



**SCREENING CHAPTER 01
FREE MOVEMENT OF GOODS**

**AGENDA ITEM : MUTUAL RECOGNITION IN
NON HARMONISED AREA**

**Country Session: The Republic of TURKEY
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TECHNICAL STUDY ON DRAFT REGULATION

- Turkey has prepared a draft regulation on mutual recognition in non-harmonised area.
- The legal base is Law No. 4703 on Preparation and Implementation of the Technical Legislation on Products which entered into force in 2002.
- It covers the products falling into scope of the Turkey - EU Customs Union.



The draft Regulation has 3 main objectives:

It;

- makes a comprehensive reference to the Articles 5 and 7 of the ACD No. 1/95 (corresponding to Articles 28 and 30 of the EC Treaty);
- reflects the main characteristics of Commission's interpretative Communication (2003/C 265/02) on facilitating the access of products to the markets of other Member States: the practical application of mutual recognition;
- transposes Decision No. 3052/95/EC of the EP and of the European Council establishing a procedure for the exchange of information on national measures derogating from the principle of free movement of goods within the Community.



- Free movement of goods between Turkey and the EU

(corresponding to the Articles 5 and 7 of the ACD No. 1/95, the Articles 28 and 30 of the Treaty, applicable conditions of the

Communication of the Commission and Cassis de Dijon Case),

“**Article 5:** ..import, placing on the market or putting into service of a product, which is lawfully manufactured and/or lawfully in free circulation in a Member State, shall not be impeded even if the product is manufactured according to different technical legislation, technical rules, standards or quality rules.”



Article 6: Legal justifications for restrictions and prohibitions

...public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property and other justifications identified by the Court of Justice of the European Communities i.e. protection of consumers, the environment and road safety.”



- **Article 7:** Evaluation of the equivalence of the level of protection on goods coming from the EU falling into non-harmonised area (corresponding to applicable articles of the Communication of the Commission),
 - ✓ Rule: Evaluation after the product is placed on the market and within the scope of market surveillance activities.
 - ✓ Exception: Prior evaluation under certain conditions
 - In that case, the competent authority shall inform the UFT of its action together with the justifications for the necessity and the proportionality of the action.



- **Articles 8 - 10:** (corresponding to applicable articles of the Communication of the Commission)
 - ✓ Collecting necessary data,
 - ✓ Recognition of the controls, inspection and tests performed and
 - ✓ Measures to be taken and communicating them to the relevant parties.

- **Article 12:** Reference to the notification procedure laid down by 98/34/EC,
 - ✓ Central unit responsible for the notifications of the draft national regulations set out by 98/34/EC is the UFT.



➤ **Rules and procedures that national technical regulations (NTRs) shall meet (Article 11):**

The competent authorities;

- ensure non-discrimination between domestic and imported products,
- intervene in production only when it is necessary and at a minimum level,
- insert the mutual recognition clause into NTRs, whenever necessary.



➤ National Technical Regulations (NTR) (Article 11):

The competent authorities change or repeal NTRs if they find out;

- non-conformity between international commitments and this Regulation (primarily Articles 5 and 6)
- unnecessary derogations from the principle of free movement of goods,
- the objective of NTR may be achieved via less restrictive measures.



- **Article 13**: Screening of existing national technical regulations,

- **Articles 14 - 17**: Notification of measures between Turkey and the EU (corresponding to articles of 3052/95)
 - Central unit responsible for the notifications of the measures set out by these articles will be the UFT.

- **Annex I**: Example of a mutual recognition clause,

- **Annex II**: Information sheet for the notification of the measures (annex of 3052/95).



- The views and comments of the relevant public and private institutions on the draft have been taken.
- Positive comments of the Commission on the draft text were received.



THANK YOU FOR YOUR ATTENTION