

WORLD TRADE ORGANIZATION

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Committee on Regional Trade Agreements

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FREE TRADE AGREEMENT BETWEEN TURKEY AND HUNGARY

The following text reproduces the Agreement between the Republic of Turkey and the Republic of Hungary.¹

Agreement between the Republic of Turkey and the Republic of Hungary

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

Recalling their intention to participate actively in the process of economic integration in Europe and expressing their preparedness to co-operate in seeking ways and means to strengthen this process;

Having regard to the Agreement Establishing an Association between Turkey and the European Economic Community and the European Agreement Establishing an Association between the European Communities and Hungary;

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

Declaring their willingness to take action with a view to promoting harmonious development of their trade as well as to expanding and diversifying their mutual co-operation in the fields of common interest, including fields not covered by this Agreement, thus creating a framework and supportive environment based on equality, non-discrimination, and a balance of rights and obligations;

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

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

¹The Annexes and Protocols thereto have been submitted to the Secretariat for consultation by interested Members (Office 3006).

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

Have decided, in pursuance of these objectives, to conclude the following Agreement.

Article 1

Objectives

1. The Parties shall gradually establish during a transitional period ending at the latest 1 January 2001 a free-trade area in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO.
2. The objectives of this Agreement are:
 - (a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between the Parties;
 - (b) to provide fair conditions of competition for trade between the Parties;
 - (c) to contribute in this way, by removal of barriers to trade, to the harmonious development and expansion of world trade;
 - (d) to enhance co-operation between the Parties.

Article 2

Basic Duties

1. For commercial exchanges covered by this Agreement, the Hungarian Customs Tariffs shall be applied to the classification of goods for import into Hungary. The Turkish Customs Tariffs shall be applied to the classification of goods for import into Turkey.
2. For each product the basic duty to which successive reductions set out in this Agreement are to be applied shall be:
 - for products originating in Hungary, the m.f.n. duty that was in force in Turkey, erga omnes, on date of entry into force of this Agreement.
 - for products originating in Turkey, the m.f.n. duty that was in force on 29 February 1992 in Hungary.
3. If after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis in particular reductions resulting from the tariff agreement concluded as a result of the GATT Uruguay Round and Turkey-EC Customs Union, such reduced duties shall replace the basic duties referred to in paragraph 2 as from that date when such reductions are applied.

CHAPTER I

Industrial Products

Article 3

Scope

1. The provisions of this Chapter shall apply to products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System excluding the products listed in Annex I.
2. The provisions of Articles 5 to 7 included do not apply to textile products and the provisions of Articles 4 to 7 included do not apply to products covered by the Treaty establishing ECSC, as mentioned in Articles 8 and 9 respectively.

Article 4

Customs Duties on Imports and Charges Having Equivalent Effect

1. No new customs duties on imports or charges having equivalent effect shall be introduced in trade between the Parties from the date of entry into force of this Agreement. The Parties shall abolish on their imports from each other all charges having equivalent effect to customs duties on imports.
2. Customs duties on imports applicable in Hungary to products originating in Turkey which are not listed in Annex II shall be abolished on the entry into force of this Agreement.
3. Customs duties on imports applicable in Hungary to products originating in Turkey which are listed in Annex II shall be reduced in accordance with the timetable defined in the Annex.
4. Customs duties on imports applicable in Turkey to products originating in Hungary which are not listed in Annex III shall be abolished on the entry into force of the Agreement.
5. Customs duties on imports applicable in Turkey to products originating in Hungary which are listed in Annex III shall be reduced in accordance with the timetable defined in the Annex.

Article 5

Customs Duties of a Fiscal Nature

The provisions of Article 4 shall also apply to customs duties of a fiscal nature.

Article 6

Customs Duties on Exports and Charges Having Equivalent Effect, Quantitative Restrictions on Exports and Measures Having Equivalent Effect

1. No new customs duties on exports or charges having equivalent effect shall be introduced in trade between the Parties.
2. The Parties shall progressively abolish between them at the latest by the end of the 5th year after the entry into force of this Agreement any customs duties on exports and charges having equivalent effect as well as quantitative restrictions on exports and any measures having equivalent effect except those that might be required for the administration of international obligations.

Article 7

Quantitative Restrictions on Imports and Measures Having Equivalent Effect

1. No new quantitative restrictions on imports or measures having equivalent effect shall be introduced, nor shall those existing be made more restrictive, in trade between the Parties from the date of entry into force of this Agreement.
2. Quantitative restrictions and measures having equivalent effect on imports into Turkey shall be abolished on the date of entry into force of this Agreement.
3. Quantitative restrictions and measures having equivalent effect on imports into Hungary, with regard to products originating in Turkey, other than those listed in Annex IV shall be abolished upon the entry into force of this Agreement. For the products listed in Annex IV, quantitative restrictions and charges having equivalent effect shall be progressively abolished until 31 December 2000 at the latest.
4. From the date of entry into force of this Agreement, Hungary shall open import ceilings for products originating in Turkey listed in Annex V and on the conditions contained therein.
5. For the purpose of this Agreement "quantitative restrictions and measures having equivalent effect" mean prohibitions or restrictions on imports or exports into Turkey from Hungary or into Hungary from Turkey made effective through quotas, import licenses or other administrative measures and requirements restricting trade.

Article 8

Trade in Textile Products

Protocol A lays down the arrangements applicable to textile products referred to therein.

Article 9

Trade in ECSC Products

Protocol B lays down the arrangements applicable to coal, iron and steel products referred to therein.

CHAPTER II

Agricultural, Processed Agricultural and Fish ProductsArticle 10Scope

1. The provisions of this Chapter shall apply to agricultural, fish and processed agricultural products originating in the Parties.
2. The term "agricultural products" means for the purpose of this Agreement the products falling within Chapters 1-24 of the Harmonized Commodity Description and Coding System and the products listed in Annex I.

Article 11Exchange of Concessions

1. The Parties declare their readiness to foster, insofar as their agricultural policies allow, the harmonious development of trade in agricultural products and to discuss this issue periodically in the Joint Committee.
2. In pursuance of this objective Protocol C providing for measures to facilitate trade in agricultural products has been concluded between the Parties.

Article 12Sanitary and Phytosanitary Measures

The Parties shall not apply their regulations in veterinary, plant health and health matters as an arbitrary or unjustifiable discrimination or as a disguised restriction on trade between them.

CHAPTER III

Common ProvisionsArticle 13Internal Taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in Turkey and like products originating in Hungary.
2. Products exported to one of the Parties may not benefit from repayment of internal taxes in excess of the amount of direct or indirect taxes imposed on them.

Article 14

Trade Relations Governed by Other Agreements

1. This Agreement shall not prevent the maintenance or establishment of custom unions, free-trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade regime and in particular the provisions concerning rules of origin provided for by this Agreement.
2. Consultations between the Parties shall take place, on request, within the Joint Committee concerning agreements establishing such customs unions or free-trade areas.

Article 15

Structural Adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 4 may be taken by either Party in the form of increased customs duties.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Customs duties on imports applicable in the Parties to products originating in each Party introduced by these measures may not exceed 25 per cent *ad valorem* and shall maintain an element of preference for products originating in each Party. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the other Party as defined in Article 2, during the last year for which statistics are available.
4. These measures shall be applied for a period not exceeding five years unless a longer duration is authorized by the Joint Committee. They shall cease to apply at the latest at the expiration of the transition period.
5. No such measures can be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.
6. The Parties shall inform the Joint Committee of any exceptional measures it intends to take and, at the request of each Party, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they are applied. When taking such measures the Parties shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for phasing out of these duties starting at the latest two years after their introduction, at equal rates. The Joint Committee may decide on a different schedule.

Article 16

Dumping

If a Party finds that dumping, within the meaning of Article VI of the GATT is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with Article VI of the GATT and the rules established by agreements related to that Article, under the conditions and in accordance with the procedures laid down in Article 20.

Article 17

Emergency Action on Imports of Particular Products

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

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the other Party, or
- (b) serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region.

The Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 20.

Article 18

Re-export and Serious Shortage

Where compliance with the provisions of Article 6 leads to:

- (i) Re-export towards a third country against which the exporting Party maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (ii) A serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 20.

Article 19

State Monopolies

1. The Parties shall progressively adjust any state monopolies of a commercial character so as to ensure that by the end of the year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exist between nationals of the Parties.
2. The Joint Committee shall be informed about the measures adopted to implement this objective.

Article 20

Procedure for the Application of Safeguard Measures

1. Before initiating the procedure for the application of safeguard measures set out in this Article, the Parties shall endeavour to solve any differences between themselves through direct consultations, and shall inform the other Party thereof.
2. In the cases specified in Articles 15, 16, 17 and 18 a Party which is considering to resort to safeguard measures shall promptly notify the Joint Committee thereof. The Party concerned shall

provide the Joint Committee with all relevant information and give it the assistance required to examine the case. Consultations between the Parties shall take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.

3. If, within one month of the matter being referred to the Joint Committee, the Party in question fails to put an end to the practice objected to or to the difficulties notified and in the absence of a decision by the Joint Committee in the matter, the concerned Party may adopt the safeguard measures it considers necessary to remedy the situation.

4. The safeguard measures taken shall be notified immediately to the Joint Committee. They shall be restricted, with regard to their extent and to their duration, to what is strictly necessary in order to rectify the situation giving rise to their application and shall be in excess of the damage caused by the practice or the difficulty in question. Priority shall be given to such measures as will least disturb the functioning of this Agreement.

5. The safeguard measures taken shall be the subject of regular consultations within the Joint Committee with a view to their relaxation, or abolition when conditions no longer justify their maintenance.

6. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the case of Articles 15, 16, 17, 18, 24 and 25 apply forthwith the precautionary measures strictly necessary to remedy the situation. The measures shall be notified without delay to the Joint Committee and consultations between the Parties shall take place as soon as possible within the Joint Committee.

Article 21

Rules of Origin and Co-operation in Customs Administration

1. Protocol D lays down the rules of origin and methods of administrative co-operation.

2. The Parties shall take all appropriate measures, including arrangements regarding administrative co-operation, to ensure that the provisions of Articles 2, 4, 5, 6 and 7 of this Agreement and of Protocol D are effectively and harmoniously applied, taking into account the need to reduce as far as possible the formalities imposed on trade and the need to achieve mutually satisfactory solutions to any difficulties arising out of the operation of those provisions.

Article 22

Non-Economic Reasons for Restrictions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public order or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property, or rules relating to gold or silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 23Payments

The Parties undertake to authorise, in freely convertible currency, any payments on the current account of balance of payments to the extent that the transactions underlying the payments concern movements of goods.

Article 24Rules of Competition concerning Undertakings, Public Aid

1. The following are incompatible with the proper functioning of this Agreement, insofar as they affect trade between the Parties:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (b) abuse by one or more undertakings of dominant position in the territories of either Party as a whole or in a substantial part thereof;
- (c) any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

2. Each Party shall ensure transparency in the area of public aid, *inter alia*, by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

3. If either Party considers that a particular practice is incompatible with the terms of the first paragraph of this Article, and;

- (a) is not adequately dealt with under the agreements referred to in paragraph 4 of the Record of Understanding; or
- (b) in the absence of such rules, and if such practice causes or threatens to cause serious prejudice to the interest of the other Party or material injury to its domestic industry, including its services industry, it may take appropriate measures after consultation within the Joint Committee or after thirty working days following referral for such consultation.

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

4. Notwithstanding any provisions to the contrary adopted in conformity with paragraph 4 of the Record of Understanding, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.

Article 25

Balance of Payments Difficulties

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

Article 26

Protection of Intellectual Property

1. In order to ensure the smooth functioning of this Agreement in accordance with its objectives and in order to avoid trade distortion, the Parties shall take steps to grant and ensure adequate and effective protection of intellectual property rights.
2. The Parties shall take all necessary measures to enforce these rights against infringement, and particularly against counterfeiting and piracy.
3. In fulfilment of their commitments under international agreements and legislation in the field of intellectual property rights, the Parties shall not grant less favourable treatment to nationals of each other than that accorded to nationals of any other State.
4. The Joint Committee shall keep the implementation of intellectual property rights under review. At the request of one of the Parties consultations will take place in the Joint Committee on any matter concerning intellectual property rights.

Article 27

Public Procurement

1. The Parties consider the opening up of the award of public contracts on the basis of non-discrimination and reciprocity to be a desirable objective.
2. As of the entry into force of this Agreement, both Parties shall grant each other's companies access to contract award procedures a treatment no less favourable than that accorded to companies of any other country.
3. The Joint Committee, acting in accordance with Articles 28 and 29, shall periodically examine the practical modalities for the implementation of paragraphs 1 and 2 above. The Joint Committee shall lay down the necessary scope, timetable and rules as soon as possible, taking into account the solutions agreed upon within the WTO/GATT 1994.

Article 28

Establishment of the Joint Committee

1. A Joint Committee is hereby established in which each Party shall be represented. The Joint Committee shall be responsible for the administration of this Agreement and shall ensure its proper implementation.
2. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and at the request of any Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.
3. The Joint Committee may, in accordance with the provisions of paragraph 3 of Article 29, take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 29

Procedures of the Joint Committee

1. For the proper implementation of this Agreement, the Joint Committee shall meet at an appropriate level whenever necessary but at least once a year. Either Party may request that a meeting be held.
2. The Joint Committee shall act by common agreement.
3. If a representative in the Joint Committee of a Party has accepted a decision subject to the fulfilment of constitutional requirements the decision shall enter into force, if no later date is contained therein, on the day the lifting of the reservation is notified.
4. The Joint Committee shall adopt its rules of procedure which shall, *inter alia*, contain provisions for convening meetings and for the designation of the Chairman and his term of office.
5. The Joint Committee may decide to set up such sub-committees and working parties as it considers necessary to assist it in accomplishing its tasks.

Article 30

Security Exceptions

Nothing in this Agreement shall prevent a Party to it from taking any measures which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interest;
- (b) for the protection of its essential security interest or for the implementation of international obligations or national policies;
 - (i) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods, materials and services as is carried out directly or indirectly for the purpose of supplying a military establishment; or

- (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
- (iii) in time of war or other serious international tension constituting threat of war.

Article 31

Fulfilment of Obligations

1. The Parties shall take all necessary measures to ensure the achievement of the objectives of this Agreement and the fulfilment of their obligations under this Agreement.
2. If either Party considers that the other has failed to fulfil an obligation under this Agreement, the Party concerned may take the appropriate measures under the conditions and in accordance with the procedures laid down in Article 20.

Article 32

Evolutionary Clause

Where either Party to this Agreement considers that it would be useful in the interest of the economies of the Parties to develop the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Party. The Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.

Article 33

Amendments

Amendments to this Agreement other than those referred to in paragraph 3 of Article 20, which are approved by the Joint Committee shall be submitted to the Parties for acceptance and shall enter into force if accepted by the Parties.

Article 34

Protocols and Annexes

Protocols A, B, C, D and Annexes I to V of this Agreement shall form an integral part thereof. The Joint Committee may decide to amend the Protocols and Annexes.

Article 35

Territorial Application

This Agreement shall apply to the territories of the Parties.

Article 36

Expiration

Each Party may denounce this Agreement by means of a written notification to the other Party. This Agreement shall cease to apply six months after the date of such notification.

Article 37

Entry into Force

This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the necessary procedures for the ratification have been completed.

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

DONE at Budapest, this 8th day of January 1997 in two authentic copies in the English language.

For the Republic of Turkey

For the Republic of Hungary

Record of Understanding

1. In case either Party agrees with the European Union to accelerate the reduction of tariffs or the removal of the quantitative restrictions, the Parties shall consult about the terms and conditions of extending such liberalization to each other in conjunction with changes in their reduction schedule for sensitive products.

2. Each Party shall apply any measures under Article 15 to this Agreement to the extent being applied with respect to imports from the European Union.

3. The Parties agree, that if after the entry into force of this Agreement the provisions of the Rules of Origin of the Europe Agreement concluded between the European Communities and their Member States, on the one part, and the Republic of Hungary, on the other part, in Brussels on 16 December 1991, are amended, the provisions of Protocol D to this Agreement shall be amended accordingly.

The Parties shall include in an exchange of letters the provisions and the date of entry into force of the amended Protocol D to this Agreement, which will be identical to the amended provisions and the date of entry into force under the European Agreement referred to above.

The provisions of Protocol D concerning Poland, the Czech Republic and Slovak Republic shall be applicable after concluding free trade agreements by Turkey with these countries and changing of letters between Hungary and Turkey about implementation thereof.

4. For the purpose of applying the provisions of paragraph 1 of Article 24 to this Agreement the Parties will take measures in conformity with the procedures and under the conditions laid down in their respective Agreements with the European Communities. In case of any change in those procedures and/or conditions these changes will be applicable between the Parties.

5. For the purpose of applying paragraph 3 of Article 6 of Protocol B to this Agreement the Joint Committee shall decide about the adoption of the necessary measures for the implementation of paragraphs 1 and 2 on the basis of the provisions elaborated by the Association Council of the Europe Agreement concluded between the European Communities and their Member States, on the one hand, and the Republic of Hungary, on the other hand, in Brussels on 16 December 1991.
