

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Import procedures and requirements

1. Customs Law No. 4458 (as amended), together with its Regulations constitutes the basic legal framework for customs matters.¹ Over the years, Turkey has been taking steps to gradually align its customs legislation with the *acquis communautaire* of the EU. Since its last TPR, Turkey has redrafted the implementing provisions of the Customs Law. In addition, the tasks of the new Ministry of Customs and Trade were published in June 2011, following the government reorganization.² On the administrative and operational side, Turkey has concluded an agreement with Greece to build a second border-crossing bridge; signed a protocol with Georgia on the circulation of passengers, vehicles, and goods at three-border-crossing points and agreed minutes regarding the exchange of data; inaugurated new premises at the Hamzabeyli Border Gate; reopened the Çobanbey Railroad Border Gate (closed in 1980); and engaged in cooperation with Syria and Iran on the joint operation of border crossings.

2. Under the GIMOP (Customs Modernization Project), the Ministry of Customs and Trade has been implementing several programmes to make the customs administration more effective and efficient. The GÜMSİS (Project of Security Systems at Customs Border Posts) programme was launched in 2001 to monitor and prevent illegal trafficking of goods, vehicles, and travelers. Further modules have been integrated under the GÜMSİS umbrella, including a vehicle and container inspection (x-ray) system, a nuclear detection system, a GPS-based transit-vehicle-tracking system, and a licence-plate scanning system. In 2002, BILGE (a computer software package) was introduced to carry out all real-time customs formalities. BILGE includes subsystems for summary declarations, warehouse management, tariffs, and accounting.

3. The format of the Turkish customs declaration has been aligned with the single administrative document (SAD) used for customs procedures in the EU. In order to benefit from preferential rates of customs duty during customs clearance, EUR.1 or EUR.MED movement certificates are required for imports from non-EU countries with which Turkey has free-trade agreements, and from EU member states for imports of agricultural goods, and coal and steel products. The Customs Authority may grant permission to simplify formalities and procedures, including by waiving some of the documentation requirements. The use of a clearing agent is not compulsory, and the use of customs brokers is not obligatory.

4. A summary declaration, normally effected using BILGE, must be presented at the customs office by the end of the working day following the arrival of goods at Customs.³ The original

¹ Customs Law No. 4458 replaced Customs Law No. 1615/1972 in February 2000. The main changes in the framework are detailed in WTO (2003).

² The new Customs Regulation was published in the *Official Gazette* No. 27369 on 7 October 2009, and the Decree as Law on the Organization and Tasks of the Ministry of Customs and Trade No. 640 in the *Official Gazette* No. 27958 on 8 June 2011. Other recent customs-related legislation includes the Law Amending the Customs Law and Certain Laws and Decree Laws No. 5911 (*Official Gazette* No. 27281 of 7 July 2009), and the Decree of the Council of Ministers No. 2009/15481 on Implementation of some Clauses of the Customs Code No. 4458 (*Official Gazette* No. 27369 of 7 October 2009).

³ The transition to a pre-arrival declaration system is in progress. The legislative amendments have been completed, and the new system is expected to become technically operational during 2012.

manifest or bill of lading must be attached to the summary declaration.⁴ Import clearance is normally completed with 24 hours, provided all the required documentation is in order, irrespective of the mode of transport.

5. The importers are responsible for customs clearance. Merchandise arriving by road, railway, or air transport should be cleared within 20 days, for importations via maritime transport the requirement is 45 days. The deadline may be extended at the request of the importer. Unless administrative or judicial proceedings have been invoked regarding the imported goods, failure to clear merchandise through Customs within the stipulated deadlines may lead to confiscation and disposal at auction. The declarant may reserve the right to apply the free circulation procedure until publication of the auction date, against payment of a fine of 1% of the c.i.f. value of the goods in question.

6. Certain goods may only be imported through specialized customs offices. Motor vehicles, tractors, motorcycles and their spare parts and accessories must be cleared at the Yesilkoy, Gebze, Izmit or Mersin customs directorates; textile products must pass through the Customs directorate at Halkali, Atatürk Havaliman, Sabiha Gökçen Airport, Gemlik, Mersin, Izmir, Denizli, Ankara, Kayseri or Gaziantep; fertilizer may be imported through the customs administration at Derince, Mersin, Samsun, Izmir, Aliaga, Dikili, Kapikule station, Tekirdag, Bandirma, Gemlik, Iskenderun, Ambarli, Haydarpasa or Antalya; and some solvents and petrochemical products must be cleared by the Gebze Petrochemical Customs Directorate. Exceptional circumstances, whereby goods may be imported through other customs directorates, are defined in the legislation setting up the specialized customs directorates.

7. Any natural or legal person with a tax number is eligible to undertake imports, without any certification requirements.⁵ The importation of certain products requires an import licence (section (vii) below).

8. Effective 1 January 2010, textiles and clothing products became subject to registration, to monitor imports of these goods.⁶ Registration, which takes place prior to import, includes a certified exporter registry form. Information to be provided includes the company's legal title, address, number of employees, total sales, international quality certificates, and a listing of other destinations for the company's exports.⁷ Applications for registration may be submitted via the internet or XML-based software. The exporter registry form is certified by the competent authorities, e.g. the Chambers of Commerce, Turkish public notaries, or a Turkish Consulate General.⁸ The form should be submitted once; updates or renewals may be effected through the internet. Exporters are reminded to renew their certificates via e-mail. The product coverage of this surveillance measure is provided in Table AIII.1.

⁴ The Ministry of Customs and Trade may allow the use of another internationally approved commercial or official document containing the details necessary for the identification of goods.

⁵ Partnerships formed by persons entitled by law to undertake legal acts, although not endowed with legal personality status, may also engage in importation.

⁶ Communiqué No. 2010/1, published in the *Official Gazette* No. 27449 (bis 2) on 31 December 2009.

⁷ Enterprises may enter "commercial secret" where they believe the response would reveal business-sensitive information.

⁸ Consular certification is not required provided Turkey has an apostille agreement pursuant to the 1961 Hague Convention in force with the exporting country.

(ii) Ordinary customs duties

(a) Bound and applied MFN duties, statutory tariffs

9. Turkey's tariff is based on the 2007 Harmonized Commodity Description and Coding System (HS) and comprises 16,448 tariff lines. Turkey's Customs Tariff is implemented at the 12 level, where the first 6 digits indicate the Harmonized System nomenclature, the 7th and 8th digits correspond to the combined nomenclature of the EU, and the 9th and 10th digits are used to display subheadings created for taxation. The purpose of the last two digits is to collect statistical data.

10. As a result of the Uruguay Round, Turkey bound all agriculture tariff lines and 33.5% of its tariff lines for industrial products.⁹ Turkey's simple average bound rate is close to 72% for agricultural products, compared with 17.4% on its non-agricultural bound tariff lines (Table III.1). Turkey's final bound rates range from zero to 225% on agricultural goods and from zero to 82% on non-agricultural items.¹⁰ The incidence of tariff bindings in non-agricultural sectors is not uniform (Chart III.1). While Turkey has bound more than 60% of the tariff lines for machinery, precision equipment, chemicals, transport equipment, and plastics and rubber, no tariff lines are bound for products falling within HS Chapters 26, 36, 60, 64, 67, 75, 78, 83, 89, 93 and 97.

11. Turkey's applied tariff consists predominantly of *ad valorem* rates, which apply to 98.3% of tariff lines. Specific, compound, mixed, and variable duties affect some 278 tariff lines at the 12 digit level (Table AIII.2).¹¹ Specific duties are levied on certain alcoholic beverages, salt, and cinematographic films. Mixed duties apply to items such as carpets, glass and glassware products, and watches.¹² The compound duties affect mainly processed agricultural products such as yoghurt and pasta. Variable duties apply to items such as dairy spreads, sugar confectionery, chocolate, malt, cereals, and prepared potatoes. The compound and variable duties are linked to the implementation of Turkey's customs union commitments with the EU, where the Turkish lira equivalents of the components expressed in euros are to be paid into the Mass Housing Fund, which is applied to Annexes III and IV of the Turkish Import Regime. Turkey does not have seasonal tariffs.

12. Turkey's implementation of the Customs Union Decision, and thus the common external tariff on industrial products, yields a marked difference between the tariff protection afforded to agricultural production versus manufacturing industries. Whereas the simple average applied MFN tariff amounted to 12.2% overall in 2011, the average was 47.9% for agricultural goods and only 4.1% for products within HS Chapters 25 to 97 (Table III.2). The tariff peaks are also markedly higher in the agriculture sector compared with other economic activities. Whilst the average MFN tariff on meat and dairy products exceeds 100%, and is close to 100% on meat and fish preparations, only textiles and clothing items face average tariffs above 10% among the non-agricultural tariff lines (Table AIII.3). Duty-free items represent 23.2% of all tariff lines and include products under the Information Technology Agreement, pharmaceutical products, pulp of wood, some cement, and

⁹ The calculations in this section are based on data for 2011 provided by the Turkish authorities, comprising 16,448 tariff lines in total. In WTO (2007), the calculations were made on the basis of 18,253 tariff lines at the HS 12-digit level, resulting in an incidence of bindings of 46.3% of all tariff lines and around 36% for non-agricultural products.

¹⁰ Turkey reduced its bound tariffs in equal annual instalments between 1995 and 2004. GATT 1994, Schedule XXXVII.

¹¹ While 57 of these tariff lines are unbound, Turkey has only bound 4 tariff lines subject to non-*ad valorem* rates of duty at specific rates; the majority of the lines are bound at *ad valorem* rates (Table AIII.2).

¹² The incidence of mixed duties has declined somewhat since 2007 as mixed rates have been replaced by *ad valorem* duties ranging from 9% to 15% on certain flat-rolled products of iron and non-alloy steel.

products of animal origin. Although Turkey is not a signatory to the plurilateral Agreement on Trade in Civil Aircraft, it provides duty-free treatment to a large number of items for use in civil aircraft (List VI to the 2010 Customs Tariff).

Table III.1
Structure of MFN tariffs in Turkey, 2011
(Per cent)

	2011	Final bound ^a
1. Bound tariff lines (% of all tariff lines)	51.9	51.9
2. Duty-free tariff lines (% of all tariff lines)	23.2	3.0
3. Tariff quotas (% of all tariff lines)
4. Non- <i>ad valorem</i> tariffs (% of all tariff lines)	1.7	0.2
5. Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	0.3	0.2
6. Simple average tariff rate	12.2	36.9
Agricultural products (WTO definition)	47.9	71.9
Non-agricultural products (WTO definition)	5.0	17.4
Agriculture, hunting, forestry and fishing (ISIC 1)	26.0	45.8
Mining and quarrying (ISIC 2)	0.2	8.6
Manufacturing (ISIC 3)	11.6	36.1
7. Simple average rate of dutiable lines only	15.9	n.a.
8. Domestic tariff "spikes" (% of all tariff lines) ^b	9.1	3.7
9. International tariff "peaks" (% of all tariff lines) ^c	14.6	33.0
10. Overall standard deviation of applied rates	27.1	44.1
11. "Nuisance" applied rates (% of all tariff lines) ^d	6.7	0.0

.. Not available.

n.a. Not applicable.

a Final bound rates are based on the 2006 tariff schedule in HS02 nomenclature. Calculations on bound averages are based on 6,347 bound tariff lines (including partially bound).

b Domestic tariff spikes are defined as those exceeding three times the overall simple average applied rate (indicator 6).

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

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

Note: 2011 tariff is based on HS07 nomenclature consisting of 16,448 tariff lines (at 12-digit tariff line level). Calculations include AVEs provided by the authorities for non-*ad valorem* rates. In case of unavailability of AVEs, the *ad valorem* part is used for compound rates.

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

13. Law No. 474 on Customs Tariff Schedule allows the Government to increase the applied MFN rates when these are deemed insufficient to provide "adequate" protection to domestic industries.¹³ The Law sets the so-called statutory tariff, which is different from the applied MFN tariff adopted annually by the Council of Ministers.¹⁴ Under the Law, the Government may replace applied MFN rates by 150% of the corresponding rates of the statutory tariff to ensure higher protection to local industries. However, according to the Turkish authorities, the statutory tariff is only applied for tariff lines that are unbound in the WTO framework or fall outside of the scope of the Customs Union

¹³ Law No. 474, published in the *Official Gazette* of 25 May 1964 and amended by Law No. 4217, published in the *Official Gazette* of 8 December 1996.

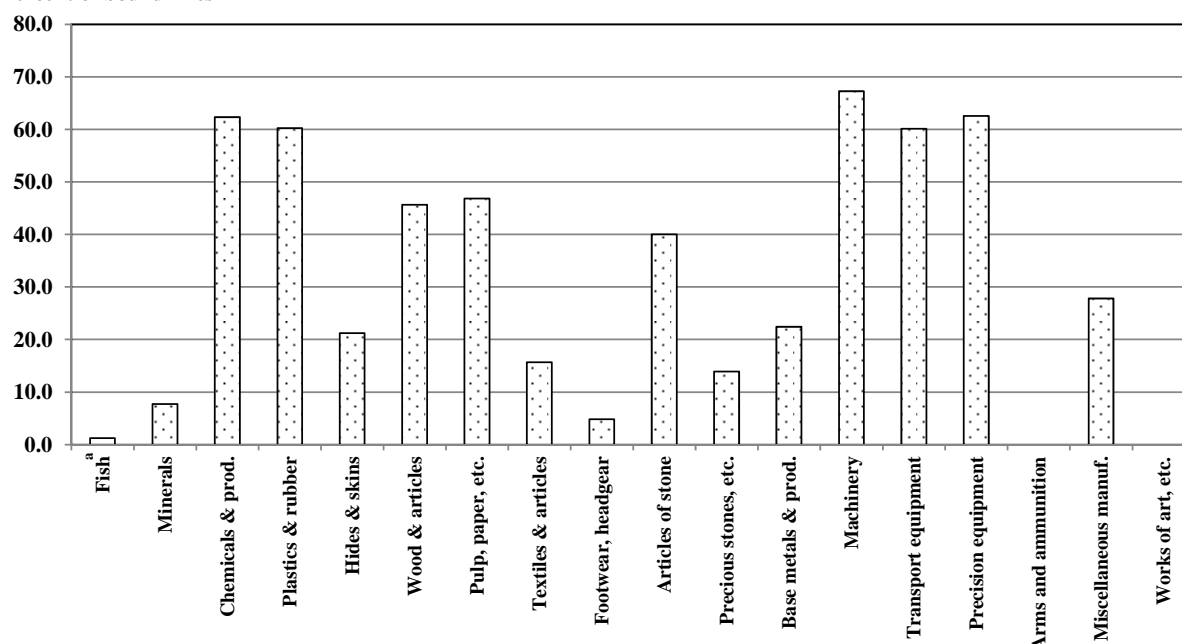
¹⁴ The Import Regime Decree is issued annually and amended only in exceptional circumstances.

Decision. For bound tariff lines or lines covered by the Customs Union, any increases in the applied MFN rate will be capped by Turkey's commitment levels.¹⁵

Chart III.1

Share of bound tariff lines, by non-agricultural goods

Percent of bound lines



^a HS chapter 03.

Note: Share of bound lines (including partially bound) are calculated based on the 2006 tariff schedule in HS02 nomenclature.
Source: WTO Secretariat estimates, based on WTO IDB and CTS databases.

Table III.2
Summary analysis of MFN tariff, 2011

Analysis	No. of lines ^a	Applied 2011 rates				Imports 2010 ^a (US\$ million)
		Simple avg. tariff (%)	Range tariff (%)	Standard deviation (%)	CV	
Total	16,448	12.2	0-225	27.1	2.2	185,541
HS 01-24	2,936	49.2	0-225	48.8	1.0	7,683
HS25-97	13,512	4.1	0-37.9	3.8	0.9	165,185
By WTO definition						
Agriculture	2,742	47.9	0-225	51.3	1.1	9,721
Live animals and products thereof	398	105.9	0-225	71.4	0.7	584
Dairy products	178	115.8	8.3-180	60.9	0.5	115
Coffee and tea, cocoa, sugar, etc.	423	39.1	0-145	33.5	0.9	1,172
Cut flowers and plants	119	10.6	0-46.8	14.9	1.4	92
Fruit and vegetables	600	41.0	0-145.8	22.6	0.6	672

Table III.2 (cont'd)

¹⁵ Article 2 of Law No. 474 authorizes the Council of Ministers to increase or decrease the statutory tariff rates and states that provisions of international agreements signed by Turkey must be respected. The Decisions of the Council of Ministers are published in the *Official Gazette*.

Analysis	No. of lines ^a	Applied 2011 rates			CV	Imports 2010 ^a (US\$ million)
		Simple avg. tariff (%)	Range tariff (%)	Standard deviation (%)		
Grains	65	52.3	0-130	45.0	0.9	1,057
Oil seeds, fats, oils and their products	250	20.1	0-50	15.9	0.8	2,755
Beverages and spirits	302	46.8	0-70	27.7	0.6	162
Tobacco	28	38.8	10-74.9	22.3	0.6	368
Other agricultural products	379	6.4	0-46.8	8.5	1.3	2,742
Non-agriculture	13,706	5.0	0-81.9	7.1	1.4	163,148
Fish and fishery products	393	35.0	0-81.9	18.0	0.5	242
Mineral products, precious stones and precious metals	847	2.6	0-21.12	3.0	1.2	11,893
Metals	1,856	4.2	0-22.4	5.1	1.2	26,980
Chemicals and photographic supplies	3,132	4.7	0-37.9	2.6	0.5	24,607
Leather, rubber, footwear and travel goods	458	4.1	0-17	4.2	1.0	3,471
Wood, pulp, paper and furniture	793	0.8	0-10	1.9	2.4	5,290
Textiles and clothing	2,372	7.9	0-12	3.0	0.4	10,905
Transport equipment	422	5.2	0-22	4.8	0.9	17,969
Non-electric machinery	1,450	1.6	0-9.7	1.4	0.9	21,368
Electric machinery	838	2.4	0-14	2.7	1.1	14,137
Non agricultural articles n.e.s.	1,040	2.4	0-13.9	1.9	0.8	5,659
Petroleum	105	3.4	0-4.7	1.0	0.3	20,626
By ISIC sector^b						
Agriculture, hunting, forestry and fishing	855	26.0	0-150	32.0	1.2	6,170
Mining	191	0.2	0-11.68	1.1	5.9	14,249
Manufacturing	15,401	11.6	0-225	26.7	2.3	152,429
By stage of processing						
Raw materials	1,667	18.8	0-150	27.0	1.4	26,129
Semi-processed products	5,943	6.5	0-135	11.0	1.7	53,377
Fully-processed products	8,838	14.8	0-225	33.3	2.3	93,362

a The total of imports is higher than the sum of sub-items, as certain imports, to the value of US\$12,672.8 million are not classified in the Harmonized System.

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

Note: CV = coefficient of variation.

Calculations include AVEs provided by the authorities for non-*ad valorem* rates. In case of unavailability of AVEs, the *ad valorem* part is used for compound rates.

Source: WTO Secretariat calculations, based on data provided by the Turkish authorities; imports data from UNSD, Comtrade database.

14. Significant differences between bound and applied rates leave Turkey some flexibility to increase its MFN duties on a number of agricultural goods (Chart III.2). The gap between bound and applied duties on industrial products, combined with a relatively low incidence of tariff bindings, provides significant scope for Turkey to increase its duties on non-agricultural products within the WTO framework. However, unilateral increases by Turkey would run contrary to the Customs Union Decision.

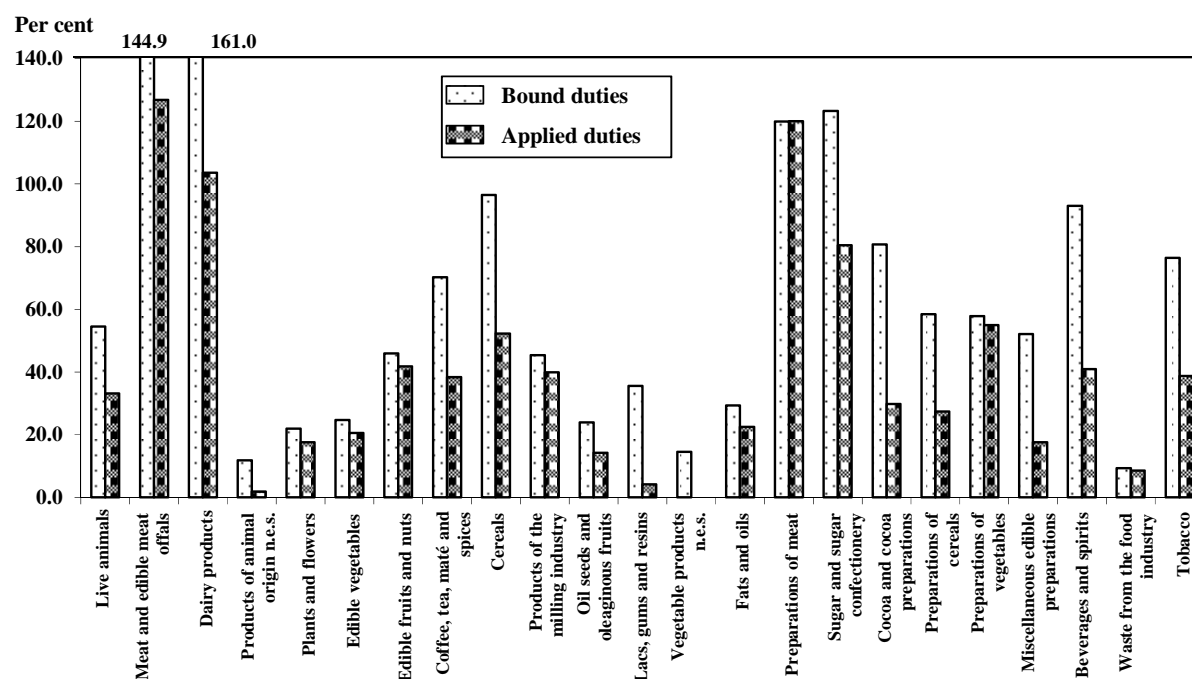
15. Overall, Turkey's applied MFN rates have not changed significantly since 2007.¹⁶ Among recent changes, Turkey reduced its MFN tariffs on live bovine animals for breeding (HS 010290) from 20% to zero effective 28 October 2010; from 30% to 15% for live bovine animals for slaughter; from 225% to 30% on certain sheep meat (HS 0204) on 22 December 2010; and from 130% to zero on wheat, oat and buckwheat (HS 1001, 1004 and 1008) for the period 25 February to 1 May 2011.

¹⁶ According to the Turkish authorities, the simple average MFN tariff for agricultural and fish products varied between 58.5% and 60.5% from 2007 to 2011.

However, the MFN import duty was increased to 75% on certain meat (HS 0201 and 0202) on 2 July 2011, and the MFN duty was increased by 20% or 30% on some textile and apparel products on 15 September 2011.¹⁷

Chart III.2

Bound and applied duties on agricultural products, by HS 2-digit, 2011



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

(b) Tariff preferences

16. Commensurate with its commitments under the Customs Union Decision, Turkey has been aligning its preferences to third countries, including the GSP Scheme, with the EU trade regime. This is leading to progressive elimination of all or virtually all tariffs on products falling within HS Chapters 25 to 97, and selective liberalization of certain agricultural commodities and processed agricultural products (Tables III.3 and AIII.4). The tariff preferences on agricultural goods are generally implemented through tariff-rate quotas (section (iv) below).

¹⁷ According to the WTO Report on G-20 Trade Measures (Mid-October 2010 to April 2011), Turkey imposed the higher duties on textiles and clothing goods provisionally from 22 July 2011.

Table III.3
Tariff averages, 2011
 (Per cent)

	HS 01-97	HS 01-24	HS 25-97	WTO agriculture	WTO non- agriculture
MFN	12.2	49.2	4.1	47.9	5.0
GSP	10.0	47.5	1.9	46.0	2.9
Serbia	8.8	49.2	0.0	47.8	1.0
Tunisia	8.8	49.2	0.0	47.8	1.0
Syria	8.8	49.2	0.0	47.8	1.0
Morocco	8.8	49.2	0.0	47.8	1.0
West Bank and the Gaza Strip	8.8	49.2	0.0	47.8	1.0
Kosovo	8.8	49.2	0.0	47.8	1.0
Croatia	8.8	49.1	0.0	47.7	1.0
Israel	8.8	49.2	0.0	48.0 ^a	1.0
Countries benefiting from special incentive arrangements	8.7	46.8	0.4	45.2	1.4
Albania	8.7	48.6	0.0	47.1	1.0
LDC	8.6	46.7	0.4	45.0	1.4
Macedonia (FYR)	8.6	47.8	0.0	46.3	1.0
Egypt	8.5	47.5	0.0	47.8	0.7
EU	8.2	48.4	0.0	47.4	0.9
Georgia	7.7	43.3	0.0	41.4	1.0
EFTA	7.4	43.8	0.0	47.4	0.0
Bosnia-Herzegovina	0.9	5.0	0.0	5.3	0.0

a The average on preferential agreements may be higher than the MFN average as in some cases there is no information on AVEs or the *ad valorem* part of non-*ad valorem* duties.

Note: Calculations include AVEs provided by the authorities for non-*ad valorem* rates. In case of unavailability of AVEs, the *ad valorem* part is used for compound rates.

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

(iii) Other duties and charges (ODCs)

17. For all tariff line items in its Goods Schedule, Turkey has bound "other charges and duties" (Article II.1(b) of the GATT) at non-zero rates for all items except those marked "free". The possible ODCs could amount to 15% of the customs duty as a "municipality share", in addition to taxes of 4% for goods arriving by maritime transport (transportation infrastructure fee) or 3% by road, rail or air transport.

18. At present, Turkey applies a Mass Housing Fund (MHF) levy on imported fish and fish products falling within HS Chapters 2, 3, 15, 16 and 23. The levy is differentiated according to imports from the EU, EFTA member states, and other countries, and ranges from zero to 35% *ad valorem*. Turkey has not bound its tariffs for fish and fish products, but imports from EFTA member states enter free from import duty and the MHF levy under the Turkey-EFTA Free Trade Agreement.

(iv) **Tariff-rate quotas and tariff exemptions**

19. Turkey does not have tariff quota commitments listed in its Goods Schedule. However, it occasionally opens MFN tariff quotas unilaterally.¹⁸ Quota allocations are made on a "first come, first served" or "past performance" basis. The in-quota tariff rates are differentiated between duty-free and reduced MFN rate. In addition, preferential tariff-rate quotas are administered on numerous agricultural and processed agricultural products (Table AIII.5). On non-agricultural products, Turkey opened preferential tariff-rate quotas for acrylonitril and compressors on 1 January 2011. Allocations of the 12-month TRQs are made on a "past performance" and "production capacity" basis. Approximately 90% of the TRQ for compressors has been utilized and 100% for acrylonitril.

20. The Investment Encouragement Programme (IEP) provides for duty and tax concessions on imports. In addition, exporters benefit from the inward-processing scheme. 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 Defence in the context of the North Atlantic Treaty Organization are exempt from the payment of customs duties (Table III.4).

21. The IEP aims, *inter alia*, to reduce regional disparities and promote small and medium-sized enterprises. In principle, all investment projects are eligible.¹⁹ Project applications are subject to assessment by the Ministry of Economy. Investment projects, which are granted an Investment Encouragement Certificate benefit from customs duty exemptions on all machinery and equipment to be used in the production process. Exemption from VAT is provided pursuant to Law No. 3065 of 25 October 1984. Domestic and foreign investors benefit from equal terms and conditions. Foreign exchange earning activities are exempt from stamp duty and charges pursuant to Laws Nos. 488 and 492.

22. The inward processing scheme allows Turkish manufacturers/exporters to import materials free of duty and other commercial policy measures. Goods imported under this scheme are intended for re-export from the customs territory of Turkey in the form of "compensating products", i.e. all goods obtained from processing operations. Normally, the manufacturer/exporter will request the suspension of import duty and VAT until export of the finished product, but the duties and VAT may also be paid and subsequently reimbursed under the drawback system.

23. The "suspension list" (List V in Turkey's Customs Tariff) enables manufacturers to import certain raw materials and intermediary inputs, i.e. chemical raw materials and inputs for the electronics industry, at low or duty-exempt rates. Moreover, tariff-rate quotas may be opened for products with insufficient production capacities within the Customs Union.²⁰

¹⁸ The United States requested consultations with Turkey in November 2005 regarding certain measures affecting the importation of rice (WTO document DS334). The Panel found, *inter alia*, that Turkey's requirement that importers purchase domestic rice in order to be allowed to import rice under the tariff-rate quotas was inconsistent with GATT Article III:4, but did not make a recommendation as the measure was no longer in force and Turkey had declared its intention not to reintroduce the measure. Turkey's tariff-rate quota for rice was abolished on 31 July 2006.

¹⁹ Investments not supported, or supported conditionally, under the General Investment Encouragement System are listed in Annex IV of WTO document G/SCM/N/186/TUR, March 2010.

²⁰ Turkey has prepared the suspension list in co-operation with the EU. However, any Turkish requests for the opening of tariff-rate quotas would only be applicable within Turkey.

Table III.4
Key features of concessional entry schemes, 2011

Scheme	Eligibility	Incentives
Investment encouragement programme	Feasible investment projects deemed 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 ^a VAT exemption for imported and locally purchased machinery and equipment on the list
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
(b) Use of equivalent goods	Any exporter	Suspension of customs duties and VAT on imported inputs after export of compensating products
(c) Repayment of duties collected on imports	Any exporter	Refund of customs duty and VAT paid on imported inputs, after export of goods with imported inputs, based on a drawback method
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
Donations	State administrations; certain items to be used mainly for the public interest, approved by relevant ministries Vehicles produced especially for disabled persons
Financial leasing	Vessels, air carriers, medical equipment, and high-tech products Movable and immovable property	Total or partial relief from import duties up to the date the leasing contract is over; VAT reductions Suspension of all customs duties and exemption of duties, charges, and fees for the leasing contract up to the date the leasing contract is over
Temporary imports	Any importer; certain commercial or personal items	Total or partial relief from import duties on temporary use in Turkey for 6 to 12 months without any change except normal depreciation due to their use
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
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 or new investments for 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.

Note: No performance requirements are in place under these schemes.

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

(v) Fees and charges for services rendered

24. All shipments requiring formal clearance by the Turkish customs authorities are subject to an ordino fee of US\$100 per customs declaration, and a stamp duty, set at TL 40.10 for 2011. Charges for printed documents used by the customs administration are enumerated in Table III.5. Customs

clearance outside of normal opening hours incurs additional charges. The fee for overtime is set at TL 5.50 per hour for export transactions and TL 13.20 per hour for all other operations.²¹ Costs for analyses or examinations carried out in customs laboratories or outsourced units are borne by the declarants (Customs Act No. 4458, Article 66, subparagraph 4, amended by the Act of 18 June 2009 and Act No. 5911).²² Consignments valued at €75 or less do not require formal clearance by Customs.

Table III.5
Fees and charges

Name of account	Parcel/Pcs	Annex no.	Price
Customs summary declaration form	1,000	9	
Certificate of customs status		65	
Application for customs procedure with economic impact (application for authorization to operate customs warehouses) inward processing control sheet (outward processing control sheet)		55	
Auth. for customs procedure with economic impact (control sheet for auth. to operate customs warehouses) inward processing auth. (outward processing auth. control sheet)		56	
Verbal declaration for temporary importation		57	
Inf 2 (outward processing triangular traffic)		64	1.70
Inf 9 information sheet (inward processing)		47	
Identification and assessment sheet for goods consigned to EU from free zones		67	
Application for return or removal		77	
Container tracking form at entry	2,000		
Container tracking form at exit	2,000		
Application for ending customs transactions of goods that violate intellectual and industrial property rights		19	
Customs declaration in quadruplicate	500	20.2	
Continuation sheet in quadruplicate	500	20.4	
T S document (control sheet)		36-36,1	
T S simplified procedure (control sheet)		36.2-3	
Loading list T 5		36.4-5	
Inf 1 information sheet		50	
Inf 5 (inward processing / triangular traffic)		49	2.20
Inf 6 (information sheet for temporary importation)		61	
Inf 1 information sheet (inward processing)		51	
Inf 6 form (customs warehouses / handling in free zones)		41	
Temporary import declaration and undertaking for vehicles leaving the Turkish customs territory (83/A)		68	
Temporary import declaration and undertaking for non-commercial goods consigned from the Turkish customs territory (83/B)			

Table III.5 (cont'd)

²¹ According to Article 3.1 of Communiqué No. 74, customs personnel receive an allowance for overtime work and work carried out on official holidays. Based on Article 122.1.a of the Council of Ministers' Decision No. 2009/15481, the allowance is TL 5 per hour for export transactions and TL 12 for other transactions. Trucks carrying Turkish licence plates are charged an overtime fee of TL 12 per truck for export transactions and TL 19 for other transactions (Article 122.1.b). The fee is also charged to trucks with foreign licence plates taking goods into Turkey. However, depending on the time of the transaction and the mutuality principle, the fee may not be collected from trucks with foreign licence plates transiting through Turkey.

²² Payments for laboratory analyses and examinations are recorded as revenue in a fund entitled Working Capital regarding the Fees Charged for the Analyses Conducted at Customs Laboratories and the Goods Disposed under the Customs Legislation; operating expenses for tools, materials, supplies, software, training and the like are charged against this fund. Laboratory analysis fees were published in the Customs Regulations of 7 October 2009, Enclosure 24.

Name of account	Parcel/Pcs	Annex no.	Price
Customs declaration in octuplicate	250	20.1	
Continuation sheet in octuplicate	250	20.3	3.30
Inf 4 information sheet			
Laboratory analysis report		30	
Laboratory analysis continuation report			
Second analysis report		82	5.50
Certificate of authorization for processing under customs control		53	
Application for binding tariff information		1	

Source: Information provided by the Turkish authorities.

25. An importer may appoint a customs broker to handle formal clearance procedures. Goods that fail to pass customs clearance within 45 days (from the date on which the summary declaration is lodged for goods carried by sea) or 20 days (goods transported by modes other than sea) are disposed of. The Customs Office may extend this period for justified reasons. An additional 30 days to complete the procedure may be granted against a supplementary fee of 1% of the value of the shipment.

26. Turkey began full implementation of a strip-stamp requirement for alcoholic beverages and tobacco products in November 2007. The special stamp contains an activated code to be applied on each product.²³ For imported goods, the codified label may be affixed (i) at production sites abroad before the products are shipped to Turkey, (ii) in customs areas for alcoholic beverages and tobacco products in Turkey, or (iii) at facilities operated by an authorized company in the provinces of Istanbul, Izmir, or Mersin. The price for the strip stamps is the same for imported and domestically produced goods, except for beer, where the price difference is due to the cost of the stamp paper. The Turkish authorities are considering various options to eliminate the price difference.

(vi) Application of internal taxes

27. The Special Consumption Tax (SCT) was introduced on 1 August 2002, replacing 16 selective taxes on oil products, motor vehicles, alcoholic beverages and tobacco products, and various luxury goods. The SCT is levied on imports as well as domestic production, and published in the form of four lists. The SCT is primarily collected on imports when goods are cleared through Customs, and for domestically produced goods when these are delivered to the customers. The petroleum products covered by the SCT and the corresponding tax rates are enumerated in Table AIII.6. Air conditioners, refrigerators, freezers, record and cassette players, and television receivers are subject to SCT at a rate of 6.7% *ad valorem*; for caviar, furs, precious stones, cosmetics, mobile phones, crystal chandeliers, and revolvers the SCT amounts to 20% *ad valorem*. The tax rates on motor vehicles and other transport equipment range from 1% for certain buses to 84% for certain vehicles under 3.5 tonnes (Table III.6).

²³ The requirement is not applied to alcoholic beverages in packaging of 5cl or less. The strip stamp has not been applied to wine during the aging process since 1 January 2010.

Table III.6
Excise duties or special consumption tax on motor vehicles, 2011

HS Code	Product description	Tax rate (%)
8701.20	Tractors for semi-trailers	4
87.02	Motor vehicles for transport of 10 persons and more (including driver)	
	Autobus	1
	Midibus	4
	Minibus	9
87.03	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading No. 87.02), including station wagons and racing cars. ^a	
	Those with maximum load capacity of 850 kg or less, and with piston displacement of less than 2,000 cc	10
	Those with maximum load capacity of more than 850 kg, and with piston displacement of less than 2,800 cc	10
	Only those with electric motor	10
	Of a cylinder capacity not exceeding 3,200 cm ³ , having 9 seats including driver	10
	Only those with electric motor	10
	Others	
	Of a cylinder capacity not exceeding 1,600 cm ³	37
	Of a cylinder capacity exceeding 1,600 cm ³ but not exceeding 2,000 cm ³	60
	Of a cylinder capacity exceeding 2,000 cm ³	84
	Only those with electric motor	
	Of a motor power not exceeding 85 kW	3
	Of a motor power exceeding 85 kW but not exceeding 120 kW	7
	Of a motor power exceeding 120 kW	15
8703.10.11.00.00	Vehicles specially designed for traveling on snow, vehicles with compression ignition, internal combustion reciprocating piston engine/diesel and semi-diesel) or vehicles with spark-ignition internal combustion reciprocating piston engine	6.7
8703.10.18.00.00	Others	
	Golf cars similar vehicles	6.7
87.04	Motor vehicles for the transport of goods ^b	
	Of cylinder capacity not exceeding 3,000 cm ³	10
	Of cylinder capacity exceeding 3,000 cm ³ but not exceeding 4,000 cm ³	52
	Of cylinder capacity exceeding 4,000 cm ³	75
	Only those with electric motor	
	Of a motor power not exceeding 85 kW	10
	Of a motor power exceeding 85 kW but not exceeding 120 kW	52
	Of a motor power exceeding 120 kW	75
	Of load limit under 620 kg and having box truck	
	Only those with electric motor	10
	Others	10
87.05	Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units) (excluding fire fighting vehicles)	
	Those only subject to recording and registration, excluding fire fighting vehicles	4
87.09	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway the components and parts of these vehicles	4
87.11	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side cars (except side cars) (except only those with electric motor)	
	Of a cylinder capacity not exceeding 250 cm ³	8
	Of a cylinder capacity exceeding 250 cm ³	37
8711.90.00.00.00	Others (only those with electric motor)	
	Of a motor power not exceeding 20 kW	3
	Of a motor power exceeding 20 kW	37

Table III.6 (cont'd)

HS Code	Product description	Tax rate (%)
88.02	Other aircraft (for example, helicopters, aeroplanes); spacecraft (including satellites) and spacecraft launch vehicles and vehicles under orbit	0.5
	(Only helicopters and aeroplanes) (except military aircrafts, special helicopters and aeroplanes for pesticide and fire extinguishing use)	
8901.10.10.00.11	Cruise-ships not exceeding 18 gross tonnage	6.7
8901.10.90.00.11	Passenger ships and cruise ships	6.7
89.03	Yachts and other vessels for pleasure or sports; rowing boats and canoes (except inflatable, rowing boats, and canoes not exceeding 100 kg	8

a Only passenger cars, station wagons, racing cars, off-road vehicles, etc. (including cash-carrying vehicles), motorhomes, and motor vehicles that run on electricity, gas, solar energy etc. Except for motor vehicles such as ambulances, prisoner vehicles, funeral vehicles, fire department lead-vehicles that are manufactured for special purpose; compression-ignition piston engine (diesel and semi-diesel) and spark-ignition piston combustion vehicles that have been designed to be driven on snow, others (golf cars etc. vehicles).

Of motor vehicles (except all wheel-driven passenger cars, station wagons, race cars and off-road vehicles) of less than 3.5 tonnes weight, which are used for carriage of goods, and the passenger capacity (passenger capacity is calculating by multiplying the number of passenger, including the driver, by 70 kg. When making this calculation, the fixed appliance for mounting of seats will be taken into consideration as if they were the seats) of which is less than 50% of the maximum load capacity (the total load weight, including the driver and the passengers, that a vehicle can safely carry).

b Those only subject to recording and registration.

Those with maximum load capacity of 4,700 kilograms or less, and with other seats by the driver or those with side windows other than that of the driver (except trucks without box and with piston displacement of 3,200 cc or less).

n.a. Not applicable.

Source: Information provided by the Turkish authorities.

28. The SCT applicable to alcoholic beverages and tobacco products has undergone some notable changes since the last Review of Turkey. Minimum tax levels on alcohol products, expressed in *ad valorem* equivalents, were eliminated in 2009.²⁴ Since then, all alcoholic beverages have been subject to specific rates of SCT only, except for beer, where the tax rate is the higher of 63% *ad valorem* or TL 0.44 per litre of pure alcohol. The specific rates were increased by 10% across-the-board in late 2009 and raised a further 30% in October 2010.²⁵ The rates of SCT vary considerably depending on the type of beverage (Table III.7).

29. Revenue from SCT levied on raw tobacco and tobacco products is channelled into the Tobacco Fund. The tax rates applicable in 2011 are set out in Table III.8. A Tobacco Fund levy on processed tobacco was abolished as of 1 January 2010.²⁶ Imported raw tobacco, including tobacco used in domestically produced cigarettes, is subject to a Tobacco Fund levy of US\$2,250 per tonne.²⁷

30. Turkey applies VAT on the supply and import of goods and many types of services. The general rate of VAT has been set at 18% since 15 May 2001. Special VAT rates apply to List I and List II items, notably to basic foodstuffs, books and similar publications (8%), and to raw cotton and dried hazelnuts (1%). On imports, VAT is calculated on the import price inclusive of customs duties and SCT, if applicable. VAT is not levied on exports, goods imported in accordance with an investment incentive certificate, goods in transit, or purchases by embassies and diplomatic staff, etc.

²⁴ Cabinet Decree No. 2009/14882 of 14 April 2009.

²⁵ Cabinet Decree No. 2009/15725 of 29 December 2009 and Cabinet Decree No. 2010/973 of 25 October 2010.

²⁶ Cabinet Decree No. 2009/15685, published in the *Official Gazette* No. 27447 on 29 December 2009.

²⁷ The levy was reduced from US\$3,000 to the present level through Cabinet Decree No. 27801 of 30 December 2010.

Table III.7
Excise duties on alcoholic beverages, 2011

HS Code	Product description	Tax rate (%)	Tax rate (specific amount in TL)
2202.10.00.00.13	Cola soda pops	25	-
2203.00	Beers produced from malt	63	0.44
22.04	Wine of fresh grapes (including fortified wines); grape must (other than that of heading No. 20.09) (except 2204.10 sparkling wine and 2204.30 other grape musts)	0	2.44
2204.10	Sparkling wines	0	16.12
22.05	Vermouth and other wines of fresh grapes (flavored with plants or aromatic substances) (except 2205.10.10.00.00, 2205.10.90.00.12)	0	22.10
2205.10.10.00.00	Whose alcoholic strength by volume is 18% or less	0	17.55
2206.00	Other fermented drinks (such as apple wine, pear wine, honey wine), mixed fermented drinks not in any other part of the tariff, and blends of fermented drinks with non-alcoholic drinks	0	2.44
2205.10.90.00.12	Whose alcoholic strength by volume is 22% or more	0	85.80
2207.20	Other alcoholic drinks with any degree of alcohol content, which are produced with denatured ethyl alcohol or by alcohol that is obtained by distillation (except for denatured ethyl alcohol of any degree)	0	85.80
22.08	Undenatured ethyl alcohol of less than 80%; distilled alcoholic drinks, liqueurs and other alcoholic drinks (2208.90.91; 2208.90.99) except for undenatured ethyl alcohol of less than 80% (except 2208.20, 2208.50, 2208.60, 2208.70 and 2208.90)	0	85.80
2208.20	Grape wine or alcoholic drinks that are obtained by distilling grape marcs	0	71.50
2208.50	Gin and Geneva	0	57.20
2208.60	Vodka (except 2208.60.91.00.00, 2208.60.99.00.00)	0	57.20
2208.60.91.00.00	Those in containers of less than 2 litres (with alcohol content of more than 45.4%)	0	85.80
2208.60.99.00.00	Those in containers of more than 2 liters (with alcohol content of more than 45.4%)	0	85.80
2208.70	Liqueurs	0	78.65
2208.90	Others (except 2208.90.48.00.11 and 2208.90.71.00.11)	0	85.80
2208.90.48.00.11	Raki (in containers of 2 litres or less	0	51.48
2208.90.71.00.11	Raki (in containers of more than 2 litres)	0	51.48

Source: Information provided by the Turkish authorities.

Table III.8
Excise duties on tobacco products, 2011

HS Code	Product description	Tax rate (%)	Minimum specific amount (TL)
2402.10.00.00.11	Cigars that contain tobacco	30	0.1325
2402.10.00.00.12	Cheroots	30	0.1325
2402.10.00.00.19	Cigarillos	30	0.1325
2402.20	Cigarettes that contain tobacco	63	0.1325
2402.90.00.00.00	Others		
	Cigars, cheroots and cigarillos made of ingredients deemed as a tobacco	30	0.1325
	Cigarettes made of ingredients deemed as a tobacco	63	0.1325
2403.10	Smoking tobacco (whether or not containing tobacco substitutes in any proportion) (except 2403.10.10.00.19 and 2403.10.90.00.19)	63	0.1325
2403.10.10.00.19	Others (in immediate packing of a net content not exceeding 500 g)	63	0.0342
2403.10.90.00.19	Others (in immediate packing of a net content exceeding 500 g)	63	0.0342
2403.99.10.00.00	Snuff and chewing tobacco	63	0.1325

Source: Information provided by the Turkish authorities.

31. A reduced VAT rate of 8% for contract manufacturing for textile and ready-to-wear works, and for services provided in private care houses and rest homes entered into effect on 1 June 2007, and for restaurant services on January 2008. The reduced VAT rate of 8% has been in effect since 2007, on similar accommodation services offered by hotels, motels, pensions, and holiday villages, as well as toothbrushes, contact lenses, spectacle lenses for glasses, certain excavators, knitting machines, etc.

32. Transactions effected by banks and insurance companies are exempt from VAT under Article 17 of Law No. 3065. Thus, banks and insurers cannot recover VAT paid on their inputs. However, a Banking and Insurance Transaction Tax (BITT) is levied at 5% on certain operations, e.g. on interest income and commissions. Transactions involving liquidity bills issued by the Central Bank of Turkey and money-market trading transactions between banks and subsidiaries are subject to 1% BITT.²⁸ The BITT on foreign exchange transactions has been at zero since 1 May 2008 under Cabinet Decree No. 2008/13459.

33. Internal taxes make an important contribution to Turkey's public finances. The TL 59.4 billion raised by the Special Consumption Tax in 2010 accounted for 24% of the Government's tax revenue, and 18.5% of total budget revenues, in that year. Similarly, the share of VAT in total tax receipts was 30% (TL 38.6 billion collected on domestically produced goods and TL 36.2 billion on imports). The Government also received TL 3.7 billion from the Banking and Insurance Transaction Tax, TL 4.1 billion from a special tax on communication services, and TL 0.64 billion from a tax on gambling in 2010. By comparison, government revenue from customs duties totalled TL 3.2 billion.

(vii) Import prohibitions, restrictions, and licensing

34. Turkey prohibits the import of ten items by broad product category (Table III.9). The product coverage remains unchanged since 2003. Turkey justifies these restrictions under the general exceptions and security exceptions provided by GATT Articles XX and XXI, i.e. the necessity to protect public morals or human, animal or plant life or health; compliance with domestic legislation or international obligations; or for reasons of national security.

35. Various goods are subject to licensing (Table III.10). Licensing is employed, for example, to enforce compliance with international conventions (material for the manufacture of chemical weapons, CITES); for reasons of national security or public safety (explosives, radioactive substances, fertilizer, maps and related items); or to ensure that the imported goods are used for the stated purpose (items for use in civil aircraft, liquefied petroleum gases). Certificates issued by the Ministry of Science, Industry and Technology for machine tools, various electrical household appliances, computers, transport equipment, telecommunications equipment, cameras, and health-related goods enforce a requirement on the distributors to provide adequate after-sales service and maintain sufficient stocks of spare parts and accessories. Imported motor vehicles are also subject to approval by the Ministry of Science, Industry and Technology, pursuant to Communiqué No. 10/7, to ensure that the vehicles are suitable for Turkish highways. An eligibility certificate, issued by the Turkish Sugar Authority (without any import restriction), is required for the importation of certain sugar substitutes.

²⁸ The BITT on sale and repo of domestically issued corporate bonds was reduced from 5% to 1% in late 2010 to develop the corporate debt market.

Table III.9
Import prohibitions, 2011

Description	Invocation of WTO Article	Domestic/international legislation
Narcotics, hashish and prepared opium (2 items) ^a	Health, IA ^b (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) ^{a, c}	Environment (Article XX:b, d)	Copenhagen Amendment to Montreal Protocol on Substances that Deplete the Ozone Layer, Import Regime No. 2011/14
Colouring matter (1 item)	Health (Article XX:b)	Law No. 1593 on the Protection of Public Health; Regulation on Special Conditions of Foodstuffs and Supplies and Objects Concerning Public Health; Import Regime Communiqué No. 2007/15 Add II (List)
Scheduled chemical weapons in I and II of the Convention (4 items) ^c	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. 2011/17 (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 ^a (3 items)	Security (Article XXI:b(i),(ii))	Law on Firearms (No. 6136 of 1953); Import Regime Communiqué No. 2011/2 ^d
Gambling instruments (except for specified tourism purposes) ^a (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 ^b (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 Trademarks Customs Law (No. 4458 of 1999)
Soil, leaf, stem, straw, and natural manure used for agricultural purpose (excluding turf and perlites cultivated in culture environment)	Public morals (Article XX:a)	
	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.

d Following an amendment to related legislation, private companies are also authorized to import products within the scope of Import Regime Communiqué No. 2011/2.

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

36. Imports of old, second-hand, renovated, faulty and obsolete goods are subject to permission by the Ministry of Economy.²⁹ 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 Science, Industry and Technology); and carrying materials comprising cinematographic and musical works are subject to registration by the Directorate of Copyright and Cinema with the aim of combating piracy. Restrictions arising from Turkey's SPS regulations are discussed below (section (3)(iii)).

²⁹ According to the Turkish authorities, most goods may be imported freely provided they are not more than ten years old.

Table III.10
Imports requiring a licence, 2011

Description	Reason for licence
Radioactivity-related items (11 items) Uranium ores, isotopes, nuclear reactors, X-rays	Imports only permitted on approval by the Turkish Atomic Energy Authority: to ensure patient security against the probable harmful effects of radioactivity
Telecommunications, machinery, and related items (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 Science, Industry and Technology 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 ensure that imports are in conformity with the national telecommunication network and to protect consumers
Motor vehicles (7 items) The road tractors for semi-trailers (8701.20), motor vehicles for the transportation of ten or more persons (87.02), motor cars and other motor vehicles principally designed for the transport of persons (including racing cars and station wagons) (87.03), motor vehicles for transport of goods (87.04), special-purpose motor vehicles other than those designed for the transport of persons or goods (87.05), motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side cars (87.11), trailers and semi-trailers (87.16)	Imports only permitted with a pro forma invoice certified by the Ministry of Science, Industry and Technology: to ensure the suitability of imported vehicles for highways
Fertilizers (5 items) Animal or vegetable fertilizers, and mineral or chemical fertilizers	Imports only permitted on approval by the Ministry of Food, Agriculture and Livestock: to avoid damage to health of humans, animals or to the lifecycle of plants
Banknotes and related items (1 item) Banknotes, securities	Article 3/a of Decree No. 32 on Protection of the Value of the Turkish Currency "Imports of Turkish currency and instruments denominated in Turkish currency shall be free." Article 4/a of the aforementioned Decree "Importation of foreign exchange to Turkey is free" Imports of banknotes are free: to ensure the continuation of administrative order related to precious documents, e.g. shares, bonds
Explosives and related items (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 ensure national security and public safety
Products affecting worker health (12 items), 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
Civil aircraft related items (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
Maps related items (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
Items related to the manufacture of chemical weapons (22 items) A wide range of chemical products used in the production of weapons	Imports only permitted on approval by the Ministry of Economy: to comply with the Convention on the Prohibition of Chemical Weapons
Some sugar substitutes (11 items) Aspartam, saccharin	Eligibility certificate, issued by the Turkish Sugar Authority without any import restriction, is required for imports of certain sugar substitutes. Control of these products at the import stage is by Ministry of Food, Agriculture and Livestock
Endangered species of wild fauna and flora	Imports only permitted on approval by the Ministry of Food, Agriculture and Livestock or the Ministry of Forestry and Water Affairs: to comply with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
Energy Electricity and natural gas	Imports are allowed only by companies licensed by EMRA: to ensure effective operations in market activities and to comply with relevant EU Directives
Petroleum and liquefied petroleum gas	Imports are allowed only by companies licensed by EMRA: to prevent the unorthodox use of those items out of purpose and to ensure fuel quality

Source: WTO Secretariat, based on information provided by the Turkish authorities; and WTO document G/LIC/N/3/TUR/10, 7 September 2010.

37. In 2003, Turkey implemented a Certificate of Conformity for Importation requirement for alcoholic beverages, i.e. spirits, wine, and beer. The certificate was abolished and replaced by a Notification System for Alcoholic Beverages in February 2008, which is supervised by the Tobacco and Alcohol Market Regulatory Authority.

38. Harmonizing its import policy with the EU, Turkey has been applying import quotas on certain textile and clothing products since 1 January 1996.³⁰ If the exporting country agrees to a bilateral understanding, the quota is balanced in response to needs. At present, Turkey applies quotas to textile and clothing products from Belarus and the Democratic People's Republic of Korea, with which an agreement has not been reached, under the single checking system. Quota restrictions applied to China, Montenegro, Uzbekistan, and Turkmenistan have been abolished.

(viii) Customs valuation

39. Turkey's basic provisions on customs valuation are contained in Customs Law No. 4458, Articles 23 to 31. As stipulated in the Agreement on Implementation of Article VII of the GATT 1994, the primary basis for custom value is the transaction value, i.e. the price actually paid or payable for goods sold for export to Turkey adjusted, as necessary, in accordance with the provisions of Article 8 of the Agreement. The hierarchy of alternate valuation methods follows the sequential order laid down in the Agreement. However, utilizing the flexibility accorded to developing countries in Annex III, paragraph 3, Turkey has reserved the right, indefinitely, not to reverse the deductive and computed value methods at the request of the importer.³¹ The Interpretative Notes to the Agreement are incorporated in Turkey's legislation through the basic provisions of Customs Law No. 4458 and Articles 43 through 57, and Annexes 8 and 9, of the Customs Regulation.

40. Simplified procedures are available, at the request of the importer, to determine the customs value of perishable goods.³² Turkey implements the provisions of the Decision on the Treatment of Interest Charges in the Customs Value of Goods through Article 28 (c) and Article 28, paragraph 2 of the Customs Law and Article 52 of the Customs Regulation. The Decision on the Valuation of Carrier Media Bearing Software for Data-Processing Equipment has been included in the Customs Law (Article 29) and the Customs Regulation (Article 54). Turkey has applied these decisions since February 2000, i.e. when the Customs Law entered into force.³³

41. The right of appeal of decisions by the customs authorities is governed by Title XII (Articles 242-1 and 243-1) of the Customs Law. Any person may appeal decisions regarding customs duties, fines, and administrative measures to a superior authority or to the same authority that took the decision if no superior authority exists. For tax issues, the final decisions of a regional directorate or the Ministry of Customs and Trade may be challenged in the tax courts.

(ix) Rules of origin

42. The basic legal provisions on Turkey's non-preferential rules of origin are set out in Customs Law No. 4458, Articles 17 to 21. Pursuant to the Customs Union Decision, Turkey has been applying the same rules of origin as the EU to third countries since 1 January 1996.

³⁰ WTO document WT/REG22/7, 24 November 1997.

³¹ WTO document G/VAL/2/Rev.15, 21 October 2002.

³² Article 45 of the Implementing Regulation of Customs Law No. 4458.

³³ WTO document G/VAL/N/3/TUR/1, 21 September 2004.

43. Turkey's preferential trade agreements set out preferential rules of origin, normally based on a wholly obtained or substantial transformation criterion, with scope for cumulation. Turkey has been part of the Pan-European Origin Cumulation System since 1 January 1999. The arrangement allows the use of any material from any country within the zone (EU, EFTA, and Turkey) to produce a good whilst retaining preferential origin. This diagonal cumulation system has been extended to the Faroe Islands and to Mediterranean countries participating in the Euro-Mediterranean partnership through the Barcelona Declaration of 2004. Thus, the Pan-Euro-Mediterranean Cumulation System operates on the same principle.³⁴ The application of diagonal cumulation requires the implementation of identical rules of origin among the parties. Turkey is still conducting an internal evaluation regarding the adoption of the EU's new GSP legislation, which includes revised rules of origin.

44. According to Customs Law No. 4458, economic operators may request advance assessments (BTI-Binding Tariff Information) for the determination of import and export taxes, the calculation of duty drawback and import-export payments within the context of Turkey's agricultural policy, or for the use of certificates providing tariff or origin information submitted for the purpose of customs clearance. The assessments are issued by the Ministry of Customs and Trade and authorized customs directorates and may be valid for six years, provided the information submitted by the applicant is accurate and complete, and the declared goods correspond exactly to the description in the BTI. The assessments may cease to be valid if changes are made in the Turkish Customs Tariff Nomenclature and the information no longer conforms with it, or amendments incompatible with the BTI are made in the Harmonized System Nomenclature and its Explanatory Notes by the WCO. Such changes are to be published in the *Official Journal*, and the holder of the BTI must be notified. However, an operator who has concluded binding contracts for the purchase or sale of goods for which he has a BTI may continue to use it for another six months following the date of publication or notification (or until the end of the validity period for relevant certificates).

(x) Anti-dumping, countervailing duty, and safeguard regimes

(a) Anti-dumping and countervailing measures

45. The legislative framework for the imposition of anti-dumping and countervailing measures has remained unchanged since Turkey last Trade Policies Review. Turkey revised its legislation in 1999 to conform to the relevant WTO Agreements and its Customs Union obligations. At present, the framework consists of Law No. 4412/1999 on the Prevention of Unfair Competition in Imports; Decree No. 13482/1999 on the Prevention of Unfair Competition in Imports, amended by Decree No. 9840/2005; and the Regulation on the Prevention of Unfair Competition in Imports, amended in 2002 and 2006. The provisions of the WTO Agreement on Subsidies and Countervailing Measures and the Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement) would be observed in case of any inconsistency between domestic legislation and Turkey's multilateral obligations.

46. The Directorate General of the Ministry of Economy is in charge of preliminary examination, upon complaint or *ex officio*.³⁵ Should the Directorate General conclude that an investigation is

³⁴ Like the EU, which publishes entry dates for Pan-Euro-Mediterranean rules of origin protocols in its *Official Journal*, the Ministry of Customs and Trade publishes a "notice" in the Turkish *Official Gazette* informing economic operators of the date of entry into force of Pan-Euro-Med origin protocols with partner countries. The last notice was published in *Official Gazette* No. 27875 on 15 March 2011.

³⁵ A complaint made "by or on behalf of the domestic industry" must fulfil the requirements laid down in Article 5.4 of the WTO Anti-Dumping Agreement. Examinations must be completed within 45 days, and decisions to initiate an investigation must be published in the *Official Gazette*. The Turkish authorities may

justified, it will formalize a recommendation to this effect to the Board of Evaluation of Unfair Competition in Importation which, if it concurs, will authorize the Directorate General to carry out the investigation. The Board, headed by the Director General or the Deputy-Director General of Imports, comprises representatives of the Ministry of Food, Agriculture and Livestock; the Ministry of Science, Industry and Technology; the Ministry of Development; the Ministry of Customs and Trade; 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.³⁶ The Board may make proposals in the course of an investigation, evaluates the results, and submits decisions on the imposition of provisional and/or definitive measures to the State Minister in charge of foreign trade affairs, for approval. Provisional measures may be imposed no earlier than 60 days from the initiation of an investigation, and their duration is limited to 4 months.³⁷ Definitive measures remain in force for five years from the date of imposition or from the conclusion of the most recent review covering both dumping and injury.

47. Use of anti-dumping measures has been rising over the years in Turkey. As of August 2011, Turkey had 118 anti-dumping duty measures in force, compared with 93 at the end of 2007, and 27 at the end of 2002.³⁸ China (47) is the main exporter affected by these measures, followed by Indonesia (10), India and Chinese Taipei (8 each), and Thailand and Malaysia (7 each). Anti-dumping duties affect mostly textile and clothing items, base metal products, plastics and rubber articles, and a range of other manufactured goods such as lighters and pencils (Tables III.11 and III.12). The duties are either expressed in *ad valorem* rates or in specific terms (US\$/unit).

48. Until 2008, Turkey had never initiated or imposed a countervailing measure. However, on 22 March 2009, PET films originating in India became subject to countervailing duties ranging from 4.25% to 21.61%.

(b) Safeguard measures

49. Turkey's legal framework for the imposition of safeguard measures consists of Decree No. 2004/7305 (published in the *Official Gazette* No. 25476 on 29 May 2004), amended by Decree No. 2007/12850 (*Official Gazette* No. 26721, 5 December 2007), and the Regulation on Safeguard Measures for Imports (*Official Gazette* No. 25486, 8 June 2004). The amendment to the Decree, issued after Turkey's last Review, aims at more effective application of safeguard measures, specifically by extending the scope to imports of parts or components of a product subject to a safeguard measure, or parts or components incorporating the value added to be safeguarded by the imposed measure.

decide to initiate an investigation *ex officio* if the affected industry is fragmented with an exceptionally large number of producers, provided sufficient evidence exists to indicate dumping, injury, and a causal link. According to the authorities, no *ex officio* investigations have been initiated.

³⁶ The Directorate General acts as the secretariat of the Board.

³⁷ However, pursuant to Article 12 of the Law, provisional measures may be extended to a period not exceeding six months at the request of exporters with a significant share of the exports of the products to Turkey.

³⁸ Of these 118 anti-dumping duties, 14 were anti-circumvention measures taken against 10 trading partners in 6 product groups. Anti-circumvention provisions were incorporated in Turkey's legislation through Decree No. 9840/2005.

Table III.11
Definitive anti-dumping measures in force, August 2011

Country/Customs territory and product	Communiqué	Imposition of final measure	Duty (as % of c.i.f. or specific)
Brazil			
Fittings	2006/23	07.09.2006	20.2%-23.75% (c.i.f.) or US\$400/tonne
Bulgaria			
Fittings	2006/24	07.09.2006	US\$400/tonne
Mono ethylene glycol (MEG)	2010/11	02.05.2010	20%
Canada			
Oriented strand board (OSB)	2008/34	18.12.2008	14.93%
China, P.R			
Pre finished engineered laminated flooring	2006/17	08.07.2006	35%
Wall type split air conditioners	2006/20	26.07.2006	25%
Fittings	2006/23	07.09.2006	US\$800/tonne
Granite	2006/25	14.09.2006	US\$90/tonne
Plywood consisting solely of sheets of wood (up to 6 mm thickness)	2006/28	20.10.2006	US\$240/m ³
V. belts	2007/4	31.03.2007	US\$5.04/kg
Woven fabrics of synthetic and artificial staple fibres	2007/10	19.06.2007	87%
Refractory bricks of chromite, magnesite or chrome magnesite; other articles-containing magnesite, dolomite or chromite	2007/11	01.09.2007	US\$145/tonne
Wall clocks (battery, accumulator or main powered)	2007/17	24.10.2007	US\$2.10/piece
Parts of lighter	2008/16	01.05.2008	US\$0.02/piece
Pocket lighters, gas fueled, non-refillable	2008/16	01.05.2008	US\$0.05/piece
Pocket lighters, gas fueled, refillable with electrical ignition system & parts of lighters	2008/16	01.05.2008	US\$0.05/piece
Laminated flooring	2008/24	30.07.2008	US\$1.60-2.40/m2
Woven fabrics of synthetic filament yarn	2008/25	01.08.2008	70.44%
Blankets & long pile fabrics of synthetic fibres and others of man-made fibres for blankets	2008/27	01.08.2008	US\$4/kg
Textured yarn of nylon or other polyamides, measuring per single yarn more than 50 tex	2008/31	05.09.2008	37.40%
Aluminium offset printing plates	2008/32	15.11.2008	US\$2.65/kg
Tarpaulin made of polyethylene/polypropylene	2008/33	15.11.2008	US\$1.06/kg
Pencils with leads of graphite, etc.	2008/35	18.12.2008	US\$3.16/144 pieces
Hook and loop	2008/36	18.12.2008	US\$3.86/kg
Polyester textured yarn	2008/41	31.12.2008	US\$268-351/tonne
Yarn of man-made or synthetic or artificial staple fibres	2009/1	12.01.2009	US\$0.49-0.80/kg
Certain finished or semi-finished artificial leather	2009/12	18.04.2009	US\$1.9/kg
Knives for electromechanical domestic kitchen appliances	2009/17	18.06.2009	US\$20.85/kg
Cylindrical door locks (excluding electromechanicals) & other door locks (excluding electromechanicals) & only cylinder and case for door locks	2009/21	30.07.2009	US\$0.74-1.77/piece
Stud-link of iron or steel & welded link chain of iron or steel	2009/25	25.07.2009	US\$1,069/tonne
Bicycle tyres and bicycle tubes	2009/29	05.08.2009	33%-50%
Motorcycle tyres and motorcycle tubes	2009/30	05.08.2009	37%-100%
Certain types of new pneumatic tires, of rubber	2011/8	21.06.2011	60%
Polyester synthetic staple	2009/33	05.10.2009	US\$0.21/kg
Ball point pens	2009/35	12.11.2009	US\$0.066/piece
Certain tube or pipe fittings of iron or steel	2010/2	22.01.2010	US\$663/tonne
Certain made-up textile articles and fabrics made of artificial or synthetics fibres	2010/8	11.04.2010	US\$70.44/kg
Glass lid/cover	2010/12	23.05.2010	US\$0.91/kg

Table III.11 (cont'd)

Country/Customs territory and product	Communiqué	Imposition of final measure	Duty (as % of c.i.f. or specific)
Articulated link chain and parts thereof	2010/13	23.05.2010	US\$1200/tonne
Baby carriages	2010/14	23.05.2010	US\$12/piece
Fan coil	2010/16	31.05.2010	0.3427%
Hinges of base metal & hat-racks, hat-pegs, brackets and similar fixtures of base metal & base metal mountings, fittings and similar articles suitable for furniture	2010/18	20.07.2010	US\$1.64-0.75/kg
Metalized yarn	2010/21	21.07.2010	US\$2.2/kg
Ropes and cables (including locked coil ropes)	2010/22	21.07.2010	US\$1/kg
Refillable pocket flint lighters	2010/27	31.10.2010	US\$0.05/piece
Textile fabrics, impregnated with polyurethane-leather & textile fabrics, impregnated with polyurethane-others & textile fabrics, impregnated, coated, covered, or laminated with polyurethane – leather substitute	2010/28	31.10.2010	US\$1-2.2/kg
Slide fasteners	2010/29	30.10.2010	US\$3/kg
Glass fibre reinforcement materials	2011/1	31.12.2010	20.2%-23.75% (c.i.f.)
Tools for drilling & tools for milling	2011/2	31.12.2010	US\$6-10/kg
Pentaerythritol	2011/6	03.05.2010	US\$270/tonne
Skid chain or motor vehicles of iron or steel	2011/7	03.05.2011	US\$1,500/tonne
Core wire of base metal	2011/16	28.07.2011	21.12%-28.87%
Chinese Taipei			
Polyester textured yarn	2006/31	21.12.2006	9.9-28.6%
Hook and loop	2008/36	18.12.2008	US\$1.83/kg
Polyester synthetic staple	2009/13	18.04.2004	6.4%-20.1%
Bicycle tyres and bicycle tubes	2010/20	17.07.2010	30%-40%
Motorcycle tyres and motorcycle tubes	2010/20	17.07.2010	6%-21%
Metalized yarn	2010/21	21.07.2010	US\$2.2/kg
Saudi Arabia			
Polyester synthetic staple	2007/13	01.09.2007	US\$0.11/kg
Mono ethylene glycol	2010/11	02.05.2010	4%-20%
Germany			
Polyvinyl chloride	2009/18	25.06.2009	US\$25-45/tonne
Hong Kong, China			
Glass lid/cover	2010/12	23.05.2010	US\$0.91/kg
India			
Fittings	2006/24	07.09.2006	US\$305-400/tonne
Polyester textured yarn	2006/31	21.12.2006	6.8-20.3%
V-belts	2007/4	31.03.2007	US\$3.5/kg
Yarn of manmade or synthetic or artificial staple fibres	2009/1	12.01.2009	US\$0.29-0.39/kg
Polyester synthetic staple	2009/13	18.04.2009	16.5%-23.9%
Bicycle tyres and bicycle tubes	2009/29	05.08.2009	20%;64%
Metalized yarn	2010/21	21.07.2010	US\$2.2/kg

Table III.11 (cont'd)

Country/Customs territory and product	Communiqué	Imposition of final measure	Duty (as % of c.i.f. or specific)
Indonesia			
Pre finished engineered laminated flooring	2006/17	08.07.2006	25%
Fittings	2006/24	07.09.2006	US\$253-400/tonne
Polyester synthetic staple fibres	2006/26	08.09.2006	6.2%-12%
Polyester textured yarn	2008/41	31.12.2008	US\$48-240/tonne
Yarn of man-made or synthetic or artificial staple fibres	2009/1	12.01.2009	US\$0-0.40/kg
Bicycle tyres & bicycle tubes	2009/27	01.08.2009	17.8%;29.6%-33%
Motorcycle tyres & motorcycle tubes	2009/28	01.08.2009	0%;19.6%-29%
Glass lid/cover	2010/12	23.05.2010	US\$0.14-0.50/kg
Italy			
Polyvinyl chloride	2009/18	25.06.2009	US\$25-45/tonne
Korea, Rep. of			
Polyester flat yarns	2006/12	18.05.2006	5.2%-10.9%
Polyester synthetic staple fibres	2006/26	08.09.2006	10% (c.i.f.)
Polyester textured yarn	2006/31	21.12.2006	33.7% (c.i.f.)
Woven fabrics of synthetic filament yarn	2008/25	01.08.2008	14.64%-40%
Metallized yarn	2010/21	21.07.2010	US\$2.2/kg
Kuwait			
Mono ethylene glycol (meg)	2010/11	02.05.2010	6%-20%
Malaysia			
Woven fabrics of synthetic filament yarn	2008/25	01.08.2008	7.76%-15.93%
Polyester textured yarn	2008/41	31.12.2008	US\$276/tonne
Vulcanized rubber thread and cord	2009/14	18.06.2009	11.6%-16.9%
Bicycle tyres and bicycle tubes	2009/27	1.08.2009	29.6%-33%; 5.6-33%
Motorcycle tyres and motorcycle tubes	2009/28	01.08.2009	19.6%- 29.6%;19.6%-29.6
Romania			
Polyvinyl chloride	2009/18	25.06.2009	US\$25-45/tonne
Russian Federation			
Cooper wire rod	2011/14	09.11.2005	3%
Ropes and cables (including locked coil ropes)	2010/22	21.07.2010	US\$0.5/kg
Sri Lanka			
Bicycle tyres	2010/20	17.07.2010	50%
Bicycle tubes	2010/20	17.07.2010	44%
Thailand			
Fittings	2006/24	07.09.2006	US\$147-400/tonne
Woven fabrics of synthetic filament yarn	2008/25	1.08.2008	8.67%-30.93%
Polyester textured yarn	2008/41	31.12.2008	US\$198-300/tonne
Polyester synthetic staple fibres	2009/13	18.04.2009	15.8%-22%
Bicycle tyres and bicycle tubes	2009/29	05.08.2009	100%;100%
Motorcycle tyres and motorcycle tubes	2009/30	05.08.2009	68%;100%

Table III.11 (cont'd)

Country/Customs territory and product	Communiqué	Imposition of final measure	Duty (as % of c.i.f. or specific)
Ukraine			
Wire of refined copper	2011/14	08.06.2006	6.9%
United States			
Oriented strand board (OSB)	2008/34	18.12.2008	24.10%
Polyvinyl chloride	2009/18	25.06.2009	US\$45/tonne
Viet Nam			
V-belts	2007/4	31.03.2007	US\$4.55/kg
Tarpaulin made of polyethylene/polypropylene	2008/33	15.11.2008	US\$1.16/kg
Bicycle tyres	2010/20	17.07.2010	30%
Bicycle tubes	2010/20	17.07.2010	44%
Motorcycle tyres	2010/20	17.07.2010	29%
Motorcycle tubes	2010/20	17.07.2010	49%

Source: Information provided by the Turkish authorities.

Table III.12
Definitive anti-circumvention measures in force, May 2011

Country/ Customs territory and product	Communiqué	Imposition of final measure	Duty
China, P. R.			
Standard wire, ropes and cables	2006/32	30 December 2006	US\$1/kg
Chinese Taipei			
Hinges of base metal & hat- racks, hat- pegs, brackets and similar fixtures of base metal & base mountings, fittings and similar articles suitable for furniture	2008/29	27 August 2008	US\$1.64/kg US\$1.64/kg US\$0.75/kg
Indonesia			
Hinges of base metal & hat- racks, hat- pegs, brackets and similar fixtures of base metal & base mountings, fittings and similar articles suitable for furniture	2008/29	27 August 2008	US\$1.64/kg US\$1.64/kg US\$0.75/kg
Only wall-type split air-conditioners & only outdoor unit of wall-type split air-conditioners (except for outdoor unit of VRF systems) & only indoor unit of wall-type split air-conditioners	2011/3	31 January 2011	25%
Korea, Rep. of			
Woven fabrics of synthetic filament yarn	2008/25	01 August 2008	14.64%-40%
Malaysia			
Hinges of base metal & hat- racks, hat- pegs, brackets and similar fixtures of base metal & base mountings, fittings and similar articles suitable for furniture	2008/29	27 August 2008	US\$1.64/kg US\$1.64/kg US\$0.75/kg
Only wall-type split air-conditioners & only outdoor unit of wall-type split air-conditioners (except for outdoor unit of VRF systems) & only indoor unit of wall-type split air-conditioners	2009/6	28 February 2009	0-25%
Pakistan			
Only wall-type split air-conditioners & only outdoor unit of wall-type split air-conditioners (except for outdoor unit of VRF systems) & only indoor unit of wall-type split air-conditioners	2011/3	31 January 2011	25%

Table III.12 (cont'd)

Country/ Customs territory and product	Communiqué	Imposition of final measure	Duty
Russian Federation			
Standard wire, ropes and cables	2006/32	30 December 2006	US\$0.5/kg
Thailand			
Pencils with leads of graphite and pencils with leads of crayons encased in a rigid sheath	2007/5	14 April 2007	US\$3.16/144 piece
The Philippines			
Only wall-type split air-conditioners & only outdoor unit of wall-type split air-conditioners (except for outdoor unit of VRF systems) & only indoor unit of wall-type split air-conditioners	2011/3	31 January 2011	25%
Woven fabrics of synthetic filament yarn	2006/30	18 November 2006	70.44%
Viet Nam			
Only wall-type split air-conditioners & only outdoor unit of wall-type split air-conditioners (except for outdoor unit of VRF systems) & only indoor unit of wall-type split air-conditioners	2011/3	31 January 2011	25%
Pocket lighters, gas fueled, non-refillable & refillable pocket flint lighters & pocket lighters, gas fueled, refillable with electrical ignition system & parts of lighters	2008/17	28 April 2008	US\$0.05/piece US\$0.05/piece US\$0.05/piece US\$0.02/piece

Source: Information provided by the Turkish authorities.

50. The authority to propose, apply, and monitor safeguard measures rests with the Ministry of Economy. The Board for the Evaluation of Safeguard Measures for Imports decides, *inter alia*, whether to initiate an investigation; to adopt, review, extend, modify or abolish any provisional or definitive safeguard measure; and to determine the form, extent, and duration of such measures. The duration of a safeguard measure, including any provisional measure, may not exceed four years unless the measure is extended. The total period of application of a safeguard measure must not exceed ten years.

51. Since its last Review, Turkey has extended the safeguard measures initially imposed in 2006 on imports from all countries of steam irons, vacuum cleaners, footwear, and motorcycles (2007). In new cases, Turkey imposed definitive safeguard measures on all imports of certain electrical appliances and cotton yarn in 2008, and on matches in 2009 (Table III.13). On the other hand, safeguards on activated earths and clays, certain voltmeters, ammeters, and salt were not extended when they lapsed in 2008 and 2009. Among the most recent developments, Turkey conducted a safeguard investigation against imports of polyethylene terephthalate, and the measure will enter into effect upon publication of approval by the Cabinet of Ministers, after all legal procedures have been completed. Turkey has also initiated investigations to extend its safeguard measures on imports of spectacle frames; travel goods, handbags and similar containers; and cotton yarn. Provisional safeguard measures are in force while the investigations continue.³⁹

³⁹ Concerning cotton yarn, a request has been made, pursuant to Article 13.1(b) of the Agreement on Safeguards, that the Committee on Safeguards should determine whether Turkey has complied with the procedural requirements of the Agreement in connection with the safeguard measure (see WTO document G/SG/W/221, 8 November 2011).

Table III.13
Definitive safeguard measures in force, 2011

Product	Date of imposition of definitive measure
Certain electrical appliances	10/8/2008
Cotton yarn	11/8/2008
Matches	6/12/2009
Vacuum cleaners	13/2/2010
Steam smoothing irons	13/2/2010
Motorcycles	13/2/2010
Footwear	13/2/2010

Source: Information provided by the Turkish authorities.

52. Turkey has implemented an import surveillance system based on Council of Ministers' Decision No. 2004/7304⁴⁰; the Ministry of Economy issues a Surveillance Document. The purpose of the system is to monitor and collect specific data. For certain products, the surveillance system is price-based; thus, only products imported at prices below certain c.i.f. values are being monitored.

(2) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Export procedures and requirements

53. Registration and documentation requirements for exporters are similar to those applicable to importers (section (1)(i) above). In addition, exporters must register with the Exporters Union and their local Chamber of Commerce. A fee ranging from 0.02% to 0.1% of the f.o.b. value of exports is charged as a service commission. The level of the fee is set by the general assemblies of the respective organizations, i.e. by the exporters themselves.

54. Registration requirements remain in force for (i) exports of goods eligible for premium deduction under the Support and Price Stabilization Fund (SPSF); (ii) goods paid for by the SPSF; (iii) exports within the framework of special accounts for the payment of instalments on credits for the conduct of barter trade; (iv) exports under the Natural Gas Agreement between Turkey and the Russian Federation; (v) exports of goods under restrictions applicable to countries that are implementing quantitative restrictions on Turkish exports (no such cases at present); (vi) exports to countries subject to UN economic sanctions resolutions; (vii) goods certified under the "Fundamentals and Implementation of Organic Farming" regulation; (viii) export of goods covered by the Vienna Agreement regarding the protection of the ozone layer, as well as the related protocols and amendments; (ix) exports of unprocessed olive oil and processed bulk or barrelled olive oil, liquorice root, raw meerschaum, and sample pipe; and (x) exports of unprocessed olives 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. The Ministry of Customs and Trade may authorize exporters who fulfil certain conditions to issue invoice declarations and EUR-MED invoice declarations.

55. The Ministry of Customs and Trade may authorize exporters of goods destined to the EU market and covered by the Customs Union Decision to issue movement certificates (A.TR) without submitting them to the relevant authorities for endorsement. Such authorization may be granted to exporters making frequent consignments, provided the exporters have not been involved in any serious or repeated offence against customs or tax legislation, and that they maintain records that can be checked by the customs authorities.

⁴⁰ The Decision was published in the *Official Gazette* No. 25476, 29 May 2004.

(ii) Export taxes, fees, and charges

56. Turkey applied export taxes on raw skins (at a rate of US\$0.5 per kg), unshelled hazelnuts (US\$0.04 per kg), and shelled hazelnuts (US\$0.08 per kg). The revenue from these taxes is channelled into the Support and Price Stabilization Fund.

(iii) Export restrictions

57. Turkey prohibits exports of 12 items (by broad category, mostly agricultural goods) for environmental, health or cultural reasons (Table III.14). An export prohibition on angora goats was replaced by export licensing in September 2009. At present, licences are required for exports of 24 categories of products (Table III.15), including certain agricultural and fish items. Licensing is also used to enforce obligations under international agreements and conventions, notably for narcotics, hazardous wastes, nuclear and missile technology, and dual-use goods and technologies.⁴¹ Electricity may only be exported by enterprises holding wholesale licences. In addition, approval from the Ministry of Energy and Natural Resources is required for exports of electricity to countries with which interconnections are not based on a synchronous parallel operating regime. Petroleum products (petrol, diesel, and LPG) may only be exported by licenced refineries and distributors.

58. The Ministry of Economy issued a revised Communiqué of Foreign Trade in Endangered Species of Wild Fauna and Flora in February 2011, under which the Ministry of Forestry and Water Affairs issues CITES certificates for exports and re-exports of each specie listed in the Communiqué. Exporters of endangered species of wild fauna and flora must attach the certificates, valid for six months, to their customs declaration forms.

59. The Decree on the Regime of Technical Regulations and Standardization for Foreign Trade empowers the Government to make agricultural goods for export subject to quality control, and to determine the type of quality control applicable to such goods. The products are exported with control certificates issued by the regional branches of the Ministry of Economy, indicating conformity with established standards. Some 150 agricultural products (at the HS 12-digit level), including citrus fruit, apples, groundnuts, certain edible oils, dried apricots, dried figs, and some hazelnuts, are subject to compulsory export controls for quality purposes.

⁴¹Turkey is a party to the Wassenaar Arrangement on export controls for conventional arms and dual use goods and technologies. Member states, including Turkey, maintain export controls for the goods and technologies specified in the control lists annexed to the Arrangement according to their national legislation. However, Turkey also follows closely the EU export control regime governed by Regulation No. 428/2009 and the list of controlled dual-use items in the Annexes to this Regulation.

Table III.14
Export prohibitions, 2011

Description of item	Invocation of WTO Article	Domestic/International law
All game and wild animals (except species on the list of 'exports requiring a licence', alive or meat and/or pieces and garments thereof (Ch. 1 and 2) ^a	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 seeds and tobacco seedlings		Implementing Regulation on Methods and Essentials Concerning Tobacco Production and Processing and Internal and External Trade (Official Gazette dated 10/07/2010, numbered 27637) based on the Law No. 4733, dated 09/01/2002 (amended by Law No. 5752 dated 15/04/2008)
Dates "Phoenix the ophrasti crenter" (1 item)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Indian hemp (1 item) ^a	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 (except species certificated domestically that are registered and published in the National Species List), hazelnut, pistachio, and grapevine (sultanas seedless)	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Walnut, mulberry, cherry, pear, plum, badger, ash, elm, and lime in logs, in timber, in plank, and in sketch (Ch. 44) ^a	Environment (Article XX:g)	Decision of the Council of Ministers (No. 8186 of 24 April 1974)
Wood	Environment (Article XX:g)	Export Regime Decree (No. 7623 of 22 December 1995)
Antiques and archaeological works (1 item) ^a	National treasures (Article XX:f)	Law on Ancient Works of Art (No. 2863 of 21 July 1983)
Sahlep (powder and of all sorts)	..	Export Regime Decree (No. 7623 of 22 December 1995)

.. Not available.

^a Export prohibited in 1993.

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

Table III.15
Exports requiring a licence, 2011

Description of items	Authority responsible	Legal basis
Angora goats (1 item)	Ministry of Food, Agriculture and Livestock	Law on the Amelioration of Animals (No. 4631 of 10 March 2001)
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 Forestry and Water Affairs	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 Forestry and Water Affairs	Decree No. 645 regarding the Organization and Functions of the Ministry of Forestry and Water Affairs
Fertilizers (excluding chemical fertilizers)	Ministry of Food, Agriculture and Livestock	Decrees No. 2/1771 of 27 December 1924; and No. 6/4090 of 19 December 1964
Seeds (except forest-tree seeds)	Ministry of Food, Agriculture and Livestock	Law No. 5553, of 31 October 2006, and Communiqué No. 96/31 of 19 September 1996
Fishing products subject to "prohibition derived from the principles of fishery" (including leeches)	Ministry of Food, Agriculture and Livestock	Law No. 1380 of 22 March 1971 (as amended by Law No. 3288 of 28 May 1986)
Racehorses	Ministry of Food, Agriculture and Livestock	Law on the Amelioration of Animals (No. 4631 of 10 March 2001)
Feeds covered by the Feed Law	Ministry of Food, Agriculture and Livestock	Law No. 1734 of 29 May 1973
Pharmaceuticals for veterinary purposes	Ministry of Food, Agriculture and Livestock	Law No. 3490
Export of natural flower bulbs subject to quota or any other kind restrictions	Ministry of Food, Agriculture and Livestock	Decree No. 95/7623 of 22 December 1995
Live animals kept for stud	Ministry of Food, Agriculture and Livestock	Law on the Amelioration of Animals (No. 4631 of 10 March 2001)
Natural mushrooms (only exports to EU countries)	Ministry of Food, Agriculture and Livestock	Decree No. 95/7623 of 22 December 1995
Live tuna fish (<i>Thynus thynnus</i>)	Ministry of Food, Agriculture and Livestock	Decree No. 95/7623 of 22 December 1995
Substances listed in the annexes to the Wassenaar Arrangement and the Australian Group	Ministry of Economy	Wassenaar Arrangement list for Dual-use Goods and Technologies and in the Australian Group Chemical Precursors
Sugar	The Turkish Sugar Authority	Decree No. 2007/9 of 17 August 2007
Technology and equipment used for nuclear purposes	Turkish Atomic Energy Authority	Reg. No. 26642 of 13 September 2007
Goods covered by the Missile Technology Controlling Regime	Ministry of National Defence	Decree No. 5201 of 29 June 2004
Tobacco leaf and tobacco waste	Tobacco and Alcohol Market Regulatory Authority	Law No. 4733 of 9 January 2002
Implements of war that are subject to control, military exploders and spare parts and related technologies	Ministry of National Defence	Law No. 5201 of 2 July 2007
Forest tree seeds and other breeding materials	Ministry of Forestry and Water Affairs	Decree No. 645 regarding the Organization and Functions of the Ministry of Forestry and Water Affairs
Olive tree sapling (species certificated domestically which are registered and published in the National Species List)	Ministry of Food, Agriculture and Livestock	Export Regime Decree (No. 7623 of 22 December 1995)
Explosive materials within the context of Regulatory Statute 87/12028	Ministry of Internal Affairs	Law No. 6551 of 18 May 1955, Regulatory Statute 87/12028 and 2001/2443

Source: Information provided by the Turkish authorities.

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

60. Exporters benefit from duty and tax concessions (see sections (1)(iv) and (vi)). Exporters of 20 agricultural commodities or processed agricultural products are eligible for export subsidies under

the Export Subsidy Programme for Agricultural Products⁴², established to develop Turkey's export potential in processed agricultural products (Chapter IV, Table AIV.2). This programme is financed from the Support and Price Stabilization Fund.

61. The Turk Eximbank, a state-owned bank established in 1987, is the only official export credit agency in Turkey. The Bank operates a number of export credit, guarantee, and insurance schemes. The main objectives of the Bank are to increase the volume of Turkish exports, develop new export markets, increase the share of Turkish exporters in international trade, diversify exports of goods and services, and support Turkish exporters, investors, and overseas contractors. Turk Eximbank presents its annual programmes to the Supreme Advisory and Credit Guidance Committee, chaired by the State Minister in charge of the Bank's activities.⁴³ The Committee sets upper limits for credits, guarantees, and insurance transactions to be effected by the Turk Eximbank, either as a gross amount or by country, sector, and programme. The Bank funds its activities mostly by borrowing from commercial banks or tapping the international financial markets, or through capital injections from the Turkish Treasury. Turk Eximbank provided in total US\$8.9 billion in export financing support and pure cover in 2010, representing financial support to almost 8% of Turkey's exports in that year.

62. Turk Eximbank supports exporters, companies engaging in foreign-currency-earning services, and overseas investors and contractors with short-, medium-, and long-term export credit programmes (Table AIII.7). Moreover, export receivables are discounted to promote sales and deferred payment conditions, and to increase export volume. Short-term financial assistance is made available to exporters at the pre- and post-shipment stages with a term up to 540 days for loans in Turkish lira or foreign currency. Credits are allocated through the commercial banks in Turkey or directly by Turk Eximbank. In 2010, 55% of Turk Eximbank's short-term credits were extended via intermediary commercial banks and 45% were provided directly.⁴⁴ At the end of 2010, short-term export credit facilities accounted for 97% of Turk Eximbank's total loan portfolio.

63. 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 the purchase of Turkish goods and/or services. Depending on the risk classification of the type of loan or the country of the borrower, a sovereign guarantee or reputable bank guarantee in favour of Turk Eximbank has been a pre-requisite for many medium- and long-term financial operations, e.g. project finance loans.

64. Insurance against commercial and political risks is also offered by Turk Eximbank (Table III.16). Commercial risk-based losses are indemnified by the Bank from its own resources while political risks, in principle, are backed by the Government. However, Turk Eximbank has never submitted any indemnification request for political losses to the Turkish Treasury. Moreover, short-term political risks have also been ceded to a reinsurance panel (within certain country limits) since 2000. Premium rates for insurance programmes range from 0.08% to 4% (comprehensive for commercial and political risks), or from 0.02% to 4% for political risks only, and vary according to

⁴² Implemented through Decrees Nos. 2008/1 and 2009/1 of the Money-Credit and Coordination Council for the years 2008 and 2009.

⁴³ Turk Eximbank, which is wholly state-owned, is under the responsibility of the Prime Ministry or such other State Ministry nominated by the Prime Minister.

⁴⁴ The commercial banks are responsible for the default risk of borrowers for the credits allocated through them. The commercial banks are allowed a margin of up to 1% per annum for credits denominated in Turkish lira, and 0.5% per annum for credits in foreign currency. A collateral and/or bank guarantee is required for credits allocated by Turk Eximbank directly to the client.

the risk category of the buyer's country, the payment term, and the status of the buyer (private, public or sovereign).

Table III.16
Key features of the export insurance programmes, 2011

Programme	Coverage
Short-Term Export Credit Insurance Programme	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 Post-shipment Political Risk Programme	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 available up to 90% 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 Programme	Same as Specific Export Credit Insurance Post-shipment Political Risk, except that both political and commercial risks are 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.

65. Pursuant to Article 12 of the Customs Union Decision, Turkey has been harmonizing its legislation with that of the EU with respect to officially supported export credits. Within this framework, the OECD Consensus principles on officially supported 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.⁴⁵

66. KOSGEB, a public agency for the development of SMEs, was established in 1990 as a non-profit organization affiliated to the Ministry of Science, Industry and Technology. KOSGEB is financed under the general budget. KOSGEB assists SMEs in, *inter alia*, cofinancing business trips abroad (up to 50% of the costs, maximum TL 10,000), creating own brands, and providing export promotion credits. KOSGEB also provides business-matching models to SMEs, and a database to bring together local and foreign SMEs. Business-matching opportunities are assessed by a qualified operator company.

67. Further to Decree Law No. 637 concerning the Organization and Duties of the Ministry of Economy, published in June 2011, the former Export Promotion Centre (IGEME) has been abolished and incorporated into the Ministry of Economy.

⁴⁵ Turkey has been a member of the ECG since April 1998, and an observer of PG since November 2006.

(3) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Subsidies

68. Turkey's Investment Encouragement Programme (IEP), which is the only support programme targeting investment, has been subject to some modifications during the review period.⁴⁶ The current legal framework is contained in the Decree Concerning State Encouragements to Investments to define the purpose, scope, incentives, regional classification, eligibility criteria and other basic implementation rules.⁴⁷ The IEP now follows a three-pillar approach, focusing on regional and sectoral implementation, large-scale investments contributing to international competitiveness employing high technologies and R&D activities, and a general investment encouragement mechanism. For regional and sectoral support, Turkey is divided into four regions, and the incentives provided are linked to the nature of the investment and the development status of the region where the investment is located.⁴⁸

69. Minimum investment levels range from TL 50 million to TL 1 billion for large-scale investments, and minimum investments, differentiated by region and sector, have been established for regions I to IV. The general investment encouragement mechanism covers investments that do not fall within the scope of regional support or large investments, but are above the specified minimum amounts. However, the general mechanism excludes investments in certain specified activities, and specific conditions must be fulfilled for investments in some other agricultural and services-related activities.⁴⁹

70. The IEP is implemented by the Ministry of Economy, which issues Investment Encouragement Certificates that allow investors to benefit from the incentives listed in the certificates. Customs duty and VAT exemptions are available for all investments under the IEP. In addition, regional support and incentives for large investments include reductions in corporate or income tax, budget funding of the social security premium to be paid by the employer, and land allocation.⁵⁰ Investments in regions III and IV, in research and development, or in environmental projects may also benefit from interest support.⁵¹

71. Pursuant to Communiqué No. 2008/1 and in the context of Law No. 5084 on Encouragement of Investments and Employment and Amendment of Certain Laws⁵², Turkey will continue to provide energy support until 31 December 2012, i.e. subsidized electricity to enterprises located in provinces with a (2001) GDP per capita of US\$1,500 or less, or a negative socio-economic development index

⁴⁶ The General Investment Encouragement Programme and the Aids Granted to Small and Medium-sized Enterprises Investments were merged to form the IEP in 2006.

⁴⁷ Decree No. 2009/15199 of 14 July 2009, published in the *Official Gazette* on 16 July 2009.

⁴⁸ The regional demarcation is based on the NUTS2 classification (Nomenclature of Territorial Units for Statistics), an instrument providing a single uniform breakdown of territorial units for the production of regional statistics in the European Union. The regions and supported sectors are listed in Annexes I and II of WTO document G/SCM/N/186/TUR.

⁴⁹ Investments that are not supported or are supported conditionally under the general investment encouragement system are listed in Annex IV of WTO document G/SCM/N/186/TUR.

⁵⁰ Until the end of 2010, enterprises involved in the production of textiles and clothing or leather and leather products could also be granted support if they relocated from regions I and II to region IV, provided they employed at least 50 persons after the move.

⁵¹ The support is granted for a maximum of five years, and the maximum subsidy or subsidized rate of interest depends on the region, type of investment, and whether the loan is granted in Turkish lira or foreign currency.

⁵² Amended by Law No. 5350 of 12 May 2005 and Law No. 5615 of 28 March 2007.

(for 2003) according to the State Planning Organization.⁵³ Enterprises must have at least 10 to 30 employees, depending on the sector or date of application, or operate in manufacturing, mining, tourism accommodation, education or health, or specified agricultural activities.⁵⁴

72. Under Ministerial Council Resolution on State Aids Related to Exports (No. 6401 of 27 December 1994), Turkey has established 11 state-aid programmes, some of which target SMEs (Table III.17). Additional support programmes are the organized industrial zones (OIZs), industrial zones, the small-scale industrial estates scheme, KOSGEB, and technology development zones.

Table III.17
Key features of the state aid programmes, 2011

Programme	Aim and beneficiaries	Support	Implementing institutions
Research and development projects	To support companies conducting R&D projects, regardless of size; all industrial companies and firms that produce software	Soft loan for capital support (to be paid back in US\$ with Libor plus interest) for two years - SME Project Support Programme - R&D, Innovation and Industrial Practice Support Programme	Turkish Technology Development Foundation KOSGEB
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 - Thematic Project Support Programme	Exporters' Unions KOSGEB
Participation in international fairs and exhibitions	To increase participation in fairs abroad; companies, sectoral foreign trade companies, producers/manufacturers organizations	50% of participation fees (in the case of national participation); 50% of the rental cost of empty stand, and 50% of transportation costs (in the case of individual participation) - Business Matching Support	Exporters' Unions KOSGEB
Organizing domestic fairs with international participation ^a	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 - Foreign Business Trip Support - Business Matching Support	Exporters' Unions KOSGEB
Market research projects	To increase awareness of companies about new 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 websites so as to market their products abroad - Foreign Business Trip Support - Business Matching Support	Export Promotion Centre KOSGEB

Table III.17 (cont'd)

⁵³ The provinces are listed in Annex V of WTO document G/SCM/N/186/TUR.

⁵⁴ The base rate of the subsidy, which is 20% of the electricity cost, may be augmented by the overall number of employees or newly hired labour, but may not exceed 50% of the price for electricity to enterprises operating in organized industrial zones or industrial zones, or 40% for enterprises located elsewhere.

Programme	Aim and beneficiaries	Support	Implementing institutions
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
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	Ministry of Economy
Competitiveness	Institution of collaborations (exporter unions, chamber of commerce, organized industrial zones, sectoral associations, sectoral foreign trade companies) are given support for project based common activities for their members	Analysis, sector analysis in terms of creating shared vision, road map for the project members); Training, counselling and advisory activities for companies; International marketing and sales activities; Employment of coordinator/manager (for managing the project and organizing project based common activities); 75% of training costs for programmes up to six months; 75% of consultancy services costs up to one year	Export Promotion Centre
Encouraging designers	To promote designers' companies activities abroad	50% of consultancy fees, rental fees, advertisement, certification expenses and fees for the registration of trade marks	Exporters' Unions and Ministry of Economy
Technical consultancy activities abroad	To encourage technical consultancy companies to operate abroad	At least 50% of rental fees, advertisement, market research projects, fair and conference participation fees, feasibility studies and agreement expenditures	Ministry of Economy
Promoting Turkish trade marks and improving the image of Turkish goods	To support brand creation and positioning activities, 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 Ministry of Economy

- a 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.

73. The OIZs offer subsidized industrial plots; infrastructure, including transportation and communication facilities; and subsidized credits. Some 93 OIZs have been established since the start-up in 1962. Credit granted during 2006-10 amounted to US\$268.5 million. Industrial zones are established by the Council of Ministers pursuant to the Industrial Zones Law.⁵⁵ The Ministry of Science, Industry and Technology develops proposals to establish industrial zones, and funds the acquisition of land and the preparation of infrastructure. Dating back to 1965, the small-scale industrial estates scheme provides credit for the construction of modern workshops with sanitary conditions. Main activities in the estates are car-repair workshops, metal manufacturing, and wood-working industries. Between 2006 and 2010, Turkey established 35 new OIZs and 47 small estates.

⁵⁵ Law No. 4737, published in the *Official Gazette* of 19 January 2002.

74. KOSGEB, which focuses on the development of SMEs, provides services related to production, marketing, and quality control, as well as support programmes such as the SME Project, the Thematic Project, Cooperation-Collaboration, R&D, Innovation and Industrial Practice, Entrepreneurship, and General and Emerging Companies Market SME. Technology development zones have been established to promote the development of technology and software and related R&D capabilities through cooperation between universities, research institutions, and the business community.⁵⁶ Financial support is made available for land procurement, infrastructure, the construction of administrative buildings, etc. Income and corporate tax exemptions have been granted until the end of 2023. Researchers, software engineers, and R&D personnel working in the zone(s) are also exempt from all types of tax until the end of 2013. Turkey has established 43 technology development zones.

75. The Law on Monitoring and Supervision of State Aids, which entered into force on 23 October 2010, sets the framework for ensuring the compatibility of state aids with the related provisions of agreements and decisions between Turkey and the EU. A State Aids Monitoring and Supervision Board is responsible for the monitoring, supervision, and evaluation of compatibility. The Board will, as necessary, provide notifications to the European Commission and other related authorities, having collected relevant information from the aid-granting authorities. The General Directorate of State Aids acts as secretariat for the Board.

(ii) Technical barriers to trade, standards and certification

76. Decision No. 1/95 of the Turkey-EU Association Council, which establishes the Customs Union between Turkey and the EU, also calls for Turkey to adopt EU instruments required to eliminate all technical barriers to trade in particular products.⁵⁷ Accordingly, in 2002, Turkey adopted the Law No. 4703 on the Preparation and Implementation of Technical Legislation on Products and four implementing regulations⁵⁸ The Turkish authorities are planning to amend the framework law and the implementing regulations due to changes in the EU horizontal legislation in 2008 and 2010.

77. The Ministry of Economy is responsible for the implementation of the Agreement on Technical Barriers to Trade in Turkey.⁵⁹ Turkey has established two National TBT Enquiry Points; the Directorate General of Product Safety and Inspection (under the the Ministry of Economy) for technical regulations and conformity assessment procedures, and the Turkish Standards Institution (TSE) for standards. The Directorate General maintains a website to facilitate access to TBT

⁵⁶ Technology Development Zones Law No. 4691 was approved by the Grand National Assembly of Turkey on 26 June 2001.

⁵⁷ Viewed at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21996D0213\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21996D0213(01):EN:HTML)

⁵⁸ Law No. 4703 was published in *Official Gazette* No. 24459 of 11 July 2001. The implementing regulations are (i) the Regulation on the Notification of the Technical Legislation and Standards between Turkey and the EC (*Official Gazette* No. 24715 of 3 April 2002); (ii) the Regulation on the Affixing and Use of the EC Conformity Marking on Products, (iii) the Regulation on Conformity Assessment Bodies and Notified Bodies, and (iv) Regulation Relating to the Market Surveillance and Inspection of Products. The last three regulations were published in the *Official Gazette* No. 24643 of 17 January 2002 and entered into force on 11 January 2002. For a description of the main provisions of the 2002 legislation see WTO (2003).

⁵⁹ Turkey notified its measures taken for the implementation and administration of the TBT Agreement, in 1997 (WTO document G/TBT/2/Add.33). The implementing Regulation on the Implementation of the Notifications Foreseen in the TBT Agreement, which also provided the legal basis for the creation of the National Enquiry Point, was published in the *Official Gazette* No. 22965 of 15 April 1997.

notifications, and to obtain opinions from the different stakeholders on implementation of measures and market access challenges.⁶⁰

(a) Standards

78. The Turkish Standards Institution (TSE) has been developing and implementing standards for all types of material and products manufactured in Turkey (or imported) since 1960. The TSE is a full member of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). At the European level, the TSE is an affiliate member of the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC).⁶¹ Turkey is also a member of the International Telecommunications Union (ITU), although this is managed by the Ministry of Transport, Maritime and Communications.

79. TSE accepted the TBT Code of Good Practice for the Preparation, Adoption and Application of Standards in 1995.⁶² The TSE publishes an annual work programme.⁶³ A (minimum) two-month comment period is provided for draft standards, taking into account the content and specificity of the draft. At present, Turkey has 33,097 standards, by definition voluntary. According to the Turkish authorities, the TSE has adopted almost 99% of CEN and CENELEC standards into Turkish standards. Manufacturers that follow Turkish standards aligned with European product standards are presumed to be in conformity with the requirements of the associated EU Directives, and equivalent Turkish technical regulations.

(b) Technical regulations

80. The Regime for Technical Regulations and Standardization for Foreign Trade, in force since 1995 and amended by Decree No. 9454/2005, provides the national framework for Turkey's technical regulations and conformity assessment procedures.⁶⁴ The regime is transitional and revised annually in the light of progress in the transposition of EU legislation into Turkey's legal system. The technical regulations impose product requirements and specifications on imported and domestically produced goods, including requirements related to health and safety, environmental aspects, and labelling.

81. According to the Turkish authorities, Turkey has transposed around 82% of the sector-specific EU directives into Turkish technical regulations, including 222 technical regulations and the adoption of 24 "new approach" Directives covering products such as radio and telecommunication terminal equipment, batteries and accumulators, toys, personal protective equipment, construction products, medical devices, gas appliances, civil explosives, and lifts. The transposed Directives cover approximately 70% of manufactured goods imported into Turkey, and impose various technical product requirements and specifications.⁶⁵ Conformity assessment controls for these products are implemented through annual Communiqués.⁶⁶ Other Communiqués relate to product groups

⁶⁰ Viewed at: <http://www.teknikengel.gov.tr>.

⁶¹ The TSE applied for full membership in CEN and CENELEC in 2010 and expects to complete the process by the end of 2011.

⁶² See WTO document G/TBT/CS/N/35, 15 April 1996.

⁶³ Viewed at: http://www.standardsinfo.net/info/docs_wto/SCD_Update_EN.pdf; and <http://www.tse.org.tr/TSEIntWeb/Standard/Versiyon/IsProgrami.aspx?Durum=EN>

⁶⁴ The regime consists of Decree No. 96/7794, a Regulation, and Communiqués.

⁶⁵ US Commercial Service online information, "Doing Business in Turkey: 2011 Country Commercial Guide for US Companies". Viewed at: <http://export.gov/turkey/doingbusinessinturkey/index.asp>

⁶⁶ Communiqués on Standardization for Foreign Trade Nos. 2011/8, 2011/9, 2011/14, 2011/16, 2011/29, and 2011/39.

controlled by other legislation or subject to import rules or prohibitions, for example controlled or prohibited wastes, narcotics, chemical products, solid fuels, pharmaceuticals, and controlled or prohibited scrap metal.⁶⁷

82. Technical regulations are prepared by Ministries and/or relevant public authorities and published in the *Official Gazette*. The Ministry of Economy oversees the process. It is responsible for the harmonization of horizontal Turkish technical regulations with EU technical legislation, and serves as the contact point for notifications to the European Commission of draft technical legislation transposing EU legislation.⁶⁸ Following consultations and amendments, the confirmed Turkish legislation is published in the Turkish *Official Gazette*.⁶⁹

83. All technical regulations and conformity assessment procedures published and put into force by Ministries and other public authorities are published in the *Official Gazette*, which may be accessed via the Internet free of charge. Turkey does not publish notices of draft technical regulations and conformity assessment procedures; it has not notified to the WTO draft technical legislation that is being harmonized with EU legislation, as this legislation would already have been notified. However, given the growing importance of transparency at the international level, Turkey is reconsidering this policy, and the national TBT enquiry point is urging ministries and other public institutions to notify their technical regulations. Upon request, Turkey will provide the full text of draft measures (in English, if possible, otherwise in Turkish). Turkey generally allows a 60-day comment period.

84. The Communiqués on Standardization for Foreign Trade are revised annually to take account of issues arising from the implementation process or proposals and opinions gathered from the public and private sectors. In urgent situations, a Communiqué may also be amended in the course of the year. Modifications to the regime may include the elimination of technical regulations or conformity assessment procedures.⁷⁰

85. Turkey's legislation for marking, labelling, and packaging, largely unchanged since 2007, is primarily based on three technical regulations: on marking, labelling and packaging of materials and products supplied packaged into the market (TS 4331), on the labelling of textile products (TS 1418), and on the marking by colours or alphanumeric system for electro-technical purposes (TS 6429). Clearly legible and visible labels displaying price, place of production, and distinctive characteristics must be affixed on retail goods, their packaging or their containers.⁷¹ Where it is not possible to affix

⁶⁷ Communiqués on Standardization for Foreign Trade Nos. 2011/1 to 7, 2011/17, 2011/20, and 2011/23.

⁶⁸ Turkey participates in an EU-wide notification system for technical regulations, under Directive 98/34/EC. Turkey joined the system in 2002, provided its first notification in 2004, and has so far notified 36 national technical regulations.

⁶⁹ For "new approach" legislation, the European Commission and Turkey sign a statement confirming that the Turkish technical regulation and EU Directive are fully aligned.

⁷⁰ Since 2007, Turkey has abolished communiqués concerning imports of liquid fuels and cosmetics and detergents, reworked a communiqué on imports of hazardous waste and metal scrap into two separate communiqués, thereby eliminating the conformity assessment for imported metal scrap (except for customs checks for radiation contamination), and reduced significantly the number of products subject to inspection at Customs (see in particular Communiqués Nos. 2011/1 and 2011/9).

⁷¹ Except for a few products, operating, user, and maintenance instruction manuals must be in Turkish and accompany each industrial product. 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 legible and visible manner on the good or in the attached users' guides.

such labels on particular goods, clearly visible and accessible lists containing this information must be prepared and displayed. The same marking, labelling, and packaging requirements apply to domestic and imported products.

86. The Decree on Labelling and Packing referring to Law No. 1262 regulates the marking, packaging, and labelling of pharmaceuticals; and the Decree referring to the Law No. 3977 regulates the marking, packaging, and labelling of cosmetics. Tobacco products and alcoholic beverages must be affixed with strip-stamps with security markings designed to provide tax security, under Communiqué No. 1 on Tracking and Tracing System Related to Tobacco Products and Alcoholic Beverages pursuant to Article 257 (repeated) of the Tax Procedural Law No. 213.

(c) Conformity assessment procedures

87. Turkey's conformity assessment procedures vary according to whether the product is covered by transposed EU Directives, and the risk level of the product. All products covered by the EU's new approach Directives must carry the CE mark. For some products, the CE mark is obtained from bodies designated by the relevant public authorities and notified to the European Commission by the Ministry of Economy.⁷² Other products are accompanied by a supplier's declaration of conformity (i.e. with the requirements of the CE mark). Products not covered by the new approach Directives must meet the requirements of the relevant Turkish technical regulations for market access.

88. High-risk products, and other products listed in the annexes of the Communiqués on Standardization for Foreign Trade, are required to meet additional testing. Certification and conformity assessment procedures are performed by the Ministry of Environment and Urbanization on environment-related products such as hazardous wastes, solid fuels, and metal scrap, and by the Ministry of Health on medical products, pharmaceuticals, and narcotic drugs. For a number of imported goods, the Ministries of Health; Food Agriculture and Livestock (MFAL); or Environment and Urbanization issue "control certificates".⁷³ The Ministry of Economy has appointed the TSE to carry out conformity assessment on imported industrial goods such as machinery, LVD, EMC, fittings, and piston rings.⁷⁴ The TSE also oversees industrial metrology and calibration, and laboratory services for conformity assessment and certification.⁷⁵ While high-risk products from the EU bearing a CE mark are not subject to the inspection and documentation requirements of the Communiqués on Standardization for Foreign Trade, imports from third countries are.⁷⁶ Import controls on products covered by other EU Directives are performed by product inspectors in the provincial offices of the Ministry of Economy. A new Turkish Product Safety System was launched in late 2010 to facilitate electronic risk-based export and import controls of goods.

⁷² In all, 18 Turkish conformity assessment/certification bodies have been appointed as notified bodies to perform conformity assessment procedures against the requirements of 13 EU new approach directives.

⁷³ See Communiqués on Standardization for Foreign Trade Nos. 2011/5, 2011/6, 2011/17 and 2011/20. Control certificates are issued for products such as pharmaceuticals, certain medicines, organic chemicals, vaccines, chemicals, forestry materials, foodstuff, live animals and plants, grains and plant seeds, animal products, veterinary products, and hormones. The MFAL applies risk-analysis methods in controlling, *inter alia*, imported animals, plants, foodstuffs, seeds, and veterinary products.

⁷⁴ See Communiqués on Standardization for Foreign Trade Nos. 2011/1 and 2011/9.

⁷⁵ The scope of inspection services and the exact mode of operation by the TSE are set out annually in legislation issued by UFT: currently UFT Communiqué No. 2011/1.

⁷⁶ US Commercial Service online information. Viewed at: <http://export.gov/turkey/doing-businessinturkey/index.asp>

89. The TSE carries out certification services related to TS-EN-ISO 9001:2000; TS-EN-ISO 14001; TS 13001 (HACCP); and TS 18001 (OHSAS).⁷⁷ As of August 2007, the TSE had issued more than 52,000 products/services certificates.⁷⁸ The TSE is also involved in quality and system certification, and trains and certifies personnel in quality, environment, health, and safety. Mutual recognition of testing procedures is assured by agreements between Turkey and EU member states. The TSE joined the IEC System for Conformity Testing and Certification of Electrical Equipment (the IEC-EE CB Scheme) to ensure mutual recognition of results of tests performed in conformity with IEC standards on safety of electrical appliances in 1998, and the TSE became a signatory to various mutual recognition arrangements under the Low Voltage Directive (LVD) in 1999.

90. The Turkish Accreditation Agency (TURKAK), established in 2000, is responsible for accrediting domestic and foreign conformity assessment bodies and ensuring that they carry out laboratory, certification, and inspection services in accordance with international standards.⁷⁹ TURKAK is a full member of the European cooperation for Accreditation (EaA), the International Accreditation Forum (IAF), and the International Laboratory Accreditation Cooperation (ILAC). The Conformity Assessment Association (UDDer), established in 2006, brings together 65 Turkish stakeholders to support the development of conformity assessment activities in Turkey, including their recognition at national and international levels. Under Law No. 1705, the General Directorate of Measures and Standards of the Ministry of Science, Industry and Technology (MSIT) is responsible for quality control systems concerning legal metrology, establishment of calibration systems of test laboratories, and operating private laboratories in accordance with the Measurement and Calibration Law No. 3516 of 1989.

91. All products, imported or domestically produced, are subject to market surveillance activities, carried out by 10 public authorities.⁸⁰ The Ministry of Economy handles coordination between the authorities through the Market Surveillance Coordination Board. The Ministry prepares annual reports including information and statistics on the market surveillance activities.

92. Since 2007, Turkey has provided six notifications of technical regulations and conformity assessment procedures relating to measures for construction products, fertilizer, olive oil, foodstuff, and animal feed. In addition, a Turkey-Ukraine memorandum on Intent for Cooperation in the sphere of Technical Regulations, Standardization, Metrology, Conformity Assessment and Consumer Protection was notified to the WTO by Ukraine.⁸¹ Turkey has also concluded various other

⁷⁷ Hazard Analysis and Critical Control Points is a systematic preventive approach to, *inter alia*, identify potential hazards. 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.

⁷⁸ Imports for own needs by producers with such certificates are exempted from inspection, as are imported inputs destined for use in manufactured products certified by the TSE.

⁷⁹ Turkey has almost 5,000 public and private laboratories, and 120 certification bodies. As of 30 September 2011, TURKAK had accredited 357 testing laboratories, 67 calibration laboratories, 3 medical laboratories, 72 inspection bodies, 53 quality management system certification bodies, 39 environment management system certification bodies, 16 food safety management system certification bodies, 5 medical devices management system certification bodies, information safety management system certification bodies, 27 product certification bodies, and 16 personnel management system certification bodies.

⁸⁰ The market surveillance authorities are the Ministries of Science, Industry and Technology; Customs and Trade; Labour and Social Security; Health; Food, Agriculture and Livestock; and Environment and Urban Planning; the Undersecretariat of the Prime Ministry for Maritime Affairs; the Energy Market Regulatory Authority; the Tobacco and Alcohol Market Regulatory Authority; and the Information and Communication Technologies Authority.

⁸¹ WTO document G/TBT/10.7/N/89, 1 October 2008.

cooperation agreements, for example with China, EFTA member states, Israel, Bulgaria, Iran, and Lebanon on standardization, metrology, and conformity assessment.

93. Four specific trade concerns have been raised against Turkey in the TBT Committee since 2007.⁸² Common features among the concerns have been the lack of transparency in the development and implementation of measures, incomplete and untimely notification to the WTO, and the insufficient time provided to adapt to the relevant requirements.⁸³

(iii) Sanitary and phytosanitary measures

94. Turkey is a full member of the World Organization for Animal Health (OIE), the International Plant Protection Convention (IPPC), and the Codex Alimentarius Commission, and is harmonizing its legislation with the international standards set by these institutions.⁸⁴ Turkey's SPS legislation is primarily based on Law No. 5996 on Veterinary Services, Plant Health, Food and Feed (2010), which amalgamated a number of previous laws in this area; the Sanitary Law No. 1593 of 1930; the Fishery Law No. 1380, as amended by Law No. 3288 of 1986; the Turkish Food Codex Regulation (1997), currently under revision; and the Law on Agricultural Quarantine.⁸⁵ Turkey adopted a Biosafety Law and a related GMO Regulation in 2010, regulating all aspects of agricultural biotechnology in Turkey, and requiring food and feed products containing GMOs to be labeled as such.⁸⁶ Turkey continues to transpose the EU *acquis* into its food-related legislation.

95. Turkey makes no distinction between domestically produced and imported goods in its application of health and sanitary controls. Imports of agricultural products and foodstuffs require a control certificate issued by the Ministry of Food, Agriculture and Livestock (MFAL)⁸⁷; the Ministry of Health issues control certificates for imported pharmaceutical products, drugs, certain consumable medical products, cosmetics, and detergents; and imported forestry materials require a control certificate issued by the Ministry of Environment and Urbanization in coordination with MFAL.⁸⁸ Lists of the products subject to control certificates are published annually. The related communiqué is prepared under the coordination of MFAL and the Ministry of Economy.

96. Depending on the type of product, the application to the relevant ministry for a control certificate should be accompanied by 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. The documents must be obtained from and/or approved by the relevant authorities in the producer country,

⁸² The concerns relate to Turkey's product-tracking system for tobacco products and alcoholic beverages, inspections of imported medical equipment, documentation requirements for medical devices, and its GMP system for pharmaceuticals.

⁸³ See WTO documents G/TBT/M/42, 43, 47, 50, 51, 52, and 53. Meanwhile, Turkey has raised specific trade concerns with respect to three measures, and exercised its rights as a third party to two disputes related to the TBT Agreement (tuna products and clove cigarettes).

⁸⁴ For an extensive summary of Turkey's laws, regulations, and requirements see USDA Foreign Agriculture Service (2011).

⁸⁵ According to the Law on Agricultural Quarantine, live animals entering Turkey must be kept under quarantine for 21 days, and veterinary tests undertaken in the exporting country may be carried out again in Turkey.

⁸⁶ Following a proposal from the Biosafety Board, the GMO threshold level for labeling has been set at 0.9% for the approved genes.

⁸⁷ Annex VI of the Communiqué on the Standardization in Foreign Trade presents a List A for "products subject to control certificates", and a List B for "other products".

⁸⁸ In some cases, the certificate may be waived if the importer assures the authorities that the products are destined for specified purposes or for the manufacturer's own use.

and be in original language together with a translation into Turkish.⁸⁹ For live animals and certain animal products, the importer or those in charge of the shipment should obtain prior permission (i.e. before importation) from the competent authority. Certificates and other relevant documents should be presented during the controls at the point of entry or customs area where the actual importation takes place. Veterinary checks include verification of documents, identity controls, and physical checks. Control documents for non-animal-origin food and feed do not need to be submitted to the customs authorities in the course of importation.⁹⁰ The period of validity of control certificates ranges from four to twelve months, depending on the product.

97. 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, fodder, and other products that may affect animal health.⁹¹ 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.

98. Turkey faced its first avian influenza (AI) outbreak in October 2005, and further outbreaks followed in 2006 during which some 2.5 million birds were culled. No new human or bird cases of avian influenza have been reported in Turkey since April 2008. Vaccination campaigns against new strains of foot-and-mouth disease have been implemented effectively, and continued for other diseases such as brucellosis, sheep and goat plague, anthrax, sheep and goat pox, bluetongue, and Newcastle disease and rabies.

99. For the implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures, Turkey's National Enquiry Point and Notification Authority is the General Directorate of Food and Control of the MFAL.⁹² Turkey notifies new SPS measures affecting trade through the WTO, and a period of six months is foreseen before entry into force of the relevant regulations.

100. Since its last TPR in 2007, Turkey has provided 23 SPS-related notifications to the WTO, either as regular notifications or addenda or corrigenda to previous notifications.⁹³ One specific trade concern has been raised in the SPS Committee in relation to Turkey's new legislation on biosafety.⁹⁴ Turkey has exercised its third-party rights with respect to one recent dispute related to the SPS Agreement.⁹⁵

⁸⁹ For food and food-contact materials, only health certificates must be obtained and/or approved by the relevant authorities in the producer country.

⁹⁰ Instead, the MFAL sends official letters to the relevant customs office specifying conformity or non-conformity.

⁹¹ 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, FYROM, the Russian Federation, Slovakia, and Ukraine.

⁹² The Authority was previously the General Directorate of the Protection and Control of the Ministry of Agriculture and Rural Affairs.

⁹³ Turkey also publishes notices of SPS measures in its *Official Gazette*, and all SPS-related measures in force in Turkey are available at the GDFC website (<http://www.gkgm.gov.tr/>).

⁹⁴ See WTO documents G/SPS/R/59, paras. 30-33; G/SPS/R/61, paras. 34-36; and G/SPS/R/62 paras 59-61. In the past, concerns have been raised in relation to an import ban on livestock (1998), a ban on pet food imports related to transmissible spongiform encephalopathy (2000), and control certificates for banana imports (2001).

⁹⁵ WTO document DS392; "United States – Certain Measures Affecting Imports of Poultry from China".

(iv) Free zones, special economic areas

101. Free Zones Law No. 3218 of 15 June 1985 and the Free Zones Regulation of 1993 constitute the basic legal framework for the operation of Turkey's 19 free zones. The legislation is designed, *inter alia*, to promote foreign direct investment and joint ventures in export-oriented enterprises, provide easy access to imported raw materials and equipment on favourable terms, and to increase employment. Free zones are also targeted at regional development. The foundation and operation of the free zones are generally undertaken through a mix of government and private partnership (often within the framework of build-operate-transfer schemes, such as in the Aegean, Kocaeli, Adana-Yumurtalik, and Samsun free zones). Investors may construct their own premises in the free zones, but office space, workshops and warehouses are also available for rent. An operating licence is valid for maximum 15 years for tenant users (30 years for users building their own facilities). If the operating licence is for production, the validity term is extended to 20 and 45 years for tenant users and investors, respectively.

102. Financial incentives available to free-zone companies include exemption from payment of customs duties and fees; exemption from corporate, income, and value-added taxes; free repatriation of profits; 100% repatriation of capital without prior permission; and absence of foreign exchange restrictions. New arrangements for tax incentives in the free zones were introduced under Law No. 5084 of 29 January 2004 on the Encouragement of Investments and Employment. Pursuant to Law No. 5084, all exemptions except those already accorded to established firms were to be terminated by 31 December 2008. However, according to Law No. 5810 of 12 November 2008 (amending Law No. 3218) only free-zone users operating under a production licence may be exempted from income and corporate taxes. This exemption applies until the end of the taxation period of the year in which Turkey becomes a full member of the EU.⁹⁶

103. Enterprises established in the free zones are active in a wide range of areas, including high-technology products, leather goods, and storage facilities. All industrial, commercial and service operations deemed appropriate by the Supreme Planning Board may be conducted in the Free Zones, under Article 10 of the Free Zones Regulation. Offshore banking and insurance business is not allowed. Customs broker activities may be conducted by acquiring either an activity licence or an entry permit document.⁹⁷ Entry into the zones of firearms and ammunition, radioactive substances, and dangerous and toxic wastes is prohibited (Article 32 of the Regulation). Inflammables, explosives, combustibles, fire-inducing substances or materials dangerous to other substances may only be brought into the zones with a special arrangement or facility for that purpose. The movement in and out of the zones of narcotic substances, psychotropic substances, and related chemical substances and their preparations are subject to national and international legislation implemented by the Ministry of Health.

104. Although foreign investors benefit from the same incentives as Turkish investors, and no limitation exists on foreign capital participation in investments in the free zones, most enterprises established in the zones are of Turkish origin. At the end of 2010, the free zones comprised 2,532 enterprises, of which 470 were foreign owned.⁹⁸ Sales from the free zones to the Turkish market outweigh sales to other countries (Table III.18). Sales into the domestic customs territory are

⁹⁶ Free zone users obtaining an operating licence other than for production after 6 February 2004 do not benefit from income and corporate tax exemptions. For tenants holding an operating licence on that date, the corporate tax exemption has remained applicable for the period of validity of the operating licence, whereas income tax on wages became payable as from 2009.

⁹⁷ Based on Article 50 of the Free Zones Implementation Regulation, modified on 22 April 2010.

⁹⁸ The corresponding number of operating licences was 3,235 and 598, respectively.

subject to Turkey's MFN import regime, including the payment of import duties and taxes.⁹⁹ Deliveries from the domestic market into the free zones constitute roughly one quarter of the "import" value of the zones. The domestic suppliers are not eligible for incentives applicable in the free zones.

Table III.18
Free zones trade, 2007-10
(US\$ million and %)

	2007		2008		2009		2010	
	US\$	%	US\$	%	US\$	%	US\$	%
Free zones to domestic market	7,917	32,22	7,262	29,55	5,174	29,14	5,291	28,49
Domestic market to free zones	3,045	12,39	3,195	13	2,177	12,26	2,295	12,36
Other countries to free zones	8,300	33,78	8,248	33,56	5,493	30,93	6,626	35,67
Free zones to other countries	5,311	21,61	5,873	23,90	4,914	27,67	4,361	23,47
Total	24,573	100	24,578	100	17,757	100	18,572	100

Source: Information provided by the Turkish authorities.

(v) Transit

105. The basic provisions on customs formalities related to goods in transit are laid down in Articles 84 to 92 of the Customs Law. As a general rule, goods in transit are not examined by the customs administration at the point of entry. When deemed necessary, the consignments may be sealed or escorted by customs officials. In case of suspicion or denunciation, goods in transit may be inspected; if the principal so desires, he, his representative or the transporter should be present. The Ministry of Customs and Trade is authorized to adopt regulations regarding the examination of goods in transit and transit periods, transit routes, checkpoints or halting places for goods carried overland. Transit periods, transit routes, checkpoints or halting places are set out in the TIR Regulation. Competent regional directorates of the Ministry of Economy are entitled to authorize the transit of goods subject to import prohibition. Goods in transit are subject to customs fees for services rendered (e.g. for loading, unloading, sealing or warehousing).

(vi) Countertrade and barter

106. Turkey currently has no specific regulation on barter or countertrade as "Communiqué No. 4/2006 on Exportation Made through Counter-Purchase or Barter" was abolished through Communiqué No. 10/2008. Such practices must therefore be conducted pursuant to the Export Regulation.

107. Civil offset practices are managed by the Ministry of Economy and regulated by Communiqué No 6/2007. Two civil aviation offset projects, initiated in 1998 and 2000, were completed in 2008 and 2010, respectively.

(vii) Government procurement

108. Turkey's basic legislation on government procurement – the Public Procurement Law (PPL) No. 4734 of 2002 and the Public Procurement Contracts Law No. 4735 of 2002 – entered into force on 1 January 2003. The laws have been supplemented by the (i) Regulation on Implementation of Services Procurements; (ii) Regulation on Implementation of Goods Procurements; (iii) Regulation on

⁹⁹ Holders of operating licences issued before 6 February 2004 also pay a 0.1% (c.i.f. value) to 0.9% (f.o.b. value) fee on goods brought into the zone from aboard and/or sold from the zone into Turkey. The fee is not applied on operating licences issued currently.

Implementation of Works Procurements; (iv) Regulation on Implementation of Consultancy Services Procurements; (v) Regulation on Implementation of Electronic Procurement; and (vi) the Regulation on Administrative Applications against Procurements.

109. The Public Procurement Law (PPL) has been amended on several occasions, most notably in December 2008 through Law No. 5812, to align Turkey's public procurement legislation with the EU *acquis*. Modelled on EU Directives, Law No. 5812 introduced several new instruments such as prior notice; the availability of framework agreements for all contracting authorities; a standstill period (between the award decision and the conclusion of a contract); e-procurement provisions including electronic auctions, shorter time-limits for electronic publication of procurement notices, electronic availability of tender documents and procurement notices, and the establishment of an Electronic Public Procurement Platform (EPPP); simplified procedures involving shorter time-limits and reduced administrative burdens for potential suppliers; and tighter review procedures.¹⁰⁰

110. The tendering procedures set out in the PPL are (i) open tenders, whereby all tenderers may submit bids, and notices are published not less than 40 days prior to the launch of the tendering process; (ii) restricted tenders, where the contracting entity invites tenders from selected bidders after an open-ended pre-qualification process¹⁰¹; and (iii) negotiated tenders, applied under certain conditions.¹⁰² Direct procurement may be used in limited circumstances, for example when only one supplier exists or the procurement does not exceed TL 38,144 for contracting entities within metropolitan municipalities, or TL 12,709 for other contracting entities.¹⁰³

111. The contracting officer must notify the results of the bid evaluation to all who have submitted tenders. If the awarded bidder does not take the contract, it is offered to the second most advantageous bid. The Public Procurement Contracts Law stipulates principles and procedures for the issuance and implementation of contracts awarded pursuant to the PPL, including required content, limitations to carrying-over, and cancellation provisions.

112. In accordance with the PPL (Article 53), the Public Procurement Authority (PPA) was established to ensure effective implementation of the legislation and proper application of the rules and procedures during tender proceedings. The Authority is administratively and financially autonomous, with a link to the Ministry of Finance. The PPA consists of a presidency, the Public Procurement Board (PPB), and service units.¹⁰⁴ The PPB is the main decision-making body of the Authority, examining complaints and, as necessary, taking corrective action including the

¹⁰⁰ Since 1 January 2007, notices relating to procurements covered by the PPL have not been published in hard copy, but posted on the electronic Public Procurement Bulletin, where contracting entities also advertise their tender decisions following the signing of the contract. Procurement notices, tender documents, and contract award decisions can be viewed by those concerned at the EPPP. As of 1 August 2011, the EPPP had more than 260,000 registered users, including over 22,000 registered contracting entities and some 17,000 registered tenderers.

¹⁰¹ 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 prior to submission.

¹⁰² Negotiated tenders are conducted in a two-stage process, with initial proposals covering aspects such as technical details and the means to fulfil the requirements of the contract, followed by the presentation of final offers, including the tender price. Negotiated tenders may be used, for example, when open or restricted tenders have been unsuccessful (i.e. no bids) or when technical or financial parameters have been found impossible to define.

¹⁰³ Publication of a tender notice is not required for direct procurements.

¹⁰⁴ The ten members of the PPB are appointed by the Council of Ministers and serve for a single, non-renewable five-year term.

determination of remedies, cancellation of tender decisions, or termination of tender proceedings.¹⁰⁵ The PPA changed its internal organization on 16 July 2008 to separate clearly its advisory and review functions so as to minimize the potential for conflicts of interest.

113. The Public Procurement Law covers most public entities and institutions governed by public law, under public control or using public funds (Articles 1 and 2). A separate section (Articles 48-52) regulates the procurement of consultancy services. Outside the scope of the PPL are procurements of some goods and services of certain public institutions (e.g. operators in the telecom, transport, energy, and water subsectors¹⁰⁶); procurement related to defence, security, and intelligence needs; procurement 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)¹⁰⁷; and procurement by public entities abroad, e.g. embassies and consulates. The thresholds and monetary limits specified in the PPL are updated annually by the PPA according to the evolution of the Index of Wholesale Prices.¹⁰⁸

114. A 15% price preference may be granted to domestic tenderers pursuant to Article 63 of the PPL. The preference is not applicable to joint ventures between Turkish and foreign companies.¹⁰⁹ The tenderers must present a certificate of origin, issued by the chamber of commerce in the area where the goods have been produced, to benefit from the preference margin.¹¹⁰

115. Although open and restricted tenders are the main procedures used, some concerns have been expressed that Turkey's public procurement policies are being undermined by resort to exceptions to the regulatory framework.¹¹¹ In 2010, 27% of public procurement contracts, representing 13% of the overall contract value, were not subject to the tender procedures stipulated in the PPL. Furthermore, the price preference clause was applied to 22% of the overall contract value (above the PPL threshold).

¹⁰⁵ For procurements carried out within the scope of Law No. 4734, complaints are addressed to the contracting entities and appeals forwarded to the PPA. The complaint and appeal applications are mandatory administrative paths to be exhausted before filing a lawsuit.

¹⁰⁶ For public banks, construction tenders fall within the scope of the PPL, while other procurements may be covered by the Banking Act No. 4603.

¹⁰⁷ Procurement by the DMO is covered by the PPL. The DMO was a central procuring entity, selling and reselling goods to other public institutions, before the enactment of Law No. 4734. All public institutions covered by the PPL are required to purchase from the DMO items such as paper and cardboard products, stationery and office materials, office machines and tools, furnishings, lighting and heating apparatus, cleaning equipment, vehicles and accessories, and other office stocks. The items available are announced by the DMO at the beginning of each year.

¹⁰⁸ Based on the index of the previous year, new revised values become effective on 1 February each year. In 2011, the thresholds above which foreigners were entitled to participate in tenders were TL 699,270 for goods and services to entities operating under the general or annexed budget (TL 1,165,451 for other entities within the scope of the PPL), and TL 25.64021 million for construction for administrations covered by the PPL. In case of emergency, the thresholds may be further updated upon a proposal by the PPA and approval by the Council of Ministers.

¹⁰⁹ Foreign-owned companies incorporated under Turkish law may qualify as domestic bidders.

¹¹⁰ The chamber of commerce will require certain documents such as the industrial certificate of registration issued by MSIT or the food certificate of registration from MFAL.

¹¹¹ EU (2010) and USTR (2011). According to the European Commission, Turkey will need to revise its legislation to reduce the frequency of use of alternative procurement procedures.

116. Turkey has been participating as an observer in the WTO Committee on Government Procurement since June 1996.¹¹² As an observer, Turkey has been following the negotiations to revise the Agreement on Government Procurement.

(viii) State trading, state-owned enterprises, and privatization

117. Turkey's privatization programme, which began in 1984, is reducing the influence of the public sector in the Turkish economy. However, the State remains an important owner of banks, transportation companies, public utilities, energy and mining enterprises, and processors of certain agricultural commodities (Table III.19). Many of these operate under monopolistic conditions or hold exclusive rights, and their losses trigger budgetary transfers.

118. The privatization programme is carried out in accordance with Privatization Law No. 4046 of November 1994, as amended. The Privatization Administration (a temporary organization with a staff of approximately 250 civil servants) acts as the executive agency, while the Privatization High Council (four designated ministers acting under the presidency of the Prime Minister) is the decision-making body. The Privatization Administration may work with other relevant ministries and authorities in the privatization of specific public enterprises. The Competition Authority monitors privatizations, and its authorization is required for certain types of transactions before they become legally effective.¹¹³

119. Privatizations, which frequently involve ex-ante restructuring, are conducted through a variety of methods, including (i) asset sale or sale of shares (block sale and/or public offer); (ii) sale or transfer of operational rights; (iii) leasing; (iv) establishment of property rights other than ownership; and (v) a profit sharing model and other legal provisions depending on the nature of the business.¹¹⁴ Assets are valued using at least two of the several valuation methods before they are put forward for tendering. The Tender Commission, which conducts the tender, may opt for public auction, closed bidding, closed bidding among designated bidders, or bargaining.¹¹⁵ Once the Privatization High Council has approved the transaction, the Privatization Administration contacts the successful bidder to finalize the contract, the payment conditions, and the transfer of the assets. The Privatization High Council has established a "golden share" for five enterprises deemed to be of strategic importance: Turkish Airlines (THY); Turk Telekom; PETKIM (petrochemicals); ERDEMIR (iron and steel); and TUPRAS (petroleum refining).

¹¹² WTO document GPA/M/2, 23 July 1996.

¹¹³ The broad merger-control provisions of Law on the Protection of Competition No. 4054 are also applicable to privatizations conducted by the State. For further details see WTO (2007).

¹¹⁴ Public-private partnership is being developed as a financing model for future investments, for example for the construction of hospitals, highways and motorways, high-speed trains, and other infrastructure projects.

¹¹⁵ The bids/bidders are evaluated on price and non-price commitments, as well as other relevant criteria, such as financial strength or sector experience. Tenders may be cancelled if no bids are received. Tenders have also been halted by the Council of State due to non-compliance with existing laws and regulations.

Table III.19
Selected public enterprises, 2011

Public enterprises	Activity	State ownership (%)	Related law
Manufacturing			
MKEK	Machinery and chemicals	100.00	Decree Law No. 233
DMO	Office supplies	100.00	Decree Law No. 233
SUMER HOLDING	Textiles	100.00	Law No. 4046
Mining			
ETI MADEN ISLETMELERI	Mining industry	100.00	Decree Law No. 233
TTK	Hard coal mining	100.00	Decree Law No. 233
TKI	Lignite mining	100.00	Decree Law No. 233
KBI	Copper	100.00	Law No. 4046
Electricity			
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	Asset owner of 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
Petroleum			
TPAO	Crude oil exploration and production	100.00	Decree Law No. 233
BOTAS	Crude oil and natural gas transportation and natural gas import, transportation, distribution and sale	100.00	Decree Law No. 233
Agriculture			
TSFAS	Sugar processing	100.00	Law No. 4046
TMO	Trade of grain and other products	100.00	Decree Law No. 233
CAYKUR	Tea processing	100.00	Decree Law No. 233
TTA	Leaf, tobacco and salt	100.00	Law No. 4046
EBK	Meat, fish processing	100.00	Decree Law No. 233
Transportation			
TCDD	Railway services	100.00	Decree Law No. 233
TUDEMŞAS	Railway transportation equipment	Subsidiary	Decree Law No. 233
TULOMŞAS	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
KİYEM	Coast security	100.00	Decree Law No. 233
TDİ	Seaports administration	100.00	Law No. 4046
THY	Airlines	49.12	Law No. 4046
Communication			
PTT	Post, telegraph	100.00	Decree Law No. 233
TURK TELEKOM	Telecommunication	31.68	Laws Nos. 4046 and 406
TURKSAT	Satellite communication and cable TV	100.00	Law No. 406
Banking			
TC ZİRAAT BANKASI	Banking (agricultural support credits)	100.00	Laws Nos. 4603 and 5411
T. HALKBANKASI A.Ş.	Banking	75.02	Law No. 4603 and 5411
T.KALKINMA.BANKASI A.Ş.	Banking (development)	99.08	Laws Nos. 4456 and 5411
T. İHRACAT KREDİ BANKASI A.Ş. (T. EXİMBANK)	Banking (export credit)	100.00	Laws Nos. 3332 and 5411
T. VAKİFLAR BANKASI T.A.Ö.	Banking	58.45	Laws Nos. 6219 and 5411

Source: Information provided by the Turkish authorities.

120. Since 1986, Turkey has raised more than US\$42 billion through privatizations carried out by the Privatization Administration.¹¹⁶ The most significant transactions completed since 2003 are listed in Table III.20.¹¹⁷ The Government has privatized all its cement manufacturing enterprises; a food chain store (GIMA); producers of animal feed, milk, and dairy products; the majority of the meat, fish and poultry processing companies; wood processing enterprises; a number of seaports; all shipyards; Turkish cargo lines; all refineries; a petrochemical processing company; the iron and steel industry; two commercial banks (Etibank and Sümerbank); and all textile manufacturing units owned by Sümerbank. The privatization of 19 electricity distribution companies began in 2008 and continued in 2010 and 2011. Nine power generation plants were sold in 2008, and the transfer of operating rights for 52 small and medium-sized hydro-electric power stations was completed in 2010. The final tender of a 56.09% stake in DOĞUSAN A.Ş. (a manufacturer of concrete perlit tiles) has been finalized, technically.¹¹⁸

121. The Privatization Administration is planning to privatize 24 sugar processors by 2014. The companies have been grouped in six portfolios; tender announcements for three of these portfolios should be issued before the end of 2011. Preparations are advancing for the privatization of the two Bosphorous bridges, seven toll motorways, the Ankara and Izmir ring roads, and the service units operated by the Turkish Highways General Directorate. A first attempt to privatize the national lottery, in 2009, was unsuccessful. Technical studies to launch a re-tender are continuing.

122. The Turkish Red Crescent is the only state-trading enterprise that continues to be notified to the WTO by Turkey.¹¹⁹ The non-profit, humanitarian aid organization holds exclusive rights to import certain drugs used in the fight against malaria and syphilis, i.e. cinchona bark, potassium iodide, alkaloids of cinchona and their derivatives (quinidine), and primaquine diphosphate. TEKEL, a former tobacco and alcohol state monopoly, was stripped of its exclusive import rights in 2001, and subsequently privatized.¹²⁰

¹¹⁶ Including privatizations conducted by other governmental institutions, Turkey's net proceeds from privatizations had reached US\$53.5 billion at end-June 2011. The revenue from privatizations, dividends, and other financial income from enterprises in the privatization portfolio are channelled into the Privatization Fund. Costs relating to the privatization process, restructuring, operational losses, etc. are charged against the fund. Surplus cash is transferred to the Treasury pursuant to Article 10 of Law No. 4046. In 2010, the transfer to the Treasury amounted to US\$1,714 million.

¹¹⁷ The single most important transaction has been the privatization of Türk Telekom, when 55% of the company raised US\$6.55 billion in a block sale to Ojer Telekomünikasyon A.Ş (a consortium led by Saud Oger and Telecom Italia) in 2005. A further 15% of the shares was sold in a public offering to local and foreign investors in late 2008, resulting in net proceeds of more than US\$1.9 billion. No decision has yet been taken regarding the sale of the State's remaining stake of 31.68%.

¹¹⁸ DOĞUSAN A.Ş. is listed on the Istanbul Stock Exchange, and the company's shares (43.91%) are tradeable there.

¹¹⁹ The latest notification was circulated in WTO document G/STR/N/13/TUR, 21 June 2010.

¹²⁰ See WTO (2003) and WTO (2007).

Table III.20
Privatization, 2003-10

Privatized company	Sector	Year	Method of privatization	Amount (US\$ million)
BURSAGAZ	Gas distribution	2004	Block sale	120
TEKEL (Turkish State monopoly)	Alcoholic beverages	2004	Block sale	292
TUGSAS-IGSAS	Gas distribution	2004	Block sale	100.5
THY	Airline transport	2004	23% PO	191.2
ETİ ALUMINIUM	Mining	2005	100% Block sale	305
TURK TELEKOM	Telecommunications	2005	55% Block sale	6,550
ISTANBUL HILTON OTEL	Tourism	2005	Asset sale	255
TUPRAS	Refining	2005	14% ISE	454
PETKIM	Petrochemicals	2005	34% ISE	274
TUPRAS	Refining	2006	51% Block sale	4,140
ERDEMİR	Iron & steel	2006	46% Block sale	2,770
BASAK INSURANCE COMPANY	Insurance	2006	100% Block sale	268
BUYUK EFES OTEL	Tourism	2006	100% Block sale	121.5
BUYUK TARABYA	Tourism	2006	100% Block sale	145.3
THY	Airline transport	2006	28.75% PO	207.8
HALKBANK	Banking	2007	25% IPO	1,839 ^a
MERSIN PORT	Port operation	2007	36 years of concession	755 ^b
GENERAL DIRECTORATE OF STATE HIGHWAYS (1 st Levent Real Estate)	Real estate	2007	Asset sale	800
MOTOR VEHICLE INSPECTION STATION	Service	2007	20 years (concession)	614 ^c
TURK TELEKOM	Telecommunications	2008	15% ISE	1,911
TEKELTURKISH TOBACCO	Tobacco products	2008	Asset sale	1,720
PETKIM	Petrochemical	2008	51% Block sale	2,040
ANKARA NATURAL ELECTRIC PRODUCTION	Electricity generation	2008	Sale of shares based in TOR	510
TEDAS BASKENT	Electricity distribution	2009	Sale of shares based in TOR	1,200
TEDAS SAKARYA	Electricity distribution	2009	Sale of shares based in TOR	600
TEDAS MERAM	Electricity distribution	2009	Sale of shares based in TOR	440
SAMSUN PORT	Port operation	2010	36 years (concession)	125.2
BANDIRMA PORT	Port operation	2010	36 years (concession)	175.5
TEDAŞ OSMANGAZI	Electricity distribution	2010	Sale of shares based in TOR	485
TEDAŞ ÇAMLIBEL	Electricity distribution	2010	Sale of shares based in TOR	258.5
TEDAŞ ULUDAĞ	Electricity distribution	2010	Sale of shares based in TOR	940
TEDAŞ YESİLIRMAK	Electricity distribution	2010	Sale of shares based in TOR	441.5
TEDAŞ FIRAT	Electricity distribution	2010	Sale of shares based in TOR	230.2
Total of all implementations (1986-2010)				41,720

a Approximately US\$1.2 billion represents the portion allotted to foreign investors as of the transaction date.

b 40% of the amount represents foreign direct investment by the Port of Singapore Authority as of the transaction date.

c 30% of the amount represents foreign direct investment by the German enterprise TUV-SUD as of the transaction date.

Note: PO = Public offer; ISE = Istanbul Stock Exchange; IPO = Initial public offer; TOR = Transfer of operational rights.

Source: Prime Ministry (2010), *Privatization Administration - Annual Report 2010*. Viewed at: www.oib.gov.tr/2011/dosyalar/oib_faaliyet%202010_ING.pdf.

(ix) Competition policy

123. The Law on the Protection of Competition No. 4054, promulgated in 1994 and last amended in 2008, remains the principal legal basis for the promotion and enforcement of competitive

conditions in goods and services markets.¹²¹ The Competition Authority, led by a seven-member Competition Board, has been responsible for the implementation and enforcement of the law since 1997.¹²² Secondary legislation, mainly in the form of regulations, is prepared by the Authority and issued by the Board.¹²³

124. Turkey's competition legislation addresses three principal issues: anti-competitive agreements, concerted practices, and decisions; abuse of dominant position; and mergers and acquisitions distorting the competitive structure of the market. Agreements distorting, restricting or preventing competition are in principle prohibited, unless the Competition Board grants an exemption (or block exemption). The Board may also grant negative clearance, thereby confirming that an agreement, decision, practice or proposed merger or acquisition transaction is not deemed contrary to the competition rules. Any practice affecting the Turkish market is within the scope of the law, including agreements concluded outside Turkey (the effects doctrine). Except for certain types of merger in banking, which are outside the scope of the Law, all sectors are covered.¹²⁴

125. Pursuant to Articles 27(g) and 30(f) of the Law, the Competition Authority may provide opinions on draft legislation and administrative practices of other agencies and institutions. Thus, comments were made on a draft amendment to the bylaw on raw material and sugar prices in 2009, and on draft amendments to the Act on the Electricity Market, a draft bylaw by the Tobacco and Alcohol Market Regulatory Authority on the sale and display of tobacco products and alcoholic beverages, and on the tender specifications of the Turkish Football Federation in 2010.

126. In October 2009, the Competition Authority signed a protocol with the Public Procurement Agency to build a cooperation framework between the two agencies, aiming notably to deal effectively with bid rigging and to make public tenders more competitive.¹²⁵ Efforts to conclude agreements with the Energy Market Regulatory Authority and the Information and Communication Technologies Authority are ongoing. The Authority has been working closely with the Privatization Administration on the privatization of many state-owned enterprises.

127. The number of files concluded by the Competition Authority rose steadily between 2000 and 2008 (Table III.21).

¹²¹ The Law was amended in 2008 through Law No. 5728. A bill to amend the Law, *inter alia*, introducing a *de minimis* rule and making mergers and acquisitions subject to a "significant lessening of competition" test, was submitted to the Grand National Assembly of Turkey in July 2008. This bill could not be enacted in the previous legislative period and therefore became invalid. The Government or members of the Grand National Assembly may renew the bill. The Competition Authority will try to ensure that the bill is renewed and enacted in the current legislative period.

¹²² The Authority is financed by a 0.04% levy on the capital and capital increases of certain companies, budgetary transfers from the Ministry of Customs and Trade, and revenue *inter alia* from its publications.

¹²³ For example, in 2010 the Board issued communiqués clarifying the principles and procedures of hearings, right of access to files and the protection of trade secrets, and simplifying the notification rules for mergers and acquisitions by providing for a turnover threshold instead of the system based on thresholds and market share. In 2011, the Board issued guidelines on mergers and acquisitions regarding the undertakings concerned, turnover, and ancillary restraints.

¹²⁴ The Law does not apply to mergers and acquisitions where the sectoral share of the total assets of the banks involved is below 20%.

¹²⁵ The Authority has also signed a protocol with the Turkish International Cooperation and Development Agency to deliver technical assistance within the framework of Turkey's aid policy.

Table III.21
Cases handled by the Competition Authority, 2000-10

	2000-10	2005	2006	2007	2008	2009	2010
Competition infringements							
Files opened	1,174	84	108	131	166	395	..
Files concluded	1,193	97	108	148	132	178	252
Mergers/acquisitions							
Files opened	1,543	164	199	238	249	169	..
Files concluded	1,782	170	186	232	255	146	276
Negative clearance/exemption							
Files opened	403	45	36	34	65	40	..
Files concluded	497	50	33	39	57	46	96
Total							
Files opened	3,120	293	343	403	480	604	..
Files concluded	3,472	317	327	419	444	370	624

.. Not available.

Source: Information provided by the Turkish authorities.

(x) Price controls

128. Prices for goods and services are generally determined freely by the market in Turkey. However, price controls exist for electricity, natural gas, pharmaceuticals, telecommunication services, and transport (in particular rail transport). The Board of the Energy Market Regulatory Authority (EMRA) approves the tariff for electricity transmission and distribution, the wholesale price of the state-owned wholesale company, and retail sales to "non-eligible" consumers. The EMRA Board also approves the retail, transmission, storage, and city distribution tariffs for natural gas.

129. For pharmaceuticals, a reference price system is used to control ex-factory prices. Mandatory discounts on sales of pharmaceuticals to the public health system were increased in December 2009. A decree was issued in December 2010 outlining price reductions of 9.5% to be implemented during 2011. The Telecommunication Authority introduced price-cap mechanisms for services provided by Turk Telekom in 2002.

(xi) Trade-related intellectual property regime

130. The principal legislation constituting Turkey's legal framework for the protection of intellectual property rights includes the Law on Intellectual and Artistic Works (No. 5846), as amended; the Law on Evaluation, Classification and Support of Films (No. 5224); the Trade Mark Protection Decree (No. 556); the Geographical Indications Decree (No. 555); the Industrial Design Decree (No. 554); the Patent Rights Protection Decree (No. 551); the Law on the Protection of Plant Breeder's Rights for New Plant Varieties (No. 5042); the Seed Law (No. 5553); the Law on the Protection of Integrated Circuit Topographies (No. 5147); the Amending Law of Patent, Design, Geographical Indications and Trade Mark Decree (No. 4128); the Law Amending the Decree-Laws on the Protection of Patent, Industrial Designs, Geographical Indications and Trade Mark (No. 5194); the Law for the Establishment and Functions of the Turkish Patent Institute (Law No. 5000); and the Turkish Criminal Code (Articles 334/1 and 336/1), the new Commercial Code (Articles 55/1(b-3) and (d), and 56), and the Human Medicinal Products Licensing Regulation (Article 28), for ensuring the protection of undisclosed information. Turkey's intellectual property legislation was reviewed by the

WTO TRIPS Council in November 2000.¹²⁶ Turkey is a signatory to various IPR conventions and treaties (Table III.22). As intellectual property law is one of the negotiating chapters in the EU accession process, an EU-Turkey Working Group on Intellectual Property Rights has been established.¹²⁷

Table III.22
Membership in international agreements, conventions, and treaties, 2010

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
Patent Law Treaty	2 June 2000
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	28 November 2008
WIPO Performances and Phonogram Treaty	28 November 2008

Source: Information provided by the Turkish authorities.

131. The main institutions responsible for intellectual property matters are the Directorate General of Copyrights and Cinema in the Ministry of Culture and Tourism for copyright and related rights; the Turkish Patent Institute for patents, trade marks, geographical indications, designs, and chip topographies; the Ministry of Food, Agriculture and Livestock for plant breeders' rights; the Directorate General of Customs in the Ministry of Customs and Trade for border measures; and the Ministry of Justice for enforcement before the courts.¹²⁸ The Intellectual and Industrial Property Coordination Board, set up in 2008, is convened twice a year to develop strategies for the implementation of the IPR regime and improve coordination between the relevant institutions.¹²⁹

¹²⁶ WTO document IP/Q-Q4/TUR/1, 12 April 2001 contains the introductory statement made by Turkey, as well as the questions posed and answers given during the review. For an overview of the main substantive provisions of Turkey's IPR legislation see WTO (2003) and WTO (2007).

¹²⁷ The working group met for the first time in Ankara on 18 May 2011.

¹²⁸ See WTO (1998).

¹²⁹ The Board is composed of high-level representatives from the ministries of Justice, Interior, Health, Food, Agriculture and Livestock, Customs and Trade, and Economy; the Deputy Undersecretary of the Ministry of Development, the Director General of Copyright and Cinema; the President of the Turkish Patent Institute; TUBITAK; and the European Union Secretariat General.

132. Since its last TPR, Turkey has amended the Law on Intellectual and Artistic Works to harmonize its provisions with the new Turkish Criminal Code and the Criminal Procedure Code (in 2008) and launched studies to amend the law further to eliminate remaining discrepancies with the EU *acquis*. Regulations have also been issued regarding the establishment of a joint IPR database, amending the banderole implementation system; and amending the certification system for enterprises' dissemination and distribution of intellectual and artistic works.¹³⁰ A circular on the use of licensed software in public institutions has also been issued.¹³¹

133. In the area of enforcement, Turkey has 22 specialized IPR courts (11 civil courts and 11 criminal courts).¹³² In addition, general civil and criminal courts are competent to deal with IPR cases in cities where there are no specialized IPR courts. In November 2008, the General Directorate for Criminal Affairs at the Ministry of Justice announced that public prosecutors' offices handling more than 500 IPR investigations annually should establish a special bureau responsible for such investigations. Special bureaus have now been set up in seven cities (Adana, Bakirkoy, Beyoglu, Kadiköy, Kartal, Istanbul, and Izmir). In 234 of the 707 public prosecutors' offices in Turkey, one or more prosecutors have been assigned for IPR investigations. The specialized IPR courts are being linked to the Turkish Judiciary Information System (UYAP) network.

134. A copyright automation system (TEHAKSIS) has been established to provide online access to the Non-periodical Banderole Automation System¹³³, the Certification System, the Producers Certificate System, and the Optional Registration System, to facilitate the exchange of information between related institutions. Authority to grant online access has been delegated to the (81) provincial Cultural Directorates and the National Police to accelerate the inspections of the provincial Inspection Commissions. Furthermore, the Ministry of Justice and the Ministry of Culture and Tourism signed a protocol to integrate the UYAP and TEHAKSIS information systems in December 2010. After completion of the integration, the trial processes in cases involving intellectual property rights are expected to be shortened.

135. In 2008, Turkey's specialized criminal IPR courts concluded 7,762 cases. The average time span from receipt of a case until the rendering of a decision was 500 days. The specialized civil IPR courts concluded 2,765 cases in 2009, of which 1,279 were either fully or partially accepted. The average trial span in the specialized civil IPR courts was 613 days, ranging from 286 days in the Bakirköy civil court to 1,137 days in the Istanbul 2nd civil court. The Turkish enforcement authorities normally conduct some 3,000-4,000 operations per year involving infringements of intellectual

¹³⁰ The Regulation on Intellectual Property Joint Database, published in the *Official Gazette* on 6 November 2010; Regulation on the Amendment of the Regulation on the Procedures and Principles Related to Banderole Implementation (*Official Gazette*, 1 November 2010); and Regulation on the Amendment of the Regulation on Procedures and Principles Regarding the Certification of the Enterprises Performing the Record, Copying, Selling or Disseminating of the Materials on which Intellectual and Artistic Works are Fixed (*Official Gazette*, 4 March 2011). Banderoles are sold by collection societies. The Ministry of Culture and the Federation of Publisher Collecting Societies (YAYFED) signed a protocol on 6 April 2011 to activate the sale of non-periodicals banderole through the Federation.

¹³¹ Circular on Use of Licensed Software at Public Institutions No. 2008/17, published in the *Official Gazette* on 16 July 2008.

¹³² After the first specialized IPR courts were established in Istanbul in 2001, the number of such courts rose steadily to reach 23 in 2008. The Beyoglu court house was merged with the Istanbul court house in July 2011. Thus, the civil cases were transferred to the existing 4th civil IPR court of Istanbul, and the criminal cases to the 4th criminal IPR court of Istanbul, established by the same decision of the Supreme Council for Judges and Prosecutors.

¹³³ A banderole is a security strip, such as those found on cassette tapes or cigarette packets.

property rights. The volume of confiscated pirated materials was about 24-25 million pieces in 2009 and 2010.

136. Mechanisms for the collective management of rights have been further developed. Four collecting societies in the music sector signed a cooperation agreement in February 2007, and subsequently concluded collective agreements with professional associations representing the users for the licensing of musical works in hotels (March 2008) and in broadcasts (November 2008). The United Actors Collecting Society (BIROY) was formed in October 2009. Seven collecting societies operating in the cinema business founded the Headquarter of Collecting Societies of Cinema in January 2011.

137. Recognizing that Turkey has made progress in the fight against abuse of intellectual property rights, Turkey was moved from the U.S. Special 301 Priority Watch List to the Watch List in 2008. However, noting that counterfeiting and piracy remains widespread, Turkey is being urged to make further efforts.¹³⁴ The European Commission notes that further work is required, including the adoption of legislative amendments to provide deterrent criminal sanctions, a law on IPR enforcement procedures in line with the EU Enforcement Directive, and that the civil, criminal and administrative IPR procedures, including *ex-officio* measures to combat piracy and counterfeiting, should be strengthened.¹³⁵

¹³⁴ USTR (2011).

¹³⁵ EU (2011).