



**SCREENING CHAPTER 01
FREE MOVEMENT OF GOODS**

AGENDA ITEM I: GENERAL PRINCIPLES

**Country Session: The Republic of TURKEY
20-24 February 2006**



BASIC PRINCIPLE

The principle of free circulation of goods constitutes the essence of the Turkey-EU Customs Union.



LEGAL BASIS

The legal basis of trade of goods between Turkey and the EU:

1. Turkey-EC Association Council Decision No. 1/95 (ACD 1/95), which stipulates the free circulation of goods for those covered by the Customs Union.
2. Turkey-EC Association Council Decision No: 1/98, which is applicable to agricultural products.
3. Free Trade Agreement between Turkey and the European Coal and Steel Community which is applicable to coal and steel products
4. Decision No 2/97 of the Turkey-EC Association Council of establishing the list of Community instruments relating to the removal of technical barriers to trade and the conditions and arrangements governing their implementation by Turkey



Accordingly, between Turkey and the EU, the principle of free circulation applies;

- to basically industrial and processed agricultural products,
- in the Turkey-EU Customs Union territory

(customs territory of Turkey as defined in Turkish Customs Law)

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(customs territory of the EU as defined in the Community Customs Code)

The requirements of goods for release for free circulation are laid down in Article 3 of ACD No: 1/95.



Application of Articles 28-30 of the EC Treaty in trade between Turkey and the EU

Articles 28-30 of the EC Treaty are reflected in Articles 5-7 of Association Council Decision No: 1/95 on implementing the final phase of the Customs Union between the EC and Turkey (ACD No: 1/95).



REGULATORY REGIMES

Turkey makes the necessary arrangements towards providing the free circulation of goods within the context of the following regimes:

1. Import Regime
2. Export Regime
3. Technical Regulations and Standardization Regime for Foreign Trade



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GENERAL PRINCIPLES FOR IMPORTS

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LEGAL FRAMEWORK - I

➤ INTERNATIONAL AGREEMENTS

- WTO Agreements
- Decision No: 1/95 on the EU-Turkey Customs Union
- Other multilateral and bilateral Agreements



LEGAL FRAMEWORK - II

➤ NATIONAL LEGISLATION

- Customs Law (No:4458)(OG No. 23866, dated 04.11.1999)
- Law on Regulating Foreign Trade (No: 2976) (OG No. 18813, dated 15.2.1984)
- Import Regime Decree (No: 95/7606) (OG No. 22510-bis 2, dated 31.12.1995,)



LEGAL FRAMEWORK – III

National Legislation vis-a-vis the Articles 28 and 30 of the EC Treaty

Provisions of the Articles 28 and 30 of the EC Treaty are reflected in Article 5 of the Turkish Import Regime in a combined manner.



IMPORT REGIME DECREE (No: 95/7606)

Article 5: The import of goods, other than those subject to measures taken on the grounds of public morality, public order or public security, the protection of human, animal and plant health, or the protection of industrial and commercial property, in accordance with the provisions of the relevant legislation, is free.



Licenses falling within the exceptions of the Article 30 of the EC Treaty
(Article 5 of Import Regime Decree)

- Import Communiqués (as follows)



IMPORT COMMUNIQUEÉS

Import Communiqué	Product coverage	Rationale	Competent Authority
2006-2	War Weapons and parts thereof	Public Security	Military and Security authorities
2006-3	Radioactive substances and apparatus using such substances	Public Security/Public Health	Turkish Atomic Energy Authority
2006-4	Certain communication equipment	Public Security	Telecommunications Authority
2006-5	Maps and similar documents	Public Policy / Public Security	Turkish Naval Forces Command for importation of sea maps; Ministry of National Defence, General Command of Mapping
2006-6	Products which can only be imported with a guarantee certificate	Consumer Protection	Ministry of Industry and Trade



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IMPORT COMMUNIQUEÉS

Import Communiqué	Product coverage	Rationale	Competent Authority
2006-7	Motor vehicles	Public Security/Road Safety	Ministry of Industry and Trade
2006-8	Products used in civil air crafts	Public Security	Ministry of Trans. DG for Civil Aviation
2006-10	Banknotes and similar commercial papers	Public Security	UFT, Board of Capital Market
2006-11	Some explosive substances, fire guns, knives and similar articles	Public Security	Ministry of Interior
2006-12	Solvents and certain petroleum products	Public Policy, Consumer Protection	Energy Market Regulatory Authority
2006-13	Some products which affect workers' health and work security	Public Security	Ministry of Labour and Social Security
2006-22	Endangered Species of Wild Fauna and Flora.	"Convention on the International Trade of Endangered Species of Wild Fauna and Flora.	Ministry of Agriculture and Rural Affairs Ministry of Environment and Forestry



IMPORT COMMUNIQUEÉS

Import Communiqué	Product coverage	Rationale	Competent Authority
2006-14	Ozone depleting substances	Vienna Convention for the Protection of the Ozone Layer and The Montreal Protocol on Substances That Deplete the Ozone Layer	Undersecretariat of Foreign Trade
2005-16	Fertilisers	Public policy	Ministry of Agriculture and Rural Affairs
2006-17	Substances listed in the annexes to the Convention on the Control of Chemical Weapons	"Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction" (CCW)	Undersecretariat of Foreign Trade
Import Regime Decree (Art.7)	Old, used, renovated, faulty (defective)	Public Policy	Undersecretariat of Foreign Trade



PRODUCTS PROHIBITED ACCORDING TO NATIONAL LEGISLATION - I

Description of items	Rationale	National Legislation
Narcotics, hashish and prepared opium	Public Health	Law No.2313 on the Control of Narcotics and the International Agreements on Narcotics Goods (1961)
Gambling instruments (except for specified tourism purposes)	Public Morality	Law No. 1072 on Gambling Instruments like Roulette, Tilt, and Pinball (1968)
Soil, leaf, stem, straw, and natural manure used for agricultural purpose (excluding turf and perlites cultivated in culture environment)	Public Health	Regulation on Agricultural Quarantine (OG 06.07.2003)



PRODUCTS PROHIBITED ACCORDING TO NATIONAL LEGISLATION - II

Description of items	Rationale	National Legislation
Azocolourants	Public Health	Law.No 1593 on the Protection of Public Health; Import Communiqué: 2006/15 (OG 31.12.2005)
Silkworm eggs	Public Policy	Law No. 859 on Cultivation and Sale of Silk-worm and Silk-worm Spawn (1926)



**SCREENING CHAPTER 01
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GENERAL PRINCIPLES FOR EXPORTS

**Country Session: The Republic of TURKEY
20 February 2006**



EXPORT REGIME

EXPORT REGIME DECREE (95/7623)

Published in the Official Gazette (OG) on 6 January 1996

MAIN RULE OF THE EXPORT REGIME DECREE (Article 4)

All goods, other than those whose exportation is prohibited by international agreements, laws, and, decrees, can be freely exported within the framework of the Export Regime Decree.



EXCEPTION RULE OF THE EXPORT REGIME

(Article 3)

Within the framework of the World Trade Organisation rules and Turkey - EC Association Council Decision No. 1/95 (Article 7), restrictions and prohibitions on exports may be imposed in the cases of market turmoil, scarcity of goods, and on the grounds of public morality, public policy, public security, protection of the health and life of humans, animals and plants, protection of artistic, historic or archaeological assets.



ACCORDING TO EXPORT LEGISLATION:

- Permission is required for the exports of some items like war weapons, opium, addictive and psychotropic substances, etc.
- Exports of some items are prohibited like indian hemp, cultural and natural assets, etc.
- Some exports are subject to registration under UN Resolutions, Vienna Convention on Protection of Ozone Layer, etc.



**SCREENING CHAPTER 01
FREE MOVEMENT OF GOODS**

**DECREE ON
TECHNICAL REGULATIONS AND STANDARDIZATION
FOR FOREIGN TRADE**

**Country Session: The Republic of TURKEY
20 February 2006**



OBJECTIVE

The Decree of the Council of Ministers (No. 2005/9454) aims;

- to facilitate trade between Turkey and its partners by preventing unnecessary technical barriers to trade (WTO-TBT Agreement),
- to reflect the transposed EU's technical legislation in the import system and enable free circulation of goods under the Customs Union,
- to ensure effective co-ordination among relevant authorities in the area of technical legislation relevant to foreign trade,
- to regulate external border checks and ensure conformity with the rules on product safety in the case of imported products,
- to provide legal basis for secondary legislation, if necessary.



Free Movement of Goods Between Turkey and the European Union (Article 11)

Importation of the products covered by the Customs Union cannot be restricted or impeded provided that they are lawfully produced and/or put into free circulation in Member States of the EU in conformity with the relevant harmonised EU legislation and/or national legislation of Member States.

This provision 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; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property.

Such prohibitions or restrictions shall not, however, constitute a means of discrimination between imported and domestic products or a disguised restriction on trade.

Justifications for the prohibitions or restrictions stated in the second paragraph shall be notified to the European Commission by following the procedures specified by relevant legislation and the Customs Union.



Uniformity in Application of Technical Legislation (Article 5)

The coordination, monitoring, transparency and notification of technical regulations, standards, conformity assessment and inspection shall be carried out in accordance with this Decree in a uniform and harmonious way.

To this end, any regulation dealing with documents and signs which indicate that an import or export product is in conformity with the applicable rules, such as control certificate, conformity certificate, type approval certificate, “CE” marking and “e” marking, shall be notified to the UFT.



SCOPE

The Decree covers;

▪ Import products:

- ✓ A certain group of products,
- ✓ Specific procedures (laid down by communiqués),
- ✓ Pre-import documentary checks (certificate of conformity, control certificate), or
- ✓ Physical control at borders, including laboratory tests.

▪ Export products:

- ✓ Only about 70 agro-food products (fruits, vegetables, ...)
- ✓ Pre-export quality control (standards).



INSTRUMENTS

- Regulation:
 - ✓ Technical Regulations and Standardisation for Foreign Trade
 - ✓ [Council Decision 339/93 in the future]
- Communiqués, which include:
 - ✓ lists of products (description and CN codes),
 - ✓ national rules applicable,
 - ✓ types of certificates to be checked by the Customs,
 - ✓ authorities to issue those certificates.



IMPLEMENTATION

Communiqué No.	Products Covered	Competent Authority	Requirements
2006/1	Construction products, gasoline and diesel, automotive products, pressure equipment, gas appliances, lifts, batteries, lighters, feeding bottles, ethyl alcohol etc.	UFT (Implemented by TSE)	<ul style="list-style-type: none">- National standards or their equivalents (ISO, CEN, CENELEC or ETSI) applicable- Some exemptions such as CE-marking- Certificate of conformity
2004/9 and 2004/22	Products falling under Medical Devices, LVD, EMC, Machinery Directives	MIT, Ministry of Health (Implemented by TSE)	<ul style="list-style-type: none">- Only products coming from third countries- Certificate of conformity



IMPLEMENTATION

Communiqué No.	Products Covered	Competent Authority	Requirements
2006/3, 2006/6 and 2006/7	Waste materials, chemicals, fuels	Ministry of Environment and Forestry	<ul style="list-style-type: none">- Based on international agreements- Some products are prohibited from import- Control certificate
2006/4	Narcotic and psychotropic materials, medicinal products for human use, medical devices (in-vitro), baby foods, drinking water	Ministry of Health	<ul style="list-style-type: none">- Partly based on international agreements- Control certificate



IMPLEMENTATION

Communiqué No.	Products Covered	Competent Authority	Requirements
2006/5	Biological products materials, livestock and veterinary products, phytosanitary products, feed products, medicinal products for animal use, foodstuffs, agricultural and fishery products	Ministry of Agriculture and Rural Affairs	- Control certificate
2005/7	Alcoholic beverages, ethyl alcohol, methanol, tobacco and tobacco products	The Tobacco and Alcohol Authority	-To ensure market regulation in the sector - Certificate of conformity



IMPLEMENTATION

Communiqué No.	Products Covered	Competent Authority	Requirements
2005/23 2005/32	Cosmetics, detergents	Ministry of Health	<ul style="list-style-type: none">- No pre-market access control- Notification of products to be placed on the market for the first time
2002/6	Automotive tyres	Ministry of Industry and Trade	<ul style="list-style-type: none">- “e” or “E” marking is required- Certificate of conformity



CONCLUSION

- In principle, general product safety rules in Law No.4703 or in product-specific legislation apply,
- Not all imported goods are subject to control,
- Control consists of mainly pre-market procedures,
- No discrimination: The same rules apply to both domestic and imported products,
- The diminishing scope: in December 2005 alone, 60% of mandatory standards were withdrawn,
- More alignment, less difference,
- Council Decision 339/93 will streamline the system.



THANK YOU FOR YOUR ATTENTION