special) laws regarding exemptions	..	..	..

.. Not available.

- a Goods imported at 20% duty: passenger vehicles, buses (excluding double-decker buses), tractors (excluding tractors conforming to Euro-1 or Euro-2 norms and having environment-friendly engines), trailers (except refrigerated trailers), televisions, videos, mini-refrigerators, furniture, import of yachts (including motorboats), trucks, (excluding off-road truck types and rock-type dump trucks that are not allowed on highways), mixers, and trans-mixers.  
Goods imported at 18% duty: expansion of or new investments that have a minimum capacity of 100,000 units per year of firms that will manufacture automobiles considered as new models for a period of ten years after the date of their first production worldwide.  
Goods imported at 10% duty: raw materials, intermediary goods, and operating materials to be imported for operational needs.  
Goods imported at 5% duty: construction material.

Source: WTO Secretariat, based on information provided by the Turkish authorities.

23. The IEP is aimed at, *inter alia*, reducing regional disparities and promoting small and medium sized enterprises (SMEs). In principle, all investment projects are eligible. Project applications are subject to assessment by the Undersecretariat of Treasury. If granted a certificate, the project can benefit from customs duty exemptions on all machinery and equipment to be used in the physical plant. Imports and local purchases of machinery and equipment within the scope of the approved

"Machinery and Equipment List" are also exempted from the VAT.<sup>23</sup> Furthermore, foreign exchange earning activities are exempt from stamp duties and charges.<sup>24</sup> There is no difference between foreign and domestic investors in terms of the investment encouragement programmes.

24. The IP scheme allows Turkish manufacturers/exporters to import materials free of duties (including surcharge) and other commercial policy measures.<sup>25</sup> Goods imported under the IP scheme are intended for re-export from the customs territory of Turkey in the form of "compensating products".<sup>26</sup> The system works through suspension of duties and VAT until the exportation of the products (the most frequently used system), or reimbursement based on a drawback method. The suspension system is used whenever there is "substantiated" intention to re-export the goods in the form of compensating products.<sup>27</sup> Under the drawback system, used mainly for inward processing, repayment of the import duty and VAT can be reclaimed when the compensating products are exported.

(d) Tariff preferences

25. As part of its obligations under the CUD, Turkey must align all its preferences to third countries, including the GSP, on the EC's (Table III.6).

**Table III.6**  
**MFN and preferential tariff averages<sup>a</sup>, 2007**

	All products	HS		WTO definition		ISIC		
		01-24	25-97	Agriculture	Non-agriculture	Agriculture	Mining	Manu-facturing
MFN	11.6	48.8	4.2	47.6	5.0	28.3	0.3	10.9
GSP	9.8	48.6	2.0	47.3	2.8	28.3	0.2	8.9
LDCs	8.3	48.0	0.3	46.8	1.2	28.3	0.0	7.4
EC	7.9	49.3 <sup>b</sup>	0.0	48.6 <sup>b</sup>	0.8	28.1	0.0	6.9
EFTA	7.2	44.9	0.0	48.6	0.0	24.7	0.0	6.3
Bosnia-Herzegovina	1.0	6.4	0.0	7.0	0.0	2.9	0.0	0.9
Croatia	8.1	48.0	0.0	46.8	0.9	28.3	0.0	7.1
Egypt	8.1	48.0	0.0	46.8	0.9	28.3	0.0	7.1
Israel	8.1	48.0	0.0	46.8	0.9	28.3	0.0	7.1
Macedonia (FYR)	7.9	46.9	0.0	45.6	0.9	28.3	0.0	6.9
Morocco	8.1	48.0	0.0	46.8	0.9	28.3	0.0	7.1
Palestinian Authority	8.1	48.0	0.0	46.8	0.9	28.3	0.0	7.1
Syria	8.1	48.0	0.0	46.8	0.9	28.3	0.0	7.1
Tunisia	8.1	48.0	0.0	46.8	0.9	28.3	0.0	7.1

a Simple average applied tariff rates, calculated across all tariff lines, for each arrangement (reciprocal and non-reciprocal) of Turkey.

b The simple average applied rate on imports from the EC is higher than the MFN average rate because of differences in the number of lines used in each case: due to lack of data for the calculation of certain *ad valorem* equivalents, 2,669 tariff lines were used for imports from the EC, and 2,847 lines for the MFN rate.

Source: WTO Secretariat calculations, based on data provided by the Turkish authorities.

26. The majority of Turkey's preferential agreements, which build on the design of the CUD, have eliminated tariffs on all products under HS Chapters 25-97. Tariff preferences on agricultural

<sup>23</sup> WTO document G/SCM/N/123/TUR, 12 January 2006. Once the exemption is listed on the "certificate", the investor may import the machinery and equipment indicated on the approved list, i.e. the "Machinery and Equipment List", only for the purposes of the investment in question.

<sup>24</sup> Articles 28 and 33 of Law No. 5035. The Ministry of Finance is in charge of implementing the exemption under the Communiqué on Stamp and Charges Exemption on Foreign Exchange Earning Activities. To benefit from this exemption, taxpayers must obtain a tax, fee (duty), and charge exemption certificate from the Undersecretariat of Foreign Trade, and transfer the certificate to the institution carrying out the transaction. The transaction must be made during the validity period of the certificate.

<sup>25</sup> Decree No. 2005/8391 published in the *Official Gazette* of 27 January 2005.

<sup>26</sup> Compensating products are all goods obtained from processing operations.

<sup>27</sup> In the suspension system, manufacturers can use substitutes of the imported goods for the manufacture of compensating products.

products, granted under Turkey's trade agreements, are generally subject to quotas (Tables III.7 and III.8). Turkey also introduced preferential tariff quotas on some non-agricultural products (i.e. acrylonitril and 14-inch television tubes). Preferential tariff quotas were eliminated on flat-rolled products of iron or non-alloy steel at the end of 2003, and on dimethyl terephthalate, monoethylen glycol, and terephthalic acid at the end of 2004 (section 2(iv) below).

**Table III.7**  
**Preferential trading agreements, 2007**

Agreement/Country	Coverage by Turkey	Preferential margin
Customs Union with the European Communities	All industrial products and industrial components of processed agricultural products	Duty free on industrial products and on the industrial component of processed agricultural products
Agreement between Turkey and the EC on trade in agricultural products	Some agricultural products	Preferential tariff quotas, most with zero rate
Free Trade Agreement between Turkey and the EC on ECSC products	ECSC products	Duty free on ECSC products
Free-trade agreement with the European Free Trade Association (EFTA) <sup>a</sup>	All industrial products Fish and fishery products Processed agricultural products	Duty free on industrial products and on the industrial components of processed agricultural products; duty free on fish and fishery products
Economic Cooperation Organization (ECO) (Iran, Pakistan, Turkey)	36 items at the HS four-digit level <sup>b</sup>	No preferential rates applied <sup>c</sup>
GSP	2,884 items at the HS twelve-digit level	2,174 duty-free items for developing countries and 2,884 for least developed countries
Israel	All industrial products Some agricultural and processed agricultural products (25 items at the HS four-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products
Macedonia (FYR)	All industrial products Some agricultural and processed agricultural products (43 items at the HS six-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products
Croatia	All industrial products Some agricultural and processed agricultural products (53 items at the HS six-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products
Bosnia-Herzegovina <sup>d</sup>	All industrial products Most agricultural and processed agricultural products, with a few exceptions (692 items at the HS six-digit level)	Duty free on industrial products, on basic agricultural products (except 8 items at the HS four-digit level) and on the industrial components of processed agricultural products
Morocco	Most industrial products Some agricultural and processed agricultural products (39 items at the HS six-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products
Palestinian Authority	All industrial products	Duty free on industrial products
Syria	All industrial products Some agricultural and processed agricultural products (36 items at the HS six-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products
Tunisia	Most industrial products Some agricultural and processed agricultural products (16 items at the HS six-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products
Egypt	All industrial products Some agricultural and processed agricultural products (106 items at the HS six-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products
Albania (signed, not yet in force)	All industrial products Some agricultural and processed agricultural products (197 items at the HS six-digit level)	Duty free on industrial products; preferential tariff quotas on agricultural and processed agricultural products

a A number of agricultural goods are covered under bilateral agreements between Turkey and individual EFTA countries.

b Including certain marble, pharmaceuticals, detergents, leather products, paper and paperboard, canvas, centrifugal pumps for liquids, compressors, henna, and bentonite.

c Preferential margin is 10% reduction in the statutory rates. As these rates are higher than MFN rates, preferential rates are not applied.

d Turkey did not grant Bosnia-Herzegovina concessions for live bovine animals, sheep, and goats, certain live poultry and meat, edible offal of bovine animals, sheep, goats, and meat and edible offal of certain poultry. Turkey applies the agricultural component for imports of processed agricultural products and the housing fund for imports of fishery products originating in Bosnia-Herzegovina.

Note: Relevant rules of origin are detailed in Table III.1.

Source: Information provided by the Turkish authorities.

Table III.8

Preferential tariff quotas on agricultural and processed agricultural products, 2007

Free-trade agreement partner	Number of items	Products affected
EC	108 items at the HS six-digit level	Live bovine animals and their meat, milk powder, butter, cheese, egg yolks, flower bulbs, live plants, fresh cut flowers, foliage, mushrooms, frozen beans, pears, strawberries, potato seed, apple, peach, tamarinds, passion fruit, tea, wheat, rye, barley, rice, maize, oats, malt, sunflower seeds, sugar beet seed, cotton seed, crude and refined soya bean oil, sugar, crude sunflower oil, crude rape, colza and mustard oil, tomato paste, prepared vegetables, jams and jellies, fruit juices, sparkling wine, vinegar, flours, meals and pellets of meat or meat offal of fish or of crustaceans, oilcake and other solid residues, dog or cat food and other animal feeds
Israel	25 items at the HS four-digit level	Avocado, mango, carrot, sweet corn, citrus fruit, orange juice, coffee, kosher-brandy, and vodka
Macedonia (FYR)	21 items at the HS four-digit level	Some fresh vegetables (tomato, onion, shallots, cucumber, etc.), bean, watermelon, apple, rice, canned vegetables, and sauces and preparations (mixed condiments and seasoning), soups and broths and preparations (wine of fresh grapes, undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% volume)
Croatia	17 items at the HS four-digit level	Cheese and curd, apples, maize, sugar confectionery, chocolate and other food preparation containing cocoa, malt extract, pasta, prepared foods obtained by swelling or roasting of cereals or cereal products, bread, pastry, cakes, biscuits and other bakers' wares, fruit and vegetable juices, sauces and preparations therefore, mixed condiments and mixed seasoning, soups and broths and preparations therefore, waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, beer made from malt, wine of fresh grapes, undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher, preparations of a kind used in animal feed
Bosnia-Herzegovina	193 items	All agricultural products classified under HS Code 1-24 with the exemption of: live bovine animals; live sheep and goats; live poultry (exclusively fowl of the species <i>Gallus domesticus</i> ); meat of bovine animals; meat of sheep or goats; edible offal of bovine animals, swine, sheep, goats, horses asses, mules or hinnies; meat and edible offal of poultry (exclusively fowl of the species <i>Gallus domesticus</i> )
Morocco	39 items	Live plants, orchids, cabbages, turnips, asparagus, mushrooms, sweet peppers, sweet corn, capers, cucumbers, preserved cucumber, broad beans, avocados, coriander seeds, ginger, saffron, turmeric, thyme, bay leaves, curry, locust beans, preserved apricots, coffee extracts, wine, and bran
Syria	36 items	Cut flowers, onions and shallots, garlic, capers, grapes, cherries, peaches, seeds of anise, seeds of cumin, ginseng roots, parts of plants spices, crude soya bean oil, crude sunflower seed oil, sugar confectionery, chocolates, preserved fruit, preserved pepper, jams and marmalades, apple juices, wine, and olive pulp
Tunisia	16 items	Dates, sardines, mackerel, shrimps and prawns, molluscs, harissa, and wine
Egypt	197 items	Fish and crustaceans, molluscs, aquatic invertebrates, live plants, cut flowers, potatoes, garlic, lettuce, carrots, turnips, frozen vegetables, provisionally preserved vegetables, dried vegetables, dates, guavas, mangoes, strawberries, spices, rice, groundnuts, sugar confectionery, chocolate pasta, bakers' wares, preserved cucumbers, preserved fruit, fruit juices, and active yeasts
Albania (signed, not yet in force)	106 items	Cheese and curd, eggs, honey, live plants, tomatoes, onions, cabbages, carrots, cucumber, beans, frozen vegetables, dried vegetables, peas, spices, melons, frozen fruits, plants and parts of plants, preserved fish, chocolates, bakers' wares, preserved cucumbers, preserved tomatoes, jams and jellies, preserved fruit, fruit juices, tomato paste, ice cream, mineral water, wine, vermouth, and ethyl alcohol

Source: Information provided by the Turkish authorities.

(e) Other duties and taxes

27. In addition to customs tariffs, certain products are also subject to: the Mass Housing Fund (MHF) levy, excise duties also known as the special consumption tax (SCT), the VAT, and the stamp duty.

*Customs taxes and levies*

28. The mass housing fund levy applies to imports of fish and fishery products (283 tariff lines at the HS 12-digit level, i.e. 1.6% of total lines, down from 555 lines in 2003).<sup>28</sup> It is the difference between the required tariff protection and the statutory tariff rate.

29. For all products subject to binding commitments (except duty-free goods), Turkey bound other duties and charges at: 15% of customs duty (the municipality share); and 3% (road, rail or air transport) or 4% (maritime transport) of the sum of the c.i.f. value, customs duty, and other charges (the transportation infrastructure fee).<sup>29</sup>

*Internal taxes*

30. The SCT, put into effect on 1 August 2002, is a single-stage tax levied equally on domestic production and imported goods. The SCT applies to: (i) petroleum products (specific duties); (ii) motor vehicles (*ad valorem*); (iii) alcoholic beverages and tobacco products (*ad valorem* and/or specific); and (iv) luxury goods (*ad valorem* (Table AIII.3)). In most cases, the SCT is charged at the factory gate or first delivery, but in some cases, such as motor vehicles, it is charged at the level of the dealer, and in others, such as tobacco, on the consumer retail price, but from the manufacturer. Since its previous TPR, Turkey has made some changes to its SCT legislation, including replacing the specific excise duty on tobacco products with *ad valorem* rates.<sup>30</sup>

31. The VAT is levied at 1%, or 8% on agricultural and basic goods, and at 18% on some non-agricultural products and luxury items (including cosmetics, furs, televisions, and automobiles). The VAT applies on the duty-inclusive customs value of imports, and on the delivery value of locally produced goods.

32. A stamp duty of YTL 28 is collected by the Ministry of Finance on all tax-related declarations by real and legal persons.

(iv) Import prohibitions, quotas, and licensing

33. The importation of ten items (the same products as in 2003), by broad category, is prohibited by law, for reasons such as environment, public security, health, public morals or the fulfilment of international obligations (Table III.9).

<sup>28</sup> The MHF was introduced in 1984 to finance the Government's low-cost housing schemes for poor and middle-income families. Customs duties collected on the agricultural component of processed goods are also transferred to the MHF.

<sup>29</sup> Turkey's GATT (1994), *Schedule XXXVII*. Turkey does not currently impose these other duties and charges. The "transportation infrastructure fee" and the "municipality share" were abolished as from 1 January 1993 with the promulgation of Law No. 3284, published in the *Official Gazette* of 11 July 1992.

<sup>30</sup> According to the EC, the new structure on tobacco products is not in line with the *acquis* (European Commission, 2006).

34. Since 1996, the Ministry of Agriculture and Rural Affairs (MARA) has not issued "control certificates" for imports from countries considered to be risks for diseases. According to the authorities, the decision was made "on sanitary grounds (to protect the domestic livestock industry from epidemic diseases such as Bovine Spongiform Encephalopathy (BSE) and foot and mouth disease (FMD))", and was based on the World Organization for Animal Health (OIE) risk classification for live animals (dairy and beef cattle, sheep, goats, and poultry) and meat (beef, sheep, goat, and poultry).

**Table III.9**  
**Import prohibitions, 2007**

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)	Copenhagen Amendment to Montreal Protocol on Substances That Deplete the Ozone Layer, Import Regime No. 2007/14
Colouring matter (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 No. 2007/15 Add II (List)
Schedules chemical weapons in 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
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
	Public morals (Article XX:a)	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)	Health (Article XX:b)	Regulation on Agricultural Quarantine
Spawn of silk-worm	..	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.

35. On 1 January 2007, preferential tariff quotas were opened for acrylonitril (for 12 months), and for 14-inch television tubes (but were eliminated on 30 June 2007). In addition, preferential tariff quotas were eliminated on flat-rolled products of iron or non-alloy steel at the end of 2003, and on dimethyl terephthalate, monoethylen glycol, and terephthalic acid at the end of 2004. Quota allocations

are made on a "past performance" or "production capacity" basis. Some 90% of the tariff quotas on television tubes and 100% on acrylonitril were used.

36. 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 EC.<sup>31</sup> If the exporting country agrees to a bilateral understanding, the quota is balanced in response to needs. Turkey applies quotas to textile and clothing products from Belarus (with which an agreement has been reached) under the double checking system, and to goods from the Democratic People's Republic of Korea, Montenegro, and Uzbekistan (with which agreements have not been reached) under the single checking system. It also applies surveillance measures to imports from Uzbekistan and Turkmenistan under the single checking system. Moreover, Turkey has quotas for 44 categories of textiles and apparel products from China, such as shirts, jerseys, T-shirts, and gloves (section (v)(b)).<sup>32</sup> Turkey applies preferential quotas on certain agricultural and non-agricultural products (section (iii)(e) above).

37. Import licences are required for several categories of products, including some motor vehicles, transmission apparatus, chemicals, fertilizers, endangered species of wild fauna and flora, solvent and petroleum products, and certain sugar substitutes (Table III.10). Importers of these items must obtain permission from the relevant authorities. According to the authorities, in addition to security, safety, and environment reasons, the restrictions are intended to protect consumers, assure that imported vehicles are suitable for domestic highways, and, for certain items (81 HS lines at the four-digit level) to prevent imported goods from being used for other than their intended purposes in civil aircraft. Concerns have been expressed about the lack of transparency in Turkey's import licensing system for some agricultural products and distilled spirits.<sup>33</sup> Additional restrictions under Turkey's SPS regulations are discussed below (section (vi)(d)).

**Table III.10**  
**Imports requiring a licence, 2007**

Description of items	Reason for licence
<b>Radioactivity-related items</b> (11 items) Uranium ores, isotopes, nuclear reactors, X-rays	Imports only permitted on approval by the Turkish Atomic Energy Authority: to assure patient security against the probable harmful effects of radioactivity
<b>Telecommunications, machinery, and related items</b> (74 items) Electrical apparatus for line telegraphy, telephone answering machines, radar, transmission, reception apparatus, air-conditioning machines, household type electrical refrigerators, clothes dryers, instantaneous gas water heaters, sewing machines of household types, machine-tools for drilling etc., vacuum cleaners, some photocopying machines, certain motor vehicles	Imports only permitted with a certificate issued by the Ministry of Industry and Trade to the effect that after-sale services such as maintenance and repair are warranted on a regional basis and that maintenance service technicians and spare-part stocks are sufficient: to assure that imports are in conformity with the national telecommunication network and to protect consumers
<b>Motor vehicles</b> (7 items) Road tractors for semi-trailers, station wagons, racing cars, trailers, special-purpose motor vehicles other than those designed for the transport of persons or goods	Imports only permitted with a pro forma invoice certified by the Ministry of Industry and Trade: to assure the suitability of imported vehicles for highways
<b>Fertilizers</b> (5 items) Animal or vegetable fertilizers, and mineral or chemical fertilizers	Imports only permitted on approval by the Ministry of Agriculture and Rural Affairs (MARA): to avoid damage to health of humans, animals or to the lifecycle of plants

Table III.10 (cont'd)

<sup>31</sup> WTO document WT/REG22/7 of 24 November 1997.

<sup>32</sup> Communiqué No. 2006/6, published in *Official Gazette* No. 26386, 24 December 2006. According to the authorities, these quotas are applied under paragraph 242 of the Report of the Working Party on the Accession of China to the WTO, which sets a safeguard mechanism for imports of textiles and apparel products originating in China. WTO document WT/ACC/CHN/49, 1 October 2001.

<sup>33</sup> USTR (2006).

Description of items	Reason for licence
<b>Banknotes and related items</b> (1 item) Banknotes and the like, securities	Imports only permitted on approval by the Central Bank of Turkey or the Board of Capital Markets: to assure the continuation of administrative order related to precious documents, e.g. shares, bonds
<b>Explosives and related items</b> (14 items) Technical ammonium nitrate, prepared explosives, some fuses, fireworks, some astronomical instruments	Imports only permitted on approval by the General Directorate of Security in the Ministry of Interior: to assure national security and public safety
<b>Chemicals and related items</b> (5 items) Hexane, white spirit, xylene, toluene, solvent naphtha, petroleum oils, benzene	Imports only permitted on approval by the Energy Market Regulatory Authority (EMRA); imports of toluene require approval of the Ministry of Health: to protect consumers
<b>Products affecting worker health</b> (12 items) Asbestos, benzene	Imports only permitted on approval by the Institute of Workers' Health and Security in the Ministry of Works and Social Security: to protect workers' health
<b>Civil aircraft related items</b> (81 items) A wide range of items of a kind used on civil aircraft	Imports only permitted on approval by the General Directorate of Civil Aviation in the Ministry of Transportation: to prevent the use of imported goods in areas other than civil aviation
<b>Maps related items</b> (2 items) Maps and hydrographic or similar charts of all kinds, and digital maps and map information recorded on magnetic or optical media	Imports only permitted on approval by the General Command of Cartography in the Ministry of Defence, and the General Command of Naval Forces: national security
<b>Items related to the manufacture of chemical weapons</b> (22 items) A wide range of chemical products used in the production of weapons	Imports only permitted on approval by the Undersecretariat of Foreign Trade: to comply with the Convention on the Prohibition of Chemical Weapons
<b>Some sugar substitutes</b> (11 items) Aspartam, saccharin	Imports permitted with eligibility certificate issued by the Turkish Sugar Authority without any restriction. Control of these products at the importation stage is conducted by MARA. These products are not subject to import licence.
<b>Endangered species of wild fauna and flora</b>	Imports only permitted on approval by the Ministry of Agriculture and Rural Affairs or the Ministry of Environment and Forestry: to comply with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
<b>Energy</b>	Imports only permitted on approval by EMRA: to ensure effective operations in market activities and to comply with relevant EC Directives.
<b>Electricity and natural gas</b>	Imports only permitted on approval by EMRA: to prevent the unorthodox use of these items out of purpose and to ensure quality of fuels
<b>Solvent and some petroleum products</b>	(Communiqué No. 2007/12 of EMRA)
<b>Liquefied petroleum gases</b>	Imports only permitted on approval by EMRA: to prevent the unorthodox use of those items out of purpose and to ensure fuel quality

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; and WTO document G/LIC/N/3/TUR/6, 23 October 2006.

38. The importation of old, used, renovated, faulty and obsolete goods is subject to permission by the Undersecretariat of Foreign Trade (UFT). Measuring and weighing instruments to be released for free circulation in Turkey are subject to control by the Directorate General of Measures and Standards (Ministry of Industry and Trade); carrying materials comprising cinematographic and musical works are inspected and examined by the Directorate of Copyright and Cinema with the aim of combating piracy.

#### (v) Contingency trade remedies

##### (a) Anti-dumping and countervailing measures

39. No major changes have been made to the legislative framework for anti-dumping and countervailing measures since Turkey's last review. The framework comprises<sup>34</sup>: (i) Law

<sup>34</sup> WTO documents G/ADP/N/1/TUR/3 and G/SCM/N/1/TUR/3 of 17 April 2000; G/ADP/N/1/TUR/3/Suppl.1 and G/SCM/N/1/TUR/3/Suppl.1 of 7 May 2002; G/ADP/N/1/TUR/3/Suppl.2 and G/SCM/N/1/TUR/3/Suppl.2 of 10 June 2005; G/ADP/N/1/TUR/3/Suppl.3 and G/SCM/N/1/TUR/3/Suppl.3 of 13 September 2006; and G/ADP/N/1/TUR/3/Suppl.3/Corr.1 and G/SCM/N/1/TUR/3/Suppl.3/Corr.1 of 12 October 2006. For the main changes introduced in 1999, see WTO (2003).

No. 4412/1999 on the Prevention of Unfair Competition in Imports; (ii) Decree No. 13482/1999 on the Prevention of Unfair Competition in Imports, amended by Decree No. 9840/2005<sup>35</sup>; and (iii) the Regulation on the Prevention of Unfair Competition in Imports, as amended in 2002 and 2006.<sup>36</sup> The provisions of the WTO Agreement on Subsidies and Countervailing Duties and the Agreement on the Implementation of Article VI of GATT 1994 would be observed in case of any inconsistency between domestic legislation and the WTO Agreements (Chapter II(1)).

40. Imports causing material injury to an industry, constituting a threat of material injury to an industry, or causing material retardation of an industry to be established in Turkey may be filed for investigation under Article 3 of the Law. A dumped product is a product with an export price lower than the "normal" value for the like product.<sup>37</sup> The export price is the price actually paid or payable for the product when sold for export, while the normal value is defined as a comparable price paid or payable in the ordinary course of trade for the like product when destined for consumption in the country of origin or export.<sup>38</sup>

41. The Directorate General of Imports of the UFT is in charge of preliminary examination upon complaint or *ex officio*<sup>39</sup>, where necessary; recommending investigation by the Directorate General to the Board of Evaluation of Unfair Competition in Importation; and carrying out such investigations. It acts as the secretariat of the Board, headed by the Director General or Deputy-Director General of Imports, which consists of representatives of the Ministry of Agriculture and Rural Affairs, Ministry of Industry and Trade (MIT), the Undersecretariat of the State Planning Organization, Undersecretariat of Customs, the Union of Chambers and Commodity Exchanges of Turkey, the Union of Chambers of Agriculture, and the relevant head of department in the Directorate General of Imports. The Board decides on initiating an investigation. It submits its decision on the provisional measures to the State Minister in charge of foreign trade affairs for approval; evaluates the results of an investigation and submits a decision for definitive measures to the State Minister in charge of foreign trade affairs for approval; and makes proposals in the course of an investigation.

42. Examinations must be completed within 45 days (60 days in the previous legislation), and decisions to initiate an investigation must be published in the *Official Gazette*.<sup>40</sup> A complaint on behalf of the domestic industry must be supported by domestic producers whose collective output constitutes more than 50% of the total production of the like good. The interested parties are notified following initiation of the proceedings. They are sent questionnaires and have a maximum of 37 days to respond<sup>41</sup>; the time-limit may be extended upon request, provided that due cause is shown. The final decision is to be taken within one year from the initiation of the investigation, but, if necessary, this may be extended by up to six months (Article 30 of the Regulation). Provisional measures are to be imposed no earlier than 60 days from the initiation of an investigation, and their duration is limited to four months. However, under Article 12 of the Law, they may be extended for a maximum of six

<sup>35</sup> Decree No. 9840/2005 establishes new rules preventing circumvention of anti-dumping duties.

<sup>36</sup> The amendments to the Regulation relate to rules on imports from non-market economies (published in the *Official Gazette*, 2 May 2002), and rules and procedures to be followed during anti-circumvention investigations, interim and expiry reviews, and refund and other investigations (*Official Gazette*, on 26 January 2006).

<sup>37</sup> Article 4 of the Regulation.

<sup>38</sup> Articles 9 and 5, respectively, of the Regulation.

<sup>39</sup> In the case of fragmented industries involving an exceptionally large number of producers, the Turkish authorities may decide to initiate an investigation *ex officio* provided there is sufficient evidence of dumping, injury, and a causal link. According to the authorities, so far Turkey has not initiated an investigation *ex officio*.

<sup>40</sup> Article 20 of the Regulation.

<sup>41</sup> Including seven days for the postal procedures.

months upon request by exporters with a significant share of the exports of the product to Turkey. Definitive measures remain in force for five years from the conclusion of the most recent review investigation that has covered both dumping and injury examination or from the date of their imposition.

43. Turkey has 93 definitive anti-dumping duties in force (27 at the end of 2002), most are against China (34), followed by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (8); India (7); and Thailand (6). The measures have been applied to mostly textiles and clothing, base metal products, plastics and rubber articles, and other manufactures such as lighters and pencils. The majority are specific duties; some *ad valorem* duties are as high as 100%, e.g. on motorcycle tubes (Table III.11).

**Table III.11**  
**Definitive anti-dumping measures in force, July 2007**

Country/ customs territory and product	Communiqué	Imposition of final measure	Duty
<b>Belarus</b>	2004/23	20 November 2004	15%
Polyester synthetic staple fibres			
<b>Belgium</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$25–45/tonne
<b>Brazil</b>			
Fittings	2006/23	7 September 2006	US\$400/tonne
<b>Bulgaria</b>			
Fittings	2006/24	7 September 2006	US\$400/tonne
<b>China, P. R.</b>			
Fittings	2006/23	7 September 2006	US\$800/tonne
Woven fabrics of synthetic and artificial staple fibres	2007/10	19 June 2007	87%
Wall clocks (battery, accumulator or main powered)	2001/5	7 November 2001	US\$2.10/piece
Woven fabrics of synthetic filament yarn	2002/2	13 February 2002	70.44%
Refillable pocket flint lighters	2004/25	20 November 2004	US\$0.05/piece
Non-refillable pocket lighters	2002/4	8 May 2002	US\$0.05/piece
Refillable pocket lighters, gas fuelled with electrical ignition system	2002/4	8 May 2002	US\$0.05/piece
Parts of lighter	2002/4	8 May 2002	US\$0.03/piece
Acrylic mink blankets	2002/14	8 December 2002	US\$4/kg
Hook and loop	2002/15	13 December 2002	US\$3.86/kg
Pencils with leads of graphite etc.	2003/1	14 January 2003	US\$3.16/144 pieces
Bicycle tyres	2003/6	30 April 2003	33%
Bicycle tubes	2003/6	30 April 2003	50%
Motorcycle tyres	2003/7	30 April 2003	37%
Motorcycle tubes	2003/7	30 April 2003	100%
Chain (Stud-link, and other welded link)	2003/23	20 December 2002	US\$331–403/tonne
Cylindrical door locks (excluding electromechanicals)	2003/16	31 July 2003	US\$1.6/piece
Other door locks (excluding electromechanicals)	2003/16	31 July 2003	US\$1.77/piece
Only cylinder and case for door locks	2003/16	31 July 2003	US\$0.74/piece
Tempered glass lid/cover	2003/22	20 December 2003	US\$0.91/kg
Hinges of base metal	2004/3	7 February 2004	US\$1.39/kg
Hat-racks, hat-pegs, brackets and similar fixtures of base metal	2004/3	7 February 2004	US\$1.39/kg
Base metal mountings, fittings and similar articles suitable for furniture	2004/3	7 February 2004	US\$0.508/kg
Ball point pens	2004/4	2 March 2004	US\$0.066/piece
Propelling or sliding pencils	2004/4	2 March 2004	US\$0.04/piece
Baby carriages	2004/15	1 August 2004	US\$8/piece
Parts baby carriages (chassis only)	2004/15	1 August 2004	US\$5/piece
Metallized yarn	2004/19	24 September 2004	US\$2.2/kg
Ropes and cables (including locked coil ropes)	2004/24	1 December 2004	US\$1/kg
Textile fabrics, impregnated with polyurethane-leather	2005/2	5 February 2005	US\$1/kg
Textile fabrics, impregnated with polyurethane-others	2005/2	5 February 2005	US\$1/kg
Textile fabrics, impregnated, coated, covered, or laminated with polyurethane – leather substitute	2005/2	5 February 2005	US\$2.2/kg
Textile fabrics, impregnated, coated, covered, or laminated with polyurethane – others	2005/2	5 February 2005	US\$2.2/kg

**Table III.11 (cont'd)**

Country/ customs territory and product	Communiqué	Imposition of final measure	Duty
Tools for drilling	2005/3	4 February 2005	US\$6/kg
Tools for milling	2005/3	4 February 2005	US\$10/kg
Slide fasteners	2005/7	12 March 2004	US\$3/kg
Colour TV receivers with integral picture tube	2005/16	28 July 2005	50% (c.i.f.)
New pneumatic tyres, of rubber	2005/18	20 August 2005	60%-87% (c.i.f.)
Skid chain or motor vehicles of iron or steel	2005/19	20 August 2005	US\$1,500/tonne
Universal Ac/Dc motors of an output exceeding 37.5 w	2006/9	4 May 2006	US\$1/piece
Pentaerythritol	2005/14	1 July 2005	US\$270/tonne
Polyethylene terephthalate in primary forms	2006/1	27 January 2006	6.5%
Woven pile fabrics and chenille fabrics	2006/2	27 January 2006	US\$1.5/kg
Pre finished engineered laminated flooring	2006/17	8 July 2006	35%
Wall type split air conditioners	2006/20	28 July 2006	25%
Granite	2006/25	14 September 2006	US\$90/tonne
V-belts	2007/4	31 March 2007	US\$5.04/kg
Plywood consisting solely of sheets of wood (up to 6 mm thickness)	2006/28	20 October 2006	US\$240/m <sup>3</sup>
<b>Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu</b>			
Polyester textured yarn	2006/31	21 December 2006	9.9% - 28.6%
Woven fabrics of synthetic filament yarn	2002/2	13 February 2002	13.91% - 30.84%
Hook and loop	2002/15	13 December 2000	US\$1.83/kg
Polyester synthetic staple	2003/14	29 July 2003	6.4% - 20.1%
Bicycle tyres	2004/22	30 April 2003	30%
Bicycle tubes	2004/22	30 April 2003	44%
Motorcycle tyres	2004/21	30 April 2003	6%
Motorcycle tubes	2004/21	30 April 2003	21%
Metallized yarn	2004/19	24 September 2004	US\$2.2/kg.
Polyethylene terephthalate in primary forms	2006/1	27 January 2006	6.5%
<b>Finland</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$45/tonne
<b>Germany</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$25/tonne– US\$45/tonne
<b>Greece</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$45/tonne
<b>Hungary</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$45/tonne
<b>India</b>			
Polyester textured yarn	2006/31	21 December 2000	6.8% - 20.3%
Bicycle tyres	2003/6	30 April 2003	20%
Bicycle tubes	2003/6	30 April 2003	64%
Polyethylene terephthalate in primary forms	2006/1	27 January 2006	6.5%
Fittings	2006/24	7 September 2006	US\$305–400/tonne
Polyester synthetic staple	2003/14	29 July 2003	16.5% - 23.9%
Metallized yarn	2004/19	24 September 2004	US\$2.2/kg
V-belts	2007/4	31 March 2007	US\$3.5/kg
<b>Indonesia</b>			
Polyester synthetic staple fibres	2006/26	8 September 2006	6.2% - 12%
Polyethylene terephthalate in primary forms	2006/1	27 January 2006	6.5%
Pre finished engineered laminated flooring	2006/17	8 July 2006	25%
Fittings	2006/24	7 September 2006	US\$253–400/tonne
<b>Israel</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$25–45/tonne
<b>Italy</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$25–45/tonne
<b>Korea, Rep. of</b>			
Polyester textured yarn	2006/31	21 December 2006	33.7%
Polyester synthetic staple fibres	2006/26	8 September 2006	10%
Polyester flat yarns	2006/12	18 May 2006	5.7% - 10.9%
Woven fabrics of synthetic filament yarn	2002/2	13 February 2002	3.51% - 40%
Polyethylene terephthalate in primary forms	2006/1	27 January 2006	6.5%
Metallized yarn	2004/19	24 September 2004	US\$2.2/kg
<b>Malaysia</b>			
Woven fabrics of synthetic filament yarn	2002/2	13 February 2002	3.23% - 15.93%
Vulcanised rubber thread and cord	2004/1	29 January 2004	11.6% - 16.9%

Table III.11 (cont'd)

Country/ customs territory and product	Communiqué	Imposition of final measure	Duty
Polyethylene terephthalate in primary forms	2006/1	27 January 2006	6.5%
<b>Netherlands</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$45/tonne
<b>Romania</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$25–45/tonne
<b>Russian Federation</b>			
Steel billets, rolled or obtained by continuous casting	2001/3	17 October 2001	US\$7/tonne
Cooper wire rod	2005/24	9 November 2005	3% (CIF)
Ropes and cables (including locked coil ropes)	2004/24	1 December 2004	US\$0.5/kg
<b>Serbia Montenegro</b>			
Fittings	2006/24	7 September 2006	US\$400/tonne
<b>Sri Lanka</b>			
Bicycle tyres		27 September 2004	50%
Bicycle tubes		27 September 2004	44%
<b>Thailand</b>			
Woven fabrics of synthetic filament yarn	2002/2	13 February 2002	8.67% - 30.93%
Bicycle tyres and tubes	2003/6	30 April 2003	100%
Motorcycle tyres	2003/7	30 April 2003	68%
Motorcycle tubes	2003/7	30 April 2003	100%
Polyester synthetic staple fibres	2003/14	29 July 2003	15.8% - 22.0%
Polyethylene terephthalate in primary forms	2006/1	27 January 2006	6.5%
Fittings	2006/24	7 September 2006	US\$147–400/tonne
<b>Ukraine</b>			
Steel billets, rolled or obtained by continuous casting	2001/3	17 October 2001	US\$4/tonne
Pentaerythritol	2003/19	4 September 2003	US\$693/tonne
Wire of refined copper	2006/14	8 June 2006	6.9%
<b>United States</b>			
Polyvinyl chloride	2003/2	6 February 2003	US\$45/tonne
<b>Vietnam</b>			
Bicycle tyres	2004/22	27 September 2004	30%
Bicycle tubes	2004/22	27 September 2004	44%
Motorcycle tyres	2004/21	27 September 2004	29%
Motorcycle tubes	2004/21	27 September 2004	49%
V-belts	2007/4	31 March 2007	US\$4.55/kg

Source: Information provided by the Turkish authorities.

44. Turkey has never initiated or imposed a countervailing measure.

(b) Safeguard measures

45. Turkey has promulgated new legislation on safeguard measures since its last Review. Decree No. 735/2004 (published in the *Official Gazette* No. 25476, 29 May 2004); and the Regulation on Safeguard Measures for Imports (*Official Gazette* No. 25486, 8 June 2004)<sup>42</sup> aim to ensure conformity both with the relevant WTO Agreement and CUD obligations.

46. The UFT continues to have the authority to propose, apply, and monitor safeguard measures. The Board for the Evaluation of Safeguard Measures for Imports was established to decide, *inter alia*, whether to initiate an investigation, and to adopt, review, extend, change or abolish any provisional or definitive safeguard measure, as well as to determine the form, extent, and duration of such measures.<sup>43</sup>

47. Provisional safeguard measures may be applied, taking national interests into account, in critical circumstances where delay would cause damage that would be difficult to repair and where a preliminary determination provides clear evidence that increased imports have caused or are threatening to cause serious injury to the domestic producers of like or directly competitive

<sup>42</sup> WTO document G/SG/N/1/TUR/3 of 16 July 2004.

<sup>43</sup> Article 4 of Decree No. 735/2004.

products.<sup>44</sup> At the end of the investigation, if the Board decides that safeguard measures are necessary, the amount collected as a security shall be forfeited to the Treasury.<sup>45</sup>

48. Following an investigation, safeguard measures may be applied, subject to a national interest clause, where a product is imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic producers of like or directly competitive products. Application is for a period of time sufficient to prevent or remedy serious injury and to facilitate adjustment of domestic producers to the conditions of the internal market. The duration must not exceed four years, including any provisional measure, unless it is extended.<sup>46</sup> If the duration exceeds one year, the measure is to be liberalized progressively, at regular intervals, during the application period. If the duration exceeds three years, the situation must be reviewed not later than at the mid-term of the measure, to ascertain whether is still necessary or to increase the pace of liberalization.<sup>47</sup>

49. Turkey has increasingly made use of safeguards over the last few years, imposing definitive measures, against all countries, on products such as motorcycles, salt, steam irons, vacuum cleaners, footwear, and voltmeters and other measuring transformers (Table III.12).

**Table III.12**  
**Definitive safeguard measures in force, 2007**

Country of origin	Product	Date of imposition of definitive measure
All countries	Activated earths and clays	8 July 2005
	Certain voltmeters, ammeters	12 August 2005
	Vacuum cleaners	10 August 2006
	Steam smoothing irons	10 August 2006
	Salt	10 August 2006
	Footwear	10 August 2006
	Motorcycles	2 March 2007
China, P. R.	Float glass	7 April 2006

*Source:* Information provided by the Turkish authorities.

## (vi) Standards and other technical requirements

### (a) Overview

50. Since its previous Review, Turkey has continued to transpose the various elements of the EC technical requirements into its domestic legal system, mainly by implementing the legislative framework enacted in 2002<sup>48</sup>: Law on the Preparation and Implementation of Technical Legislation on Products<sup>49</sup>; the Regulation on the Notification of the Technical Legislation and Standards between

<sup>44</sup> Provisional and/or definitive safeguard measures can take the form of customs duties, additional financial charges, restrictions on quantity/value of imports, tariff quota or a combination of these forms.

<sup>45</sup> Where the amount of the safeguard measure is less than the amount of the provisional measure, the difference is refunded. However, where the amount of the safeguard measure is higher than the provisional measure, the difference is not collected. If the Board decides that no safeguard measures are necessary, the provisional measure is repealed and the amount collected as a security is refunded.

<sup>46</sup> The duration of the measure may be extended following a new investigation but must not be more restrictive than it was at the end of the initial period, and is to continue to be liberalized. The total period of application of a safeguard measure must not exceed ten years.

<sup>47</sup> A safeguard measure for 180 days or less may be applied again to a product if at least one year has elapsed since the introduction of a safeguard measure on that product, and such a measure has not been applied on the same product more than twice in the preceding five-year period.

<sup>48</sup> For a description of the main provisions of the 2002 legislation see WTO (2003).

<sup>49</sup> The Framework Law No. 4703, published in *Official Gazette* No. 24459, 11 July 2001.

Turkey and the EC<sup>50</sup>; the Regulation on the Affixing and Use of the EC Conformity Marking on the Products; the Regulation on Conformity Assessment Bodies and Notified Bodies; and Regulation Relating to the Market Surveillance and Inspection of Products.<sup>51</sup> Under the CUD, Turkey has transposed into its legal system 232 EC directives regarding technical regulations.

51. There have been no major changes in Turkey's institutional framework relating to standards and other technical regulations since its last TPR. According to the authorities, technical regulations are for health, safety, environment, and consumer protection purposes. The UFT is the national enquiry point for technical regulations and is responsible for receiving, and notifying the WTO of, draft technical regulations.<sup>52</sup> Turkey has accepted the Code of Good Practice for the preparation, adoption and application of standards. The national enquiry point for standards is the Turkish Standards Institution (TSE); and for SPS measures, the General Directorate of the Protection and Control of the Ministry of Agriculture and Rural Affairs (MARA). The UFT grants TSE competence to carry out conformity assessment of imports.<sup>53</sup> The Directorate General of Standardization of the UFT has launched a website to facilitate access to TBT notifications, and to obtain opinions from the different stakeholders.<sup>54</sup>

(b) Standardization, testing, and certification

52. The Regime for Technical Regulations and Standardization for Foreign Trade consists of a Decree (No. 96/7794), a Regulation, and Communiqués. It was first put into force in 1995 and continues to regulate standardization activities; it was last amended by Decree No. 9454/2005. The regime is transitional and is revised annually in light of progress in the transposition of EC legislation into its legal system. The regime aims to increase the competitiveness and safety of exports to ensure the same treatment to imported and domestic products, and protect human health, safety, animal and plant life, and the environment.

53. The Turkish Standards Institution (TSE) has been developing and implementing standards for products manufactured in or imported into Turkey since 1960. It is an independent institution (not funded by the State), responsible for the preparation and publication of standards for all types of materials and products. In addition, it deals with industrial metrology and calibration, and laboratory services for conformity assessment and certification. The TSE is a full member of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC); it is also an affiliate member of the European Committee for Standardization (CEN), and the European Committee for Electrotechnical Standardization (CENELEC).<sup>55</sup> According to the authorities, about 98% of CEN and 93.5% of CENELEC standards have been adopted (end August 2007). Recognition of testing procedures has been assured by mutual agreements concluded between Turkey and EC member States. In 1999, TSE became a signatory to various mutual recognition arrangements (MRAs) under the Low Voltage Directive (LVD), i.e. the CENELEC Certification Agreement (CCA), the Agreement on the use of commonly agreed marking for cables and cords complying with harmonized specifications (known as HAR), and the common mark of CEN and CENELEC

<sup>50</sup> *Official Gazette* No. 24715 of 3 April 2002.

<sup>51</sup> The last three Regulations were published in *Official Gazette* No. 24643, 17 January 2002, and entered into force on 11 January 2002.

<sup>52</sup> In accordance with the Regulation on the Implementation of the Notifications Foreseen in the TBT Agreement, which entered into force on 15 April 1997.

<sup>53</sup> The scope of inspection services and the exact mode of operation by TSE are set out annually in legislation issued by UFT: currently UFT Communiqué No. 2007/1.

<sup>54</sup> Viewed at: <http://www.teknikengel.gov.tr>

<sup>55</sup> According to the authorities, TSE has brought its practices and organization in line with EC norms, and is ready to apply for full membership of CEN and CENELEC in 2008.

(Keymark). In 1998, TSE also joined the IEC System for Conformity Testing and Certification of Electrical Equipment (known as the IEC-EE CB Scheme), to ensure mutual recognition of results of tests performed in conformity with IEC standards on safety of electrical appliances.

54. Technical regulations are prepared by Ministries and/or relevant public authorities and published in the *Official Gazette*; standards are prepared by TSE. All Turkish standards developed by TSE are voluntary; they become mandatory (technical regulations) through legal instruments introduced by relevant Turkish government bodies. Import controls, on grounds of technical regulations, focus mainly on documentation requirements. However, with the ongoing harmonization of the Turkish legislation on the EC's technical regulations, a market surveillance system is to be adopted. So far, imports (of products covered by the CUD) from EC countries with a CE mark have free access to Turkey, and are not subject to TSE inspection.

55. TSE carries out certification services related to TS-EN-ISO 9001:2000; TS-EN-ISO 14001; TS 13001 (HACCP)<sup>56</sup>; and TS 18001 (OHSAS).<sup>57</sup> Imports by producers with such certificates are exempted from inspection as long as they import for their own needs. Imported inputs, for manufactured products certified by TSE, are also exempted from inspection. About 52,162 TSE products/services certificates had been issued as of August 2007. TSE is also involved in quality and system certification, and trains and certifies personnel in quality, environment, health, and safety.

56. Turkey has 27,512 standards (up from 23,790 in 2003), of which 770 are obligatory (1,264 in 2003) (Table III.13).<sup>58</sup> Compulsory standards, of which 9% are equivalent to international standards, according to the authorities, relate mainly to construction materials, and apply to 164 imported products (controlled at the border).

57. Compulsory standards apply equally to imports (regardless of the origin) and locally produced goods. Testing and certification procedures are performed by: the TSE on imported industrial products; the Ministry of Environment on environment-related products; and the Ministry of Health for medical products, cosmetics, and detergents. Controls of, *inter alia*, imported animals, plants, foodstuffs, seeds, and veterinary products, are conducted by the MARA through evaluation, based on risk analysis methods. In addition, commercial quality controls of certain agricultural products, such as fresh fruit and vegetables, dried fruits, edible oils, and leguminous vegetables are performed at the import and export stages by 45 inspection units under eight regional directorates of the UFT, known as Group of Inspectors of Standardization for Foreign Trade. UFT also has five commercial analysis and standardization laboratories that perform analyses necessary for export controls. Currently, 200 agricultural products (at the HS 12-digit level) are subject to compulsory export quality control. According to the authorities, the standards on these controls are in conformity with UN-ECE standards, and the control procedures comply with the OECD scheme.

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<sup>56</sup> Hazard Analysis and Critical Control Points is a systematic preventive approach to, *inter alia*, identify potential hazards.

<sup>57</sup> The Occupational Health and Safety Management System is an international occupational health and safety system specification. Certificates under the scope of TS-EN-ISO 9000 and TS-EN-ISO 14001 standards have been granted to 3,091 and 303 companies, respectively.

<sup>58</sup> Since a standard may affect products classified under more than one ISIC code, the number of total standards that appear in Table III.13 is different from that in the text.

**Table III.13**  
**Turkish standards and their equivalence with international standards, 2007**

Area (ISIC classification)	Total Turkish standards	Compulsory standards	Turkish standards equivalent to international standards	Equivalence <sup>a</sup> (per cent)
Generalities, terminology, standardization	1,160	5	687	59.22
Sociology, services, company organization, management, administration	1,075	7	110	10.23
Mathematics, natural science	220	0	117	53.18
Health care technology	1,106	18	444	40.14
Environment and health protection, safety	2,014	6	1,006	49.95
Metrology, measurement, physical phenomena	721	4	410	56.86
Testing	247	0	136	55.06
Mechanical systems and components for general use	680	116	338	49.70
Fluid systems and components for general use	1,328	84	694	52.25
Manufacturing engineering	1,111	18	675	60.75
Energy and heat transfer engineering	356	12	209	58.70
Electrical engineering	1,636	51	740	45.23
Electronics	846	0	354	41.84
Telecommunication	1,403	17	712	50.74
Information technology, office equipment	451	0	226	50.11
Image technology	189	0	148	78.30
Precision mechanics, jewellery	34	0	29	85.29
Road vehicle engineering	701	15	218	31.09
Railway engineering	183	2	45	24.59
Shipbuilding and marine structures	289	0	169	58.47
Aircraft and space vehicle engineering	1,441	0	519	36.01
Materials handling equipment	432	0	278	64.35
Packaging and distribution of goods	354	7	181	51.12
Textile and leather technology	973	43	442	45.42
Clothing industry	169	3	47	27.81
Agriculture	1,519	7	259	17.05
Food technology	1,793	105	546	30.45
Chemical technology	1,332	13	578	43.39
Mining and minerals	402	1	227	56.46
Petroleum and related technologies	930	24	283	30.43
Metallurgy	1,196	34	733	61.28
Wood technology	403	13	214	53.10
Glass and ceramics industries	359	13	171	47.63
Rubber and plastics industries	936	17	484	51.70
Paper technology	230	4	138	60.00
Paint and colour industries	369	18	169	45.79
Construction material and building	1,984	73	956	48.18
Civil engineering	459	24	145	31.59
Military engineering	131	0	1	0.07
Housekeeping, entertainment, sports	906	16	457	50.44
<b>TOTAL</b>	<b>32,068</b>	<b>770</b>	<b>14,295</b>	<b>44.04</b>

a Percentage of total Turkish standards equivalent to international standards.

Source: Information provided by the Turkish authorities.

58. Under Law No. 1705, the General Directorate of Measures and Standards of the MIT is also responsible for quality control systems concerning legal metrology, establishment of calibration systems of test laboratories, and operating private laboratories in accordance with the law.<sup>59</sup> The MIT,

<sup>59</sup> Measurement and Calibration Law No. 3516 of 1989.

through its network of provincial offices, is carrying out surveillance activities; the Ministry of Health has started implementing its market surveillance strategy in the area of toys and medical devices; while the Telecommunications Authority has continued its own market surveillance activities.<sup>60</sup> Under Laws Nos. 5015 and 5307, the Energy Market Regulatory Authority has commenced market surveillance activities in the petroleum and LPG markets to ensure quality of fuel and LPG.

59. The Turkish Accreditation Authority (TURKAK), established on 4 November 2000 through Law No. 4457, started operations in June 2001. It is responsible for accrediting domestic and foreign bodies and making sure that they carry out laboratory, certification, and inspection services, in accordance with national and international standards. Turkey has almost 5,000 public and private laboratories, and 120 certification bodies, and TURKAK has accredited 132 laboratories and 44 certification bodies. TURKAK is a full member of both the European Cooperation for Accreditation (ECA), and of the International Laboratory Accreditation Cooperation (ILAC).<sup>61</sup>

60. Over the last few years, Turkey has also concluded various cooperation agreements, for example with China, EFTA members, Israel, the Russian Federation, and Ukraine, on standardization, metrology, and conformity assessment.

(c) Marking, labelling, and packaging

61. There has been no major change in Turkey's marking, labelling and packaging legislation since its previous Review. While almost all voluntary standards cover marking, labelling, and packaging, there are three major compulsory standards on these issues: TS 4331 on marking, labelling and packaging of materials and products that are supplied packaged into the market; TS 1418 on labelling of textile products; and TS 6429 on marking by colours or alphanumeric system for electrotechnical purposes. Clearly legible and visible labels must be affixed on retail goods, their packaging or their containers, displaying price, place of production, and distinctive characteristics. Where it is not possible to affix such labels on a particular good, clearly visible and accessible lists containing this information must be prepared and displayed.<sup>62</sup>

62. All imported products must be labelled with their country of origin, distinctive characteristics, and price.<sup>63</sup> With the exception of a few products, operating, user, and maintenance instruction manuals must be in Turkish and accompany each industrial product.<sup>64</sup> Moreover, shoes offered for sale must display information about their main parts. For safety reasons, where goods and services offered to consumers may constitute a threat to the consumer's physical or mental health or the environment, it is obligatory to include information and warnings concerning this threat in a clearly

<sup>60</sup> European Commission (2006).

<sup>61</sup> In May 2006, the Testing Accreditation Agency signed the ILAC Multilateral Recognition Agreement (MRA).

<sup>62</sup> Article 12 of Law No. 4077 on Consumer Protection, as amended by Law No. 4822 of 2003.

<sup>63</sup> Article 5 of Implementing Regulation on Labels, Tariffs and Price Lists, and Article 12 of the Consumer Protection Law.

<sup>64</sup> Article 5 of Implementing Regulation on the Application Principles of Introductory User Guides; based on Article 14 of Law No. 4077 of User Guides. Exempted products include: certain kinds of metal; PVC; polyethylene; plastic pipes; connecting parts; bolts; handcuffs; screws; nuts; nails; pins; and similar connecting elements; paper; erasers; pencils; and similar stationary materials; shovels; pickaxes; rakes; barrows; and similar agricultural products; towels; belts; trousers suspenders; buttons; zip fasteners and similar clothing parts; some construction materials; some households appliances; handicrafts; jewellery and similar products; and the following products sold in a package with a usage description: mineral oils; anti-freeze; hydraulic oil; matches; fertilizers; and some chemical products; paints; cements; lime; and similar products; food and drinks; cleaning products; and coal and similar products.

legible and visible manner on the good or in the attached users' guides.<sup>65</sup> The same marking, labelling, and packaging requirements apply to domestic and imported products and, according to the authorities, are based on international regulations. Marking, labelling, and packaging of a product can be carried out at customs.<sup>66</sup>

63. The marking, packaging, and labelling of pharmaceuticals are regulated by the Decree on Labelling and Packing referring to Law No. 1262. Marking, packaging, and labelling of cosmetics are regulated by the Decree referring to the Law No. 3977.

(d) Sanitary and phytosanitary regulations

64. The importation and production of pharmaceuticals, drugs, some medical products, cosmetics, detergents, foodstuffs and contact materials (e.g. packaging), 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, Plant Protection and 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), Fishery Law No. 1380 as amended by Law No. 3288 of 1986, and Law on Production, Consumption and Inspection of Foods (Law No. 5179 of 2004). No distinction is made between domestically produced and imported goods.

65. Imports of agricultural products and foodstuffs require a "control certificate" issued by the MARA<sup>67</sup>; imports of pharmaceutical products, drugs, certain consumable medical products, cosmetics, and detergents require a control certificate issued by the Ministry of Health.<sup>68</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 report. All documents must be obtained from and/or approved by the relevant authorities in the producer country.<sup>69</sup> Documents must be in the original language and a translation into Turkish is required. Control certificates must be presented to customs authorities upon import. The period of validity of control certificates ranges from four to twelve months, depending on the product.

66. Since its last Review, Turkey has continued harmonizing its sanitary and phytosanitary regulations with the EC, Codex Alimentarius Commission, OIE, and other international norms. This has been done on the basis of Law No. 5179 of 2004 on Production, Consumption and Inspection of Foods (*Official Gazette*, 5 June 2004) and the Turkish Food Codex Regulation (FCR) (*Official Gazette*, 16 November 1997). Turkey has transposed some of the *acquis* by adopting legislation on, *inter alia*, packaging materials and food for particular nutritional uses.

67. 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,

<sup>65</sup> Article 18 of Law No. 4077 on Consumer Protection, as amended by Law No. 4822.

<sup>66</sup> Article 102 of the Customs Law and Article 292 of the Customs Regulation.

<sup>67</sup> Annex VI of the Communiqué on the Standardization in Foreign Trade sets two lists: List A for products subject to control certificates; and List B for the other products.

<sup>68</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>69</sup> In the case of food and food contact materials, only health certificates must be obtained and/or approved by the relevant authorities in the producer country.

fodder, and other products that may affect animal health.<sup>70</sup> Moreover, bilateral agreements on a product by product basis have been signed with Belgium, France, Germany, Italy, the Netherlands, New Zealand, the United Kingdom, and the United States in relation to the use of sanitary and phytosanitary certificates.

68. Turkey faced its first avian influenza (AI) outbreak in October 2005, but further outbreaks have followed. Vaccinations campaigns against new strains of foot-and-mouth disease (FMD) have been implemented, and continued for other diseases, such as brucellosis, sheep and goat plague, anthrax, sheep and goat pox, bluetongue, and Newcastle disease and rabies. According to the authorities, to prevent the expansion of epidemic diseases, including Bovine Spongiform Encephalopathy (BSE), Turkey maintains a temporary import ban on live animals (dairy and beef cattle, sheep, goats, and poultry) and meat (beef, sheep, goat, and poultry) based on sanitary considerations (Article 7 of the Law on Animal Health). Since 2002, a new BSE surveillance system has been in place in Turkey.<sup>71</sup>

69. Since the establishment of the WTO, three main concerns have been raised against Turkey in the WTO SPS Committee concerning Turkey.<sup>72</sup> The first was on Turkey's import ban on livestock, related to FMD, raised by the United States and then by Hungary.<sup>73</sup> The second was raised by Hungary on Turkey's ban on pet food imports from all European countries related to transmissible spongiform encephalopathy (TSEs) as a result of the BSE epidemic.<sup>74</sup> The third case was raised by Ecuador about Turkey's control certificates for banana imports.<sup>75</sup>

70. Under the Law on Agricultural Quarantine, live animals (cattle, sheep, goats, cats, and dogs) entering Turkey must be quarantined for 21 days at the place of destination or quarantine centre. Veterinary tests already undertaken in foreign countries may be carried out again in Turkey.

#### **(vii) Government procurement**

71. No major changes have been made to the government procurement regime in Turkey since its previous TPR. The regime comprises: (i) Public Procurement Law (PPL) No. 4734 of 2002, as amended; (ii) Public Procurement Contracts Law No. 4735 of 2002, as amended; (iii) Regulation on Implementation of Services Procurements; (iv) Regulation on Implementation of Goods Procurements; (v) Regulation on Implementation of Works Procurements; (vi) Regulation on Implementation of Consultancy Services Procurements; and (vii) Regulation on Administrative Applications against Procurements.<sup>76</sup> Some concerns have been expressed over the lengthy and often

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<sup>70</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, Russian Federation, Slovakia, and Ukraine.

<sup>71</sup> This consists of inspection and monitoring of samples taken randomly from cattle that died or were slaughtered after showing neurological symptoms, and cattle slaughtered at 30 months and above.

<sup>72</sup> WTO document G/SPS/GEN/204/Rev.6 of 19 May 2006.

<sup>73</sup> This complaint was supported by Australia, the EC, New Zealand, and Uruguay. The United States has reported that its concerns were resolved (WTO document G/SPS/GEN/265 of 10 July 2001), while those of Hungary are still outstanding.

<sup>74</sup> Hungary requested consultations under the DSU on 5 May 2002. In June 2004, Turkey reported that the ban on imports of pet foods from Hungary had been lifted and the issue had been resolved (WTO document G/SPS/GEN/204/Rev.6/Add.3, 19 May 2006).

<sup>75</sup> Formal consultations were requested by Ecuador on 10 September 2001. This case was settled bilaterally (WTO document WT/DS237/4 of 29 November 2002).

<sup>76</sup> WTO (2003) describes the main changes introduced to Turkey's government procurement framework in 2002.

complicated tender procedures.<sup>77</sup> The Parliament is considering three government procurement draft laws that aim to, *inter alia*, simplify and accelerate the entire procurement process (e.g. by shortening the time limits for both review of complaints, and publication of notices); and regulate procurement procedures of entities operating in water, energy, transport, telecommunications, and postal services.<sup>78</sup> These draft laws also aim to bring Turkey's domestic framework closer to the EC's *acquis*.

72. The PPL (Article 53) established the Public Procurement Authority (PPA) as an administratively and financially autonomous body with a link to the Ministry of Finance. The PPA's main responsibilities are to ensure the effective implementation of the PPL and the proper application of the rules and procedures during tender proceedings. The PPA is composed of the presidency, the Public Procurement Board (PPB), and service units. The PPB is the PPA's main decision-making body. It also examines complaints and may take corrective action and determine the remedies, cancel the tender decision, and terminate the tender proceedings, or decide that the complaint is irrelevant.<sup>79</sup> Final decisions by the PPA/PPB are to be taken within 45 days after a complaint is made. During the last few years, the PPA has made efforts to train procurement officers across the country, and has a web site to disseminate information.<sup>80</sup> Turkey is also planning to introduce modern procurement techniques, such as e-procurement.

73. The PPL covers most public entities and institutions governed by public law or under public control or using public funds (Articles 1 and 2); there is a separate section regulating the procurement of consultancy services (Articles 48-52). The exceptions to the PPL are: procurement of goods and services by certain public institutions (e.g. public banks<sup>81</sup>; operators in the telecom, transport, energy, and water subsectors); procurement related to defence, security, and intelligence needs; procurement to be carried out through foreign financing pursuant to international agreements; purchases of goods and services for research and development projects; procurement related to agriculture and livestock; purchases from the State Supply Office (DMO); and procurement by public entities abroad, such as embassies and consulates. The thresholds above which foreigners are entitled to participate in tenders opened in Turkey (Article 8) are: YTL 529,111 for of goods and services for entities operating under the general or the annexed budget; YTL 882,352 for goods and services for other entities within the scope of the PPL; and YTL 19.4 million for construction for administrations covered by the PPL.<sup>82</sup>

74. Under Article 63 of the PPL, a 15% price preference is granted to domestic tenderers, if the PPA, the MIT, and other relevant departments conclude that the supplies are of domestic origin.<sup>83</sup> However, this provision is not applicable to domestic bidders in joint-ventures with foreign tenderers.

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<sup>77</sup> USTR (2006).

<sup>78</sup> These are: a draft law amending the PPL, a draft Law on Public Procurement for Utilities, and a draft Law on Assignment of Certain Investment and Services (including concessions).

<sup>79</sup> The ten members of the PPB are appointed for five years (they cannot be re-elected) by the Council of Ministers.

<sup>80</sup> PPA online information is available at: <http://www.kik.gov.tr>.

<sup>81</sup> Procurement by public banks, for example, is subject to the Banking Act No. 4603. Nevertheless, construction tenders by banks are within the scope of the PPL.

<sup>82</sup> The thresholds and monetary limits specified in the PPL are updated annually by the Public Procurement Authority (PPA) on the basis of the Index of Wholesale Prices of the previous year. They are published in the *Official Gazette*, and are effective as of 1 February of each year. In cases of emergency, the thresholds may be further updated upon the proposal of the PPA subject to approval by the Council of Ministers (Article 67).

<sup>83</sup> In order to receive the price preference, domestic tenderers must apply for a certificate of origin; this is issued by the chamber of commerce in the area where the goods were produced, on presentation of certain documents (e.g. industrial certificate of registration issued by MIT, food certificate of registration from MARA).

75. Three tendering procedures are specified in the PPL: (i) open tenders (Article 19), where all tenderers may submit tenders, and notices are published not less than 40 days prior to the launch of the tendering process; (ii) restricted tenders (Article 20), where, following an open invitation to pre-qualify, tenderers are invited by the contracting entity to submit tenders<sup>84</sup>; and (iii) negotiated tenders (Article 21), which applied under certain conditions, for example if at the end of open or restricted procedures, no tender is submitted, and when it is impossible to define the technical and financial aspects.<sup>85</sup> Open and restricted tenders are the main procedures. Direct procurement may be used under certain circumstances, for example, if the needs can be supplied by only one real or legal person, or when the procurement does not exceed YTL 28,800 for contracting entities within metropolitan municipalities, or YTL 9,624 for other contracting entities.<sup>86</sup>

76. The contracting officer is required to notify the results of the bid evaluation to all those who have submitted tenders. In the event that the winning bidder does not take the contract, it is given to the second most advantageous bid. Furthermore, the Public Procurement Contracts Law sets out the principles and procedures concerning the issuance and implementation of the contracts awarded according to the PPL, and deals with contract issues such as required content, limitations to carrying-over, and regulations on their cancellation.

77. With the exception of certain products that it produces itself, the DMO procures goods (under the PPL framework) from the domestic and foreign markets if necessary, and resells them to public institutions at a price applicable across the country. The DMO was a central procuring entity and reseller to other public institutions even before the enactment of Law No. 4734; its procurement procedures are covered by the PPL. All public institutions covered by the PPL must purchase goods directly from the DMO if these goods are on a list announced by the DMO at the beginning of each year.<sup>87</sup> The goods include paper and cardboard products, stationery and office materials, office machines and tools, furnishings, lighting and heating apparatus, cleaning equipment, vehicles and their apparatus, and other office stocks. The DMO procures goods and services for the buyers specified under Article 6 of the Main Status of the State Supply Office.<sup>88</sup>

78. Since June 1996, Turkey has participated as an observer in the WTO Committee on Government Procurement.<sup>89</sup>

#### **(viii) Local-content requirements**

79. The authorities indicate that Turkey maintains no local-content requirements for incentive purposes. However, under the public procurement regime, supplies of Turkish origin are eligible for a price preference of up to 15% (section (vii)).

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<sup>84</sup> Pre-qualification notices are published not less than 14 days in advance of the deadline for the pre-qualification application, and a letter of invitation to tender is sent to all pre-qualified candidates at least 40 days before submission.

<sup>85</sup> In these cases, the procurement process is conducted in two stages: initial proposals cover aspects such as technical details and methods for fulfilling the requirements of the contract; and then final offers are presented, including the tender price.

<sup>86</sup> There is no requirement to publish a tender notice in the case of direct procurement.

<sup>87</sup> Article 3(e) of PPL No. 4734. The notice on purchases from the DMO was first published by the Ministry of Finance in the *Official Gazette*, 25 February 2003.

<sup>88</sup> Published in the *Official Gazette* No. 26512, 4 May 2007.

<sup>89</sup> WTO document GPA/M/2 of 23 July 1996.

**(ix) Countertrade**

80. Turkey continues to use two main types of countertrade practices: barter/counter-purchase, and offset.<sup>90</sup> Barter/counter-purchase is conducted through an official procedure<sup>91</sup>, whereas offset is managed by either the UFT or the Undersecretariat of Defence Industry (UDI).<sup>92</sup> All companies are allowed to conduct barter and counter-purchase in accordance with established procedures. Applications are made to the Exporters' Union.

81. In 2005, barter/counter-purchase trade amounted to US\$6.2 million (US\$9.7 million in 2002), covering jewellery, ceramics, iron and steel, and sugar cane. Two offset projects in civil aviation, initiated in 1998 and 2000, are to be terminated in 2008 and 2010, respectively.

**(x) Other measures**

82. Turkey has used restrictions for balance-of-payments reasons under Article XVIII:B of GATT several times since 1967. Turkey last disinvoked this Article on 1 January 1997.

83. Turkey has no agreements with foreign governments or enterprises designed to influence the quantity or value of goods and services exported to Turkey. Furthermore, the authorities are aware of no such agreements between companies operating in Turkey and foreign enterprises.

84. Turkey applies no trade sanctions, either nationally or internationally, other than those endorsed by the United Nations Security Council or other regional organizations of which it is a member.

85. Compulsory reserve stocks are set for oil products (Chapter IV(3(iii)(b)).

**(3) MEASURES DIRECTLY AFFECTING EXPORTS****(i) Registration and documentation**

86. Similar registration and documentation requirements apply to exporters and importers (section (2)(i) above). In addition, exporters are required to register with the Exporters Union and their local chamber of commerce. A fee of between 0.05% and 0.5% of the f.o.b. value of exports is charged as a service commission.

87. Registration requirements are still in force for: exports of goods eligible for premium deduction under the Support and Price Stabilization Fund (SPSF); goods paid for by the SPSF; exports within the framework of special accounts for repayment of instalments established on credits through barter; exports under the Natural Gas Agreement between Turkey and the Russian Federation; exports of goods under restrictions applicable to countries that are implementing quantitative restrictions on Turkish exports; exports to countries under the UN economic sanctions resolutions; goods certified under the "Fundamentals and Implementation of Organic Farming" regulation<sup>93</sup>;

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<sup>90</sup> Barter/counter-purchase is used mainly with countries with an underdeveloped banking system or facing foreign exchange difficulties. Offset compensates import expenditures with export revenues, and helps to bring in new technology and high-tech investment.

<sup>91</sup> Barter/counter-purchase practices are regulated by the Export Regime Decree, and Communiqué No. 4/2006 on Exportation Made through Counter-Purchase or Barter (published in the *Official Gazette* on 6 June 2006).

<sup>92</sup> Offset practices are regulated by Communiqué No. 6/2007, replacing Communiqué No. 27/1998.

<sup>93</sup> *Official Gazette* No. 25841, 10 June 2005.

exports of unprocessed olive oil and processed bulk or barrelled olive oil, liquorice root, raw meerschaum and sample pipe; exports of goods covered by the Vienna Agreement regarding the protection of the ozone layer, as well as the related protocols and amendments; and exports of unprocessed olive in bags, sacks or boxes, livestock, bulk conic pepper, raw olive (unfermented), scrap of copper and zinc, marble, gherkin, and cement. Registration is on a case-by-case basis at the time of each export transaction.<sup>94</sup>

88. For goods covered by the CUD and destined for EC member countries, the Undersecretariat of Customs may authorize exporters to issue movement certificates (known as A.TR), without submitting them for endorsement by the relevant authorities. Such authorization may be granted to exporters: that make frequently consignments, who have not been involved in any serious or repeated offence against customs or tax legislation, and with records that can be checked by the customs authorities. This kind of authorization is not yet possible for exports to Israel, Macedonia (FYR), Croatia, Bosnia-Herzegovina, Morocco, Palestinian Authority, Syria, Tunisia, and Egypt due to lack of detailed legislation; this is under preparation.

**(ii) Export taxes**

89. Turkey applies export taxes at a rate of US\$0.5 per kg on raw skins (HS 41.01, 41.02, and 41.03; excluding processed raw skins); and US\$0.04 per kg for unshelled hazelnuts, and US\$0.08 per kg for shelled hazelnuts.<sup>95</sup> The taxes finance the SPSF.

**(iii) Export prohibitions, controls, and licensing**

90. Turkey prohibits exports of 14 items (by broad category) for environment, health or cultural reasons, or to give effect to obligations under international conventions (Table III.14). Dual-use and "sensitive" goods are subject to export licensing by the UFT under the Export Control of Dual-Use and Sensitive Goods Communiqué.<sup>96</sup> In addition, exports of chemicals, listed in annexes II and III of the Convention on the Control of Chemical Weapons, are subject to export licensing.

91. Each firm producing oil products is subject to an export quota of 35% of production. An export licence is required for 25 categories of products (Table III.15). Exporters of these items must obtain permission from the relevant authorities.

92. The Decree on the Regime of Technical Regulations and Standardization for Foreign Trade empowers the Government to make goods for export subject to quality control; to set the type of quality control applicable to such commodities; and to prohibit exports of these commodities unless accompanied by a Control Certificate issued by the UFT. The UFT is responsible for enforcing quality control of these commodities. Some 200 agricultural products (at the HS 12-digit level) are subject to compulsory export controls for quality purposes. The coverage, broadly unchanged since Turkey's previous TPR in 2003, includes citrus fruit, apples, groundnuts, a variety of edible oils, dried apricots, dried figs, and some hazelnuts.

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<sup>94</sup> These products are designated under Communiqué No. 2006/7, published in the *Official Gazette* No. 26190 of 6 June 2006.

<sup>95</sup> Decree of the Council of Ministers published in *Official Gazette* No. 89/10306 of 23 July 1997.

<sup>96</sup> Communiqué No. 2003/12 of 2 December 2003.

**Table III.14**  
**Export prohibitions, 2007**

Description of item	Invocation of WTO Article	Domestic/International law
Angora goats (1 item) <sup>a</sup>	Environment (Article XX:g)	Law on the Amelioration of Animals (No. 904 of 7 June 1926)
All game and wild animals (except wild pig, wolf, jackal, fox, marten, badger, snake, turtle, and lizard) alive or meat and/or pieces and garments thereof (Ch. 1 and 2) <sup>a</sup>	Environment (Article XX:g)	Decision of the Council of Ministers (No. 234 of 8 March 1990)
Natural flower bulbs (1 item)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Tobacco seedlings and tobacco plants (2 items) <sup>a</sup>	Environment (Article XX:g)	Law on Tobacco and Tobacco Monopoly (No. 1177 of 9 May 1969)
Dates "Phoenix the ophrasti center" (1 item)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Indian hemp (1 item) <sup>a</sup>	Health (Article XX:b)	Law on the Controls of Narcotics (No. 2313 of 24 June 1933)
Pterocarya carpinifolia (1 item)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Liquidamber orientalis (1 item)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Plants of olive, fig, hazelnut, pistachio, and grapevine (sultanas seedless)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Ozone depleting substances (1 item)	Health; IA <sup>b</sup> (Article XX:b,d)	Vienna Convention; Montreal Protocol on Substances that Deplete the Ozone Layer; London Amendments to the Montreal Protocol
Walnut, mulberry, cherry, pear, plum, badger, ash, elm, and lime in logs, in timber, in plank and in sketch (Ch. 44) <sup>a</sup>	Environment (Article XX:g)	Decision of the Council of Ministers (No. 8186 of 24 April 1974)
Wood and wood charcoal (excluding charcoal produced from covering of fruit) (Ch. 44)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Antiques and archaeological works (1 item) <sup>a</sup>	National treasures (Article XX:f)	Law on Ancient Works of Art (No. 2863 of 21.7.1983)
Sahlep (powder and of all sorts)	..	Export Regime Decree (No. 7623 of 22 December 1995)

.. Not available.

a Export prohibited in 1993.

b IA: Undertaken in pursuance of obligations under intergovernmental commodity 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.

**Table III.15**  
**Exports requiring a licence, 2007**

Description of items	Authority responsible	Legal basis
Military weapons and ammunition (excluding sporting and hunting shotguns)	Ministry of National Defence	Law No. 5201 of 3 July 2004
Opium and poppy seeds	Ministry of Health	Law No. 2313 of 24 June 1933
Addictive and psychotropic substances	Ministry of Health	Law No. 2313 of 24 June 1933 Addictive substances stated in the Psychotropic Agreement dated 1961, revised in 1972; Psychotropic Agreement dated 1971; and UN Agreement (dated 1988) to prohibit addictive substances
Products subject to Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	Ministry of Environment and Forestry	Decree No. 94/5419 of 7 March 1994

Table III.15 (cont'd)

Description of items	Authority responsible	Legal basis
Living or non-living boars, wolves, jackals, foxes, martens, badgers, snakes, turtles, lizards, and identifiable parts of and clothing produced from them	Ministry of Environment and Forestry	Decree No. 90/234 of 8 March 1990
Fertilizers (excluding chemical fertilizers)	Ministry of Agriculture and Rural Affairs	Decrees No. 2/1771 of 27 December 1924; No. 6/4090 of 19 December 1964
Seeds (except forest-tree seeds)	Ministry of Agriculture and Rural Affairs	Law No. 5553 of 31 October 2006 Communiqué No. 96/31 of 19 September 1996
Fishing products subject to the prohibition derived from the principles of fishery (including leeches)	Ministry of Agriculture and Rural Affairs	Law No. 1380 of 22 March 1971 (as amended by Law No. 3288 of 28 May 1986)
Racehorses	Ministry of Agriculture and Rural Affairs	Law No. 904 of 7 June 1926
Feeds covered by the Feed Law	Ministry of Agriculture and Rural Affairs	Law No. 1734 of 29 May 1973
Agricultural medicine and equipment	Ministry of Agriculture and Rural Affairs	Law No. 6968 of 15 May 1957
Pharmaceuticals for veterinary purposes	Ministry of Agriculture and Rural Affairs	Law No. 3490
Export of natural flower bulbs subject to quota or any other kind restrictions	Ministry of Agriculture and Rural Affairs	Decree No. 95/7623 of 22 December 1995
Live animals kept for breeding	Ministry of Agriculture and Rural Affairs	Decree No. 95/7623 of 22 December 1995
Natural mushroom (only exports to EC countries)	Ministry of Agriculture and Rural Affairs	Decree No. 95/7623 of 22 December 1995
Live tuna fish ( <i>Thynus thunnus</i> )	Ministry of Agriculture and Rural Affairs	Decree No. 95/7623 of 22 December 1995
Substances listed in the annexes to the Wassenaar Arrangement and the Australian Group	Undersecretariat for Foreign Trade	Wassenaar Arrangement list for Dual-use Goods and Technologies and in the Australian Group Chemical Precursors
Endangered species of wild fauna and flora	Ministry of Agriculture and Rural Affairs, and Ministry of Environment and Forestry	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
Chemicals listed in the annexes to the Convention on the Control of Chemical Weapons	Undersecretariat for Foreign Trade	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction
Technology and equipment used for nuclear purposes	Turkish Atomic Energy Authority	Decree No. 23965 of 15 December 2000
Goods covered by the Missile Technology Controlling Regime	Ministry of National Defence	Decree No. 5201 of 29 June 2004
Natural gas	Energy Market Regulatory Authority	Law No. 4646 of 2 May 2001
Electricity	Energy Market Regulatory Authority	Law No. 4628 of 3 March 2001
Liquefied petroleum gases	Energy Market Regulatory Authority	Law No. 5307 of 13 March 2005

Source: Information provided by the Turkish authorities.

#### (iv) Export subsidies, finance, assistance, and promotion

93. In addition to duty and tax concessions (section (2)(ii)(c)), various incentives schemes are available to exporters, although some have been eliminated.<sup>97</sup> Under the Export Subsidy Programme for Agricultural Products<sup>98</sup>, 16 agricultural or processed agricultural products receive debts deductions, based on a percentage of the quantity of goods exported (Chapter IV(2)(ii)).

<sup>97</sup> In the Uruguay Round, Turkey committed itself to reduce export subsidies by 24% in value and by 14% in volume for 44 agricultural products (WTO definition) in equal instalments over a ten-year period starting on 1 January 1995 (SWTO, 1998).

<sup>98</sup> Decree No. 2007/1 of the Money-Credit and Coordination Council published in the *Official Gazette*, 22 March 2007, which replaced Decree No. 2006/1.

94. The Export Credit Bank of Turkey (Turk Eximbank), a state-owned bank established in 1987, and Turkey's only official export credit agency, still operates a large number of export credit, guarantee, and insurance schemes.<sup>99</sup> Turk Eximbank's main objectives are: increasing the volume of Turkish exports; developing new export markets; increasing the share of Turkish exporters in international trade; diversifying exports of goods and services; and supporting Turkish exporters, investors, and overseas contractors. Turk Eximbank regularly presents its annual programmes to the Supreme Advisory and Credit Guidance Committee, chaired by the State Minister in charge of the bank's activities. This Committee fixes upper limits of credit to be extended by the bank, guarantees to be issued, and insurance transactions to be effected, either as a total amount or by country, sector, and programme.<sup>100</sup> In 2006, Turk Eximbank's credit programmes amounted to about US\$7.8 million, and provided financial support for over 9% of Turkey's total annual exports.<sup>101</sup>

95. Turk Eximbank supports exporters, export-oriented manufacturers, and foreign investors with short-term export credit, and medium- and long-term export credit programmes (Table AIII.4). Moreover, export receivables are discounted in order to promote sales on deferred payment conditions, and to increase export volume. Short-term financial assistance is made available to exporters at the pre-shipment and post-shipment stages with a term up to 360 days (for credits in YTL) and 540 days (for credits in foreign currency).<sup>102</sup> Credits are allocated through the Turkish commercial banks or directly by the Turk Eximbank.<sup>103</sup> In 2006, 67% of short-term credits offered by Turk Eximbank were extended via intermediary Turkish commercial banks, and 33% directly. At the end of 2006, short-term export credit facilities accounted for 90% of Turk Eximbank's total loans.

96. Turk Eximbank's medium and long-term financial support programmes have been developed mainly for the export of capital goods and turnkey investment projects to be undertaken by Turkish and Turkey-based contractors. The majority of these programmes involve extending financing facilities to buyers outside of Turkey for purchase Turkish goods and/or services. For many medium- and long-term operations (e.g. project finance loans), a sovereign guarantee in favour of Turk Eximbank has been a pre-requisite for extension of the facility.

97. The Turk Eximbank also offers Turkish exporters, investors, and overseas contractors a variety of insurance policies against commercial and political risks (Table III.16). Commercial risk-based losses, are indemnified by Turk Eximbank from its own resources, while political risks are, in principle, backed by the Government. Since 2000, short-term political risks have also been ceded to the reinsurance panel within certain country limits. Premium rates for insurance programmes range from 0.19% to 4% (comprehensive for commercial and political risks), or from 0.05% to 4% (for political risks only), and vary according to the risk category of the buyer's country, the payment term, and the status of the buyer (private, public or sovereign).

<sup>99</sup> Turk Eximbank is under the responsibility of the Prime Ministry or such other State Ministry nominated by the Prime Minister. Turk Eximbank's main sources of funds are direct funding from the Turkish Treasury (through capital injections), and borrowing from commercial banks and international financial markets.

<sup>100</sup> The programmes may be revised, eliminated, or extended according to the requirements of Turkish exporters and international rules and regulations (WTO document G/SCM/N/123/TUR of 12 January 2006).

<sup>101</sup> Turk Eximbank reformed its short-term credit programmes in early 1996 to bring them into conformity with the WTO Agreement on Subsidies and Countervailing Measures.

<sup>102</sup> Pre-shipment financing is required by an exporter especially to meet working capital needs, whereas post-shipment financing is needed by exporters to offer sales on deferred payment conditions due to competition in international markets.

<sup>103</sup> If the credits are allocated through commercial banks, the banks are responsible for the default risk of the borrowers. If they are allocated directly by Turk Eximbank to the customer, then collateral and/or a bank guarantee is required. Commercial banks are allowed to charge a spread of up to 1% per annum for credits denominated in YTL, and 0.5% per annum for credits in foreign currency.

98. Under the UFT, the Export Promotion Centre (IGEME) remains the main public organization for export promotion. IGEME acts as an intermediary in establishing business contacts between foreign importers and Turkish exporters. Its activities can be grouped into five main categories: research and development training (training programmes, seminars, and workshops); trade information (computerized trade information system, and library); publicity and promotion (organizing national participation in international trade fairs, and other promotional activities through publications and internet); project management; and international relations. In parallel to IGEME's activities, the UFT has carried out trade missions and buyers programmes since 1995. The market and sectoral coverage of the programmes are based on Turkey's production and export-related capacity, potential markets, and trade possibilities.

**Table III.16**  
**Key features of the export insurance programmes, 2007**

Programme	Coverage
Short-Term Export Credit Insurance	Up to 90% of losses incurred as a result of commercial and political risks on shipments made by an exporter within one year, with payments deferred up to 360 days. Comprehensive cover is available, including pre-shipment period (180 days maximum); post-shipment cover is compulsory where applicable. Premium rates vary according to, <i>inter alia</i> , the risk category of the buyer's country, the legal status of the buyer, and the relevant payment term and maturity.
Specific Export Credit Insurance	Comprehensive pre- and post-shipment insurance against commercial and political risks for the export of capital and/or semi-capital having at least 60% Turkish content and sold on credit terms up to five years. Cover is available up to 95% of 85% of the contract value, with the foreign buyers required to make a cash payment equal to at least 15% of the contract value. Premium rates are specifically calculated taking into account the above-mentioned criteria.
Specific Export Credit Insurance Post-shipment Political Risk	Cover against political risks in the post-shipment period for receivables from sales on credit terms relating to the export of capital and semi-capital goods with at least 60% domestic content. Cover is up to 95% of 85% (in principle 90% or less) of the contract value, with 15% of the contract value to be paid in advance. Premium rates are specifically calculated taking into account the above-mentioned criteria.
Specific Export Credit Insurance Comprehensive Post-shipment Risk Policy	Same as Specific Export Credit Insurance Post-shipment Political Risk, except that political and commercial risks are both covered.
Insurance Programme for Unfair Calling of Bonds	Cover applies to bid bonds, advance payment and performance bond for Turkish contractors in order to eliminate the risk of unfair calling of bonds. Bonds are issued by a bank in favour of the public buyer based in the borrowing countries for projects undertaken by Turkish contractors or subcontractors. Turk Eximbank is responsible for identifying the Turkish contractor, where a call is made under the bond by reason of events or circumstances beyond the contractor's control.

Source: WTO Secretariat, based on information provided by the Turkish authorities.

99. The public agency for the development of SMEs (KOSGEB), established in 1990 as a non-profit organization affiliated to the MIT, is financed under the general budget and has several support schemes for improving Turkish SMEs' competitiveness and promoting their exports. KOSGEB assists SMEs in, *inter alia*, participation in domestic and international fairs, as well as in business trips abroad to promote exports (50% of the expenses are covered, up to YTL 10,000); creating their own brands; and in export promotion credits. KOSGEB also provides SMEs with business matching models, a mechanism through which local and foreign SMEs are brought together in a common database, and business matching opportunities are assessed by a qualified operator company.

100. As part of its obligations under the CUD, Turkey has been harmonizing its legislation with that of the EC with respect to officially supported export credits (Article 12 of the CUD). Within this framework, the OECD Consensus principles on officially supported export credits with a repayment term of two or more years have been adopted. Turk Eximbank is a full member of the Berne Union (the international association of export credit insurers), and represents Turkey in the Group on Export

Credits and Credit Guarantees (ECG) and in the Participants Group (PG) of the OECD Trade Committee.<sup>104</sup>

**(v) Free zones**

101. The General Directorate of Free Zones, under the UFT, is in charge of Turkey's 20 free zones. The enterprises established in the zones are active in a wide range of areas, including high-technology investments, leather products, and storage facilities.

102. Since Turkey's last TPR, it has introduced new arrangements for tax incentives in free zones through the enactment of Law No. 5084 of 29 January 2004 on the Encouragement of Investments and Employment, and amendment of certain acts.<sup>105</sup> Under Law No. 5084, only free zone users that operate under a production licence are exempted from the income or corporate taxes until the end of the taxation period of the year in which Turkey becomes a full member of the EC. For other free zone users that obtained an operating licence before 6 February 2004, the income or corporate tax exemption will apply for the validity period of the operating licence, and income tax on wages will not be paid until 2009. Free zone users that obtained an operating licence other than for production after 6 February 2004, do not enjoy income or corporate tax exemption.

103. Free Zones Law No. 3218 of 15 June 1985, and the Free Zones Regulation of 1993 complete the framework for operations and practices in the zones. The legislation is designed, *inter alia*, to promote foreign direct investment and joint-ventures in export-oriented enterprises, provide easy access to imports of raw materials and equipment on favourable terms, and increase employment. Free zones are also targeted at regional development. The validity period of an operating licence is a maximum of ten years for tenant users, and 20 years for users who wish to build their own offices in the zone; if the operating licence is for production, the terms are 15 and 30 years for tenant users and investors, respectively. Sales into the domestic market and barter trade are allowed without limitation, subject to the foreign trade regime (including duty payment and a fee of 0.5% of the transaction value to finance infrastructure).<sup>106</sup>

104. Financial incentives are available to free zone companies. These include exemption from payment of customs duties and fees; exemption from corporate, income, and value-added taxes; no restrictions on profit transfer; and for exchange transactions. The foundation and operation of the free zones are generally currency convertibility through government and private partnership (often with "build, operate, transfer" schemes, such as in the Aegean, Kocaeli, Adana-Yumurtalik, Samsun Free Zones). Investors are also free to construct their own premises, while zones have office space, workshops, or warehouses available for rental on attractive terms. Goods may be stored, assembled, repaired, tested, or repackaged for purchasing or sale in the free zones.

105. Under Article 10 of the Free Zones Regulation, all industrial, commercial and service operations deemed appropriate by the Supreme Planning Board (SPB) may be conducted in free zones; off-shore banking, insurance business, and customs brokers are not allowed. Under Article 32 of the Regulation, the entry of fire arms and their ammunition, radioactive substances, dangerous and toxic wastes to the zones is prohibited. Inflammables, explosives, combustibles, fire-inducing substances or materials dangerous to other substances, can only be brought into the zones provided there is a special arrangement or construction for that purpose. The movement of narcotic substances,

<sup>104</sup> Turkey has been a member of ECG since April 1998, and an observer of PG since November 2006.

<sup>105</sup> Law No. 5084 was published in the *Official Gazette* on 6 February 2004.

<sup>106</sup> The 0.5% fee, on goods brought to the zone from abroad and/or sold from the zone to Turkey, is not paid by users that obtained operating licences after 6 February 2004. Sales into the domestic market are subject to Turkey's MFN imports regime.

psychotropic substances and the related chemical substances, and their preparations in and out of the zone are subject to national and international laws implemented by the Ministry of Health. The resident companies supplying inputs and/or services to free zone companies are not eligible for the same incentives.

106. There is no limitation on foreign capital participation in investment within the free zones, and 100% repatriation of capital is allowed without prior permission, tax, duty, or fee. Despite this, Turkey's free zones consist mainly of domestic companies: of the 3,876 firms in the free zones, 648 (16.7%) are foreign. According to the authorities, after the recent legislative amendments to the free zones regime, many foreigners cancelled their investment decisions. Total free zones trade increased from US\$11.1 billion in 2002 to US\$23.8 billion in 2006 (Table III.17); almost 40% of this trade is with OECD and EC countries.

**Table III.17**  
**Trade in free zones, 2002-06**  
(US\$ million)

	2002	(%)	2003	(%)	2004	(%)	2005	(%)	2006	(%)
Free zones to domestic market	3,729	34	5,406	33	7,465	34	7,888	34	7,939	33
Domestic market to free zones	1,528	14	2,119	13	2,882	13	3,160	14	3,071	13
Other countries to free zones	3,589	32	5,638	34	7,520	34	7,704	32	7,951	34
Free zones to other countries	2,257	20	3,445	21	4,243	19	4,610	20	4,863	20
<b>Total</b>	<b>11,103</b>	<b>100</b>	<b>16,608</b>	<b>100</b>	<b>22,110</b>	<b>100</b>	<b>23,363</b>	<b>100</b>	<b>23,824</b>	<b>100</b>

Source: Information provided by the Turkish authorities.

#### (vi) Other measures

107. According to the authorities, Turkey does not participate in any arrangements designed to curb or control exports to third countries at the request of foreign governments/companies.

108. According to Decree No. 32 on the Protection of the Value of the Turkish Currency, export earnings must be transferred to Turkey, through the banking system, within 180 days of the date of exportation.

109. Export cartels are covered, but are not exempt from a general prohibition of cartels, by Law No. 4054 on the Protection of Competition (section (4)(iii)).

### (4) MEASURES AFFECTING PRODUCTION AND TRADE

#### (i) Incentives

110. Few changes have been introduced to the Turkish investment incentive regime since its last TPR.<sup>107</sup> The Investment Encouragement Programme (IEP) which merged the General Investment Encouragement Programme (GIEP), and the Aids Granted to SMEs Investments, is now the only programme.<sup>108</sup> The purpose of IEP is to encourage and orient investments, in order to reduce regional

<sup>107</sup> Several incentive schemes run in parallel to the overall investment aid programme. These include assistance to exporters (such as duty concessions, export finance, insurance, guarantee, promotion, and marketing assistance) (section (3)(v)), to the agriculture sector (including input subsidy payments), to the energy subsector (e.g. subsidies for the production of hard coal), to maritime activities (tax incentives), and to tourism (including corporate income tax exemption).

<sup>108</sup> Decree No. 2006/10921 of 28 August 2006, published in *Official Gazette* No. 26311, 6 October 2006.

imbalances within the country, and create new employment opportunities, while using technologies with greater value-added. To qualify for the IEP, potential investors must apply for an investment encouragement certificate. In addition, under Law No. 5084 on Encouragement of Investments and Employment, Turkey provides support ranging from 20-50% of energy costs to companies established in provinces with per capita GDP of US\$1,500 or less (as of 2001), and provinces that have a negative socio-economic development index.<sup>109</sup>

111. In order to obtain an investment encouragement certificate under the IEP, an investor should present, *inter alia*, a receipt for the deposit of YTL 400 in the Central Bank. Incentives under the IEP are: (i) exemption from customs duties and fund levies on imported machinery and equipment that are part of the investment project and appear on the Machinery and Equipment List approved by the Undersecretariat of Treasury; (ii) VAT exemption for imported and locally purchased machinery and equipment; (iii) "interest support", by certain percentage points of the interest rate, on credits obtained on commercial terms by investors to finance their investment projects<sup>110</sup>; and (iv) electricity cost support for tourism investments and establishments. SMEs investments can also benefit from the encouragement measures offered under the IEP.<sup>111</sup>

112. Under Ministerial Council Resolution on State Aids Related to Exports (No. 6401 of 27 December 1994), Turkey has nine state aid programmes, some of which are only for SMEs. Various public bodies/institutions and organizations in Turkey carry out these programmes (Table III.18).

113. Turkey also offers five additional support programmes. On the basis of regional development, organized industrial zones (OIZs) are offered subsidized industrial plots<sup>112</sup>; infrastructure, including transportation and communication facilities; and subsidized credits. Since its establishment in 1962, about 93 OIZs have been created; credit granted during 2003-06 amounted to US\$175.9 million.

114. The small-scale industrial estates scheme, which dates back to 1965, provided credit of US\$103.9 million between 2003 and 2006, towards the construction of modern workshops with sanitary conditions. At the end of 2006, 403 estates and 88,025 workshops had been constructed; the main activities are car repair works, metal manufacturing, and wooden industry. On the basis of regional development, these estates are granted, *inter alia*, infrastructure facilities and subsidized credits.<sup>113</sup>

<sup>109</sup> See WTO document G/SCM/N/123/TUR of 12 January 2006.

<sup>110</sup> To benefit from "interest support", investments should be in priority development regions or by SMEs, or in the fields of R&D or environmental protection. The rate of compensation is 5 percentage points for YTL credits, and 2 percentage points for foreign currency credits. Maximum total interest support for investment credits is : YTL 300,000 for R&D and environmental protection investments, YTL 200,000 for investments by SMEs, and YTL 1 million for investments made in priority development regions. To enhance investments in R&D, credits for purchases of operating supplies are also eligible for interest support (to a maximum of is YTL 100,000).

<sup>111</sup> SMEs are defined as enterprises with less than 250 employees, and with net annual sales or annual financial statements not exceeding YTL 25 million (Decree No. 2005/9617, 19 November 2005).

<sup>112</sup> The Law on Organized Industrial Zones (No. 4562 published in the *Official Gazette* of 15 April 2000) determines the principles for the establishment, structure, and administration of OIZs. The size of industrial plots varies between 4,000 and 70,000 square metres. They are sold to industrialists at the cost of the land and infrastructure, without profit. An advance payment of 10%-25% of the cost of the plot must be made, and the rest is paid between four and ten years. The MIT pays up to 99% of the infrastructure cost, depending on the development level of the region. The credit interest rate ranges from 10% to 20%, and maturity is between nine and 15 years depending on the degree of development of the area.

<sup>113</sup> The interest rate for the credit ranges from 10% to 20%, and the maturity is 11 years with a one year grace period.

**Table III.18**  
**Key features of the state aid programmes, 2007**

Programme	Aim and beneficiaries	Support	Implementing institutions
State aid for research and development projects	To support companies conducting R&D projects, regardless of size; all industrial companies and firms that produce software	(1) 50% grant for R&D activities for three years; or (2) soft loan for capital support (to be paid back in US\$ with Libor plus interest) for two years	The Turkish Scientific and Technical Research Council, Technology Monitoring and Evaluation Board, and the Turkish Technology Development Foundation
State aid for environmental protection activities	To support expenses of SMEs during certification of quality assurance, environmental management systems, and CE marking; all SMEs manufacturing and software companies	50% of the relevant certification expenses	Exporters' Unions
State aid for participation in international fairs and exhibitions	To increase participation in fairs abroad and promote Turkish exports; companies, sectoral foreign trade companies, producers/manufacturers organizations	(1) 50% of participation fees (in the case of national participation); (2) 50% of the rental cost of empty stand, and 50% of transportation costs (in the case of individual participation)	Exporters' Unions
State aid for organizing domestic fairs with international participation <sup>a</sup>	To promote international fairs organized in Turkey and to foster international participation; companies that organize international fairs in Turkey	50% of promotional activities; 50% of transportation expenses of representatives of foreign companies; and 50% of expenses regarding activities during the fair	Exporters' Unions
State aid for market research projects	To create new export markets; companies, sectoral foreign trade companies, producers/manufacturers organizations	Buying market research projects, reports, and statistics; financial assistance for companies participating in trade missions abroad, and for becoming members of B2B web sites so as to market their products abroad	Export Promotion Centre and Exporters' Unions
State aid for operating stores abroad	To promote companies operating stores abroad; companies and sectoral foreign trade companies	50% of the advertisement, rent, office inventory and decoration expenditures of companies operating a store abroad	Exporters' Unions
State aid for encouraging employment in sectoral foreign trade companies	To promote employment; sectoral foreign trade companies	75% of the pre-tax salary for one manager and two staff with professional experience, for one year	Undersecretariat for Foreign Trade
State aid for vocational training	To support trade training and trade consultancy needs of companies in international trade business	(1) Subjects are: quality, productivity, management techniques, design, international marketing, and foreign trade operations (2) 90% of training costs for programmes up to six months (3) 75% of consultancy services costs up to one year (4) One year tuition costs of selected designers	Export Promotion Centre and Exporters Union
State aid for promoting Turkish trade marks and improving the image of Turkish goods	To support brand creation and positioning activities, as well as marketing activities abroad; companies and sectoral foreign trade companies	50% of consultancy fees, rental fees, advertisement, certification expenses and fees for the registration of trade marks	Exporters' Unions and Undersecretariat for Foreign Trade

<sup>a</sup> The fair must be organized at least three years in advance, a minimum of 100 companies is required (25 of which must be foreign), and a fair cannot be supported more than twice.

*Source:* Information provided by the Turkish authorities.

115. With the objective of upgrading SME's effectiveness and expanding their share of total production, the KOSGEB provides services related to production, marketing, quality control, machinery and equipment support, technology development, training, and information; it also

prepares and executes projects. The KOSGEB has several support schemes for the improvement of Turkish SMEs exports (section (3)(iv)).

116. The Technology Development Zones Law (No. 4691), approved by the Grand National Assembly of Turkey on 26 June 2001, promotes the use of high/advanced technologies and the development/production of technology or software in technology development zones, and related R&D capabilities, through cooperation between universities, research institutions, and producers. Financial support is granted for, *inter alia*, land procurement, infrastructure, and construction of administrative buildings. Income and corporation tax exemptions are being granted until the end of 2013. Researchers, software engineers, and R&D personnel working in the zone are exempt from all types of tax, also until the end of 2013.

117. The Industrial Zones Law (No. 4737, published in the *Official Gazette* of 19 January 2002), which amended the Law on Industrial and Organized Industrial Zones, aimed to promote domestic and foreign investment by offering incentives and removing red tape for investors. Industrial zones (IZs) are established by the Council of Ministers, upon proposals from the MIT, at locations designated by the Coordination Committee for Industrial Zones. The acquisition of land and the preparation of the infrastructure required for the construction of IZs are funded by the MIT. The Council of Ministers determines, within the framework of the investment incentives decrees, the incentives that will be applied to investments in IZs.

## **(ii) State trading, state-owned enterprises and privatization**

118. Since Turkey's previous TPR, the public sector has decreased its influence on the economy, mainly through the privatization of state-owned enterprises (SOEs).<sup>114</sup> Some of the most important SOEs in operation (Table III.19) still operate under monopoly or hold exclusive rights in many sectors (e.g., banking, transportation, agricultural processing, and energy), and run losses, with consequent budgetary transfers. As a result, Turkey is implementing an ambitious privatization programme aimed at relieving the financial burden of SOEs on the national budget, addressing over-employment, ensuring a sustainable growth path, and a market-based and competitive production system, while meeting the EC's pre-accession economic criteria.

119. The privatization programme in Turkey, which started in 1984, involves not only the sale of the companies but also their *ex ante* restructuring in accordance with Privatization Law No. 4046 of November 1994, as amended by Law No. 4971 of 2003. The two main institutions in charge are the Privatization High Council (chaired by the Prime Ministry), which decides on the list of companies to be included in (or excluded from) the privatization portfolio, and the Privatization Administration (PA), which carries out the programme. However, privatization of some specific PEs is undertaken jointly with the relevant ministries and public authorities, for example the Banking Regulation and Supervision Agency in the case of state banks, and the independent Tender Committee in the privatization of Turk Telekom. In addition, certain privatizations are monitored by the Competition Authority.<sup>115</sup>

<sup>114</sup> SOEs in Turkey comprise both financial and non-financial companies. Non-financial SOEs are divided in two groups: state economic enterprises (SEEs) that operate in sectors where competition is possible, and public economic institutions (PEI), i.e. monopolistic firms that have some special rights on operational issues in their areas of activities (e.g. railway, coastal safety, air traffic control, and postal services).

<sup>115</sup> Under the Turkish competition law, broad merger control provisions (Article 7 of the Competition Law) are also applicable to privatization transactions conducted by the State. To ensure timely review of such transactions, the Board issued a communiqué in September 1998 (Communiqué 1998/4) to specifically address

Table III.19  
Selected public enterprises, 2007

PE	Activity	State ownership	Related law
<b>Manufacturing</b>			
MKEK	Machinery and chemicals	100.00%	Decree Law No. 233
DMO	Office supplies	100.00%	Decree Law No. 233
SUMER HALI	Hand carpet	100.00%	Decree Law No. 233
SUMER HOLDING	Textiles	100.00%	Law No. 4046
TDCI	Iron ore	100.00%	Law No. 4046
<b>Mining</b>			
ETI MADEN ISLETMELERI	Mining industry	100.00%	Decree Law No. 233
TTK	Coal mining	100.00%	Decree Law No. 233
TKI	Lignite mining	100.00%	Decree Law No. 233
KBI	Copper	100.00%	Law No. 4046
<b>Electricity</b>			
TEIAS	Electricity transmission	100.00%	Decree Law No. 233
EUAS	Electricity generation	100.00%	Decree Law No. 233
TETAS	Electricity contracting & wholesale	100.00%	Decree Law No. 233
TEDAS	Electricity distribution & retail sale	100.00%	Decree Law No. 4046
TEMSAN	Electromechanic equipment	Subsidiary	Decree Law No. 233
YENIKÖY ELEKTRİK ÜRETİM	Electricity generation	100.00%	Decree Law No. 233
KEMERKÖY ELEKTRİK ÜRETİM	Electricity generation	100.00%	Decree Law No. 233
YATAĞAN ELEKTRİK ÜRETİM	Electricity generation	100.00%	Decree Law No. 233
<b>Petroleum</b>			
TPAO	Crude oil exploration and production	99.98%	Decree Law No. 233
BOTAS	Crude oil transportation and natural gas import, transportation, distribution and sale	100.00%	Decree Law No. 233
PETKİM	Petrochemicals	65.50%	Law No. 4046
<b>Agriculture</b>			
TSFAS	Sugar processing	99.99%	Decree Law No. 233
TMO	Soil products	100.00%	Decree Law No. 233
CAYKUR	Tea processing	100.00%	Decree Law No. 233
TEKEL	Tobacco and alcoholic beverages	100.00%	Law No. 4046
EBK	Meat, fish processing	100.00%	Law No. 4046
<b>Transportation</b>			
TCDD	Railway services	100.00%	Decree Law No. 233
TUDEMSAS	Railway transportation equipment	Subsidiary	Decree Law No. 233
TULOMSAS	Railway transportation equipment	Subsidiary	Decree Law No. 233
TUVASAS	Railway transportation equipment	Subsidiary	Decree Law No. 233
DHMI	Airports administration	100.00%	Decree Law No. 233
KIYEM	Coast security	100.00%	Decree Law No. 233
TDI	Seaports administration	100.00%	Law No. 4046
THY	Airlines	49.12%	Law No. 4046
<b>Communication</b>			
PTT	Post, telegraph	100.00%	Decree Law No. 233
TURK TELEKOM	Telecommunication	45.00%	Laws Nos. 4046 and 4673
TURKSAT	Satellite communication and cable TV	100.00%	Law No. 5189
<b>Banking</b>			
TC ZIRAAT BANKASI	Banking (agricultural support credits)	100.00%	Laws Nos. 4603 and 5411
T. HALKBANKASI A.S.	Banking	74.98%	Laws Nos. 4603 and 5411

Table III.19 (cont'd)

privatization proceedings administered by the PA. This was amended to cover all privatization transactions carried out by any public institution or organization. The Communiqué 1998/4 requires that pre-notification be made to the Turkish Competition Authority before tender conditions are announced to the public if the entity being privatized: (i) has a market share over 20%, or (ii) has turnover exceeding YTL 20 million, or (iii) possesses a legal monopoly, or (iv) enjoys statutory or *de facto* privileges not accorded to private firms in the relevant market. The pre-notification allows the Board to make its views known for the preparation of tenders. When the successful bidders are determined following a tender, authorization by the Competition Board is required to make the privatization transaction legally effective: (i) where pre-notification of the transaction is compulsory or, (ii) even if pre-notification is not required, where the acquiring firm has a pre-transaction market share above 25% or turnover exceeding YTL 25 million.

PE	Activity	State ownership	Related law
T.KALKINMA.BANKASI A.S.	Banking (development)	99.08%	Laws Nos. 4456 and 5411
T. IHRACAT KREDİ BANKASI A.S. (T. EXIMBANK)	Banking (export credit)	100.00%	Laws Nos. 3332 and 5411
T. VAKIFLAR BANKASI T.A.O.	Banking	58.64%	Laws Nos. 6219 and 5411

Source: Information provided by the Turkish authorities.

120. Privatization is through one or more of the following methods: (i) sale; (ii) lease; (iii) grant of operational rights; (iv) establishment of property rights other than ownership; and (v) profit sharing model and other legal provisions depending on the nature of the business.<sup>116</sup> In the case of privatization of public service organizations through a transfer of ownership, separate laws (other than Law No. 4046) have to be used.<sup>117</sup> Under Law No. 4046, value assessment commissions are established for privatizations; these commissions must use at least two valuation methods<sup>118</sup>, as well as various criteria such as industrial, commercial, and social features, sector and market specifications, and technological structure. If more than 49% of the capital shares of the following entities are privatized, golden shares must be established due to their "strategic importance": Turkish Airlines (THY), Ziraat Bankasi, Halk Bankasi, Soil Product Office, and Turkish Petroleum Corporation (TPAO).<sup>119</sup>

121. State shares in 244 companies were brought into the privatization portfolio during 1984-07. In addition, 22 "incomplete" plants, six toll motorways, two Bosphorus bridges, six ports, 393 real estate properties, and 29 electricity plants have been included in the programme.<sup>120</sup> In total, 195 companies have been privatized. The State has withdrawn from certain activities such as cement, animal feed, milk processing, and airport ground handling services. More than 50% of the privatized shares were in tourism, iron and steel, textiles, sea freight, and meat processing. In a number of cases, state shares were offered to the public through the Istanbul Stock Exchange, which has thus been helped by the process.<sup>121</sup>

122. After more than a decade's delay, large-size privatizations only began in 2004-05. Some of the most important PEs privatized since then are: Turk Telekom (55% of the shares sold for €5.5 billion)<sup>122</sup>, TUPRAS (51% for €3.5 billion), Erdemir (49.29% for €2.5 billion), Ataturk airport (15.5 years of operating rights for €2.5 billion), Vakiflar Bankasi (25.18% for €1.1 billion), Eti Aluminium (99.99% for €255 million), Petkim (34.5% for €234 million), and THY (28.75% for €173 million).

<sup>116</sup> Article 18 of Law No. 4046 of 24 November 1994.

<sup>117</sup> These include companies with national and supplemental budgets and their properties, such as hospitals, ports, and highways; public economic enterprises offering public services under monopoly; and enterprises with national and supplemental budgets that are in the form of an exclusive monopoly and/or public economic enterprises that serve within the framework of their original establishment tasks.

<sup>118</sup> The methods are: net present value, book value, net asset value, depreciated replacement value, liquidation value, price/cash flow ratio, price/profit ratio, market capitalization value, market/book value, and expertise value.

<sup>119</sup> WTO (2003).

<sup>120</sup> Some of the companies were subsequently removed from the portfolio for a range of reasons. Privatization Administration online information. Viewed at: <http://www.oib.gov.tr/yayinlar/publications.htm>.

<sup>121</sup> Privatization Administration online information viewed at: <http://www.oib.gov.tr/yayinlar/publications.htm>.

<sup>122</sup> Turk Telecom (the remaining 45% of the shares) is one of the main companies that remains in the privatization portfolio.

Privatization proceeds, on a commitment basis, totalled around €10.4 billion in 2005 and €6.7 billion in 2006 (compared with actual revenues of about €10 billion during 1986-02).<sup>123</sup>

123. In October 2002, the state-owned electricity company TEAS was separated into three companies (generation, wholesale, and transmission activities), while the privatization process of retail activities owned by TEDAS and three of its twenty electricity distribution companies was initiated (Chapter IV(3)(iii)(b)).<sup>124</sup> Turkey has also launched tendering processes for the ports of Bandirma, Derince, İzmir, Samsun, Mersin and İskenderun; the technical processes for Mersin and İskenderun have already been completed. Among the most important PEs listed for privatization are: TEKEL<sup>125</sup>; Petkim (tendering for the sale of 51% of the shares was announced on 16 March 2007); the National Lottery; sugar processing plants; certain public utilities companies; some banks (the privatization of Halk Bankası has been approved, and Ziraat Bankası will follow); as well as other smaller holdings, such as Tasucu Paper and Pulp Plant, hotels, and land/real estate holdings.

124. Four pharmaceutical products (at the HS four-digit level), i.e. cinchona bark (used to fight malaria and syphilis); potassium iodide; alkaloids of cinchona and their derivatives (quinidine)); and primaquine diphosphate continue to be imported only by the Turkish Red Crescent, which is one of the two state trading enterprises still operating in the country; the other is TEKEL<sup>126</sup>

### (iii) Competition policy and price controls

125. The Law on the Protection of Competition No. 4054 (*Official Gazette*, 13 December 1994) remains the main legal basis covering competition in both goods and services; its main objective is to create an efficient competitive environment in Turkey.<sup>127</sup> In 2005, amendments to Law No. 4054, through Law No. 5388<sup>128</sup>, *inter alia*, abolished the compulsory notification of agreements, and concerted practices or decisions that are within the scope of Article 4 of Law No. 4054 in order to receive exemption<sup>129</sup>; abolished fines applicable for failure to notify these agreements, concerted practices and decisions; and clarified that fines will be applicable in cases of mergers or acquisition transactions that are subject to authorization and are undertaken without the authorization of the Competition Board. The number of Board members was reduced from eleven to seven.<sup>130</sup> Turkey has also continued to adopt secondary legislation with a view to further aligning its legislation on the EC *acquis*.

126. Turkey's competition legislation addresses three main categories of issues: (i) agreements, decisions, and concerted practices that hinder, distort or restrict competition (Article 4, Law

<sup>123</sup> During 2005-06, the Privatization Administration transferred €5.56 billion to the Treasury with the aim of reducing the public debt stock.

<sup>124</sup> As part of the privatization process, on 1 March 2005, distribution segments in 21 regions and 20 electricity distribution companies began operations.

<sup>125</sup> The part of TEKEL dealing with alcoholic beverages was sold in 2004, while TEKEL tobacco is scheduled to be privatized soon.

<sup>126</sup> WTO document G/STR/N/11/TUR, 15 December 2006.

<sup>127</sup> The substantial provisions of Turkey's competition law are described in detail in WTO (1998).

<sup>128</sup> Law No. 5388, entitled "The Law on an Amendment to Particular Articles of the Law on the Protection of Competition."

<sup>129</sup> This amendment enabled the Competition Authority to grant exemptions to agreements, concerted practices and decisions for a specified or an unspecified period *ex officio* provided that all the conditions under Article 5 of Law No. 4054 are satisfied. Moreover, the exemption decisions now have retroactive effect: "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".

<sup>130</sup> Board members are also now prohibited from participation in investigations of potential breach of competition rules.

No. 4054); (ii) abuse of dominant position (Article 6); and (iii) mergers and acquisitions that distort the competitive structure of the market (Article 7). Pursuant to Article 4, all agreements that distort, restrict or prevent competition are prohibited, except where an exemption is granted by the Competition Board (Article 5).<sup>131</sup> It may grant negative clearance (Article 8), which confirms that the practice is not considered to be contrary to the competition rules. Any practice that affects the Turkish market falls within the scope of the law), including agreements between Turkish and foreign companies or even between foreign companies, even when the agreements are concluded outside Turkey (the effects doctrine). Except for certain types of merger in banking, all sectors are treated equally under Law No. 4054.

127. Since November 1997, the Competition Authority (CA) has been responsible for the implementation and the enforcement of the law.<sup>132</sup> The decision-making body of the CA is a seven-member Board; its budget is financed from a 0.04% levy on capital increases of companies. It may request information that it deems necessary from all public institutions and organizations, undertakings and associations of undertakings (Article 14), perform on-the-spot inspections at undertakings and associations of undertakings (Article 15), carry out investigations (Articles 40 to 49), and impose penalties (Articles 16-17). Article 5 also empowers the Competition Board to issue communiqués that ensure block exemptions for agreements on specific matters.

128. The CA has played an important role in moving the Turkish economy forward to greater reliance on competition-based and consumer-welfare oriented market mechanisms.<sup>133</sup> Moreover, since the last TPR of Turkey, the CA has sought to improve coordination with Turkey's regulatory institutions, for example the Telecommunications Authority, and the Energy Market Regulatory Authority (EMRA) (Table III.20). The CA has also worked closely with the PA on the privatization of a number of SOEs.<sup>134</sup> Some of the most serious problems for competition law and policy in Turkey are, *inter alia*, the lack of a mechanism to control state aids, and the fact that some SOEs are vested with monopoly concessions or anti-competitive privileges.<sup>135</sup>

129. From 2000 to 2006, 1,633 cases were handled by the CA and 99% were resolved (Table III.21). Mergers and acquisitions represented 54.1% of cases resolved, followed by competition infringements (29.9%), and exemptions and negative clearance (16%).

130. Certain products, such as energy, and services, mainly utilities, are subject to price controls. Tariffs for electricity transmission, distribution, and wholesale (for TETAS, state-owned wholesale company), and for retail to "non-eligible consumers" are subject to EMRA Board approval. The pricing methods under the EMRA regulation (with price subject to approval by EMRA Board) are "revenue cap" for transmission tariff, "hybrid" for distribution tariff, and "cost based" for TETAS tariffs; the "price cap" method is used for the retail sale tariff applicable to non-eligible consumers. For natural gas, wholesale, retail sale, transmission, storage, and city distribution tariffs are subject to approval by EMRA Board; a price cap is determined in accordance with principles and procedures set by EMRA. Petroleum and LPG prices are determined freely according to world prices; however, in

<sup>131</sup> Exemptions will be granted by the Board, if the agreements: promote or enhance technical and economic production of certain goods or services; benefit the consumer; do not eliminate competition in a significant section of the market; and do not restrict competition beyond what is required to achieve the first two objectives. Competition Authority online information. Viewed at: <http://www.rekabet.gov.tr/word/ekanun.doc>.

<sup>132</sup> The CA was constituted by a Decree of Council of Ministers published in *Official Gazette* No. 22918 of 27 February 1997. The structure of the CA was announced by Communiqué No. 1997/5.

<sup>133</sup> OECD (2005b).

<sup>134</sup> Privatization Administration online information viewed at: <http://www.oib.gov.tr/yayinlar/publications.htm> [20 June 2007].

<sup>135</sup> OECD (2005b).

case of competition abuse, EMRA is authorized to control the price for two months. Coal prices are set by the producers (Chapter IV(3)(iii)(b)). The opening price for the auction of locally produced tobacco for sale is determined by TAPDK. Turkey also maintains price controls on certain pharmaceutical products (section (ii) above), and telecommunication services (Chapter IV(5)(iii)).

**Table III.20**  
**Independent regulatory institutions, 2007**

Institution	Law No./Year	Sectors	Task
Capital Market Board	2499/1981	Capital markets	Regulating and supervising the capital markets and protecting the rights and interests of investors
Radio and Television Supreme Council	3984/1994	Radio and television broadcasting	Regulating radio and television broadcasting
Competition Authority	4054/1994	Goods and services markets (all sectors)	Prohibiting agreements, decision and concerted practices that restrict competition, and any abuse of dominant position by one or more undertakings; controlling mergers and acquisitions; establishing a competition culture as part of its competition advocacy role
Banking Regulation and Supervision Agency	4389/1999	Banking	Protecting the rights and interests of depositors; laying down principles regarding the establishment, management, operation, acquisition, merger, liquidation, and supervision of banks in order to ensure efficient operation of the credit system with due regard to the requisites of economic development, and confidence and stability in the financial market
Telecommunications Authority	4502/2000	Telecommunications	Constituting a dynamic and strong market based on fair competition; contributing to the sectoral policy-making process; taking measures to protect consumer rights; ensuring efficient and productive use of scarce resources in the sector, such as frequency and numbers
Electronic Signature Law	5070/2004	Information Technology	Defining the principles for the legal and technical aspects and application of electronic signatures
Energy Market Regulatory Authority	4628/2001 4646/2001 5015/2003 5307/2005	Electric energy Natural gas Petroleum Liquefied Petroleum Gas (LPG)	Constituting a financially strong, stable and transparent energy market operating under private law in a competitive environment to provide adequate, refined, continuous and environment-friendly electricity and natural gas; ensuring independent regulation and supervision in the market Regulate the guidance, surveillance and supervision activities in the delivery of petroleum and LPG, to ensure the transparent, non-discriminatory, and stable supply from domestic and foreign resources to consumers, directly or after processing in a cost-effective manner
Sugar Authority	4634/2001	Sugar, starch-based sweeteners	Regulating the sugar regime through establishment of procedures and principles regarding sugar production, and the conditions and methods of marketing
Tobacco, Tobacco Products and Alcoholic Beverages Market Regulation Authority	4733/2002	Tobacco, tobacco products, and alcoholic beverages	Regulating the procedures and principles regarding production, domestic and external purchase and sale of tobacco and tobacco products
Public Procurement Authority	4734/2002	All public institutions	Determining the procedures and principles to be applied in public procurements; examining the complaints concerning all public procurements

Source: Information provided by the Turkish authorities.

**Table III.21**  
**Cases handled by the Competition Authority, 2000-06**

	2000	2001	2002	2003	2004	2005	2006	Total
<b>Competition infringements</b>								
Investigations	43	44	55	70	78	84	108	<b>482</b>
Cases resolved	40	40	53	54	91	97	108	<b>483</b>
<b>Mergers/acquisitions</b>								
Investigations	102	81	110	113	118	164	199	<b>887</b>
Cases resolved	100	86	103	106	122	170	186	<b>873</b>
<b>Negative clearance/exemption</b>								
Investigations	27	21	29	44	62	45	36	<b>264</b>
Cases resolved	11	27	26	36	76	50	33	<b>259</b>
<b>Total</b>								
Investigations	172	146	194	227	258	293	343	<b>1,633</b>
Cases resolved	151	153	182	196	289	317	327	<b>1,615</b>

Source: Information provided by the Turkish authorities.

#### (iv) Protection of intellectual property rights

##### (a) Overview

131. As part of its harmonization efforts towards EC legislation on intellectual property rights (IPRs), and in accordance with its commitments under the WTO TRIPS Agreement, Turkey has introduced some changes to its intellectual property regime since its last TPR. Some of the main changes include: (i) enactment of Law No. 5101, which entered into force on 13 March 2004, and amended various laws on IPRs, including Law No. 5846 on intellectual and artistic works<sup>136</sup>; (ii) amendment of Decree Law No. 551 on the Protection of Patent Rights to, *inter alia*, increase the penalties for infringement (section (g) below); (iii) enactment of data protection legislation, in 2006, in response to concerns from pharmaceutical companies to provide data exclusivity for confidential test data; and (iv) establishment of 13 more courts (currently there are 21) specialized in intellectual property matters in Istanbul, Izmir, and Ankara, where infringement cases are larger than in other Turkish cities. Turkey is still on the U.S. Special 301 Priority Watch List, due to concerns about loopholes in the new data protection legislation, and continued high levels of piracy and counterfeiting of copyright and trade mark materials.<sup>137</sup> The Turkish intellectual property legislation was reviewed by the WTO TRIPS Council in November 2000.<sup>138</sup>

132. Intellectual property rights legislation in Turkey is composed mainly of: Patent Rights Protection Decree (No. 551); Industrial Design Decree (No. 554); Geographical Indications Decree (No. 555); Trade Mark Protection Decree (No. 556); Law on Intellectual and Artistic Works (No. 5846), amended by Laws Nos. 4630 and 5101; Law on Evaluation, Classification and Support of Films (No. 5224, in force since July 2004); Amending Law of Patent, Design, Geographical Indications and Trade Mark Decree (No. 4128); Law for the Establishment and Functions of the Turkish Patent Institute (TPI) (Law No. 5000, in force since November 2003); Law on the Protection of Plant Breeder's Rights for New Plant Varieties (Law No 5042, in force since January 2004); Law

<sup>136</sup> The main goal of Law No. 5101 is to harmonize the domestic regime with international legislation against piracy activities.

<sup>137</sup> USTR (2006).

<sup>138</sup> WTO document IP/Q-Q4/TUR/1 of 12 April 2001 contains the introductory statement made by Turkey, as well as the questions posed and answers given during the review.

on the Protection of Integrated Circuit Topographies (No. 5147, in force since April 2004); Seed Law (No. 5553, in force since October 2006); and Law Amending the Decree-Laws on the Protection of Patent, Industrial Designs, Geographical Indications and Trade Mark (No. 5194).<sup>139</sup>

133. The main institutions responsible for intellectual property matters are: the Turkish Patent Institute (TPI), for patents, trade marks, geographical indications, designs, and chip topographies; the Directorate-General of Copyrights and Cinema in the Ministry of Culture and Tourism for copyright and related rights; the Directorate-General of Customs in the Undersecretariat of Customs for border measures; the Ministry of Agriculture for plant breeders' rights; and the Ministry of Justice for enforcement before the courts.<sup>140</sup>

134. Turkey has joined various IPR conventions and treaties since its last TPR (Table III.22).

**Table III.22**  
**Membership in international agreements, conventions, and treaties, 2007**

Name	Date of membership
Paris Convention on the Protection of Industrial Property (1883)	10 October 1925
Berne Convention for the Protection of Literary and Artistic Works (1886)	1 January 1952
Convention establishing WIPO (1967)	12 May 1976
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961)	8 April 2004
Nice Agreement concerning the International Classification of Goods and Services for the purpose of Registration of Marks (1957)	1 January 1996
Patent Co-operation Treaty (1970)	1 January 1996
Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (1973)	1 January 1996
Strasbourg Agreement Concerning the International Patent Classification (1971)	1 October 1996
Budapest Treaty on the International Recognition of the Deposit of Micro-Organisms for the Purpose of Patent Procedure (1977)	30 November 1998
Protocol relating to Madrid Agreement (1996)	1 January 1999
Locarno Agreement Establishing an International Classification for Industrial Designs (1968)	30 November 1998
European Patent Convention (1973)	1 November 2000
Hague Agreement (International Deposit of Industrial Designs)	1 January 2005
Trademark Law Treaty	1 January 2005
Singapore Treaty on the Law of Trademarks	28 March 2006
WIPO Copyright Treaty	8 May 2007
WIPO Performances and Phonogram Treaty	8 May 2007

Source: Information provided by the Turkish authorities.

135. Parallel imports of goods and services containing any form of intellectual property rights are prohibited in Turkey. Turkish legislation on copyright, trade marks, designs, and patents provides for national exhaustion of distribution rights, which enables the right holders to prevent parallel

<sup>139</sup> The Seed Law aims to, *inter alia*, upgrade productivity in plant production, promote quality of seedlings, and develop and upgrade the seed subsector. It is based on EC legislation, and makes it compulsory to both register and certify seeds before they can be sold. Other laws and regulations that contain provisions on intellectual property law are: Contract Law (No. 818), Turkish Commercial Code (No. 6762), Regulation on Pharmaceutical Products, Civil Servants Law (No. 657), Customs Law (No. 4458), Civil Procedure Law (No. 1086), Criminal Procedure Law (No. 1412), and the Turkish Constitution (regarding provisions on judiciary). See WTO document IP/N/1/TUR/2 of 3 July 2000.

<sup>140</sup> See WTO (1998).

importation of protected products put on the market in other countries.<sup>141</sup> In 2000, the Competition Board of Turkey decided that parallel imports cannot be prohibited. This decision was later challenged and the case is before the Council of State, the body of last instance.

(b) Patents

136. Decree Law No. 551 on the Protection of Patent Rights, which entered into force on 27 June 1995, is the main patent legislation. It provides for the possibility of converting a patent application into a utility model, and vice-versa<sup>142</sup>; the granting of patents by examination and non-examination; patentability criteria (novelty, inventive activity/step, industrial applicability); publication of applications; opposition by third parties; non-renewable protection for seven years for non-examined patents, ten years for utility model certificates, and 20 years for examined patents; employee inventions; penalties against infringement; and the establishment of special courts. An applicant not living in Turkey must appoint a local patent agent. Subject to this, foreigners are entitled to the same rights and privileges and are subject to the same obligations as nationals.

137. Micro-organisms and microbiological processes are patentable in Turkey. Pharmaceutical products and processes have had patent protection since 1 January 1999, in accordance with Turkey's commitments under both the TRIPS Agreement and the CUD.

138. Provision is made for granting compulsory licences on the grounds that a patent was not put into use or that the delay in the use thereof was not due to justifiable/legitimate reasons or that the use has been suspended during an uninterrupted period of three years (Article 100 of Decree Law No. 551). Articles 39 and 40 of the Implementing Regulation set out the provisions related to proof of use, which also includes the importation of patented products.

(c) Trade marks

139. Decree Law No. 556 on the Protection of Trademarks, which entered into force on 27 June 1995, includes a registered trade mark protection system for goods and services, guarantee marks, and collective marks. Protection is for ten years from the date of application and can be renewed at the end of each consecutive ten-year period. A licence may be exclusive or non-exclusive, but is non-exclusive unless otherwise stated in the contract. Turkey does not require a trade mark to be registered in the home country or any other country.

(d) Copyright

140. The main legislation on copyright is Law No. 5846 on Intellectual and Artistic Works, which entered into force on 5 December 1951; it was last amended by Law No. 5101 of 3 March 2004. Copyright protection is for the lifetime of an author plus 70 years. The main changes introduced by Law No. 5101 include: ministerial certification of facilities that manufacture, record, reproduce, and sell materials for the fixation and reproduction of intellectual and artistic works; a graduated penalty system, and extending the judicial discretion; granting *ex officio* authority to the police in fighting against piracy; and banning the sale of legally reproduced materials at open spaces like streets, squares, pavements. Law enforcement authorities are entitled to take action without a prior complaint by a right holder. Moreover, sanctions were modified, and currently consist of three months to six

<sup>141</sup> Article 6 of the TRIPS Agreement provides that, for the purposes of dispute settlement, nothing in the Agreement shall be used to address the issue of exhaustion of intellectual property rights, provided that the national treatment and MFN treatment obligations are met.

<sup>142</sup> Utility models differ from inventions of patents in two respects: less technological progress is required; and the maximum term of protection is generally much shorter.

years imprisonment or fines of YTL 5,000-250,000 or both considering the severity of the infringement.<sup>143</sup>

(e) Industrial designs

141. Decree Law No. 554 on Industrial Designs, which entered into force on 27 June 1995 provides for the protection of designs that are new and distinctive. A design is considered new if, before the date of application, no identical design has been made available to the public anywhere in the world. A registered design is protected for five years from the filing date, and protection may be renewed for periods of five years, to a maximum of 25 years. Protection for unregistered designs is provided through the unfair competition provisions of the Turkish Commercial Code.

(f) Other areas

142. Turkey also provides protection for geographical indications through Decree Law No. 555 on the Protection of Geographical Signs, which entered into force on 27 June 1995. Protection is based on registration and covers all goods, in addition to wines and spirits. Protection for unregistered geographical indications is provided through the unfair competition provisions of the Turkish Commercial Code.

143. Turkey's new data protection legislation provides data protection for pharmaceutical products in any EC member. The protection period cannot extend beyond the period granted for patents, and products registered after 1 January 2001 can be protected. Generic products can only be registered in exceptional cases, where public health is affected, and generic applications filed after 1 January 2006 are deemed to be valid.

144. Under Law No. 5042, Turkey protects new varieties of plants for 25 years after registration, and trees, vines, and potatoes for 30 years. The legislation provides a grace period of one year in Turkey, four years abroad, and six years for trees and vines.<sup>144</sup>

145. The Turkish legislation on intellectual property rights does not provide for anti-competitive practices in contractual licences. This subject is governed by the Protection of Competition Act (section (iii) above)).

(g) Enforcement

146. Infringements of patents (Part X of Decree Law No. 551, as amended), copyrights (Part V of Law No. 5846), trade marks (Part VIII of Decree Law No. 556), industrial designs (Part VI of Decree Law No. 554), geographical indications (Part IV of Decree Law No. 555), new varieties of plants (Part 7 of Law No. 5042), and integrated circuit topographies (Part 7 of Law No. 5147), can be challenged in a domestic court. Foreigners can also challenge patent holders in Turkish courts. There are 21 specialized IPR courts (up from eight in 2003; nine are criminal and twelve civil), in Istanbul, Izmir, and Ankara. In addition, general civil and general criminal courts are competent to deal with IPR cases in cities where there are no specialized IPR courts.

147. Persons making false statements during the process of granting an industrial property right, or those removing, without authority, the sign indicating an industrial property right on a product, or falsely presenting themselves as the owner of an industrial property right are subject to a maximum

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<sup>143</sup> In the event of recurrence, jail sentences can no longer be postponed or converted into a fine.

<sup>144</sup> Law No 5042 was influenced by the agreement reached between the International Union for Protection of New Varieties of Plants and WIPO, and, according to the authorities, is based on EC legislation.

fine of YTL 27,000 and imprisonment for up to two years. In the case of patents, the maximum fine was changed to YTL 46,000 and imprisonment for up to four years or both, and closure of the business for at least one year. Concerns have been expressed about provisions that delay the initiation of infringement suits until after the patent is approved and published.<sup>145</sup>

148. The Turkish Constitution stipulates that cases should be dealt with expeditiously and with the least possible cost. The losing party pays the costs, including attorneys' fees. The State bears the cost of criminal proceedings, but the convicted person pays the expenses at the end of the procedure. The number of penal actions brought under IPR legislation rose from 4,318 in 2001 to 6,504 in 2006; the number of civil actions decreased from 2,558 to 2,117 over the same period. Approximately half of total actions were in Istanbul.

149. Article 57 of the Customs Law sets out a procedure to enable a right holder or his/her representative to apply for the suspension of customs procedures for counterfeit trade mark or pirated copyright goods.<sup>146</sup> Customs authorities may also suspend the procedure on their own initiative, where solid evidence is available.

150. A public anti-piracy campaign was begun in 1998, and efforts have been made to educate businesses, consumers, judges, prosecutors, and others on the implications of the IPR legislative framework. Several training programmes have taken place over the last few years in selected IPR institutes in Europe; a documentation centre was set up at the IP Research Institute, under the umbrella of the University of Ankara; and preparations are continuing for the establishment of a network between IPR courts, the Ministry of Justice, customs administration, and the documentation centre.

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<sup>145</sup> USTR (2006).

<sup>146</sup> The customs procedures for goods infringing trade marks, geographical indications, and industrial designs, and rights covered by the Intellectual and Artistic Works Law are regulated by Article 57 of the Customs Law No. 4458.