

Customs and Foreign Trade in Turkey

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improve your business*



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Preface

Turkey as a founding member of the WTO, believes that the universally agreed international trade system, which is embodied within the WTO and based on the principles of reciprocity and non-discrimination can serve the interests and welfare of the whole global community.

The liberalization of trade at regional or bilateral level can also contribute to liberalization and trade expansion in the global context. Therefore, Turkey, with its wide range of economic and social approaches, bridging very different regions of the world, considers establishing bilateral and regional trade relations as valuable opportunities to enhance trade liberalization.

Turkey's foreign trade policy is fully committed to the liberalization of trade at multilateral level. There can be no doubt that the basic guideline that Turkey follows in its bilateral and regional trade relations is that international trade should be carried out in line with the spirit of the WTO. This entails the gradual opening up of markets on the basis of reciprocity and non-discrimination. As long as the basic principles of the multilateral trading system are fully respected, trade liberalization, both regionally and bilaterally, will not interfere in any way, but rather strengthen the benefits of the multilateral trading system.

Preamble

The most significant phenomenon in Turkey's foreign trade policy is the Customs Union established between the EU and Turkey as of 01.01.1996. This development initiated the period needed for the legal infrastructural consistency of foreign trade strategy with the EU's norms, and thus both import and export regimes have been made consistent with the regulations of the EU.

In accordance with the provisions of the Association Council Decision No.1/95 dated 6 March 1995, Turkey had committed to align itself progressively within five years starting from 1.1.1996. Within the context of the Association Council Decision, Turkey gave priority to preferential agreements with the following countries: Hungary, Bulgaria, Poland, Romania, Slovakia, the Czech Republic, Israel, Estonia, Latvia, Lithuania, Slovenia, Morocco, Tunisia, Egypt and Malta.

To date, The Turkish Government has signed 17 preferential trade agreements and the Free Trade Agreement between Turkey and the EFTA States which came into force in April 1992 was the first step on the way to the adoption of the preferential regimes of the EU.

Other FTAs (Free Trade Agreements) are listed chronologically as follows:

Israel (May 1997),
Romania (Feb. 1998),
Lithuania (March 1998),
Hungary (April 1998),
Estonia (July 1998),
the Czech Republic (Sept. 1998),
Slovakia (Sept. 1998),
Bulgaria (Jan 1999),
Poland (May 2000),
Slovenia (June 2000),
Latvia (July 2000),
Macedonia (Sept. 2000),
Croatia (July 2003),
Bosnia and Herzegovina (July 2003),
The Palestine Autonomous Administration (June 2005),
Tunisia (July 2005),
Morocco (January 2006).

As a result of the accession of Lithuania, Hungary, Estonia, the Czech Republic, Slovakia, Poland, Slovenia and Latvia as full members of the EU, FTAs between Turkey and these countries came to an end after April 30, 2004.

FTA negotiations still continue with Egypt, the Faroe Islands, Lebanon, Albania, and the Republic of South Africa.

In addition to these progresses, the new Customs Law Nr 4458 that is adapted from the EU Customs Code and the new law for combating with smuggling which states to impose pecuniary offence for offenses related to foreign trade has been entered into force.

With the new Customs Law (CL), harmonization with the EU Customs Code has been achieved for the topics listed below;

- Origins of Goods,
- Customs Valuation of Goods,
- Presenting of goods to the Customs Authority,
- Customs Declaration,
- Release for Free Circulation,
- Suspension List
- Customs Procedures with Economic Impact,
- Free Circulation,
- Customs Debt,
- Application

Also important steps have been taken in the automation of customs. French customs software named 'SOFIX' has been purchased, developed and adapted.

99.5% of foreign trade volume is now processed by automated customs authorities. The automation system also allows traders to register their customs declarations by using EDI. By the end of 2005, 70% of customs declarations are registered via EDI.

Automation system enables customs administration to make risk analysis and decrease the physical inspection rate. In 2005, customs formalities of 96% of export declarations and 77% of import declarations were completed in 24 hours. Customs automation system is also a core point for e-state and e-trade activities in Turkey. e.g. Two way electronic communication has been established between revenue administration-customs and between exporter associations-customs.

These progresses are the main impulsive force behind the increase of Turkish foreign trade volume and the attractiveness of Turkey for foreign investors. (Volume of the Turkish foreign trade increased from 67 billion \$ in 1999 to 190 billion \$ in 2005.)

1. Foreign Trade Regime

Undersecretariat for Foreign Trade is assigned to regulate all aspects of foreign trade and Undersecretariat for Customs is tasked with implementation of these regulations at the borders. In addition to these two administrations, Ministry of Finance as a regulatory authority of tax issues and Undersecretariat for Treasury as a regulatory authority of exchange regime are the other institutions that have influence on the foreign trade regime of Turkey.

Main legal documents that constitute the Turkish Foreign Trade and Customs legislation are;

- Customs Law Nr. 4458
- Import Regime Decree
- Export Regime Decree
- Decree on the Regime of Technical Regulations and Standardization
- Law On The Protection Of the Value of Turkish Currency
- Free Trade Zone Law Nr. 3218
- Combating with Smuggling Law Nr. 4926
- Value Added Tax Law Nr. 3065
- Special Consumption Law Nr. 4760

In terms of country, types of trade or nature of goods, some kinds of documents such as control certificate or export/import permissions may be required for importation into or exportation from Turkey.

These documents are issued by below mentioned administrations in line with the nature of goods;

- Ministry of Environment and Forestry
- Ministry of Agriculture and Rural Affairs
- Ministry of Health
- Ministry of National Defense
- Ministry of Industry and Commerce
- Ministry of Interior
- Undersecretariat for Foreign Trade
- Energy Market Regulatory Authority
- Turkish Standardization Institute
- Turkish Atomic Energy Authority
- Telecommunications Authority
- Exporter Associations

2. Import Regime

Turkey maintains a transparent and open trade regime regulated by Undersecretariat for Foreign Trade (UFT).

Import Regime Decree is prepared every year by UFT, published in the Official Journal, dated 31 December, and came into force as of 1 January.

2.1. Importers

Every natural or legal person that owns tax ID number can be an importer. However according to customs legislation, importers must submit an information file that includes, registration certificate for council of commerce or industry, copy of Trade Registry Gazette, list of authorized signatures and power of attorney to the related customs administration¹.

2.2. Import Regime Decree

The Import Regime reflects both Turkey's international rights, obligations and the country's economic needs, it has been prepared by taking into account the agreement establishing the World Trade Organization (WTO), the Customs Union Agreement between Turkey and the European Union, the free trade agreements signed with various countries, the preferential treatments granted by Turkey to the least developed countries and some developing countries within the framework of generalized system of preferences and also the specific needs and requirements of the agricultural and industrial sectors.

There are 5 lists that are annexed to the Import Regime Decree; goods are classified in the list I, II, III and IV according to their features and list V contains goods that are suspended. In these lists (I, II, III, IV), rates of the customs duties for countries and country groups are indicated separately in different columns.

List I	Agricultural products
List II	Industrial products,
List III	Processed agricultural products,
List IV	Fish and fishery products,
List V	Suspension products.

If the goods are listed in both list II and V, lower duty rate is applied.

The customs duty rates applied on the industrial components of the processed agricultural products which are indicated in List III are aligned to the EU's common customs tariff rates.

Regarding the provisions of the Decision No:1/95 on the EU-Turkey Customs Union, Turkey has to apply simultaneously the EU common external tariff (CET) for most imports of industrial products and for the industrial component of processed agricultural products imported from the third countries. In this context, tariff reductions of the EU's towards the third countries are reflected by Turkey to the products covered in List: II of the Import Regime Decree.

¹ This kind of file must be submit also by exporters

2.3. GSP of Turkey

According to the provisions of the Customs Union Agreement, Turkey had to align its preferences with the EU's preferences under the Generalized System of Preferences (GSP) which regulates autonomous customs duty preferences in favor of the least developed countries and some developing countries. The EU's such tariff preferences to these countries are reflected in list II of the Import Regime Decree.

Turkey enacted a Decree on August 25, 2004 and with this Decree all industrial products covered by the EU's GSP Regime are included into Turkey's GSP. As a result, Turkey has fully completed the adoption of the EU's GSP Regime in terms of countries and products.

2.4. Suspension List

The "suspension list" has been rearranged in cooperation with the EU and those goods are indicated in List-V. This List shows either reduced or mostly suspended customs duties applied to imports of certain products predominately used as raw material or intermediate inputs in chemical and electronic industries.

2.5. End Use Products

End use products of the European Union, has been indicated in Lists I, II and V with the symbol (a) added to the end of the item description.

2.6. Import Licenses

As a general rule, import licenses or permits are not required for imported goods. Yet, public authorities have the power to regulate and monitor the imports of certain goods on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants or the protection of industrial and commercial property. These kinds of issues are arranged by several communiqués which are also published in Official Gazette.

Import licenses or permits required under the Import Regime Decree and Communiqués are as follows.

Number of Import Communiqué	Product Coverage	Rationale	Competent Authority
2006-2	War Weapons and parts thereof	Public Security	Military and Security authorities
2006-3	Radio Radioactive substances and apparatus using such substances	Public security / Public health	Turkish Atomic Energy Authority
2006-4	Certain communication apparatus	Public security	Telecommunications Authority
2006-5	Maps and similar documents	Public security/ Public policy	Turkish Naval Forces for imports of sea maps; Ministry of National Defense, General Command of Mapping

2006-6	Products which can only be imported with a guarantee certificate	Consumer Protection	Ministry of Industry and Trade
2006-7	Motor vehicles	Public security / Road safety	Ministry of Industry and Trade
2006-8	Products used in civil air crafts	Public security	General Directorate of Civil Aviation
2006-10	Banknotes and similar commercial papers	Public Security	Undersecretariat of Foreign Trade 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	Products which affect workers' health and work security	Public Security	Ministry of Labor and Social Security
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	Fertilizers	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
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 Regime Decree (Art.7)	Old, used, renovated, faulty (defective) goods	Public Policy	Undersecretariat of Foreign Trade

2.7. Products Prohibited From Import

Description 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)
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)

2.8. Price Policy in Turkey

As a general rule, the prices are determined under the free market conditions in Turkey. However, for a limited number of products, special pricing mechanisms are in place;

2.8.1. Alcoholic Beverages

According to Article 1 of Law No.4250 on Alcohol and Alcoholic Beverages, authorization of pricing of the products except beer and wine in production, and except whiskey and natural sparkling wine in importation belongs to the Tobacco, Tobacco Products, and Alcoholic Beverages Market Regulatory Authority (Tobacco and Alcohol Authority).

Except beer and wine, on the condition that the alcoholic beverages producers that fulfill the production requirement by setting up the facility with at least one million liters (it is reduced to 600.000 litres in 2006) annual production capacity and receive production permit, in one calendar year do not reach the production quantity stated at the No. 4250 Law, the pricing and distribution authorization passes to the Authority. The retail sale price of each of the products in terms of brand and package whose pricing authorization is held by the Authority are determined. Except whiskey and natural sparkling wine, the firms that reach the quantity that is stated at the No.4250 Law (for 2006, 600.000 litres) are able to freely price and distribute the alcohol and alcoholic beverages that they have imported within the concerned calendar year and the year following the year in concern.

The retail prices offered by firms in the form of tables are sent to the Authority. The evaluation is made by taking into consideration the portfolio data that is concerned with the subject and market conditions. From the prices that are determined, the firms, on the condition that they have literally notified to the Authority, may increase or decrease the price within the 10% limit. Concerning the changes beyond this proportion, firms re-arrange the selling price tables and notify to the Authority with the reasons of the change. Until today, all price offers that are received as firm offers are welcomed in the same manner.

2.8.2. Pricing For Pharmaceuticals

Pricing of medicinal products for human use is carried out according to the "Decree on the Pricing of Medicinal Products for Human Use", which was published in the Official Gazette No. 25373, dated 14.2.2004 and entered into force on the same day. This Decree establishes a reference pricing system.

On the other hand, categorization of profit margins for retail pharmacies and wholesalers are laid down in relevant Communiqué of 3 March 2004, which was published in Official Gazette No. 25391 (as amended by Communiqué of 22 April 2004 published in Official Gazette No. 25441). Sale of human medicinal products whose prices are above the stated retail prices is not allowed.

2.9. Technical Regulations and Standardization for Import

The Undersecretariat for Foreign Trade prepared the "Ministerial Decree on the Regime of Technical Regulations and Standardization for Foreign Trade" and its supplementary legislation.

The "Decree on the Regime of Technical Regulations and Standardization for Foreign Trade" is in conformity with the requirements laid down in the Agreement on Technical Barriers to Trade of the World Trade Organization. It prohibits discrimination among trading partners and it aims to ensure that import products comply with the requirements of protection of human health and safety, animal or plant life or health, or the environment.

The Regulation as a supplementary legislation is related with the controls of the agricultural products to be exported within the scope of the standards mandated in exports. The Regulation also determines the framework of the import controls, which are regulated by communiqués in more detail.

Explanations related to standardization controls at exportation are available in the relevant chapter.

For certain products, a control certificate is required. The relevant Ministries perform a documentary control prior to the import stage and issue a control certificate. These certificates are valid for a stated period from 4 to 12 months and for a stated quantity of imported goods. Within the limits of time and quantity the importer may use this control certificate for multiple imports.

Under Communiqué 2006/1, the Turkish Standards Institute (TSE) is designated to carry out conformity assessment for some industrial products at the import stage according to national mandatory standards. This means that the importer has to go to TSE upon his customs declaration. After testing or analyzing (if necessary) the samples of products, TSE issues a certificate of conformity if the product complies with the relevant standard. There are exemptions from testing procedures, such as CE-marked products coming from the EU. When goods arrive at the border the custom officers check the presence of the required conformity or control certificates, if due, and release the goods for free circulation into Turkey.

Under the Technical Regulations and Standardization Regime, the following certificates/permits are required at the importation stage.

Number of Communiqué	Products Covered	Competent Authority	Implementation
2006/1	Construction products; gasoline and diesel; automotive products; pressure equipments; gas appliances; lifts; batteries; lighters; feeding bottles; ethyl alcohol etc.	Undersecretariat for Foreign Trade Implemented by: TSE	- National standards or their equivalents (ISO, CEN, ENELEC or ETSI) applicable - Products from EU and certified according to EU legislation are exempt from physical checks (CE, "e" etc.) - Certificate of conformity is Required

Number of Communiqué	Products Covered	Competent Authority	Implementation
2004/9 and 2004/22	Products under Medical Devices, LVD, EMC, Machinery Directives	Ministry of Industry and Trade Ministry of Health Implemented by: TSE	- Only products coming from outside EU are subject to border controls - Certificate of conformity is Required
2006/3, 2006/6 and 2006/7	Waste materials, chemicals, fuels	Ministry of Environment and Forestry	- Partly based on international agreements - Some products are prohibited from import - Control certificate is required
2006/4	Narcotic and psychotropic materials regulated with international agreements; Medicinal products (raw, semi-final and final) for human use; medical devices (in-vitro); baby foods; drinking water and relevant products	Ministry of Health	- Partly based on international agreements - Some products are prohibited from import - Control certificate is required
2006/5	Biological products such as serum materials; livestock and veterinary products; phytosanitary products; feed products; medicinal products (raw, semi-final and final) for animal use; foodstuffs including spirit drinks; other agricultural and fishery products	Ministry of Agriculture and Rural Affairs	- Control certificate is required
2005/7	Alcoholic beverages, tobacco and tobacco products	Tobacco and Alcohol Authority	- To ensure market regulation in the sector - Certificate of conformity is required
2005/23	Cosmetics	Ministry of Health	- No pre-market access control - Notification of products to be placed on the market for the

2.10. Marking and Labeling of Imported Goods

There is a national mandatory standard "TS 4331 on The Marking and Labelling of Packages" which is still in force. However, this standard does not differentiate between domestic and imported products.

2.11. Other Legislation Related to Import

In addition to the above mentioned, there are legislations (they are also decrees and supplementary legislations) related to safeguards, protection of Turkey's commercial rights and prevention of unfair competition that takes root from import.

3. Export Regime

Turkey has been implementing an export-oriented strategy since 1980s, therefore many liberal arrangements have been made and some support programs have come into effect in order to improve export of Turkey.

Related to particularly support of exports, policies of the foreign trade strategy that was set up under the conditions of 1980s have been reviewed and modified in view of the developments taken place in the world and Turkey in the 1990s. In this respect, State Aids prepared in compliance chiefly with the World Trade Organization and our international commitments were put into practice as of 01.06.1995.

Contemporary Export Regime is regulated by; Export Regime Decree dated 06.01.1996, Decree on State Aids for Export dated 11.01.1995, Inward Processing Regime Decree dated 27.01.2005, export related provisions of Decree on Regime of Technical Regulations and Standardization for Foreign Trade dated 01.02.1996, and their supplementary legislations.

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. However 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.

Exports of some items are prohibited like indian hemp, cultural and natural assets, etc. and permission is required for the exports of some items like war weapons, opium, addictive and psychotropic substances, etc.

Moreover, some exports are subject to registration under UN Resolutions, Vienna Convention on Protection of Ozone Layer, etc.

3.1. Exporters

Every legal person, natural person or joint-venture that owns tax ID number and is a member of related exporter association can be an exporter.

3.2. Exporter Associations

Exporters' Associations are professional establishments, which deal with all of the export activities at the export intensive regions. They have very important roles in export system of Turkey. There are 59 Exporter Associations and 13 General Secretariat of Exporter Associations all around the Turkey.

They are affiliated to Undersecretariat for Foreign Trade, but since their board of directors is elected from the representatives of member firms, they are evaluated as semi-governmental organizations.

All export declarations should be approved by related exporter association before they are submitted to the customs authorities. Exporters can submit their declarations to both customs administrations and associations by EDI. Since there is a data line between customs server and exporter associations, it is not necessary for exporters to send their customs declarations physically to associations for approval.

3.3. Types of Exportations

Types of exportations that are defined in the Export Regulation are;

- Exports having no special nature
- Exports on registration
- Exports on credit
- Exports by means of consignment
- Exportation of imported goods
- Exportation to free zones
- Exportation made through counter purchase or barter trade
- Exports through leasing
- Transit trade
- Exports without returns

3.4. Technical Regulations and Standardization for Export

According to the Decree on the Regime of Technical Regulations and Standardization, agricultural products such as fresh fruits and vegetables, dry and dried fruits, legumes, edible vegetable oils, and cotton within the scope of approximately 70 standards are subject to standardization and commercial quality controls in exports.

These controls are carried out by the inspection units called as “Inspectorates of Standardization for Foreign Trade”, within the 8 Regional Directorates (Marmara, Western Anatolia, South Anatolia, Eastern Black Sea, Western Black Sea, South Eastern Anatolia, Central Anatolia and Eastern Anatolia) working under the UFT.

The standards that are mandatory in exports are parallel to the UN/ECE standards and the inspections are performed according to the OECD Scheme. Following the inspection carried out by the inspectors, a “Control Certificate” is given to the exporter if the product is found to be in conformity with the relevant standard. The exporter cannot export the product without a Control Certificate.

The products may be exempted from inspection if the exporter owns the Certificate of Competence on Commercial Quality Inspection. Certificate of Competence on Commercial Quality Inspection is a certificate issued by the UFT for the producers who are found to be competent to carry out the inspections by themselves. These firms are subject to periodic and random controls by the Inspectorates.

4. Customs

4.1. Scope and Basic Definitions

The scope of the Customs Law is to lay down the customs rules that shall apply to goods and means of transport entering into and exiting from the Customs Territory of the Republic of Turkey.

According to the Customs Law;

'The Customs Territory of Turkey' is the territory of the Republic of Turkey and The Customs Territory also includes the territorial waters, the inland maritime waters and the airspace of Turkey.

'Person' means a natural person, and a legal person, as well as where possibility is provided for under the rules in force, an association of persons recognized as having the capacity to perform legal acts but lacking the legal status of a legal person.

'Customs-approved treatment or use of goods' means:

- the placing of goods under a customs procedure;
- their entry into a free zone;
- their re-exportation from the Customs Territory of Turkey;
- their destruction;
- their abandonment to the Exchequer;

'Customs procedure' means:

- release for free circulation;
- transit;
- customs warehousing;
- inward processing;
- processing under customs control;
- temporary admission;
- outward processing;
- exportation;

'Goods' means all kinds of material, product and value.

4.2. Representation

According to article 5 of the CL; any person may appoint a representative in his dealing with the customs administrations to perform the acts and formalities laid down by the customs legislation.

Such representation may be direct, in which case the representative shall act in the name of another person, or indirect, in which case the representative shall act in his own name but on behalf of another person.

A representative must state that he is acting on behalf of the person represented, specify whether the representation is direct or indirect and must produce the evidence of his powers to act as a representative.

Activities regarding the goods being assigned one of the customs-approved treatments or uses can be proceeded and concluded through direct representation by the owners of goods and by those who act on their behalf; or through indirect representation by the customs certified customs brokers.

4.3. General Customs Procedures and Necessary Documents

When a customs declaration is submitted by a declarant or his representative, it is obligatory to produce the original invoice and the value declaration form of the import goods before the printed-out customs declaration has been given to the customs administration. In addition to these, facultative or depending on the situation, a freight invoice and/or insurance policy in accordance with the terms of payment, a Bill of Lading or Bill of Carriage, a packing list, or in the case the application of the provisions of release for free circulation procedure is subject to preliminary authorization or where the declarant wants to take advantage of the preferential tariff, a control document or a certificate of origin, or other documents required under special provisions such as the declaration form for processed agricultural products, should accompany the declaration to be produced to the Customs Administration.

The documents to be attached to the declaration and/or produced before the submission of goods or, in some cases, before the day on which customs liabilities occur are dependent on and/or subject to the nature of the goods, the country or country group the goods are exported to, bilateral or multilateral Agreements, terms of delivery, terms of payment, origin, and the measures laid down by special provisions pertaining to trade, i.e. liabilities arising from international agreements on trade of goods, or special arrangements designed by relevant agencies in accordance with laws, decrees, regulations and similar legislation.

Additionally, certain specialised customs offices have been established to realize more effective customs control in terms of valuation, tariff and standardization. Some goods must be imported only from these specialized customs offices.

Goods may be unloaded from means of transport at places designated or approved by Customs, and under authorization given by the customs office concerned.

No goods may be unloaded without producing a summary declaration or another commercial or official document used as summary declaration. However, in the case of an unavoidable danger where the goods have to be fully or partially unloaded in urgency, an authorization may not be required. Such cases must be reported without delay to the nearest customs office.

4.4. Keeping Legal Documents

All the documents and information must be kept for a period of 5 years for the purposes of control by the customs authorities.

4.5. Customs Tariff and Tariff Classification of Goods

Harmonized Commodity Description and Coding System, which is ratified on 10.11.1988 published in Official Gazette and entered into force on 01.01.1989, is a legal basis of Turkish Customs Tariff.

Turkish Tariff Nomenclature (TTN) is published by Undersecretariat for Customs every year as a Decree and enters into force as of 1st of January. TTN has four columns including tariff codes, description of the goods, supplementary units and conventional duty rates.

As a result of Customs Union between Turkey and EC; Turkey eliminated all customs duties applied to imports of industrial products from the EC and started to apply Community's Common Customs Tariff for imports from the third countries

Legislation applied for Tariff Classification of Goods are listed below;

- HS Nomenclature and Legal Notes
- HS Explanatory Notes
- HS Alphabetical Index
- HS Committee Decisions
- HS Classification Opinions
- Turkish Tariff Nomenclature
- Combined Nomenclature
- EC Classification Decisions (27 Regulations)

and references used in tariff classification of goods are

- CN Explanatory Notes
- EC Classification Decisions
- WCO Commodity Database
- EU Database (EBTI, TARIC, ECICS)

4.5.1. Binding Tariff Information (BTI)

Binding Tariff Information are issued by Directorate General of Customs, it is binding in Turkey and valid for 6 years.

4.6. Origins of Goods

Customs Law refers to two different kinds of rules of origin;

Non-Preferential Rules of Origin
Preferential Rules of Origin

According to Article 19 of CL; goods whose production involved more than one country is deemed to originate in the country where; a new product was manufactured, or the goods underwent their last, substantial, economically justified processing and the important stage of manufacture was done.

4.6.1. Origin Rule for Textile Products

If the products are not wholly obtained; the rule "working or processing" is applied for textile products mentioned in Annex 4 of the Implemented Regulation of Customs Law (IRCL). "Working and processing" is described in column 3 of Annex 4.

For the textile products that are not mentioned in Annex 4 of IRCL, the rule "Change of Tariff Heading (CTH)" is applied.

4.6.2. Origin Rule for Other Goods

If the products are not wholly obtained; the rule "working or processing" is applied for products mentioned in Annex 5 of IRCL and the rule "last substantial processing or working" is applied for products which are not mentioned in Annex 5 of IRCL.

4.6.3. Preferential Rules of Origin

Preferential rules of origin lay down the conditions governing acquisition of origin which goods must fulfill in order to benefit from the preferential regime (either reciprocal or autonomous) of Turkey.

According to Article 22 of CL, rules of origins; for goods that will be benefited from the preferential regimes are determined in accordance with agreements, for goods benefited from preferential tariff measures covered by the autonomous trade arrangements determined in accordance with the Council of Ministers Decrees (Decree).

4.6.4. Preferential Trade Scheme of Turkey

Bilateral Trade Arrangements;

- Free Trade Agreements with third countries
- Free Trade Agreement with the EC for the ECSC (European Coal & Steel Community) products
- Decision No. 1/98 of the EC-Turkey Association Council for agricultural products

Autonomous Trade Arrangement;

- Generalized System of Preferences (GSP)

4.6.5. Trade Regime Between Turkey and the EC

Industrial and Processed Agricultural Products	Agricultural Products	ECSC Products
Decision No. 1/95 of the EC-Turkey Association Council (Customs Union Decision)	Decision No. 1/98 of the EC-Turkey Association Council	Free Trade Agreement of 1996
Based on Free Circulation (Not based on origin)	Based on Preferential Origin	Based on Preferential Origin
A.TR Movement Certificate	EUR.1 Movement Certificate	EUR.1 Movement Certificate
Decree on Application of Customs Union established between Turkey and the EC	Implementing Regulation on Proofs of Origin concerning the Trade of Agricultural Products between Turkey and the EC	Implementing Regulation on Determination of the Preferential Origin of the Goods

4.6.6. Trade with Third Parties

Article 16 of EC-Turkey Association Council (Customs Union Decision) states that "Turkey shall align itself progressively with the preferential customs regime of the Community within five years as from the date of entry into force of the Decision".

This alignment concerns both the autonomous regimes and preferential agreements with third countries. Within the context of Article 16, Turkey has concluded free trade agreements with countries/groups of countries and autonomously granted preferences for the developing and the least developed countries in the framework of GSP.

Origin protocols of Free Trade Agreements are based on;

Bilateral Cumulation
 Pan-European Cumulation (Diagonal)
 Pan-Euro-Med Cumulation (Diagonal & Full)

Turkey has signed agreements with countries or country groups below;

EFTA ECSC (with the EC) Israel Romania 1/98 (with the EC) Bulgaria Syria(not entered into force)	Croatia Bosnia-Herzegovina Macedonia Morocco Palestine Tunisia Egypt (not entered into force)
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4.6.7. Proofs of Origin

4.6.7.1. Certificate of Origin

Certificate of origin corresponding with the model of Annex 6 of IRCL is used both for import and export of the product.

4.6.7.2. EUR.1 and EUR-MED Movement Certificates

Issued by the Chambers of Commerce and Industry and endorsed by the Customs Authorities on application by the exporter

EUR.1 Movement Certificates for fishery products exported to the EC are issued and endorsed by the Customs Authorities.

4.6.7.3. Invoice Declaration and Invoice Declaration EUR-MED

Invoice declaration can be made out by any exporter for consignments of a value less than € 6.000 or can be made out by only "approved exporter" for consignment of a value higher than € 6.000.

4.6.7.4. Certificates of Origin Form A

Form A is used by the beneficiary countries for preferences granted under the scheme of GSP.

4.6.7.5. Supplier's Declarations and INF 4 Certificates

Supplier's declaration is used to establish the preferential origin of the goods which are in free circulation in the Customs Union area between Turkey and the EC.

INF 4 certificate is used for the verification of supplier's declaration

4.6.8. Binding Origin Information

Binding Origin Information is issued by Directorate General of Customs. It is issued on request of the applicant and both for export and import. It valid for 3 year and can be revoked by customs authority.

4.6.9. Goods Which Shows or Rises A Suspicion That They Are Products of A Country Other Than Their Producer Countries.

It is not permitted the importation of

- Goods having a name or sign, either on themselves or their inner or outer coverings, which shows or rises a suspicion that they are products of a country other than their producer countries.
- All kinds of blank envelopes, tapes, labels, stamps and likewise goods with prints or writings in foreign languages on them which shows or rises a suspicion that they are products of a foreign country into Turkey in order to be used for goods of Turkish origin and, with the exception of the proforma invoices of foreign firms not established in Turkey, the importation of blank invoices to Turkey, either signed or not, which may make documents issued in Turkey seem as issued in other countries.

Such goods of the firms established in Turkey and of the foreign firms which have signed agreements of license, royalty or patent, are not subjected to above mentioned provisions.

4.7. Customs Valuation

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade that replaced the GATT Valuation Code and which aims to provide a single and common system for the valuation of imported goods for customs purposes was accepted in 1988 by Turkey and it began to be implemented as of 12.2.1994.

Turkey harmonized customs valuation provisions with that of the EC in line with the provisions of Article 28 of the EC Turkey Association Council Decision No. 1/95. Therefore, provisions related to customs valuation in CL are in accordance with the relevant provisions of the Council Regulation No. 2913/92.

4.7.1. Customs Valuation Methods

Customs valuation of the imported goods is determined according to the following methods and these methods are applied in order of their hierarchical sequence;

1. Transaction value method
2. Transaction value of the identical goods method
3. Transaction value of the similar goods method
4. Deductive method
5. Computed value method
6. Fallback method

4.7.2. Simplified Procedures in Customs Valuation

According to the provision of article 31/2 of CL; customs value of perishable goods, may be determined under simplified procedures at the request of the declarant.

Article 45 of IRCL regulates the implementation of simplified procedures on customs valuation. According to Article 45, for the perishable goods, it is possible to declare the items which are to be added to the price actually paid or payable for the determination of the customs value after importation to Turkey.

4.8. Summary Declaration and Unloading of Goods Presented to Customs

According to the provisions of CL, goods presented to customs should be covered by a summary declaration and the summary declaration must be lodged to the concerned customs administration within working hours of the first working day following the date on which the goods are presented to customs.

Where goods are covered by a summary declaration, the formalities necessary for them to be assigned a customs-approved treatment or use must be carried out within:

- 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;
- 20 days from the date on which the summary declaration is lodged in the case of goods carried otherwise than by sea.

4.9. Temporary Storage of Goods

Until the goods are assigned a customs-approved treatment or use, they have the status of goods in temporary storage.

Goods in temporary storage can be stored only in places approved by the customs administrations.

Customs administrations may require the person holding the goods in temporary storage to provide security with a view to ensuring payment of any customs debt which may arise.

Goods in temporary storage can be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

4.10. Protection of Intellectual and Industrial Property Rights at Customs

Under the legislation of protection of intellectual and industrial property rights, regarding the rights of trademarks, geographical indications and industrial designs and the rights covered by the Law of Intellectual and Artistic Work; at the request of the right holder or his representative or by their own initiative and where solid evidence is available that goods in question complies with the description of the counterfeit trademark or pirated copyright goods, customs administrations may suspend the customs procedures of the goods infringing the rights of the persons concerned. If a suspension decision is adopted, the importer or the right holder or his representative is noticed by custom authority.

If the customs administration has not been informed that legal proceedings leading to a decision on the merits of the case have been initiated or that the duly empowered judicial authority has taken provisional measures within a period of 10 days following the notification to the right holder, customs procedures are carried out in accordance with the request of the declarant.

4.11. Placing of Goods Under a Customs Procedure

All goods intended to be placed under a customs procedure should be covered by a declaration for that customs procedure.

The customs declaration can be made:

- in writing; or
- using a data-processing technique; or
- orally; or
- by means of any other act whereby the holder of the goods expresses his wish to place them under a customs procedure.

A declaration that is registered by the customs administration binds the declarant as a commitment, with regard to the duties and fines to which it refers and it is the base to assess the customs duties.

4.12. Simplified Procedures

Simplified procedures system facilitates customs formalities for the firms certified as Customs Approved Persons (CAP) by the customs authority. It is a layered system and CAPs are classified according to their export or export-import performance, number of employees they employ etc. in three groups as;

- A Class Customs Approved Person,
- B Class Customs Approved Person,
- C Class Customs Approved Person,

Facilitated Issues	A Class	B Class	C Class
Declaration with incomplete document or information	✓	✓	✓
Benefiting from some simplified procedures for all kinds of goods	✓	✓	✓
Partial Security	✓	✓	✓
Flat – rate security	✓	✓	
Authorization to order ATR Certificate	✓	✓	
Post Control	✓	✓	
Entering related customs procedure by means of entry in the records.	✓		

4.13. Release For Free Circulation Regime

According to the article 74 of the CL, goods that came to the Customs Territory of Turkey can be released for free circulation, as long as the commercial policy measures are applied, the other formalities laid down in respect of the importation of goods are completed and any duties legally due are charged.

4.14. Transit Regime

Transit regime is defined in CL as movement of goods in the Customs Territory of Turkey from;

- A foreign country to a foreign country
- A foreign country to Turkey
- Turkey to a foreign country
- An inland customs office to another inland customs office

Transit goods can be moved in Customs Territory of Turkey with the documents listed below;

- Transit declaration
- TIR carnet
- ATA carnet
- NATO form 302
- Post
- Summary declaration for goods carried out by sea or air from a Turkish port to another Turkish port or to a port outside the Customs Territory of Turkey

4.14.1. Security in Transit Regime

According to the CL, security for transit should cover the full amount of customs debt (duties and other charges). There are 3 different types of securities;

- Security for single transit operation
- Turkish Lira in Cash
- Letter of guarantee issued by a bank or private financial institutions
- Treasury bills or bonds
- Foreign currencies
- Comprehensive security that covers number of transit operation
- Global security that covers number of transit operation

4.15. Bonded Warehouse Regime

According to the CL, it is possible to store goods not in free circulation in bonded warehouses without being subject to import duties or commercial policy measures.

There is no limit to the length of time for remaining of goods in bonded warehouses.

CL defines two types of bonded warehouse as; public bonded warehouse and private bonded warehouse; public bonded warehouses are available for use by any person and public bonded warehouses are reserved for only the storage of goods by the warehousekeepers. The fairs and exhibitions where goods not in free circulation are exhibited are deemed as private warehouses.

Import goods may undergo the usual forms of handling for preserving them, improving their appearance or marketable quality or preparing them for distribution or resale.

The cost of warehousing and of preserving goods while they remain in the warehouse, needs not be included in the customs value if they are shown separately from the price actually paid or payable for the goods, however these costs must be added to the tax base of VAT.

4.16. Inward Processing Regime

IPR is a system allowing Turkish manufacturers/exporters to obtain raw materials, intermediate unfinished goods that are used in the production of the exported goods without paying customs duty and being subject to commercial policy measures. Having granting IPR authorization, the owner of the IPR authorization is obliged to import goods stated on authorization and export them after processing the imported goods. The basic endeavor of the IPR is to maintain materials at the world market prices and enhance the competitiveness of Turkish exporters.

IPR can be implemented in two different ways.

Suspension System: In suspension system; goods not in free circulation, which is intended for re-export from Turkey in the form of compensating products, can be imported temporarily after having them covered under a security. When the goods are exported in the form of compensating products, the security is returned.

Drawback System: In the case goods released for free circulation are exported from Turkey in the form of compensating products, the import duties collected while they were released for free circulation are returned.

Authorization certificate can only be granted to the firms which apply for via internet and can submit necessary documents to Undersecretariat for Foreign Trade (UFT) via General Secretaries of Exporters Associations. Necessary documents are inward processing project form, table of raw materials, list of authorized signatures, petition, trade registration journal, capacity report and other technical documents in some special cases.

The firms which have granted an authorization certificate should have to import and export goods without paying any kind of custom duties and fees within the period stated on the authorization certificate. This period of discharge cannot be longer than 12 months. However, for some special production facilities the time can be given up to 24 months. The period of discharge can be extended maximum half of the period stated on the authorization certificate due to the force major situations.

4.17. Processing Under Customs Control Regime

The procedure for processing under customs control allows goods not in free circulation to be used in the Customs Territory of Turkey in operations which alter their nature or state, and without their being subject to import duties or commercial policy measures, and allows the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them.

Authorization for processing under customs control is granted by the customs administrations at the request of the person who carries out the processing or arranges for it to be carried out.

4.18. Temporary Importation Regime

The temporary importation regime is defined in the CL as follows: "The temporary importation procedure shall allow use in the customs territory of Turkey, with total or partial relief from import duties and without their being subject to commercial policy measures, of goods not in free circulation intended for re-export without having undergone any change except normal depreciation due to the use made of them".

In accordance with the provisions of the CL governing the temporary importation procedures, the use of the temporary importation procedure with partial relief from import duties is granted in respect of goods which, while remaining the property of a person established outside the customs territory of Turkey, are not covered by the provisions of Council of Minister's Decree No. 2000/69 or which are covered by such provisions but do not fulfill the conditions provided for therein for the grant of temporary importation with total relief provided that the amount of import duties payable in respect of goods placed under the temporary importation procedures is set at 3% for every month and the remaining amount is secured.

Authorization for the temporary importation of the property of a person established outside the customs territory of Turkey, and the goods which are covered under special conditions laid down in the provisions of Council of Minister's Decree No. 2000/69 which defines "Special Conditions for the Temporary

Importation Procedures with Total Relief from import duties” and not covered by the provisions of the said Decree or covered by the provisions of the said Decree but do not fulfill the conditions provided for therein for the grant of temporary importation with total relief or required to use the temporary importation procedures with partial relief, is granted by the relevant customs office at the request of the person who uses the goods or enables for them to be used.

4.19. The Outward Processing Regime

The outward processing procedure allows goods in free circulation to be exported temporarily from Turkey in order to undergo processing operations and the products resulting from those operations to be released for free circulation with total or partial relief from import duties.

The authorization specifies the period within which the compensating products must be reimported into Turkey. They may extend that period on submission of a duly substantiated request by the holder of the authorization.

The import duties is effected by deducting from the amount of the import duties applicable to the compensating products the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported from the country in which they underwent the last processing operation.

The amount to be deducted is calculated on the basis of the quantity and nature of the goods in question on the date of acceptance of the declaration placing them under the outward processing procedure and on the basis of the other elements of charge applicable to them on the date of registration of the declaration relating to the release for free circulation of the compensating products.

Where the purpose of the processing operation is the repair of the temporary export goods, they are released for free circulation with total relief from import duties where it is demonstrated that the goods were repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect. However, this provision does not apply where account was taken of the defect at the time when the goods in question were first released for free circulation.

4.19.1. Outward Processing with Use of the Standard Exchange System

The standard exchange system permits an imported product (replacement product) to replace a compensating product. The customs administrations allow the standard exchange system to be used where the processing operation involves the repair of goods in free circulation other than those subject to the agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

If a security is provided to cover the amount of import duties, replacement products may be permitted to be imported before the temporary export goods are exported.

Replacement products must have the same tariff classification, be of the same commercial quality and possess the same technical characteristics as the temporary export goods had the latter undergone the repair in question.

Where the temporary export goods have been used before export, the replacement products must also have been used products. However derogation may be granted if the replacement product has been supplied free of charge either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

4.20. Export Procedure

According to the CL, export goods is deemed they were actually exported on condition that they were removed from the customs control and leave the Customs Territory of Turkey in the same state when the export declaration was registered. In this case the customs control on the export goods ceases.

4.21. Re-exportation, Destruction and Abandonment

Related provisions of CL allow to goods not in free circulation re-exported from the Customs Territory of Turkey.

CL is also allows destruction or abandonment of goods not in free circulation, however only under the supervision of the customs administrations and with no expense for the Exchequer.

4.22. Returned Goods

Goods in free circulation which, having been exported from Turkey are returned to Turkey and released for free circulation within a period of three years is, at the request of the person concerned, granted relief from imported duties

However, above mentioned relief from import duties is not granted for goods which have benefited from the foreign trade measure in its exportation.

4.23. Security

If the customs administrations require security to be provided in order to ensure payment of a customs debt, such security can be provided by the person who is liable or who may become liable for that debt. Customs administrations may also allow security to be provided by a person other than the person from whom it is required.

The security is not released until the customs debt is extinguished. Once the customs debt has been extinguished in part, part of the security can be released at the request of the person concerned,

4.24. Repayment and Remission of Duties

Customs duties are repaid in so far as it is established that when they were paid the amount of such duties was not legally owed. Customs duties shall be remitted in so far as it is established that when they were illegally assessed.

However; no repayment or remission is granted when the facts which led to the payment or entry in the accounts of an amount which was not legally owed are the result of deliberate action by the person concerned.

Customs duties shall be repaid or remitted on submission of an application to the appropriate customs office within a period of three years from the date on which the amount of those duties was communicated to the debtor.

Customs duties paid on the basis of a declaration are repaid on request of the person concerned by invalidating the customs declaration.

As of the registration date of the declaration, import duties is repaid or remitted insofar as it is established that the amount of such duties entered in the accounts relates to goods placed rejected by the importer because they are defective or do not comply with the terms of the contract on the basis of which they were imported. Goods damaged before their release are also accepted as defective.

Repayment or remission of import duties is granted on condition that the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract; the goods are exported from the Turkey. The customs administrations may permit the goods to be destroyed or to be placed, for the purposes of their re-exportation, under the transit procedure or the customs warehousing procedure or in a free zone, instead of being exported.

For the purposes of being assigned one of the customs-approved treatments or uses provided for in the preceding subparagraph, the goods shall be deemed to be the goods not in free circulation.

Customs duties may be repaid or remitted in situations other than those referred above under conditions to be laid down by the Council of Ministers within the framework of the provisions of international agreements to which Turkey is a party.

4.25. Penalties

There are 2 types of penalties have been defined in CL;

- Penalties to be charged on operations that result in tax loss
- Fines relating to irregularities

It is not important for the application of fine whether the act which entails a fine is deliberate or not.

4.25.1. Penalties To Be Charged On Operations That Result In Tax Loss

As a result of any declaration, examination and control or release relating to goods subject to free circulation procedure or temporary relief arrangement;

(a) Apart from the existing duties, a threefold of these duties shall be charged as fine in the case that any discrepancy occurs in the nature and characteristics of goods affecting the tariff treatment or in such measurements of goods as number and weight which are subject to taxation; and provided that the difference between the duties calculated pursuant to declaration, and the duties to be charged in accordance with the examination results, exceeds 5%.

(b) Apart from the customs duties regarding the deficit, a threefold of these duties shall be charged as fine in the case that the examinations and controls have demonstrated that the declared value of the goods subject to ad-valorem duties is deficient when compared with the value determined according to related provisions of CL.

In case of a difference less than 5% and in the deficient value declarations incurred from a formal account error, the customs duty regarding these differences as well as a fine at an amount of one fold of this duty, shall be charged.

Although guarantee has been provided, if the goods wholly or partly removed from warehouses or designated places by the customs administration, without commencing the customs formalities or without the authorization of the customs administration after completing them, threefold of these duties shall be charged as fine as well as export or import duties of the removed goods.

Violation from the provisions regarding the Inward Processing Procedure and the Temporary Importation Procedure; requires the collection of the duties relating to goods. In addition, a fine at the rate of two fold of this duty is charged.

4.25.2. Fines Relating to Irregularities

Without prejudice to the circumstances for which a separate penalty has been assigned, an irregularity fine (172 YTL for 2006) is charged on those who have violated the formats and procedures laid down by the by-laws, regulations, notifications and instructions issued on the basis of CL and the authorities granted therein.

For Example;

Irregularity fine is applied two fold if declarants fails to present, within the prescribed time, the summary declaration or the commercial or official document used as summary declaration.

Irregularity fine is applied four fold if the goods in warehouses are underwent handling without authorization of the customs administrations.

4.26. Appeals

Within 15 days from the notification of the customs duties, the debtors may apply to the customs administration with a petition concerning the correction.

The relevant customs administration decides on the request for the correction within 30 days, and notifies the debtor hereof.

It is possible to appeal against the decisions regarding the requests for correction, administrative decisions, customs duties and penalties within 7 days to the Regional Directorate for Customs to which the decision making customs administration is affiliated.

Where the first decision has been taken in the regional directorate of customs, it can be appealed against that decision to the Undersecretariat for Customs within 15 days.

Any person has the right to appeal judiciary bodies where the Directorate for Customs or Regional Directorate for Customs are located in which the formalities relating to the decisions of the Regional Directorates for Customs and Undersecretariat for Customs are carried out.

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