

FREE TRADE AGREEMENT BETWEEN TURKEY AND MOROCCO

FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF TURKEY AND THE KINGDOM OF MOROCCO

PREAMBLE

The Republic of Turkey and the Kingdom of Morocco (hereinafter referred to as «the Parties»),

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

Having regard to Agreement Establishing an Association between Turkey and the European Economic Community and the Euro-Mediterranean Agreement Establishing an Association between the European Communities and Morocco;

Having regard to the experience gained from the co-operation developed between the Parties to this Agreement 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, thus creating a framework and supportive environment based on equality, non discrimination, and a balance of rights and obligations;

Recalling the membership of the Parties in World Trade Organization (hereinafter "WTO") and their commitment to comply with the rights and obligations arising from the Agreement establishing the WTO, including the principles of most-favoured-nation and of national treatment;

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

Resolved to contribute to the strengthening of the multilateral trading system and to develop their relations towards free trade in compliance with WTO rules;

Declaring their readiness to examine, in the light of any relevant factor, the possibility of developing and deepening their economic relations in order to extend them to fields not covered by this Agreement;

Also convinced that this Agreement will create conditions encouraging economic, trade and investment relations between them;

Have decided, in pursuance of these objectives, to conclude the following Agreement (hereinafter referred to as "this Agreement").

Article 1

Objectives

1. The Parties shall gradually establish a free trade area on substantially all their trade between them in a transitional period lasting a maximum of 10 years starting from the entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the General Agreement on Tariffs and Trade 1994 (hereinafter “GATT 1994”) and the other multilateral Agreements on trade in goods annexed to the Agreement establishing the WTO.
2. The objectives of this Agreement are:
 - (a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between the Parties;
 - (b) to provide fair conditions of competition for trade between the Parties;
 - (c) to contribute in this way, by removal of barriers to trade, to the harmonious development and expansion of world trade;
 - (d) to enhance cooperation between the Parties.

Article 2

Basic Duties

1. For commercial exchanges covered by this Agreement, the Parties shall apply their respective Customs Tariffs on the classification of goods for imports into them.
2. For each product the basic duty to which successive reductions set out in this Agreement are to be applied shall be the Most Favoured Nation (MFN) duty that was in force in the Parties, *erga omnes*, on the date of 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 within the WTO, such reduced duties shall replace the basic duties referred to in paragraph 2 as from that date when such reductions are applied.
4. The Parties shall communicate each other their respective basic duties.

CHAPTER I: INDUSTRIAL PRODUCTS

Article 3

Scope

The provisions of this Chapter shall apply to products falling within Chapters 25 to 97 of Harmonised 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, in trade between the Parties from the date of entry into force of this Agreement.
2. Customs duties and any charges having equivalent effect to customs duties on imports shall be abolished in accordance with the provisions of Protocol I to this Agreement.

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

Article 7

Quantitative Restrictions On Imports And Measures Having Equivalent Effect

1. No new quantitative restriction on imports or measure having equivalent effect shall be introduced nor shall those existing be made more restrictive in trade between the Parties from the date of entry into force of this Agreement.
2. Quantitative restrictions on imports shall be abolished between the Parties upon the entry into force of this Agreement.

Article 8

Quantitative Restrictions On Exports And Measures Having Equivalent Effect

1. No new quantitative restriction on exports or measure having equivalent effect shall be introduced, nor shall those existing be made more restrictive in trade between the Parties from the date of entry into force of this Agreement.
2. Quantitative restrictions on exports and any measures having equivalent effect shall be abolished between the Parties upon the entry into force of this Agreement.

CHAPTER II: AGRICULTURAL PRODUCTS

Article 9

Scope And Exchange Of Concessions

1. The provisions of this Chapter shall apply to agricultural products falling within Chapters 1 to 24 of the Harmonised Commodity Description and Coding System and the products listed in Annex I originating in the Parties.
2. The Parties grant each other the concessions specified in Protocol II, providing for measures to facilitate trade in agricultural products.
3. Taking into account of:
 - the role of agriculture in their economies,
 - the development of trade in agricultural products between the Parties,
 - the particular sensitivity of the agricultural products,
 - the rules of their agricultural policies,
 - the consequences of the multilateral trade negotiations under the GATT and the WTO,

the Parties shall examine the possibilities of granting each other further concessions.

Article 10

Improvement Of Concessions

1. The Parties to this Agreement declare their readiness to foster, in so far as their agricultural policies allow, the harmonious development of trade in basic agricultural, processed agricultural and fishery products and to discuss this issue periodically in the Joint Committee.
2. The Parties to this Agreement committed themselves to monitor the flow of bilateral trade in agricultural products with the aim to explore the possibilities of improving the current concessions contained in the Protocol II and further extending them to processed agricultural products and fishery products.

Article 11

Concessions And Agricultural Policies

1. Without prejudice to the concessions granted under Article 9, the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or application of any measures under such policies, including the implementation of the provisions of the Agreement on Agriculture negotiated under the auspices of the GATT 1994 and the Agreement establishing WTO.
2. The Parties shall notify to the Joint Committee changes in their respective agricultural policies pursued or measures applied which may affect the conditions of agricultural trade among them as provided for in this Agreement. On the request of a Party prompt consultations within the Joint Committee shall be held to examine the situation.

*Article 12*Specific Safeguards

Without prejudice to the other provisions of this Agreement and, in particular Article 22, and given the particular sensitivity of the agricultural products as referred to in Article 9, if imports of products originating in a Party, which are subject to concessions granted under this Agreement, cause serious disturbances to the markets of the other Party, the Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 22 of this Agreement.

*Article 13*Sanitary And Phytosanitary Measures

1. The Parties shall not apply their regulations in veterinary, plant health and public health matters in an arbitrary, unjustifiable and discriminatory way and shall not introduce any new measures that have effect of unduly obstructing trade.
2. The parties shall apply their sanitary and phytosanitary measures in accordance with the provisions of the GATT 1994 and the other relevant WTO Agreements.

CHAPTER III: RIGHT OF ESTABLISHMENT AND SUPPLY OF SERVICES*Article 14*

1. The Parties recognise 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 Euro-Mediterranean integration, they will cooperate with the aim of further promoting investments and achieving a gradual liberalisation and mutual opening of markets for trade in services, taking into account relevant provisions of the General Agreement on Trade and Services (GATS).
2. The Parties shall review developments in the services sectors with a view to considering liberalisation measures between themselves.
3. The Parties shall discuss this cooperation in the Joint Committee with the aim of developing and deepening their relations under this Agreement.
4. 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 the other Party.

CHAPTER IV: COMMON PROVISIONS*Article 15*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 of one Party and like products originating in the other Party.

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 16

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 17

Transitional Adjustment Measures

1. Transitional adjustment measures of limited duration which derogate from the provisions of Article 4 may be taken by the Parties in the form of increased customs duties.
2. These measures may only concern infant industries, or certain industries undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Customs duties on imports applicable in the Parties to products originating in each Party introduced by these measures may not exceed 25% *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% 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 authorised by the Joint Committee. They shall cease to apply at the latest 3 years after the expiry of the transitional period.
5. No such measures can be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.
6. The Parties shall inform the Joint Committee of any exceptional measures they intend to take and, at the request of either 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 a 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 18

Antidumping And Countervailing Measures

If a Party finds that dumping, within the meaning of the WTO Agreement on Implementation of Article VI of the GATT 1994, or subsidisation, within the meaning of the WTO Agreement on Subsidies and Countervailing Measures, practices are taking place in the trade relations governed by this agreement, it may take appropriate measures against these practices in accordance with the rules

and disciplines of the WTO Agreement on Implementation of Article VI of the GATT 1994, for the dumping practices, and the WTO Agreement on Subsidies and Countervailing Measures, for the subsidisation practices and in accordance with the procedures laid down in Article 22.

Article 19

Safeguard Measures

1. Each Party retains its rights and obligations under XIX of GATT 1994 and the WTO Agreement on Safeguard Measures. This Agreement does not confer any additional rights or obligations on the Parties with regard to safeguard measures.
2. Notwithstanding provisions of paragraph 1 of this Article, the procedures laid down in Article 22 shall apply with regard to safeguard measure taken by any Party.

Article 20

Re-Export And Serious Shortage

1. Where compliance with the provisions of Articles 6 and 8 leads to:
 - (a) 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
 - (b) A serious shortage, or threat thereof, of a product essential to the exporting Party; and where 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 22.
2. The measures taken as a result of the situation referred to in paragraph 1 shall be applied in a non-discriminatory manner and be eliminated when conditions no longer justify their maintenance.

Article 21

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 will exist between nationals of the Parties.
2. The Joint Committee shall be informed about the measures adopted to implement this objective.

Article 22

Notifications And Consultations Procedure For The Application Of Measures

1. Before initiating the procedure for the application of the measures specified in Articles 12, 17, 18, 19, 20 and 25, the Parties to this Agreement shall endeavour to reach appropriate solution between themselves through direct consultations, and shall inform the other Party thereof.
2. A Party which is considering to resort to a measure set out above mentioned articles, 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 measure it considers necessary to remedy the situation.

4. The 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 not 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 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 apply the measures, on provisional basis, strictly necessary to remedy the situation. The measures shall be notified without delay to the Joint Committee and consultations between the Parties to this Agreement shall take place within the Joint Committee.

Article 23

Rules Of Origin And Cooperation In Customs Administration

Protocol III lays down the rules of origin and methods of administrative cooperation.

Article 24

Payments

The Parties undertake to authorize, in freely convertible currency, the making of payments and transfers for current international transactions without delay consistently with Article VIII of the Articles of the Agreement of the International Monetary Fund.

Article 25

Rules Of Competition Concerning Undertakings, Public Aid

1. The followings are incompatible with the proper functioning of this Agreement, in so far as they affect trade between the Parties:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (b) abuse by one or more undertakings of dominant position in the territories of the Parties as a whole or in a substantial part thereof;
- (c) any state 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. For the purpose of applying the provisions of paragraph 1 of this Article, the Parties will take the 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.

4. If the Parties consider 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 implementing rules referred to in paragraph 3 of this Article, 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.

5. 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.

6. Notwithstanding any provisions to the contrary adopted in conformity with this Article, 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

Where either Party is in a serious balance of payment difficulties or under threat thereof, the Party concerned may, in accordance with the conditions laid down within the framework of WTO/GATT 1994 and with Article VIII of the Articles of Agreement of 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 payment situation. The Party concerned 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 Rights

1. The Parties to this Agreement shall grant and 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 relevant international agreements.

2. The Parties to this Agreement shall accord to each other's nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Article 3 of the TRIPS Agreement.

3. The Parties to this Agreement shall grant to each others' nationals treatment no less favourable than that accorded to nationals of any other State. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5 thereof.

4. The Parties to this Agreement agree, upon request of each Party, to review the provisions on the protection of intellectual property rights contained in the present Article, with a view to further improve levels of protection and to avoid or remedy trade distortions caused by actual levels of protection of intellectual property rights.

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 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 paragraph 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

General Exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit that are consistent with Article XX of the GATT 1994 and its interpretative notes or are necessary to implement commitments of the each Party under other multilateral agreement. However, such prohibitions or restrictions shall not constitute, a mean of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 30

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 take recommendations.

Article 31

Procedures Of The Joint Committee

1. For the proper implementation of this Agreement, the Joint Committee shall meet at an appropriate level whenever necessary upon request but at least once a year. Either Party may request a meeting be held.
2. The Joint Committee shall act by common agreement.
3. If a representative in the Joint Committee of a Party to this Agreement 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/her term of office.
5. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks.

Article 32

Security Exceptions

Nothing in this Agreement shall prevent a Party from taking any measures which it considers necessary to its essential security interests as long as these measures are consistent with Article XXI of the GATT 1994.

Article 33

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. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement or in the case of a dispute relating to interpretation of the provisions of this Agreement, the complaining Party may refer the dispute to the Joint Committee. If the Joint Committee settle the dispute referred to it, it shall take a decision on the matter and the Parties shall be bound to take the necessary measures involved in carrying out this decision.
3. If the dispute referred to the Joint Committee has not been settled within 60 days after the dispute was referred to it or within such longer period as the Joint Committee has agreed upon, the complaining Party may notify the other Party to refer the matter to a dispute settlement panel.
4. The panel shall be composed of three members. Each Party shall appoint one member within 40 days and the two appointees shall choose, within 30 days after their nomination, a third who will serve as the chairman.
5. The panel shall, within 90 days after the third member is appointed, present to the Parties an initial report. The panel shall base its report on the relevant provisions of this Agreement and the arguments of the Parties and shall make recommendations for the resolution of the dispute.

6. After considering any comments by the Parties on the initial report, if necessary, the panel may modify its report and make any further examination it considers appropriate. The panel shall present the final report to the Joint Committee within 30 days of the presentation of the initial report.

7. The Joint Committee shall take a decision to settle the dispute on the basis of the final report of the panel and the Parties shall be bound to take the necessary steps required to implement this decision.

8. If the Party complained against fail to implementing the decision mentioned in paragraph 7 of this article, the complaining Party shall be entitled to take measures in line with the decision of the Joint Committee.

9. The Parties shall also enter into discussion with a view to developing rules for the selection and conduct of members of panels and model rules of procedure for panels at the first Joint Committee meeting.

Article 34

Technical Barriers To Trade

1. The Parties to this Agreement shall co-operate in the field of technical regulations, standards and conformity assessment; and through appropriate measures promote in particular European-wide solutions. The Joint Committee shall establish guidelines for the implementation of this paragraph.

2. The Parties to this Agreement agree to hold immediate consultations in the framework of the Joint Committee in case a Party considers that another Party has taken measures which are likely to create, or have created, a technical obstacle to trade, in order to find an appropriate solution.

3. The Parties to this Agreement confirm the obligation to notify draft technical regulations in accordance with the provisions on the WTO Agreement on Technical Barriers to Trade.

Article 35

Evolutionary Clause

1. Where either Party considers that it would be useful and 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 36

Amendments

Amendments to this Agreement, as well as to its Protocols and Annexes shall enter into force on the date of a receipt of the latter diplomatic note confirming that all internal legal procedures required by each Party for the entry into force have been completed.-

Article 37

Protocols And Annexes

Protocols and Annexes to this Agreement shall form an integral part thereof. The Joint Committee may decide to amend Protocols and Annexes.

Article 38

Territorial Application

This Agreement shall apply to the territories of the Parties.

Article 39

Expiration

1. This Agreement is concluded for an indefinite period of time.
2. Each Party may denounce this Agreement by means of a written notification to the other Party. This Agreement shall terminate on the first day of the seventh month following the date of such notification.

Article 40

Entry Into Force

This Agreement shall enter into force on the first day of the second month, following the date of the receipt of the latter diplomatic note, by 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 authorised thereto, have signed this Agreement.

DONE at -----, this ----- day of ----- in two originals, in the English, Turkish and Arabic language, all texts being equally authentic. In case of differences of interpretation, the English text shall prevail.

For the Republic of Turkey

For the Kingdom of Morocco
