

II. TRADE AND INVESTMENT REGIMES

(1) GENERAL FRAMEWORK

1. The 1982 Constitution asserts that Turkey is a secular and democratic republic governed by the rule of law, with an independent judiciary and fundamental human rights for all citizens. The Constitution may be amended by referendum or a qualified majority vote (2/3) in the Turkish Parliament, known as the Turkish Grand National Assembly (TGNA).¹ The single-chamber TGNA consists of 550 members elected by popular vote every five years on the basis of proportional representation.² The Constitutional Court is at the top of the judiciary, followed by the High Court of Cassation, Council of State, Court of Accounts, High Military Court of Appeals, and Military High Administrative Court.

2. The President, elected by popular vote for a five-year term, has broad supervisory powers.³ He appoints (and may dismiss) the Prime Minister and other ministers, on the advice of the Prime Minister. The present Cabinet consists of the Prime Minister, four Deputy Prime Ministers, and 21 Ministers.

3. Turkey's overall framework for the formulation and implementation of trade policy has remained broadly unchanged since the last TPR of Turkey. However, following a reorganization of the institutional structures of ministries and certain public institutions initiated in June 2011, the titles of the relevant institutions and their portfolios have been adjusted in recent months.⁴ The Ministry of Economy (formerly the Undersecretariat of the Prime Ministry for Foreign Trade) formulates, administers, and coordinates Turkey's foreign trade policies. Depending on the nature of the issue, the Ministry may consult with other ministries and agencies such as the ministries of Foreign Affairs; Science, Industry and Technology; Finance; Food, Agriculture and Livestock; Health; Culture and Tourism; Energy and Natural Resources; Environment and Urbanism; Development; Customs and Trade; the Undersecretariat of Treasury; the Central Bank of Turkey; the Turkish Patent Institute; the Competition Authority; the Public Procurement Authority; the Banking Regulation and Supervision Agency (BRSA); the Information and Communication Technologies Authority; the Energy Market Regulatory Authority; the Sugar Authority; the Tobacco and Alcohol Market Regulatory Authority; the Public Procurement Agency; and the Export Credit Bank of Turkey (Turk Eximbank). A number of independent regulatory institutions with responsibilities in goods- and services-related matters are listed in Table II.1. The Ministry of Economy, through the Directorate-General of Incentives Implementation and Foreign Investment, is responsible for state aids provided to investments and matters related to foreign direct investment in Turkey (section (4) below).

4. The Ministry of Economy conducts periodic reviews and assessments of trade policies. In this context, the export and import regimes and legislation on standardization are reviewed annually and updated as necessary. The private sector and NGOs provide inputs to trade policy formulation by communicating their views to the Ministry of Economy either directly or through the Union of Chambers and Commodity Exchanges of Turkey (TOBB), the Turkish Exporters Assembly (TIM), the Turkish Businessmen's and Industrialists' Association (TUSIAD), the Independent Businessmen's and Industrialists' Association (MUSIAD), and the Foreign Economic Relations Board (DEIK), as

¹ Only members of the TGNA may propose amendments to the Constitution.

² A party must obtain minimum 10% of the votes cast at the national level to participate in the distribution of parliamentary seats.

³ The President may be re-elected, but only once, for a second five-year term. Until 2007, the President of Turkey was elected by Parliament for a single seven-year term.

⁴ Decree Law No. 637, published in *Official Gazette* No. 27958 (bis), 8 June 2011.

well as individual and local chambers of commerce, and exporters' associations.⁵ Consultation is sometimes held with universities and research institutes, such as the Economic Development Foundation (IKV), the Economic Policy Research Foundation of Turkey (TEPAV) and the Foreign Trade Association of Turkey (TURKTRADE).⁶

Table II.1
Independent regulatory institutions, 2011

Institution	Law No./Year	Sectors	Task
Capital Market Board	2499/1981	Capital markets	Regulating and supervising the capital markets and protecting the rights and interests of investors
Radio and Television Supreme Council	6112/2011	Radio, television, and on-demand media services	Regulating and supervising radio, television, and on-demand media services
Competition Authority	4054/1994	Goods and services markets (all sectors)	Prohibiting agreements, decisions, and concerted practices that restrict competition, and any abuse of dominant position by one or more undertakings; controlling mergers and acquisitions; establishing a competition culture as part of its competition advocacy role
Banking Regulation and Supervision Agency	4389/1999 (Banks Act No. 4389 was superseded by Banking Law No. 5411/2005)	Banking	Protecting the rights and interests of depositors; laying down principles regarding the establishment, management, operation, acquisition, merger, liquidation, and supervision of banks in order to ensure efficient operation of the credit system with due regard to the requisites of economic development, and confidence and stability in the financial market
Information and Communication Technologies Authority	4502/2000 5809/2008	Telecommunications	Constituting a dynamic and strong market based on fair competition; contributing to the sectoral policy-making process; taking measures to protect consumer rights; ensuring efficient and productive use of scarce resources in the sector, such as frequency and numbers
Electronic Signature Law	5070/2004	Information technology	Defining the principles for the legal and technical aspects and application of electronic signatures
Energy Market Regulatory Authority	4628/2001 4646/2001 5015/2003 5307/2005	Electric energy Natural gas Petroleum Liquefied petroleum gas (LPG)	Constituting a financially strong, stable, and transparent energy market operating under private law in a competitive environment to provide adequate, refined, continuous, and environment-friendly electricity and natural gas; ensuring independent regulation and supervision in the market; regulate the guidance, surveillance and supervision activities in the delivery of petroleum and LPG, to ensure the transparent, non-discriminatory, and stable supply from domestic and foreign resources to consumers, directly or after processing in a cost-effective manner
Sugar Authority	4634/2001	Sugar, starch-based sweeteners	Regulating the sugar regime through establishment of procedures and principles regarding sugar production, and the conditions and methods of marketing
Tobacco and Alcohol Market Regulatory Authority	4733/2002 (Amended by Law No. 5752/2008)	Tobacco, tobacco products, alcohol and alcoholic beverages	Regulating the procedures and principles regarding production, domestic and external purchase and sale of tobacco, tobacco products, alcohol, and alcoholic beverages
Public Procurement Authority	4734/2002	All public institutions	Determining the procedures and principles to be applied in public procurements; examining the complaints concerning all public procurements

Source: Information provided by the Turkish authorities.

⁵ The views of the private sector, including NGOs, are customarily taken into consideration throughout the process (although this is not legally required).

⁶ The former Export Promotion Centre (IGEME) has been integrated into the Ministry of Economy.

5. The hierarchy of legal instruments in Turkey comprises the Constitution, laws, decrees, regulations, implementing regulations, Council of Ministers' decisions, and other administrative Acts such as circulars. In general, policies are formulated and implemented by means of laws.⁷ The main legislation relating to international trade is the Foreign Trade Regulations Law (No. 2976 of 1984). International agreements duly put into effect in Turkey, including the WTO Agreements, carry the force of law. Thus, their provisions would apply in the case of any inconsistency between them and domestic law, which would consequently have to be amended to reflect Turkey's international commitments. The WTO Agreements, and Turkey's current and future trade relations with the European Union, are the main factors influencing the Turkish trading system.

6. The main pieces of trade-related legislation in Turkey are listed in Table AII.1. The present Turkish Commercial Code (No. 6762), in force since 1957, stipulates that trading companies may take the form of a collective, commandite, joint-stock, or limited liability company, or be a cooperative. All companies established according to the Commercial Code are regarded as Turkish companies. A new Commercial Code (No. 6102), published in the *Official Gazette* on 14 February 2011, will enter into force on 1 July 2012. Secondary legislation to implement the new Commercial Code is in preparation. The new Code also regulates the establishment of branches of foreign companies.⁸ The establishment of representative offices is regulated in the Foreign Direct Investment Law (No. 4875).

(2) POLICY OBJECTIVES

7. Since it entered into force on 1 January 1996, the Customs Union with the EU has been the main factor shaping Turkey's foreign trade policy. The EU opened accession negotiations with Turkey in October 2005. Guidance on reform priorities is provided through the Accession Partnership, adopted in February 2008. Turkey's (third) National Programme was promulgated on 31 December 2008 to achieve the objectives identified in the Accession Partnership. On 15 March 2010, the Turkish Council of Ministers adopted an action plan for 2010-11 outlining legislation to be enacted and studies to be carried out on the various chapters of the accession negotiations.⁹

8. At the national level, Turkey's Long-Term Development Strategy (2001-2023), prepared by the Ministry of Development, envisages the development of an export-oriented, technology-intensive production structure, with emphasis on high-value-added products and services. Export-oriented activities, particularly of small and medium-sized enterprises, are to be supported, *inter alia*, by providing credit, guarantees, and insurance through Turk Eximbank; harmonization of foreign

⁷ The relevant minister presents the draft law to the Council of Ministers, which forwards the adopted draft to Parliament for approval. Draft laws may also be proposed by members of the Turkish Grand National Assembly. Bills are forwarded for assessment to the standing sub-commissions of the TGNA; if approved, they are forwarded to the President for signature. Laws enter into force upon publication in the *Official Gazette*. Decisions with respect to policy proposals may also be made by means of Council of Minister decrees, which must be published in the *Official Gazette*. The import and export regimes, safeguard measures, and surveillance of imports are all being implemented through decrees.

⁸ Until now, the establishment of a branch of a foreign company has been regulated by a temporary law of 30 December 1914, requiring permission from the former Ministry of Industry and Trade. The temporary law has been repealed through Law No. 6103 of 2011. The new legislation will enter into force on the same day as the new Commercial Code, i.e. 1 July 2012.

⁹ Turkey adopted its first National Programme to transpose the EU *acquis* on 19 March 2001, setting out the procedures and a programme for implementing actions in priority areas. The second National Programme was launched in 2003 and a third National Programme in 2008. In addition, Turkey announced a Programme for Alignment with the EU *acquis* 2007-2013 on 17 April 2007.

investment legislation with EU norms; reduced bureaucratic procedures for exporters; and improved basic infrastructure.

9. Turkey has also embarked on a branding strategy aimed at improving the image of Turkish products around the world, and providing strategic support to Turkish firms and exporters' and producers' unions. Turkey does not have an export strategy plan at present. However, a long-term export strategy document (Export Strategy for 2023) is being prepared.

10. The main objective of Turkey's Ninth Development Plan (2007-13) is to increase competitiveness, *inter alia*, by improving the business environment, reducing the informal economy, increasing the quality and effectiveness of public services, fostering regional development, and modernizing the energy and transportation infrastructure. Turkey is also examining various strategies for improving its information and communication technology infrastructure, as a means to enhance productivity.

(3) TRADE AGREEMENTS AND ARRANGEMENTS

(i) WTO

11. Turkey became an original Member of the WTO on 26 March 1995, having been a contracting party to the GATT since 1951. Turkey accords MFN treatment (or better) to all other Members of the WTO, except Armenia.¹⁰ Turkey is not a signatory to any of the plurilateral agreements resulting from the Uruguay Round, but participates as an observer in the Committees on Government Procurement and Trade in Civil Aircraft. Turkey is a party to the Information Technology Agreement (ITA), having signed the Ministerial Declaration on Trade in Information Technology Products at the Singapore Ministerial Conference. Turkey's most recent WTO notifications are listed in Table II.2.

Table II.2
Selected notifications to the WTO, January 2011 to 8 November 2011

Requirement	Subject	Most recent notification	Date
GATT 1994			
Article XXIV:7(a) - (Free-trade areas)	Regional trade agreement - Turkey and EFTA states	WT/REG86/N/1/Add.7	02.09.11
		WT/REG86/N/1/Add.6	21.07.11
		WT/REG86/N/1/Add.4	04.05.11
	Regional trade agreement - Turkey and Jordan	WT/REG294/N/1	08.03.11
	Regional trade agreement - Turkey and Chile	WT/REG293/N/1	25.02.11
Anti-dumping - Implementation of Article VI of the GATT 1994			
Article 16.4	Report (ad hoc)	G/ADP/N/219/Rev.1	26.10.11
Article 16.4	Report (semi-annual)	G/ADP/N/216/TUR	12.09.11
Article 16.5	Competent authority	G/ADP/N/14/Add.32	14.10.11
Agreement on Import Licensing procedures			
Articles 1.4(a) and 8.2(b)	Changes in laws, regulations, and procedures	G/LIC/N/1/TUR/9	03.10.11
Article 7.4	Replies to the questionnaire on import licensing procedures	G/LIC/N/3/TUR/11	03.10.11

Table II.2 (cont'd)

¹⁰ Turkey invoked Article XIII of the Marrakesh Agreement establishing the WTO as Armenia's WTO accession negotiations were being wrapped up in 2002 (see document WT/L/501, 3 December 2002).

Requirement	Subject	Most recent notification	Date
Safeguards			
Article 12.1(a)	Polyethylene terephthalate	G/SG/N/11/TUR/16	24.06.11
Articles 12.1(b) and 12.1(c)		G/SG/N/10/TUR/13	24.06.11
		G/SG/N/8/TUR/13	24.06.11
		G/SG/N/6/TUR/16	28.03.11
Articles 12.1(a), 12.4, and 9 footnote 2	Spectacle frames (extension)	G/SG/N/14/TUR/5, G/SG/N/11/TUR/14, G/SG/N/7/TUR/8	15.04.11
Articles 12.1(b) and 12.1(c)		G/SG/N/11/TUR/8/Suppl.1, G/SG/N/10/TUR/8/Suppl.1, G/SG/N/8/TUR/8/Suppl.1	08.11.11
Articles 12.1(a), 12.4, and 9 footnote 2	Travel goods, handbags and similar containers (extension)	G/SG/N/14/TUR/6, G/SG/N/11/TUR/15, G/SG/N/7/TUR/9	08.04.11
Articles 12.1(b) and 12.1(c)		G/SG/N/11/TUR/9/Suppl.1, G/SG/N/10/TUR/9/Suppl.1, G/SG/N/8/TUR/9/Suppl.1	08.11.11
Articles 12.1(a), 12.4, and 9 footnote 2	Cotton yarn (extension)	G/SG/N/11/TUR/17 and Corr.1, G/SG/N/7/TUR/10, G/SG/N/6/TUR/14/Suppl.1	24.06.11
Articles 12.1(a), 12.4, and 9 footnote 2	Certain electrical appliances (extension)	G/SG/N/11/TUR/11/Suppl.1, G/SG/N/7/TUR/11, G/SG/N/6/TUR/13/Suppl.1	08.11.11
Sanitary and phytosanitary measures			
Article 7, Annex B	Regulation on plant quarantine	G/SPS/N/TUR/23	08.11.11
	Regulation implementing feed hygiene	G/SPS/N/TUR/22	04.11.11
	Regulation implementing on the planning on the market and use of feed	G/SPS/N/TUR/21	04.11.11
	Regulation implementing the methods of sampling and analysis for official control of foodstuffs	G/SPS/N/TUR/20	04.11.11
	Regulation on import controls of food of plant origin and feed	G/SPS/N/TUR/19	07.09.11
	Draft regulation	G/SPS/N/TUR/18	26.07.11
	Draft regulation	G/SPS/N/TUR/17	25.05.11
	Regulation on pre-notification and veterinary checks for entry of live animals and animal products into the country	G/SPS/N/TUR/16	16.05.11
	Regulation laying down specific rules for the official controls on foods of animal origin	G/SPS/N/TUR/15	19.04.11
	Regulation on the official controls of food and feed	G/SPS/N/TUR/14	19.04.11
	Regulation on food hygiene	G/SPS/N/TUR/13	19.04.11
	Regulation on specific hygiene	G/SPS/N/TUR/12	19.04.11
	Rules for food of animal origin		
Subsidies and countervailing measures			
Article 25.11	Semi-annual report	G/SCM/N/228/Add.1	19.10.11
Article 25.12	Competent authority	G/SCM/N/18/Add.32	14.10.11
Technical barriers to trade			
Article 2.9.2	Regulation on import controls of food of plant origin and feed	G/TBT/N/TUR/6	31.08.11

Source: WTO documents.

12. Turkey attaches great importance to the successful conclusion of the Doha Development Agenda (DDA), as an opportunity to establish a more competitive and fairer international trading system. Turkey expects the negotiations to lead to a balanced outcome that takes into account the developmental concerns of WTO Members. A WTO-DDA Coordination Committee, headed by the Ministry of Economy with the participation of public and private sectors and NGOs (and academicians, as necessary), has been established to follow up issues related to the DDA and to determine Turkey's strategy in multilateral negotiations. Turkey generally takes the EU negotiation position into consideration in the DDA, particularly with respect to non-agricultural products, as these are fully covered under the Customs Union between Turkey and the EU.

13. As a member of the G-20, a candidate country to the European Union, and an emerging economy, Turkey has taken major initiatives to support LDCs in their efforts to eradicate poverty. Turkey hosted the United Nations Ministerial Conference on LDCs in 2007, and the 4th United Nations Conference on Least Developed Countries was held in Istanbul in May 2011.¹¹ Turkey has also put LDC-related topics high on the agenda of the international community. Turkey has pledged to make US\$200 million available annually from 2012, for technical cooperation programmes, projects, and scholarships. Turkey's investments in LDCs amount to nearly US\$2 billion at present, and the Turkish Government aims to increase this to US\$5 billion by 2015, and US\$12 billion by 2020. As a donor to the Enhanced Integrated Framework, Turkey notes that numerous development projects have been implemented successfully in 23 partner countries through programme coordinating offices of the Turkish Cooperation and Development Agency (TIKA).¹²

14. Turkey has been involved in several cases under the WTO Dispute Settlement Mechanism to date, acting as complainant in two cases and as respondent in eight cases (Table II.3). Since its last Review, Turkey has not participated in any new case as a complainant or respondent. However, it has reserved its third-party rights in a number of disputes involving other WTO Members.¹³

¹¹ The Istanbul Programme of Action, agreed at the 2011 Conference, is a detailed document aiming at the ultimate eradication of extreme poverty and hunger in LDCs.

¹² The TIKA is engaged in development assistance projects in more than 100 countries worldwide.

¹³ In addition to the nine disputes enumerated in WTO (2007), Turkey has requested third-party participation in (i) China - measures affecting the protection and enforcement of intellectual property rights (DS362); (ii) Colombia - indicative prices and restrictions on ports of entry (DS366); (iii) EU - tariff treatment of certain information technology products (DS375, DS376, DS377); (iv) United States - definitive anti-dumping and countervailing duties on certain products from China (DS379); (v) United States - measures concerning the importation, marketing and sale of tuna and tuna products (DS381); (vi) certain measures affecting imports of poultry from China (DS392); (vii) China - measures related to the exportation of various raw materials (DS394, DS395; DS398); (viii) EU - definitive anti-dumping measures on certain iron or steel fasteners from China (DS397); (ix) United States - measures affecting imports of certain passenger vehicle and light truck tyres from China (DS399); (x) EU - anti-dumping measures on certain footwear from China (DS405); (xi) United States - measures affecting the production and sale of clove cigarettes (DS406); and (xii) Dominican Republic - safeguard measures on imports of polypropylene bags and tubular fabric (DS415, DS416, DS417, DS418).

Table II.3
WTO dispute settlement cases involving Turkey as respondent or complainant, 1995-2011

Dispute	Raised by/against	Actions	Outcome
Restrictions on imports of textile and clothing products	Hong Kong, China/Turkey	Consultations requested on 12 February 1996, under GATT Articles XI, XIII, and XXIV as well as WTO ATC Article 2 (WT/DS29/1)	Pending consultation
Restrictions on imports of textile and clothing products	India/Turkey	Consultation requested on 21 March 1996, under GATT Articles XI, XIII, and XXIV as well as WTO ATC Article 2 (WT/DS34/1). Establishment of panel requested on 2 February 1998 (WT/DS34/2). DSB agreed to establish a panel on 13 March 1998 (WT/DSB/M/43). Panel report adopted on 19 November 1999 (WT/DS34/11). Appellate Body Report adopted on 19 November 1999 (WT/DS34/11)	Notification of mutually agreed solution on 6 July 2001 (WT/DS34/14)
Taxation of foreign film revenues	United States/Turkey	Consultation requested on 12 June 1996, under GATT Article III (WT/DS43/1). Establishment of a panel requested on 10 January 1997 (WT/DS43/2). DSB agreed to establish a panel on 25 February 1997 (WT/DS/M/29)	Notification of mutually agreed solution on 24 July 1997 (WT/DS43/3)
Restrictions on imports of textile and clothing products	Thailand/Turkey	Consultation requested on 20 June 1996, under GATT Articles I, II, XI, XIII, and XXIV as well as WTO ATC Article 2 (WT/DS47/1)	Pending consultation
Anti-dumping duty on steel and iron pipe fittings	Brazil/Turkey	Consultation requested on 9 October 2000, under GATT Article XXIII and Article 17 of the Anti-Dumping Agreement (WT/DS208/1)	Pending consultation
Certain import procedures for fresh fruit	Ecuador/Turkey	Consultation requested on 31 August 2001, under GATT Article XXII, Article 11 of the SPS Agreement, Article 6 of the Import Licensing Agreement, Article 19 of the Agreement on Agriculture, and GATS Article XXII (WT/DS237/1). Establishment of panel requested on 13 June 2002 (WT/DS237/3). DSB agreed to establish a panel on 29 July 2002 (WT/DSB/M/130)	Notification of mutually agreed solution on 29 November 2002 (WT/DS237/4)
Import ban on pet food from Hungary	Hungary/Turkey	Consultation requested on 3 May 2002, under GATT Article XXIII, Article II of the SPS Agreement, and Article 19 of the Agreement on Agriculture (WT/DS256/1)	Pending consultation
Measures affecting the importation of rice	United States/Turkey	Consultation requested on 2 November 2005, under GATT Articles III, XI:1 and Article 2.1 of the TRIMs Agreement, Article 4.2 of the Agriculture Agreement (WT/DS334/1), and various Articles of the Import Licensing Agreement (WT/DS334/). Establishment of panel requested on 6 February 2006 (WT/DS334/4). DSB agreed to establish a panel on 17 March 2006 (WT/DS334/5/Rev.1)	Panel report issued to the parties on 8 June 2007; circulated to all Members in September 2007
Definitive anti-dumping measures on steel rebar from Turkey	Turkey/Egypt	Consultation requested on 6 November 2000, under GATT Article XXIII and Article 17.3 of the Anti-Dumping Agreement (WT/DS211/1). Establishment of a panel requested on 3 May 2001 (WT/DS211/2) and 11 May 2001 (WT/DS211/2/Corr.1). DSB agreed to establish a panel on 20 June 2001 (WT/DSB/M/106). Panel report adopted on 1 October 2002 (WT/DS211/5)	Parties notified in meeting of 29 August 2003 that the matter would no longer be pursued with the DSB. Egypt revoked the measure on 3 August 2004
Definitive anti-dumping measures on blanketing from Turkey	Turkey/South Africa	Consultation requested on 9 April 2003, under GATT Article XXIII and Article 17 of the Anti-Dumping Agreement (WT/DS288/1)	Panel has not been established, complaint not withdrawn. No mutually agreed solution notified

Source: WTO Secretariat.

(ii) **Regional agreements**

(a) Customs Union with the European Union

15. Turkey signed an Association Agreement to promote trade and economic relations with the EU in 1963. The timetable for the formation of a customs union was laid down by an additional protocol in 1973. The EU had unilaterally eliminated all customs duties and equivalent measures on the specified products when the trade-related provisions of the Interim Agreement of the Protocol entered into force in September 1971, whereas Turkey was accorded a transition period of 22 years.

16. The Customs Union between Turkey and the EU entered into force on 1 January 1996 according to the Decision No. 1/95 of the Turkey-EU Association Council.¹⁴ The Customs Union provides for a common external tariff (CET) for the products covered, and foresees that Turkey will align its trade-related legislation with the EU *acquis* in several areas essential for market access, e.g. with respect to product standards.¹⁵ The Customs Union covers all industrial products as well as the industrial component of processed agricultural goods, TRIPS, and competition policy, but does not extend to agricultural commodities, services, or government procurement.¹⁶ Unlike members of the European Economic Area, Turkey may be subject to anti-dumping and countervailing measures taken by the EU. Trade in agricultural products is regulated according to Decision No. 1/98 of the Association Council, amended by Decision No. 2/2006 to take into account the EU enlargement in 2004.¹⁷ A free-trade area has existed since 1996 between Turkey and the EU for products covered by the European Coal and Steel Community.

17. Turkey was granted the status of candidate country for EU membership at the Helsinki European Council in 1999. Subject to the fulfilment of certain conditions, EU member states endorsed "enlarging and deepening" the Customs Union and opening accession negotiations with Turkey at the Copenhagen European Council in December 2002. Negotiations began on 3 October 2005. By September 2011, 13 negotiation chapters had been opened, and one of them provisionally completed.¹⁸

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

18. The free-trade agreement between Turkey and EFTA is based on an asymmetrical model similar to Turkey's Customs Union with the EU. The agreement covers industrial products (within HS Chapters 25 to 97), fish and marine products, processed agricultural goods¹⁹, intellectual property, competition rules, state aid, and anti-dumping.²⁰ The agreement entered into force on 1 April 1992, from which date EFTA states abolished all customs duties and charges of equivalent effect on non-agricultural imports from Turkey, except for textiles and apparel goods, for which EFTA countries eliminated the import duties on 1 January 1996.²¹ Turkey has granted non-agricultural

¹⁴ The Association Council is the main decision-making body of the association.

¹⁵ Until 1 January 2001, Turkey was allowed to maintain import duty rates above the CET for certain "sensitive" products, i.e. at the outset 290 items at the HS 12-digit level.

¹⁶ Negotiations addressing services and government procurement were launched in 2000, but are now part of Turkey's accession process.

¹⁷ Free movement of agricultural goods is an agreed common objective, but no firm timetable has been set for the integration of agriculture into the Customs Union.

¹⁸ EU (2011).

¹⁹ Except for items such as mannitol, sorbitol, casein, egg and milk albumin, and dextrin.

²⁰ For trade in agricultural goods, Turkey has concluded bilateral agreements with individual EFTA countries.

²¹ EFTA comprises Switzerland, Norway, Iceland, and Liechtenstein. For Iceland, the FTA with Turkey entered into force in September 1992.

imports from EFTA states the same customs duty treatment as imports from the EU since 1 January 1993, and provides duty-free treatment for fish and marine products. Trade in processed agricultural products follows the same system as that applied to Turkey's trade with the EU.

19. Turkey and EFTA states supervise the functioning and implementation of the agreement in a Joint Committee. At its ninth meeting, on 2-3 December 2009, a protocol was added on the mutual recognition of conformity assessment of products. It was also agreed to examine the possibility of extending the free-trade agreement to cover trade in services.

(c) Euro-Mediterranean partnership

20. In November 1995, the Euro-Mediterranean Conference of Ministers of Foreign Affairs marked the starting point of the Euro-Mediterranean Partnership, a framework to be based on three pillars (political and security cooperation, economic and financial partnership, and a social, human and cultural agenda). In the context of the Partnership and as part of the creation of a Euro-Mediterranean Free-Trade Area, Turkey has concluded bilateral free-trade agreements with Egypt, Israel, Morocco, Tunisia, Palestinian Authority, Jordan, Syria, and Lebanon (section (iii) below).²²

(d) Economic Cooperation Organization

21. Together with Iran and Pakistan, Turkey formed the Economic Cooperation Organization (ECO) in 1985. The ECO was expanded to include Afghanistan, Azerbaijan, Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan in 1992. The stated purpose of the ECO is to foster sustainable socio-economic development, and cooperation projects have been launched in priority areas such as energy, trade, transportation, agriculture, and drug control.

22. ECO members signed a framework agreement to enhance trade relations between them in March 2000. Afghanistan, Iran, Pakistan, Tajikistan, and Turkey concluded the ECO Trade Agreement (ECOTA) in July 2003. The ECOTA has binding provisions on, *inter alia*, state monopolies, state aid, the protection of intellectual property rights, dumping and anti-dumping measures, and the elimination of quantitative restrictions to trade. Tariffs are to be reduced by no less than 10% per year to a maximum of 15% within eight years of the entry into force of the ECOTA. Following the completion of the ratification process by Iran, the ECOTA entered into force on 24 April 2008. It is expected to become fully operational after the exchange of lists.

(e) Developing-8 (D-8)

23. Developing-8 (D-8) is an organization for development cooperation between Bangladesh, Egypt, Indonesia, Iran, Malaysia, Nigeria, Pakistan, and Turkey. The establishment of the D-8 was announced through the Istanbul Declaration of Summit of Heads of State/Government on 15 June 1997. The aim of the D-8 Organization for Economic Cooperation is to improve the member states' position in the world economy, diversify and create new opportunities in trade relations, enhance their participation in decision-making at the international level, and to improve the standards of living of their populations.

²² The Euro-Mediterranean Partnership comprises the current 27 members of the EU together with Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia, and Turkey. Libya has held observer status since 1999. The original aim was to achieve the Euro-Mediterranean Free-Trade Area by 2010.

24. The members of the D-8 signed a preferential trade agreement (PTA) to enhance economic and trade integration in 2006. The agreement aims at promoting and expanding trade through tariff reductions and the elimination of non-tariff barriers (NTBs). The tariff reductions and NTB-related clauses are to apply to goods covering 8% of the HS tariff lines with tariff rates above 10% for each contracting member. Tariffs above 25% are to be reduced to 25%; tariffs below 25%, but above 15% are to be cut to 15%, and a tariff of 10% will apply to tariffs in the 10-15% range. LDCs will reduce their tariffs in eight annual instalments, other countries in four instalments. The PTA obtained legal force between Turkey, Malaysia, Iran, and Nigeria on 25 August 2011, following the completion of their internal ratification processes. The D-8 PTA is expected to become fully operational after the completion of the exchange of tariff concession lists.

(f) The Organization of Islamic Cooperation (OIC)

25. The Organization of Islamic Co-operation (OIC), formerly the Organization of the Islamic Conference, is an inter-governmental organization with 57 member states spread across four continents.²³ The OIC aims at strengthening intra-Islamic economic and trade cooperation and deepening economic integration, leading to the establishment of an Islamic Common Market. As a first step, Framework Agreement on Trade Preferential System among the Member States of the OIC (TPS/OIC) entered into force in 2002. The framework agreement sets out the general rules and principles for the negotiations to establish the TPS/OIC. The negotiations on the modalities for tariff reductions and the timetable were completed, and the Protocol on Preferential Tariff Scheme for TPS/OIC (PRETAS) was adopted in 2005, and entered into force in February 2010. The tariff reduction commitments of the PRETAS are to apply to 7% of the HS tariff lines with tariff rates above 10% for each contracting member. Tariffs above 25% are to be cut to 25%, and tariffs of 15% and 10% will apply to tariffs previously in the (respective) 15-25% and 10-15% range. The PRETAS also covers non-tariff barriers, anti-dumping and safeguard measures, and other trade-related issues. Negotiations on rules of origin were completed in 2007. The rules entered into force on 9 August 2011. However, for the TPS/OIC to become fully operational, at least ten OIC members must complete the signature and ratification of the three legal instruments of the agreement, and submit their tariff concession lists. So far, only five members (including Turkey) have completed the process.

(g) Black Sea Economic Cooperation (BSEC)

26. The BSEC declaration, signed on 25 June 1992 by Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, the Russian Federation, Turkey, and Ukraine, was aimed at improving and diversifying their economic and trade relations. The BSEC provides for cooperation in various areas, including banking and finance; and the exchange of economic and statistical data on energy, transport, telecommunications, trade and industry, agriculture and agri-industry, environmental protection, tourism, and science and technology. The Black Sea Trade and Development Bank became operational in 1999. Although a declaration of intent to form a BSEC free-trade area was adopted in 1997, the BSEC has not provided a framework for the exchange of preferential tariff concessions. As noted in the declaration, the progressive establishment of such an area will have to take into account each member's existing and future links with the EU.

(iii) Bilateral free-trade agreements

27. Turkey's free-trade and association agreements contain a standard model based on the preferences each party has exchanged with the EU. Trade in industrial goods is fully liberalized at the

²³ The decision to establish the organization was taken at a summit in Rabat on 25 September 1969.

end of a transitional period, whereas mutual concessions are exchanged on selected agricultural and processed agricultural goods. Since its last Review, Turkey has finalized negotiations with Montenegro, Serbia, Georgia, Chile, Jordan, Lebanon, and Mauritius. Turkey has 16 FTAs in force at present.²⁴ Details of the agreements concluded, and earlier agreements remaining in force, are provided in Table II.4.²⁵

Table II.4
Bilateral trade agreements, 2011

Country	Date of agreement	Entry into force	Major Turkish exports and imports covered by the agreement
EFTA	10.12.1991	01.04.1992	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 1999
Israel	14.03.1996	01.05.1997	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods on 1 January 2000
Macedonia (FYR)	07.09.1999	01.09.2000	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2008
Croatia	13.03.2002	01.07.2003	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2007
Bosnia-Herzegovina	03.07.2002	01.07.2003	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2007
Palestinian Authority	20.07.2004	01.06.2005	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 June 2015
Tunisia	25.11.2004	01.07.2005	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 July 2014
Morocco	07.04.2004	01.01.2006	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2015
Syria	22.12.2004	01.01.2007	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2019
Egypt	27.12.2005	01.03.2007	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2020
Albania	22.12.2006	01.05.2008	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2013
Montenegro	26.11.2008	01.03.2010	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2015
Serbia	01.06.2009	01.09.2010	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2015
Georgia	21.11.2007	01.11.2008	Full elimination of tariffs on industrial goods by 1 November 2008
Chile	14.07.2009	01.03.2011	Phased reduction of tariffs on industrial goods; complete elimination on industrial goods by 1 January 2015
Jordan	01.12.2009	01.03.2011	Phased reduction of tariffs on most industrial goods; elimination on industrial goods by 1 January 2018
Lebanon ^a	24.10.2010	..	Phased reduction of tariffs on most industrial goods; elimination on industrial goods by 1 January 2020
Mauritius ^b	09.09.2011	..	Phased reduction of tariffs on most industrial goods, elimination on industrial goods by 1 January 2022

.. Not available.

a The Turkey-Lebanon FTA was signed on 24 November 2010 and will enter into force once the internal ratification procedures have been completed in both countries.

b The Turkey-Mauritius FTA was signed on 9 September 2011 and will enter into force once the internal ratification procedures have been completed in both countries.

Source: Information provided by the Turkish authorities.

²⁴ The ratification processes have commenced for the FTAs with Lebanon and Mauritius; the FTAs are expected to enter into force in 2012.

²⁵ Turkey's free-trade agreements with Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic, and Slovenia expired in the context of EU enlargement.

28. Turkey is currently engaged in negotiations with the Faroe Islands, the Gulf Cooperation Council, MERCOSUR, Ukraine, Moldova, Colombia, Ecuador, Libya, Seychelles, Korea, Cameroon, Democratic Republic of Congo, and Malaysia. Turkey has initiated the launch of negotiations with: Mexico; the South African Customs Union (SACU); Algeria; ASEAN countries; Indonesia; India; the Africa, Caribbean and Pacific (ACP) countries; Canada; Peru; and Central America. Moreover, exploratory talks with the CARICOM Secretariat were held in 2009. To date, Mexico, SACU, and Algeria have not responded to Turkey's invitation to engage in FTA negotiations.

(iv) Other preferential trade arrangements

29. Pursuant to Article 16 of Decision No. 1/95 of the Turkey-EU Association Council, Turkey has been moving to align its Generalized System of Preferences (GSP) Scheme with that of the EU. Preferences are granted on selected non-agricultural goods, including raw materials and semi-finished goods, depending on the level of "sensitivity". Duties are fully eliminated on non-sensitive products, while duty reductions apply on the more sensitive items.²⁶ Duties are eliminated for least developed countries in line with the EU Everything But Arms Initiative, and Turkey grants additional preferences to specific countries under the Special Incentives Arrangements for Sustainable Development and Good Governance. Beneficiaries under Turkey's GSP scheme are announced annually in the Annexes to its import regime.²⁷ As of 2010, Turkey's GSP regime mirrors that of the EU in terms of product coverage, geographical coverage (except for Armenia), and duty-reduction rates. Turkey has not yet adopted the amendments to the EU GSP scheme, notably regarding rules of origin, which entered into force on 1 January 2011.

30. Turkish exports are granted preferential treatment under the GSP schemes of Canada, Japan, New Zealand, the Russian Federation, and the United States. In the Russian Federation, imports from Turkey are subject to a tariff reduction of 25% of the general rate except for products on a negative list.²⁸ The United States extends GSP treatment to 3,400 products of Turkish origin at the HS 8-digit level. Turkey exported 734 products (HS 8-digit) to the United States under its GSP programme in 2010.²⁹

(4) INVESTMENT REGIME

31. Turkey enacted the Decree on Improving the Investment Environment in Turkey on 11 December 2001 as part of a national strategy to increase domestic and foreign investments. The Decree established the Coordination Council for the Improvement of the Investment Environment and technical subcommittees to identify and remove remaining barriers to private investment. Legislation to ensure the registration of investments in one day, and reduce the number of required documents, was approved by Parliament on 11 June 2003 and published in the *Official Gazette* on 17 June 2003. Additional steps to improve the business and investment climate include the adoption of the Foreign Direct Investment Law No. 4875 in 2003, and the establishment of the Turkish Investment Support and Promotion Agency in 2006.

²⁶ The preference generally amounts to a 3.5 percentage point reduction in the MFN tariff rate, except where the EU GSP scheme allows for larger preferential reductions (then these higher reductions apply), and for HS Chapters 50-63, where the cuts equal 20% of the MFN duty rate.

²⁷ Iraq was recently added to Turkey's list of beneficiaries.

²⁸ Due to their Customs Union with the Russian Federation, Kazakhstan and Belarus also follow a common approach on GSP.

²⁹ Like all other exporters eligible for GSP treatment in the United States, Turkey is subject to provisions such as the "competitive need limitation" and the "*de minimis* waiver". Turkish exports to the United States under GSP amounted to US\$644.5 million in 2009 and US\$793 million in 2010.

32. Turkey has been a member of the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency since 1987. Turkey joined the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and the European Convention on International Commercial Arbitration in 1991. The Law on International Arbitration No. 4686, enacted in July 2001, provides for international arbitration to resolve conflicts from public service concession contracts involving any foreign element. Turkey has signed 82 bilateral agreements for the promotion and protection of foreign direct investment; 73 are in force.

33. Key elements of the 2003 Foreign Direct Investment Law included the freedom to invest, the reassurance of existing guarantees of foreign investors' rights in one document, the adoption of international standards in defining a "foreign investor" and "foreign direct investment", and a policy shift from ex-ante control to investment promotion and facilitation with minimal ex-post monitoring.³⁰ The Law guarantees national treatment and investor rights.

34. All companies established according to the Turkish Commercial Code are regarded as Turkish companies, with equal rights and responsibilities as stated in the Constitution and in other laws. The rights include national treatment, guarantee against expropriation without compensation, transfer of proceeds, the right to expatriate personnel, and access to international arbitration or any other means of dispute settlement.

35. A 100% foreign owned company may operate in nearly all sectors of the Turkish economy. Remaining restrictions on foreign ownership are laid down in legislation regulating specific activities (Table II.5). Under recent liberalization in the area of broadcasting, the limitation on foreign equity participation in a media service provider was raised from 25% to 50% in March 2011. Other restrictions have remained unchanged since Turkey's last Trade Policy Review. Thus, foreign equity participation may not exceed 49% in aviation and in maritime services provided under concession agreements, and foreigners may not obtain a fishing licence in Turkey. Special permission under specific laws is required to provide accounting, auditing, and bookkeeping services; for the establishment of private employment offices; and for investments in the financial sector, petroleum, mining, electricity, and education services. Acquisition of real estate by foreigners remains restricted, or subject to reciprocity provisions. In accordance with the Land Registry Law No. 2644, foreigners purchasing land plots between 2.5 and 30 hectares need permission from the Council of Ministers. Foreigners may not purchase land exceeding 30 hectares.³¹

³⁰ The Law abolished all former screening and approval procedures, and share transfer requirements. The term foreign investor was broadened to include Turks living abroad as well as international organizations.

³¹ In early 2008, the Constitutional Court suspended provisions in the Foreign Direct Investment Law and the Title Deed Law, which had allowed the purchase of land by foreign individuals, foreign trade corporations (i.e. established abroad under foreign law), or foreign capital companies (i.e. established in Turkey). The Turkish Government subsequently passed new legislation to permit foreign acquisition of land. According to this legislation, foreign natural persons may acquire real estate for residence and business purposes, subject to reciprocity and compliance with legal restrictions. The properties must be separated and registered (for business or residence) in implemented development plans or localized development plans. The total area acquired by foreign individuals may not exceed 10% of the land within implemented development plans or localized development plans, or 2.5 hectares for each individual property. As information on foreign land ownership is not readily available, this may cause problems and legal challenges for individual investors seeking to purchase land in Turkey. Pursuant to Article 36 of the Land Registry Law, foreign capital companies established in Turkey and registered in the Turkish Commercial Registries are legally accepted as Turkish companies regardless of the citizenship of their shareholders. Foreign capital companies may thus acquire real estate to conduct the business activities listed in the articles of association of the company, except in military

Table II.5
Foreign direct investment restrictions, 2011

Sectors	Legal source	Restriction
Broadcasting	Law on Establishment of Radio and Television Enterprises and Their Media Services Law No. 6112; 15 February 2011	The proportion of total direct foreign capital in a media service provider may not exceed 50% of the paid-in capital.
Aviation	Civil Aviation Law No. 2920 SHY-6A (Regulation on Commercial Air Transport Operations) SHY-22 (Regulation on Airport Groundhandling)	No more than 49% equity participation by foreigners. Licences to operate airlines are only granted to locally incorporated companies whose management is under the control of Turkish citizens and the majority of voting shares are owned by Turkish citizens. Airlines, of which the majority of shares are controlled by foreigners, are not permitted to carry passengers from one national airport to another. To obtain groundhandling services licences (A and C Group Licences), the majority authorized administration and representation of the company must be Turkish. The contract of such a company has to guarantee that the votes of its majority shareholders belong to Turkish nationals.
Maritime transportation	Cabotage Act No. 815, Turkish Commercial Code No. 6762 (to be replaced by Turkish Commercial Code No. 6102 on 1 July 2012)	No more than 49% equity participation by foreigners. Cabotage is reserved to national flag carriers. Registration of commercial ships is granted only to locally incorporated companies whose management is under the control of Turkish citizens, and majority of voting shares are owned by Turkish citizens.
Port services	Cabotage Act No. 815, Turkish Commercial Code No. 6762 (to be replaced by Turkish Commercial Code No. 6102 on 1 July 2012), Privatization Law No. 4046, and Law No. 5189 of 16 June 2004	Port services are provided under concession agreements.
Fishing	Fishing Law No. 1380, Bylaw on Fishing Products No. 6710, Turkish Commercial Code No. 6762	Foreigners may not obtain a fishing licence. Vessels owned by foreigners also may not register as fishing vessels in Turkey, unless owned by Turkish nationals or by companies of which majority of voting shares are owned by Turkish citizens.
Accounting, auditing and book-keeping services	Law No. 3568 on Accountancy, Financial Advisory and Certified Financial Advisory Services, 1989	Special permission required. Foreign financial advisors who are citizens of countries that have officially codified the principles of the profession of financial advisory may, under reciprocal conditions, be authorized by approval of the Prime Minister upon the proposal of the Ministry of Finance, provided that these persons have the qualifications required for Turkish financial advisors and have rights to perform similar services in their own countries.
Financial sector	Banking Law No. 5411, Bank Cards and Credit Cards Law No. 5464, Decree Law No. 90 on Lending Activities, Capital Market Law No. 2499, amended by Laws No. 3794 and 4487 and the relevant Communiqués; Financial Leasing Law No. 3226; Insurance Law No. 5684	Special permission required. Permission to establish a bank, which has to be founded in the form of a joint-stock company, or to open the first branch of a foreign bank in Turkey, shall be given by the Banking Regulation and Supervision Board. Only intermediary institutions (including banks) established in Turkey and authorized by the Capital Market Board may perform securities activities; however, banks may not trade in the Istanbul Stock Exchange (ISE) equities market. Mutual funds may be founded only by authorized banks, insurance companies, non-bank securities intermediaries; and pension funds by private pension companies established in Turkey. Portfolio management and investment advisory services may be performed by non-bank securities intermediaries, non-deposit taking banks and portfolio management companies established in Turkey.

Table II.5 (cont'd)

zones (military forbidden zones, military security zones, and strategic zones), which require permission from the Turkish military authorities, or in special security zones (subject to permission by the province governorship).

Sectors	Legal source	Restriction
Petroleum	Petroleum Law No. 6326 and Petroleum Market Law No. 5015	<p>An insurance company or reinsurance company that is to operate in Turkey must be established as a joint-stock company or a cooperative. Foreign insurance and reinsurance companies may also operate in Turkey by opening branches, provided that they have not been prohibited in their country of operation. Following establishment, insurance and reinsurance companies must obtain an operational licence from the Undersecretariat of Treasury; a separate licence is issued for each insurance branch. Other than specific exceptions, cross-border supply of insurance services is prohibited. Foreign commercial presence or presence of foreign natural persons regarding services auxiliary to insurance is permitted only for consultancy and risk-management services.</p> <p>Special permission required. Foreign enterprises may invest in marketing and sales activities without restriction. They may invest in upstream activities including exploration and exploitation activities may be conducted under a licence granted by the General Directorate of Petroleum Affairs providing that they are not controlled or owned by a foreign State (this restriction may be lifted by the Council of Ministers). Petroleum-related activities may be carried out through locally incorporated stock companies or Turkish branches of stock companies incorporated abroad. Downstream market activities including, refining, transportation through pipelines and storage may be conducted under a licence granted by the Energy Market Regulatory Authority.</p>
Mining	Mining Law No. 3213	<p>Foreigners may invest in the mining subsector only through local branches (Chapter II(4)). However, exploration and exploitation of boron are reserved for the Government. For uranium and thorium, the public sector may explore and exploit these minerals without selling. On the contrary selling of these radioactive minerals may be permitted by the Cabinet Council.</p>
Real-estate trading	Land Registry Law No. 2644	<p>Foreign trade corporations (trade companies established in foreign countries according to their own law) and foreign real persons in Turkey may acquire land. In the acquisition of land by foreign real persons the "principle of reciprocity" applies.</p> <p>Acquisition of real estate by foreign trade corporations in Turkey is subject to the provisions of special laws.</p> <p>Foreign real persons may acquire real estate in Turkey with some legal restrictions. Acquisition of real estate by foreign real persons should be for residence or business purposes and separated and registered for these purposes in the implemented or localized development plans.</p>
Electricity	Electricity Market Law No. 4628	<p>The total market share of any real or private entity, either directly or via controlling the generation companies, may not exceed 20% of the total installed capacity. This threshold is applied as 10% for wholesale of electricity under same conditions. Within the context of privatization activities foreign real persons and legal entities may not have a market share that will enable them controlling power in the electricity generation, transmission, and distribution subsectors. In 2010, electricity served by private distribution companies increased to approximately 46% of the total market.</p>
Education	Law No. 5580 on Private Education Institutions Legislation on Foundations	<p>Foreign real or legal persons may not set up education institutions unless all students are foreigners. International private education institutions may be set up by real or legal persons upon authorization of the Council of Ministers. For tertiary education institutions, the majority in the administrative bodies must be Turkish nationals.</p>
Private employment offices	Law No. 4904	<p>According to the amendment made in 2007 by Law No. 4904, only Turkish citizens may establish, administer or act on behalf of a private employment agency. If a foreign company wishes to establish an agency in Turkey, the agency must be represented by a Turkish citizen. According to some changes in this Law in 2008, the obligation of being a Turkish citizen in order to establish, administer and represent an agency has been removed; foreigners may now establish private employment agencies.</p>

Source: Information provided by the Turkish authorities.

36. The OECD FDI regulatory restrictiveness index (designed to capture equity restrictions, screening and prior approval, measures regarding foreign key personnel, and other operational

restrictions) gives Turkey an overall score below the OECD average (Table II.6).³² According to the 2010 data, aside from real estate (which is considered "closed"), FDI restrictions apply in media, transport, and business services. All other sectors covered by the index are "open". However, the index does not consider actual enforcement of statutory restrictions, which is difficult to assess.³³

Table II.6
Turkey's FDI regulatory restrictiveness index^a, 2010

	Turkey	OECD average	Non-OECD average
Agriculture and forestry	0.000	0.128	0.227
Fishing	0.000	0.320	0.333
Mining	0.000	0.122	0.209
Manufacturing ^b	0.000	0.030	0.059
Electricity	0.000	0.123	0.125
Construction	0.000	0.053	0.055
Distribution ^c	0.000	0.029	0.120
Hotels and restaurants	0.000	0.030	0.077
Transport	0.208	0.227	0.289
Media	0.250	0.180	0.316
Telecom	0.000	0.092	0.174
Financial services ^d	0.000	0.053	0.132
Business services	0.125	0.067	0.167
Real estate	1.000	0.283	0.277
Total	0.072	0.095	0.157

a 1 = closed; 0 = open.

b Average scores for 5 manufacturing sectors.

c Average scores for retail and wholesale distribution.

d Average scores for banking, insurance, and other finance.

Source: OECD (2010), *OECD's FDI restrictiveness Index: 2010 update*. Viewed at: <http://www.oecd.org/dataoecd/32/19/45563285.pdf>.

37. Investment incentives, such as import duty exemptions and subsidized credits, are available to domestic and foreign investors alike. Turkish residents wishing to invest abroad are free to export capital in cash, by bank transfer or in kind in accordance with Turkey's Customs Regulations.³⁴

38. Turkey's FDI inflows, which rose markedly from 2004 onwards, in part due to privatizations of state-owned companies, appear to have been affected by the global financial crisis (Table II.7). After a steep decline from 2007 to 2008, the stock of inward FDI peaked in 2010, and is currently back at the pre-crisis level relative to Turkey's GDP. According to UNCTAD's Inward FDI Performance Index, Turkey ranked 108th in 2010, down from 94st in 2008 and 71st in 2006.³⁵ Turkey's FDI outflows peaked in 2008, but the FDI outward stock has continued to rise, and stood at almost US\$22 billion in 2009, up from about US\$6 billion in 2002-03. According to UNCTAD's outward FDI Performance Index, Turkey ranked 77th out of 125 economies for the period 2005-07.

³² In 2006, Turkey's score was somewhat above the OECD average. A comparison of the 2006 and 2010 results in absolute values is not strictly appropriate due to changes in the methodology (OECD, 2010b).

³³ According to EU (2011), Turkey's licensing procedures are relatively lengthy. For example, 25 different procedures are still needed in order to build a warehouse. Market exit is difficult too, as closing a business still takes 3.3 years on average.

³⁴ An authorization requirement from the Undersecretariat of Treasury for outward investment exceeding US\$5 million was abolished at the end of 2006.

³⁵ UNCTAD (2011).

Table II.7
Foreign direct investment, 1995-2010
(US\$ million)

	1995-2005 ^a	2006	2007	2008	2009	2010
FDI inflows	2,188	20,185	22,047	19,504	8,411	9,278
FDI inward stock	33,511	95,076	154,020	80,225	140,493	181,590
FDI inward stock (% of GDP)	10.2	18.1	23.6	10.8	22.8	24.7
FDI outflows	484	924	2,106	2,549	1,553	1,464
FDI outward stock	5,935	8,866	12,210	17,846	22,250	21,570
FDI outward stock (% of GDP)	2.0	1.7	1.9	2.4	3.6	2.9

a Annual average (2000-05 average for inward and outward FDI stock).

Source: The Central Bank of Turkey.

39. The peak in FDI inflows in 2007 and the subsequent decline can to a large extent be ascribed to the financial services sector, where FDI amounted to US\$1.6 billion in 2010 down from over US\$11 billion in 2007, due to the acquisitions of various banks by foreign investors. Although FDI by sector may vary substantially year-to-year, FDI into Turkey is predominantly in services (financial intermediation, communications, energy supply, and distribution services) and in manufacturing. Although FDI in agriculture, hunting, fishing and forestry has been increasing since 2008, the share in total FDI inflows is still negligible, averaging 0.4% over the period 2005-10, compared with services (80%), manufacturing (18%), and mining and quarrying (1.4%). The European Union, led by the Netherlands, Austria, France, Belgium, Greece, and Germany, continues to be by far the largest investor in Turkey, representing nearly 70% of total FDI inflows during 2005-10.³⁶

40. Turkey's outward FDI, which averaged US\$2 billion during 2005-10, is primarily directed towards services (45.5%), notably financial intermediation (21%); manufacturing (35%); and mining and quarrying (18.5%). During this period, nearly 60% of Turkish overseas investments went to five countries; Azerbaijan, the Netherlands, Germany, Malta, and Luxemburg.

³⁶ In the first six months of 2011, FDI inflows into Turkey amounted to US\$9.1 billion, primarily in the financial sector, energy, and manufacturing. EU investors, led by Austria and Spain, accounted for more than 90% of these investments.