

1. The Parties recognize the growing importance of certain areas, such as services and investments. In their efforts to gradually develop and broaden their cooperation, in particular in the context of European integration, they will cooperate with the aim of achieving gradual liberalization and mutual opening of markets for investments and trade in services, taking into account relevant WTO provisions.
2. Turkey and Romania will discuss in the Joint Committee this cooperation with the aim to develop and deepen their relations under the Agreement.

CHAPTER IV

Common Provisions

Article 18

Rules of Origin and Cooperation in Customs Administration

1. Protocol D lays down the rules of origin and methods of administrative cooperation.
2. The Parties to this Agreement shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative cooperation, to ensure that the provisions of this Protocol and Articles 3 to 9 and 14, 19 and 20 are effectively and harmoniously applied and reduce as far as possible the formalities imposed on trade and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

Article 19

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 and like products originating in the Parties.
2. Products exported to the territory of 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 20

General Exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public order or public security, the protection of human, animal or plant life or health and of environment, the protection of national treasures possessing artistic, historic or archaeological value, protection of intellectual, industrial and commercial property, or rules relating to gold or silver or the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption. Such prohibitions or

restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 21

Security Exceptions

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

(a) to prevent the disclosure of information contrary to its essential security interests;

(b) which relate to the production of, or trade in, arms, ammunition or war materials or to research, development or production indispensable for defense 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 serious internal tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article 22

State Monopolies

The Parties shall adjust progressively any state monopoly of commercial character so as to ensure that by 1998 no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Parties. The Joint Committee will review progress in this area annually.

Article 23

Payments

1. The Parties undertake to authorize, 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.

2. Any measure concerning account of balance of payments taken by Turkey and Romania relevant to the movement of goods shall be in conformity with the conditions laid down in Article VIII of the Articles of Agreement of the International Monetary Fund whenever it is applicable to respective countries within the context of the current relations with the Fund.

Article 24

Rules of Competition Concerning Undertakings

1. The following are incompatible with the proper functioning of this Agreement, insofar as they may 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 a dominant position in the territories of the Parties 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. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 85, 86 and 92 of the Treaty establishing the European Economic Community.

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

4. (a) For the purpose of applying the provisions of paragraph 1, point (c), the Parties recognize that during the first five years after the entry into force of the Agreement, any public aid granted by Romania shall be assessed taking into account the fact that Romania shall be regarded as an area identical to those areas of Turkey described in Article 92(3)(a) of the Treaty establishing the European Economic Community. The Joint Committee shall taking into account the economic situation of Romania, decide whether that period should be extended by further periods of five years.

(b) 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.

5. With regard to agricultural products referred to in Chapter II, paragraph 1(c) of this Article does not apply.

6. If Turkey or Romania considers that a particular practice is incompatible with the terms of paragraph 1, 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,

it may take appropriate measures after consultation within the Joint Committee or after 30 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.

7. Notwithstanding any provisions to the contrary adopted in conformity with paragraph 2, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.

Article 25

Public Procurement

1. The Parties consider the liberalization of their respective public procurement markets an objective of this Agreement.

2. The Joint Committee will review progress in this area annually.

Article 26

Intellectual, Industrial and Commercial Property

1. Pursuant to the provisions of this Article, the Parties shall grant and ensure adequate and effective protection of intellectual, industrial and commercial property rights by the end of 1998 in accordance with the highest international standards and multilateral conventions referred to in Annex IX, including effective means of enforcing such rights.

2. The Parties to this Agreement shall take all necessary measures to enforce these rights against trade distortion, infringement, and particularly against counterfeiting and piracy.

3. The Joint Committee shall keep the implementation of intellectual property rights under review. At the request of one of the Parties to this Agreement consultations will take place in the Joint Committee on any matter concerning intellectual property rights.

4. Upon entry into force of the Agreement treatment no less favourable than that granted to any third country under any bilateral agreement shall be granted by both Parties.

Article 27

Dumping

If a Party finds that dumping, within the meaning of Article VI of the General Agreement on Tariffs and Trade is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with the Agreement relating to the application of Article VI of the General Agreement on Tariffs and Trade and agreements with related internal legislation and with the conditions and procedures laid down in Article 32.

Article 28

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 importing 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 procedure laid down in Article 32.

Article 29

Structural Adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 3 may be taken by any of the Parties in the form of increased customs duties.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Customs duties on imports applicable in Turkey and Romania 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 the Parties. 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 Chapter I, 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 transitional period.
5. No such measures can be introduced in respect of a product if more than five years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.
6. Turkey and Romania shall inform the Joint Committee of any exceptional measures it intends to take and, upon request of the other Party, consultations shall be held within the Joint Committee on such measures and the sectors to which they apply before they are applied. When taking such measures the Party concerned shall provide the Joint Committee with a calendar 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 annual rates. The Joint Committee may decide on a different schedule.

Article 30

Re-export and Serious Shortage

Where compliance with the provisions of Articles 7 and 9 lead 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 32. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

Article 31

Fulfilment of Obligations

1. The Parties shall take any general or specific measures required to fulfill their obligation under this Agreement. They shall ensure that the objectives set out in the Agreement are attained.
2. If either Party considers that the other Party has failed to fulfill an obligation under the Agreement, it may take appropriate measures. Before so doing, except in case of special urgency, it shall supply the Joint Committee with all relevant information required for thorough examination of the situation with a view to seeking a solution acceptable to the Parties. In the selection of measures, priority must be given to those which least disturb the functioning of the Agreement. These measures shall be the subject of consultations within the Joint Committee if the other Party so requests.

Article 32

Procedure for the Application of Safeguard Measures

1. In the event of Turkey and Romania subjecting imports of products liable to give rise to the difficulties referred to in Article 28 to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, it shall inform the other Party.
2. In the cases specified in Articles 27, 28, 29 and 30 before taking measures provided for therein or, in cases to which paragraph 3(d) applies, as soon as possible, Turkey or Romania, as the case may be shall supply the Joint Committee with all relevant information, with a view to seeking a solution acceptable to the two Parties.

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

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

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

(a) The difficulties arising from the situation referred to in Article 28 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 30 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.

(b) As regards Article 27, the Joint Committee shall be informed of the dumping case as soon as the authorities of investigating Party have initiated an investigation. When no end has been put to the dumping or no other satisfactory solution has been reached within 30 days of the matter being referred to the Joint Committee, the importing Party may adopt the appropriate measures.

(c) As regards Article 30, the difficulties arising from the situation referred to in that 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 30 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, Turkey or Romania, whichever is concerned, may, in the situations specified in Articles 24, 27, 28, 29, 30 and 33 apply forthwith the precautionary and provisional measures strictly necessary to deal with the situation, and the Joint Committee will be informed immediately.

Article 33

Balance of Payments Difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments purposes. In the event of their introduction, the Party having introduced the same shall present to the other Party a time schedule for their removal.

2. Where Turkey or Romania is in serious balance of payments difficulties, or under imminent threat thereof, Turkey or Romania, as the case may be, may, in accordance with the conditions established under the General Agreement on Tariffs and Trade and with Article VIII of the Articles of the International Monetary Fund, adopt restrictive measures, including measures relating to imports, which shall be of limited duration and may not go

beyond what is necessary to remedy the balance of payments situation. Turkey or Romania, as the case may be, shall inform the other Party forthwith.

Article 34

Evolutionary Clause

Where a Party considers that it would be useful in the interest of the economies of the Parties to develop and deepen 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 such a request and, where appropriate, to make recommendations, particularly with a view to opening negotiations.

Article 35

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 take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 36

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. Each Party may request a meeting to be held.
2. The Joint Committee shall act by common agreement.
3. If a representative in the Joint Committee of a Party has accepted a decision subject to the fulfilment of constitutional requirements the decision shall enter into force, if no later date is contained therein, on the day the lifting of the reservation notified.
4. For the purposes of this Agreement, 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 37

Trade Relations Governed by Other Agreements

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

Article 38

Annexes and Protocols

1. The Annexes, Protocols and Joint Declarations to this Agreement are an integral part of this Agreement.
2. The Joint Committee may decide to modify and amend the Annexes and Protocols.

Article 39

Territorial Application

This Agreement shall apply to the territories of the Parties to this Agreement.

Article 40

Amendments

Amendments to this Agreement other than those referred to in paragraph 3 of Article 35, and paragraph 2 of Article 38, which are approved by the Joint Committee shall be submitted to the Parties for acceptance and shall enter into force if accepted by both Parties.

Article 41

Entry into Force

1. This Agreement will be approved by the Parties in accordance with their own procedures.
2. This Agreement shall enter into force on the first day of the second month following the day on which the Parties notify each other that the procedures referred to in the first paragraph of this Article have been completed.

Article 42

Validity and Termination

This Agreement is concluded for an unlimited period.

Each Party may terminate this Agreement by a written notification to the other Party. The termination shall take effect six months after the date of such notification.

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

DONE at Ankara, on 29th April, 1997, in three originals, each in the Turkish, Romanian and English languages, all texts being equally authentic. In cases of differences in interpretation the English text shall prevail.

For the Republic of Turkey
Hungary

For the Republic of