

### CHAPTER III

#### Right of Establishment and Supply of Services

##### Article 13

1. The Parties shall seek to widen the scope of the Agreement to cover the right of establishment of firms of one Party in the territory of another Party and the liberalization of the provision of services by one Party's firms to consumers of services in the other.
2. The Parties will discuss this cooperation in the Joint Committee with the aim of developing and deepening their relations under this Article.

### CHAPTER IV

#### Common Provisions

##### Article 14

##### Internal Taxation

1. The Parties to this Agreement 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 Lithuania.
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 15

##### 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. Exchange of information between the Parties shall take place, on request, within the Joint Committee concerning agreements establishing such customs unions or free trade areas.

##### Article 16

##### Structural Adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 4 may be taken by Lithuania and Turkey 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 Lithuania and Turkey 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 3, 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. Lithuania and Turkey Parties shall inform the Joint Committee of any exceptional measures they intend 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 17

##### 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 21.

#### Article 18

##### 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 21.

#### Article 19

##### Re-export and Serious Shortage

Where compliance with the provisions of Article 6 and 8 leads to:

1. re-export towards a third country against which the exporting Party to this Agreement maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
2. 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 21. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

#### Article 20

##### State Monopolies

1. The Parties shall progressively adjust any state monopoly 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 21

##### 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 16, 17, 18 and 19 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 that 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 16, 17, 18, 19, 25 and 26 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 22

##### Rules of Origin and Co-operation in Customs Administration

1. Protocol 3 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 3 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 23

##### 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 health and life of humans, animals or plants and of the environment, 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 24  
Payments

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 25  
Rules of Competition concerning Undertakings, Public Aid

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

(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 Turkey or of Lithuania 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 Lithuania or Turkey 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.

4. 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.

5. 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 26

##### Balance of Payments Difficulties

When either Party is in a serious balance of payment difficulties, or under threat thereof, Turkey and Lithuania as the case may be, may in accordance with the conditions laid down within the framework of WTO/GATT 1994 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, of a time schedule of their removal.

#### Article 27

##### Protection of Intellectual Property

1. The Parties shall grant and ensure protection of intellectual property rights on a non-discriminatory basis, including measures for the grant and enforcement of such rights. The protection shall be gradually improved on a level corresponding to the substantive standards of the multilateral agreements specified in Annex VI by 1 January 2001 at the latest.

2. For the purpose of this Agreement "intellectual property protection" includes in particular protection of copyright, neighbouring rights, trade marks, geographical indications, industrial designs, patents, topographies of integrated circuits, as well as undisclosed information (know-how).

3. The Parties to this Agreement may conclude further agreements exceeding the requirements of this Agreement in conformity with TRIPS Agreement.

4. The Parties shall co-operate in matters of intellectual property. They shall hold, upon request of a Party, expert consultations on these matters, in particular on activities relating to the existing or to future international conventions on harmonization, administration and enforcement of intellectual property and on activities in international organizations, such as the World Trade Organization, WIPO, as well as on relations of Parties with third countries in matters concerning intellectual property.

#### Article 28

##### 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 30 and 31, 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 29

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

#### Article 30

##### 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 31

## 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 32

### 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 Party 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 21.

## Article 33

### 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.

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

## Article 34

### Amendments

Amendments to this Agreement other than those referred to in paragraph 3 of Article 29, 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 35 Protocols and Annexes

Protocols 1, 2, and 3, and Annexes I to VI of this Agreement shall form an integral part thereof. The Joint Committee may decide to amend the Protocols and Annexes.

#### 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 have notified each other through diplomatic channels, that their internal legal requirements for the entry into force of this Agreement have been fulfilled.

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

DONE at Vilnius, this 2nd day of June 1997 in duplicate copies in the Turkish, Lithuanian and English languages, all texts being equally authentic. In case of divergence the English text shall prevail.

For the Republic of Turkey      For the Republic of Lithuania

#### Record of Understanding

1. Before the entry into force of this Agreement, the Parties shall exchange their respective Customs Tariffs as referred to in Article 2.
2. 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.

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 Lithuania on the other part, are amended, the provisions of Protocol 3 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 3 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 25 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.