



Council of the
European Union

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COVER NOTE

From:	European Commission
To:	Delegations
Subject:	Draft annotated agenda for the EU-Turkey 37th meeting of the Customs Union Joint Committee (CUJC) (8-9 July 2021)

Delegations will find attached for their information the consolidated annotated agenda for the 37th meeting of the EU-Turkey Customs Union Joint Committee held on 8-9 July 2021.

37th MEETING
EC-TURKEY CUSTOMS UNION JOINT COMMITTEE (CUJC)
8 - 9 July 2021

Venue: Videoconference

DRAFT Annotated Agenda (*all times Brussels*) revised on the basis of the draft annotated agenda version 08/10/2020

Thursday 8 July 2021, 09:15 – 17:00

09:15 – 09:45

1. Opening remarks

The 37th meeting of the EU-Turkey Customs Union Joint Committee (CUJC) shall take place as a virtual meeting. On the EU side, Mr Maciej Popowski, Acting Director General in DG NEAR and Léon Delvaux, Director in DG TRADE in the European Commission, will chair the meeting. On the Turkish side, Mr Hüsni Dilemre, Director General for International Agreements and EU affairs at the Turkish Ministry of Trade, will chair the meeting.

2. Adoption of the agenda

Parties will adopt the agenda.

3. Joint minutes

In line with the Commission's commitment to enhance transparency during the negotiation of trade agreements in order to increase public trust in EU trade policy, a report from the CUJC meeting should be made public. The Commission aims to produce one single report for each CUJC meeting for Member States, the European Parliament and the public at large. This report would ideally be jointly agreed between the Commission and Turkey as the minutes of the meeting. In 2019, Turkey did not agree to this approach for internal reasons. Hence the Commission unilaterally published a CUJC meeting report, and no joint minutes were established. The Commission will confirm its expectation to establish joint minutes after the meeting, which would serve to fulfil the mentioned transparency requirements and will encourage Turkey to work towards this goal also.

4. Trade with Cyprus (DG NEAR)

Background: Turkey should have lifted restrictions to trade, including restrictions for Cypriot vessels, vessels of any nationality related to the Republic of Cyprus in terms of ownership or ship management and vessels having landed in Cypriot ports even before the extension of the Association Agreement as part of its alignment with the Common Commercial Policy. These restrictions do not allow exporters to choose the most economical way of transport and therefore result in a severe barrier to trade and economic losses for Cyprus and EU companies. Turkey's obligation to allow free movement of goods with all EU-Member States is confirmed, in a more direct way, by its signature of the Additional Protocol to the EU-Turkey Association Agreement on 29 July 2005. On 21 September 2005, following Turkey's unilateral declaration for its intention not to implement the Additional Protocol towards the Republic of Cyprus, the EU adopted a Declaration by which it underlined, inter alia, that it expects full, non-discriminatory implementation of the Additional Protocol by Turkey. The decision of 11 December 2006 is the consequence of the non-implementation by Turkey of its obligations under the Additional Protocol. Since the Council's decision of December 2006, Turkey has made no progress towards full implementation of the Additional Protocol.

The Commission will convey to Turkey its position recalling the Council's conclusions of 11 December 2006 on Turkey and the declaration of 21 September 2005 and note with deep regret that Turkey, despite repeated calls, has not revoked its unilateral declaration not to implement the Additional Protocol towards the Republic of Cyprus and continues refusing to fulfil its obligation of full, non-discriminatory implementation of the Additional Protocol to the Association Agreement towards all Member States. The EU notes that this could provide a positive impulse to the process. The Commission will strongly urge Turkey to remove, without delay, all restrictions to trade with all EU Member States, including the Republic of Cyprus, in accordance with the Council's Conclusions of 11 December 2006. This would include in particular the lifting of restrictions for Cypriot vessels and aircraft, including those of any nationality related to the Republic of Cyprus in terms of ownership or ship management and vessels or aircraft having landed in Cypriot ports and airports. The Commission monitors closely and specifically reports on all issues covered by the declaration of the European Community and its Member States of 21 September 2005 in its annual reports. On this basis, the Council continues to closely follow and review progress made, in accordance with its conclusions of 11 December 2006. In the absence of progress on this issue, the Council will maintain its measures from 2006, which will have a continuous effect on the overall process in the negotiations. On various occasions the EU reiterated its call for progress on all of the above without any further delay, including a recent call by the European Council of 24-25 June 2021 on the need to ensure the effective application of the current Customs Union to all Member States.

10:00 – 10:15

5. The Customs Union Modernisation Process (DG NEAR and DG TRADE)

The Commission will refer to the European Council Conclusions of 24-25 June 2021, in particular “The European Council reiterates the EU’s readiness to engage with Turkey in a phased, proportionate and reversible manner to enhance cooperation in a number of areas of common interest, subject to the established conditionalities set out in March and in previous European Council conclusions. In line with this framework, it takes note of the start of work at technical level towards a mandate for the modernisation of the EU-Turkey Customs Union and recalls the need to address current difficulties in the implementation of the Customs Union, ensuring its effective application to all Member States. Such a mandate may be adopted by the Council subject to additional guidance by the European Council.”

The Commission will refer to its recent increased engagement with Turkey on addressing the difficulties in the implementation of the current Customs Union, and will urge Turkey to demonstrate concrete progress in this respect without delay.

Rule of law and fundamental rights in Turkey remain a key concern.

The Commission will reiterate the need for the full and non-discriminatory implementation of the existing Customs Union.

10:15 – 12:00

6. Customs Union Implementation and Enforcement (DG TRADE)

6.1. Competition policy and state aid

The Commission will recall Turkey’s obligation under the CU to align its competition and state aid rules with the EU, and will ask Turkey about recent developments, including amendments to the Turkish Competition Law and the functionality and independence of the State aid authority as well as the adoption of implementing legislation delayed since 2010. In addition, the Commission will inquire on enforcement in the field of State aid and will reiterate its requests for Turkey’s information as regards subsidies granted over the past years.

6.2. Common Customs Tariff alignment: diverging additional customs duties by Turkey on imports of third country origin; certificate of origin requirements on goods in free circulation;

The Commission will stress that alignment on the Common Customs Tariff and the EU commercial policy is Turkey's obligation under the CU. The unilateral raising of additional duties by Turkey is not acceptable and undermines the functioning of the CU. The Commission will furthermore request that Turkey make efforts to limit the disturbance to the free circulation in practice. This particularly concerns issues of customs implementation associated to the divergent duties levied by Turkey that have led to an exorbitant increase of certificates of origin (COO) being required for all shipments of products in categories affected by Turkish additional duties from the EU accompanied by an A.TR movement certificate, and several related problems encountered by EU exporters. The Commission will note the steps taken by Turkey in January and June 2021 to clarify that the certificate of origin requirement is not required on such shipments.

In the past, Turkey stated that fundamental adherence to the CU would only be resolved by an update of the existing CU, but that it was willing to cooperate on practical issues, and would provide clarification in view of implementation problems where possible. The Commission will recall that Turkey needs to abide by its existing commitments and needs to remove the requirement of a certificate of origin for goods in free circulation.

Background: In 2011, Turkey started to introduce tariff increases or so-called 'additional duties' for certain products of third country origin. Since then Turkey has expanded the scope of these additional duties to an increasing number of products, despite Turkey's obligation under the EU-Turkey CU to follow EU import tariffs vis-à-vis third countries. Despite the free circulation under the CU, the measure also applies to third country origin goods entering Turkey from the EU, except where it is proven that the goods originate in the EU or in Turkey's FTA partner countries. Particularly worrisome is the trend towards higher value-added products, potentially affecting assembly and thus jobs in the EU. In that regard, Turkey on 14 June 2019 repealed the extension of this measure to several product lines after the Commission shared its particular concern.

A concurrent problem is the requirement for a proof of origin even when exporting goods in free circulation to Turkey with an A.TR movement certificate. On 24 May 2019, Turkey introduced a general requirement for a certificate of origin for goods subject to additional duties in its customs implementing regulation. Imports from the EU with an A.TR document are in principle excluded subject to a risk assessment. However, even after repeated formal enquiries there is no reliable information as to how that system works. As was confirmed by EU exporters individually, through industry associations and MS authorities including at the Market Access Advisory Committee, all such imports therefore de facto had to have certificates of origin, an additional requirement not in line with the CU and a significant concern to all operators concerned.

An amendment to the Turkish customs regulation was introduced on 10 December 2020 to explicitly exclude cases of goods arriving from EU Member States accompanied by an A.TR movement certificate (without prejudice to Article 47 of the Decision 1/95 regarding trade policy measures, which refers to trade defense cases). This amendment replaced the risk assessment exception and became effective as of 1 January 2021. However, evidence shows that the situation has not yet been fully resolved.

On 18 June 2021, Turkey issued a new instruction to the Turkish customs administrations, stating that goods coming from the EU with an A.TR certificate are not subject to certificate of origin requirement, without prejudice to Article 47 of the Decision 1/95 regarding trade policy measures.

6.3. Generalized System of Preferences (GSP) alignment; additional liabilities

Turkey's deviation from the EU's Common Customs Tariffs in the form of additional duties is compounded by its deviation as regards GSP tariff preferences. As Turkey recategorised Bolivia, Cape Verde and Mongolia, it currently does not have beneficiaries in its GSP+ scheme. The scope of its preferences still diverges from the EU's both in terms of countries and products. Turkey imposes compensatory levies that raise the level of the EU GSP tariffs to the level of Turkey's existing applicable duties for imports from several countries to which Turkey should normally apply the EU GSP tariffs when such goods are imported into Turkey via the EU.

The Commission will call on Turkey to comply with its obligations under the Customs Union as regards the application of the EU's tariff preferences with our GSP partner countries.

6.4. Free trade agreement (FTA) matters in the Customs Union

In line with the longstanding practice of implementing the CU, to facilitate Turkey's alignment to EU FTAs, the Commission and the Turkish authorities will update each other as regards the state of play of concluded and ongoing bilateral trade negotiations – as always, without touching upon any issues that are sensitive for either side in any ongoing negotiations.

6.4.1. Turkey's difficulties stemming from the difference of the Customs Union parties' FTAs

Turkey is expected to share its concern with the stance of several EU FTA partners that do not expedite concluding parallel agreements with Turkey, which both Turkey and the Commission ask third parties to do. The Commission will listen to the Turkish views.

6.4.2. Developments on FTA with the UK; EU-US discussions on trade issues

In line with the longstanding practice of implementing the CU, to facilitate Turkey's alignment to EU FTAs, the Commission and the Turkish authorities will update each other as regards the state of play of concluded and ongoing bilateral trade negotiations, including the UK – as always, without touching upon any issues that are sensitive for either side in any ongoing negotiations.

6.5. Intellectual Property Rights (IPR) protection and enforcement

The Commission will focus on certain key issues of concern as regards IPR in Turkey, in particular IPR enforcement in Turkey. The Commission will raise the issues of exhaustion regime, specialised IPR Courts in Turkey, legal actions against potential IP infringers in Turkey, future copyright legislation, pharmaceutical sector and goods in transit.

6.6. Turkey's participation in the EU's decision-making and consultation mechanisms (*DG NEAR*)

Turkey is expected to reiterate its interest in widening the scope of its participation as regards various committees, working groups and agencies relevant for the Customs Union. The Commission will only take note of Turkey's position.

Break 12:00 – 13:00

7. Trade barriers (DG TRADE)

7.1. Surveillance measures on imports applied by Turkey, newly introduced producer information form

The Commission will reiterate its concerns about surveillance mechanisms Turkey imposes, in particular with regard to documentation and registration requirements related to textile imports, and will call on Turkey to effectively address the EU's concerns.

Background: while several measures affecting EU industries were dealt with in the past (Turkey removed paper products from the scope of Turkey's import surveillance scheme; EU origin products were excluded from electric accumulators, parts for lifts, pipe fittings and PVC floor coverings measures), a systemic problem remains. This creates obstacles to imports and leads to overpayments of VAT that are never recovered, de facto protecting Turkish domestic industries.

In addition, a requirement imposing additional documentation on apparel and footwear from third countries entered into force on 31 January 2019, after initially being postponed after concerns were raised. This requirement imposes burdensome and far-reaching requirements on EU operators purchasing from Asian (initially China only, later added Bangladesh, Vietnam, Indonesia, India, Cambodia, Pakistan, Sri Lanka, Myanmar and Thailand) in an Exporter/Producer information form. The submission of detailed commercial information poses a serious concern, and in addition, some MS have flagged an issue to have this form approved by official instances.

7.2. Certification and testing requirements of imported goods

The Commission will discuss the implementation of the TAREKS import control system which was renewed at the beginning of 2021 without major changes for products coming from the EU, and note remaining instances of excessive documentation checks. According to the latest data of the Ministry of Trade from February 2021, there has been a considerable increase in the number of products diverted to checks in 2020 (22.6% of all items were diverted to checks, compared to 12.2% in 2019). The Commission will remind Turkey of its commitment that products coming from the EU should, as a general principle, be free of conformity assessment checks, and only in cases where such products are diverted after risk assessment. It will ask Turkey to provide a breakdown EU/third countries of the additional checks carried out in 2020, in order to be able to assess their impact on EU exports.

Background: TAREKS is an electronic risk-based import control system in place in Turkey since 2011. Importers need to register on the TAREKS system and carry out their applications via this system. The system generates a risk analysis and determines if the product subject to import requires a conformity check. Normally products in free circulation in the EU, hence with nomenclature A.TR, are not subject to checks and have direct access to the Turkish market. In case of identified risk profile, products with A.TR certificate may also be directed to conformity checks. In recent years, the Commission has received a high number of complaints from EU exporters with regard to products that have to bear CE marking, particularly in the machinery sector and with regard to lighting products. The products are often diverted to conformity assessment checks, even if there seem to be no risks of product safety – merely based on issues of documentary incorrectness. Both sides previously agreed to organise regular meetings between the Turkish authorities and the EU Delegation on the implementation of the TAREKS system.

According to the data from the Turkish Ministry of Trade, 1,852,845 applications were filed for imports on TAREKS in 2020. About 22.7 % of them were directed to checks, compared to 12.2 % in 2019. 1.5 % of applications were rejected, compared to 2.4 % in 2019.

The data do not differentiate between checks on goods coming from the EU (with A.TR) and from third countries. Turkey provided a general explanation that additional measures in import inspections were taken due to the pandemic in 2020, and, as a result of these measures, fluctuations were experienced in the inspection rates. The Ministry considered that sharing the 2020 inspection data for the EU or non-EU would not reflect the policies of the Ministry correctly.

7.3. Turkish legislation on cosmetic products

Turkey is in the process of revising its cosmetics regulation. While a draft was provided to the Commission, which duly provided comments, EU industry raised concerns that Turkey was already implementing parts of the new requirements. Turkey clarified in February 2021 that it was working to revise its cosmetics regulation by taking into account the comments sent by the Commission on 4 December 2019, and submitted in June 2021 a revised draft to the Commission.

Turkey has clarified that as of January 2021 it terminated the obligation for economic operators to provide certain confidential information during a registration process and thus the public's access to such confidential information. Furthermore, Turkey confirmed to the Commission in June 2021 a procedural change ("deficient" status attributed to applications on the website of the Turkish Medicines and Medical Devices Agency (TITCK) not publicly visible any more) and that there is no obligation for producers to upload the entire artwork of the product to the Agency website, but only packaging visuals. The Commission will note the positive development that Turkey has terminated such obligations for economic operators and that it will continue to closely monitor the implementation of these changes.

Background: While the EU system is based on a notification system, the draft Turkish legislation which is not yet aligned with the relevant EU legislation foresees registration of cosmetics products prior to making the product available on the market, significantly increasing administrative burdens. Moreover, additional notification requirements would oblige companies to upload the full cosmetic product safety assessment report in Turkey's electronic notification portal, which raises confidentiality concerns from EU companies. Also, Turkey would oblige companies to create new barcodes and new packaging specifically for the Turkish market. These obligations are not in line with EU legislation. Most concerning is that Turkey was already implementing the new requirements, before the new legislation has entered into force. Reportedly, companies that do not upload the full safety assessment report via the notification portal see their applications rejected. Turkey confirmed that as of January 2021, it has terminated the requirement for economic operators to upload a full safety assessment report.

Commission services have discussed the matter with Turkish government representatives informally during a bilateral meeting in Geneva on 25 February 2020, where Turkey indicated that it was reflecting upon the possibility to reconsider these implementing requirements. The Commission services reiterated their concerns in a formal letter to Turkey in July 2020. In February 2021, Turkey confirmed that it was working to revise its cosmetics regulation in line with the Commission comments sent by the Commission on 4 December 2019. Moreover, Turkey has lifted a requirement for economic operators to upload a full safety assessment report as of January 2021. There are, however, continuing problems regarding tedious requirements on product barcodes and on uploading of artwork of cosmetics on the public database, which may ease counterfeiting. The Commission also received complaints on the request to remove or conceal foreign language expressions on packages, even if they are non-safety related.

7.4. Export restrictions on raw hides and skins and wet blue products as well as on copper scrap

On hides, skins and wet blue leathers, Turkish authorities are implementing export tax measures, partially reduced from 40% to 20% in 2019. Turkey also applies export registration for wet blue leather products (4104.11, 4104.19, 4105.10, 4106.21).

On copper scrap, in April 2019 Turkey reintroduced a licensing regime obliging exporters to fulfill three pre-conditions before applying for a license. Turkey had removed both copper and aluminium scrap from the list of goods subject to export registration in July 2017 further to EU raising the issue. The current application of the export licensing regime amounts to a de facto export ban as the three conditions are prohibitively difficult to fulfil.

Turkey had previously stated it would examine and inform EU of possible means to remove these restrictions. The Commission will reiterate its request for Turkey to remove these export restrictions entirely.

7.5. Discriminatory treatment of EU producers of tractors

Since 1 January 2018, tractors produced in Turkey can continue to meet only Stage III/B emissions requirements, while tractors imported from the EU need to meet Stage V requirements. This implies higher costs and is a discrimination to promote the relocation of the manufacturing of farm machinery to Turkey.

According to the CU rules, Turkey should have aligned its legislation with that of the EU as from 2000. Currently the EU legislation only allows putting on the market tractors meeting Stage V emissions requirements, with only a limited number of exceptions. The Commission will call on Turkey to fully align with the EU legislation and in the meantime to ensure non-discriminatory treatment of EU exports within the CU. Overall, it should be ensured that the same conditions apply to domestic and EU manufacturers, including type approvals.

7.6. Local content requirements in Turkey's Law No.6094 amending the Law of 2005 on utilisation of renewable energy sources for electricity generation

The Commission will once again request that Turkey remove this measure without delay to comply with WTO and CU rules. Turkey previously informed that this policy was planned to be applied from January 2016 until 31 December 2020. However, the support scheme has been extended up to 2030 including local content requirement.

7.7. Sweet corn imports into Turkey: increased duty on agricultural element

In 2016 Turkey unilaterally increased the agricultural component (EA) applied to imports of sweetcorn products from the EU from 2.91 Euro/100kg net to 23.32 Euro/100 kg net, without a joint decision as foreseen in the CU Decision 1/95. The measure has caused EU exports of sweetcorn to decrease by 90% when first instated. The Commission will underline that this unilateral measure is in breach of the CU and will urge Turkey to reinstall the former value.

15:30 – 16:00

8. Trade defense (DG TRADE)

8.1. The EU's Safeguard Measures on steel products

Turkey is expected to reiterate its concerns regarding the EU steel safeguard measure. The Commission will take note.

8.2. Anti-Dumping investigations on certain Turkish steel products

Turkey is expected to reiterate its concerns regarding these investigations. The Commission will take note, but not comment on ongoing investigations.

16:00 – 16:30

9. European Green Deal, including EU Carbon Border Adjustment Mechanism

The Commission will provide information about the European Green Deal (EGD). Turkey is expected to share its concerns about the potential impact of some EGD components, such as the Carbon Border Adjustment Mechanism (CBAM), on trade relations with the EU. The Commission will take note of the Turkish concerns and underline that the proposal for CBAM is in preparation.

16:30 – 16:45

10. Bilateral and transit road quotas and fees (DG MOVE)

It is expected that Turkey will raise issues related to the implementation of rulings by the European Court of Justice (ECJ) in this area.

The Commission will recall that road transport quotas relate to the liberalisation of the provision of services, an area currently not covered by the Customs Union. Instead, road freight transport services operating between EU Member States and Turkey are regulated by bilateral intergovernmental agreements. Based on these agreements, road haulage quotas are agreed annually in bilateral meetings between the respective parties. Furthermore, the European Court of Justice (ECJ) ruled in 2018 in relation to Austria that transport quotas are not incompatible with the Customs Union. Quota systems could therefore be maintained by the Member States.

With regard to the specific issue of fees associated with transit quotas deemed illegal by an ECJ ruling in 2017, Hungary had abolished the application of a tax on permits. Subsequently Turkey alleged that the Bulgarian, Romanian and Greek road taxes were comparable to the Hungarian tax. The Commission investigated the cases and concluded that the road taxes of those three Member States were not of a similar nature. In case Turkey raises new issues related to quota-related fees applied by Member States, the Commission will invite Turkey to share relevant information.

16:45 – 17:00

11. Challenges faced by Turkish business people and truck drivers in obtaining visas in the context of COVID-19 travel restrictions (DG HOME)

Turkey is expected to raise problems of Turkish business people and truck drivers in obtaining and/or extending stays (visas) that have occurred in relation to the COVID-19 travel restrictions. The Commission will assure Turkey that already in 2020 it took the necessary measures to ensure smooth transport of essential goods across the Union as well as across its external borders. The Commission will also inform about the guidance it gave to Member States in 2020 regarding the issuing and extension of stays (visas) in the COVID-19 context.

In case Turkey would raise more general issues related to the EU visa policy, the Commission would recall that visa matters do not fall under the remit of the Customs Union.

09:15 – 09:35

12. Customs issues (DG TAXUD)

12.1. A.TR certificates: electronic filing and processing

The Turkish customs informed DG TAXUD by letters of 19 April 2018 and of 16 May 2018 about their new system developed for movement certificates EUR.1 and A.TR to be issued and endorsed by the Turkish customs offices in an electronic way. During a transitional period up to the end of 2019 such certificates could still be issued and endorsed manually.

The issue was discussed several times with Member States in the framework of the Customs Expert Group, but for the moment no solution has been achieved. The Commission's Legal Service considers the QR code inserted in the certificate as a signature.

DG TAXUD is planning to launch a project group with other members of the Pan-Euro-Mediterranean Convention (PEM) regarding digitalisation of proofs of preferential origin.

12.2. Mutual Recognition of Authorised Economic Operators (AEO)

Since 2013, Turkey is requesting a process towards the assessment of its AEO programme with the ultimate objective of the conclusion of mutual recognition of each other's AEO programmes. Turkey reiterated its request in the most recent meeting of the EU-Turkey Custom Cooperation Committee.

Taking into account that Turkey is the EU's 6th largest trading partner and its obligation under the CU to align its legislation with the EU customs legislation, and in view of the potential benefits that could be derived from mutual recognition for EU exporters, the Commission is ready to explore the possibilities of collaboration with Turkey in this area. To this end, the Commission services (DG TAXUD) will invite again Turkey to nominate a contact point for sharing information related to AEO.

13. Rules of origin (DG TAXUD)

- 13.1. Extending the possibility of drawback of, or exemption from customs duties in trade between the EU and Turkey within the context of AC Decision No. 1/95

The Commission will recall that duty drawback (DDB) for exports carried out within the EU-TR CU remains highly problematic. The Commission will note that free circulation has advantages and disadvantages but that allowing DDB for exports from Turkey to the EU is incompatible with the CU. The scope of this possibility could be reduced to goods in trade in both parties and with the purpose to be exported to a third country, but technically is high problematic.

Discussions at technical level should continue in the upcoming Customs Cooperation Committee.

- 13.2. Possibility to apply full accumulation in trade between the EU and Turkey within the context of AC Decision No. 1/95

During the ongoing revision of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (PEM), it appeared that there is a common ground to extend the application of full cumulation to the whole region. Turkey would like to discuss the possibility of applying full cumulation also in trade between the EU and Turkey.

The Commission will explain that the Decision 1/2006 should be amended to allow Turkey to benefit from full cumulation as provided for under the revised rules of the PEM Convention. Discussions at technical level should continue in the upcoming Customs Cooperation Committee.

- 13.3. Turkey's request to extend bilateral cumulation in the EU's and Turkey's prospective and present FTAs to cover "the customs territory of the customs union"

As CU partners, Turkey and the EU have to apply identical rules of origin in their respective FTAs. Turkey observes that, currently, the provision on bilateral cumulation in those FTAs does not cover "the customs territory of the Customs Union", which is defined in Article 3 (3) of the Decision No 1/95, but only Turkey or the EU customs territories. In this context, Turkey requested to extend bilateral cumulation provision in EU's and Turkey's FTAs.

Turkey requested the extension of the bilateral cumulation on the basis of the agreements the EU concluded with Chile. The Commission acknowledged that for the moment this is subject to analysis and that not all partners are interested. Discussions at technical level should continue in the upcoming Customs Cooperation Committee.

10:00 – 12:00

14. Technical legislation (DG NEAR, GROW, SANTE)

14.1. Draft Turkish legislation submitted to the Commission for assessment in relation to relevant EU acquis

The Commission will inform Turkey about the state of play regarding the assessment of draft Turkish legislation submitted to the Commission in view of preparing a statement of alignment by the CUJC.

14.2. The list of technical legislation to be updated based on the Procedural Guideline

The Commission will present an overview of the updated list of technical legislation relevant for the CU which has been submitted to Turkey in September 2020.

14.3. Turkey's state of play on alignment to the horizontal technical legislation in relation to market surveillance

Turkey will inform the Commission about recent developments. The Commission will take note.

14.4. EU new Medical Devices Legislation

The EU-Turkey volume of trade in medical devices is significant. In the past, Turkey operated according to legacy legislation (Medical Devices Directives), which included placing medical devices on the Custom Union market, designation of conformity assessment bodies (“notified bodies”) and participation in the related EU database.

The new EU Medical Devices Regulation (EU) 2017/745 has become applicable on 26 May 2021. The CUJC will take note that the Commission and Turkey have signed the 'Statement of the Customs Union Joint Committee' confirming Turkey's alignment with the EU Medical Devices Regulation, following the conclusion of an 'Administrative Arrangement' for the transfer of personal data between the European Commission and the Turkish Medicines and Medical Devices Agency allowing for Turkey's participation in the upgraded EUDAMED database. The 'Administrative Arrangement' provides the adequate safeguards for the protection of personal data in the data exchange with Turkey as a third country, given that the EUDAMED database is essential for trade in medical devices in the Customs Union, and some specific personal data could be among the data exchanged.

Turkey may bring up the fact that participation in the designation process for notified bodies, which requires several months of activities, is delayed. The Commission will assure the Turkish side that even if Turkish notified bodies will take some time to be properly designated, other notified bodies in the Customs Union are available to assess conformity of products.

14.5. Turkey's alignment to 2017/1369 and the EPREL database

Turkey will point to its efforts to harmonise with the EU Energy Labelling Framework Regulation (EU) 2017/1369, and will raise in particular the issue of its access to the European Product Registry for Energy Labelling (EPREL). Registration in the EPREL database is a requirement for products that are subject to the EU energy labelling rules. Turkey will stress that a potential lack of access to this database will prevent Turkey from full harmonisation with the acquis. The Commission will take note of the Turkish position and indicate that it is examining the issue internally. This is a sensitive and complex issue with a potential impact on other areas.

14.6. EU REACH Regulation and Turkey's Alignment

Following Turkey's submission of its legislation on chemicals for alignment with the REACH Regulation (EC) No 1907/2006 (Registration, Evaluation, Authorization and Restriction of Chemicals), in April 2020 the Commission services communicated their assessment to Turkey and asked for further clarifications from the Turkish side. In particular, the Commission concluded that Turkey's national legislation in this field is only partially harmonised with the acquis. The reply from the Turkish side is awaited.

Turkey will reiterate the issue of its participation in ECHA (European Chemicals Agency) facilitating, amongst other, product registration. According to Turkey, the current system requesting Turkey to act through an authorised representative in a Member State in its contacts with ECHA results in high administrative costs, and would be considered as a barrier to trade. Turkey will point out that Turkey's participation in ECHA is also important to prevent possible market access challenges for the chemicals sector, such as duplications in registration, evaluation, authorisation or notification procedures for the economic operators of both sides. The Commission will refer to its assessment of April 2020 and indicate that further discussions on this issue could be held once Turkey fully aligns with the *acquis* in this area.

14.7. Batch Release Analysis in the EU

Turkey has already raised this item during previous CUJC meetings (during the 32nd, 33rd, 35th and 36th CUJC meetings).

According to the EU legislation (Article 51(1) of Directive 2001/83/EC) all medicinal products imported into the EU have to undergo certification and testing in the EU before they are placed on the EU market. This requirement applies to all medicinal products imported from Turkey. The batches of medicinal products which have undergone such controls in a Member State shall be exempt from the controls if they are marketed in another Member State, accompanied by the control reports signed by the qualified person.

There is no mutual acceptance of batch release between Turkey and the EU. Only the products from Mutual Recognition Agreement ("MRA") partner countries are exempted from the batch release testing in the EU if the products are tested in the MRA partner country (Article 51(2)). The requirements for a MRA between Turkey and the EU have been extensively discussed between the EU and Turkey in previous years. The Commission considers that before taking a decision to take up the process towards mutual recognition, an extensive period of confidence building should be established.

In case Turkey inquires again about a possible MRA, the Commission will invite Turkey to build-up trust by establishing mutual cooperation within the PIC/S (Pharmaceutical Inspection Co-operation Scheme) and to consider participation in trainings on GMP inspections for candidate countries organised by the European Medicines Agency.

14.8. Turkey's participation in horizontal procedures

Turkey has requested participation in horizontal procedures relating to 765/2008/EC and 768/2008/EC (RAPEX, ICSMS, Objection to Standards and Safeguard Procedures). Turkey sent to the Commission an informative note on Turkey's position stating that the provisions of the existing EU-Turkey Association Council Decisions (namely No. 1/95, 1/97 and 1/2006) are adequate to form a legal basis for Turkey's participation to the ICSMS, the safeguard and the objection to standards procedures. The Commission has informed Turkey that alignment with European standards in the field of data protection is a prior condition to Turkey participating in the above-mentioned procedures.

Break 12:00 – 13:00

13:00 – 15:15

15. Agricultural trade issues and barriers (DG AGRI, SANTE)

15.1. Problems stemming from the reduction in the MRL levels of certain agricultural products exported to the EU

The Commission will explain that measures regarding MRL levels are taken in agreement with the Member States, following advice from the European Food Safety Authority (EFSA) and by taking into account relevant international guidelines.

15.2. Notifications concerning prochloraz active substance

The Commission will present its concerns that the situation with respect to imports of fruits and vegetables and the presence of pesticide residues, as with prochloraz, remains rather worrying. The recommendations of an audit report conducted in 2019 are still open and the numerous alerts that Turkey receives from the EU's Rapid Alert System for Food and Feed stress the urgency for taking corrective actions.

15.3. Limit determination studies in the EU for ochratoxin-A in dried fruits and nuts (e.g. apricots and hazelnuts)

The Commission will inform Turkey about the latest developments. EFSA published a scientific opinion on public health risks related to the presence of ochratoxin A (OTA) in food in May 2020 and confirms that the presence of OTA in food is a health concern for most consumers groups.

15.4. Turkish import requirements for EU seed potatoes

Following the SPS Technical Working Group meeting of November 2019 and the discussion on Turkey's import requirements for seed potatoes, the Commission will request further clarifications from Turkey. This concerns (1) whether Turkey recognises the virus thresholds set out in Annex IV (RNQP) Part G of Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council, as regards protective measures against pests of plants, and (2) the Turkish Regulation on Plant Quarantine (OJ No. 28131/2011), Annex 4 (Special Requirements for the import of plants and herbal products), No. 32.4, according to which in the phytosanitary certificate it must be confirmed that the seed potatoes are free from *Synchytrium endobioticum* and *Phoma exigua* var. *foveata*. Given that there are no standardised methods available for *Phoma exigua* var. *Foveata*, the Commission will inquire which test methods the Turkish authorities consider permissible / acceptable.

15.5. Delisting of certain Turkish products from Regulation (EU) 2019/1793

The Commission will inform that discussions with the Member States for preparing a next amendment to Commission Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries are ongoing.

15.6. Problems encountered by Turkish exporters of fruit and vegetables at Capitan Andreevo (fees and frequency of controls)

Turkey conveyed in the past its concern that the Capitan Andreevo border control post had excessively high loading and unloading fees and frequency of controls on Turkish goods entering the EU. With regard to fees, it has already been clarified with Turkey that the level of the fees was not fixed by public authorities but established in competition among handling companies on the ground, and that the level of fees could not be considered excessively high. The Commission will reiterate its position.

The frequency of controls is not regulated at the EU level, but falls in the competence of Member States. The Commission services have thoroughly analysed the control data, for the second half of 2019, regarding products listed in Commission Regulation (EC) No 669/2009 and originating from Turkey and have not identified excessive levels of controls at border control point Capitan Andreevo. Turkey has been informed about these findings. The Commission will reiterate its position.

15.7. Problems encountered at Kipi customs border (Greece) and Aegean islands in TR agricultural imports to the EU

Turkey will raise the change of opening hours at the Ipsala-Kipi border crossing point, which has led to a substantial reduction of border-crossing Turkish lorries per day, with negative impact on the transport of perishable goods. The Commission will inform Turkey that the change of opening hours is a non-discriminatory measure implemented at all major border crossing points of Greece in the framework of containing the spread of the COVID-19 pandemic.

15.8. Import ban applied by the EU on bivalve mollusks originating in Turkey

In January 2020 Turkey submitted additional information to address the shortcomings identified in the DG SANTE audit of 2015, with the aim to lift the current ban. The Commission will inform Turkey about the next steps.

15.9. Turkish import rules for petfood

Turkey has indicated that it would transpose changes in the EU petfood legislation into its own legislation and amend its import certificates accordingly. The EU will request an update on the state of play.

15.10. Problems encountered in the export of Turkish heat treated poultry meat products to the EU

Currently Turkey is allowed to export processed poultry meat to the EU only if it is produced by using fresh poultry meat originating from EU approved slaughterhouses outside Turkey.

Uncertainty regarding the situation with New Castle Disease (NCD) in Turkey prevents the EU of listing Turkish slaughterhouses. The Commission will ask Turkey about recent developments regarding NCD.

15.11. Transshipment of hatching eggs and day-old chickens through the EU

Transshipment of animal products through the EU necessitates that the country of origin of these products is able to meet the EU animal health requirements. As regards the request for transiting hatching eggs and day-old chickens, the Commission is seeking further information about the situation with NCD in Turkey.

15.12. Certificates for exports from the EU Member States to Turkey of domestic bovine animals intended for breeding, fattening and slaughter

The Commission will repeat its concerns regarding the Turkish import certificates and their conformity with EU rules and international standards.

15.13. 24/7 procedure at Turkish veterinary border inspection posts regarding imports of live animals

Turkey has committed that it will be building Border Inspection Posts for live animals that meet the EU animal welfare requirements. The Commission will ask for an update with regard to this commitment.

15.14. Turkish imports of bovine semen, lifting Schmallenberg requirements

Schmallenberg virus disease (SVD) is a non-OIE listed disease and is also not regulated by EU law. In addition, there is no evidence that the virus may spread via germplasm.

The Commission will inquire whether Turkey has import restrictions regarding this virus in place and, if so, the Commission will request to lift these.

15.15. Conditions on import of beef and live animals into Turkey

Background: following the BSE outbreak in 1996 Turkey had imposed a ban on imports of beef of EU origin. This was relaxed in 2010-2012 to the point that Turkey became EU's largest export destination for EU live bovines in 2016, 2017 and first half of 2018. Turkey granted to the EU 19100 tons of annual quota right for frozen carcass beef under the Decision 1/98 (amended by Decision 2/2006), but EU operators are still faced with trade obstacles, mainly related to the non-transparent management of import quotas. In particular, the quotas for frozen beef have not been opened and used regularly. In order to facilitate trade, Turkey suggested amending the quota to cover also fresh and chilled meat aiming to a better utilisation of the quota. This has been implemented by Decision No 1/2018 of the EU-Turkey Association Council of 27 March 2018 amending Protocol 2 of Decision No 1/98. The Commission expected that, once the decision was implemented, the full quota would be opened and used. Indeed, imports of EU beef increased by 60% between 2017 and 2018. However, from September 2018, imports of EU live animals started to fall sharply. In 2019 imports fell by 60% compared with 2018. Over the period 2017-2019, imports of EU live animals also fell by 60%.

This decrease in imports can be partially justified by the lira depreciation, but the sector has informed the Commission services that the Turkish authorities have restricted the imports of live animals due to the saturation of the internal market. Slaughterhouses seem to be full of imported carcasses. The Turkish authorities have indicated that the situation would be back to normal after Ramadan, but this has not materialised.

In this context, the Commission will also request a clarification from Turkey regarding the Turkish roadmap for agriculture policy in relation to live cattle and beef imports. According to a recent media statement by Turkish Minister Pakdemirli live cattle and beef imports by Turkey would be ceased by the end of 2021 and a “no import” policy would be implemented by 2022.

The Commission will reiterate that finding information on sanitary and phytosanitary (SPS) exemptions should be facilitated.

The Commission will express concerns and ask for explanations about the trade restrictions. The Commission will stress that a suspension or restrictions of imports, if materialised, would be in breach of our Agreement on trade in agricultural products and WTO incompatible. The Commission will also encourage Turkey to further change its administrative import and transit requirements with a view to lifting the outstanding restrictions. The Commission will also express concerns about certain Turkish veterinary import requirements, including requesting excessively long quarantine periods and approval procedures for quarantine in the country of export. The Commission will reiterate its request to Turkey to respect the World Organisation for Animal Health (OIE) rules for animals vaccinated against Blue Tongue.

15.16. Lifting the suspension of concessions for watermelon and tomato paste from Turkey in Council Regulation No. 1506/98/EC (DG AGRI)

In past meetings of the CUJC Turkey requested the removal of concessions adopted by Council Regulation (EC) No 1506/98, repealed and replaced by Regulation 2015/756, for tomato paste and watermelons because the EU was exporting big quantities of beef /animal bovines to Turkey. In addition, Turkey claimed that Regulation 1506/98 was illegal since it had been taken unilaterally by the EU.

The Commission will refer to the discussions on the beef ban and reiterate that it still considers Turkey to be in breach of the bilateral trade agreement. The trade in beef is not carried out in a regular and transparent way. Therefore at present it will not be possible to lift the restrictions provided in Regulation 1506/98.

Background: The decision by Turkey to apply a ban on the import of bovine live animals and beef since 1996 was deemed incompatible with the bilateral trade agreement for agricultural products under Decision 1/98. Despite talks from November 1997 to February 1998 intended to achieve a solution with Turkey, the restrictions were still maintained. As a consequence, in order to protect its commercial interests, the EU decided to counterbalance the situation by means of equivalent measures and suspended some tariff concessions granted under the bilateral trade agreement. This concerns two tariff rate quotas: 14 000 t of watermelons duty-free and 30 000 t of tomato paste duty-free.

15:15 – 15:30

16. A.O.B.

15:30 – 15:45

17. Conclusion
