

AGREEMENT ESTABLISHING A FREE TRADE AREA BETWEEN THE REPUBLIC OF TURKEY AND THE ARAB REPUBLIC OF EGYPT

The Republic of Turkey and the Arab Republic of Egypt (hereinafter referred to as "the Parties" or "Turkey" and "Egypt" where appropriate.)

DESIROUS to develop and strengthen the existing friendly relations, especially in the fields of economic co-operation and trade, with an aim to contribute to the progress of economic co-operation between the two countries and to increase the scope of mutual trade exchanges,

CONFIRMING their intention to participate actively in the process of economic integration in Europe and in the Mediterranean Basin in accordance with the Barcelona Declaration,

EXPRESSING their preparedness to co-operate in seeking ways and means to strengthen this process,

CONSCIOUS of the need to associate their efforts to strengthen political stability and economic development in the region through the encouragement of regional co-operation,

TAKING INTO CONSIDERATION the Agreement establishing an Association between Turkey and the European Economic Community and Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States and Egypt,

DECLARING their readiness to undertake measures with a view to promoting harmonious development of their trade as well as to expanding and diversifying their mutual co-operation in the fields of joint interest, including fields not covered by this Agreement, thus creating a framework and supportive environment based on equality, non discrimination, and a balance of rights and obligations,

REFERRING to the mutual interest of the Parties in the continual reinforcement of the multilateral trading system and considering that the provisions and instruments of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "GATT 1994") and the World Trade Organization (hereinafter referred to as "WTO") constitute a basis for their foreign trade policy,

CONSIDERING the rights and obligations of the Parties stemming from the GATT 1994 and the WTO,

RESOLVED to lay down for this purpose provisions aimed at abolition of the obstacles to trade between the Parties in accordance with the provisions of this Agreement, in particular those concerning the establishment of free trade area,

BELIEVING that development of trade and cooperation in the economic and technical fields is one of the main elements of rapid development strategies of both countries,

HAVE DECIDED, in pursuance of these objectives, to conclude the following Agreement (hereinafter referred to as "this Agreement").

Article 1. Objectives

1. The Parties shall gradually establish a free trade area between them in a transitional period not exceeding twelve years starting from the entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with Article XXIV of the GATT 1994 and the other multilateral agreements on trade in goods annexed to the Agreement establishing the WTO.

2. The objectives of this Agreement are:

a) to increase and enhance the economic co-operation between the Parties to raise the living standards of the population of the two countries;

- b) to eliminate difficulties and restrictions on trade in goods, including the agricultural products;
- c) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between the Parties;d
- d) to provide fair conditions of competition in trade between the Parties;
- e) to create conditions for further encouragement of investments particularly for the development of joint investments in both countries;
- f) to promote trade and co-operation between the Parties in third country markets.

Article 2. Basic Duties and Classification of Goods

1. In trade between the Parties covered by this Agreement, the Parties shall apply their respective customs classification of goods for imports into them.
2. For each product the basic duty to which successive reductions set out in this Agreement are to be applied shall be the Most Favoured Nation (MFN) duty that is in force in the Parties on 1 January 2005.
3. If after 1 January 2005, any tariff reduction is applied on an erga omnes basis, in particular, reductions resulting from the tariff negotiations in the WTO, such reduced duties shall replace the basic duties referred to in paragraph 2 as from that date when such reductions are applied.
4. The Parties shall communicate to each other their respective basic duties.

Chapter I. Industrial Products

Article 3. Scope

The provisions of this Chapter shall apply to products originating in the territory of each Party falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System with the exception of the products listed in Annex I of this Agreement.

Article 4. Customs Duties on Imports and Charges Having Equivalent Effect

1. Customs duties and charges having equivalent effect on imports shall be abolished in accordance with the provisions of Protocol I to this Agreement.
2. From the date of entry into force of this Agreement no new customs duties on imports or charges having equivalent effect shall be introduced, nor shall those already applied be increased in trade between the Parties.

Article 5. Customs Duties of a Fiscal Nature

The provisions concerning the abolition of customs duties on imports shall also apply to customs duties of a fiscal nature.

Article 6. Quantitative Restrictions on Imports and Measures Having Equivalent Effect

1. All quantitative restrictions on imports and measures having equivalent effect shall be abolished between the Parties upon the date of entry into force of this Agreement.
2. From the date of the entry into force of this Agreement no new quantitative restriction on imports or measure having equivalent effect shall be introduced in trade between the Parties.

Article 7. Customs Duties on Exports and Charges Having Equivalent Effect

1. All customs duties on exports and any charges having equivalent effect shall be abolished between the Parties upon entry into force of this Agreement.
2. No new customs duties on exports or charges having equivalent effect shall be introduced in trade between the Parties from the date of entry into force of this Agreement.

Article 8. Quantitative Restrictions on Exports and Measures Having Equivalent Effect

1. All quantitative restrictions on exports and any measures having equivalent effect shall be abolished between the Parties upon the date of entry into force of this Agreement.
2. From the date of the entry into force of this Agreement no new quantitative restriction on exports or measure having equivalent effect shall be introduced in trade between the Parties.

Chapter II. Basic Agricultural, Processed Agricultural and Fishery Products

Article 9. Scope

1. The provisions of this Chapter shall apply to basic agricultural, processed agricultural and fishery products originating in the territory of each Party.
2. The term "basic agricultural, processed agricultural and fishery products" (hereinafter referred to as agricultural products) means, for the purpose of this Agreement, the products falling within Chapters 01 to 24 of the Harmonized Commodity Description and Coding System and the products listed in Annex I of this Agreement.

Article 10. Exchange of Concessions

1. The 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 and to discuss this issue periodically in the Joint Committee.
2. In pursuance of this objective Protocol II providing the reciprocal concessions granted under this Agreement to facilitate trade in agricultural products has been concluded between the Parties.
3. Taking into account the role of agriculture in their respective economies; the development of trade in agricultural products between the Parties; the rules of their respective agricultural policies, the Parties shall progressively establish a greater liberalization of their trade in agricultural products of interest to both Parties.
4. During the annual meeting of the Joint Committee the Parties shall examine the situation in order to implement the objective set out in the paragraph 3, taking into consideration the development of the liberalization of trade in agricultural products under the WTO.
5. The Parties shall notify to the Joint Committee of the changes in their respective agricultural policies pursued or measures applied, which may affect the conditions of agricultural trade between the Parties as provided for in this Agreement. On the request of a Party prompt consultations within the Joint Committee shall be held to examine the situation.

Article 11. Sanitary and Phytosanitary Measures

The Parties shall not apply their regulations in sanitary and phytosanitary matters as an arbitrary or unjustifiable discrimination or a disguised restriction on trade between them. The Parties shall apply their sanitary measures within the rules and procedures of the GATT 1994 and the other relevant WTO agreements.

Chapter III. Common Provisions

Article 12. Internal Taxation

1. The Parties commit themselves to apply any internal taxes and other charges and regulations in accordance with Article III of the GATT 1994 and other relevant WTO Agreements.
2. Exporters may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on products exported to the territory of one of the Parties.

Article 13. Trade Relations Governed by other Agreements

1. This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for cross-border trade of the Parties with third countries to the extent that these do not negatively affect the trade regime

and in particular the provisions concerning rules of origin provided for in this Agreement.

2. Consultations between the Parties shall take place within the Joint Committee concerning agreements establishing customs unions or free trade areas and, where appropriate, on other major issues related to their respective trade policies with third countries. Such consultations shall take place so as to ensure that account is taken of the mutual interests of the Parties stated in this Agreement.

Article 14. Structural Adjustment

1. Exceptional measures of limited duration, which derogate from the provisions of Article 4, may be taken by Egypt in the form of increased customs duties.

2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.

3. Customs duties applicable on imports into Egypt to products originating in Turkey introduced by these measures may not exceed 25% ad valorem and shall maintain an element of preference for products originating in Turkey. The total value of imports of the products, which are subject to these measures, may not exceed 20 % of total imports of industrial products from Turkey as defined in Article 3, during the last year for which statistics are available.

4. These measures shall be applied for a period not exceeding five years unless a longer duration is authorized by the Joint Committee. They shall cease to apply at the latest on the expiry of the transitional period.

5. No such measures can be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.

6. Egypt shall inform the Joint Committee of any exceptional measures she intends to take. At the request of Turkey, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they are applied. When taking such measures Egypt shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties starting at the latest two years after their introduction, at equal rates. The Joint Committee may decide on a different schedule.

Article 15. Dumping

If a Party finds that dumping, within the meaning of Article VI of GATT 1994 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 GATT 1994 and the rules established by agreements related to that Article.

Article 16. Safeguard Measures

1. Where any product is being imported into either of the Parties in such increased quantities, each Party retains its rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguard Measures. This Agreement does not confer any additional rights or obligations on the Parties with regard to safeguard measures.

2. The provisions of Article XIX of GATT 1994 and the WTO Agreement on Safeguards shall apply between the Parties.

Article 17. Re-export and Serious Shortage

1. Where compliance with the provisions of Article 7 and 8 leads to:

a) re-export towards a third country against which the exporting Party maintains, for the product concerned, quantitative export restrictions, export duties or measures or charges having equivalent effect; or

b) a serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures according to the procedures laid down in paragraph 2.

2. The difficulties arising from the situations referred to in paragraph 1 shall be submitted for examination to the Joint Committee. The Committee may take any decision needed to put an end to the difficulties. If it has not taken such a decision within thirty days of the matter being referred to it, the exporting Party may apply appropriate measures on the exportation of the product concerned. The measures shall be nondiscriminatory and be eliminated when conditions no longer justify

their maintenance.

Article 18. General Exceptions

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; the protection of national treasures possessing artistic, historic or archaeological value; the protection of intellectual, industrial and commercial property. Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 19. Balance of Payments Difficulties

Where either Party is in a serious balance of payments difficulties or under threat thereof, the Party concerned may in accordance with the conditions laid down within the framework of WTO/GATT 1994 and with Articles VIII and XIV of the Articles of Agreement of International Monetary Fund, adopt restrictive measures, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The Party concerned shall inform the other Party forthwith of their introduction and present to the other Party, as soon as possible, a time schedule of their removal.

Article 20. Rules of Origin and Co-operation between the Customs Administrations

1. The Parties agreed to apply the harmonized preferential rules of origin in the context of the System of Pan-Euro-Med Cumulation of Origin in the mutual trade.
2. Protocol III lays down the rules of origin and methods of administrative co-operation.

Chapter IV. State Monopolies, Competition Rules, Payments and other Economic Provisions

Article 21. Payments and Transfers

Any payment arising from trade of goods, services and rights to non-material goods between the Parties shall be made in convertible currency, in accordance with the respective national legislation of the Parties.

Article 22. Rules of Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the Parties:
 - 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 dominant position in the territories of the Parties as a whole or in a substantial part thereof;
 - c) any public aid which distorts, or threatens to distort, competition by favoring certain undertakings or the production of certain goods.
2. The Joint Committee shall, within five years of the entry into force of this Agreement, adopt by decision the necessary rules for the implementation of paragraph 1. Until these rules are adopted, the provisions of Article 23 shall be applied as regard the implementation of paragraph 1.
3. Each Party shall ensure transparency in the area of public aid, inter alia by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.
4. If any Party considers that a particular practice is incompatible with the terms of the first paragraph of this Article, and:
 - a) is not adequately dealt with under the implementing rules referred to in paragraph 2, or
 - b) in the absence of such rules, and if such practice causes or threatens to cause serious prejudice to the interest of the

other Party or material injury to its domestic industry, including its services industry,

it may take appropriate measures after consultation within the Joint Committee or after thirty working days following referral for such consultation.

With reference to practices incompatible with paragraph 1.c), such appropriate measures, when the WTO rules are applicable to them, may only be adopted in accordance with the procedures and under the conditions laid down by the WTO or by any other relevant instrument negotiated under its auspices and applicable to the Parties.

5. Notwithstanding any provisions to the contrary adopted in conformity with this Article, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.

Article 23. Subsidies

1. The rights and obligations of the Parties in respect of subsidies shall be governed by Articles VI and XVI of the GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture.

2. If a Party finds that subsidies are granted which affect bilateral trade, the Party concerned may take appropriate measures in accordance with the above mentioned Agreements.

Article 24. Intellectual Property Rights

1. The 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 and the relevant international agreements.

2. The Parties to this Agreement shall accord to each other's nationals treatment no less favorable than that they accord to their own nationals. Exemption from this obligation must be in accordance with the substantive provisions of Article 3 of the TRIPS Agreement.

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

4. The implementation of this Article shall be regularly reviewed by the Parties. If problems in the area of intellectual property affecting trading conditions were to occur, urgent consultations shall be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.

Article 25. State Monopolies

1. The Parties shall progressively adjust any state monopoly of a commercial character so as to ensure that by the end of the fifth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of the Parties.

2. The Joint Committee shall be informed about the measures adopted to implement this objective.

Article 26. Public Procurement

The Parties agree on the objective of a progressive liberalization of public procurement. The Joint Committee will hold consultations on the implementation of this objective.

Article 27. Technical Regulations

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade.

2. The Parties shall strengthen their co-operation in the field of technical regulations, standards and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. The Parties shall consult each other in the Joint Committee in view of the implementation of the objective set out in this Article.

3. Without prejudice to paragraph 1, the Parties agree to hold immediate consultations in the framework of the Joint

Committee where either Party has taken measures which are likely to create, or have created an obstacle to trade, in order to find an appropriate solution in conformity with the WTO Agreement on Technical Barriers to Trade.

Article 28. Investment Promotion

The Parties recognize the importance of promoting investment and technology flows between them as a means of achieving economic growth and development. Co-operation in this respect shall include:

- a) appropriate means of identifying investment opportunities and information channels on investment regulations;
- b) the provision of information on the Parties' measures promoting investment abroad (technical assistance, financial support, investment insurance, etc.);
- c) the planning and implementation of development projects, including for the participation of foreign investors;
- d) encouraging the creation of joint ventures, especially for SMEs and, when appropriate, the conclusion of agreements between Turkey and Egypt.

Chapter V. Trade In Services

Article 29.

1. The Parties shall aim at achieving gradual liberalization and the opening of their markets for trade in services in accordance with the provisions of the WTO General Agreement on Trade in Services (GATS), taking into account ongoing work under the auspices of the WTO.
2. The Parties shall, at regular intervals in the Joint Committee, review relevant services sectors and consider further liberalization of trade in services, taking into account international developments.

Chapter VI. Institutional and Final Provisions

Article 30. Establishment of the Joint Committee

1. A Joint Committee is hereby established in which each Party 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 Parties 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 Parties.
3. The Joint Committee may take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 31. Procedures of the Joint Committee

1. For the proper implementation of this Agreement, the Joint Committee shall meet at an appropriate level whenever necessary upon request but at least once a year. Either Party may request a meeting to be held.
2. The Joint Committee shall act by consensus.
3. If a representative in the Joint Committee of a Party to this Agreement has accepted a decision subject to reservation of the fulfillment of constitutional requirements the decision shall enter into force, if no later date is contained therein, on the date of the receipt of the written notification stating that such requirements have been fulfilled.
4. The Joint Committee shall adopt its rules of procedure, which shall, inter-alia, contain provisions for convening meetings, and for the designation of its co-chairman.
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.

Article 32. Security Exceptions

Nothing in this Agreement shall prevent a Party from taking any measures:

- a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- b) which relate to the production of, or trade in, arms, munitions or war materials or to research, development or production indispensable for defense purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article 33. Fulfillment of Obligations

1. The Parties shall take all necessary measures to ensure the achievement of the objectives of this Agreement and the fulfillment of their obligations under this Agreement. Should any divergence with respect to the interpretation and application of this Agreement arise, the Parties shall make every effort through cooperation and consultations to arrive at a mutually satisfactory solution.
2. Either Party may request consultations with the other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement. The Party requesting consultations shall at the same time notify the other Party in writing thereof and supply all relevant information.
3. The consultations shall take place in the Joint Committee, if any of the Parties so request, within 10 days from the receipt of the notification referred to in paragraph 2, with a view to finding a commonly acceptable solution.

Article 34. Dispute Settlement

1. Either Party may refer to the Joint Committee any dispute relating to the application or interpretation of this Agreement.
2. The Joint Committee may settle the dispute by means of decision.
3. Each Party shall be bound to take measures involved in carrying out the decision referred to in paragraph 2.
4. In the event if it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months.
5. The Joint Committee shall appoint a third arbitrator.
6. The arbitrators' decisions shall be taken by majority vote.
7. Each Party to the dispute shall take the steps required to implement the decision of the arbitrators.

Article 35. Evolutionary Clause

1. Where either Party considers that it would be useful and in the interest of the economies of the Parties to develop the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a request to the other Party. The Joint Committee shall examine this request and, where appropriate, to make recommendations, particularly with a view to opening negotiations.
2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the Parties to this Agreement in accordance with their national legislation.

Article 36. Amendments

Amendments to this Agreement, as well as to its Annexes and Protocols, shall enter into force on the date of receipt of the latter written notification through diplomatic channels, by which the Parties inform each other that all necessary requirements foreseen by their national legislation for the entry into force of this Agreement have been fulfilled.

Article 37. Protocols and Annexes

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

Protocols and Annexes in accordance with the national legislation of the Parties.

Article 38. Validity and Termination

1. This Agreement is concluded for an unlimited period.
2. Either party may denounce this Agreement by a written notification to the other Party. The Agreement shall terminate on the first day of the sixth month following the date when the other Party received the denunciation notice.

Article 39. Entry Into Force

This Agreement shall enter into force on the first day of the second month, following the date of the receipt of the latter written notification through diplomatic channels, by which the Parties inform each other that all necessary requirements foreseen by their national legislation for the entry into force of this Agreement have been fulfilled.

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

DONE at....., this....day of, in two originals each in the Turkish, Arabic and English languages, all texts being equally authentic. In case of any divergence in the interpretation of this Agreement, the English text shall prevail.

For the Republic of Turkey

Kürşad TÜZMEN

State Minister

For the Arab Republic of Egypt

Rachid Mohamed RACHID

Minister of Foreign Trade and Industry