

Turkey

【Risk Warning】

In 2009 Turkey issued several communiqués to set the minimum supervision prices for some products such as thermos bottle products, hand saws, liquid thermometers, footwear products, sesame, arc welding machines and color TV sets, and modify the supervision conditions of some products. The revised supervision system has made the related export procedures more complicated and resulted in adverse impacts on the export of the relevant Chinese products.

In February 1, 2009, Turkey began to implement new *Registration Ordinance on Imported Textile and Clothing*. This measure is directed against the Chinese textile exportation after 242 restrictive measures have been removed. This measure has made it more difficult for Chinese textile exporters to export their product to Turkey.

Besides, the relevant Chinese exporters should pay attention to the Turkish *RoHS Regulations* put into force in June 2009. Chinese exporters are advised to pay close attention to this regulation.

1 An Overview of Bilateral Trade and Investment

According to the statistics from China Customs, the volume of bilateral trade between China and Turkey totaled 10.08 billion US dollars in 2009, down 19.8% over the preceding year, among which China's export to Turkey was 8.33 billion US dollars, down 21.4%, while China's imports from Turkey reached 1.75 billion US dollars, an decrease of 11.1% over the same period in the preceding year. China enjoys a trade surplus of 6.58 billion US dollars with Turkey. China mainly exported to Turkey machines and mechanical spare parts, electrical machinery, photo-optics equipments, steel products, synthetic filament and organic chemicals. And the main products imported from Turkey are mineral ores, salt and sulphur, earths and stone, inorganic chemicals, rare metals, steel and iron, and machines.

According to MOFCOM, the total turnover of completed engineering contracts by Chinese companies in Turkey stood at 1.23 billion U.S. dollars; and the turnover of the completed labor service cooperation by Chinese firms in Turkey was 2.08 million U.S. dollars.

According to MOFCOM, approved or registered by MOFCOM in 2009, the non-financial foreign direct investment of China in Turkey amounted to 300 million. In 2009, Turkey invested 28 projects in China and the actual amount of 18.64 million U.S. dollars.

2 An Overview of Trade and Investment Regime

The main Turkish administrative departments of foreign trade include the Turkish Ministry of Foreign Trade, the General administration of Customs, The Ministry of Trade and Industry, the Undersecretariat of State Planning Organization. *Foreign Trade Law* is the main law of Turkey's foreign trade administration.

Through the General Directorate, Turkish Ministry of Finance is responsible for foreign investment management.

The major laws in Turkey governing foreign investment are *Foreign Direct Investment Law*, *the Decree of Foreign Investment Framework*, *the Communiqué of the Decree on Foreign Investment Framework* and so on.

2.1 Trade Administration Regime and Its Development

2.1.1 Tariff Regime

2.1.1.1 Tariff Administration

EU-Turkey Customs Union was put into effect on January 1, 1996, which exempted both sides from tariff with each other abolished import and export quotas. At the same time, Turkey adopts the EU Common Customs Tariff in non-agricultural products imported from third countries. It means that as long as the goods in the importing country clear the customs procedures between the EU and Turkey, they will be able to dock freely. Turkey exempt the non-agricultural products imported from the European Free Trade Association (EFTA) by Turkey from import tariffs.

2.1.1.2 Tariff Levels and the Variations

Goods imported into Turkey are subject to the following tariff and taxes: the customs tariff (the customs tariffs, and the Mass Housing Fund levy) and internal taxes (excise duties, i.e. special consumption tax, VAT, and the stamp duty). The Mass Housing Fund levy applies to imported fish and fish products. Special consumption tax mainly applies to: (1) petroleum products (special tax); (2) vehicles (ad valorem); (3) alcoholic beverages and tobacco products (ad valorem and/or special taxes); (4) Luxuries (ad valorem tax). Value-added tax is levied on agricultural products and basic products at the rate of 1% or 8%, and on some non-agricultural products and luxury items (including cosmetics, furs, television and automobiles), it is imposed at the rate of 18%. Stamp duty is declared by the Ministry of Finance for all tax-related legal persons.

According to WTO statistics, Turkey's simple average MFN tariff rate was 9.7% in 2008, for agricultural products, the simple average MFN tariff rate was 42.2%, and for non-agricultural products, 4.8%.

In 2009, Turkey adjusted the import tariffs on some steel products twice, one in January and the other in September. After the adjustment in September 2009, the import tariffs on hot roll is 9%; tariff on cold volumes declined to 10% which is 4% lower than before; import tariffs on hot dip galvanized steel and pre-galvanized steel are still 15% .

2.1.2 Main Import Administration

According to the import and export markets, the Undersecretariat of the Prime Ministry of Foreign Trade makes the appropriate changes to the import regime of Turkey each year. The existing regime is *Turkish Import Regime of 2009*.

2.1.2.1 Import Restrictions

Turkey implements the import ban on the products of ten categories according to the environment, public safety, health, public morality or the relevant international conventions. The products include drugs, chemical weapons, fuel which is detrimental to health, weapons and ammunition, products which violate trademark right or whose names violate "the International Convention on Industrial Property" , silkworm eggs, farm natural fertilizer, games, gambling machines.

2.1.2.2 Import License

Turkey implements license management on some imported products, including some motor vehicles, transport equipments, chemicals, fertilizer, endangered wild animals and plants, petroleum products and some products of sugar substitute. It needs the permission from relevant institutions to import these products.

It needs to get the permission from the Undersecretariat of the Prime Ministry of Foreign Trade to import waste, renovation, defective products and scraps. It needs the permission of the Department of Measurement and Control subordinate to the Undersecretariat of the Prime Ministry of Foreign Trade to import measuring and weighing instruments. In order to combat piracy, the media materials including movies and music, should be examined by the Copyright Office.

2.1.2.3 Import Supervision

The Import Department of the Undersecretariat of the Prime Ministry of Foreign Trade can impose regulatory measures on those products which will result in injury or threat thereof to the domestic products of same category or directly competitive products. If the price of the imported good is under the minimum supervision prices fixed by the Ministry of Foreign Trade, it should possess the importing license issued by the Import Department, besides the documents required by the law and related regulations.

In 2009 Turkey issued several communiqués to set the minimum supervision prices for some products such as thermos bottle products, hand saws, liquid thermometers, footwear products, sesame, arc welding machines and color TV sets, and modify the supervision conditions of some products.

2.1.2.4 Registration of Imported Textile

Turkey began to implement new *Registration Ordinance on Imported Textile and Clothing* on February 1, 2009. And the specific contents are published on the Turkish official *Notification (27097)* issued on December 31, 2009. The new regulations require that importers make registrations for the imported products before the import of textile and apparel products. The registration should contain a Export Registration Form with a consular certification issued by Consular Section of Turkish Embassy in China or Turkish Consulate in China. Prior to this process, a notarial certificate concerning foreign affairs and a consular certification should be issued by the local branch of CCPIT and the local Foreign Affairs Office which is authorized by the Ministry of Foreign Affairs of China to issue the consular certification. Registration Form is of one to one mode and is valid for one year. This provision applies to all countries.

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The provisions involved the textile and clothing of the following categories (HS number): 420310, 420321, 420329, 420330, 430310, 4304, Category 50, Category 51, Category 52, Category 53, Category 54 (except 540720), Category 55, Category 56, Category 57 (except 5701 and 5702), Category 58 (except 5805), Category 59, Category 60, Category 61, Category 62, Category 63 (except 630532 and 630533), and 6505. The categories above include silk, wool, cotton, rayon and short fibers, carpets, fabrics weaved by special shuttles and lace fabrics, knitted or crocheted fabrics, all clothing and apparel, blankets, bed sheets and tablecloths, curtains, textile bags and packaging bags, hair net, and headwear which are knitted or made of fabric.

When the above products are exported to Turkey, they need to be registered in the Records Center which was set up by UFT for this purpose. Records Center takes charge of issuing the registration certificate. The only thing that needs no registration is the good equal to or less than five kilograms for one time when they pass through Customs. Registration certificate is valid for 90 days, and one certificate can only be used for one customs entry application. It can not be postponed, nor transferred to a third party. If a Chinese exporter deals with a number of Turkish importers, an original registration form is needed for one exporter. If the registered enterprise changed its information, it should be re-registered.

2.1.3 Export Administration

2.1.3.1 Export Registration

Turkey requires mandatory registration on some products, including the products enjoying the relief of insurance cost of export products under the Price Stability and Support Fund (SPSF); the products paid by SPSF, the products regulated by *Turkey-Russia Agreement on Natural Gas*; products exported to the countries under UN economic sanctions; ozone layer products protected by the *Vienna Convention* and related agreements; raw olive oil and processed olive oil in bulk or drums, licorice root, raw meerschaum and sample pipe; raw bagged or boxed olives, livestock, bulk hot peppers, raw olives (not fermented), copper and zinc scraps, marble, small cucumbers and cement.

2.1.3.2 Export Prohibitions

Due to the factors of environment, health, culture or international conventions and other reasons, Turkey forbids the export of the related products of 14 categories, including Angora goat, some wild animals, tobacco plants, and Indian hemp.

2.1.4 Trade Remedies

The legislative base for Turkey's implementing the anti-dumping and countervailing measure is the *Law on the Prevention of Unfair Competition in Imports* and the *Act on the Prevention of Unfair Competition in Imports*. The legislative base for implementing safeguard measures is the *Decree on Safeguard Measures against Imports* and the *Implementing Regulations on Safeguard Measures against Imports*. The Turkish Ministry of Foreign Trade is responsible for trade remedy investigations.

2.2 Investment Administration and Its Development

In order to increase domestic and foreign investment and improve the business environment, the *Decree to Promote the Investment Environment of Turkey* was put into effect in December 2001 and a coordinating committee for improving the investment environment and a technical team were set up. *Law No. 4875 on Foreign Direct Investment* became effective in 2003, and the Turkish Bureau of Investment Support and Promotion was set up in 2006.

The proportion of foreign ownership of companies in most economic sectors can be up to 100%, but the foreign equity in the sectors of broadcasting, aviation, fishery, accounting and auditing is restricted to certain proportion. Domestic and foreign-funded enterprises enjoy the same preferential policies, including tariff and fees deduction and credit subsidies. Meanwhile foreign-funded enterprises are under the protection of *Law No.6224 Concerning the Encouragement of Foreign Capital and Agreement on Mutual Investment Protection and Promotion*.

2.3 Trade and Investment Related Administration and Its Development

In order to conform its regulations to the relevant EU directives, Turkish *RoHS Regulations* entered into force in June 2009. The contents mainly include:

- Imported or locally produced electrical and electronic products should not contain Pb, Hg, Cr6 +, PBB, PBDE and Cd. The exemptions are listed in Appendix 2 of Turkish *RoHS Regulations*. The limits for hazardous substances and the exemptions are the same with the *EU RoHS Directive*;
- From the date of sale, the manufacturers need to keep for at least 5 years the profiles and documents proving that the product are in conformity with the technical standards of the regulations;
- Manufacturers need to submit the statements of conformity at the end of every February, and the specific requirements are in Appendix 3;
- Imported electrical and electronic products should be conformity with Article VIII of the provisions;
- Manufacturers should declare that their products are in conformity with the requirements of EEE.

2.4 Technical Trade Measures Issued in 2009

2.4.1 Turkey National Standards on Building Products

Turkish Ministry of Public Engineering informed the WTO of the *National Regulations and Rules on Building Products* on June 17, 2009. The rules stipulate the standards which are applied to building products in accordance with national laws; and standards which are applied to determine the properness of the building products' usage. The mandatory rules will be put into enforcement in a year after it is issued.

2.4.2 Turkish Laws and Regulations on Organic Fertilizer

On Nov. 17, 2009 Turkish Ministry of Agriculture and Rural Affairs informed the WTO of the

Draft Regulations on the Production, Import, Sale and Test of Organic Fertilizers, Organic Mineral Fertilizers, Soil Conditioning Products and the Related Products, Products Based on Micro-organisms and Enzyme Production. The draft regulations contain the promotion, definition, continuous analysis, production, import, sale and test of organic fertilizers, organic mineral fertilizers, soil conditioning products and the related products, products based on micro-organisms and enzyme production to protect consumers, improve soil fertility and quality, protect human health and the environment. The regulations regulated the standards, contents and features of products. The approval and the commencement dates are to be determined.

3 Trade Barriers

3.1 Tariff and Tariff Administration

3.1.1 Tariff Peak

Turkey imposes high tariff rates on agricultural products. According to WTO statistics, in 2007, the average import tariff rate of Turkish imported animal products was 127.5%, the maximum rate was 225% (such as fresh and frozen pork, beef and mutton); the average import tariff rate of dairy products was 133.1 %, the maximum rate was 170% (such as yogurt); the average import tariff rate of sugar and confectionary was 103.2%, the maximum was 135% (such as cane sugar, maple syrup). Moreover, higher import tariffs are also imposed on fresh fruit and some alcoholic beverages.

3.1.2 Tariff Escalation

Generally, Turkey shows a mixed tariff escalation. It shows a slight negative upgrade (-0.3%) from primary products to semi-finished products, a positive update (10.9%) from semi-finished products to finished products. This is mainly due to the high tariffs on agricultural primary products.

Positive tariff escalation exists in the sectors of textile and clothing, especially in the sectors of food, beverage and tobacco, in which a positive tariff escalation is very prominent. In chemical and plastic sectors, it shows a positive tariff escalation from primary to semi-processed products and negative tariff escalation from semi-finished products to finished products.

3.1.3 Tariff Quotas

Turkey imposes quota management to imported rice, and stipulates "domestic consumption requirements", that is, the importers can import specified quantity of foreign rice at in-quota tariff rate, provided that they purchase a specified quantity of Turkish rice from the specified places, including Turkish Grain Board, Turkish producers and the Turkish Association, etc. Turkey's above-mentioned practices violated the relevant regulations of WTO, and impeded import of foreign rice. Moreover, it's not transparent for the number of tariff quotas, implementation, schedule updating, and the issuance of import licenses.

3.2 Import Restrictions

3.2.1 License Restriction

Turkey regulates that the products which need a service after sale (such as photocopiers, advanced data-processing equipments as well as diesel generators), distilled spirits and some agricultural products must have import license. The ill-transparency of Turkey's import license system leads to a higher export cost and delay of time and other uncertain factors. They have hampered the trade of relevant products.

In addition, the document requirements for the food imports are not consistent and transparent, and as a result, the cargo often is held up in the port.

3.2.2 Quantity Limitation towards Chinese Products

Turkey imposed a five-year quantitative restriction on the volume of ceramics imported from China as from July 1, 2008. The total import volume from China is controlled of 26500 tons from January 1, 2009 to December 31, 2009. From 2010 to 2012, the volume will increase by 5% per year than the previous year. From January 1 to June 30, 2013, the total volume will increase by 5% on the basis of that of 2012, and the half-year import amount should be divided by two.

3.3 Barriers of Customs Clearance

Turkish Customs regulates that the demurrage time for imported goods is within 45 days (20 days if not by marine transportation). Otherwise the goods will be put on auction as derelict. and the income from the auction will offset the storage charges and related costs. When the goods are auctioned, under the same conditions, the original importer shall have priority in purchasing them at a very low price. If the goods arrive at the port, the customs are not allowed to send back or resale the goods without the formal Refusal Notice from the receiver. This regulation of Turkish Customs puts the exporters in an unfair position, so that the exporters, including Chinese exporters, have suffered loss.

3.4 Technical Barriers to Trade

The Turkish government failed to provide timely notification to the WTO members of its technical standards and health requirements. Most of its rules become effective immediately after they changed. Turkey seldom or never informs its trading partners. This usually causes a lot of inconvenience to the trade. Arbitrariness exists in the implementation of Turkey's technical regulations, standards and conformity assessment procedures. Moreover, the implementation of laws and regulations at different ports in Turkey is not consistent. It is difficult to importers and exporters to implement them because there is no predictability.

Turkey takes differential treatment to products from the EU and other countries. The products imported from non-EU countries, especially the medical equipments, are often held up at the Turkish ports to receive many kinds of tests, although the CE mark is pasted on the products. But the same products with CE mark from the EU can immediately enter the Turkish market without extra tests. And this practice in Turkey is a clear discrimination.

3.5 Sanitary and Phytosanitary Measures

Turkey has banned meat imports from many countries since 1996. At present the Turkish government is still banning the meat import for the health reason. But the government didn't establish any public health standards of meat access. Since the outbreak of "mad cow disease" and foot and mouth disease, Turkey banned the import of poultry and meat products. Moreover, Turkey requires all the imported foreign equipments which are used to process poultry to receive inspection and approval, and requires the importer of Turkey to afford the cost. Those requirements have also prevented the imports of foreign birds.

Turkey has not put any laws concerning the agricultural biotechnology into force. Only the fourth draft of Turkish *National Bio-Security Law* is just being reviewed. Previously, this draft has hampered the export of soybeans and products based on soybean or corn, and affected the export of cotton to Turkey.

3.6 Trade Remedies

Turkey imposed five new anti-dumping investigations against China in 2009, and there were no special safeguard and countervailing investigations against China in 2009. Besides, Turkey initiated a general safeguard measure investigation and two anti-circumvention investigations on Chinese products in 2009. By the end of 2009, Turkey has initiated 54 anti-dumping investigations, 20 general safeguard measure investigations, 6 special safeguard measure investigations and 2 anti-circumvention investigations against Chinese products involving the products of light industry and textiles. The information of specific cases is shown in Tables 1, Table 2 and Table 3.

Table 1: The new anti-dumping investigation on Chinese products in 2009

No.	Register time	Products involved	Customs code of products involved	Status of process
1	January 15	Household electric appliances and kitchen knife	820830900000	In process
2	April 4	Flange and the welding tube and pipe elbows, etc. (outside diameter less than 609.6 mm)	730791000000, 730793110011, 730793110012, 730793190000	In process
3	July 25	Curtain fabric and indoor furniture bunting	540741, 540742, 540743, 540744, 540751, 540752, 540753, 540754, 540761, 540769, 540771, 540772, 540773, 540774, 540781,	In process

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			540782, 540791, 540794, 600532, 600633, 630312,	540783, 540792, 600531, 600632, 600534, 630392,	540784, 540793, 600631, 600533, 600634, 581092	
4	July 25	Fan-coil	Unclear			In process
5	July 25	Hinge chain	731511900011, 731511900019, 731512000011, 731512000019, 731519000000			In process

Table 2: The new safeguard measure investigation on Chinese products in 2009

No.	Register time	Products involved	Customs code of products involved	Status of process
1	May 2	Matches	3605	On December 6, 2009, Turkey made the final determination of safeguard investigation on matches: special tariffs are imposed on the imported matches for 3 years. The tariff of the first year (June 6, 2009~June 5,2010) is 3.10 U.S. dollars / kg; the second year (June 6, 2010~June 5, 2011) is 3.05 U.S. dollars / kg; the third year (June 6, 2011~June 5, 2012) is 3.00 U.S. dollars / kg.

Table 3: The new anti-circumvention investigation on Chinese products in 2009

No.	Register time	Products involved	Customs code of products involved	Status of process
1	July 25	Air-conditioner	84151090, 841581, 841590	In process

3.7 Government Procurement

Although Turkey is not a signatory of the *WTO Agreement on Government Procurement*, it is the observer of the WTO Government Procurement Committee.

The *Opening Bidding Law* of Turkey sets up an independent committee to oversee the public tenders. The foreign companies which meet certain standards could participate in national tenders. This law offers a maximum of 15% of favorable price to the domestic bidders. But the enterprise that has set up a joint venture with foreign investors can not enjoy such benefits. Although the Turkish laws require the bidders compete with each other for the government procurement, the foreign companies still complain that the procedures of government procurement are too complex.

3.8 Export Subsidies

Turkey has many incentives to stimulate exports, although the incentives have been reduced in recent years to comply with EU regulations and WTO commitments. Turkey provides the export subsidies of 10%-20% of the export value for 16 kinds of agricultural products or agro-processed products in the forms of preferential policies on taxation and debt relief, and the payment is in the form of export taxes on primary products such as hazelnut and leather.

Moreover, Turkish Grain Board will sell the Turkish wheat at the world price (much lower than the domestic price) to Turkish flour and pasta makers, basing on their export volume. Similarly, the *Turkish Sugar Law* allows a certain quantity of domestic sugar (C category quota) to be sold at world price to the export-oriented enterprise in which sugar is used as raw material. Now the price of C category quota is 390 U.S. dollars / ton, while its domestic price is generally 1370 U.S. dollars / ton. Exporters do not need to pay the import tax for sugar used in their export products.

3.9 Barriers to Trade in Services

Turkey restricts foreign-funded enterprises in the financial services, petroleum, and broadcasting sectors. Those who are engaged in accounting or certified public accountants or agents for customers in Turkish court must have Turkish citizenship. The foreign doctors' license of practicing medicine in Turkey will be approved by the Parliament's legislation.

3.10 Others

Labor input is under strict control in Turkey. Although the laws and regulations of Turkey do not restrict foreign labors, it controls the application and implementation of policies very strictly. It is generally hard to obtain the work permit for the foreign professionals or senior technicians. The application for a work permit in Turkey is full of difficulties and complication. The cycle for application is very long (usually longer than the time requested), and the probability of getting licenses is very small.

Moreover, Turkey restricts the foreign engineers severely to protect the local engineers. Generally, the Chinese engineers can not work as engineers in the practice, and usually work as managers or technicians in Turkey.

4 Barriers to Investment

Although Turkey introduced a number of measures to stimulate investment, many sectors including sector of real estate still have restrictions on foreign direct investment. According to the foreign direct investment index of OECD statistics, the most controlled sectors are aviation and maritime transportation, followed by the electronics sector. The relatively less controlled sectors are the manufacturing sector, as well as telecommunication services, insurance services, and some commercial services.

Airline: The highest proportion of foreign ownership of airline companies can not exceed 49%. And the airline operating licenses are issued only to the local registered companies, which must be managed and controlled by Turkish citizens, and the majority of voting shares are held by Turkish

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citizens. If the company wants to get the ground service license, the majority of the authorized managerial representatives must be Turkish citizens. And the majority of shareholders' rights must belong to the Turkish citizens.

Maritime transportation: The highest proportion of foreign ownership can not exceed 49%. Coastal trading rights are reserved only to the vessels hanging the Turkish flag. Only the Turkish companies which are under the control and management of Turkish citizens, and whose voting rights belong to Turkish citizens can obtain registration of commercial ships.

Broadcasting: According to the *Law No.3984 on the Establishment and Transmission of Radio and Television of Turkey*, the proportion of foreign ownership must not exceed 25%.

Fishery: In Turkey, foreigners can not obtain the fishing license. Foreign vessels can not be registered in Turkey as a fishing vessel, unless the owner of the vessel is Turkish citizen or the vessel is owned by a company where the Turkish citizens hold the larger ratio of investment.

Accounting, auditing and bookkeeping services: Accounting, auditing and bookkeeping services need special permission. If the foreign financial advisors from the countries have laws about the full-time financial advisor have the Turkish qualifications and can fulfill the similar services in Turkey as they do in their own country, they can be approved and authorized by the Prime Minister after the proposal of Ministry of Finance on the basis of the principle of reciprocity.

The financial sector: It needs the special permission. The new bank must be approved by the Turkish Banking Supervision Department and established in the form of joint ventures, or the first branch of the foreign bank in Turkey. Only the intermediaries (including banks) who are established in Turkey and authorized by the Turkish Capital Market Commission may engage in securities trading, but banks can not make transactions in Istanbul Stock Exchange (ISE). Mutual funds can only be set up by authorized banks, insurance companies, and non-bank securities intermediaries. Most members of the board of the investment company must be Turkish citizens. In the insurance industry, only the foreign business which is related to insurance in the advisory and risk management services or foreign natural persons can be allowed to exist. It needs the prior approval to establish the insurance or reinsurance companies or to set up the insurance or reinsurance subsidiaries in Turkey. The measures of special permission apply equally to domestic and foreign investors.

Real Estate: The foreign legal persons can acquire land in accordance with relevant policies in Turkey, however, the laws regulate the purchasing maximum for foreign individuals, that is, a foreign individual is allowed to have less than 250 acres of land. And the total of all the land owned by foreign individuals in any developing zone shall not exceed 10% of the area of that zone.

Electric power industry: Foreign companies can not have decisive market shares in sectors of power generation, transmission and distribution.