

AGREEMENT BETWEEN THE REPUBLIC OF TURKEY AND THE STATE OF ISRAEL

The Republic of Turkey (hereinafter referred to as "Turkey") on the one part, and The State of Israel (hereinafter referred to as "Israel") on the other party,
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 Euro-Mediterranean Agreement Establishing an Association between the European Communities and the State of Israel, as well as to Turkey's and Israel's Free Trade Agreements with EFTA States;

Having regard to the experience gained from the co-operation developed between 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 Turkey and Israel 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 Turkey and Israel in accordance with the provisions of these instruments, in particular those concerning the establishment of free-trade areas;

Considering the respective commitments of the Parties to this Agreement (hereinafter referred to as "the Parties") to free trade and in particular to compliance with the rights and obligations arising out of the General Agreement on Tariffs and Trade (GATT) as it results from the negotiations of the Uruguay Round;

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

Article 1 Objectives

1. Turkey and Israel shall gradually establish, during a transitional period ending at the latest 1 January 2000, a free-trade area in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and of other multilateral agreements on trade in goods annexed to the Agreement establishing the WTO, hereinafter referred to as the "GATT".
2. The objectives of this Agreement are:
 - (a) to promote, through the expansion of reciprocal trade in goods and services, the harmonious development of the economic relations between Turkey and Israel;
 - (b) to provide fair conditions of competition for trade between Turkey and Israel;
 - (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 Turkey and Israel.

Article 2 Basic duties

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

2. For each product listed in Chapter I of this Agreement the basic duty to which successive reductions set out in this Agreement are to be applied shall be the MFN duties that are applied, erga omnes, on the date of the entry into force of this Agreement.
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, unless otherwise agreed in this Agreement, its Protocols and Annexes.
4. Turkey and Israel shall communicate each other their respective basic duties.

CHAPTER I

Industrial Products

Article 3

Scope

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

Article 4

Customs Duties on Imports and Charges Having Equivalent Effect

1. No new customs duties on imports or charges having equivalent effect shall be introduced, nor shall those already applied be increased, in trade between Turkey and Israel from the date of entry into force of this Agreement.
2. Customs duties on imports applicable in Israel to products originating in Turkey which are not listed in Annexes II, III and VIII shall be abolished on the entry into force of the Agreement.
3. Customs duties on imports applicable in Israel to products originating in Turkey which are listed in Annex II shall be gradually abolished in accordance with the timetable provided in that Annex and abolished on 1 January 2000 at the latest.
4. Customs duties on imports applicable in Israel to products originating in Turkey which are listed in Annex III shall be gradually abolished in accordance with the following timetable:
 - upon the entry into force of the Agreement each duty shall be reduced to 2/3 of the basic duty,
 - on 1 January 1998 to 1/3 of the basic duty,
 - on 1 January 1999 the remaining duties shall be eliminated.
5. Customs duties on imports applicable in Turkey to products originating in Israel other than those products listed in Annexes IV, V, VI(a), VI(b), VII and VIII shall be abolished on the entry into force of this Agreement.
6. Customs duties on imports applicable in Turkey to products originating in Israel listed in Annexes IV and V shall be gradually abolished according to the following timetable:
 - upon the entry into force of the agreement to 75 per cent of the basic duty,
 - on 1 January 1998 to 50 per cent of the basic duty,
 - on 1 January 1999 to 25 per cent of the basic duty,
 - on 1 January 2000 to remaining duties shall be eliminated.
7. Customs duties on imports applicable in Turkey to products originating in Israel which are listed in Annexes VI(a) and VI(b) shall be gradually reduced and abolished in accordance with the timetable provided in that Annex.
8. Customs duties on imports applicable in Turkey to products originating in Israel which are listed in Annex VII shall be gradually abolished:
 - upon the entry into force to 50 per cent of the basic duty,

- on 1 January 1999 the remaining duties shall be eliminated.
9. Customs duties on imports applicable in a Party to products originating in the other Party which are listed in Annex VIII shall be gradually abolished:
- upon the entry into force of the Agreement to 2/3 of the basic duty,
 - on 1 January 1998 the remaining duties shall be eliminated.

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

1. No new customs duty on exports or charges having equivalent effect shall be introduced in trade between Turkey and Israel.
2. Upon the entry into force of this Agreement, customs duties on exports and any charges having equivalent effect shall be abolished.

Article 7

Quantitative Restrictions on Imports and Exports and Measures Having Equivalent Effect

1. No new quantitative restrictions on imports and exports 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. For the purpose of this Agreement "quantitative restrictions and measures having equivalent effect" mean prohibitions or restrictions on imports or exports into Turkey from Israel or into Israel from Turkey made effective through quotas, import licenses or other administrative measures and requirements restricting trade.

CHAPTER II

Agricultural, Processed Agricultural and Fishery Products

Article 8

Scope

The provisions of this Chapter shall apply to agricultural, processed agricultural and fishery products originating in the Parties falling within Chapters 1-24 of the Harmonized Commodity Description and Coding System as well as the products listed in Annex I of this Agreement.

Article 9

Exchange 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 A providing for measures to facilitate trade in agricultural, processed agricultural and fishery products has been concluded between Turkey and Israel.
3. Turkey and Israel shall progressively establish a greater liberalization of their trade in agricultural products of interest to both Parties. Turkey and Israel agree to examine the possibility of granting each other further concessions within the framework of the Joint Committee.

Article 10

Sanitary and Phytosanitary Measures

1. The Parties shall apply the sanitary and phytosanitary measures in accordance with the provisions of the relevant Agreement of GATT.
2. The Parties shall not apply their regulations in veterinary, plant health and health matters as an arbitrary or unjustifiable discrimination between the Parties or a disguised restriction in the trade between them.

CHAPTER III

Common Provisions

Article 11

Rules of Origin and Co-operation in Customs Administration

1. Protocol B 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 Article 4 to 7, 9, 15 and 18 and Protocol B are effectively and harmoniously applied, taking into account the need to reduce as far as possible the formalities imposed on trade and the need to achieve mutually satisfactory solutions to any difficulties arising out of the operation of those provisions.

Article 12

General Exceptions

Nothing in this Agreement shall preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public

environment; the protection of national treasury possessing artistic, historic or archaeological value; or the protection of intellectual, industrial and commercial property, or rules concerning gold or silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Turkey and Israel.

Article 13

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

Article 14

Internal 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 by one Party to the other Party may not benefit from repayment of indirect internal taxation in excess of the amount of direct or indirect taxes imposed on them.

Article 15

Dumping

If a Party to this Agreement finds that dumping is taking place in trade with the other Party, within the meaning of Article VI of the GATT, it may take appropriate measures against this practice in accordance with the Agreement on Implementation of Article VI of the GATT 1994 and with its relevant internal legislation, under the conditions and in accordance with the procedures laid down in Article 18.

Article 16

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 one of the Parties, or
- (b) serious disturbances in any sector of the economy, or
- (c) 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 18.

Article 17

Re-export and Serious Shortage

Where compliance with the provisions of Articles 6 and 7 leads to:

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

and where the situations referred to above give rise, or are likely to give rise, to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 18. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

Article 18

Procedure for the Application of Safeguard Measures

1. In the event of Turkey and Israel subjects imports of products liable to give rise to the difficulties referred to in Article 16, to an administrative procedure, the purpose of which is to provide rapid information on the trend of trade flows, it shall inform the other Party.

2. In the cases specified in Articles 15, 16 and 17, before taking the measures provided for therein or, as soon as possible in cases to which paragraph 3(d) applies, the Party in question shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of appropriate measures, priority shall be given to those which least disturb the functioning of the Agreement.

The safeguard measures shall be notified immediately to the Joint Committee and shall be the subject of periodical consultations within the Committee, particularly with a view to their abolition as soon as circumstances permit.

3. For the implementation of paragraph 2, the following provisions shall apply:

- (a) as regards Article 15, the Joint Committee shall be informed of the dumping case as soon as the authorities of the imposing Party have initiated an investigation. If no end has been put to the dumping or no other satisfactory solution has been reached within thirty days of the notification being made, the importing Party may adapt the appropriate measures.
- (b) as regards Article 16, the difficulties arising from the situation referred to in that Article shall be referred for examination to the Joint Committee, which may take any decision needed to put an end to such difficulties
If the Joint Committee or the exporting Party has not taken a decision putting an end to the difficulties or no other satisfactory solution has been reached within thirty days of the matter being referred, the importing Party may adopt the appropriate measures to remedy the problem. These measures must not exceed the scope of what is necessary to remedy the difficulties which have arisen;
- (c) as regards Article 17, the difficulties arising from the situations referred to in the Article shall be referred for examination to the Joint Committee.
The Joint Committee may take any decision needed to put an end to the difficulties. If it has not taken such a decision within thirty days of the matter being referred to it, the exporting Party may apply appropriate measures on the exportation of the product concerned;
- (d) where exceptional circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Party concerned may, in the situations specified in Articles 15, 16, 17 apply forthwith such precautionary measures as are strictly necessary to remedy

Article 19

Standards

1. The rights and obligations of the Parties relating to standards or technical regulations shall be governed by the WTO Agreements on Technical Barriers to Trade.
2. Each Party, upon the request of the other Party, shall provide information on particular cases of standard-related measures.
3. The Parties shall aim to reduce technical barriers to trade. To this end, the Parties shall conclude when appropriate agreements on mutual recognition in the field of conformity assessment.

CHAPTER IV

Right of Establishment and Supply of Services

Article 20

1. The Parties agree to widen the scope of the agreement to cover the rights of establishment of firms of one Party in the territory of the other Party and the liberalization of the provisions of services by one Party's firms to consumers of services in the other Party.
2. The Joint Committee shall make the necessary recommendations for the implementation of the objective described in paragraph 1.
In making such recommendations, the Joint Committee shall take account of past experience of implementation of the reciprocal most-favoured-nation treatment and of the obligations of each Party under the General Agreement on Trade in Services, hereinafter referred to as the 'GATS', particularly those in Article V of the later.
3. The Joint Committee shall make a first assessment of the achievement of this objective no later than three years after the Agreement enters into force.

Article 21

1. At the outset, each Party reaffirms its obligations under the GATS, particularly the obligation to grant reciprocal most-favoured-nation treatment in the services sectors covered by that obligation.
2. In accordance with the GATS, this treatment shall not apply to:
 - (a) advantages accorded by either Party under the terms of an agreement of the type defined in Article V of the GATS nor to measures taken on the basis of such an agreement.
 - (b) other advantages granted in accordance with the list of most-favoured-nation exemptions annexed by either Party to the GATS.

CHAPTER V

General, Institutional and Final Provisions

Article 22

Intellectual, Industrial and Commercial Property

1. Pursuant to the provisions of the Article and of the Annex IX, the Parties shall grant and ensure adequate and effective protection of the intellectual, industrial and commercial property rights in accordance with the highest international standards, including effective means of enforcing such rights.
2. The implementation of this Article and of the Annex IX shall be regularly reviewed by the Parties. If problems in the area of intellectual, industrial and commercial property affecting trading conditions were to occur, urgent consultation within the Joint Committee

shall be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.

Article 23

Payments

1. Payments in freely convertible currencies relating to commercial transactions between the Parties and the transfer of such payments to the territory of the State Party to this Agreement, where the creditor resides shall be free from any restrictions.
2. The Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short-term and medium-term credits covering commercial transactions in which a resident participants.
3. Any measures concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Statutes of the International Monetary Fund.

Article 24

Public Procurement

1. The Parties to this Agreement consider the effective liberalization of their respective public procurement markets an integral objective of this Agreement.
2. The Joint Committee will review progress in this area annually.

Article 25

Competition

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

- (i) 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;
- (ii) abuse by one or more undertakings of dominant position in the territories of Turkey or Israel as a whole or in a substantial part thereof;
- (iii) any state aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

2. The Joint Committee shall, within three years of the entry into force of the Agreement, adopt by decision the necessary rules for the implementation of paragraph 1.

Until these rules are adopted, the provisions of the Agreement on interpretation and application of Article VI, XVI and XXIII of the GATT shall be applied as the rules for the implantation of paragraph 1(iii).

3. Each Party shall ensure transparency in the area of state 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 cases of state aid.

4. With regard to agricultural products referred to in Chapter II, paragraph 1 (iii) does not apply.

5. If Turkey or Israel consider that a particular practice is incompatible with the terms of the first paragraph and:

- is not adequately dealt with under the implementing rules referred to in paragraph 2, or
- in the absence of such rules, and if such practice causes or threatens to cause serious prejudice to the interest of the other Party or material injury to its domestic industry, including its services industry,

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

With references to practices incompatible with paragraph 1(iii), such appropriate measures, when the GATT is applicable to them, may only be adopted in accordance with the procedures and under the conditions laid down by the GATT or by any other relevant instrument negotiated under its auspices and applicable to the Parties.

6. Notwithstanding any provision to the contrary adopted in accordance with paragraph 2, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secretary.

Article 26

Balance of Payments Difficulties

When Turkey or Israel is in a serious balance of payment difficulties, or under threat thereof, Turkey or Israel, 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. Turkey or Israel, 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 27

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 either 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 Turkey and Israel.
3. The Joint Committee may, in accordance with the provisions of paragraph 3 of Article 28, take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 28

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 to this Agreement may request a meeting be held.
2. The Joint Committee shall act by common agreement.
3. If a representative of a Party 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 date of the receipt of written notification as to the fulfilment of such requirements.
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 29

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. They shall see to it that the objectives set out in the Agreement are attained.
2. If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of measures, priority shall be given to those which least disturb the functioning of the Agreement.

These measures shall be notified immediately to the Joint Committee and shall be the subject of consultations within the Joint Committee if the other Party so requests.

Article 30

Settlement of Disputes

1. Each Party may refer to the Joint Committee any dispute relating to the application or interpretation of this Agreement.
2. The Joint Committee may settle the dispute by means of a decision.
3. Each party shall be bound to take the measures involved in carrying out the decisions referred to in Paragraph 2.
4. If a dispute referred to the Joint Committee has not been resolved within a period of sixty days after the dispute was referred to it or within such longer period as the Joint Committee has agreed upon, each Party may notify the other of the appointment of an arbitrator within forty five days.
5. The two appointed arbitrators shall nominate by a common agreement within two months a third umpire arbitrator who shall not be a national of either Party and who will serve as Chairman.
6. The arbitrators' decision shall be taken by a majority vote within ninety days.
7. Each Party shall be bound to take the steps required to implement the decision of the arbitrators.

Article 31

Security Exceptions

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

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

Article 32

Evolutionary Clause

1. Where either Party to this Agreement considers that it would be useful in the interest of the economies of the Parties to this Agreement 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 Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.

2. Agreements resulting from the procedure in paragraph 1 will be subject to ratification or approval by the Parties to this Agreement in accordance with their subject own procedures

Article 33 Amendments

Amendments to this Agreement other than those referred to in paragraph 3 of Article 27, which are approved by the Joint Committee shall be submitted to the Parties for acceptance and shall enter into force under the same procedure of the entry into force of the Agreement.

Article 34 Protocols and Annexes

Protocols A and Protocol B and Annexes I to IX of this Agreement and Joint Declarations related to provisions and implementation of this Agreement shall form an integral part of the Agreement. The Joint Committee may decide to amend the Protocols and Annexes.

Article 35 Trade Relations Governed by other Agreements

1. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade, except insofar as they alter the trade arrangements provided for in the Agreement.

2. Consultations between the Parties shall take place within the Joint Committee concerning agreements between establishing customs unions or free trade areas and, where required, on other major issues related to their respective trade policy with third countries.

Article 36 Territorial Application

This Agreement shall apply to the customs territories and free trade zones of the Parties.

Article 37 Expiration

The Agreement is concluded for an unlimited period.

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

Article 38
Entry into Force

This Agreement shall enter into force from the date of the exchange of instruments of ratification.

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

DONE at Jerusalem this 14 day of March 1996 which corresponds to the 23 Adar 5776 in the Turkish, Hebrew and English languages, all three texts being equally authentic.

In the case of the divergence of interpretation the English text shall prevail.

For the Republic of Turkey

For the Government of
the State of Israel