

FREE TRADE AGREEMENT
BETWEEN
THE REPUBLIC OF TURKEY
AND
THE REPUBLIC OF KOSOVO

**Free Trade Agreement between
the Republic of Turkey and the Republic of Kosovo**

PREAMBLE

The Republic of Turkey and the Republic of Kosovo (hereinafter referred to as “the Parties” or “Turkey” or “Kosovo” where appropriate),

REAFFIRMING the mutual interest of the Parties in the continual reinforcement of the multilateral trading system and considering that the provisions and instruments of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as “GATT 1994”) and the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as “WTO”) constitute a basis for their foreign trade policy;

CONFIRMING 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;

TAKING INTO ACCOUNT the Agreement establishing an Association between Turkey and the European Economic Community and the integration process of Kosovo to the European Union (hereinafter referred to as ‘EU’);

DESIRING to create more favourable conditions for the sustainable development and diversification of trade between the Parties and for the promotion of commercial and economic co-operation in areas of common interest on the basis of equality, mutual benefit, non-discrimination, and a balance of rights and obligations;

DETERMINED to lay down for this purpose, provisions aimed at the progressive abolition of the obstacles to trade between the Parties and to establish clear, predictable and lasting rules to promote the development of reciprocal trade and investments, by means of establishing a free trade area;

DECLARING their readiness to examine the possibility of developing and deepening their economic relations by extending the fields covered by this Agreement;

RECOGNISING that free trade agreements contribute to the expansion of world trade, to greater international stability, and, in particular, to the development of closer relations among their peoples;

HAVE AGREED to conclude this Free Trade Agreement (hereinafter referred to as “this Agreement”).

TITLE I INITIAL AND GENERAL PROVISIONS

Article I.1 Establishment of the Free Trade Area

1. The Parties hereby agreed to gradually establish a free trade area, which includes trade in goods and services in accordance with this Agreement and in conformity with Article XXIV of the GATT 1994 and Article V of the General Agreement on Trade in Services (GATS).

Article I.2 Objectives

1. The objectives of this Agreement are:
 - (a) to increase and enhance the economic co-operation between the Parties and raise the living standards of their people;
 - (b) to promote the expansion of bilateral trade through the harmonious development of the economic relations between the Parties;
 - (c) to eliminate obstacles and restrictions on trade in goods and services;
 - (d) to contribute, by the removal of barriers to trade, to the harmonious development and expansion of world trade;
 - (e) to provide fair conditions of competition in trade between the Parties; and
 - (f) to co-operate for adequate and effective protection of intellectual property rights.

Article I.3 Trade Relations Governed by Other Agreements

1. The Parties, without prejudice to the rights and obligations provided for in this Agreement, preserve the right to maintain or establish customs unions, free trade areas or other arrangements with third countries.
2. In case the rights and obligations provided for under this Agreement are being affected, any Party may request to hold consultations within the Joint Committee concerning agreements establishing or adjusting customs unions or free trade areas and, where required, on other major issues related to the Parties' respective trade policies with third countries.

Article I.4
Government Procurement

1. The Parties shall grant each other's suppliers access to contract award procedures a treatment no less favourable than that accorded to suppliers of any other country.

Article I.5
Intellectual Property Rights

1. The rights and obligations of the Parties with respect to each other related to intellectual property rights shall be governed by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as "TRIPS Agreement") and any other multilateral intellectual property agreement to which both the Parties are a Party.

2. The Parties shall ensure adequate, effective and non-discriminatory protection of intellectual property rights, including measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article and the TRIPS Agreement and any other multilateral intellectual property agreement by which both Parties are bound.

3. The Parties shall co-operate on intellectual property matters, and each of them shall provide the legal means for interested parties to prevent the commercial use of the other Party's country name, where such use is likely to mislead consumers with regard to the geographical origin of the good.

Article I.6
Transparency

1. The Parties shall publish or otherwise make publicly available promptly and, except in emergency situations, at the latest by the time of their entry into force, their laws, regulations, judicial decisions, administrative rulings of general application and their respective international agreements that may affect the operation of this Agreement.

2. The Parties shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in Paragraph 1.

3. Nothing in this Agreement shall require any Party to provide confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

TITLE II

MARKET ACCESS FOR GOODS

Chapter 1

Common Provisions

Article II.1

Customs Duty

1. For the purpose of this Agreement, a customs duty includes any duty or charge of any kind imposed on, or in connection with, the importation or exportation of a good, including any form of surtax or surcharge imposed on, or in connection with, such importation or exportation, but does not include any:

- (a) internal taxes or other charges equivalent to internal taxes imposed consistently with Article II.6 (National Treatment);
- (b) fees or other charges imposed consistently with Article II.7 (Fees and Other Charges);
- (c) safeguard duties or levies imposed consistently with Article II.12 (General Safeguards);
- (d) anti-dumping or countervailing duties imposed consistently with Article II.13 (Anti-Dumping and Countervailing Measures).

Article II.2

Classification and Valuation of Goods

1. The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature in conformity with the Combined Nomenclature (CN) of the EU.

2. A Party may introduce new tariff splits, provided that the preferential conditions applied in the new tariff splits are not less preferential than those applied originally.

3. For the purposes of determining the customs value of goods traded between the Parties, provisions of Article VII of the GATT 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994, as may be amended, shall apply *mutatis mutandis*.

Article II.3

Base Rate

1. For each good, the base rate to which successive reductions or eliminations set out in this Agreement are to be applied shall be the actually applied *erga omnes* customs duty that was in force on 1 January 2013.

2. If, after 1 January 2013 any tariff reduction is applied on an *erga omnes* basis, in particular tariff reductions resulting from the tariff agreement concluded as a result of membership to the WTO or tariff negotiations within the WTO, such reduced duties shall replace the base rate referred to in Paragraph 1 as from the date when such reductions are applied.

3. The Parties shall communicate to each other their respective base rates and their respective tariff nomenclature, including full definitions of the goods in English, within two months after the entry into force of this Agreement.

4. The Parties shall publish or otherwise make public the applied duty for the other Party for each good set in their respective tariff nomenclature, immediately following tariff reductions to be made in accordance with this Agreement.

Article II.4

Customs Duties on Exports and Charges Having Equivalent Effect

1. Customs duties on exports and charges having equivalent effect shall be abolished in trade between the Parties upon the entry into force of this Agreement.

2. From the date of the entry into force of this Agreement no new customs duties on exports and charges having equivalent effect shall be introduced in trade between the Parties.

Article II.5

Quantitative Restrictions on Imports and Exports

1. Neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994 and its interpretative notes; and to this end, Article XI of the GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

Article II.6

National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes. To this end, Article III of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article II.7
Fees and Other Charges

1. Each Party shall ensure, in accordance with Article VIII of the GATT 1994 and its interpretative notes, that all fees and charges of whatever character (other than customs duties and other duties and charges that are excluded from the definition of a customs duty under Article II.1 (Customs Duty)) imposed on, or in connection with, importation or exportation are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or taxation of imports or exports for fiscal purposes.

Article II.8
Sanitary and Phytosanitary Measures

1. The rights and obligations of Parties with respect to each other relating to sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.
2. The Parties shall not apply their regulations in sanitary and phytosanitary matters as an arbitrary or unjustifiable discrimination or a disguised restriction on trade between them.

Article II.9
Technical Regulations

1. The rights and obligations of the Parties with respect to each other on technical regulations and related measures shall be governed by the WTO Agreement on Technical Barriers to Trade.
2. The Parties shall co-operate and exchange information within the Joint Committee in the fields of technical regulations, standards, metrology, and conformity assessment procedures, with the aim of eliminating technical barriers to trade.
3. The Parties agree to enter, where appropriate, into negotiations for the mutual recognition in the field of conformity assessment, taking into consideration the international rights and obligations of both Parties.

Article II.10
Rules of Origin and Co-operation between the Customs Administrations

1. The rules of origin applicable between the Parties to goods covered under this Agreement and related methods of administrative co-operation are set out in *Annex II.1*.

Article II.11
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 of one Party and like products originating in the other Party.
2. Products exported to the territory of the Parties may not benefit from repayment of internal indirect taxation in excess of the amount of indirect taxation imposed on them.

Article II.12
General Safeguards

1. The rights and obligations of the Parties to apply safeguard measures shall be governed by Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.
2. This Agreement shall not confer any additional rights or obligations on the Parties with regard to the application of safeguard measures, referred to in Paragraph 1.

Article II.13
Anti-dumping and Countervailing Measures

1. The rights and obligations of the Parties with respect to each other relating to anti-dumping and countervailing measures shall be governed by Article VI and Article XVI of the GATT 1994, the WTO Agreement on Implementation of Article VI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.
2. This Agreement shall not confer any additional rights or obligations on the Parties with regard to the application of anti-dumping and countervailing measures, referred to in Paragraph 1.

Chapter 2
Industrial Goods

Article II.14
Scope

1. The provisions of this Chapter shall apply to industrial products originating in the Parties.
2. The term “industrial products” means, for the purposes of this Agreement, the goods falling within Chapters 25 to 97 of the Combined Nomenclature of the EU.

Article II.15
Customs Duties on Imports and Charges Having Equivalent Effect

1. Each Party shall abolish on the date of entry into force of this Agreement all customs duties on imports and any charges having equivalent effect on goods originating in the other Party without prejudice to Paragraph 2.
2. Customs duties on imports applied by Kosovo on goods originating in Turkey specified in *Annex II.2* shall be progressively abolished in accordance with the timetable laid down thereof.
3. For goods originating in Turkey specified in *Annex II.2*, Kosovo shall accord treatment no less favourable than that accorded to like products originating in the EU. In case of any favourable change in the treatment accorded to the EU for the goods specified in *Annex II.2*, Kosovo shall without delay apply the same favourable treatment to the goods originating in Turkey specified in this Annex and promptly notify Turkey thereof.
4. Except as otherwise provided in this Agreement, the Parties shall not increase any customs duty set as base rate or shall not adopt any new customs duty on a good originating in the other Party.

Chapter 3 **Agricultural Products**

Article II.16 **Scope**

1. The provisions of this Chapter shall apply to agricultural products originating in the Parties.
2. The term “agricultural products” means, for the purposes of this Agreement, the goods falling within Chapters 1 to 24 of the Combined Nomenclature of the EU.

Article II.17 **Exchange of Concessions**

1. The Parties shall mutually allocate concessions set forth in *Annex II.3* in accordance with the provisions laid down therein.
2. Taking into account the role of agriculture in their respective economies, the development of trade in agricultural products and their respective agricultural policies, the Parties shall examine in the Joint Committee the possibilities of granting further concessions to each other in trade in agricultural products.

Article II.18
Bilateral Safeguard Measures Applicable to Agricultural Products

1. Notwithstanding other provisions of this Agreement, and in particular Article II.12 (General Safeguards), given the particular sensitivity of the agricultural market, if imports of products originating in one of the Parties, which are the subject of concessions granted under this Agreement cause serious disturbance to the market or to its domestic regulatory mechanisms in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution according to procedures laid down in paragraphs 3 through 7 of Article IV.3 (Fulfilment of Obligations and Dispute Settlement). Pending such solution the importing Party may adopt measures provided for in Paragraph 2.

2. The importing Party may take a bilateral safeguard measure which:

- (a) suspends further reduction of the rate of customs duty on the good concerned provided for under this Agreement; or
- (b) increases the rate of customs duty on the good to a level which does not exceed the lesser of:
 - (i) the applied *erga omnes* customs duty on the good in effect at the time the measure is taken; or
 - (ii) the base rate of customs duty specified in Article II.3 (Base Rate).

TITLE III TRADE IN SERVICES

Article III.1 Trade in Services Negotiations

1. The Parties recognize the growing importance of trade in services. In their efforts to gradually develop and broaden their co-operation, they aim at achieving a progressive liberalization and mutual opening of their markets for trade in services, taking into account relevant provisions of the General Agreement on Trade in Services (GATS).
2. For the purpose referred to in Paragraph 1, the Parties shall begin negotiations on trade in services immediately after signing of this Agreement. The Parties without prejudging the outcome, shall facilitate these negotiations with the goal of conclusion in a reasonable time.
3. If a Party grants to a non-Party, before and after the entry into force of this Agreement, additional benefits with regard to the access to its services markets, it shall afford adequate opportunities for negotiations with a view to extending those benefits to the other Party on a mutually advantageous basis.

TITLE IV
INSTITUTIONAL PROVISIONS AND DISPUTE SETTLEMENT

Article IV.1
Establishment of the Joint Committee

1. A Joint Committee is hereby established in which each Party shall be represented by its senior officials.
2. The Joint Committee shall be responsible for the administration of this Agreement and shall ensure proper implementation of its provisions.
3. The Joint Committee shall meet at least once a year or on request of either Party. The Joint Committee shall be chaired alternately by the Parties.
4. The Joint Committee shall adopt its rules of procedure.

Article IV.2
Functions of the Joint Committee

1. For the efficient implementation of this Agreement, the Joint Committee shall have the following functions:
 - (a) reviewing the general functioning of this Agreement;
 - (b) setting up sub-committees as it considers necessary for accomplishing its tasks, and supervising the work of sub-committees;
 - (c) reviewing, considering and, as appropriate, deciding on specific matters related to the operation and implementation of this Agreement, including matters reported by sub-committees;
 - (d) facilitating, as appropriate, the avoidance and settlement of disputes arising under this Agreement;
 - (e) as appropriate, providing interpretations of this Agreement;
 - (f) reviewing the possibility of further removal of the obstacles to trade between the Parties and further development of the trade relationship; and
 - (g) exploring ways to enhance trade between the Parties and to further the objectives of this Agreement.
2. The Joint Committee may take decisions in the matters related to this Agreement, including decisions to adopt any amendment to this Agreement. The Joint Committee may also make recommendations to matters related to this Agreement. The Joint Committee shall take decisions and make recommendations by consensus of the Parties.

3. The decisions taken by the Joint Committee on any amendment to this Agreement shall be subject to the completion of the respective internal ratification procedures of the Parties in accordance with Article V.6 (Amendments).

Article IV.3

Fulfilment of Obligations and Dispute Settlement

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. The Parties shall at all times endeavour to agree on the interpretation and implementation of this Agreement and shall make every attempt through cooperation and consultations to avoid and settle disputes between them and to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

3. Each Party may request consultations within the Joint Committee with respect to a measure or any other matter relating to the interpretation and implementation of this Agreement.

4. The requesting Party shall deliver written notification to the other Party, stating the reasons for the request, including the identification of the measure at issue and an indication of relevant Article(s) of this Agreement, and provide sufficient information to enable an examination of the matter.

5. The Joint Committee shall convene within 30 calendar days after the date of receipt of the request. Upon initiation of consultations, the Parties shall provide information to enable the examination of how the measure or any other matter might affect the interpretation and implementation of this Agreement, and give confidential treatment to the information exchanged during consultations.

6. The Joint Committee shall endeavour to resolve the matter or dispute promptly in the form of a decision, and if the Parties agree, may make recommendations regarding the implementing measures to be taken by the Party concerned, and the timeframe for doing so.

7. The Joint Committee may call on technical advisers or create working groups or expert groups as it deems necessary; or may assist the Parties to reach a mutually satisfactory resolution of the matter or dispute.

8. If the dispute cannot be solved within a reasonable period of time during the consultations, the Joint Committee may agree to establish an Arbitration Panel. Numbers of arbitrators, selection procedures of the arbitrators, proceedings of Arbitration Panel and the timeframe that the Arbitration Panel has to submit its Report shall be established by the Joint Committee.

9. If a Party considers that the other Party has failed to fulfil an obligation under this Agreement, and the Joint Committee has failed to arrive at a commonly acceptable solution within 90 calendar days from the receipt of the notification referred to in Paragraph 4, the Party concerned may take appropriate measures. The measures taken shall be notified immediately to the Joint Committee, which shall hold regular consultations

with a view to their abolition. The measures shall be abolished when conditions no longer justify their maintenance, or, if the dispute is submitted to the Arbitration Panel.

TITLE V

EXCEPTIONS AND FINAL PROVISIONS

Article V.1

General and Security Exceptions

1. Nothing in this Agreement shall prevent the Parties from taking actions and adopting measures consistent with Article XX and Article XXI of the GATT 1994; Article XIV and Article XIV *bis* of the GATS.
2. The Joint Committee shall be informed, to the fullest extent possible, of measures taken under Paragraph 1 and of their termination.

Article V.2

Payments and Transfers

1. Except under the circumstances envisaged in Article V.3 (Balance of Payments Exceptions), a Party shall not apply restrictions on international transfers and payments for current transactions with the other Party.
2. Nothing in this Agreement shall affect the rights and obligations of the Parties under the Articles of the Agreement of the International Monetary Fund (hereinafter referred to as the “IMF”), including the use of exchange actions which are in conformity with the Articles of the Agreement of the IMF, provided that a Party shall not impose restrictions on capital transactions inconsistently with its specific commitments regarding such transactions, except under Article V.3 (Balance of Payments Exceptions) or at the request of the IMF.

Article V.3

Balance of Payment Exceptions

1. The Parties shall endeavour to avoid the application of the restrictive measures for balance of payment purposes.
2. Should a Party decide to impose measures for balance-of-payments purposes, it shall do so only in accordance with the GATT 1994, including the Declaration on Trade Measures Taken for Balance of Payments Purposes (1979 Declarations) and the Understanding on the Balance of Payments provisions of the GATT 1994 (BOP Understanding) and GATS.
3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory, be of limited duration, and may not go beyond what is necessary.
4. The Party maintaining or having adopted such restrictive measures, or any changes thereto, shall promptly notify them to the Joint Committee and present, as soon as possible, a time schedule for their removal.

Article V.4

Evolutionary Clause

1. The Parties may mutually agree to extend this Agreement with the aim of broadening and supplementing its scope in accordance with their respective legislation, by concluding agreements on specific sectors or activities in the light of the experience gained during its implementation.

Article V.5

Annexes and Appendices

1. Annexes and Appendices to this Agreement shall form integral parts of this Agreement.

Article V.6

Amendments

1. The Parties may agree, in writing, to make amendments to this Agreement.
2. Any amendment to this Agreement shall be subject to the completion of the respective internal ratification procedures of the Parties.
3. Any amendment to this Agreement shall enter into force on the first day of the second month following the date of the receipt of the latter written notification through diplomatic channels, by which the Parties inform each other that all national requirements for the entry into force are fulfilled or on another date as the Parties may agree.
4. Any amendment shall constitute an integral part of this Agreement, upon the completion of the internal ratification procedures of the Parties.

Article V.7

Entry into Force

1. The Parties shall ratify this Agreement in accordance with their internal ratification procedures.
2. This Agreement shall enter into force on the first day of the second month following the date of the receipt of the latter written notification through diplomatic channels, by which the Parties inform each other that all national requirements for the entry into force are fulfilled or on another date as the Parties may agree.

Article V.8

Duration and Termination

1. This Agreement shall be valid indefinitely.

2. Either Party may give written notice to the other of its intention to terminate this Agreement. Termination shall take effect on the first day of the seventh month after notification to the other Party.

3. The Parties agree that, in case of accession of one of the Parties to this Agreement to the EU, this Agreement will be terminated on the date of the accession to the EU.

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

DONE at Ankara, this twenty seventh day of September, in the year two thousand and thirteen, in two originals, each in the Turkish, Albanian, Serbian and English languages, all texts being equally authentic. In case of any divergence in the interpretation of this Agreement, the English text shall prevail.

FOR THE REPUBLIC OF TURKEY

FOR THE REPUBLIC OF KOSOVO

Zafer ÇAĞLAYAN
Minister of Economy

Mimoza KUSARI LILA
Deputy Prime Minister for Economy
Minister of Trade and Industry