

AGREEMENT BETWEEN THE EFTA STATES AND TURKEY

Note: Austria, Finland and Sweden withdrew from the Convention establishing the European Free Trade Association (the Stockholm Convention) on 31 December 1994. In accordance with paragraph 3 of Article 33 of the Free Trade Agreement between the EFTA States and Turkey these three countries ceased to be Parties to the Agreement on the same day. Consequently, in the present text, the provisions referring to Austria, Finland and Sweden have been deleted.

PREAMBLE

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation, on the one hand, (hereinafter called the EFTA States)

and

the Republic of Turkey, on the other hand, (hereinafter called Turkey),

Recalling their intention to participate actively in the process of economic integration in Europe and expressing their preparedness to co-operate in seeking ways and means to strengthen this process;

Having regard to the Convention establishing the European Free Trade Association (EFTA);

Having regard to the Agreements between the EFTA States and the European Communities;

Having regard to the Agreement creating an Association between Turkey and the European Economic Community;

Having regard to the experience gained from the co-operation developed in the light of the aforementioned relations as well as between individual EFTA States and Turkey;

Declaring their willingness to take action with a view to promoting harmonious development of their trade as well as to expanding and diversifying their mutual cooperation in fields of common interest, including fields not covered by this Agreement, thus creating a framework and supportive environment based on equality, nondiscrimination, and a balance of rights and obligations;

Recalling the mutual interest of the EFTA States and Turkey in the continual reinforcement of the multilateral trading system and considering their capacity as Contracting Parties of the General Agreement on Tariffs and Trade, the provisions and instruments of which constitute a basis for their foreign trade policy;

Resolved to lay down for this purpose provisions aimed at a progressive abolition of the obstacles to trade between the EFTA States and Turkey in accordance with the provisions of that Agreement, in particular those concerning the establishment of free trade areas;

Considering that no provision of this Agreement may be interpreted as exempting the States Parties to this Agreement from their obligations under other international agreements;

HAVE DECIDED, in pursuance of these objectives, to conclude the following Agreement:

ARTICLE 1

Objectives

The objectives of this Agreement are:

- (a) to promote, through the expansion of reciprocal trade, the harmonious development of economic relations between the EFTA States and Turkey;
- (b) to provide fair conditions of competition for trade between the EFTA States and Turkey;
- (c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade;
- (d) to enhance co-operation between the EFTA States and Turkey.

ARTICLE 2

Scope

1. The Agreement shall apply
 - (a) to products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System, excluding the products listed in
 - (b) to products specified in Protocol A, with due regard to the arrangements provided for in that Protocol;
 - (c) to fish and other marine products as provided for in Annex II; originating in a State Party to this Agreement.
2. The provisions concerning trade in agricultural products which are not covered by paragraph 1 are contained in Article 11.
3. This Agreement applies to trade relations between, on the one hand, each EFTA State and, on the other hand, Turkey. It shall not apply to the trade relations between EFTA States, except if otherwise provided for in this Agreement.

ARTICLE 3 ¹

Rules of origin and co-operation in customs administration

1. Protocol B lays down the rules of origin and methods of administrative cooperation.
2. The States Parties to this Agreement shall take appropriate measures, including arrangements regarding administrative co-operation, to ensure that the provisions of Articles 4 to 7, 12 and 21 are effectively and harmoniously applied, taking into account the need to reduce as far as possible the formalities imposed on trade and the need to achieve mutually satisfactory solutions to any difficulties arising out of the operation of those provisions.
3. Protocol D lays down the rules for mutual administrative assistance in customs matters.

ARTICLE 4

Customs duties on imports and charges having equivalent effect

1. No new customs duty on imports or charge having equivalent effect shall be introduced in trade between the EFTA States and Turkey.
2. Upon the entry into force of this Agreement, the EFTA States shall abolish all customs duties on imports and any charges having equivalent effect for products originating in Turkey as in force on 1 January 1991, except for products specified in Annexes III ² and IV ³ for which customs duties on imports and charges having equivalent effect shall be progressively abolished in accordance with the provisions laid down in these Annexes.
3. For products originating in an EFTA State, Turkey shall progressively abolish all customs duties on imports as in force on 23 November 1970 and charges having equivalent effect as in force on the date of the entry into force of this Agreement as specified in Annexes II, IV ³ and V ⁴ according to the arrangements or timetables defined in these Annexes.
4. The basic duty to which successive reductions provided for in paragraphs 2 and 3 are to be applied shall, for each product, be the most-favoured-nation duty applied on the dates mentioned therein.

ARTICLE 5

Customs duties of a fiscal nature

1. The provisions of paragraphs 1 to 3 of Article 4 shall also apply to customs duties of a fiscal nature except as provided for in Annex VI.⁵
2. The States Parties to this Agreement may replace a customs duty of a fiscal nature or the fiscal element of a customs duty by an internal tax.

¹ Article 3 was amended by Joint Committee Decision No. 4 of 2000 (16 November 2000).

² Annex III was deleted by Joint Committee Decision No. 1 of 1998 (4 February 1998).

³ Annex IV was deleted by Joint Committee Decision No. 1 of 2004 (1 July 2004).

⁴ Annex V was deleted by Joint Committee Decision No. 8 of 1998 (1 July 1998).

⁵ Annex VI was deleted by Joint Committee Decision No. 9 of 1998 (14 July 1998).

ARTICLE 6

Customs duties on exports and charges having equivalent effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between the EFTA States and Turkey.
2. Upon the entry into force of this Agreement, customs duties on exports and any charges having equivalent effect shall be abolished, except as provided for in Annex VII.⁶

ARTICLE 7

Quantitative restrictions and measures having equivalent effect

1. No new quantitative restriction on imports or exports or measures having equivalent effect shall be introduced in trade between the EFTA States and Turkey, except as provided for in Annex VIII.⁷
2. Upon the entry into force of this Agreement, quantitative restrictions on imports or exports and measures having equivalent effect shall be abolished, except as provided for in Annex VIII.⁷
3. For the purpose of this Agreement "quantitative restrictions and measures having equivalent effect" means prohibitions or restrictions on imports or exports into an EFTA State from Turkey or into Turkey from an EFTA State made effective through quotas, import or export licences or other administrative measures and requirements restricting trade.

ARTICLE 8

Non-economic reasons for restrictions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants and of the environment, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property, or rules relating to gold or silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between an EFTA State and Turkey.

ARTICLE 9

State monopolies

1. The States Parties to this Agreement shall ensure that any state monopoly of a commercial character be adjusted so that no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of the EFTA States and Turkey.

⁶ Annex VII was deleted by Joint Committee Decision No. 2 of 1996 (19 April 1996).

⁷ Annex VIII was deleted by Joint Committee Decision No. 2 of 2004 (1 July 2004).

2. The provisions of this Article shall apply to any body through which the competent authorities of the States Parties to this Agreement, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the States Parties to this Agreement. These provisions shall likewise apply to monopolies delegated by the State to others.

ARTICLE 10⁸

Technical regulations

1. The States Parties to this Agreement shall co-operate in the field of technical regulations, standards and conformity assessment procedures; and through appropriate measures promote European-wide solutions. The Joint Committee shall establish guidelines for the implementation of this paragraph.

2. The States Parties to this Agreement agree to hold immediate consultations in the framework of the Joint Committee in case a State Party considers that another State Party has taken measures which are likely to create, or have created, a technical obstacle to trade, in order to find an appropriate solution.

3. The States Parties to this Agreement confirm the obligation to notify draft technical regulations in accordance with the provisions of the WTO Agreement on Technical Barriers to Trade.

ARTICLE 11

Trade in agricultural products

1. The States Parties to this Agreement declare their readiness to foster, in so far as their agricultural policies allow, the harmonious development of trade in agricultural products.

2. In pursuance of this objective a bilateral arrangement providing for measures to facilitate trade in agricultural products has been concluded between each EFTA State and Turkey.

3. The States Parties to this Agreement shall apply their regulations in veterinary, plant health and health matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

ARTICLE 12

Internal taxation

1. The States Parties to this Agreement shall refrain from any measures or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in an EFTA State and like products originating in Turkey.

2. Products exported to one of the States Parties to this Agreement may not benefit from repayment of internal taxes in excess of the amount of direct or indirect taxes imposed on them.

⁸ As amended by Joint Committee Decision No. 3 of 1998 (4 February 1998)

ARTICLE 13

Payments

Payments relating to trade between an EFTA State and Turkey and the transfer of such payments to the State Party to this Agreement, where the creditor resides shall be free from any restrictions.

The States Parties to this Agreement shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short-term and medium-term credits covering commercial transactions in which a resident participates.

ARTICLE 14

Public procurement

1. The States Parties to this Agreement consider the effective liberalization of their respective public procurement markets an integral objective of this Agreement.

2. The States Parties to this Agreement shall progressively adjust the conditions governing the participation in contracts awarded by public authorities and public undertakings, and by private undertakings which have been granted special or exclusive rights, so as to ensure transparency and non-discrimination between suppliers from the States Parties to this Agreement.

3. The formulation of the practical modalities shall be entrusted to the Joint Committee and they shall be elaborated on the basis of the balance of rights and obligations between States Parties to this Agreement. The Joint Committee shall lay down the necessary scope, timetable and rules as soon as possible, taking into account the solutions agreed upon within the General Agreement on Tariffs and Trade and with third countries in this field.

4. The concerned States Parties to this Agreement shall endeavour to accede to the relevant Agreements in the framework of the General Agreement on Tariffs and Trade.

ARTICLE 15⁹

Protection of intellectual property

1. The States Parties to this Agreement shall grant and ensure adequate effective and non-discriminatory protection of intellectual property rights, including measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article, Annex XII to this Agreement and the international agreements referred to therein.

2. The States Parties to this Agreement shall accord to each others' nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Article 3 of the WTO Agreement of 15 April 1994 on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement).

⁹ As amended by Joint Committee Decision No. 4 of 1998 (4 February 1998).

3. The States Parties to this Agreement shall grant to each others' nationals treatment no less favourable than that accorded to nationals of any other State. Exemptions from this obligation must be in accordance with the substantive provision of the TRIPS Agreement, in particular Articles 4 and 5 thereof.

4. The States Parties to this Agreement agree, upon request of any State Party, to review the provisions on the protection of intellectual property rights contained in the present Article and in Annex XII, with a view to further improve levels of protection and to avoid or remedy trade distortions caused by actual levels of protection of intellectual property rights.

5. The Joint Committee shall keep the implementation of intellectual property rights under review. At the request of a State Party to this Agreement consultations will take place in the Joint Committee on any matter concerning intellectual property rights.

ARTICLE 16

Fulfilment of obligations

1. The States Parties to this Agreement shall take all necessary measures to ensure the achievement of the objectives of this Agreement and the fulfilment of their obligations under this Agreement.

2. If an EFTA State considers that Turkey has, or if Turkey considers that an EFTA State has, failed to fulfil an obligation under this Agreement, the State Party concerned may take the appropriate measures under the conditions and in accordance with the procedures laid down in Article 23.

ARTICLE 17

Rules of competition concerning undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between an EFTA State and Turkey:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (b) abuse by one or more undertakings of a dominant position in the territories of the States Parties to this Agreement as a whole or in a substantial part thereof.

2. These provisions shall also apply to the activities of public undertakings, and undertakings to which the States Parties to this Agreement grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of their particular public tasks.

3. If a State Party to this Agreement considers that a given practice is incompatible with this Article, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 23.

ARTICLE 18

State aid

1. Any aid granted by a State Party to this Agreement or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it may affect trade between an EFTA State and Turkey, be incompatible with the proper functioning of this Agreement.
2. Any practices contrary to paragraph 1 shall be assessed on the basis of the criteria set out in Annex X.
3. As regards the implementation of paragraphs 1 and 2, Turkey may grant, until 31 December 1995 and in conformity with its commitments to the European Economic Community,
 - (a) aid with a higher intensity than would be tolerated for EFTA States by way of measures contained in Annex X, paragraph (c)
 - (b) indirect aid to export of goods with a view to promote its economic development. These forms of aid shall be considered to be compatible with the proper functioning of this Agreement, if they do not alter the conditions of trade to an extent inconsistent with the interests of the States Parties to this Agreement.
4. The States Parties to this Agreement shall ensure the transparency of state aid measures by exchanging information as provided for in Annex XI. The Joint Committee shall, within one year after the entry into force of this Agreement, adopt the necessary rules for the implementation of this paragraph.
5. If a State Party to this Agreement considers that a given practice is incompatible with paragraphs 1 to 3, it may levy countervailing duties under the conditions and in accordance with the procedures laid down in Article 23.

ARTICLE 19

Dumping

1. If a State Party to this Agreement finds that dumping is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with Article VI of the General Agreement on Tariffs and Trade and the rules established by agreements related to that Article, under the conditions and in accordance with the procedures laid down in Article 23.
2. The concerned States Parties to this Agreement shall endeavour to accede to the relevant agreements in the framework of the General Agreement on Tariffs and Trade.

ARTICLE 20

Emergency action on imports of particular products

If an increase in imports of a given product originating in an EFTA State or Turkey occurs in quantities or under conditions which are, or are likely to cause:

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the other State Party, or
- (b) serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the State Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 23.

ARTICLE 21

Re-export and serious shortage

Where compliance with the provisions of Articles 6 and 7 leads to:

- (1) re-export towards a third country against which the exporting State Party to this Agreement maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (2) a serious shortage, or threat thereof, of a product essential to the exporting State Party to this Agreement;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting State Party to this Agreement, that State Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 23.

ARTICLE 22

Balance of payments difficulties

1. Where a State Party to this Agreement is in difficulties or is seriously threatened with difficulties as regards its balance of payments, it may derogate from the provisions of Articles 4 and 7 and take appropriate measures under the conditions and in accordance with the procedures laid down in Article 23.

2. Any State Party to this Agreement shall notify the Joint Committee of any measures in accordance with paragraph 1 prior to their introduction and have them examined by the Joint Committee, if circumstances permit, before they come into force.

3. The application of such measures by a State Party to this Agreement shall be subject to the conditions provided for in the relevant Articles of the General Agreement on Tariffs and Trade, to the Declaration of GATT of 1979 on Trade Measures Taken for Balance of Payments Purposes, as well as future relevant instruments to be agreed upon by the Parties under the auspices of the General Agreement on Tariffs and Trade.

4. The Joint Committee shall keep the situation under review, in particular with the purpose of avoiding serious disturbance of the functioning of this Agreement. The Joint Committee shall, during such review or upon the request of a State Party, examine the need to maintain the measures taken.

ARTICLE 23

Procedure for the application of safeguard measures

1. Before initiating the procedure for the application of safeguard measures set out in this Article, the States Parties to this Agreement shall endeavour to solve any differences between themselves through direct consultations, and shall inform the other States Parties thereof.
2. In the cases specified in Articles 16 to 22 a State Party to this Agreement which is considering to resort to safeguard measures shall promptly notify the Joint Committee thereof. The Parties concerned shall provide the Joint Committee with all relevant information and give it the assistance required to examine the case. Consultations between them shall take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.
3. If, within three months of the matter being referred to the Joint Committee, the State Party in question fails to put an end to the practice objected to or to the difficulties notified and in the absence of a decision by the Joint Committee in the matter, the concerned State Party may adopt the safeguard measures it considers necessary to remedy the situation.
4. The safeguard measures taken shall be notified immediately to the Joint Committee. They shall be restricted, with regard to their extent and to their duration, to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the damage caused by the practice or the difficulty in question. Priority shall be given to such measures as will least disturb the functioning of this Agreement. Measures taken by Turkey against an action or an omission of an EFTA State or measures taken by an EFTA State against an action or an omission of Turkey may only affect the trade with that State.
5. The safeguard measures taken shall be the subject of regular consultations within the Joint Committee with a view to their relaxation, substitution or abolition without delay.
6. Where exceptional circumstances requiring immediate action make prior examination impossible, the State Party concerned may, in the cases of Articles 19 to 22, apply forthwith the precautionary measures strictly necessary to remedy the situation. The measures shall be notified without delay to the Joint Committee and consultations between the States Parties to this Agreement shall take place within the Joint Committee.

ARTICLE 24

Security exceptions

Nothing in this Agreement shall prevent a State Party to it from taking any measures which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies

- (i) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or
- (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
- (iii) in time of war or other serious international tension.

ARTICLE 25

Establishment of the Joint Committee

1. A Joint Committee is hereby established in which each State Party to this Agreement shall be represented. The Joint Committee shall be responsible for the administration of this Agreement and shall ensure its proper implementation.
2. For the purpose of the proper implementation of this Agreement, the States Parties to it shall exchange information and, at the request of any Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the EFTA States and Turkey.
3. The Joint Committee may, in accordance with the provisions of paragraph 3 of Article 26, take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

ARTICLE 26

Procedures of the Joint Committee

1. For the proper implementation of this Agreement, the Joint Committee shall meet at an appropriate level whenever necessary but at least once a year. Each State Party to this Agreement may request that a meeting be held.
2. The Joint Committee shall act by common agreement.
3. If a representative in the Joint Committee of a State Party to this Agreement has accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force, if no later date is contained therein, on the day the lifting of the reservation is notified.
4. The Joint Committee shall adopt its rules of procedure which shall, inter alia, contain provisions for convening meetings and for the designation of the Chairman and his term of office.¹⁰
5. The Joint Committee may decide to set up such sub-committees and working parties as it considers necessary to assist it in accomplishing its tasks.¹¹

¹⁰ Rules of procedure were adopted by Joint Committee Decision No. 1 of 1992 (19 November 1992).

¹¹ A Sub-Committee on Customs and Origin Matters was established by Joint Committee Decision No. 2 of 1992 (19 November 1992).

ARTICLE 27

Evolutionary clause

1. Where a State Party to this Agreement considers that it would be useful in the interests of the economies of the States Parties to this Agreement to develop the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to them.

The States Parties to this Agreement may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them.

2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the States Parties to this Agreement in accordance with their own procedures.

ARTICLE 28

Amendments

Amendments to this Agreement, other than those referred to in paragraph 3 of Article 25, which are approved by the Joint Committee shall be submitted to the States Parties to this Agreement for acceptance and shall enter into force if accepted by all the Parties. The instruments of acceptance shall be deposited with the Depository.

ARTICLE 29¹²

Protocols and Annexes

Protocols and Annexes of this Agreement shall form an integral part thereof. The Joint Committee may decide to amend the Protocols and Annexes.

ARTICLE 30

Trade relations governed by other Agreements

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade régime and in particular the provisions concerning rules of origin provided for by this Agreement.

ARTICLE 31

Territorial application

This Agreement shall apply to the territories of the States Parties to this Agreement.

¹² Article 29 was amended by Joint Committee Decision No. 4 of 2000 (16 November 2000).

ARTICLE 32

Accession

1. Any State, Member of the European Free Trade Association, may accede to this Agreement, provided that the Joint Committee decides to approve its accession, on such terms and conditions as may be set out in that decision. The instrument of accession shall be deposited with the Depositary.
2. In relation to an acceding State, the Agreement shall enter into force on the first day of the third month following the deposit of its instrument of accession.

ARTICLE 33

Withdrawal and expiration

1. Each State Party may withdraw from this Agreement by means of a written notification to the Depositary. The withdrawal shall take effect six months after the date on which the notification is received by the Depositary.
2. If Turkey withdraws, the Agreement shall expire at the end of the notice period, and if all EFTA States withdraw it shall expire at the end of the latest notice period.
3. Any EFTA Member State which withdraws from the Convention establishing the European Free Trade Association shall ipso facto on the same day as the withdrawal takes effect cease to be a State Party to this Agreement.

ARTICLE 34

Entry into force

1. This Agreement shall enter into force on 1 April 1992 provided that all Signatory States have deposited their instruments of ratification or acceptance with the Depositary.
2. If this Agreement has not entered into force in accordance with the provision of paragraph 1 and provided that Turkey has deposited its instrument of ratification or acceptance, representatives of the Signatory States having deposited such an instrument shall meet before 1 May 1992 and may decide when the Agreement shall enter into force in relation to those States. As long as no such decision has been taken a meeting for the same purpose shall be held not later than thirty days after any further Signatory State has deposited its instrument.
3. In relation to a Signatory State depositing its instrument of ratification or acceptance after the meeting referred to in paragraph 2, this Agreement shall enter into force on the first day of the second month following the deposit of its instrument with the Depositary but not before the date decided upon in accordance with paragraph 2.

ARTICLE 35¹³

Depositary

The Government of Norway acting as Depositary, shall notify all States that have signed or acceded to this Agreement of the deposit of any instrument of ratification, acceptance or accession, the entry into force of this Agreement, any other act or notification relating to this Agreement or of its expiry.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed the present Agreement.

DONE at Geneva, this 10th day of December 1991, in a single authentic copy in the English language which shall be deposited with the Government of Sweden. The Depositary shall transmit certified copies to all Signatory States and States acceding to this Agreement.

¹³ As amended by Joint Committee Decision No. 4 of 1996 (19 April 1996)