

**FREE TRADE AGREEMENT BETWEEN TURKEY AND
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

Questions and Replies

Addendum

II. TRADE PROVISIONS

3. Rules of Origin

Would the Parties explain in detail what is meant by "other particular circumstances" as set out in Protocol 2?

Is the concept of cumulation with materials originating in the European Community applicable for the determination of Preferential Rules of Origin in this Agreement? If applied, what is the rationale on extended cumulation of products originating from non-Parties to this Agreement?

The term "other particular circumstances" in the standard format aims to clarify the conditions other than the general requirements set out in Article 2 of the FTA. The detailed bilateral cumulation circumstances and procedure have been set out in the Articles 3 to 13 of the Protocol 2 annexed to the FTA between Turkey and Macedonia. As stated in the footnote 1 of the WTO document WT/REG115/1 regarding the Agreement, the Annexes and Protocols have been submitted to the Secretariat for consultation by interested Members (Office3006).

There is apparently no extended cumulation for products originating from non-Parties to this Agreement. Only bilateral cumulation is permitted between the Parties. Since Macedonia is not a member of the Pan-European Cumulation System, neither the EU nor another country could get involved in the bilateral cumulation between Turkey and Macedonia.

5. Safeguards

Is the Emergency Action under Article 18 of the Agreement a global measure or a bilateral one?

Please explain the difference between disturbances on the market of like or directly competitive products under Article 18 (a) and serious disturbances in any sector of the economy under Article 18 (b).

The requirement under Article 18 (b) does not exist in the WTO Safeguard Agreement. What is the rationale for introducing a new requirement for safeguard measures? Which factors will be taken into account in order to establish this requirement during the investigation procedure?

Paragraph 6 of the Article 21 of the Agreement allows the Parties to apply the precautionary measures without prior examination. Is it possible to apply the precautionary measures if there is merely the application of the domestic industry? What is the minimum standard or criteria before precautionary measures are applied?

Emergency Action under Article 18 of the Agreement is definitely a bilateral measure.

Article 18 (b) refers to a broader circumstance of disturbance because of increase in quantities of import of a product. "Serious injury in a domestic industry" stated in the WTO Safeguard Agreement Articles 4 (1)(a) and 4 (2)(a) explains could be referred hereto.

Turkey operates under Safeguard legislation which is fully compatible with the WTO rules.

Although Article 18 (b) of FTA differs in wording, from the WTO Safeguard Agreement word by word, Article 4 (2), (a) of the WTO Safeguard Agreement clearly refers it by stating "in the investigation to determine whether increased imports have caused or are threatening to cause serious injury to a domestic industry under the terms of this Agreement, the competent authorities shall evaluate all relevant factors...."

It is obvious that the sentence " to cause serious injury to a domestic industry under this Agreement..." in the Article 4 (2), (a) of WTO Safeguard Agreement, refers to the sentence " serious disturbance in any sector of the economy..." in the Article 18 (b) of FTA.

The factors which will be taken into account in order to establish this requirement for safeguard measures during the investigation procedure are also clearly indicated in the Article 4 (2), (a) of WTO Safeguard Agreement; the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment.

No separate track has been created in the Turkish national legislation in order to implement specific FTA provisions concerning safeguard.

Against the existence of similar provisions referring to the use of safeguards in its all FTA's, Turkey has not applied any until now, since we believe that the conditions requiring the use of safeguards could be solved through direct consultations between the Parties of an FTA, which is apparently a more preferable application in terms of WTO Rules as well.

6. Anti-Dumping and Countervailing Measures

What is the rationale to extend the application of the precautionary safeguard measures under paragraph 6 of Article 21 to Antidumping in Article 17 and to the Rules of Competition Concerning Undertakings, State-Aid in Article 24?

We believe that the misunderstanding in the question might have occurred from the terminology used in the standard format. Accordingly, as explained in the WTO document WT/REG115/4/Add.1, the confusion is due to the fact that the terminology used is not in the conformity with the terminology of the WTO.

All trade related legislation of Turkey is fully compatible with the WTO rules and has been notified to the relevant Committee of WTO. There is no separate track in the national legislation in order to implement specific FTA provisions.
