

FREE TRADE AGREEMENT BETWEEN TURKEY AND ESTONIA

PREAMBLE

The Republic of Turkey (hereinafter referred to as "Turkey") and the Republic of Estonia (hereinafter referred to as "Estonia");

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;

Referring the Agreement on Trade and Economic Cooperation between the Republic of Turkey and the Republic of Estonia, signed on 28 August 1995 in Ankara, the Agreement Establishing an Association between Turkey and the European Economic Community and the European Agreement Establishing an Association between the European Communities and Estonia;

Having regard to the experience gained from the co-operation developed between the Parties to this Agreement (hereinafter referred to as "the Parties") as well as between them and their main trading partners;

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 co-operation in the fields of common 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;

Recalling the mutual interest of the Parties in the continual reinforcement of the multilateral trading system and considering their relations to GATT/WTO, the provisions and instruments of which constitute a basis for their foreign trade policy;

Resolved to lay down for this purpose provisions aimed at the progressive abolition of the obstacles to trade between the Parties in accordance with the provisions of these instruments, in particular those concerning the establishment of free trade areas;

Considering the respective commitments of the Parties to free trade and in particular to compliance with the rights and obligations arising out of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO);

Have decided, in pursuance of these objectives, to conclude the following Agreement (hereinafter referred to as "this Agreement"):

Article 1

Objectives

1. Turkey and Estonia establish a free trade area upon the entry into force of this Agreement, in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO.

2. The objectives of this Agreement are:

(a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between Turkey and Estonia;

(b) to provide fair conditions of competition for trade between Turkey and Estonia;

(d) to contribute in this way, by removal of barriers to trade, to the harmonious development and expansion of world trade;

(e) to enhance cooperation between Turkey and Estonia.

Article 2

Basic Duties

1. For commercial exchanges covered by this Agreement, the Estonian Customs Tariffs shall be applied to the classification of goods for imports into Estonia. The Turkish Customs Tariffs shall be applied to the classification of goods for imports into Turkey.

2. For each product the basic duty to which successive reductions set out in this Agreement are to be applied shall be:

- for products originating in Estonia, the MFN duty that was in force in Turkey, erga omnes, on the date of entry into force of this Agreement;

- for products originating in Turkey, that actually applied erga omnes on 1 January 1994, in Estonia.

3. If after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, in particular, reductions resulting from the tariff agreement concluded as a result of the GATT Uruguay Round, Turkey-EC Customs Union or the Europe Agreement between the EU and Estonia, such reduced duties shall replace the basic duties referred to in paragraph 2 as from that date when such reductions are applied.

4. Turkey and Estonia shall communicate each other their respective basic duties.

CHAPTER I

Industrial Products

Article 3

Scope

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

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 Turkey and Estonia from the date of entry into force of this Agreement.

2. The Parties shall abolish on their imports from each other all customs duties and charges having equivalent effect on imports on the date of entry into force of this Agreement.

Article 5

Customs Duties of a Fiscal Nature

1. The provisions of Article 4 concerning the abolition of customs duties on imports shall also apply to customs duties of a fiscal nature.

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 Turkey and Estonia from the date of entry into force of this Agreement.

2. Customs duties on exports and charges having equivalent effect shall be abolished between the Parties upon entry into force of this Agreement.

Article 7

Quantitative Restrictions on Imports and Measures Having Equivalent Effect

1. No new quantitative restriction on imports or measure having equivalent effect shall be introduced in trade between Turkey and Estonia from the date of entry into force of this Agreement.

2. 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.

Article 8

Quantitative Restrictions on Exports and Measures Having Equivalent Effect

1. No new quantitative restriction on exports or measure having equivalent effect shall be introduced in trade between Turkey and Estonia from the date of entry into force of this Agreement.

2. Quantitative restrictions on exports and measures having equivalent effect shall be abolished upon the date of entry into force of this Agreement.

CHAPTER II

Agricultural, Processed Agricultural and Fishery Products

Article 9

Scope

1. The provisions of this Chapter shall apply to agricultural, processed agricultural and fishery products originating in Turkey and Estonia.

2. The term "agricultural products" means for the purpose of this Agreement the products falling within Chapters 1 to 24 of the Harmonized Commodity Description and Coding System and the products listed in Annex I.

Article 10

Concessions and Agricultural Policies

1. Without prejudice to the concessions granted under Protocol A to this Agreement, the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies, including the implementation of the respective provisions of the Agreement on Agriculture within the framework of the World Trade Organization.

2. The Parties shall notify each other of changes in their respective agricultural policies pursued or measures applied which may affect the conditions of agricultural trade between them as provided for in this Agreement. Prompt consultations shall be held, upon request of any Party, to examine the situation.

3. Taking into account the Estonian customs tariff structure on the date of entry into force of this Agreement, where no customs duties are applied for agricultural products, in the event that a new tariff regime for the imports of agricultural products is established, Estonia may, by way of derogation from the provisions of Article 4 of this Agreement and pursuant to the implementation of its agricultural policy, introduce customs duties on imports on a limited number of agricultural products originating in Turkey.

4. Customs duties on imports may be introduced by Estonia during the first two years following the entry into force of this Agreement and after consultations in the Joint Committee. If necessary, the period of two years may be prolonged by one year by the decision of the Joint Committee. These measures shall be applied for a period not exceeding three years.

5. If ever Estonia introduces a tariff on some of its products it shall ensure a sizeable margin of preference for products subject to the concession originating in

Turkey. The Parties will grant equal treatment to each other for their products which take place in Protocol A vis-à-vis the EU products at their respective market.

Article 11

Veterinary, Health and Phytosanitary Measures

1. The veterino-sanitary measures and the work of the veterinary services will be in accordance with the Office International des Epizoodies Codex Alimentarius Commission and other international conventions in this field.
2. The Phytosanitary measures and the work of the plant protection service will be in accordance with the International Plant Protection Convention and other international conventions in this field.
3. The Parties shall apply their regulations in sanitary and phytosanitary matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

CHAPTER III

General Provisions

Article 12

Services and Investment

1. The Parties to this Agreement recognize the growing importance of certain areas, such as services and investments. In their efforts to gradually develop and broaden their co-operation, in particular in the context of the European integration, they will co-operate with the aim of achieving a progressive liberalization and further opening of their markets mutually for investments and trade in services, taking into account relevant provisions of the General Agreement on Trade in Services.
2. The Parties will discuss in the Joint Committee the possibilities to extend their trade relations to the fields of foreign direct investment and trade in services.

Article 13

Internal Taxation

1. The Parties to this Agreement shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in Turkey and like products originating in Estonia.
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 14

Customs Unions, Free Trade Areas and Frontier Trade

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

2. Exchange of information between the Parties shall take place, on request, within the Joint Committee concerning agreements establishing such customs unions or free-trade areas.

Article 15

Structural Adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 4 may be taken by Turkey and Estonia 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 on imports applicable in Turkey or Estonia to products originating in the other Party introduced by these measures may not exceed 25 per cent ad valorem and shall maintain an element of preference for products originating in the other Party. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the other Party 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 two years unless a longer duration is authorized by the Joint Committee. They shall cease to apply at the latest by the end of the second year from the date of entry into force of the Agreement.

5. No such measure 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. Turkey and Estonia shall inform the Joint Committee of any exceptional measures they intend to take and, at the request of either Party, 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 the Party concerned shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. The Joint Committee may decide on a different schedule.

Article 16

Dumping

1. If a Party finds that dumping, within the meaning of Article VI of General Agreement on Tariffs and Trade is taking place in trade relations governed by this Agreement, it may take appropriate measures against this practice in accordance with

Article VI of the GATT and the rules established by agreements related to that Article, under the conditions and in accordance with the procedures laid down in Article 20.

Article 17

General Safeguards

1. Where any product is being imported in such increased quantities and under such conditions as to cause, or threaten to cause:

(a) serious injury to domestic producers of like or directly competitive products in the territory of one of the Parties, 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 Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 20.

Article 18

Re-export and Serious Shortage

1. Where compliance with the provisions of Articles 4-8 leads to:

(a) re-export towards a third country against which the exporting Party to this Agreement 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 under the conditions and in accordance with the procedures laid down in Article 20. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

Article 19

State Monopolies

The Parties shall progressively adjust any state monopoly of a commercial character so as to ensure that by the end of 1999, no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of the Parties. The Joint Committee will be informed about the measures adopted to implement this objective.

Article 20

Procedure for the Application of Safeguard Measures

1. Before initiating the procedure for the application of safeguard measures set out in this Article, the Parties to this Agreement shall endeavour to solve any differences between themselves through direct consultations, and shall inform the other Party.
2. In the cases specified in Articles 15, 16, 17 and 18, a Party which is considering to resort to safeguard measures shall promptly notify the Joint Committee. The Party concerned shall provide the Joint Committee with all relevant information and give it the assistance required to examine the case. Consultations between the Parties shall take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.
3. If, within one month of the matter being referred to the Joint Committee, the 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 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 that will least disturb the functioning of this Agreement.
5. The safeguard measures taken shall be the subject of regular consultations within the Joint Committee with a view to their relaxation, or abolition when conditions no longer justify their maintenance.
6. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the case of Articles 15, 16, 17, 18, 24 and 25, 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 Parties to this Agreement shall take place within the Joint Committee.

Article 21

Rules of Origin and Cooperation in Customs Administration

1. Protocol B to this Agreement lays down the rules of origin and methods of administrative cooperation.
2. The Parties shall take all appropriate measures, including arrangements regarding administrative cooperation, to ensure that the provisions of Articles 2, 4, 5, 6, 7 and 8 of this Agreement and Protocol B 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.

Article 22
General Exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public order or public security, the protection of health and life of humans, animals or plants and of 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 the Parties.

Article 23
Payments

1. Payments in freely convertible currencies relating to trade in goods and services between the Parties and the transfer of such payments to the territory of the Party to this Agreement, where the creditor resides, shall be free from any restrictions.
2. The Parties shall refrain from any exchange control or administrative restrictions other than existing in the current legislation of the Parties on the grant, repayment or acceptance of short and medium-term credits to trade transactions in which a resident of a Party participates.
3. Notwithstanding the provisions of paragraph 2, any measure concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Articles of the Agreement of the International Monetary Fund.

Article 24
Rules of Competition Concerning Undertakings, Public Aid

1. The following are incompatible with the proper functioning of this Agreement, in so far as they affect trade between Turkey and Estonia:
 - (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 Turkey or of Estonia 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. 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.

3. For the purpose of applying the provisions of paragraph 1 of this Article, the Parties will take the measures in conformity with the procedures and under the conditions laid down in their respective Agreements with the European Communities. In case of any change in those procedures and/or conditions these changes will be applicable between the Parties.

4. If Turkey or Estonia considers that a particular practice is incompatible with the terms of the paragraph 1 of this Article, and:

(a) is not adequately dealt with under the implementing rules referred to in paragraph 3 of this Article, 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.

5. In the case of practices incompatible with paragraph 1 (c) of this Article, such appropriate measures may, where the WTO/GATT 1994 applies thereto, only be adopted in conformity with the procedures and under the conditions laid down by the WTO/GATT 1994 and any other relevant instrument negotiated under its auspices which are applicable between the Parties.

6. Notwithstanding any provisions to the contrary adopted in conformity with paragraph 3 of this Article, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.

Article 25

Balance of Payments Difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments purposes.

2. Where either Party is in serious balance of payment difficulties or under threat thereof, Turkey and Estonia as the case may be, may, in accordance with the conditions laid down within the framework of GATT and with Article VIII 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 payment situation. Either Party, as the case may be, shall inform the other Party forthwith and present to the other Party, as soon as possible, of a time schedule of their removal.

Article 26

Protection of Intellectual, Industrial and Commercial Property Rights

1. The Parties shall grant and ensure adequate and effective protection of intellectual property rights on a non-discriminatory basis, including measures for granting and enforcing such rights.
2. The Parties shall take all necessary measures to enforce these rights against infringement, and particularly against counterfeiting and piracy.
3. In fulfilment of their commitment under international agreements and legislation in the field of intellectual property rights, the Parties shall not grant less favorable treatment to nationals of each other than that accorded to nationals of any other State.
4. The Parties shall co-operate in matters of intellectual property. They shall hold, upon request of any Party, expert consultations on these matters, in particular, on activities relating to the existing or to future international conventions on harmonization, administration and enforcement of intellectual property and on activities in international organizations, such as the World Trade Organization and the World Intellectual Property Organization, as well as relations of the Parties with any third country on matters concerning intellectual property.

Article 27

Public Procurement

1. The Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement.
2. The Parties shall progressively adjust their respective regulations concerning public procurement with a view to grant suppliers of the other Parties, at the latest by 31 December 2000, access to contract award procedures on their respective public procurement markets according to the provisions of the Agreement on Government Procurement in Annex IV to the Agreement establishing the World Trade Organization.
3. The Joint Committee shall examine developments related to the achievement of the objectives of this Article and may recommend practical modalities of implementing the provisions of paragraph 2 of this Article, so as to ensure free access, transparency and full balance of rights and obligations.
4. During the examination, referred to in paragraph 3 of this Article, the Joint Committee may consider, especially in the light of international regulations in this area, the possibility of extending the coverage and/or the degree of the market opening provided for in paragraph 2.
5. The Parties shall endeavour to accede to the relevant Agreements negotiated under the auspices of the General Agreement on Tariffs and Trade 1994 and the Agreement Establishing the World Trade Organization.

Article 28

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, in accordance with the provisions of paragraph 3 of Article 29, take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 29

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 common agreement.
3. If a representative in the Joint Committee of a 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 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/her term of office.
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 30

Security Exceptions

1. Nothing in this Agreement shall prevent a Party 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) taken in time of war or other serious international tension constituting threat of war.

Article 31

Fulfilment of Obligations

1. The Parties 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 either Party considers that the other Party has failed to fulfill an obligation under this Agreement, the Party concerned may take the appropriate measures under the conditions and in accordance with the procedures laid down in Article 20.

Article 32

Evolutionary Clause

1. Where either Party considers that it would be useful 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 reasoned request to the other Party. The Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, 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 internal legal procedures.

Article 33

Amendments

Amendments to this Agreement other than those decided upon in accordance with paragraph 3 of Article 29, and which are approved by the Joint Committee, shall be subject to the fulfilment of internal legal requirements and shall enter into force on the date of a receipt of the latter diplomatic note confirming that such requirements have been fulfilled.

Article 34

Protocols and Annexes

Protocols and Annexes to this Agreement are an integral part of this Agreement. The Joint Committee may decide to amend the Protocols and Annexes in accordance with the provisions of Article 29.

Article 35

Validity and Termination

1. This Agreement is concluded for an indefinite period of time. Each Party to this Agreement may terminate it by means of a written notification to the other Party. In such case the termination of this Agreement shall take effect six (6) months after the notification.

Article 36

Entry into Force

This Agreement shall enter into force on the first day of the second month following the date of receipt of the latter diplomatic note confirming that the respective legal requirements of the Parties concerning 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 & 1997 in two authentic copies in English.

For the Republic of Turkey For the Republic of Estonia

RECORD OF UNDERSTANDING

Trade in textile and clothing products between Turkey and Estonia shall be regulated by the Memorandum of Understanding between the Government of Turkey and the Government of Estonia concerning trade in textiles and clothing, which shall be signed at the same date of this Agreement.