

WORLD TRADE ORGANIZATION

RESTRICTED

WT/REG59/4

24 June 1999

(99-2580)

Committee on Regional Trade Agreements

Original: English

FREE TRADE AGREEMENT BETWEEN TURKEY AND ROMANIA

Questions and Replies

The document reproduces questions addressed to the Parties and the responses submitted. The questions and replies set out below are organized in accordance with documents WT/REG59/3.

I. BACKGROUND INFORMATION ON THE AGREEMENT

4. Trade Data

The Parties to the Agreement have circulated overall two-way trade data at the chapter or section level for the last few years. While this information is useful, unfortunately the information does not respond to the request made by the Committee. Committee members are still unclear on the treatment of certain types of products under the Agreement. While the Parties claim that all trade is covered by the Agreement, it appears that some products – primarily agricultural – are not subject to tariff elimination and in fact may receive only tariff preferences. Committee members have requested, on several occasions, statistical information that would show the amount/type of trade subject to varying treatment under the Agreement. Similar data has been provided by the parties to other agreements. We are not prepared to complete the factual review of this Agreement – or any other agreements - until satisfactory trade data has been provided. We note that while the Parties to the Agreement may consider the meaning of the term "substantially all trade" to be a topic for the discussion on systemic issues, the information we have requested has been provided by the parties in reviews of other agreements. Please provide the trade data that has been requested.

We welcome the trade statistics provided by the FTA parties in the standard format report. We would be grateful for clarification of what percentage of FTA trade between the parties (for each party):

For agricultural products

- will have the duties/regulations eliminated?
- receives concessions (less than MFN but greater than zero duties and/or quotas) or is excluded from FTA provisions?

For industrial products

- will have the duties/regulations eliminated?

- receives concessions (less than MFN but greater than zero duties and/or quotas) or is excluded from FTA provisions?

See Annex.

II. TRADE PROVISIONS

4. Safeguards

Articles 28, 29, 30 and 32 (Emergency Action/Structural Adjustment/Re-export and Serious Shortage/Safeguards Procedures): Can the Parties explain whether there is any difference in practice between the obligations under these Articles and the manner in which they will operate, and the obligations of the parties under the WTO? Can the parties confirm that measures applied under these Articles will be applied in a non-discriminatory manner without prejudice to the interests of non-parties to the FTA.

Parties are allowed to take appropriate measures that are in full conformity with the obligations stemming from the WTO rules where the measures are enforced on the rule of non-discrimination between Parties and non-parties. Of all the safeguard measures set out in the Agreement, only a structural adjustment measure under Article 29.2 of the Agreement, namely infant industries, or certain sectors undergoing restructuring or facing serious difficulties, can justify a margin of preference for Parties. Even the possibility to use this type of measure under the Agreement is limited in duration, ending on 1 January 2002.

Article 28: (Emergency Action): Have any safeguard measures under this Article been taken? If so, on what products and for what duration?

Article 29 (Structural Adjustment): This Article makes provision for exceptional measures to be taken concerning infant industries, or sectors undergoing restructuring or facing serious difficulties. Have any structural adjustment measures been taken, and if so, on what products? How is it decided that exceptional measures can be taken?

No emergency action or structural adjustment measure has been taken by the Parties within the meaning of Article 28, 29, since the entry into force of the Agreement.

Article 33 (Balance-of-payments - BOP – Measures): Will BOP measures under this Article be applied in a non-discriminatory manner and without prejudice to the interests of non-parties to this Agreement

BOP measures will be applied in a non-discriminatory manner to the interests of the non-parties to this Agreement and in accordance with the conditions laid down in the WTO rules.

6. Subsidies and State Aid

Article 24 (Competition Policy): We acknowledge that competition policy is not covered in explicitly by the WTO rules. However, certain aspects of competition are captured by various WTO rules and we therefore would be grateful for comments on the following questions:

- What criteria are to be applied in assessing whether actions prevent, restrict or distort competition, or whether actions by dominant undertakings constitute an abuse of their position?

- Are these considerations subject to specific legally based processes?
- **State Aid:** We note that the provisions of this Article on state aid do not apply to agriculture products, and that therefore there is no limitation under the Agreement on the use of state aid for agriculture. What is the reason for agriculture being excluded from the provision of this Article?

The criteria for evaluating whether actions prevent, distort or restrict competition are explicitly stated in Article 24. Moreover, any issue on competition rules are consulted and measures are taken within the Joint Committee and parallel to the guidelines laid down in the Parties' respective Agreement with the EU.

Agricultural products are excluded from the scope of the Article due to the sensitive nature of the sector in both countries.

7. Sector-Specific Provisions

Agriculture

Chapter II (Agriculture/Fisheries): Is consideration being given to establishing free trade in agriculture, or to extending existing provisions on agriculture, or to extending existing provisions on agriculture and fisheries to cover more products or to liberalize further (e.g., eliminating duties/quotas on products currently only listed for concessions or currently exempt)?

Parties have granted each other preferential market access possibilities for a number of agricultural and processed agricultural products under positive lists. In accordance with Article 14, further liberalization of trade in agricultural products is an important component of the agreement. The objective will be taken up regularly within the Joint Committee meetings.

Article 16 (Specific Agricultural Safeguards): Have any specific safeguards actions been taken under relevant articles on agricultural products? If so, on which products and what was the nature of the measures taken?

Parties have not taken any safeguard actions on agricultural products since the entry into force of the Agreement.

8. Other

State Monopolies

Article 22 (State Monopolies): Which products are currently subject to state monopolies? This Article suggests that state monopolies might currently discriminate in their commercial decisions – Can the parties confirm that such monopolies operate in a manner consistent with GATT Article XVII in their purchases from and sales to third countries?

The importation of alcoholic beverages excluding whisky and natural sparkling wines are under the monopoly of the Turkish Government. In accordance with GATT Article XVII, the monopoly operates in a non-discriminatory manner concerning commercial decisions without creating any advantage for Romanian exporters against non-parties to the agreement.

ANNEX

Imports of Turkey from Romania, 1995-1997, by different duty levels according to the Agreement

Duty rate	1995					
	Agricultural products		Industrial products		Total imports	
	1,000 US\$	%	1,000 US\$	%	1,000 US\$	%
0%	37,079	47	289,143	100	326,222	88.6
Less than MFN	8,822	11	131	0	8,953	2.6
MFN	32,693	42	0	0	32,693	8.8

Duty rate	1996					
	Agricultural products		Industrial products		Total imports	
	1,000 US\$	%	1,000 US\$	%	1,000 US\$	%
0%	30,642	25	318,627	99.8	349,269	79
Less than MFN	2,986	2	558	0.2	3,544	0.8
MFN	88,477	73	0	0	88,477	20.2

Duty rate	1997					
	Agricultural products		Industrial products*		Total imports	
	1,000 US\$	%	1,000 US\$	%	1,000 US\$	%
0%	32,534	45	321,473	99.8	354,007	89.8
Less than MFN	16	0	644	0.2	660	0.2
MFN	39,420	55	0	0	39,420	10

* Sensitive products are subject to two timetables which will be abolished in 2001 and 2002, respectively.

Imports of Romania from Turkey, 1997, by different duty levels according to the Agreement

Duty rate	1997					
	Agricultural products		Industrial products*		Total imports	
	1,000 US\$	%	1,000 US\$	%	1,000 US\$	%
0%	11,552	29	173,047	100	184,599	87
Less than MFN	9,748	25	0	0	9,748	5
MFN	18,421	46	0	0	18,421	9
All	39,721	100	173,047	100	212,768	100