



TÜRKİYE ODALAR VE BORSALAR BİRLİĞİ



Dumlupınar Bulvarı No:252 (Eskişehir Yolu 9. Km.) 06530 /ANKARA

www.tobb.org.tr - tobb@hs01.kep.tr

Sayı : E-34221550-010.07.02-7531

Tarih: 26.07.2024

Konu : Körfez İşbirliği Konseyi Serbest Ticaret Anlaşması Müzakereleri

TÜM ODA VE BORSALARA (Genel Sekreterlik)

İlgi : Ticaret Bakanlığı'ndan alınan 23.07.2024 tarihli ve 98874335 sayılı yazı.

İlgi'de kayıtlı yazıda, Türkiye ile Körfez İşbirliği Konseyi (KİK) ülkeleri arasında Serbest Ticaret Anlaşması (STA) Çerçeve Belgesi'nin (ToR) imzalandığı ve 1. Müzakere Turunun gerçekleştirileceği bildirilmiştir.

Yazıda, söz konusu müzakere turu kapsamında ele alınacak fasıllarından birinin de "Yatırımın Kolaylaştırılması (Investment Facilitation)" faslı olduğu ve müzakerelere destek teşkil etmesi açısından mezkur fasılda müzakerelere temel oluşturmak üzere Ticaret Bakanlığı tarafından bir örneği ekli taslak metnin hazırlandığı vurgulanmıştır.

Yazıda, özellikle iş insanlarının/yatırımcıların bürokratik süreçlerde sorun yaşadığı, bilgiye ulaşma ve şeffaflık sorunu olan pazarlar ya da nitelikli yatırım çekebileceği umulan ülkeler söz konusu olduğunda, STA'larımıza yatırımın kolaylaştırılmasına yönelik hükümlerin, ülkemiz talepleri, politikaları ve uygulamaları ile uyumlu ve hassasiyetlerimizi dikkate alacak şekilde hazırlanarak anlaşmalara eklendiği belirtilmiştir.

Yazıda devamla, bu kapsamda özel sektörün görüşlerinin de alınmasını teminen, ekte sunulan dokümanların iletildiği vurgulanmıştır.

Bu itibarla, söz konusu belgelere ilişkin görüş, öneri ve değerlendirmelerinizin Birliğimize (elif.demir@tobb.org.tr) **5 Ağustos 2024** tarihine kadar gönderilmesini rica ederim.

Saygılarımla,

e-imza

Ali Emre YURDAKUL
Genel Sekreter Yardımcısı

EK:

- 1- Draft Chapter on Investment Facilitation_proposal of TR as of 11072024 (6 sayfa)
- 2- ToR (5 sayfa)



Evrakı Doğrulamak İçin : <https://belgedogrula.tobb.org.tr/belgedogrulama.aspx?eD=BSCKZRNC2U>

Tel : +90 (312) 218 20 00 (PBX) - Faks : +90 (312) 219 40 90 -91 -92... - E-Posta : info@tobb.org.tr

Bilgi İçin: Elif DEMİR

- Tel : - E-Posta : elif.demir@tobb.org.tr

Türkiye reserves the right to amend, modify, or withdraw any part of the proposed text.

INVESTMENT FACILITATION

ARTICLE XX.1 Definitions

For the purposes of this Chapter:

Applicant means an investor of a Party who applied for an authorisation in the territory of the other Party;

Authorisation means the permission to pursue investment activities under the applicable law of a Party, such as permits, licences, and other similar authorisation, resulting from a procedure an investor must adhere to in order to demonstrate compliance with the necessary requirements;

Enterprise means any juridical person or any other entity duly constituted or organised under the applicable laws and regulations, whether or not for profit, and whether private or government-owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, business association, organisation, or company;

Enterprise of a Party means a juridical person, including sovereign wealth funds, constituted or otherwise organised under the law of that Party, that is engaged in substantive business operations in the territory of that Party;

Investment means an enterprise or a branch of an enterprise;

Investment activities means the establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment, sale, or other form of disposal of investments in services and non-services sectors;

[Placeholder: Investor of a Party means];

Measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.

ARTICLE XX.2 Objectives and Scope

1. The purpose of this Chapter is to ensure the facilitation of procedures as much as possible to increase direct investment flows between the Parties and create a better and safer environment for doing business in the territory of each Party.
2. This Chapter applies to the administration of measures by a Party affecting investment activities in its territory of an investor of the other Party.
3. This Chapter shall apply to measures adopted or maintained by:
 - (a) central, regional, or local governments and authorities; and

- (b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.
4. The Parties recognise the right to regulate and introduce new regulations in order to meet national policy objectives in a manner consistent with their obligations and commitments under this Agreement.
5. Without prejudice to the rights and obligations arising from Chapter 8 (Trade in Services), nothing in this Chapter shall be construed to confer any rights for market access.
6. This Chapter shall not apply to government procurement and public concessions, including public-private partnership projects.
7. [Placeholder for BIT references]

ARTICLE XX.3 **Transparency and Predictability**

1. Each Party shall ensure that its laws, regulations, procedures, and other measures of general application, as well as international agreements, affecting investment activities are published or otherwise made available in a manner that enables interested persons and the other Party to become acquainted with them.
2. If a Party requires authorisation for investment activities, the Party shall publish or otherwise make publicly available in writing¹ the information necessary to comply with the requirements and the procedures for obtaining, maintaining, amending, or renewing such authorisation. Such information shall include, *inter alia*, where it exists:
 - (a) the requirements applicable to investment activities and the procedures needed to comply with those requirements;
 - (b) the contact information of relevant competent authorities;
 - (c) fees;
 - (d) technical standards;
 - (e) the procedures for appeal or review of decisions concerning applications;
 - (f) the procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications; and

¹ "In writing" may include electronic form.

- (g) the indicative timeframes for the processing of an application.
3. Each Party shall endeavour to ensure that laws and regulations it proposes to adopt in relation to matters falling within the scope of this Chapter are published in advance in electronic form.

ARTICLE XX.4 Procedures

Submission of Applications

1. Each Party shall, to the extent practicable, endeavour to avoid requiring an applicant to approach more than one competent authority for each application to comply with licencing and qualification requirements.²
2. To the extent practicable, the competent authorities shall accept applications in electronic format under the same conditions of authenticity as paper submissions.

Application Timeframes

3. The competent authorities shall, to the extent practicable, permit an applicant to submit an application at any time. Where specific time periods for applications exist, they shall be of reasonable length.

Processing of Applications

4. If a Party requires authorisation, it shall ensure that its competent authorities:
- (a) to the extent practicable, provide an indicative timeframe for the processing of an application;
- (b) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's domestic laws and regulations;
- (c) at the request of the applicant, provide without undue delay information concerning the status of the application, if possible in electronic form;
- (d) process an application which they consider complete under the Party's domestic laws and regulations, as expeditiously as possible; and
- (e) inform the applicant of the final decision³ in writing⁴ without undue delay.
5. Each Party shall ensure that an authorisation is granted when all the applicable requirements have been fulfilled and, once granted, enters into effect without undue delay in accordance with the terms and conditions specified therein.

² For both Parties, there may be more than one competent authority that the investors apply to.

³ Competent authorities may meet this requirement by informing an applicant in advance in writing, including through a published measure, that lack of response after a specified period of time from the date of submission of the application indicates either acceptance or rejection of the application.

⁴ "In writing" may include electronic form.

6. The competent authorities shall, within a reasonable period of time after the receipt of an application which they consider incomplete:
 - (a) inform the applicant that the application is considered incomplete;
 - (b) identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and
 - (c) provide the applicant the opportunity to complete its application within a reasonable period of time or, if appropriate, to submit a new application.
7. If the competent authorities reject an application, they shall inform the applicant in writing⁵ of:
 - (a) the reasons for rejection of the application and, if applicable, the procedures for resubmission of an application; and
 - (b) the timeframe and procedures for any available review or appeal against the decision.
8. An applicant should not be prevented from submitting another application solely on the basis of a previously rejected application.

ARTICLE XX.5 Appeal and Review

1. Each Party shall provide that an investor to whom a competent authority issues a decision has the right, within its territory, to:
 - (a) an administrative appeal to the competent authority that issued the decision or review by an administrative authority higher than or independent of the competent authority that issued the decision; and/or
 - (b) a judicial appeal or review of the decision.
2. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.

ARTICLE XX.6 Independence and Impartiality

1. Each Party shall ensure that the procedures and decisions of its competent authorities are impartial with respect to all applicants.
2. The competent authorities should be operationally independent of, and not accountable to, any investor for which the authorisation is required.

⁵ "In writing" may include electronic form.

ARTICLE XX.7
Digitalisation and Electronic Governance

1. The Parties shall endeavour to reach the highest possible level of digitalisation of procedures related to investments.
2. For the purposes of this Chapter, electronic documents and electronic signatures shall produce the same legal effect as those of paper documents and handwritten signatures, subject to the Party's domestic laws and regulations on electronic documents and electronic signatures.
3. [Placeholder: Digital Government]

[PLACEHOLDER:
ARTICLE XX.8
GREEN INVESTMENT&FINANCE]

[PLACEHOLDER:
ARTICLE XX.9
RESPONSIBLE BUSINESS CONDUCT]

[PLACEHOLDER:
ARTICLE XX.10
HOME COUNTRY OBLIGATIONS ON OUTWARD FDI]

Article XX.8
Subcommittee for Trade- Investment Facilitation Matters

1. For the purposes of the effective implementation and operation of this Chapter, Subcommittee for Trade established by Chapter YY of this Agreement will handle, among others, Investment Facilitation matters.
2. These matters include the objectives below:
 - (a) promote and enhance investment cooperation and facilitation between the Parties;
 - (b) monitor investment relations, identify opportunities for expanding investment, and identify issues relevant to investment that may be appropriate for further discussion in the Committee;
 - (c) monitor the implementation of the provisions of this Chapter;
 - (d) identify and work toward the removal of impediments and facilitate investment flows, including proposing an agenda for cooperation and facilitation, which may include issues such as transfer of funds, personnel mobility and logistical matters, among others;
 - (e) hold consultations on specific investment matters of interest to the Parties;

- (f) seek the views of the private sector, where appropriate, on matters related to the work of the Committee; and
- (g) work toward the promotion of investment flows.

**TERMS OF REFERENCE
FOR THE NEGOTIATIONS OF THE FREE TRADE AGREEMENT
BETWEEN THE MEMBER STATES OF THE COOPERATION COUNCIL FOR THE
ARAB STATES OF THE GULF AND THE REPUBLIC OF TÜRKİYE**

Recognizing the importance of liberalizing trade in goods and services and improving the business environment in order to further develop their close economic ties, the GCC Member States (United Arab Emirates, Kingdom of Bahrain, Kingdom of Saudi Arabia, Sultanate of Oman, State of Qatar and State of Kuwait) and The Republic of Türkiye, individually as a Party and collectively as "the Parties", have jointly developed these Terms of Reference (ToR) which will guide the negotiations for a free trade agreement (FTA) between the Parties, in conformity with Article XXIV of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") and Article V of General Agreement on Trade in Services ("GATS"). The ToR addresses the negotiating principles, scope of the FTA, modality of the negotiations and status of texts produced during the negotiations:

I. Principles:

1. This ToR shall facilitate negotiations in order to conclude an ambitious, balanced, and comprehensive GCC-Türkiye FTA for trade in goods, trade in services, investment, and other areas of cooperation as mutually agreed upon by the Parties, thereby strengthen, and enhance economic cooperation by laying down the negotiating principles and forming the scope of liberalization under the FTA.
2. The Parties will negotiate the FTA on a mutually beneficial basis, taking into consideration any sensitivities that may be raised during the course of negotiations.
3. All documents exchanged by the Parties during the negotiations shall be considered as reserved and confidential unless otherwise specifically stated in writing.
4. The negotiation parts of the FTA between the Parties will collectively be a single undertaking. Consequently, nothing is agreed until everything is agreed.

II. FTA Scope:

1. The Parties will negotiate the following:

- a. Preamble;
- b. Initial Provisions and General Definitions;
- c. Trade in goods (Including trade remedies);
- d. Rules of Origin and Origin Procedures;
- e. Sanitary and Phytosanitary Measures (including Cooperation);
- f. Technical Barriers to Trade;
- g. Customs Procedures & Trade Facilitation;
- h. Trade in Services;
- i. Intellectual Property Rights;
- j. Investment Facilitation (for GCC interested parties);
- k. Investment Promotion and Protection (for GCC interested parties);
- l. Movement of Natural Persons;¹
- m. Micro, Small and Medium-Sized Enterprises (MSMEs);
- n. Digital Trade;
- o. Competition;
- p. Dispute Settlement;
- q. Administration of the Agreement.
- r. Final provisions.
- s. Other issues mutually agreed upon.

2. The modalities of tariff concessions shall be based on the Harmonized System (HS) 2022, according to the following staging:

- A: Elimination on entry into force
3: 3 years
5: 5 years
7: 7 years
10: 10 years
15: 15 years
20: 20 years
X: Excluded from liberalization
TR: Tariff Reduction
Q: Quotas (if needed)

The parties do not necessarily need to use all the modalities listed above.

¹ This Chapter will cover only rules and disciplines. The market access and national treatment commitments regarding Mode 4 will be in the Schedule of Specific Commitments which will be Annexed to the Trade in Services Chapter.

3. All chapters referred to in paragraph II (1), and any other topic(s) agreed by the Parties will form an integral part of the FTA.

4. Trade in Goods:

a. "Goods" cover both industrial and agricultural goods, without prejudice to the result of the negotiations.

b. Negotiating method: Request and Offer (R/O) approach. The Parties agree to exchange their initial tariff requests and offers simultaneously. Requests and offers shall follow the format below.

(Request)

National Tariff Line of The Other Party	Description	Base Rate	Staging category	Remarks

(Offers)

National Tariff line	Description	Base Rate	Staging category	Remarks

c. Base rates: Applied MFN rates in effect as of the date of exchange of trade data and tariff rates. Parties will exchange trade data for the period 2020-2022 (in the Excel format) before the 1st round of negotiations.

d. The Parties will aim to exchange their requests and offers not later than three weeks prior to each negotiation round.

5. Rules of Origin:

Negotiating method: The proposals will be presented in the following format:

HS Chapter / Heading / Sub-Heading	Description of the product	Working or processing, carried out on non-originating materials, which confers originating status	
(1)	(2)	(3)	or (4)

6. Trade in Services:

- a. The Trade in Services Chapter, which will cover the four modes of supply and shall follow a positive list approach for commitments scheduling.²
- b. The offers will have substantial sectorial coverage and will provide for the absence or elimination of substantially all discriminatory measures or market access limitations.
- c. Liberalization will substantially cover all sectors recognizing the sensitive nature of certain sectors and excluding those services provided in the exercise of governmental authority.
- d. Parties shall be flexible to build on the GATS commitments and disciplines.
- e. Negotiating method: request and offer (R/O) approach.

III. Modality of Negotiations:

1. The Parties have planned to launch the negotiations in 2024, and will use their reasonable endeavors to conclude the negotiations as soon as possible.
2. Negotiations will be conducted in English.
3. All materials that both sides exchange during the negotiations will be provided in English.
4. Negotiations will take place alternately in GCC Secretariat Headquarter and Türkiye. Inter-sessional meetings, in person or via video, of working groups will be encouraged to facilitate the process of the negotiations when necessary.

² GCC offer will be in one encompassing schedule of specific commitments for the 6 member states, each member will have its commitment marked separately under each sector or collectively if the commitments are at the same level.

IV. Delegations:

1. Negotiations will take place mainly at the following levels: Chief Negotiators and Working Groups. Chief Negotiators will lead their respective delegations and manage overall negotiations at each round of negotiations.
2. The names of the Chief Negotiators from the Parties will be exchanged along with names of heads of the working groups at least one (1) week prior to each round of negotiations.
3. In order to establish prompt and practical communication between the Parties, each Party designated the following contact persons to channel all communications, without prejudice to necessary diplomatic correspondence. The Parties will promptly inform each other about any change regarding their contact person.

For the GCC:

Mr. Abdulrazzaq Al-jraid, General Director- the General Directorate of Negotiations, Secretariat General - Gulf Cooperation Council.

For the Republic of Türkiye:

Mr. M. Alper ATILLA, Head of Department, Directorate General for International Agreements and the EU Affairs, Ministry of Trade.

V. Text Produced

1. The Party hosting the negotiations will provide both delegations with an identical set of official texts produced after each meeting in electronic format.
2. The produced texts for the various topics will be jointly agreed upon by the heads of the technical teams.
3. The Party hosting the negotiations will draft the minutes of the meeting and/or an action log at the end of each round. Each working group should produce a detailed report for the conclusion reached as a result of that round.
4. The final text of the FTA shall be signed in Arabic, Turkish and English. In case of any divergences in the interpretation, the English text shall prevail.