

GETTING THE
DEAL THROUGH 

Trade & Customs 2019

Contributing editor

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Preface

Trade & Customs 2019

Seventh edition

Getting the Deal Through is delighted to publish the seventh edition of *Trade & Customs*, which is available in print, as an e-book, and online at www.gettingthedealthrough.com.

Getting the Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique **Getting the Deal Through** format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes a new chapter on Colombia and a new article on the World Trade Organization dispute against Russia.

Getting the Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.gettingthedealthrough.com.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editor, Gary N Horlick of Law Offices of Gary N Horlick, for his continued assistance with this volume.

GETTING THE
DEAL THROUGH 

London
July 2018

Turkey

M Fevzi Toksoy, Bahadır Balkı and Ertuğrul C Canbolat

ACTECON

Overview

1 What is the main domestic legislation as regards trade remedies?

Turkey is a party to the General Agreement on Tariffs and Trade (GATT) and the Agreement on Implementation of article VI of GATT 1994. As the Constitution of Turkey requires, domestic law should comply with international agreements. Therefore, the domestic trade remedies available under Turkish legislation are based on and in compliance with the above-mentioned agreements. The main domestic instruments concerning trade remedies of Turkey are as follows: (i) anti-dumping and anti-subsidy rules; (ii) safeguarding and surveillance measures; and (iii) quota implementations. The main legislation in this regard consists of the following:

- Law on Prevention of Unfair Competition in Imports (No. 3,577, as amended);
- Regulation on Prevention of Unfair Competition in Imports (No. 23861);
- Decision on Prevention of Unfair Competition in Imports (No. 99/13482);
- Decree on the Safeguard Measures in Imports (No. 2004/7305);
- Regulation on the Safeguard Measures in Imports (No. 25486);
- Communiqué on Prevention of Unfair Competition in Imports (No. 2008/6); and
- Procedure and Principles of Implementation for Communiqué No. 2008/6 on Prevention of Unfair Competition in Imports.

Refer to www.ekonomi.gov.tr/portal/faces/home/ithalat/ticaret-PolitikasiSav/ticaretPolitikasiSav-Ticaret_Politikasi_Savunma_Araclari_Nedir for the original Turkish texts and to www.tariff-tr.com/ImportLegislation.aspx for the unofficial English texts.

2 In general terms what is your country's attitude to international trade?

Turkey is a member of the WTO, the OECD, the G20 and the United Nations Conference on Trade and Development. Turkey is also an associate member of the EU and is a candidate for full membership. Therefore, Turkey has been adapting its legislation to the EU acquis to be eligible for full membership. The Customs Union between the EU and Turkey requires Turkey to align itself with the preferential customs regime of the EU, which concerns both autonomous regimes and preferential regimes with third-party countries. Therefore, Turkey's free trade agreements (FTAs) with other countries are in line with the customs regime of the EU. Further, Turkey's commercial policy should be aligned with the EU's Common Commercial Policy.

In addition to the Common Customs Tariff, the preferential trade regime applied for third countries constitutes the most important part of the trade policy of Turkey. For the past few years, Turkey has tended to use all trade remedy tools more frequently. Therefore, the number of investigations has increased rapidly. Based on the WTO's Report on G20 Trade Measures of November 2017, during July 2016–June 2017, the number of investigations initiated by Turkey significantly increased compared to July 2015–June 2016 (from 8 to 19). Subsequently, Turkey ranked third along with Canada among G20 members for the initiation of anti-dumping investigations during July 2016–June 2017. Such increase appears to be in line with the total increase among the G20

members for the same periods (from 203 to 241). However, Turkey ranked eighth when it comes to the number of anti-dumping measures imposed in the same period. Chemicals, metals, glass and ceramics, and textiles are the products most affected by the duties imposed.

Turkey has signed and ratified several FTAs, bilateral investment treaties (BITs) and trade and cooperation agreements with different countries. Turkey has signed FTAs with the following countries: Albania, Bahrain, Bosnia and Herzegovina, Chile, EFTA, Egypt, Faroe Islands, Georgia, Israel, Jordan, Kosovo, Lebanon, Macedonia, Malaysia, Mauritius, Moldova, Montenegro, Morocco, Palestine, Serbia, Singapore, South Korea, Syria and Tunisia. The FTA between Turkey and Syria was suspended in 2011. The FTAs signed with Kosovo and Lebanon are undergoing the ratification process. Further, the FTA negotiations with Ghana are reported to be concluded and the FTA is expected to be signed soon. The scope of the FTAs in force with EFTA, Bosnia and Herzegovina, Serbia and Georgia is planned to be expanded and is currently in negotiation.

Turkey has signed and ratified BITs with the following countries: Afghanistan, Albania, Argentina, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium-Luxembourg, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Iran, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Lithuania, Macedonia, Malaysia, Malta, Moldova, Mongolia, Morocco, Netherlands, Oman, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, UK, US, Uzbekistan and Yemen.

Turkey has signed and ratified trade and cooperation agreements with a large number of countries, including: Afghanistan, Argentina, Australia, Bangladesh, Brazil, China, Colombia, India, Indonesia, Israel, Kyrgyzstan, Lebanon, Malaysia, Mexico, Moldova, Mongolia, Oman, Pakistan, Philippines, Qatar, Russian Federation, South Korea, Syria, Thailand, Ukraine, Uruguay and Yemen. In addition, Turkey is a member of the following regional initiatives: the Organization of Islamic Cooperation, the Economic Cooperation Organization and the Organization of the Black Sea Economic Cooperation and Development.

Trade defence investigations

3 Which authority or authorities conduct trade defence investigations and impose trade remedies in your jurisdiction?

Anti-dumping and safeguard measures are reviewed separately by different departments within the Ministry of Economy. The procedures are as follows.

Information on the authorities concerning anti-dumping measures

The Directorate General of the Ministry of Economy is authorised to conduct a preliminary examination upon complaint or ex officio. If the Directorate General concludes that the reasons for initiation are justified, it will formalise a recommendation to initiate an investigation. The Board of Evaluation for Unfair Competition in Imports will then

decide whether or not to authorise the Directorate General to carry out the investigation. The Board of Evaluation for Unfair Competition is authorised to make proposals in the course of an investigation, to evaluate the results and to submit decisions on the imposition of provisional or definitive measures, or both, to the state minister in charge of foreign trade affairs for approval.

Information on the authorities concerning safeguard measures

The Ministry of Economy is authorised to propose, apply and monitor safeguard measures. The Board for the Evaluation of Safeguard Measures for Imports decides, among other things, whether to initiate an investigation; to adopt, review, extend, modify or abolish any provisional or definitive safeguard measure; and to determine the form, extent and duration of such measures.

4 What is the procedure for domestic industry to start a trade remedies case in your jurisdiction? Can the regulator start an investigation ex officio?

It should be noted that the procedure for domestic industry to start a trade remedies case and the content of a complaint may vary depending on the type of the requested trade remedy and this part only includes the procedure for an anti-dumping or subsidy investigation.

According to the Law on Prevention of Unfair Competition in Imports, producers or natural persons, legal entities and establishments acting on behalf of a production line can file a complaint concerning the dumped imports to the Directorate General of Imports. This complaint will be made 'by or on behalf of the domestic industry' and must fulfil the requirements laid down in article 5.4 of the WTO Anti-Dumping Agreement.

The complaint must be submitted in writing. It must include, among other things, information on the domestic producers, domestic production line, details concerning the subject product, sales and cost structure of the complainant, as well as its economic indicators (eg, productivity, profitability, employment, capacity usage rate, investment), information on known exporters and importers, and documents supporting dumped imports, injury and causation. In the case of an application for the initiation of a subsidy investigation, the documents regarding the existence of a subsidy schedule, amount and characteristics will be attached. In this regard, it should be emphasised that the Turkish legislation obliges the investigating authority to respect the confidential nature of such data.

Further, the competent authority can also initiate an investigation ex officio if there is sufficient evidence that an injury has occurred to the domestic industry caused by imports that have been subject to dumping or subvention.

The complaint shall be considered to have been brought by or on behalf of the domestic industry if it is supported by those producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application and shall not be less than 25 per cent of total production of the like product produced by the domestic industry in Turkey (the representativeness test). In the case of fragmented industries involving an exceptionally large number of producers, the support and opposition of the domestic industry may be determined by using statistically valid sampling techniques (paragraph 3 of article 20 of the Regulation on the Prevention of Unfair Competition in Imports).

An investigation shall not be initiated where it is determined that the dumping margin, amount of subsidy or volume of imports is negligible (paragraph 4 of article 20 of the Regulation on the Prevention of Unfair Competition in Imports). Negligible rates as regards the margin of dumping or amount of subsidy or volume of imports are as follows:

- regarding dumping investigations, cases where:
 - the margin of dumping expressed as a percentage of the export price is less than 2 per cent; or
 - the volume of dumped imports from the concerned country is found to account for less than 3 per cent of imports of the like product and, where more than one country is involved, imports from countries accounting for less than 3 per cent individually do not account collectively for more than 7 per cent of imports of the like product; and
- regarding subsidy investigations, cases where:

- the amount of subsidy is less than 1 per cent of the value of the product concerned; or
- as regards imports from developing countries:
 - having reserved the provision of article 27.11 of the Agreement on Subsidies and Countervailing Measures, the amount of subsidy does not exceed 2 per cent of the value of the product concerned; or
 - the volume of subsidised imports from the concerned country is found to account for less than 4 per cent of the total imports of the like product and, where more than one developing country is involved, imports from developing countries accounting for less than 4 per cent individually do not account collectively for more than 9 per cent of the total imports (article 28 of the Regulation on the Prevention of Unfair Competition in Imports).

Within a maximum of 45 days, the Directorate General of Imports must conclude its examination and prepare its proposal for the evaluation of the Board of Evaluation for Unfair Competition in Imports, which resolves whether or not to initiate an investigation. If initiation is resolved, the relevant country will be notified and a communiqué will be published in the Official Gazette. If the Board of Evaluation for Unfair Competition in Imports decides not to conclude an investigation, only the complainant will be notified. No information on the complaint will be revealed until an investigation is initiated.

For the purposes of preventing injury during the investigation, the Turkish Ministry of Economy may impose a provisional measure after 60 days from the initiation of the investigation; therefore, the Turkish Ministry of Economy shall not adopt any measure within the 60 days from the initiation of the anti-dumping investigation. The duration of provisional measures shall be limited to four months. However, it may be extended to a period not exceeding six months upon the exporters' request.

Definitive measures remain in force for five years as of the date of imposition of the measure or as of the conclusion of the most recent review covering both dumping and injury. As to safeguard measures, the duration of a measure, including any provisional measure, is limited to four years. However, it can be extended for a total period of 10 years.

5 What is the procedure for foreign exporters to defend a trade remedies case in your jurisdiction?

Upon initiation of an investigation, the relevant country will be notified concerning the investigation and a communiqué will be published in the Official Gazette. The subject products, the exporter country or country of origin, dumped or subsidised import, and explanations related to the allegations and the time frame for interested parties to submit their responses to the questionnaire will be addressed in the above-mentioned communiqué.

The usual period of investigation is 12 months, but an additional six-month extension can be applied by the Ministry. In most cases the Ministry concludes the investigation by the end of the 12 months. The use of an extra six months depends on the number of cooperating firms, as well as the number of subject countries and subject products.

After the initiation of an investigation, questionnaires are sent to known importers and exporters of the subject product. Any parties that are willing to cooperate with the investigating authority should submit their responses to the questionnaires within 37 days. This time frame may be extended by the Directorate General.

During trade remedy proceedings, the Ministry previously did not require the parties to submit the documents in Turkish. However, from early 2015, the Ministry has changed its policy in regard to the trade remedy proceedings and required all documents and correspondence, including responses to the questionnaires, to be provided in Turkish.

The Directorate General also allows the interested parties (eg, associations and industrial users of the subject product) to participate in the investigations and express their opinions.

6 Are the WTO rules on trade remedies applied in national law?

Yes, Turkey is a member of the WTO. According to article 90 of the Constitution of the Republic of Turkey, international agreements duly put into effect have the force of law. Turkey has signed and ratified the WTO Agreements and they have duly been put into effect. Therefore,

WTO Agreements have the force of law in Turkey. The Turkish legislation on trade remedies is compatible with the WTO Agreements.

7 What is the appeal procedure for an unfavourable trade remedies decision? Is appeal available for all decisions? How likely is an appeal to succeed?

All decisions concerning trade remedies, whether positive or negative, are considered as administrative actions in Turkey. Therefore, the appeal body for trade remedies decisions is the Council of State.

In terms of the likelihood of success of an appeal procedure, it should be noted that the Turkish trade remedies legislation enables the investigating authority to enjoy wide discretion, and the Council of State's approach is to acknowledge such discretion of the investigating authority. Therefore, the issue of whether an appeal is likely to succeed depends on strong evidence in support of the investigating authority having made an error in its evaluations or findings.

8 How and when can an affected party seek a review of the duty or quota? What is the procedure and time frame for obtaining a refund of overcharged duties? Can interest be claimed?

According to the Regulation on Prevention of Unfair Competition in Imports, there are two kinds of review investigation. These are:

- interim review investigation – according to article 34 of the Regulation, after one year of the entry into force of definitive measures for exporters, importers or domestic producers of a product subject to the measure may request a review investigation. A review investigation can also be initiated ex officio. The request must be supported by sufficient evidence demonstrating that the review is fair. Additionally, the request must be submitted in writing to the Directorate General; and
- sunset review – according to article 35 of the Regulation, measures that will be terminated are published in the Official Gazette in the last year of the five-year validity period of the measures. Domestic producers of the subject product may request initiation of expiry review investigation at least three months from the end of the validity period. The request must be supported by sufficient evidence and must be submitted in writing to the Directorate General. A sunset review can also be initiated ex officio.

Furthermore, the Regulation on Safeguard Measures for Imports empowers the investigating authority to impose a safeguard measure in the form of customs duties, additional financial charges, restrictions on quantity or value of imports, tariff quotas or a combination of these measures. The duration of safeguard measures shall not exceed four years, including the duration of any provisional measure, unless it is extended. The duration of the measure may be extended in accordance with the results of a new investigation to be initiated, provided it is determined that the safeguard measure continues to be necessary to prevent or remedy serious injury and there is evidence that the domestic producers are adjusting to the conditions of the internal market. An extended measure shall not be more restrictive than it was at the end of the initial period and shall continue to be liberalised. The total period of application of a safeguard measure shall not exceed 10 years.

Lastly, a refund application must be submitted within six months of the collection date of the measures. The application must be supported by sufficient evidence concerning the dumping or subsidy margin for the representative period, the amount of refund of taxes claimed and all relevant documents. A refund application must be submitted in writing to the Directorate General. The Directorate General must file a decision within 12 months, but this time frame can be extended by six months. If the decision is positive, the relevant authorities must grant a refund within 90 days from the date of the refund decision.

9 What are the practical strategies for complying with an anti-dumping/countervailing/safeguard duty or quota?

Any strategy to be adopted by interested parties will take into consideration all relevant factors, including the type of trade remedies, the subject products, market structures (including upstream and downstream markets), competitiveness of those markets, cost-price analysis and Turkey's policies. Most importantly, the pricing policies should be monitored.

An importer who requests a refund of paid taxes because of having paid more than the amount of dumping margin or subvention

amount since the dumping margin or subvention amount was removed or diminished may apply in writing to the Directorate General for an investigation. This request can be made within six months after the measures are applied and the tax is collected.

Local producers may also apply for an investigation if the import prices are decreased to a level at which the applied taxes become ineffective. Such an investigation can also be initiated ex officio upon the request of the Directorate General of Imports.

Customs duties

10 Where are normal customs duty rates for your jurisdiction listed? Is there an exemption for low-value shipments? If so, at what level? Is there a binding tariff information system or similar in place? Are there prior notification requirements for imports?

Binding tariff information is regulated under article 9 of the Turkish Customs Code, and according to the article binding tariff information is given by the Undersecretariat of Customs if taxpayers request it. This request must be submitted in writing. Importers may request binding tariff information concerning:

- determination of import or export taxes: calculation of export tax refunds in the scope of agriculture policy and all payments given to import or export; and
- usage of import, export or prior consent documents: binding tariff information is binding from the date the information was given and valid for six years from the date the information was given.

The exemptions from custom duty and exceptions are listed under article 167 of the Turkish Customs Code. Paragraph 4 of article 167 regulates the exemption for low-value shipments. As a general practice, the Council of Ministers regulates and determines the exemptions, including the exemption for low-value shipments, in accordance with the conditions of the related period's trade policy. Currently, article 45 of the Council of Ministers' Decision on the Implementation of Certain Articles of the Customs Code (the Decision) regulates the exemption for low-value shipments. Under this article, goods sent by post or fast cargo, with a value that does not exceed €22 for each shipment, as well as books or printed publications for personal use whose value does not exceed €150 are exempt from customs duty. It should be noted that restrictions apply for certain goods, including, among others, certain cosmetic products, mobile phones, and food supplements and sports nutrition. In addition, article 62 of the Decision sets a fixed customs duty for goods with a value between €22 and €1,500 for products brought into Turkey in person. The customs duties for these goods are 18 per cent of the value for direct shipments from the EU and 20 per cent of the value for shipments from other countries. In addition, in light of the country of origin, if the imported good is a book or similar printed publication, the duty is 8 per cent. However, books or printed publications that are sent to or procured by public institutions and organisations, libraries and museums, as well as organisations engaging in educational or scientific research, are exempt from customs duty. Turkey's customs tariff system is the Customs Tariff Statistics Positions. This index, which is based on the World Customs Organization's Harmonized System, is updated and approved every year by the Ministry Council. The index is a 12-digit code for the identification and classification of imported and exported products.

11 Where are special tariff rates, such as under free trade agreements or preferential tariffs, and countries that are given preference listed?

Under article 16 of Partnership Council Decision No. 1/95, which established the Customs Union, reduced customs duty rates are published in the Import Regime Decision Appendix II List within a column titled GSP countries in order to comply with the EU's Generalised Scheme of Preferences (GSP).

The EU's regime is partly applied since GSP annexes are provided together with the decision. Together with the Additional Decision to the Import Regime Decision, published in the Official Gazette on 25 August 2004, harmonisation can be reached with regard to the results of products, countries (except for Armenia), products' accuracy rating, discount rate, excluded sectors and special incentive regulation.

Update and trends

Turkish trade remedies policy has been affected by the protectionist approach currently being implemented by the US. In recent years, the US has initiated safeguard investigations and imposed strong measures against steel products as well as aluminium. In retaliation to this protectionist approach, the EU has also initiated a safeguard investigation concerning steel products to prevent trade diversion into the EU.

Following these events, in April 2018 Turkey initiated a safeguard investigation into imports of steel-iron products. The investigation covers 21 different steel products and the scope can be widened pursuant to the information collected throughout the investigation. For now, the following product categories are being investigated by the Ministry: (i) flat rolled products; (ii) bars, rods and angles; (iii) railway or tramway truck construction materials; (iv) tubes, pipes and hollow profiles; and (v) stainless steel.

Another important aspect of the investigation is that products originating from the EU may be exempted from the measures, if imposed.

Turkey currently only benefits from the GSP of the US, Japan, Russia, Belarus, New Zealand, Australia and Canada.

12 How can GSP treatment for a product be obtained or removed?

GSP treatment for a product can be obtained and removed by the Directorate General of Imports within the Ministry of Economy.

Pursuant to the Import Regime Decision, Turkey takes any necessary measure for countries, establishments and companies that disturb the balance of commerce and payments in Turkey's commercial relations, breaching their obligations determined by international agreements or acting contrary to the principle of universality within the context of international agreements.

13 Is there a duty suspension regime in place? How can duty suspension be obtained?

Turkey has a tariff suspension system. In the scope of the tariff suspension system, the products that are free of customs duties are listed in the Regulation of Import Regime Decision Appendix V.

Producers resident in Turkey can request tariff suspension for raw materials, semi-finished goods or components that are used in the production of their goods and finished goods not available in the EU and Turkey. Additionally, the level of import duty saved must amount to a minimum of €15,000. All documents are sent to the Directorate General electronically and physically.

All requests are forwarded to the Economic Tariff Question Group, which is a part of the European Commission. All requests are firstly evaluated by this group and the outcome is sent to the Commission. After the final decision by the Commission, suspension updates enter into force in the EU and Turkey simultaneously. Suspension decisions are valid for five years.

14 Where can customs decisions be challenged in your jurisdiction? What are the procedures?

Relevant parties make their reconciliation application to the authorised reconciliation commission or make their challenge application to the relevant Head Directorate within 15 days from the date of notification of the additional tax and fine decision.

If the Head Directorate refuses the challenge application, the relevant parties can appeal the negative decision in the administrative courts within 30 days from the date of notification of the negative decision.

Trade barriers

15 What government office handles complaints from domestic exporters against foreign trade barriers at the WTO or under other agreements?

According to the Regulation on Trade Barriers, complaints from domestic exporters are handled by the Turkish Trade Barrier Notification Centre.

16 What is the procedure for filing a complaint against a foreign trade barrier?

The relevant parties can file a complaint regarding a foreign trade barrier on the website of the Ministry of Economy. A working group on trade barriers reviews whether or not the notified problem constitutes an actual trade barrier. After sufficient data is gathered on the problem in order to provide a legal basis in light of international treaties, the issue will be submitted to the relevant units to take legal action. The complainant will be informed of any legal issues and actions with regard to its complaint.

The relevant parties may also file a complaint against a foreign technical barrier on the website of the Turkish Trade Barrier Notification Centre.

17 What will the authority consider when deciding whether to begin an investigation?

The authority will consider whether all the documents and information sent by applicants constitute sufficient evidence to justify initiating an investigation.

18 What measures outside the WTO may the authority unilaterally take against a foreign trade barrier?

Turkey has signed and ratified treaties between the EU, China, EFTA, Israel, Russia, Ukraine, Lebanon and Bulgaria. Some measures may be taken against foreign trade barriers by these treaties.

19 What support does the government expect from the private sector to bring a WTO case?

The government does not have any expectations from the private sector to bring a WTO case.

20 What notable trade barriers other than retaliatory measures does your country impose on imports?

Products within the scope of the relevant Communiqué on Standardisation of Foreign Trade No. 2008/2 shall be inspected by the Inspectors for Standardisation of Foreign Trade for commercial quality. A Control Certificate is given to the importers if the products meet the required standards.

Agricultural products are inspected by the Ministry of Agriculture and Rural Affairs pursuant to the relevant Communiqué on Standardisation of Foreign Trade No. 2008/5 published by the Directorate General for the Standardisation of Foreign Trade. Before importing these agricultural products, a Control Certificate is required from the ministry. Upon inspection by the ministry, a Letter of Conformity is issued to the importer provided that the products in question do not constitute any health risks. As to plants and animals, a phytosanitary certificate issued by the country of origin is additionally required for plants and related products, and health certificates may be required for livestock and animal products, depending on the country of origin.

Imports of critical materials related to ordinance products are also subject to a special procedure.

Export controls

21 What general controls are imposed on exports?

Under the Regulation on Trade Barriers and Standardisation on Foreign Trade, products that are listed in Appendix 1 of this regulation are subject to mandatory standards and quality controls. Exporters must apply to the relevant Group Presidency of Inspectorates for the Standardisation of Foreign Trade to export the listed products. A Control Certificate is issued by the Group Presidency of Inspectorates for the Standardisation of Foreign Trade if the products meet the required standards.

22 Which authorities handle the controls?

The Inspectorates of Standardisation for Foreign Trade handle the controls.

23 Are separate controls imposed on specific products? Is a licence required to export such products?

Specific certificates and analysis may be required in particular in cases of plant and livestock exports. The details are as follows:

- phytosanitary certificate – export of unprocessed agricultural products requires the phytosanitary certificate in order to attest that the consignment meets phytosanitary export requirements. The certificate is prepared in line with the 1951 Rome Treaty; and
- health certificate – all agricultural products require a health certificate based on the demands of the purchasing country. The evaluations of the inspection report and analysis results are based either on the demands of the purchasing country or the Turkish Food Codex.

There are also additional procedures, such as the EU’s requirement of an analytical report as well as a health certificate to show that aflatoxin levels are acceptable in the case of exportation of nuts and dried fruits, or the requirement of a radiation analysis to prove that radiation levels are below the limits for exportation of mushrooms.

The Russian Federation also requires additional analysis when exporting fresh fruits and vegetables. Exports of livestock and animal products may also differ from country to country. Under the Regulation on the Protection of Export of Dual-Use and Sensitive Products and Communiqué on the Export of Chemical Products that are listed in the Appendix of the Chemical Weapons Agreements, the Ministry of Economy controls the export of dual-use and chemical products. According to the legislation, the exporter must apply to the Istanbul Mining and Metals Exporters Union’s Secretary General to obtain a licence.

Additionally, Turkey is a party or member to the Wassenaar Arrangement, the Chemical Weapons Convention, the Missile Technology Control Regime, The Australia Group, the Zangger Committee and the Nuclear Suppliers Group.

24 Has your jurisdiction implemented the WCO’s SAFE Framework of Standards? Does it have an AEO programme or similar?

Turkey is a party to the WCO’s SAFE Framework of Standards Agreement. According to article 5/A of the Turkish Customs Code, AEO status can be granted by the Undersecretariat of Customs to economically active residents who have the requisite qualifications, such as financial capability.

25 Where is information on countries subject to export controls listed?

There are no export restrictions based on countries.

26 Does your jurisdiction have a scheme restricting or banning exports to named persons and institutions abroad?

No, there is no scheme restricting or banning exports in Turkey.

27 What are the possible penalties for violation of export controls?

According to the Customs Law, administrative monetary fines can be applied in cases of violation. The amount of the fine depends on the violation of the relevant scope of the article of the Customs Law.

Financial and other sanctions and trade embargoes

28 What government offices impose sanctions and embargoes?

The Council of Ministers is authorised to impose embargoes. Any customs-related sanctions are to be applied by Customs’ administrative authorities and deputies.

29 What countries are currently the subject of sanctions or embargoes by your country?

The FTA between Turkey and Syria was suspended in 2011. Other than that, there are currently no official sanctions or embargoes applied by Turkey.

However, the practice in Turkey can differ for foreign-originated companies in Turkey, Turkish companies with foreign partners and companies working with EU countries or the US. Foreign-originated companies may refrain from working with countries such as Iraq, Iran, Syria, China, Lebanon, North Korea, Liberia and Zimbabwe owing to sanctions or embargoes applied in the country where they originate

30 Are individuals or specific companies subject to financial sanctions?

There is currently no official list of individuals or specific companies subject to financial sanctions applied by Turkey.

However, similarly to question 29, the practice in Turkey can differ for foreign-originated companies in Turkey, Turkish companies with foreign partners and companies working with EU countries or the US. Foreign-originated companies may refrain from working with persons, groups and entities subject to financial sanctions in the country in which they originate.

Miscellaneous

31 Describe any trade remedy measures, import or export controls not covered above that are particular to your jurisdiction.

There are no measures or import or export controls that are not covered above.



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