

2.8.4. TURKEY (page 22)

Turkey and the EU established a Customs Union in 1995 (Decision 1/95 of the EU-Turkey Association Council, 96/142/EC). The Customs Union Agreement covers trade in manufactured products between Turkey and the EU, and entails alignment by Turkey with all EU product legislation. The Agreement aims to ensure the free movement of industrial products between the EU and Turkey, by eliminating import controls at the EU-Turkey border on such products.

Articles 5 to 7 of the Agreement provide for the elimination of measures having an effect equivalent to customs duties between the European Union and Turkey, mirroring Articles 34-36 TFEU. Pursuant to Article 66, Articles 5 to 7 must, for the purposes of their implementation and application to products covered by the Customs Union Agreement, be interpreted in conformity with the relevant case law of the Court of Justice, most notably the *Cassis de Dijon* case on mutual recognition.

As a consequence, in the sectors for which Turkey has aligned its legislation with that of the EU, a product lawfully manufactured and/or marketed in Turkey should be treated equal to the EU originating products and should not be subject to import controls. The same reasoning would apply in the non-harmonised sectors where Turkey has aligned its legislation with Articles 34-36 TFEU.

The Agreement also requires Turkey to adopt European Union legislation on products and on quality infrastructure, notably on CE marking requirements, notified bodies, market surveillance, accreditation, standardisation, metrology and mutual recognition in the non-harmonised area.

Another Agreement (Decision No 2/97 of the EC-Turkey Association Council) signed in 1997 lays down the list of the Union's legal instruments, including part of the *acquis* on industrial products related to the removal of technical barriers to trade and the conditions and arrangements governing their implementation by Turkey. Annex I of this Agreement ensures that when Turkey adopted the legislation listed in Annex II of the Agreement, the same rules and procedures would apply in the EU and Turkey for products that fall within the scope of the legislation listed in Annex II of the Agreement. However, many of the legislative instruments set out in Annex II have been gradually replaced by new Union directives and regulations.

In 2006, Turkey and the EU adopted a new Association Council Decision (1/2006), providing for the designation of Turkish notified bodies and recognition of the test reports and certificates issued by such bodies in Turkey. The Parties have signed statements confirming that Turkey's legislation is equivalent to that of the EU for a number of New Approach directives and regulations.

In the non-harmonised area, the rights and obligations of economic operators supplying products to the EU market from Turkey have been laid down in the Commission's interpretative communication on 'facilitating the access of products to the markets of other Member States: the practical application of mutual recognition' (2003/C 265/02).

The Turkish Accreditation Agency (TURKAK) is a member of European co-operation for Accreditation (EA) and has signed a number of mutual recognition agreements with EA. Certificates issued by Turkish conformity assessment bodies accredited by TURKAK should be deemed equivalent to those issued by conformity assessment bodies established in the EU and accredited by EU National Accreditation Bodies.

In the area of standardisation, both CEN and CENELEC granted full membership status to the Turkish Standards Institute (TSE) on 1st January 2012.