

THE WAY TOWARDS CUSTOMS UNION
A POLICY-ANALYSIS OF THE NEGOTIATIONS
BETWEEN ACTORS OF
THE EUROPEAN UNION AND TURKEY

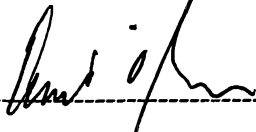
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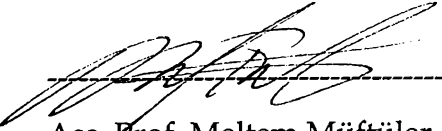
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ABSTRACT

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In this paper, Turkey-EU negotiations in 1995 leading to a customs union (CU) by January 1996 are to be analyzed. An approach that focuses on actors and issues is chosen to reflect upon the supranational character of the negotiations. It is stated that there are interest-coalitions on supranational, national, and intergovernmental levels over and above the EU-Turkey divide. In a first step, the focus will be on the supranational actors within the EU-organs. It is assumed, that EU's integration logic and mechanisms also work in the EU's Common Foreign and Security Policy. In the second part, the actions of Turkey's actors on different levels shall on one hand be examined with regard to their interaction with the EU-actors, on the other hand with regard to their impact on domestic changes, which have been required by the EU to bring about the Customs Union Agreement (CUA). The third part reexamines economic issues at the heart of the Agreement, whereas the fourth part deals with political issues, which have been excluded from the Agreement, but still pose the largest obstacle to further *rapprochement*.

ÖZET

Bu çalışmada Türkiye ile Avrupa Birliği arasında 1995 yılında başlayan ve Ocak 1996'da gümrük birliği ile sonuçlanan görüşmeler analiz edilmektedir. Görüşmelerin milletlerüstü özelliğini yansıtmak üzere sürece katılan aktörleri ve konuları temel alan bir yaklaşım tercih edilmiştir. Çalışmada AB ve Türkiye arasında milletlerüstü, milletlerarası ve hükümetler arası seviyelerde çıkar koalisyonları olduğu ortaya konmaktadır. Birinci bölümde AB kurumları içindeki milletlerüstü aktörler incelenmiştir. AB'nin birleşme mantığı ve mekanizmalarının, AB'nin ortak Dış Politika ve Savunma alanlarında da aynen geçerli olduğu kabul edilmektedir. İkinci bölümde, Türkiye'deki aktörlerin çalışmaları hem AB aktörleri üzerindeki etkileri hem de, iç politikaya olan etkileri yönünden incelenmektedir. Üçüncü bölüm, antlaşmanın merkezinde yer alan ekonomik konuların tekrar tartışılmasına, dördüncü bölüm ise Gümrük Birliği Antlaşmasında yer alan ekonomik konuların tekrar tartışılmasına, dördüncü bölüm ise Gümrük Birliği Antlaşmasında yer almamakla beraber yine de gelecekte ki AB-Türkiye bütünleşmesini etkileyebilecek, siyasi konulara ayrılmıştır.

LIST OF ABBREVIATIONS

AA	ANKARA-AGREEMENT
AP	ADDITIONAL PROTOCOL
ATL	ANTI-TERRORIST-LAW
CFSP	COMMON FOREIGN AND SECURITY POLICY
COE	COUNCIL OF EUROPE
CU	CUSTOMS UNION
CUA	CUSTOMS UNION AGREEMENT
EC	EUROPEAN COMMUNITIES
ECU	EUROPEAN CURRENCY UNIT
EIA	EUROPE AND INTERIM AGREEMENTS
EIB	EUROPEAN INVESTMENT BANK
EIU	THE ECONOMIST INTELLIGENCE UNIT LTD.
EP	EUROPEAN PARLIAMENT
EC	EUROPEAN COMMUNITIES
EU	EUROPEAN UNION
FDI	FOREIGN DIRECT INVESTMENT
FTZ	FREE TRADE ZONE
IGC	INTERGOVERNMENTAL CONFERENCE
IMF	INTERNATIONAL MONETARY FUND
MECU	MILLION ECU
PKK	KURDISH WORKERS' PARTY
R&D	RESEARCH AND DEVELOPMENT
SCM	SUBSIDIES AND COUNTERVAILING MEASURES
SEE	STATE-ECONOMIC-ENTERPRISES
SMS	SMALL AND MEDIUM-SIZE ENTERPRISES
TACIS	TECHNICAL ASSISTANCE FOR THE COMMUNITY OF INDEPENDENT STATES
TEU	TREATY OF THE EUROPEAN UNION
TGNA	TURKISH GRAND NATIONAL ASSEMBLY
TRIPS	TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

To Joanna

TABLE OF CONTENTS

ABSTRACT.....	iii
ÖZET.....	iv
ACKNOWLEDGMENTS.....	v
TABLE OF CONTENTS.....	vi
INTRODUCTION.....	1
A. THE NEOSTRUCTURALIST SCHOOL OF INTERNATIONAL RELATIONS....	2
B. THE EU: FROM INTERNATIONAL TO SUPRANATIONAL POLITICS.....	3
C. BRIEF HISTORY OF RELATIONS BETWEEN TURKEY AND THE EC/EU.....	6
D. THE METHOD OF POLICY-ANALYSIS.....	8
E. FIELDS NOT COVERED IN THIS STUDY.....	10
PART ONE: ACTORS IN THE EUROPEAN UNION.....	12
1.1. THE EUROPEAN COUNCIL AND TROIKA.....	13
1.2. THE EUROPEAN COMMISSION.....	15
1.3. THE EUROPEAN PARLIAMENT.....	20
1.4. CONCLUSION: ACTORS IN THE EUROPEAN UNION.....	23
PART TWO: ACTORS IN TURKEY.....	25
2.1. THE GOVERNMENT.....	27
2.2. THE PARLIAMENT AND POLITICAL PARTIES.....	29
2.3. THE MILITARY.....	35
2.4. BUSINESS AND INDUSTRY.....	37
2.5. THE TURKISH MEDIA.....	40
2.6. CONCLUSION: ACTORS IN TURKEY.....	42
PART THREE: ECONOMIC ISSUES DEBATED.....	46
3.1. PROTECTIONISM.....	46
3.2. TRADE AND TARIFF REGULATIONS.....	49
3.3. COMPETITION LAWS AND PROTECTION OF INTELLECTUAL PROPERTY.....	53
3.4. JUDICATURE AND INSTITUTIONAL ARRANGEMENTS.....	55
3.5. FINANCIAL COOPERATION.....	56
3.6. CONCLUSION: ECONOMIC ISSUES/ THE PRINCIPLE OF CUSTOMS UNION.....	58
PART FOUR: POLITICAL ISSUES DEBATED.....	63
4.1. REFORM OF THE 1982 CONSTITUTION.....	64
4.2. THE TURKISH MPS OF KURDISH ORIGIN IN THE DEP.....	67
4.3. THE ANTI-TERROR-LAW (NO. 3713).....	68
4.4. HUMAN RIGHTS IN TURKEY.....	70

4.5. THE KURDISH QUESTION.....	72
4.6. CONCLUSION: POLITICAL ISSUES.....	74
 PART FIVE: CONCLUSION.....	 75
 BIBLIOGRAPHY.....	 79
A. OFFICIAL DOCUMENTS.....	79
B. INTERVIEWS.....	82
C. CONFERENCE DOCUMENTS/WORKING PAPERS/ANALYSES.....	84
D. ARTICLES.....	86
E. BOOKS.....	88
F. SOURCES SCANNED.....	89
 APPENDICES.....	 90
APPENDIX A: CHRONOLOGY OF EVENTS.....	90
APPENDIX B: FDI IN TURKEY AND IN THE CEE-COUNTRIES.....	96
APPENDIX C: EU-AID PROGRAMMES FOR TURKEY 1996-2000.....	97
APPENDIX D: SUMMARY AGREEMENT OF 6 MARCH 1995.....	99
APPENDIX E: LEGISLATIVE AMENDMENTS.....	100
APPENDIX F: STATEMENTS BY THE EU COMMISSION.....	105
APPENDIX G: EIB FINANCING IN TURKEY.....	110
APPENDIX H: EP-VOTING LIST ON CUA, 13.12.1996.....	112

INTRODUCTION

This paper deals with the negotiations between Turkey and the European Union (EU) leading to the signing (6 March 1995) and ratification (14 December 1995) of the Customs Union Agreement (CUA)¹. During the negotiations, actors on all intergovernmental, national, supra- and transnational levels were involved, albeit with differing impacts. What was striking is that the issues most publicly noted have been least considered in the Agreement, which on the one hand is seen as minimal consensus on the way toward further integration of Turkey in the EU system, but also as huge leap forward in harmonization of domestic law and sustainable cooperation on the other. For a period from December 1994 to December 1995 a policy-analysis of the negotiation-process the set of actors involved, issues debated, strategies used and outcomes achieved shall be supplemented by a critical comment and outlook.

¹ EC-TURKEY ASSOCIATION COUNCIL (1995): *Projet de Texte de Décision Union Douanière*, Decision [1/95], Brussels, 6 March 1995.

A. THE NEOSTRUCTURALIST SCHOOL OF INTERNATIONAL RELATIONS

"Truth is not a value in itself, (...) there must be always a practical aim.(...) We do not study such subjects from a love of truth in the abstract or while away a wet Sunday afternoon, but because there are practical controversies about them and we hope that we may learn something which may be of assistance in these controversies." (Edwin Cannan)²

"There is also a shared determination to stop artificially separating the study of economics, politics, and society, as well as the local from the planetary." (Susan Strange)³

The main points made in these statements should serve this study, too. Interdisciplinarity and applicability are supported by the consciousness that international politics today are more than the sum of politics between sovereign states. Therefore, the approach of the Neostructuralist School of International Relations has been chosen, because it is breaking up a conceptual 'state-global divide' by transcending "any strict dichotomies between levels of the world-system. Second, this approach does not restrict the category 'state' to discrete territorial 'nation-states', nor does it restrict the category 'society' to social forces in the single-state framework".⁴ Third, neostructuralists, albeit problematising the concept of the state, do not equate it with society at large, and finally, they deny polarizations between concepts of state and individual on the societal and of concepts of national and local on the spacial plane. Thus, society and space in international politics are seen here within a perspective, which allows one to link domestic with foreign politics⁵. Where this linkage existed, implementation of EU-standards and political liberalisation could happen in Turkey.

² in: DAHRENDORF, Ralf (1995): History of the LSE, Oxford: 36.

³ in: PALAN, Ronen P. & GILLS, Barry (1994): Transcending the State-Global Divide: A Neostructuralist Agenda in International Relations, Lynne Rienner, London: p. viii..

⁴ PALAN & GILLS (1994): 4.

⁵ idem 4, 24.

B. THE EU: FROM INTERNATIONAL TO SUPRANATIONAL POLITICS

This study, however finds that the classical formal order of the nation-state [...] is not in place. The state is no longer an autonomous and independent organization [...]. Instead we have a system of interconnected states [...]. The stubbornness in current sociological praxis that assigns the nation-state an impervious agency as a unit of action, even when conversing about global processes and transnational networks, [...] obscures manifest multiplicities in national binarisms. Thus we have anomalies in existing paradigms, models that do not work, and incongruences between 'official' rhetoric and institutional 'actualities'. (Yasemin Nuhoglu Soysal) ⁶

Soysal's statement, albeit made in a different context, illustrates perfectly the approach chosen here. Along with neostructuralism, it fits well to approach the external relations of the European Union (EU), which are becoming increasingly complex. At the macro-level, supranational external politics have developed. Since 1989 and 1992, military blocs have been replaced by trade blocs and emerging supranational politics replace bi- and multilateral negotiations within as well as outside the EU. The perspective of the scholar must no longer be restricted to bi-polarity and inter-nationality. If Bosnia stands for the Union's inability to act in a responsive and responsible manner on international terrain and the Middle East peace process for a well-intended but badly performed second try, Turkey on the contrary, could be the case, where it works somehow, given longstanding and tested relations, a common ground for bargaining and institutional meeting points. The example of the negotiations around CUA show how *multi-level politics* ⁷ as a term, coined to describe politics within the Union, becomes a guiding principle of its Common Foreign and Security Policy (CFSP), too.

⁶ SOYSAL, Yasemin Nuhoglu (1994) *Limits of Citizenship*. The University of Chicago Press, Chicago: 163-4.

⁷ MARKS, Gary/McADAM, Doug (1993): *Social Movements and the Changing Structure of Political Opportunity in the European Community*. Paper presented at the annual meeting of the American Political Science Association, Washington, DC.

From this shift in perspective derives a shift in the set of actors involved and strategies used: since European foreign policy-makers have started to think about CFSP, there has been a clear change in the style of negotiations. That is to say, that similar to intra-EU developments, EU's external relations are following the integration logic both ways, namely from national downwards to subnational and upwards to supranational planes, a phenomenon widely discussed throughout most of the literature dealing with the European political project.⁸ For EU's external relations it will be shown that Turkey-EU talks did not occur on the intergovernmental or supranational planes only, but rather, on the way to CUA, strong sub- and trans-national⁹ actors on either side were substantially influencing the outcomes.

On a functional level, it will be further shown that recent interactions between EU and Turkey bear a mixture of emerging and traditional features of diplomacy. Traditional ones include a notion of contract based on international law, which is formulated in bi- and multinational negotiations among governments and then communicated to a broader audience by distinguished representatives of 'sovereign' states that are signing contracts on oak tables in front of TV-cameras and framed by little flags. Sometimes these contracts, treaties or agreements need additional ratification by national parliaments. Here, contrary to the traditional primacy of foreign policy over domestic policies, the negotiations around CUA have involved elected, appointed and arrested representatives of various political parties and collective actors on sub- and transnational levels on both sides of the Bosphorus.

⁸ BULMER, S. (1983): 'Domestic politics and European Community policy making' *Journal of Common Market Studies* Vol. 21: 1983 Oxford: Basil Blackwell; BRESSAND, A. (1990): 'Future for economic integration. Beyond interdependence: 1992 as a global challenge' *International Affairs* Vol. 66: 1990 London: The Royal Institute of International Affairs; KASTENDIEK, H. (1990): 'Convergence or a persistent diversity of national interests?' in: C. Crouch and D. Marquand (eds): *The Politics of 1992: Beyond the Single European Market* Oxford 1990: Basil Blackwell.

⁹ for terms see MEYER, Grundzüge der Internationalen Beziehungen, in: *Internationale Beziehungen*, Bundeszentrale für Politische Bildung, Bonn 1994.

Five of these emerging supranational features can be seen in the EU's foreign policy-making towards Turkey, which supplement rather than replace traditional bi- and multilateral ones: First, in EU foreign policy-making, there have been autodynamic organs involved. In the case of CUA they are the European Council, Commission and Parliament, acting solely on the basis of Common Law.¹⁰ Second, non-governmental actors have been proactively involved, influencing the outcome of negotiations via or below the plane of national parties, parliaments and governments. In the case of Turkey these actors are business- and human rights groups as well as the media. Third, a notion of unpredictability and strategic deadlocks has been inherent in the negotiations, resulting from the interplay of sub-, trans- and supra-national actors with traditional diplomacy, which in this very case had the potential to undermine or foster governments' decisions pro-CUA. Fourth there was an increase in the quality of communication with multiple constellations of actors meeting, exchanging views and negotiating. Fifth and last is the tool of monitoring to look for indicators of democratization and observe post-contractual implementation, which concerning CUA have been done by all three EU-organs involved. As will be shown, recent negotiations between the EU and Turkey bear most if not all of these traditional and emerging features in significant ways. It must be made clear which ones have already been fully developed and which ones are still emerging.

¹⁰ Treaty of the European Union (TEU) and jurisdiction of the Council of Justice of the EU.

C. BRIEF HISTORY OF RELATIONS BETWEEN TURKEY AND THE EC/EU¹¹

Turkey first aspired EC-membership in 1959. In 1963, the Ankara-Agreement (AA) was signed to give Turkey an associated member status. In 1971, this was refined by the Additional Protocol (AP) which, among other things, provided for the installation of a customs union after 22 years. In 1978, the Ecevit-administration invoked the safeguard clause of the Agreement and curbed tariff-reductions in order not to endanger domestic industrialisation. Financial Protocols, which have supplemented the Agreement, were curtailed to Turkish five-year plans for state-led industrialisation. The Fourth Financial Protocol together with further funds is blocked until today.

Since then, the main dilemma in EC-Turkey relations, as Balkir and Williams put it, is that developments in Turkey have been influenced by developments in Europe but not been synchronised to them.¹² At a time of unrivalled internationalisation of economic activities in the capitalist world, Turkey's economic policies remained inward looking. At a time of consolidation of democracy in northern Europe, Turkey was twice subject to military intervention."¹³ Economically, since the third intervention, a protectionist export-incentive program was established in Turkey while it was possible to refer to the world economy as being dominated by a 'triad' of mega-economic powers: North America, Western Europe and Japan. Politically, the news from Turkey arriving in Europe contained mostly reports of human-rights violations under the military-regime.

The 1987 application of the Özal government must be understood as important sign on both domestic and supranational levels. Externally, the development of an outward

¹¹ see EVIN, Ahmet/DENTON, Geoffrey (eds.)(1990): Turkey and the European Community, Opladen 1990.

¹² BALKIR, Canan /WILLIAMS, Alan M. (Hg.)(1993): Turkey and Europe, Introduction, Pinter Publishers, London/New York: 9.

¹³ BALKIR, Canan/WILLIAMS, Allan M.(eds.)(1993): Turkey and Europe, Introduction, London/New York: Pinter: 9.

oriented economy went together with the will to gain shares in the decision-making of the EC as Turkey's main trade-partner. Internally, the Özal government sought membership as guarantee of the fragile return to democracy since similar arguments had been used by the EC for the Iberain applications a decade earlier. The logic behind the convergence was, as Balkir and Williams state, a necessity for attracting foreign direct investment (FDI), facilitate trade and technology transfer, as well as Turkey's new geopolitical importance since the Gorbachev-Reagan START-negotiations and unrest in the Middle East.

In 1990 the EU refused Turkey's application on economic and political grounds and also because it was concerned with building its internal market. Since 1991 the frequency of meetings has increased and in 1992 the EU and Turkey decided on establishing a customs union.

D. THE METHOD OF POLICY-ANALYSIS

This method is used to analyse political processes on two levels: The comparison of inputs, 'withinputs' and outputs of a political process, which is happening in one or more 'arenas', here institutions or committees, is all the more required, where actors move within a 'policy-network', among various arenas. Insight into conference rooms usually is denied, so the analysis of first-hand information in forms of interviews, session-documents and protocols has to match second-hand sources, such as scholarly and journalistic coverages. The final goal of a policy-analysis is to trace back the negotiations altogether.¹⁴

Standing on this methodological and theoretical basis, the relations between EU and Turkey in a core period between December 1994 and January 1996 are to be analysed. During this time-period legal preparations for the Customs Union Agreement (CUA) were in full swing in Turkey while political action between all actors involved peaked.

The policy-analysis will be divided into two main parts: First, actors in the EU and in Turkey will be introduced. Then, economic and political issues in the negotiations will be discussed. This impact-analysis is yet not centered around issues and shall therefore not simply follow the question, which parts of changes of Turkey's jurisdiction, legislation and executive have been due to domestic politics and which have been a result of demands from EU-actors. Rather, the search for interest-coalitions above and below the EU-Turkey divide shall form the core and guiding principle of this work.

¹⁴ JARREN, Otfried (1992): Grundkurs II: Policy Analysis, Universität Hamburg, 1992.

The assessment of trade-issues entailed in CUA for Turkey, as far as visible to the naked eye, will be accomplished by an estimation of her progress on the issue of human rights and individual liberties, measured against the demands of EU-organs. This approach is chosen for two reasons: On the side of the EU the promotion of human rights has become integral part of its foreign policies since the Maastricht Treaty and can be expected to gain momentum in the future.¹⁵ On the Turkish side it is assumed that inequality, corruption, clientelism and a lack of broad participation in the political process can be overcome by the promotion of a coherent system of impersonal law and a judiciary that respects it. Therefore, emphasis is put on both changes in civil and trade laws which have effects both for Turkey's business sector and civil society. Finally, on a practical level, the further improvement of styles of communication between Turkey and the EU are seen important for a rapprochement by consensus.

¹⁵ LAKE, Michael (1995b): Address by the Head of the Representation of the European Commission in Turkey to the High Advisory Council of TÜSIAD. Ankara: Hilton Hotel, 8 December 1995: 3.

E. FIELDS NOT COVERED IN THIS STUDY

It would be another question to ask, how economic changes, which Customs Union (CU) will certainly bring about, are dealt with in Turkey. This would have to be grounded on solid knowledge about Turkey's economy¹⁶, having in mind the often unpredictable character of relations between the two contractual partners during the last decades. In this paper the economic assessment must remain on a merely descriptive level, i.e. in terms of institutions involved and laws enacted. A thorough macroeconomic impact-analysis and projection is not part of this work.

The paper will secondly not contribute to theoretical discussions about probable shifts or even a renationalization of Turkish foreign politics after the Cold War¹⁷ or under Prime Minister Erbakan. Quite to the contrary, it is assumed that frequent contacts on supranational levels have the potential to accomplish shortcomings of intergovernmental diplomacy.

The third area not covered here are recent identity-crises in Turkey which are influencing domestic politics along the faultlines of Islamism vs. Westernism, Sunni vs. Alevi Islam and Kurdish vs. Turkish nationalism.¹⁸

Three recent spots from Turkey are briefly mentioned, because they highlight which kind of pictures still obtain in European living rooms. Concerning Turkey-EU

¹⁶ BUGRA, Ayse (1994): *State and Business in Modern Turkey: A Comparative Study*, Albany: State University of New York Press, BARKEY, Henri J. (1990): *The State and the Industrialization Crisis in Turkey*, Boulder Co.: Westview.

¹⁷ KAROSMANOGLU, Ali L. (1996): *Europe's Geopolitical Parameters*. Paper prepared for delivery at the Conference on "Turkey and Central and Eastern European Countries in Transition. Comparative Study with a View to Future Membership to EU". Bilkent-Hotel. Ankara. 9 March 1996: 12; YILMAZ, Bahri (1994): *Turkey's New Role in International Politics*, *Internationale Politik*, Heft 6, 1994: 231-246.

¹⁸ STEINBACH, Udo (1996): *Die Türkei im 20. Jahrhundert - Schwieriger Partner Europas*. Bergisch-Gladbach 1996: 313-386; CIZRE-SAKALLIOGLU, Ümit (1996): *The State and Identity-Crises in Turkey*, unpublished paper, Bilkent-University, Ankara, Turkey.

relations, their mere existence may question the continuity and stability in Turkish politics toward EU up until now.¹⁹ First, Islamist Prime Minister Necmettin Erbakan's trip to Iran to sign a contract about \$20bn on natural gas, briefly after US-President Clinton's economic ban on Libya and Iraq on grounds of alleged support for terrorism made it up to rank two in German TV-news. Second, pictures of the shooting of a young Greek Cypriot by Turkish government troops after climbing a Turkish flagpole also made it up to rank two in German TV-news. Third, the ongoing violation of human rights in Turkey which again peaked in July 1996, when 12 men died during a hunger-strike in Turkish prisons. This event became prominent on Western and Eastern European TV Channels throughout several days.

All three events occurred in August 1996, more than half a year after ratification of CUA by the European Parliament (EP). Actors and observers who want Turkey to play an active role in the EU-system after the Intergovernmental Conference (IGC) must accept and support the need for both sides to see beyond trade toward the "even more important progress on human rights in Turkey, the need of the fundamental rights of the individual, which citizens in the Union take for granted" ²⁰.

¹⁹ as described in STEINBACH (1996): 220-312.

²⁰ VAN DEN BROEK, Hans, in: FORUM EUROPE (1995): 13.

PARTS ONE AND TWO: ACTORS

In the following two parts, actors and interactions of both sides will be discussed. If in the EU there is a delegation of competence from the national up to the supranational levels happening together with the division of work on political and economic issues, Turkish actors have been quick to accept this shift of the power-center and have responded accordingly to actions taken by all three EU-organs involved.

PART ONE: ACTORS IN THE EUROPEAN UNION

That the European Union²⁰ has been involved in the negotiations around CUA in the frame of Common Foreign and Security Policy (CFSP) with three of its organs show that the "dichotomized 'widening versus deepening' perspective"²¹ does not hold water in this case. The division of work was accordingly that while the Association Council met twice a year to evaluate the technical progress made and

²⁰ SMITH, Gordon (1990): *Politics in Western Europe*, 5th ed. Dartmouth. WEIDENFELD, Werner (1991): *Wie Europa verfaßt sein soll. Materialien zur Politischen Union*, Bertelmann-Stiftung, Gütersloh, 1991.

²¹ BALKIR/ WILLIAMS(1993): 4.

decide on further steps to be taken, the European Parliament (EP)²² became the main platform for human rights and democratisation issues and the Commission acted as the motor of the project. Since 1993 members of the Commission have worked together with 12 to 24 ministerial committees from the Turkish side²³ to implement a detailed set of trade legislation in piecemeal and continuous fashion. As will be shown, the constellation of the Council and the EU-Troika in 1995, the Commission's dedication to free trade and the lobbying efforts of various interest groups on both sides had a huge impact on bringing about the final positive vote in the European Parliament²⁴, that for the first time since its foundation ratified by *avis conforme* an external agreement of the EU beyond mere association.

1.1. THE EUROPEAN COUNCIL AND TROIKA.

Being the decisive organ of intergovernmental policy-making both inside and outside the Community, the Council has been supported by two further intergovernmental institutions since the Association Agreement of 1963: The Association Committee of technicians worked out details and reported to the ministerial Association Council, which met biannually and supervised progress in EC/EU-Turkey-relations under the Association Agreement of 1963 as well as under

²² COOMBES, David (1994) Democratic Deficit and Economic surplus: the Politics of Re-Distribution in the European Union, Workshop on the elections to the European Parliament. Prepared for the XVIth World Congress of the International Political Science Association (IPSA), Berlin, 21-25 August 1994.

²³ There is a new subfield in the study of European politics emerging, which is called 'committeology'. I owe this information to Herwig HOFMANN, University of Hamburg, Faculty of International Law.

²⁴ On lobbying in the EU see: SIJDJANSKI, Dusan (1994): Democratization, Integration and Interdependence. *Nouvelles Tendances des Groupes de Pression dans L'Union Europeenne*, prepared for the XVIth World Congress of the International Political Science Association, Berlin, 21-25 August 1994, MAZEY, Sonia and Jeremy RICHARDSON (1994): Interest Groups and Representation in the European Union, paper presented to the workshop 'Democratic Representation and the Legitimacy of Government in the European Community, ECPR Joint Sessions Workshops, Madrid, 17-22 April 1994.

the Additional Protocol of 1971. If for the 1980s period it was as Meltem Müftüleri notes, "through [...] the [intergovernmental] Council and the Committee, that Turkey would negotiate the different stages as well as the nature of the relationship"²⁵, by the 1990s this has changed and Turkish actors increasingly started to exert direct influence on the Commission and the EP.

Nevertheless, the composition of the EU-Troika remained crucial. At times, it was very important for the pursuit of negotiations, which countries' representatives formed the Troika and which one held the presidency. For instance, only in summer 1993, after the Greek presidency in the Troika, progress started on preparing CU. In December 1994, when the Association Council in a ten-minute meeting decided to delay all negotiations on CUA and demanded progress on human rights and the Cyprus issue, the German Foreign Ministry, under strong domestic pressure, held the presidency. Since Greece in late 1993 and Germany in mid 1995 ceased to be members of the Troika, two main advocates of human rights and the Cyprus-issue were no longer in crucial intergovernmental positions. Finally, in the decisive spring 1995, France, a strong advocate of EU-Mediterranean policies, headed the EU-Troika. During the final CUA-negotiations in the second half of 1995, which led to revision and ratification, one can say that Turkey faced the most favourable Troika-combination possible to get CUA passed by the Association Council (30 October) and the EP (14 December). With France, Spain and Italy, three countries experienced and interested in EU-Mediterranean policies had formed the Troika.

In fact, in the case of CUA, the Troika-model, being established in the 1970s as compromise between Turkey and the EC in order to avoid Greek or British

²⁵ MÜFTÜLER, Meltem (1995): Turkey and the European Community. An uneasy Relationship. *Turkish Review*, Bilkent, Ankara, November 1995: 32.

domination of EC-policies as mandatory nations over the Cyprus question, had served its purpose very well.

1.2. THE EUROPEAN COMMISSION

Albeit its traditional role was as 'Guardian of the Treaties' and 'Motor of Integration', the Commission has obtained restricted external relation competences only since the Single Act of 1987.²⁶ To overcome its restriction on trade and competition issues and complement the national governments' policies in security and defence, the Commission's consequent strategy has been to extend its competences abroad as at home whenever possible. Indicators for its recent *de facto* increasing competence can be seen in the monitoring of the first and second Russian presidential elections, the Bosnian elections, and in the emergence of Representations abroad. The most important ones being in the United States, Russia, the Central and Eastern European (CEE) countries and in Turkey. These representations operate parallel to the traditional embassies of the member-states.

The Commission's main task in the negotiations has been the continuous technical revision of Turkey's preparation for CUA. Since 'political' elements were excluded from the Agreement, Turkey's qualification for CU the Commission required mainly changes in trade and business law, such as a new patent law, arrangements for competition and consumer protection and legislation on intellectual and industrial property.²⁷ At least three Directorates have been actively involved²⁸ and

²⁶ RENNER, Günther (1995): Außenbeziehungen der Europäischen Union in: Europäische Union. *Informationen zur politischen Bildung* Bonn: BfPB: 44-50.

²⁷ IBS (1995), Research & Consultancy, *Briefing Papers 95/1: The EU-Turkey Customs Union and Your Business*, Ankara, May 1995: 2. The European Parliament's Committee on External Economic Relations had structured its reports accordingly.

²⁸ DGI, III, IV.

the Representation in Ankara was active most visibly in promoting the pursuit of negotiations, communicating CUA in Europe²⁹ and coordinating, implementing and evaluating progress in EU-trade legislation in Turkey.³⁰ In September 1995 the Head of the Representation, Michael Lake, drew a quite positive conclusion:

*"Both sides worked extremely hard, and with a diligence which belied the criticisms and scepticism in both sides in the early days that one side or another were not pulling their weight. They were indeed doing so, and I would like to pay tribute here to the professionalism and devotion of many Turkish officials, men and women, some of them now already doing other jobs, who have even surprised us by the sheer determination and success with which they carried out their work."*³¹

Finally, on several occasions, representatives of the EU have made clear that since Maastricht, human rights must "be taken into account in each and every one of the Union's external agreements and Turkey is no exception."³²

The lengthy official letterhead of the Directorate-General IA-D³³ symbolises two things: First, that the DG I is coordinating foreign policy as well as security issues, second, that Turkey is dealt with in a subdirectorates separately from Eastern Europe and the CIS. The DG IA from the very beginning has been influencing the outcome of the negotiations around CUA substantially.

Three things are most notable today when looking back to 1987 and at a statement

²⁹ LAKE, Michael (1995a): The European Union and Turkey: Customs Union - Yes or No?, Address to Chatham House, London, October 31, 1995.

³⁰ LAKE, Michael (1995, 1995a, 1995b).

³¹ LAKE, Michael (1995): 1.

³² LAKE, Michael (1995), Head of the Representation of the European Commission: Remarks during IKV Panel Discussion on the Occasion of the 32nd Anniversary of the EU-Turkey Association Agreement with the EU Troika of Ambassadors to Turkey. Istanbul 12 September 1995:3.

³³ COMMISSION EUROPÉENNE: Direction Générale IA - Relations Extérieures: Europe et Nouveaux Etats Indépendants. Politique Etrangère et de Sécurité Commune. Service Extérieur. Direction D - Relations avec les autres pays européens: Chypre, Malte, Turquie.

made by the Commissioner responsible for Turkey, Eberhard Rhein, at a time when there was still "thick ice on the relations on ministerial level", noted that "according to the Association Agreement of 1963 and the Additional Protocol of 1970, a customs union between Turkey and the EC shall be completed by 1996"³⁴. If the first eyecatcher is his relative self-confidence as a bureaucrat to raise the issue at a highly critical point, which was half a year after Turkey applied for full membership, the second is the exactness of his prediction while the third is his strict reference to agreements within *acquis communautaire*. This later became less self-evident when both sides, instead of referring to the AA and AP which contained a clause on the prospect of full membership, were referring more frequently to GATT.

In November 1992, Eberhard Rhein's successor Abdel Matutes, remarked at the Turkey-EC Association Council meeting in Brussels that:

*"I...believe that in these last 13 months, and more particularly since the meeting of the Association Committee on 6 December, there has been a noticeable speeding up of activities and intensification of the links we have created between us"*³⁵

Both Rhein's and Matutes' statements make clear the style of cooperation of the staff at the Commission and at Turkish Ministries to overcome deadlocks in intergovernmental negotiations. It has been determined by continuous work on technical questions *en detail* on the basis of signed agreements and EU-law and most importantly for the case of Turkey, it happened independently from daily politics. Until the very end of the negotiations, the DG IA remained a constant

³⁴ RHEIN, Eberhard (1987): What does Europe want to do? How does the EC see Turkey? *Middle East Business and Banking* October 1987: 4-8.

³⁵ FORUM EUROPE (1993). Partners for Growth. New Trends in EC-Turkish Cooperation. A Forum Europe Conference in partnership with the Union of Chambers of Commerce, Industry and Commodity Exchanges of Turkey, Brussels, 13 and 14 May 1993: 21.

driving force in Brussels and Strasbourg. For instance the Desk-Officer for Turkey at DGI, Serge Abou, released a report of 20 pages on the CU on 9 November 1995³⁶, which was immediately sent to the European Parliament, one month before it finally gave the green light for the CUA.

To sum up, articulating the idea already in 1987 as a spontaneous response to Turkey's application, the DGI has, from the start of the project at the Lisbon Summit in 1991 until the ratification of CUA by the EP in December 1995, been actively shaping and fostering the process leading toward Customs Union.

Of the three main Directorates-General (DG) involved, the DG III (Internal Market and Industrial Affairs) mainly has been concerned with the implementation of EU competition rules including state funding, the elimination of discriminations in matters of consumer markets and harmonization of legislation. It has been underlining the adoption of all EU trade-regulations, particularly technical ones. In this context, the Commissioner chiefly responsible for the Internal Market and industrial affairs, Bangemann, stated in 1991 that "we have said that Turkey is eligible".³⁷ In 1993, the Director of DG III, Verrue, mentioned that the 24th item of GATT was a further legitimizing clause for establishing a Customs Union besides the clauses of the Ankara Agreement and Additional Protocol. As indicated above, this argument had been used more frequently later on and marks a shift in the debate away from potential membership of Turkey and towards global trade. The conditions of DG III for signing a customs union with Turkey were the full elimination of customs rights and restrictive commercial regulations among the parties, which should be replaced with denominating ones, in other words the

³⁶ EUROPEAN COMMISSION (1995), DG IA - Directorate D: Dossier Customs Union Turkey. Brussels 9 November 1995.

³⁷ BANGEMANN, Martin (1991) in FORUM EUROPE (1991): 55.

bringing about of a common commercial policy.³⁸

DG IV (Competition) has been mainly concerned with consumer protection, employment and competition, but its main aim is being the prevention of state-aid, monopolies and trusts. Outside the Union, the DG IV gained importance with the opening of markets in Central and Eastern Europe [CEE], stating that, "*[t]he Europe and Interim Agreements [EIA] concluded with the Central and East European countries contain substantive competition rules which are essentially those of the EC Treaty*"³⁹. A crucial issue for DG IV in both Turkey and the Viségrad States has been the reduction of the uncompetitive state-sector, which in Turkey still binds 50 per cent of the fixed investment and employs more than half a million people. Among economists, it is debated how the EIA differ from CUA. On the political plane for instance, there is a declared "pre-accession-strategy" for the Viségrad States, which has not been articulated for Turkey yet.⁴⁰ But the reason for this must again be thought outside the scope of trade-issues. In December 1994 for instance, both a demand of the Commission for training-programmes in CEE-countries and its condemnation of high charges against eight members of Turkish Parliament by Heads of EU-countries were top on the agenda of the EU-summit in Essen. However, observers from DG IV see that on a technical level harmonization of trade laws with EU-standards could in the medium run foster trade in the whole triangle CEE-Turkey-EU.

The Head of the Representation in Ankara, Michael Lake, has been presumably the

³⁸ VERRUE, Robert (1993): Contribution at FORUM EUROPE (1993): 76.

³⁹ EUROPEAN COMMISSION (1995a): DG IV - Competition. European Community Competition Policy, ECSC-EC-EAEC, Brussels, Luxembourg 1995: 45

⁴⁰ TOGAN, Sübidey (1996): Opening up the Turkish Economy and the Economies in Transition, paper held at the Conference on "Turkey and Central and Eastern European Countries in Transition: Comparative Study with a view to Future Membership to EU, Bilkent-Hotel, Ankara, March 9-10, 1996.

most important single actor on the side of the EU. Being posted in Ankara since 1991, he noted in December 1995, that, already at the time his arrival and contrary to the Turkish Minister for Foreign Affairs, who had described,

*"that the most important work of completing a customs union between Turkey and the European Community by the 1st of January 1996, is progressing reasonably well, perhaps better on the business front than on the legislative front, but substantially nevertheless."*⁴¹

The outstanding performance of the Representation of the Commission can be seen by the program that Ambassador Lake and the Spanish Ambassador prepared for Mr Carlos Carnero Gonzales of the EP during his fact-finding mission in September 1995. Twenty-four working meetings during three and a half days were organized in a "highly professional manner", as Carnero Gonzales remarked in the beginning of his report upon return.⁴²

1.3. THE EUROPEAN PARLIAMENT

In the beginning of the 1980s lies the origin of two shock-waves which have met since then constantly. One is that in 1983 Turgut Özal was elected Prime Minister of Turkey and was facing the difficult task of reconciling his program of achieving further rapprochement with the EC while being hindered by a rather undemocratic constitution. The second incident is that in the following year the EP was for the second time directly elected by a small minority of European citizens, a widely

⁴¹ LAKE, Michael (1995b): Address by the Head of the Representation of the European Commission in Turkey to the High Advisory Council of TÜSIAD. Ankara: Hilton Hotel, 8 December 1995: 3.

⁴² EUROPEAN PARLIAMENT (1995): Report by Mr. CARNERO GONZALES (rapporteur on the Customs Union with Turkey) for the Committee on Foreign Affairs, Security and Defence Policy on the fact-finding mission to Turkey of 13-16 September 1995, PE 214.242, Brussels 29 September 1995.

debated event which has brought the EP for the first time into the minds of the general public. The EP has emerged since then as some sort of "conscience of Europe" and it is willing to increase its competences into new domains⁴³. One of them certainly is CFSP, where it quickly emerged as an additional actor to Council and Commission, which up until then had held the monopoly for communication with the Turkish Government solely through representatives in the Association Council and Association Committee meeting twice a year.

Human rights have become a prominent issue beginning with the 1980 military intervention. Since then, along with an increase of EP-resolutions, the international press has been turning its face towards Turkey. If "before 1982 it was hard to get human right stories through", after 1982 they had become a brand-label for the country in European editor's offices.⁴⁴ In 1981, the EP's first action on this issue was the suspension of the Joint Parliamentary Committee, the third (albeit least influential) linkage in the EC-Turkey relations.

The second and more important step of the EP, in 1982, was the suspension of the Association Agreement (AA) until the political and human rights standards improved. A delegation of British Labour-MEPs visited Turkey in 1983⁴⁵ and reported the incidence of political trials and widespread torture. In addition to this, the MEPs complained about the justification of these measures of 'depolitisation' by the British Embassy at a time when there were numerous hunger-strikes of Turkish exiles in London. It was only in 1986, when Prime Minister Turgut Özal

⁴³ DREYFUS, F.G. (1994). *Quelles Institutions Pour L' Union Europeenne après les Reformes de 1996?*, : Workshop on the elections to the European Parliament: prepared for the XVIIth World Congress of the International Political Science Association (IPSA), Berlin, 21-25 August 1994.

⁴⁴ I am indebted to Mr. David BARCHAND, who was from 1982 to 1988 correspondent of the Financial Times to Turkey for the informations he gave me on several occasions.

⁴⁵ ROBERTS, Ernie (1984): *Human Rights in Turkey through the eyes of European Parliamentarians*, Committee for Defence of Democratic Rights, London.

pronounced his desire for full membership, that the Association Council began to meet again on an ambassadorial level and that it was fully re-established along with the resumption of the Association Agreement by the European Parliament on 15 September 1988. One year earlier, PM Özal had formally applied for Turkey's full membership in the Brussel's league of Twelve.

In 1990, one year after the Commission's refusal of Özal's request, the European Parliament had re-established the Joint Parliamentary Committee, which it had frozen for almost nine years. At this point, it must have become clear to all actors involved on intergovernmental and supranational level that a new and powerful actor had emerged, with some rather unpredictable features.

First, the fluctuation of representatives after every election could obstruct every idea of steady intergovernmental policy-making. Second, the EP had shown that it was there not to act as a monolithic entity but rather along fragile majorities and case-to-case coalitions of factions, of which the largest one is still the Socialist. Third, EP's motivation to increase its political importance has been quite counterproductive to governmental negotiations behind closed doors, especially with an attentive press at its back, which could bring this EU-organ into the headlines only on issues of human rights, ecology, peace and other sensitive issues. Fourth, MEPs are not as easily accessible or influenceable as a national MPs, neither (as EC/EU-staff member) by national governments, nor by the general public since an MEP serves as a representative of communities with up to half a million voters. Finally, once the EP had acted, it was a hard piece of work for a Turkish government to get things going again. Often the EP had put Turkish political actors into a defensive position and its resolutions caused them to change domestic policies, frequently on short notice and according to precisely formulated

demands. At the least, delays in intergovernmental or supranational action-plans could be expected, or even the suspension of all negotiations as *ultima ratio*.

To sum up, the European Parliament as a new actor shows features which were quite unfamiliar to actors on ministerial, ambassadorial and bureaucratic levels. Case-to-case coalitions, the interest to gain publicity from a press most sensitive to human rights issues, and inaccessible but responsive collections of individuals which have the potential to influence and block the negotiations unpredictably and even on the Commission level were the by-product of this new actor's development. In 1991, one year after the MEP had resumed contacts with their Turkish colleagues in the re-convened Joint Parliamentary Committee, they could see an initial success of their frequent resolutions: Articles 141, 142 and 163 in the Turkish Penal Code were removed, as one Turkish author observed, "in response to European claims that they restricted the political activities of citizens".⁴⁶

1.4. CONCLUSION: ACTORS IN THE EUROPEAN UNION

On the EU-side there has been a declared strategy of the Commission for establishing CU since 1987. Several emerging features of supranational policy-making are crucial for the negotiations. First, the Troika-model works well to the benefit of Turkey. Second, the Commission has acted as a long-termist motor and has steered policy toward global trade and horizontal and regional budgets. It has been proactively communicating and co-implementing CUA on various levels in Turkey and within the EU. Third, the European Parliament has gained influence in CFSP and emerged as an additional actor along with Commission and Council.

⁴⁶ MÜFTÜLER (1995): 38.

Finally, the Council, albeit being still the decisive organ and in its composition crucial for the pursuit of negotiations, is no longer the only source of influence for Turkey. The Council's function is diminishing with the Commission handling economic and the EP political issues.

As will be shown, the EP and the Commission had quite a decisive impact on the negotiations leading to CUA. They have been communicating with actors on various levels and Turkish actors have learned the supranational game very quickly. A widening vs. deepening dichotomy is not in place where there is evidence of a refinement of communication between Turkish and EU actors. The next part therefore is dedicated to actors in Turkey. What role did they have in negotiating and implementing CUA?

PART TWO: ACTORS IN TURKEY

It is not only a complicated task for Europeans to advocate Turkey's adhesion to the EC, but it is also difficult for those in Turkey who advocate Turkey's membership.

(Martin Bangemann)⁴⁵

The last time Turkish governmental actors signed an agreement with what was then called the EEC was in 1971 and it was mainly for political reasons. The will to precede the United Kingdom, Ireland and Denmark in becoming a full member was at that time regarded frankly as "bold" by EC-officials⁴⁶. Today, the difference relative to 1971, when most of Turkey's political parties, business circles and at least half of the state organizations and ministries were against the signing of an Additional Protocol (AA) with EC, is that by 1995 a completely different set of actors with thoroughly modified motivations has emerged in Turkey. First, CUA, albeit bearing far more obligations for Turkey than AA and AP, has been widely supported by nearly all of the political parties. Second, major business and industrialist associations and the whole of the state administration have been actively promoting it. Third, technicians from the Turkish Prime Ministry and state-organisations have been cooperating proactively with EU-technicians to 'harmonize' Turkey's economic laws in due time.

However, the main dilemma within Turkish politics on the nation's way towards free trade and a privatised economy has been benchmarked by current commentators in a spectrum reaching from 'relative autonomization of economic activities, with the focus of power increasingly shifted from state to society'⁴⁷ to a 'difficult-to-resolve conflict

⁴⁵ (1991), European Commission, DGII, in: FORUM EUROPE (1991): 55.

⁴⁶ ILKIN, Selim (1990): A Short History of Turkey's Association with the European Community, in EVIN / DENTON (1990): 42.

⁴⁷ GÖLE, Nilüfer (1994): Toward an Autonomization of Politics and Civil Society in Turkey, in: HEPER, Metin/EVIN, Ahmet (eds.)(1994): Politics in the Third Turkish Republic, Westview Press, Boulder, Col: 213-222.

between the statist and the populist political elites⁴⁸ which is still lingering. Clear signs for successful transitions since Özal are seen in the government's exclusive focus on economics, an emerging laissez-faire approach to public debates on sensitive issues and a cleavage between military and presidency in the state sphere itself Evin⁴⁹. Most observers agree that the pluralization of Turkish politics cannot be solely measured by European standards, given different historical developments.

Since 1976, when Prime Minister Ecevit, supported by large parts of the Turkish society, invoked the safeguard clause of the Additional Protocol (AP) to protect the countries' 'infant industry' and as such ended formal relations with EC, the image of the Community in Turkey has changed. By contrast, in 1995, the blue flag with tiny stars has become a national issue in Turkey and the CU a major tenet of Prime Minister Çiller's election campaign. The general assesment of the whole project through Turkish governmental actors has changed, too. This has not remained unnoticed in the EC, for one observer, citing an EP-report of 1992 notes, "[they] have become more realistic about the chances and timing of EC membership [, which] has not been forgotten but no longer seems to be a government obsession".⁵⁰

Statements made by Turkey's Permanent Delegate to the European Communities at the time of her application for full membership in April 1987 might illustrate the pragmatism with which more and more Turkish actors approach the EU today. Neither abstract ideas, such as a 'European vocation', nor legalistic arguments, such as 'Europe's contractual obligation', but rather pragmatism shines through concepts as the "promotion of FDI" or "technological modernization". By mixing Social

⁴⁸ HEPER, Metin (1994): Transition to Democracy in Turkey: Toward a New Pattern, in: HEPER/EVIN (1994): 13-20.

⁴⁹ EVIN, Ahmet (1994): Demilitarization and Civilianization of the Regime, in: HEPER/EVIN (1994): 23-40.

⁵⁰ MICHALSKI, Anna/WALLACE, Helen: The European Community: The Challenge of Enlargement, Royal Institute for International Affairs, London, p. 121.

Democrat undertones with economic Liberalism and emphasizing "employment" and "welfare", or by recalling the European Commission's "solidarity philosophy" including the "reduction of international disparities", recent arguments from Ankara's Foreign Ministry show that a new generation of ambassadors is trying to offer Europe "a stable economy and politics", including a "legal chassis for FDI", "infrastructures" and "visible and flexible labour costs".⁵¹ How are these challenges, outlined by Ambassador Sanberk to be coped with in domestic politics? Or in other words, what are the limits of reform in Turkey?

2.1. THE GOVERNMENT

First, concerning customs union, the DYP-CHP coalition government was successful in bringing about domestic democratic reforms and at the same time harmonizing trade- and competition-laws along with EU-standards. Politicians of both political parties succeeded in communicating convincingly the achieved results to the EU-organs involved. While DYP took the part of informing the Commission about the state of reform of economic laws, CHP has been concerned with articulating achieved political reforms vis-a-vis the EP- Thus the customs union project functioned as electoral campaign horse and motivating factor for implementation.

With the merger of DYP's coalition partner, the Social Democrat Populist Party (SHP) with the smaller Republican People's Party (CHP) under the leadership of former Foreign Minister Hikmet Cetin in February 1995, the government coalition had been strengthened after months of uncertainty. These changes in the coalition provided the government with a comfortable majority of 61 seats and caused personnel changes,

⁵¹ SANBERK, Özdem (1987): cit. in: PAOLONI, Marc (1991): The outlook for EC-Turkish Relations in: FORUM EUROPE (1991): 17.

most notably the appointment of Erdal İnönü as Foreign Minister. This had a strong symbolic message since Erdal İnönü is the son of famous İsmet İnönü, who at times was second man and Foreign Minister under Atatürk and who in 1959 as leader of the opposition had stated that "we want to join the Community"⁵². These important changes in domestic politics were virtually ignored in the West European public media, owing to the much-criticised operation by Turkish land and air forces against bases of the Kurdistan Workers' Party (PKK) in Iraq.⁵³ Altogether, the junior coalition partner CHP profited two-fold from the CUA-project: First, by staffing the Foreign Ministry and second by profiting from DYP's pursuit of reforms of individual rights by means of amending the constitution and the anti-terror law.

Clearly PM Çiller had every motivation to drive the CU home before the elections of 24 December 1995. Her government's prime motivation to establish the agreement with the EU in a timely manner was obviously "to give a sign to our people"⁵⁴. Thus, the Prime Ministry itself emerged as busy pool of reforms, where Turkey's trade and competition laws were modified.

As mentioned above, during the 1970s, the Turkish Foreign Ministry's role to push towards Europe had been due to political rather than economic considerations, while lacking sufficient support in the population at large.⁵⁵ But in 1995, according to Foreign Minister Karayalçın, the Foreign Ministry together with the Turkish government saw in the Customs Union nothing short of "one of the main instruments of [the country's] economic and political modernisation"⁵⁶. This view was backed by most of the political parties in Parliament. In March 1995, the 17 Turkish ambassadors

⁵² cit. in: İLKİN, Selim (1990): 35.

⁵³ EIU (1/1995): 10-11.

⁵⁴ 'Visite de Mme Çiller à la Commission', interview with Commission President Delors, AFP, Brussels, 12 January 1994.

⁵⁵ BALKIR / WILLIAMS (1993): 29.

⁵⁶ KARAYALÇIN, Murat, in: EC-TURKEY ASSOCIATION COUNCIL (1995c): 18.

in Europe warned the Turkish government of the increasing role of EP and suggested reforms.

2.2. THE PARLIAMENT AND THE POLITICAL PARTIES

None of the major parties except the Islamist *Refah Partisi* (Welfare-Party, RP) had been agitating up until now against CU in principle. The attempts of the Turkish Grand National Assembly (TGNA) in 1995 to abolish Art.8 Anti-Terror-Law (ATL) and to amend the Constitution together with implementing a new trade-law has been appreciated by EU but has also shown its limits in adopting reforms of domestic and external policies at the same time. Certainly, parliamentary democracy in Turkey works according to its own rules⁵⁷. This is why recent observers from different camps should be cited to assess the impact TGNA had during the time-period under observation:

According to Balkir and Williams, the 1987 parliamentary elections truly marked the restoration of previous democratic procedures.⁵⁸ Türsan describes the political process in the Turkish Parliament as 'factionalisation' which both derives from personalism and clientelism in intra-party, as well as in inter-party politics.⁵⁹ Other observers have described the TGNA as 'the biggest obstacle to democratisation Turkey'. Concerning the necessary legal amendments, an Istanbul-based British consultant has noted that:

⁵⁷ WEINER, Myron/ÖZBUDUN, Ergun (1987): *Competitive Elections in Developing Countries*, Duke University Press, 1987; TURAN, İlter (1994): *Political Parties and the Party System in Post-1983 Turkey*, in: HEPER, Metin / EVİN, Ahmet (eds.)(1988): *State, Democracy and the Military. Turkey in the 1980s*, Berlin/New York: 63-80.

⁵⁸ BALKIR / WILLIAMS (1993): 13.

⁵⁹ TÜRSAN, Huri (1995): *Pernicious Party Factionalism as a Constant of Transitions to Democracy in Turkey*, in: *Democratization*, Vol.2, No.1, Spring 1995, 171.

*"The Government has shown that it has relatively limited control over the performance of the Turkish Parliament. This body has a strongly conservative composition. Reflecting the concerns of many Turks, it is largely opposed to change. It has delayed progress on the patent law since the mid 1980s. It is not enthusiastic about much of the legislation proposed. [B]usinessmen need to monitor the Turkish Parliament's performance in this area"*⁶⁰

The Commission was assured in October 1995 that "*the Government has stated to continue the reforms after the elections*"⁶¹. This view of parliamentary democracy is doubly questionable, especially when considering that some days after the report was written the coalition collapsed. The European Parliament has proved the strongest defender of representative democracy in Turkey. In its resolution of December 1994⁶², it stated that after the arrest of eight TGNA-deputies, the Turkish Parliament may not be considered representative anymore. This principally laudable attitude of the EP vis-à-vis the TGNA unfortunately has not have been upheld consistently, causing much of the EP's current image-problem in Turkey. An earlier EP-decision "on the situation of the Christians in Kurdistan", addressed to the "National Assembly of Kurdistan in the North of Iraq" is only one example of frequent provocation from within EP⁶³ and there is a strong need to abolish such nonsensical declarations, especially because they have their origins in one certain member-state and are not representative for EP but rather weaken its already poor image in Turkey. Besides such misinterpretations of Turkish realities by EP, according to EP-Rapporteur Gonzales and IBS, Turkish journalists and human-rights groups have frequently warned EU-observers of window-dressing and half-hearted reforms of TGNA and have asked for further monitoring⁶⁴.

⁶⁰ IBS (1995): 2.

⁶¹ EUROPEAN COMMISSION (1995): 7.

⁶² EUROPEAN PARLIAMENT (1994b): J.

⁶³ EUROPEAN PARLIAMENT (1994): b.

⁶⁴ EUROPEAN PARLIAMENT (1995d): 20; IBS (1995): 11.

On this issue the most important question concerning the role of the DYP in the TGNA is why did it put the lifting of Kurdish MP's immunity on top of the agenda, given the fatal and immediate reactions (not only by EP but also by EU-governments and the Commission) shortly before the decisive AC meeting in December 1994. Why did the leaders of DYP, many of whom had been in Europe for several times since 1993, develop a feeling for the issue of the importance that human rights have for the EU? What was the internal situation in DYP after the strengthening of the coalition? Which concessions to the conservative backbenchers were unavoidable? The material for answering all of these questions is limited but a strong pressure inside DYP is reflected in a statement of the party, which was send to the conservative EPP in the EP in May 1995 and which can rather not be seen as fine piece of policy-PR:

"If we fail to begin the CU on 1 January 1996, it will have deep political implications. It will most definitely undermine all the efforts that we have spent so far bringing Turkey and Europe closer to each other. The Customs Union is a contractual obligation, the assent of the European Parliament is an internal matter of the Community. Nevertheless, with respect to the obligations toward each other, we are confident that when the time comes, the European Parliament will follow a path that will bring Europe and Turkey closer to each other. (If not,) it would become increasingly difficult to defend the Turkish vocation toward Europe. The TGNA [Turkish Grand National Assembly] would be forced to react and one cannot foresee what the outcome would be. (...) With the CU, Turkey will become the closest member of the Community in terms of economic interdependence and cooperation. (...). Turkey (...) is also determined that human rights should be respected scrupulously (!).⁶⁵

Such declarations were no winning strategy to convince the EP of democratic reforms in Turkey. Therefore in December 1995 PM Çiller as well as FM Deniz Baykal had to tour European capitals to lobby for a positive vote in the EP.

⁶⁵ MOTHERLAND PARTY (1995). Statement, May 1995: 3.

The CHP promoted reforms of individual rights most visibly. The Turkish Democracy Foundation notes that the CHP, which had the portfolio of the Ministry of Justice had been opposed to the lifting of the TGNA-MP's immunities⁶⁶. Consequently, on Monday, 12 December 1994, three days after the sentencing of these MPs, CHP secretary-general Fikri Saglar resigned, declaring that the government must amend the Anti-Terror-Law (ATL)⁶⁷ In fall 1995 CHP and especially its new chairman Deniz Baykal, before and during his term as Foreign Minister have proved good mediators between the Turkish government and the SPE-faction in the European Parliament. His mission emerged out of a telephone conversation with PM Çiller in which the latter offered further reforms on ATL and the release of many prisoners plus the post of Foreign Minister in return for direct lobbying of the Social Democrat faction of the EP.⁶⁸ Mr Baykal spoke to the SPE-faction on 19 October 1995⁶⁹ and indeed after he returned from Strasbourg, on 8 November 1995, 82 prisoners sentenced under Article 8 ATL were released⁷⁰, an action lauded by both European Commission and Parliament. On the following weekend, Deniz Baykal succeeded DYP-member Cosgun Kirca as Foreign Minister of the Republic of Turkey⁷¹ and in December the EP finally gave its assent to CUA.

It is interesting that the constitutional amendments were tabled as early as January 1995 by ANAP, the center-right opposition party, then copied by the governing DYP and finally put on TGNA's agenda in agreement with the parties of the centre-left,

⁶⁶ TURKISH DEMOCRACY FOUNDATION (1995): 22-23. I am indebted to Prof. Ergun Özbudun.

⁶⁷ *Süddeutsche Zeitung*, 13 December 1994.

⁶⁸ I am indebted to Mrs Sule BUÇAK (1996), Republican Peoples Party (CHP), Assistant to Chairman Deniz Baykal, interview 7 March 1996.

⁶⁹ BAYKAL, Deniz (1995), Chairman of RPP. Speech delivered at the European Parliament before the Socialist Group on 19 October 1995.

⁷⁰ COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 8; on Art.8 ATL see below.

⁷¹ BAYKAL, Deniz (1995): Foreign Policy Statement by H.E. Deniz Baykal. Minister of Foreign Affairs and Deputy Prime Minister delivered before the Turkish Grand National Assembly, Ankara 3 November 1995. I am indebted to Courtney Lukitsch-Öymen.

DSP and CHP.⁷² Only after this, in February 1995, the EP together with the Council of Europe demanded for steady progress until the Council Meeting in Cannes in June 1995.

The Islamist *Refah Partisi* (Welfare-Party, RP) stressed religious issues and reduced the agenda of constitutional changes to the amendment of Articles 14 and 24 of the Constitution on which the principle of Turkish secularism is based. For a long time, it succeeded in opposing the amendments proposed by the secularist parties and, by calling for a 'holy alliance' it even pulled a considerable number of deputies into its camp. When asked by the rapporteur of the EP, Carlos Carnero-Gonzales, the RP's Vice-chairman Abdullah Gül stated that his party opposed CUA on grounds that the Agreement would exclude any possibility of full membership later, a somewhat implausible argument, given the declared economic and political rapprochement with the Arab countries and Iran. According to Toprak, following the depolitisation of Turkish society since 1982, RP has emerged as one of the few legitimate channels of opposition and benefited from the sense of marginalisation as one outcome of the 1980 austerity program.⁷³ Balkir notes that the party's "vision is simple yet powerful. It promises prosperity and wealth without the all-too-familiar pains of rapid industrialization: an industrial country where a sense of community, of belongingness, mutual help and love of brothers reigns".⁷⁴ Barkey also interprets RP's role and impact as one determined by its Anatolian small merchant voters' 'fear of big business' along with its longstanding commitment to the Turkish Constitution. To this, Barkey adds RP leader Erbakan's pragmatism, documented by the fact that his opposition to CU was immediately gone after the December 1995 elections and he

⁷² EIU (1/1995; 2/1995).

⁷³ TOPRAK, Binnaz (1988): *The State, Politics and Religion in Turkey*, in: HEPER/EVIN (1988): 129.

⁷⁴ BALKIR / WILLIAMS (1993): 14

himself was quick to find a more reconciliatory tone towards the secularist parties and to give the portfolio of economics over to Mrs Çiller's DYP party.⁷⁵

The pro-kurdish DEP-Party, with their leaders in jail was the party which most attracted the interest of the EP, peaking in the dedication of the Sakharov Peace Prize to its arrested MP Zana. In the December elections, DEP-successor HADEP received 1.2m votes mainly on its Kurdish platform. This relative success is interpreted by Barkey as a legitimization of HADEP, which now cannot be easily equated with the terrorist PKK. Also, some movement on the Kurdish issue is seen by the adoption of the topic by mainstream parties during and after the elections⁷⁶. Alas, the next conflict with the EU on the issue is already programmed, given Minister Çiller's explicit support for Saddam Hussein's attack against the PKK in Northern Iraq.⁷⁷

Neither the Democratic Left Party (*Demokrat Sol Partisi, DSP*), nor the Nationalist Action Party (*Milliyetçi Hareket Partisi, MHP*) played a very prominent role in the negotiations. DSP-chairman Bülent Ecevit at times demanded a re-negotiation of the terms of the Agreement. Also the nationalist MHP did not play a leading role in the negotiation-process and fell in the December elections under the 10 per cent threshold.

To sum up, the broad interest-coalition pro CUA was hindered by religious conservatives in DYP, ANAP and RP, the latter party having gained importance since the depolitisations after 1980. Important improvements in the government-coalition were overshadowed by the March intervention into Iraq and ignored by European media.

⁷⁵ I am indebted to Mr Henri BARKEY (1996), interview Ankara, June 1996.

⁷⁶ *Turkish Daily News*, 13 December 1995.

⁷⁷ *Die Zeit*, 27 September 1996.

2.3. THE MILITARY

The Military and its organs harshly blocked the negotiations at least at two points. If the process against the DEP-parliamentarians, which was monitored by MEPs, caused a sudden halt of the CUA-negotiations in December 1994, three months later the intervention into Iraq pushed the EU-Turkey relations to its limits.

Despite its traditional role as top-down Westernizer⁷⁸, the military recently has been showing signs of alienation where the adaptation of universal rights is concerned. The dilemma that inheres in this powerful block contains was articulated by President Demirel, himself ousted twice by the military, who proposed in spring 1994 to seek the military's opinion on the issue of constitutional amendments but at the same time suggested, that CU and the related reforms should be subject to a referendum.⁷⁹ Altogether, the position of the military towards Customs Union is quite unclear. By nature the military is a black-box for the analyst, but nevertheless there can be some reformist signs noted.

The first sign of reform was uttered on 30 June 1995 by the Deputy Chief of General Staff in a press briefing, where he made the rather ambiguous statement, that Article 8
ATL

"should stay as it is for now, its alteration is not appropriate, but it is in our [the army's] interest from the viewpoint of getting into the European Union, and if the assembly alters it, we will accept that...we are at the borders of the political authority"⁸⁰,

⁷⁸ LEWIS, Bernard (1961): *The Emergence of Modern Turkey*, London, New York, Toronto: esp. 206-233.

⁷⁹ IBS (1995): 4.

⁸⁰ EIU (3/1995): 13.

which of course has been ferociously opposed by the CHP as interference into civilian politics.

The second sign came from the National Security Council (NSC), which according to Heper has greater powers than under the earlier regimes⁸¹ but which had nevertheless asked a group of academics to prepare a report on democratization in south-east Anatolia.⁸² The NSC is made up of the Armed Services Chiefs, the President, the Prime Minister and the Ministers of Defence and Interior. There have also been signs that some members of the military seek for a gradual pullout from the civil war in Southeast Turkey.

The State Security Court is the institution which has been most disturbing to EU-Turkey relations. On 8 December 1994, three weeks after the European Council and Turkish Foreign Minister Çetin had agreed on a final programme leading to Customs Union, this court sentenced eight parliamentarians to high prison on charges of 'separatist propaganda', some of them on Art.8 ATL, others, such as MP Zana on Art.125 ATL.⁸³ If the act in itself already caused a serious setback for the image of Turkey in Europe, its timing could have hardly been worse. The next day saw the opening of the EU-Summit in Essen, Germany with explicitly protesting Heads of States and Governments of the Member-States, while the US Government expressed that it was "deeply disturbed".

⁸¹ HEPER, Metin (1988): Conclusion, in HEPER / EVIN (1988) : 253.

⁸² EUI (3/1995): 14.

⁸³ I am indebted to Mrs. Janice G. WEINER, political officer at the Embassy of the United States of America, interview, Ankara, 8 November 1995. See also UNITED STATES OF AMERICA (1995), White House, State Department, Country Human Rights Report for Turkey, Washington DC., 1995.

The Supreme Court or Constitutional Court is, like the remainder of the judiciary, independent from governmental and parliamentary decisions. Two days before the final decisive re-evaluation of the CUA by the European Council on 30 October 1995, the Turkish Supreme Court confirmed the sentences for four DEP-MPs and released two. For the arrested MPs, it is significant that only after the procedure under the Supreme Court is concluded, may the verdicts be appealed to the European Court of Human Rights. That the issue is *sub judice* has been frequently stated by Turkish ambassadors, politicians and bureaucrats, and in fact by most of the people EP-rapporteur Gonzales had met in Turkey. Gonzales stated that he has been very disappointed by the outcome and has pressed for further monitoring. Although neither a possibility for a presidential pardon, nor for an acceleration of the procedures *sub judice* by Turkish actors is evident, there might be one emerging in the next instance in order to remove this highly disturbing issue. The main criticism by the EP is that in Turkey there is still a division between civilian and military law and judiciary with the latter systematically violating the constitutional rights of the former.⁸⁴ However, the amelioration of the sentences in October 1995 was considered sufficient by a majority in the EP to give its assent to the implementation of CUA.

2.4. BUSINESS AND INDUSTRY

While the 1963 agreement was received very favourably by all business circles, during the 1973 oil-price crisis, industrialists began to ask the government to abandon the idea of a customs union altogether even in the originally pro-Europe institutions, such as the Istanbul Chamber of Industry and the Economic Development Foundation

⁸⁴ RUMPF, Christian (1995): contribution at: TÜRK DEMOKRASI VAKFI / KONRAD ADENAUER VAKFI (1995): Terörle Mücadele Yasasının 8. Maddesi ve Demokratik Hukuk Devleti Semineri, Ankara, 4 December 1995. I am indebted to Ümit CIZRE-SAKALLIOGLU.

(IKV), strong opposition to the idea of a customs union was mounted.⁸⁵ By contrast in 1995, all main business-associations were pro-CUA except for the Islamist business-association MÜSIAD.

Heper states that while from the 1980s on there has been an "effort to roll back the frontiers of the State in the economic sphere, a State-interest group relationship of the monist type continued unabated", which he explains in light of the "extraordinarily strong state-tradition in Turkey".⁸⁶ How provisions of CUA could possibly breakup this monism or clientelism will be debated further below. Here, the role of Turkish businessmen in the negotiations shall be discussed.

There has been widespread optimism in the Turkish business-world concerning CUA. In January 1995, a Gallup poll stated that most Turkish businessmen were optimistic about the establishment of the CU as planned. Of these, 54 per cent were optimistic about impacts on their own sector while 42 per cent saw benefit for national economy.⁸⁷ A second poll made by the Istanbul Chamber of Industry (TOBB) showed that more than 60 per cent of the small and medium size enterprises (SME) believed that CU would have a favourable impact on the Turkish economy, while over 40 per cent felt ready to compete with European firms.⁸⁸ However, a good part of this optimism has not been grounded on professional assessment and consultancy, but rather on widespread speculation over EU aid. Nevertheless, there has been a run on training programmes concerning technical standards.⁸⁹

⁸⁵ ERALP, Attila, (1993): 29.

⁸⁶ HEPER, Metin (ed.)(1991): *Strong State and Economic Interest Groups*, De Gruyter, Berlin/New York, 1991, preface.

⁸⁷ *European Report*, No 1914, 5 January 1994, p.4.

⁸⁸ TIGREL, Ali (1995): contribution at FORUM EUROPE (1995): 5.

⁸⁹ I am indebted to Mrs Müjde OKTAY at TOBB, interview December 1995.

Ayşe Bugra comes to the conclusion that business in Turkey has evolved as a state-dependent economic agent rather than as an independent socioeconomic class.⁹⁰ She writes that the statist period of the 1930s and 1940s has led to the dependency of business on state, which has been perpetuated since then by erratic planning. Bugra sees that the business associations failed to gain any "business autonomy" in Turkey. On that line, Mardin also states that the "top of the capitalistic entrepreneurial iceberg, the few leading industrialists and businessmen, were allowed to figure in the system because they could easily be manipulated."⁹¹ Heper writes that profiting from state-led industrialisation under five-year-plans, individual members often bypassed their interest group associations and attempted establishing *clientelata* with government officials.⁹²

Concerning CUA, this seems to be breaking up slowly. Actors from the business world have lobbied, looked for EU-partners and technical training as well as for financial assistance via bureaucrats in Treasury and the State-Planning Organisation (SPO) and business associations alike.⁹³

In February 1995 for instance, the head of the Economic Development Foundation (*Iktisadi Kalkınma Vakfı*, IKV), Aloglu was campaigning in five European capitals for CUA.⁹⁴ IKV has also issued reports calling for official permission for education and broadcasting in the Kurdish language, as well as for the recognition of the Kurdish identity through the establishment of a Kurdish institute in Turkey.⁹⁵ IKV

⁹⁰ BUGRA, Ayşe, *State and Business in Modern Turkey: A Comparative Study*, Albany: State University of New York Press, 1994.

⁹¹ MARDIN, Serif: *The Transformation of an Economic code*, 1980, p. 37, cited in: HEPER (1991): 16.

⁹² HEPER (1991): 17.

⁹³ I am indebted to Mr Osman EMED, Osman, Prime Ministry, Undersecretariat of the Treasury, interview, Ankara, 18 March 1996.

⁹⁴ *Turkish Daily News*, 1 February 1995.

⁹⁵ IKV (1994): *The Kurds and Turkey*, Istanbul, December 1994.

was the most active private sector lobbyist for Customs Union and frequent host to European Parliamentarians and members of the Commission. IKV's lobbying activities peaked in November 1995 when it bluntly stated, that a postponement of the deal by the European Parliament

*"will reverse the developing relations between Turkey and the EU. In view of the impending elections, such a decision would be a major setback and would cause lasting harm to the relationship between Turkey and the EU."*⁹⁶

Besides the above mentioned poll, The Union of Chambers of Commerce and Industry (TOBB) has released a report on the 'Eastern Question'. Unfortunately, this report has been stifled by concerns over the survey-methods used and, subsequently did not lead to widespread reforms. In addition to this, TOBB as the traditional association of SME has been designated as operator for the Commission's two business cooperation networks, Euro-Info-Center and BC-Net. Representatives at TOBB are conducting research on SME and on the internationalisation of Turkish business. These representatives are asking for the opening of a second EU-Representation in Istanbul in addition to the one in Ankara, an argument that should be considered mainly because most of the main economic agents of the member-states are located in the business-capital, too.

2.5. THE TURKISH MEDIA

The liberalisation of broadcasting is one of the main driving forces behind Turkey's democratisation. According to the Representative of the Commission in Ankara, Lake, in 1991 there were only "four very unexciting state TV channels and two pirate

⁹⁶ IKV (1994): IKV's stand on the Customs Union and the related assent of the European Parliament, Istanbul, November 1994.

channels broadcast from Germany. Under the Ciller administration 15 private national channels and 350 private regional channels opened up and 1551 private radio stations are on the air."⁹⁷

On March 14, 1995, Prime Minister Tansu Ciller introduced a series of democracy measures to an audience at the private Bilkent University, Ankara. The fourth of her six points addressed

"the enforcement of current law, which has resulted in the conviction and imprisonment of some writers, journalists and academics... I have therefore asked the Ministry of Justice to study the possibility of a partial amnesty for many types of prisoners, including those servicing [sic.] sentences arising from statements and writings..."⁹⁸

The impact of this democracy-package will be discussed below. However, DG I judged that the most important impact for the imprisoned writers and journalists must be seen in the immediate release of 82 'prisoners of thought' on November 8, 1995, as a result of the reviews of all the sentences under Art.8 ATL, which are part of the Art.8 ATL reforms and are expected to continue.⁹⁹ In discussions with EP rapporteur Mr Gonzales, six leading journalists have explained their clear support for customs union¹⁰⁰ while others have warned of half-hearted law making.

⁹⁷ LAKE, Michael (1995a): 7.

⁹⁸ IBS (1995): 3.

⁹⁹ COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 8.

¹⁰⁰ EUROPEAN PARLIAMENT (1995): 14. The journalists and publishers were Mrs Zeynep Gogus, Mrs Ferai Tinç, Mrs Zeynep Atikkan, Mrs Nilgün Cerrahoglu, Mr Mehmet Ali Birand and Mr Sami Kohen.

2.6. CONCLUSION: ACTORS IN TURKEY

To sum up, unlike in 1971, all major Turkish governmental, parliamentary and statist actors, media, business-sector and public opinion, except for Refah have been supportive of CU.

First, Turkish actors successfully applied the rules of supranational politics by close cooperation with the Representation in Ankara, lobbying directly and indirectly in Brussels, Strasbourg, and member-states' capitals, while co-implementing EU-law at home.

Second, the EP has been supportive of progressive forces in Turkey, which in turn have been able to communicate their achievements and demands convincingly.

Third, the Çiller-administration has been able to bring about domestic political reforms in line with adjustments of trade-law, as required by supranational agencies. Its contacts to EU are not restricted to the Council anymore. Legalistic and bilateral issues are replaced by pragmatism and economic argumentation.

Fourth, there have been serious obstructions of the negotiations by the military and conservative MPs in TGNA. Thus military and state institutions blocked progress twice. The arrests and sentences of eight TGNA-MPs caused a sudden halt of negotiations, while the March 1995 intervention blurred the view of EU-media on positive changes in the Turkish government-coalition and further violated Turkey's image within the EU.

Fifth, the TGNA is able to reform up to certain limits, albeit conservative MPs are under influence of RP, which is able to set the agenda in a anti-secularist manner. Pro-Kurdish parties did not agitate against CU to gain reputability. Even the arrested MPs did support CUA, while the fact of their arrest itself stands as formidable obstacle between the EU and Turkey.

Finally, both RP and the military show signs that give reasons for hope. After the December 1995 elections, the performance of the conservative majority in TGNA will be a crucial link to predict future Turkey-EU-relations since human-rights and democracy issues can be expected to gain importance in EU's external relations.

The next part is dedicated to the issues debated between December 1994 and December 1995.

PARTS THREE AND FOUR: ISSUES

By continuing with the actor-centered approach, main issues in the talks shall be analysed in order to look further for cross-camp alliances over and above the Turkey-EU divide. First, there is of course since 1989 again a certain competition for future membership as there was in the 1970s and 1980s. If in the 1980s the inclusion of the Mediterranean countries Portugal, Spain and Greece occurred mainly on grounds of promoting democratization and despite poor economic performance, today's criteria are more complex. That is to say that the price of EU-membership has increased enormously and requires ever more subordination of national power under supranational agencies, most prominently the Commission, operating solely according to *acquis communautaire*.

The requirements of the Commission toward countries aspiring for closer cooperation and integration did not only multiply but they have changed in nature, too.

In terms of economics, the promotion of privatization and restriction of the public sector has replaced state-led industrialisation procedures of the 1970s and accordingly, there is a shift from financial aid toward investment promotion. On the legal plane, harmonization of domestic law with EU-law has led to the adoption of trade-legislation in Turkey¹⁰¹ and in the CEE-countries to the replacement of whole civil codes.

On the level of domestic policy-making, not only formal institutional and legal changes are required but also the applications of laws and procedures are constantly

¹⁰¹ REPUBLIC OF TURKEY (1995), Prime Ministry, Undersecretariat of Foreign Trade, General Directorate of EU Affairs: Legislative Measures implemented in Turkey on Completion of the Customs Union, Ankara, January 19, 1996.

monitored by EU-organs, in Germany as well as in Serbia and Turkey. The issue of human rights in this context is seen as one among many.

Finally, financial cooperation changed from mere governmental aid (be it country-specific such as Financial Protocols related to Turkey's five-year plans, be it for a whole region under the Lomé conventions) to horizontal umbrella-programs. A second evolving form of EU-aid comes as macro-economic stability programs to secure foreign investments similar to the soft-loans of IMF.

In this chapter, the main issues around CUA negotiations shall be debated and analysed. Which recent changes must be highlighted and which actor-constellations were formed around the issues?

If economic issues are dealt with first, it is to reflect the function of CUA. If the second part is dedicated to democracy and human right issues, it is because they have been main concerns on the way towards signing it, though not solely. Since CUA by nature is a trade-agreement and has recently been called "an end in itself" by a member of the Commission, it becomes clear that only issues beyond trade can make Turkey moving closer to Europe. To further approach the EU as a supranational actor whose members subordinate power in all kinds of policies, the next step must be political

PART THREE: ECONOMIC ISSUES DEBATED

First, the emergence of protectionism as an obstacle until 1994 will be described then trade and competition issues negotiated will be analysed together with the envisaged institutional and legal framework of CUA.

3.1. PROTECTIONISM

The economic boom in Turkey since 1980 is remarkable

(Hans van den Broek, EU-Commission DG1, 1991)

According to Balkir and Williams, Turkey's integration into the world markets bypassed Europe.¹⁰² Nevertheless, today she is one of the EU's top 10 trade partners, with 18.5 billion in trade in 1994 and the EU's major supplier of textiles. From Turkey's point of view, the EU is its top trading partner, accounting for 46 per cent of its exports and 44 per cent of its imports.¹⁰³ As Ambassador Uluç Özüiker stated recently:

*"In 1980, Turkey was the 44th supplier of the Community with an export figure of ECU 1.1 bn. In 1993, she was the 16th supplier with ECU 5.6 bn. In 1980, Turkey ranked at the 26th position with an import figure of ECU 1.9 bn from the Community. In 1993, she was the 7th country receiving Community exports, with an import figure of ECU 10 bn."*¹⁰⁴

This impressive increase in trade has not always been supported by the disarmament of tariff-schemes by both sides. Before the explosion of Turkish export activities in the 1980s¹⁰⁵, Turkey in 1976 had invoked the safeguard clause

¹⁰² ERALP (1993): 31

¹⁰³ IBS (1995): 19.

¹⁰⁴ at FORUM EUROPE (1995).

¹⁰⁵ BARKEY, Henri J (1991): *The State and Industrialization Crisis in Turkey*, Westview, Boulder, Col., 1990; BARLOW, R., SENSES, F. (1995): *The Turkish export boom: Just reward*

of the AP to suspend scheduled tariff reductions. Since this has led to a freezing of the Ankara-Agreement in October 1978, the Community from the beginning of the 1980s started to become protective toward its own textile and cotton industries. According to Paolini, a long series of anti-dumping actions did little to improve EC-Turkish relations¹⁰⁶, which on the Turkish side provoked arguments promoting fair trade and reciprocity. According to a report of the EP, reductions in customs duties resumed in 1988 and have continued since then. However, in 1984 Turkey introduced a number of duties which applied only to imported products with the aim, in particular, of financing its housing fund. Those duties did breach the Additional Protocol, which prohibits the introduction of new customs duties and charges having equivalent effects¹⁰⁷. The main concern of the EC was consequently that Turkey abolished her Mass Housing Fund (MHF), a non-tariff incentive scheme which clearly favoured domestic producers over importers. According to the Commission, it was extended in 1992 to more than 10.000 import products and the Commission reminded Turkey that the Additional Protocol was clear on its abolition if a CU or a Free Trade Agreement were envisaged. ¹⁰⁸

Besides the abolition of MHF and other duties, the Commission asked Turkey to adopt its Common Customs Tariff (CCT), as mentioned in item 10 AA. With the coming into power of CUA, both MHF was abolished and the CCT for textiles and garments was adopted while the whole CCT will be adopted until 2001.¹⁰⁸

or just lucky? in: *Journal of Development Economics*, Vol. 48, 1, 1995: 111-133; CECEN, Aydin A.; DOGRUEL, A. Suut, DOGRUEL, Fatma (1994): Economic Growth and Structural Change in Turkey 1960-88. in: *International Journal of Middle Eastern Studies*, Vol. 26, No.2 1994: 37-56.

¹⁰⁶ PAOLINI, Marc (1991): The Outlook for EC-Turkish Relations, in: FORUM EUROPE (1991): 30.

¹⁰⁷ EUROPEAN PARLIAMENT (1995d): Report by Mr. CARNERO GONZALES (rapporteur on the Customs Union with Turkey) for the Committee on Foreign Affairs, Security and Defence Policy on the fact-finding mission to Turkey of 13-16 September 1995, PE 214.242, Strasbourg, 29 September 1995.: 15.

¹⁰⁸ EUROPEAN PARLIAMENT (1995g): Opinion (Rule 147 of the Rules of Procedure) of the Committee on External Economic Relations for the Committee on Foreign Affairs, Security and Defence Policy. Draftsman: Mr Konrad SCHWAIGER, PE 214.240/fin, Strasbourg, 31 October

Further concerns of the member-states have been tax-levies on imports, the lack of protection for branded products and products, particularly in the pharmaceutical sector as well as export pricing policies¹⁰⁹

On the Turkish side, the main concern has been the abolition of EU's anti-dumping actions and so-called 'voluntary restraint agreements', signed by Turkish textile exporters. Interest-coalitions on trade-issues have been of course the Commission along with strong export sectors. These sectors were Turkey's textile and processed agricultural goods producers and the EU's food, beverage, pharmaceutical and car makers. A transitional protective period of five years has been negotiated for the latter two.

The Commission had the task of monitoring progress on these issues. Mr Verrue of DG III stated already in 1993 "that none of the work in progress gave concrete results and that it were up to Turkey to activate the completion", while Paolini mentions that already at the end of 1992, EU officials were apparently impressed by trade-law reforms in Turkey. They said it was the first time that Turkey bestowed real trade preferences on their European partners over others.¹¹⁰ Verrue also mentions new steps toward the abolition of customs rights and the installation of a new and more transparent importation regime, which replaced various customs rights and taxes by a single customs right, excluding cars, textiles and other sectors.

1995: 16.

¹⁰⁹ VAN DEN BROEK, Hans (1991) contribution at FORUM EUROPE (1991).

¹¹⁰ VERRUE, Robert (1993) in FORUM EUROPE (1993): 23.

3.2. TRADE AND TARIFF REGULATIONS

The 22 year period is over [but] little progress has been made and we are far from our final objective. The coming months are therefore going to be crucial and not the coming years.

(Robert Verrue, European Commission)¹¹¹

The 6 March Decision is the first document in order for the EU to remove its anti-dumping procedures and restrictions

(Turkish Ambassador Özdem Sanberk)¹¹²

In terms of trade, CU has replaced Turkey's tariff and non-tariff trade barriers with the EU's common commercial code and Common Customs Tariff (CCT) toward third states. This is different from agreements with CEE-countries which do not contain the adoption of CEE in order not to lose their traditional markets.

On the EU-side 'voluntary restraint agreements' of the Turkish textile sector, which "in any case were due to a lapse as a result of the Uruguay Round"¹¹³, were abolished together with anti-dumping on Turkish textile, which alas can be re-activated should Turkey violate the agreement. According to Möckelmann, CUA is more relevant for non-European producers than for Turkish industry¹¹⁴, but according to the DGI of the Commission, car imports of third countries via the Turkish market are prevented and Turkey and the Commission agreed on a monitor-system for imports of Japanese cars and "where necessary, the construction of Japanese cars in Turkey so that the Commission can satisfy itself that the 1991 arrangement on automobiles with Japan is not circumvented via the

¹¹¹ DG III, Contribution at FORUM EUROPE 1993: 76.

¹¹² I am indebted to Mr.Özdem SANBERK (1995), Turkish Ambassador to the United Kingdom, interview, London, July 1995.

¹¹³ COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 12.

¹¹⁴ I am indebted to Mr.Rainer MÖCKELMANN, counsellor for economic affairs, Embassy of the Federal Republic of Germany, interview Ankara, 3 June 1996.

Turkish market"¹¹⁵.

Concerning probable impacts of the demise of tariffs for Turkey it has been assumed by an Istanbul-based consultant that

"it will thus mark the final demise of the protected world within which all companies in Turkey have operated for the past 70 years. Ankara will have to share authority for controlling business with Brussels. Further, it could upset the macro-economic balances of the economy, with initial strains in the external account and a change in foreign investment and growth." ¹¹⁶

That means that a macroeconomic stability programme is needed. Again others have suggested that the abolition of tariff rates together with improved manufacturing skills in Turkey could lead to an increase in activities of EU producers in Turkey¹¹⁷, or could create jobs within the EU¹¹⁸, the latter, given low salaries in Turkey, being the less plausible argument. Until 1996, tariff duties were reduced in two stages to zero, the CCT on textiles was adopted and MHF was abolished completely.¹¹⁹

3.3. COMPETITION LAWS AND PROTECTION OF INTELLECTUAL PROPERTY

Competition laws are part and parcel of any modern trade-agreement, be it under GATT, be it in Turkey's 1991 FTA with EFTA, or be it in the EU-programmes for CEE and Mediterranean countries. Competition laws chiefly include the abolition

¹¹⁵ Idem: 12.

¹¹⁶ IBS (1995), *Yayincilik Tanitim ve Pazarlama: Turkey and Europe: The EU-Turkey Customs Union And Your Business*, Briefing Papers 95/1, IBS Publications and Communications. Istanbul, May 1995: 1.

¹¹⁷ LAKE (1995b).

¹¹⁸ COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 12.

¹¹⁹ EIU (1/1995): 17.

of state-aid and the protection of intellectual property. But the CUA exceeds both the CU envisaged in the Ankara-Agreement and also similar agreements with other regions. It is no longer true, as Denton noted in 1990, that the CU today conforms to state-led export incentive schemes, such as the one of January 1980¹²⁰ which had, according to Özmucur and Karatas, the effect that the total productivity growth was larger for public than for private enterprises.¹²¹ and which in the Commission's opinion of 1990 was even said to be violating the Ankara-Agreement. Also Cecen and others argue that the private sector did not show much responsiveness to the 1980-program. They conclude that despite all incentive programmes and concerned efforts to dismantle the public sector, its decisive position remains almost as powerful as ever in the economy.¹²²

The CUA of 1996, which contains clauses on the abolition of state-aid, can be rather seen as the opposite of the 1980-1988 export incentive programme of the Turkish government.

Before the CU came into power, the External Economic Committee of the EP noted that

*"[t]he Customs Union envisaged by the 1963 agreement no longer meets current needs, particularly in view of the developments in the Union, the economic fields concerned and in the international scene. Firstly, the *acquis communautaire* (and the case-law of the Court of Justice) relating to competition and intellectual, industrial and commercial property has evolved significantly. Secondly, the GATT negotiations, the Union's preferential arrangements with the ACP and Mediterranean countries, the Europe Agreements and free-*

120 DENTON, Geoffrey (1990): Preface. in: EVIN/DENTON (1990): 6.

121 ÖNIS, Ziya, ÖZMUCUR, Süleyman, KARATAS, Cevat in: SENSES, Fikret, Recent Industrialization Experience of Turkey in a Global Context, Westport, CT, and London: Greenwood Press: 1994.

122 CECEN, Aydin A.; DOGRUEL, A. Suut, DOGRUEL, Fatma. *Economic Growth and Structural Change in Turkey 1960-88*, in: *International Journal of Middle Eastern Studies*, Vol. 26, (1994): 37-56.

trade agreements with the countries of eastern and central Europe, the system of generalized preferences, the common commercial policy in the textile sector and the arrangement with Japan covering motor vehicles are all developments which should also be taken into consideration in the context of the Customs Union'." 123

It will be further specified, which of the economic provisions of CUA are over and above free trade, namely provisions on technical standards, the protection of intellectual property as well as on the abolition of state-aid.

With CUA regulations on technical standards are becoming essential for trade, because all industrial products which conform to European directives and legislation may enter Turkey only under those conditions governing the movement of goods between member states. Turkish products may move within the EU market on the same terms in step with Turkey's adoption of the *acquis communautaire* in respect of the products concerned.¹²⁴ Following the information of agencies concerned with small- and medium size enterprises in Turkey, there is a extensive training, certification and quality-control under EU's ISO 9000 production-standards and cooperation with EU-partners sought by Turkish entrepreneurs¹²⁵. The SPO has recently chosen 40 of such SMS promotion projects to be supported by EU-funds while the execution is done by the Treasury¹²⁶

The protection of intellectual property has already been included in the TRIPS-

¹²³ EUROPEAN PARLIAMENT (1995f): Session Documents. Report on the proposal for a council decision on a common position by the Community in the EC-Turkey Association Council on establishing the final phase of the customs union. Rapporteur: Mr.Carlos CARNERO, PE 214.240/fin, includes 1995g+1995h, Strasbourg, 11 December 1995: 16, my emphasis.

¹²⁴ COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 13.

¹²⁵ I am indebted to Mrs.Müjde OKTAY at TOBB and to Mr.Wolfgang GEHR of Deutsche Entwicklungsgesellschaft (DEG), interviews December 1995 and June 1996.

¹²⁶ I am indebted to Michael WECH for this information he obtained from Mr.Nihat AKYOL at the Turkish Ministry of Foreign Affairs.

Agreement of the Uruguay Round so that this is not a main issue of CUA. Nevertheless, implementation lacks far behind. According to the US State Department, the Turkish Government was until recently one of the Turkish consumers using pirated software.¹²⁷

To turn to the provisions on privatisation, it must be said that because there are several cases of state-monopoly in Turkey, laws on the prevention of state-aid are very hard to enforce. Ahmet Evin observed that the traditional state elites in the bureaucracy are being replaced by managerial cadres while cleavages between the state and government continue.¹²⁸ The DG IV of the Commission noted in 1995 that:

"Given that customs restrictions and trade measures would be abolished, it is important to ensure that trade is not distorted through the actions or undertakings themselves or through State measures, as, for example, the granting of State aid or exclusive rights to undertakings." ¹²⁹

According to the Representation in Ankara, the goal of CUA and especially the interest of the DGII-Macroeconomics 'is to create a state sector "small in volume and stark in impact"¹³⁰

Concerning the prohibition of State aid within the EU, the Commission differentiates

"between general measures, which apply automatically to the whole of the economy and

¹²⁷ *Turkish Daily News*, 16 March 1996.

¹²⁸ EVIN, Ahmet (1988): *Changing Patterns of Cleavages before and after 1980*, in HEPER / EVIN (1988): *State Democracy and the Military*, New York: De Gruyter: 213.

¹²⁹ COMMISSION OF THE EUROPEAN COMMUNITIES (1995a): *General Directorate IV - Competition: European Community competition policy, ECSC-EC-EAEC*, Brussels, Luxembourg, 1995: 46.

¹³⁰ I am indebted to Mr. Mete MELEKSOY, Economic Section, Representation of the Commission of the European Communities, interview Ankara, June 1996.

on which the State does not have any discretionary scope for action and State aid which favours 'certain undertakings or the production of certain goods'.¹³¹

Both are considered important for Turkey. Togan states in this context that

*"[a]lthough considerable progress has been achieved in the fields of investment and export incentives similar progress has not been achieved in the case of public enterprises. "*¹³²

Concerning the former, some protest in the institutions of the "extremely strong state" must be expected, but there is hope that some will look for loopholes within the context of EU-law. For instance, the statement of the Director General in charge of EC relations at SPO, Arat, gives a good account of the intermixture of old protectionism and industrialisation philosophy with modern managerial conduct. Arat said toward the Turkish press in May 1994 that CU will cause the trade-deficit to increase. Then he pointed out that an encouragement system in line with international standards should be adopted while implementing modern protectionist measures. Finally, he conceded that CU will bring new investment and therefore have a positive effect on employment in Turkey.¹³³

Concerning state-economic enterprises (SEE), joint ventures could be a possible rescue-strategy. For instance Tekel, the Turkish state monopolist on tobacco and alcoholic drinks and British American Tobacco (BAT) announced a joint-venture in December 1994.¹³⁴ But there is grounded suspicion from the Turkish side that the whole issue and especially the relevant Art. 40 of CUA is a tool of the Union's

¹³¹ COMMISSION OF THE EUROPEAN COMMUNITIES (1995a): 31.

¹³² TOGAN, Sübidey (1996): Opening up the Turkish Economy and the Economies in Transition, paper held at the Conference on "Turkey and Central and Eastern european Countries in Transition: Comparative Study with a view to Future Membership to EU, Bilkent-Hotel, Ankara, March 9-10, 1996: 15.

¹³³ *Dünya*, 26 May 1994.

¹³⁴ EIU (1/1995): 31.

producers "to sell their food in Turkey".¹³⁵

3.4. JUDICATURE AND INSTITUTIONAL ARRANGEMENTS

Concerning conflict-regulation there are quite sophisticated means included in the agreements with the CEE-countries:

*"The cooperation procedures implemented for the rules relating to undertakings cover three types of situation: where both competition authorities have jurisdiction in the same case; where only one authority is competent but where its decision may affect the important interests of the party whose authority is not concerned; and where a case falls outside the scope of either competition authority's responsibilities (as, for example, where only the competition authority of a Member State is competent)."*¹³⁶

This could be a fair model for Turkey, which has agreed to the inclusion of a clause into CUA stating that "the provisions of the Decision on Customs Union will be interpreted in line with relevant judgements of the Court of Justice of the European Communities"¹³⁷. On the domestic level, independent monitoring agencies should be developed in Turkey which has agreed "to align its laws fully on EU legislation and to have them enforced by a body independent of the Turkish government."¹³⁸ Within the semi-independent agencies, bureaucrats have now started to consider how to realise this. Interesting is the reference to realities within EU. For instance inside TOBB it was claimed that in Portugal the EU does not demand two different institutions for monitoring and certification, but in Turkey it does.¹³⁹ On the legal

¹³⁵ I am indebted to Mr. Osman EMED, Head of Department, General Directorate of Foreign Investment, Prime Ministry, Undersecretariat of Treasury, Ankara, 18 March 1996.

¹³⁶ *idem* 46.

¹³⁷ COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 15.

¹³⁸ COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 13.

¹³⁹ I am indebted to Mrs. Mijde OKTAY at TOBB, interview Istanbul, December 1995.

plane according to Togan, Turkey already has adopted its own competition policy, modelled largely on EU practice, during December 1994 with the 'Law on the Protection of Competition'¹⁴⁰

In the last instance, the EU could retain quotas on Turkish textile exports if laws were not enacted or legislation not made effective.¹⁴¹ Referring to the level beyond CUA, one member of the Commission stated that they are "perfectly in line with the relevant agreements under GATT".

3.5. FINANCIAL COOPERATION¹⁴²

Ahmet Evin states that Turkish policy-makers focus exclusively on bilateral distinctions which has prevented the possibility of "imagining Turkey in Europe"¹⁴³. In fact, there have been attempts by the Turkish Permanent Delegation to the EC to claim budgets for a compensation of tax-losses around \$1-2bn, for concessions toward third countries under CCT, for the commercial deficit due to anti-dumping and for a readjustment of the Fourth Financial Protocol.¹⁴⁴ As stated above, EU's country-specific budgets are gradually to be enriched by supranational ones on horizontal levels. This means for Turkey, that country-specific governmental EU-budgeting concerning the free movement of workers, Financial Protocols curtailed to five-year development plans or compensations of tax-losses due to CUA will be gradually replaced by regional and horizontal programmes. The EU's Renovated Mediterranean Policy (RMP) is one example of many of kinds of

¹⁴⁰ TOGAN (1996): 14.

¹⁴¹ EIU (1/1995): 28.

¹⁴² for an overview see Annex C.

¹⁴³ EVIN (1996): 4.

¹⁴⁴ GIRAY, Güven (1991): in FORUM EUROPE (1991): 68.

budgeting within and outside EU-territory. RMP contains budgets for education, decentralisation of administration, urban projects and investment promotion for the Mediterranean region and has been implemented since 1992.

Horizontal aid, along with the competition policies regarding state aid shall promote decentralisation. Possible interest coalitions have been the Commission together with the Çiller-administration which announced decentralisations of the administration in its March 1995 'Democracy Package'. Even the unthinkable is then possible under RMP that local administrations of *Refah Partisi* might apply to funds. Also, were they allowed, institutes for the Kurdish culture, as proposed by IKV and others would be eligible for aid from these funds. Already the Human Rights Association in Ankara is receiving support. Here, monitoring and prevention of abuse by racist, anti-secularist and other actors violating the Turkish Constitution and also the eligibility-criteria of the Commission must be enforced in a cooperative manner. The above mentioned cooperation in SMS-promotion could be an example for the enforcement of horizontal assistance. Unfortunately on this issue there has been no research done yet by the Commission. Co-monitoring of the use of budgets could help to prevent clientelism in Turkey and foster mutual understanding.

Already in December 1995 the Commission released a CUA-related budget of ECU375m, payable until 2000 to support Turkish industry. Until the time of writing, the European Parliament has been blocking the whole EU's aid-package related to CUA. Again, in September 1996, following recent incidents on Cyprus and in Turkish jails and due to "the continuing suppression of the Kurds", the EP had again withheld its assent to the whole EU-aid including a planned macroeconomic aid package for the implementation phase of CU and asked the

Commission to freeze all RMP-budgets, too.¹⁴⁵

3.6. CONCLUSION ECONOMIC ISSUES / THE PRINCIPLE OF CUSTOMS UNION

To sum up, regarding economics CUA does reach far beyond trade issues and contains provisions on competition, legislation and financial aid. For a better understanding of the development of CUA it is helpful to compare CUA to similar agreements and then trace the different stages of drafts back to 1991 to obtain a better understanding of each others preferences in the negotiations.

In comparison with other trade-agreements the CUA shows some shortcomings. As Togan notes, unlike CUA, the Europe and Interim Agreements (EIA) with CEE countries as Free Trade Agreements do not contain clauses on CCT. This means that CEE countries are free to determine the level of tariffs against third countries. Also, CUA unlike EIA does not provide for a free movement of capital and services, but only of goods.¹⁴⁶

A quite probable forerunner of CUA could have been the Free-Trade Agreement (FTA) which had been signed between EFTA and Turkey on 17 October 1991. Similar to CUA, there are clauses on the abolition of state-aid, competition policy, anti-dumping and intellectual property. Also similar to CUA the customs barriers of the seven EFTA members vis-à-vis Turkey had been dismantled and a transition-period for certain sectors in Turkey had been negotiated.¹⁴⁷ Also similar to CUA the EFTA Agreement does not include free movement of fiscal goods, services or persons, all items on which both agreements are short of EC's Common Market.

¹⁴⁵ AFP in *Meppener Tageblatt*, Strasbourg 19 September 1996.

¹⁴⁶ TOGAN (1996): 21.

¹⁴⁷ FORUM EUROPE (1991): 45.

Finally, CUA is not only modelled on AA and AP but also on GATT. Such, the Commission has modeled CUA along existing supranational agreements under the GATT Uruguay Round and the EFTA FTA of 1991. Most of EU's and Turkey's bargaining chips concerning free trade were due to lapse under GATT anyway.

Within this framework of existing trade-agreements, on 6 June 1990, less than six months after Turkey's request for membership was forwarded to it by the Council, the Commission replied to the Twelve's invitation of February 5th with a Communication. This initial form of CUA merely had the character of a set of guidelines to be further specified during the negotiations. The Commission suggested four major ways of strengthening the EC-Turkish Association Agreement, which included:

1. The completion of a CU by 1995: The Turkish tariff system had to be dismantled and in exchange the Commission agreed to negotiate better access for exports of Turkish agricultural products and textiles
2. An improvement of industrial and technical cooperation with the aim of reducing differences in development rates between sectors such as services, transport, telecommunication, energy, the environment, science, tourism, and education
3. The resumption of financial cooperation of the 4th Financial Protocol of 1981
4. The deepening of the political dialogue on highest level ¹⁴⁸

This first draft proposal did not contain any spectacular innovations which exceeded the steps foreseen under the AA and AP, but remained in the same tradition. Free trade, the unfreezing of the Fourth Financial Protocol and an increase in dialogue and cooperation were the issues at hand. Later, this minimal

¹⁴⁸ RAPID news service (1990), Brussels, 6. June 1990.

form was made concrete and embedded into already existing programs. Compared with CUA, certain trends in the relations can be derived. By 30 October 1995 the Agreement had been specified into the following form

ad 1. a) CU has been supplemented by Turkey's adoption of EU's CCT via third countries b) Turkey's MHF and the EU's 'voluntary restraint agreements' for Turkish textile exporters have been abolished due to GATT c) But CUA is short of the Common Market concerning the freedom of persons, capital and services d) Unlike EIA but like EFTA-FTA, CUA does not provide freedom of capital and services e) Concerning certain goods, there is a five-year protection period f) EU can resume anti-dumping action conforming to GATT, if Turkey were to violate CUA g) The prevention of Japanese grey imports is included in CUA.

ad 2. a) A set of competition legislation including provisions for consumer protection, technical standards, intellectual property and the granting of state aid is included. Most of these provisions exceed those of GATT and are similar to EIA in harmonising domestic law with EU-law.¹⁴⁹ b) Trans-Mediterranean networks include Turkey in emerging cooperation programs for the whole region. c) Technical standards and the prevention of the granting of state-aid are based on *acquis communautaire*.

ad 3) a) The Fourth Financial Protocol shall be reactivated. b) Assistance for regional projects under the Renovated Mediterranean Policy (RMP) is foreseen. c) A special macroeconomic stability package is envisaged. d) Budgets for technical preparations for CU and aid for human rights organisations are foreseen. (Alas, budgets are still vetoed by the EP.)

¹⁴⁹ COMMISSION OF THE EUROPEAN COMMUNITIES (1995a): 46.

ad 4) a) The number of meetings had multiplied during the negotiations, on the highest levels and on the level of implementation. b) Jurisdiction lies within the EU Court of Justice.

Taken altogether, Turkey's exports to EU are now solely dependent on EU-production standards. Thus, CUA contains a dynamism for both sides. For EU, investment into Turkish industry is facilitated by duty-free import of parts and raw-materials and export of finished products. For Turkey, the adoption of EU-law bears the chance to improve production quality and curb the state-sector.¹⁵⁰

How political issues obstruct economic rapprochement

Albeit political issues have been excluded from CUA, they have stood in the way of CUA from the beginning. Thus, the DGI together with the Turkish Government in October 1996 could still not be sure of the deal. In his Communication, Desk-officer Abou spoke of a 'legal vacuum'¹⁵¹ and stated that

"[t]he European Parliament's decision on whether or not to give its assent to Customs Union has major implications both for the Union's relations with Turkey and for developments within Turkey itself. It is therefore necessary to assess its economic benefits for the European Union. Over and above those considerations, this dossier also looks at human rights, the possible legal repercussions of Parliament's decision and geopolitical aspects.¹⁵²"

¹⁵⁰ COMMISSION OF THE EUROPEAN COMMUNITIES (1995); EC-TURKEY ASSOCIATION COUNCIL (1995): *Projet de Texte de Décision Union Douanière*, Decision [1/95], Brussels, 6 March 1995. EC-TURKEY ASSOCIATION COUNCIL (1995a)-(1995d): Brussels, 6 March 1995.

¹⁵¹ The Federal Republic of Germany refers to Art. 228 § 3 and 228 § 2 in connection with Art 238 TEC. I am indebted to Mr. Hansjörg HABER, counsellor at the Embassy, Ankara, 8 November 1995.

¹⁵² COMMISSION OF THE EUROPEAN COMMUNITIES (1995): 1.

But the causes lie deeper than in the EP. As already mentioned, December 1994 was the month which saw the first law on competition in Turkey, but also the eight sentences handed down by the State Security Court. Alas, three weeks after FM Çetin and the Council had agreed on a detailed programme of works leading to customs union, the European Council Meeting in Essen debated halting talks with Turkey. At the same Summit,

"the Commission was specifically charged with developing a training programme for the Central and East European countries drawing both on its own experience and that of the Member States, in order to facilitate the enforcement of competition policies"¹⁵³

Thus, it must be added to earlier findings ¹⁵⁴ that the actions of the State Security Court might have hindered the implementation and training of Turkish administrators similar to that received by CEE-countries. It is not impossible that the Commission considered Turkey for this programme. However, all efforts made by Mr Çetin, the TGNA, the Commission and the Council in that direction were undermined on 8 December 1994. Because these and other single incidents have disturbed and often obstructed carefully planned efforts by pro-CUA actors on both sides, it is now necessary to turn towards them.

¹⁵³ COMMISSION OF THE EUROPEAN COMMUNITIES (1995a): 45.

¹⁵⁴ see point 1.2.3. of this work.

PART FOUR: POLITICAL ISSUES DEBATED

*The European component is only one in Turkish democratisation, but an important one - Democratisation does not happen overnight, one must enjoy it, see it growing slowly, very slowly.*¹⁵⁵ (Füsün Arsava)

*For Turkish policy makers to imagine Turkey in Europe and to demonstrate the political will and consensus to develop a credible scenario, (...) would entail addressing the real problems [...] and not to ignore or suppress them.*¹⁵⁶ (Ahmet Evin)

*The backlash in Turkey's European vocation is not an abstraction. It is real. There are new winds from the east and south. Islam is only one component. Customs Union is not political but there is a political underpinning*¹⁵⁷ (Özdem Sanberk)

*The elements of Turkey's parliamentary system are now converging toward those of the Community. Public life is weighed down by legislation which, notwithstanding rules similar to those that exist in the EC, should still open up to the full range of political forces in the country and to the unions. [...] the situation concerning human rights and respect for minorities, despite having evolved in recent years, still has not attained the necessary levels of a fully functioning democracy. The consolidation of democracy is a good reason for the accession to many Turks, such as happened with the three last members that have acceded to the EC.*¹⁵⁸

(Commission of the European Communities)

Eralp notes that the 1970s saw the EU's "move towards the south [which] brought in its wake new political attitudes that included the promotion of democracy as a foreign-policy issue". This has led to frequent misunderstandings, because by contrast, Turkish leaders emphasized economic parameters.¹⁵⁹

¹⁵⁵ I am indebted to Prof. A. Füsün ARSAVA, Dekan, Faculty for Political Science, Ankara University, interview 15.3.1996.

¹⁵⁶ I am indebted to my supervisor, Prof. Ahmet EVIN (1996), Chairman Political Science Dept., Bilkent-University, Ankara: Turkey-EC Relations at the Eve of IGC, policy-paper, Bilkent University, spring 1996: 5.

¹⁵⁷ I am indebted to Özdem Sanberk, Turkish Ambassador to the United Kingdom, interview, London, July 1995.

¹⁵⁸ EUROPEAN COMMISSION, Opinion, Brussels 1990, cited in: FORUM EUROPE (1991): 24.

¹⁵⁹ ERALP (1990): 30.

Eralp further states that the firm belief that membership could strengthen democratic convictions guided the EC's European responses to the Portuguese and Spanish applications, despite their economic weakness. While Greece, after it had overcome its military regime, decided to respond to this challenge and successfully became a member in 1981. However, the 1980 military intervention in Turkey, together with the economic austerity program of 24 January, went exactly contrary to European policy priorities, creating a gulf between Mediterranean member and non-member states, one which until the early 1990s had increased steadily.

Since this time, in regard to political issues, actors in the EC have been very attentive towards Turkey, often too insisting as Turkish observers emphasize, pointing towards the obstructions EC-interventions created also had on the inner dynamics of the democratisation process. The three Turkish citations above may indicate ways to carefully and sustainably achieve democratisation, given the ideological chaos of the 1970s, the Kurdistan Worker's Party's (PKK) racial terror since the 1980s and Islamic conservatisms of the 1990s, while the fourth statement may serve as example for the EU's rather programmatic approach towards the issue. In the following chapter, political incidents connected with CUA shall be analysed and measured against positions of EU-actors.

4.1. REFORM OF THE 1982 CONSTITUTION¹⁶⁰

In his consequent report, the European Parliament's rapporteur admitted that it was for

¹⁶⁰ REPUBLIC OF TURKEY (1982): Constitution of the Republic of Turkey No, 2709 of 7.11.1982, French version; REPUBLIC OF TURKEY (1995a) Turkish Grand National Assembly: An Act Amending the Preamble and Some Articles of the Constitution of the Republic of Turkey No, 2709 of 7.11.1982, Act No. 4121, Ankara, approval date: 23 July 1995.

*'(...) the first time that a Turkish parliament composed of civilians has amended a constitution imposed by the military. It confers a highly symbolic value on the role of political forces (...)'.*¹⁶¹

Turkish observers have been more cautious. For Gençkaya, the process of amending the Constitution only shows "that there is a conservative majority in the GNA which always obscures any attempt toward political liberalization"¹⁶² The issue of Constitutional Amendments, initiated by ANAP in early January 1995¹⁶³ and which, only from February on, was included in resolutions of EP and the Council of Europe (CoE), had been quickly exploited by religious conservatives. As indicated above, RP emerged a pool of religious reaction and blocked all progress by insisting on a change of Article 24 which forbids the exploitation or abuse of religion for political ends and that "the fundamental order of the state shall not be based on religious tenets".

The French Presidency of the EU-Turkey Association Council (AC) Meeting of 6 March 1995, citing an EP-resolution of 16 February 1995, stated that

*"la situation ne permettait pas "actuellement" la constitution de L' Union douanière, et appelait à une "réforme en profondeur" de la Constitution par le Gouvernement et la Grande Assemblée nationale de votre pays.*¹⁶⁴

Then, the CoE, asked by EP to establish a dialogue, set a deadline to the Çiller-administration until the next AC-meeting in June. At about the same time, 17 Turkish ambassadors to Europe advised Çiller to take seriously the CoE and EP's

¹⁶¹ EUROPEAN PARLIAMENT (1995d): 6.

¹⁶² idem, p.3

¹⁶³ GENÇKAYA, Ömer Faruk (1995): Towards a Civilian Constitution: recent Constitutional Amendments in Turkey, unpublished paper, Bilkent-University, Ankara, October 1995, p.1.

¹⁶⁴ JUPPE, Alain, in: EC-TURKEY ASSOCIATION COUNCIL (1995c): 13.

demands and declare constitutional reforms, which she indeed did on 14 March 1995.

Whether or not the veto of the Council of Europe, which at times considered the exclusion of Turkey from its assembly, together with the resolution of the European Parliament to reform the constitution until 29 June had an impact on the enormous efforts by the coalition parties and ANAP to get this bill passed through parliament, unsuccessfully on 14 June and 29 June and successfully finally on 23 of July, cannot clearly be stated. Nevertheless the issue of constitutional amendments shows best the indirect interplay between supranational and governmental actors.

It seems clear that reforms in Turkey, initiated by members of the Grand National Assembly, can potentially be supported by the standings of EP, CoE and the Council of Ministers. Again, through breaking up the perceived monolithic entities, "Turkey" and "European Union", new interest coalitions can be created to overcome the anachronisms of so-called "classical diplomacy" and prevents the creation of dichotomic perceptions of actors. It can be assumed that reformist Turkish actors must have had an influence on the demands of EP, which became increasingly concrete in statements as this one:

"There is no doubt that the constitutional reforms are more important for the political and institutional impetus they have provided than for their actual substance, this being insufficient for the purpose of promoting higher democratic standards (...) just the first step towards other more radical reforms (...) now harmonize various ordinary laws in line with the constitutional principles(...) Amending the Constitution to take account of the guidelines set out by the European Parliament and the Council of Europe does not mean adopting just any constitutional reform as testified by the existence of other articles (...) providing for restrictions on individual rights which were not even mentioned in the debate

*and were not the subject of any discussion. (...)*¹⁶⁵

The amendments of 23 July included crucial innovations regarding the right of association for students and faculty, youth and women groups and the abolition of the preamble which glorified the 1980 military-intervention.

The support of Turkish reformers from outside remains crucial, considering that conservative forces are also able to amend laws, such as the restrictive 1994 press-law amendment.

4.2. THE TURKISH MPS OF KURDISH ORIGIN IN THE DEP

First, following Steinbach, one origin of the problem lied in the statement of the Chief of Staff General, Güres, who characterised the DEP-MPs openly as "bandits and traitors", stating that one does not have to go to Southeast Turkey to look for separatists because they are sitting in TGNA. This statement in March 1994 stood in the beginning to the lifting of their immunities, a parliamentary ban and a judicial charge before the Ankara State Security Court.¹⁶⁶

The European Parliament immediately asked for the MP's release and for an amendment of Article 125, on which MP Zana was charged, (her husband being in jail since he had made a statement in front of an EP-committee)¹⁶⁷. In addition EP froze the Joint Parliamentary Committee (JPC) and renewed its opposition to unfreeze budgets, because

¹⁶⁵ EUROPEAN PARLIAMENT (1995f): 6.

¹⁶⁶ STEINBACH (1996): 387-8.

¹⁶⁷ EUROPEAN PARLIAMENT (1994): Entschließung zur Festnahme kurdischer Abgeordneter in der Türkei, PE 180.57, Strasbourg, 10 March 1994.

"(...) the whole trial mounted against them was certainly incompatible with the aims of a state aspiring democracy. (I is) totally unacceptable that our colleagues, in whatever part of the world, should be prevented from carrying out their political activities"

While Turkish governmental actors saw the issue *sub judice*, the EP suggested that other avenues must be sought, particularly the possibility of a presidential pardon, as stipulated by the Turkish legal codes, or the granting of an amnesty. It becomes clear that the EP's reaction did not result from the political opinions uttered by the DEP-MPs but rather from their collegial status. Nevertheless, it is important to see perceptions in Turkey, where the EP's immediate reactions and 'withinputs' of certain religious and national lobbies, have produced a highly negative image of EP as being a pro-separatist rather than pro-reformist actor.

4.3. THE ANTI-TERROR-LAW (NO 3713)

*"Nous insistons, avec le Conseil des Ministres de l' Union, avec le Parlement européen et avec le Conseil de l' Europe, pour que soient rapidement modifiées les lois en vertu desquelles les poursuites pour délits d'opinion sont rendues possibles, afin que les condamnations pour de tels délits, en particulier celles qui concernent les députés actuellement encore emprisonnés, puissent être révisées."*¹⁶⁸

(Hans van den Broek, European Commission)

Turkish observers state that intellectuals see the Anti-Terrorist Law (ATL) of 1991 as the greatest obstacle towards democracy. They claim that Article 8 is not the whole story, but it has been brought into the discussion by PM Çiller. In 1995, however, only Art.8 ATL was amended piecemeal, following amendments of

¹⁶⁸ VAN DEN BROEK, Hans (1995) in: EC-TURKEY ASSOCIATION COUNCIL (1995c):15.

Articles 142, 161, 162 of the penal code in 1991.¹⁶⁹ The act required only a simple majority in TGNA, whereas the constitutional amendments required a two-thirds majority . The largest obstacle to abolishing Art. 8, or even the whole ATL, has been in the opposition of the military, albeit it is showing signs of reform, too, once the EU-card is played.

Rumpff compares ATL to similar acts in the United States during the McCarthy era or to *Notstandsgesetzparagraph* 129a in West-Germany since the 1970s. His point is that ATL and similar law lead to exaggerated friend-foe categorisation in societies and therefore prevent pluralism.¹⁷⁰ Rumpff's argument, that ATL further violates the Constitutional Articles No. 24, 25 and 26 as well as the European Convention of Human Rights is only one interpretation among many. Sançar, agrees and argues further that those rules might be abolished, once the state has regained its confidence.¹⁷¹ EP-observateur Gonzales also notes that the dichotomy of civil versus military legislation and jurisdiction being at the heart of the problem of judicial insecurity and arrests on grounds of opinion.¹⁷² In line with this, Rumpff argues that, on the executive level, the unconditionality of the use of Art.8 ATL is crucial, i.e. its technical (and not political) abuse, by not drawing the usual distinction between the cause and consequence of a verdict.

¹⁶⁹ for a development of ATL see: ÖZBUDUN, Ergun (1994): Democratization of the Constitutional and Legal Framework, in: HEPER / EVIN (1994): 41-48.

¹⁷⁰ RUMPF, Christian (1995): contribution at: TÜRK DEMOKRASI VAKFI / KONRAD ADENAUER VAKFI (1995): Terörle Mücadele Yasasının 8. Maddesi ve Demokratik Hukuk Devleti Semineri, Ankara, 4 December 1995.

¹⁷¹ SANÇAR, Mithat (1995): contribution on the same panel with RUMPF.

¹⁷² GONZALES, Camero (1995), in: EUROPEAN PARLIAMENT (1995d).

4.4. HUMAN RIGHTS IN TURKEY¹⁷³

The violations of Human Rights in Turkey are seen by domestic and international observers as systemic but not systematic. This distinction means that there is a vicious circle of strict practice of Anti-Terrorist law, resulting in a heavy courtload and full jails. This leads to long procedures after arrest, during which persons are subjected to treatment by security-organs and restricted in their individual rights, and are always subject to poor prison conditions. The verdicts by state-security institutions are handed down with impunity, which is seen as the most important single reason for the ongoing violation of human rights in prisons and police-stations.

Employing information from the U.S. Embassy, the Çiller-administration is monitoring prison-conditions by "contact-teams" established between relatives and persons arrested, has introduced human-rights education in schools and human-rights training in police-stations. Also there has been appointed a state-minister responsible for human rights.

Against the perception in Turkey that there are lobbies in the EU "playing the human-rights card", a recent statement by the European Commission shall be cited, one which shows growing awareness of these Turkish concerns.

"We tend towards making human rights discussion as a natural part of our relationship. This is not specially done with Turkey but part of any bilateral or EC relations with a Third Country. We often stress: 'Maybe you will find that we have a nuisance value from time to time and even if you strongly disagree with our views upon the subject we appreciate it very much when we can hold each other accountable regarding the international

¹⁷³ I am indebted to Mrs. Janice G. WEINER (1995), counsellor, political officer, Embassy of the United States of America, Ankara, 8 November 1995.

conventions we both have signed.”

(Hans van den Broek, 1993)¹⁷⁴

Although the issue was not included in the Agreement as such or made a requirement for establishment of CU, it has been frequently mentioned by members of the Commission.

On this issue, too, it is important to look for interest-coalitions in both entities. Starting in 1983, when the first fact-finding mission of EP arrived in Turkey, its members could attend a trial against union-members. However, they did only have informal and subversive contacts with victims and their relatives. By 1995, MEP Gonzales was able to meet the Minister of State for Human Rights, Hacaloglu, members of the Turkish Human-Rights Association and the imprisoned TGNA-MPs, all of whom were in favour of CUA.

MEPs, when referring to Human Rights, shall appeal to Turkish reformers, who are trying to walk in the shoes of President Demirel, about whom Labour-MPs in 1983 wrote:

“The ex-president Demirel, who was a full-blooded conservative, who indeed was in government in alliance with a fascist party, is in detention in Turkey and has issued a letter now freely available throughout the West, saying that the regime is oppressive, that there will be no chance of return to democracy, and warning that if the West will not help the Turkish people, who insist on a return to democracy, then in future Turkey will not look to the West for her friends”¹⁷⁵

It is important to see the internal dynamics of Turkey’s reform-process. As a 1995 Human-Rights Report of the U.S. State Department notes, there has been an

¹⁷⁴ VAN DEN BROEK, Hans, in: FORUM EUROPE (1993): 64.

¹⁷⁵ COMMITTEE FOR THE DEFENCE OF DEMOCRACY (1983): Turkey seen through the Eyes of European Parliamentarians, London, 1983: 13.

increase in Turkish public attention which has resulted in fewer abuses.¹⁷⁶

4.5. THE KURDISH QUESTION

"Bombs and warfare will destroy bridges" (Martin Bangemann)¹⁷⁷

"Nobody should be surprised if tomorrow would arrive 50 coffins with the cadavres of German tourists" (Abdullah Öcalan)¹⁷⁸

"(...) the armed forces should be gradually pulled out of the struggle against the PKK in Turkey" (Chief of the General Staff, General Ismail Hakki Karadayi)¹⁷⁹

Concerning the 'Kurdish Issue' there must be several distinctions be made. It is important to distinguish between the claim for minority-rights uttered by MEPs and equal non-racist treatment in Turkey. Further, one must be distinguish between the right to propagate Kurdish culture as being different from Turkish culture and the right to live Kurdish culture.

What officials in the State-Security sector have in common together with the majority of the voters and politicians is the fear of separatism or ideological polarisation of any kind in Turkey, which in the 1970s led the country to the brink of chaos.

Therefore, given the great impact of electronic media on Turkish politics, it is still illegal to broadcast in Kurdish language. But according to the Appeals Court, one

¹⁷⁶ UNITED STATES OF AMERICA (1995), White House, State Department, Country Human Rights Report for Turkey, Washington DC., 1995.

¹⁷⁷ in: FORUM EUROPE (1991): 55.

¹⁷⁸ cited in: *Die Zeit*, 24 January 1995.

¹⁷⁹ EIU (2/1995): 13.

is allowed to speak the language, even to swear the constitutional oath in it or to claim Turkish as a foreign language. Also the establishment of a Kurdish cultural institute is thinkable in near future, provided it maintains a low profile. The worst thing the EP can do in its relations with Turkey is to play the 'Kurdish card', aiming at separation in the last consequence, a development that would be lauded by some of Turkey's neighbours.

The increasingly violent terrorist insurgency in the Southeast, which has claimed up to 17.000 lives since 1984 is one more reason not to support and foster segregationist tendencies and ethnic civil war. The formula is quite simple for handling the issue: anything nationalist cannot serve the principle of supranationality and must therefore stand in the way of EU-Turkey rapprochement.

The Commission again has showed a more sensible handling of the issue by stating, with which most Turks would agree:

"(That) the problem in the south-east of the country could not be solved by military means alone, hopefully an atmosphere could develop in Turkey conducive to a durable political solution of these problems" (Hans van den Broek)¹⁸⁰

Recent trends of PKK-militias being caught alive or surrender, the dance of PM Yilmaz at the traditional, yet instrumentalised Kurdish Nevruz-festival, the armistice offered by Öcalan and the increase of cultural rights in 1995 along with debating it in the media leads to only one conclusion. Terror decreases if cultural rights are granted yet not abused. As the Minister of Human Rights said to MEP Gonzales after the journalists had left the room, "In a climate of calm".

¹⁸⁰ in: FORUM EUROPE (1995): 14.

4.6. CONCLUSION POLITICAL ISSUES

What has been referred to as 'democratisation' by EU-actors, is in full swing in Turkey. While the EP could help domestic actors reform the constitution, it has been quite unsuccessful by 'playing the Kurdish card'. Thus, all efforts to dismantle the ATL and the whole state-security system connected to it are condemned to failure, as long as EP is suspected by Turks of supporting separatism. This vicious circle spins further to the abuse of human rights, which is systemic but not systematic.

CONCLUSION

First, it has been shown that Turkish actors on governmental, parliamentary, bureaucratic and individual levels have been effectively communicating with supranational actors, while certain other actors in Turkey as well as on the EU-side did nothing but to obstruct these efforts. EU-actors have responded to Turkish suggestions more willingly and concretely than governmental ones and have reformulated positions accordingly.

Second, actors on the side of Turkey have been able to profit from external pressure exerted by EU-actors, most notably by the EP and thus, by creating a linkage between the governmental level at home and the supranational levels in Europe, have brought their chips home, while others not so gifted in policy-PR have been successfully using traditional diplomacy means.

Third, wherever sub- and supranational actors agreed, there has been taken competence from the governmental sphere. Be it the arrest of MPs in Turkey, be it the coalition between Turkish business and the Commission, or the CHP-SPE-linkage. Supranational policy-making inside, as outside the EU, has the same features of working silently but sustainably. Once a supranational decision on economics or politics has been made, it has been hard for governmental actors alone to change that.

Fourth, the divide between Commission and EP has taken competence away from the Council. As a matter of fact, EU's CSFP has shown better performance in Turkey than elsewhere.

Fifth and last, Turkish governmental and business actors have sought the dialogue, starting with the Forum Europe Conference in 1993 and have pressed along with the

Commission for pursuit of the negotiations and implementation at home. Nevertheless conservatives in TGNA and certain statist actors have the potential to disrupt the negotiations. These actors also have not been involved in the talks.

Concerning EU-actors, there is a pattern of external action emerging, marked by an increase in competence by the Commission, which is even involved now in the Cyprus-issue. Concerning CU, the Commission has been pursuing a clear-cut strategy of rapprochement and sober 'harmonisation' of economic law for a decade.

The EP, despite its poor image in Turkey, has been able to support reformist actors but, on the other hand, frequent misinterpretations and pitfalls did little to enhance communication. The most grave clashes of opinion have been observed between Turkish statist actors and MEP. Nevertheless, the language of resolutions, due to cooperation with Turkish consultants, has been improved.

The Council, slowly retiring as grey eminence, has only in times of grave crises intervened. Its decisions following the verdicts of December 1994 and the March 1995 invasion have marked the limits of the relations and have been affecting the pursuit of CUA most visibly. The Presidency of the Council has been closely cooperating with EP concerning political issues and once has instructed it to halt the talks.

The Troika-model has again proved favourable for Turkey, albeit certain nationalist actors have been able to ride on the EU-ticket, though with decreasing regularity.

As shown, there have been actor-constellations transcending the EU-Turkey divide as well as any categorization of state, nation, government or formal institution. A learning-process could and did take place, where actors from both sides could

meetsomewhat isolated from power and media and to discuss beyond the above categories.

Thus, supranational rather than intergovernmental positions were susceptible to change and could be restructured on a short-term basis and with respect to each other's capabilities. The EP is best seen as a pool of ideas. Who knows, how to set the agenda there, be it concerning Art.8 or unions rights, can obtain a vote without having a lobby. This is unthinkable in any inter-national concept of relations.

Concerning trade, actors found a working principle by EU-law, rather than by global agreements. Close cooperation mechanisms work favourable for individual and collective non-statist actors under the auspices of the Commission. The implementation of CU-related provisions and procedures must be followed by participation in horizontal programmes for the Mediterranean and Centr-Asia. Actors should also not be afraid to face court-procedures under the European Court of Justice, which deals with individual and collective rather than national issues.

Concerning political issues, it has been very helpful for actors to cooperate and form interest-coalitions. Alas, the European Parliament, provided it assesses its de-facto strong position, could more systematically foster development in Turkey beyond mere symbolic acts. However, not being a constant organ with regular office-hours, its members in their role-finding process lack the ability to regularly monitor the impact of quickly drafted resolutions abroad. The fact-finding mission of MEP Carnero has been a good start into this direction. It has been observed that resolutions have recently become more concrete and their language less divisive. However, Turkish actors have long found ways to lobby the EP and are influencing it together with the governments of member-states and the Commission. The short-term lobbying stands in direct

connection with EP's demands for "short-term changes". The Kurdish issue as any issue related to race, religion or culture is best approached in low-profile manners as well.

Some bargaining strategies are still drawn from the area of traditional diplomacy. For instance, FM Kirca's "categorical" statements appeared rather uncommented in a CU-Dossier issued by the Commission. But increasingly lobbying tactics are emerging, such as applied by CHP-head Baykal vis-à-vis the SPE or by a staff-member of a Turkish-German NGO, briefing MEP's assistants. On the other hand, "Turkey" and its governmental, business and industry actors were successful in initiating supranational arenas, such as joint-implementation committees or the Forum Europe Conferences.

To conclude, cooperation between Turkish and EU-actors leading to CU has evolved along lines quite similar to procedures within the EU itself. Although Turkish actors do not have seats in EU-institutions, they have learned how to influence matters. There is strong hope that through emerging horizontal projects, more actors on all described levels will get involved in the supranational game which is called the European project. The negotiations of 1995 may be seen as a learning process.

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ANNEX A: CHRONOLOGY OF EVENTS:

1963:

Association Agreement (Ankara-Agreement) between the EEC and Turkey, start of formal relationship. Stated objectives: establishment of a customs union and alignment, in three stages, of the economic and social policies of the two entities.

1973:

Additional Protocol: defines a period of 22 years for the bringing about of a customs union.

1980:

September: Military intervention, same month Decision by Association Council to revitalise the relations, definition of timetable.

1987:

April: The Turkish Government under PM Özal formally applies for full membership in the European Union (EU).

1989:

December: Council of Ministers adopts Opinion of the Commission that undelimits priority of the completion of the internal market over, further enlargements. Notes gaps in social, economic levels, deficiencies in democracy and abuses of human rights.

1990:

5 February: Council invites Commission to give an Opinion on the establishment of a customs union.

6 June: Commission replies after only four months proposing 'Matutes-package', which states priority of internal market completion over new accessions, proposes customs union by 1995, supplemented by industrial, technological, deepening of political dialogue and re-establishment of Fourth Financial Protocol.

December: EC Council of Ministers adopts Commission's Opinion

1991:

17 October: Parallely to the European Economic Area (EEA) with EC, EFTA signs free-trade-agreement with Turkey, which contains clauses on state-aid, competition policy, anti-dumping, intellectual property. Customs barriers of the seven EFTA members vis-à-vis Turkey are dismantled, transition-period for Turkey granted.

1992:

June: Lisbon Summit. European Council declares that "the Turkish role in the present European political situation is of the greatest importance and that there is every reason to intensify cooperation and develop relations with Turkey in line with the prospect laid down in the Association Agreement of 1964 including a political dialogue at the highest level."

1993:

December: On textile-congress in Ankara EU-Ambassador Lake and EC-Consultant to PM Çiller Tigril declare: Customs Union 1995 or

never. Ambassador to EU, Cem Duna: "Turkey has entered a road of no return: If we do not abide with the time, we may be left out of the EC agenda".

1994:

First recession after 1980, worst inflation in the 71 years of the Republic. Turkey sends for UN-peacekeeping to Bosnia, threats from Greece concerning 12-miles-zone. Talks on CU halted after trial against Turkish deputies.

January: Gallup poll: Turkish businessmen optimistic about establishment of customs union as planned, 54% optimistic about impacts on their sector, 42% see benefit for national economy. Turkey implements tariff regime favourable to EU, EFTA countries.

11 January: Meeting PM Çiller and Commission President Delors in Brussels: Mr Delors says UN General Secretary asked EU to send "observateur" to Cyprus, Mrs Ciller explains democratisation and decentralisation efforts.

11 February: Turkish Business Foundation (IKV) and EU-Representation invite EU-Commissioner Brittain to Istanbul.

2 March: Turkish Parliament decides unanimously to lift the immunity of Kurdish DeP-Parliamentarians, eight arrested.

10 March: EP-Resolution against the arrest of the DeP-MPs.

28 March: EP freezes Joint Parliamentary Committee.

5 April: Stabilisation package inspired by IMF, WB, OECD for the consolidation of the economy introduced.

16 June: pro-Kurdish *Demokrat Partisi* (DeP) banned

July: From IMF stand-by loan about \$742 million (14 month) first of four tranches over \$225m available.

1 July: Greek EU-presidency ends, German starts.

July: Commissioner Brittain, DG1A, presents Council of Ministers a Communication on the achievement of the customs union, requesting a mandate for completing the negotiations with Turkey.

November: Second tranche of IMF stand-by loan available. Council of Ministers considers Brittain-Communication together with Turkish Government's 'White Paper' under the authorship of Mr Çetin, prepares draft Decision for 19 December Association Council meeting for final work programme to achieve customs union.

18 November: EU Council and Turkish FM Cetin agree on programme of works leading to customs union.

8 December: High sentences for eight DeP-Parliamentarians after changed charges cause much concern abroad Turkey.

9-10 December: EU-Summit in Essen: Heads of States and governments protest explicitly against sentences, US-government

"deeply disturbed".

14 December: German FM and Troika-President Kinkel talks to European Parliament, asks for opinion.

15 December: EP votes overwhelmingly for halt of talks in Association Council due to human rights violations, asks Council of Europe to start dialogue with Turkey. Confirms freeze of Joint Committee but will meet Turkish parliamentarians informally.

19 December: During meeting of ten minutes, the Presidency of the EU-Turkey Association Council rejects to enter the final phase of the Customs Union due to human rights violations and Cyprus issue, calls for legal reforms.

At the same day the State Security Court in Ankara sentences the 8 verdicts on grounds of "separatistic propaganda" on the legal basis of article 8 ATL.

1995:

6 March: EU-Turkey Association Council signs agreement on Customs Union, 20. March: 35.000 Turkish soldiers march into Northern Iraq. 14. December Customs Union ratified by EP, 24. December: Welfare Party (*Refah Partisi, RP*) becomes strongest force in Parliament after national elections.

January: The European Parliament in an almost unanimous vote expresses its concerns about the violation of human rights in Turkey.

1 January: The Government lowers import taxes and other customs duties on products coming from the European Union (EU) and the European Free Trade Area (EFTA) nations. The average import taxes on EU and EFTA products go down from 5.87 percent to 4.57 percent.

2 January: Liberal opposition party ANAP proposes change of constitution

12 January: Treasury announces that foreign investment permits dropped by 34.6 percent

February: EU-Commission's Representative to Cyprus, Abou notes tensions on the island, proposes withdrawal of 10.000 Turkish troops in return for customs union. Turkish foreign ministry says, Cyprus never was never made a bargaining issue in the customs union talks. Economic Development Foundation (IKV) Head Mr Aloglu campaigns in five European capitals for customs union.

16 February: European Parliament "regards human rights situation in Turkey as too serious to consider a customs union", takes note of ANAP-proposal, appeals to Turkish government to reform constitution and better guarantee democratic rights. EP makes its assent dependent on the establishment of a system of bi-annual human-rights-reports issued by the Commission.

March: The 17 Turkish Ambassadors to Europe warn Turkish Government on probable influence of EP, propose changes in

Constitution.

3 March: Ambassadors of 15 member states agree on terms of a customs union with Turkey. Following Greek veto, the ambassadors agree to opening negotiations with Cyprus six months after IGC.

6 March 1995: 36th session of the EC-Turkey Association Council agrees on Decision. It implies a re-evaluation by the Association Council in October, followed by an assent procedure in the EP, and it contains the option of delay by the Council until June 1996. Council President Juppe announces accession talks with Cyprus during IGC and Commissioner van den Broek presses on solution. Turkish FM Karayalcin: Turkey not bound by any decisions between EU and Cyprus. Package-deal includes aid over Ecu 2.2bn by EIB and Commission's MED-programme.

12 March: unknown gunmen attack four Alevi teeshops in Istanbul's Gaziosmanpasa-district, kill two. Protest-march next day end with 15 killed by policeguns, many wounded.

14 March: Upon insistence of Mr Cetin and Baykal of CHP, PM Ciller announces that constitutional changes and further liberalizations will come soon. Parliament renews martial law in Southeast Turkey.

17 March: PM Ciller meets Alevi leaders.

20 March: 35 000 Turkish soldiers march against PKK rebels in Southeast Turkey and on 220-km-front into Northern Iraq, stay for six weeks.

22 March: German FM Kinkel asks Turkey to seek political rather than military solution to its Kurdish problem.

23 March: EU-Troika of MM Juppe, Kinkel, Solana in Ankara warn that EP might not ratify CUA, if troops stay in Iraq. President Demirel states that troops might stay for one year, contradicts Mrs Ciller's earlier assurances.

6 April: Resolution of the European Parliament against intervention of Turkish troops into Northern Iraq, reiterates stance against customs union, asks for non-militaric solution of the Kurdish issue.

26 April: Parliamentary Assembly of the Council of Europe recommends that Turkey's membership should be suspended unless it makes significant progress in withdrawing from Iraq and constitutional reforms by 26 June.

2 May: Legal amendment bans foreign monopolies in Turkey, states that foreign firms will not be allowed to hold majority shares in a firm in Turkey, which has monopoly powers in a particular sector. Troop withdrawal from Iraqi territory.completed, publicly welcomed by German and Dutch FM.

14 May: Human-rights minister Hacaloglu tells news conference that 21 March 'Implementation Programme' contains legalisation of Kurdish language broadcasting and education, is attacked by Minister of the Interior Mentese.

18 May: Law passed to allow government to issue decrees amending existing laws on patents, food standards etc. in connection with CU.

21 May: Trade officials announce \$200m package of Government incentives designed to boost export sector

23 May 1995: First draft for constitutional amendmends.

4 June: DYP-minister of state Gökdemir refers to three female MEP who are visiting Turkey to investigate human rights abuses as "prostitutes of dubiuos intent".

8 June: After years of public contorversy, Turkish Parliament passes the country's first legislation to protect intellectual property rights.

13 June: European Parliament "strongly supports accession by the countries of Central and Eastern Europe", reiterates opposition to CU, asks European Council to inform on outcome of the negotiations around CU, Council decides to do so.

14 June: First attempt to change 21 articles of the constitution falls short of necessary 2/3 majority in Turkish Parliament.

23 June 1995: By letter the European Council consults EP pursuant to Article 228 of the EC-Treaty on a common position by the Community in the EC-Turkey Association Council on establishing the final phase of the customs union.

26-27 June: EU-Summit in Cannes.

29 June: Second attmpt to amend Turkish constitution fails.

30 June: Deputy Chief of General Staff in press briefing states that Article 8 "should stay as it is for now, its alteration is not appropriate: but it is in our interest from the viewpoint of getting into the European Union, and if the assembly alters it, we [the army] will accept that...we are at the borders of the political authority." CHP-Head Cetin criticises interference, emphasises that Ciller and him had agreed on complete removal of Art.8, moreover ATL-amendment easier (simple majority) than constitutional changes (2/3 majority).

July: In its interim report, the Commission notes that the situation regarding human rights in Turkey is unsatisfactory.

23 July: First constitutional reform adopted by civilian government in Turkey. 14 of 21 proposed articles passed through Parliament (360/32/57). EP: "no concrete improvement in individual rights but symbolic value for further reforms".

3 August: Turkish Union of Chambers (TOBB) releases report on *The Eastern Question* by Prof. Dogu Eril of Ankara University.

7 September: New consumer protection law passed.

9-10 September: On an informanl meeting in Santander, Spain, the EU foreign ministers confirmed that they would urge the EP to ratify the agreement.

13-16 September 1995: Mr Gonzales, rapporteur to the EP on fact-finding mission in Turkey.

20 September 1995: Largest wave of strikes in Turkey begins with almost 150.000 workers involved.

3 October: Industrial reports show Turkey's biggest strike for decades is causing losses of over \$10 million a day in exports. It took Mrs. Cillers Government more than a month to come to terms with some 350.000 public workers.

16 October: Until the end of the year, Turkey will impose textile and garment quotas, identical to the EU's trade restrictions, on a total of 37 countries.

19 October: Deniz Baykal, Head of junior coalition partner CHP speaks in front of Social Democrat faction in European Parliament, asks for solidarity and support in reforms by a positive vote on CUA in December.

23 October: The Association Committee considers that in fields affected by the implementation of Customs Union, Turkey has adopted legislation capable of ensuring the proper functioning of Customs Union. The legislation in question covers: commercial policy, in particular textile policy, competition policy, protection of intellectual property and customs legislation.

26 October: In a statement to the press, the Turkish Government announces that Turkey recognizes the jurisdiction of the European Commission of Human Rights and the European Court of Human Rights, Turkish Supreme Court confirms sentences for 4 DeP-MPs, 2 released.

27 October By 189 votes to 83, with 2 abstentions, the Turkish Grand National Assembly (GNA) decides to reform the ATL.

30 October: The 37th session of the EC-Turkey Association Council confirms that all technical conditions have been fulfilled the Customs Union. At the meeting Turkish FM Kirca warns that EP's assent is an internal matter of EU, unilateral postponement would be a serious breach of CUA.

3 November: Deniz Baykal adopted as new Foreign Minister to replace Mr. Kirca.

10 November: Abou-Report of EC-GDI faxed to EU-Ambassador Lake, states that CUA is ost favourable for EU, warns of risk of strong Turkish reaction in case EP might withhold assent.

December: PM Ciller, in a tour of European Capitals, argues that refusal by EP would bolster Islamist opposition in December election. MEPs lobbied relentlessly by the governments of member states and by the USA.

4 December: Turkey abrogates entirely a recently-reduced levy on cotton exports.

10 December: Abou-Report published on EU's RAPID news-service.

14 December: European Parliament agrees on the establishment of the final phase of Customs Union (343 Yeas, 149 Nays, 36 Abstentions). SPE-leader Green says that many deputies voted yes only with "sorrow, with heavy hearts and without enthusiasm".

1996:

1 January: Customs Union comes into power

June: President Demirel appoints RP-leader Erbakan Prime Minister.

ANNEX C: EU-AID PROGRAMMES FOR TURKEY 1996-2000

BUDGETS AND LOANS..... DEPENDENT ON CUA

AMOUNT:	PURPOSE / KIND OF AID:	PERIOD:
375 MECU	BUDGETARY RESOURCES	1996-2000
750 MECU MAX.	EIB LOANS TO IMPROVE THE COMPETITIVENESS OF THE TURKISH ECONOMY	1996-2000
3 MECU P.A.	BUDGETARY RESSOURCES FOR TECHNICAL COOPERATION / IMPLEMENTATION OF CUSTOMS CODE	1996-2000
<u>1140 MECU</u>	BUDGETARY RESSOURCES: 390 MECU LOANS:750 MECU	FOR 1996-2000

PLUS BUDGETS AND LOANS..... INDEPENDENT FROM CUA

AMOUNT:	PURPOSE / KIND OF AID:	PERIOD:
750 MECU	MED- PROGRAMME: BUDGETARY RESSOURCES AND LOANS WHICH THE COMMUNITY HAS MADE AVAILABLE TO ALL MEDITERRANEAN COUNTRIES	1996-2000
300-400 MECU	EIB LOANS UNDER THE NEW MEDITERRANEAN POLICY, I.E. MED- INVEST FUNDS, AVICENNE 1993	1996-2000 (ESTABLISHED 1993)
0.5 MECU P.A.	BUDGETARY RESSOURCES FOR HUMAN RIGHTS ACTIVITIES IN TURKEY	CONTINUOUSLY
<u>1100 MECU</u>	BUDGETARY RESSOURCES: 375 MECU LOANS:725 MECU	FOR 1996-2000

TOTAL SUM EU-PROGRAMS		
1100 MECU	INDEPENDENT FROM CUA [MED]: BUDGETARY RESSOURCES: 375 MECU LOANS:.....725 MECU	1996-2000
+1140 MECU	DEPENDENT ON CUA: BUDGETARY RESSOURCES: 390 MECU LOANS:.....750 MECU	1996-2000
TOTAL: <u>2240 MECU</u>	DEPENDENT AND INDEPENDENT FROM CUA: BUDGETARY RESSOURCES: 765 MECU LOANS:.....1475 MECU	1996-2000

own calculations based on data from IBS, 1995: 12; FORUM EUROPE (1995); EIU (2/95): 20; EC-TURKEY ASSOCIATION COUNCIL (1995d). Means, rounded. Aid from IMF, EBRD and IBRD/WB not considered.

**ANNEX D: FULL SCOPE OF CUSTOMS UNION,
SUMMARY AGREEMENT OF 6 MARCH 1995**

31-page document, supported by 10 annexes.

CHAPTER:

IMPLICATIONS:

Free Movement of Goods and Commercial Policy	Elimination of customs duties and charges, of quantitative restrictions, acceptance by Turkey of EU textile regime, alignment by Turkey to Common Customs Tariff
Agricultural Products	Adjustment by Turkey to the EU's Common Agricultural Policy (period unspecified) and subsequent free movement of agricultural products
Customs Provision	Turkey adopts EU-practices
Approximation of Laws	Enactment by Turkey of a wide range of laws protecting intellectual, industrial and commercial property; acceptance of EU competition laws; joint approach to trade defence instruments; negotiations on opening up government procurements; ending of discriminatory taxation
Institutional Provisions	Establishment of a EC-Turkey Customs Union Joint Committee, consultation with Turkey on relevant new legislation
General and Final Provisions	Allows for a six-month delay in launching of the Customs Union

Sources:

IBS (1995)

EU-TURKEY ASSOCIATION COUNCIL (1995): Association entre la Communauté Européenne et la Turquie, Projet de PROCES-VERBAL de la 36ième session du Conseil d'Association C.E. - Turquie, Bruxelles, 6 Mars 1995: Projet de texte de décision Union douanière, 2 Mars 1995.

REPUBLIC OF TURKEY
 PRIME MINISTRY
 UNDERSECRETARIAT FOR FOREIGN TRADE
 GENERAL DIRECTORATE OF EU AFFAIRS

January 19, 1996

**LEGISLATIVE MEASURES IMPLEMENTED IN TURKEY
 ON COMPLETION OF THE CUSTOMS UNION**

Christiaan Kemper / Graduate Thesis / The Negotiations leading to Customs Union

MEASURES INTRODUCED BY TURKISH OFFICIAL GAZETTE DATED DECEMBER 28, 1995 NO: 22507

NAME OF LEGISLATION	OUTLINE
General Communication on Customs no: 10	Within the framework of the new system in trade of processed agricultural products, this Communication defines the rules and conditions for laboratory analysis in the calculation of the agricultural component.

MEASURES INTRODUCED BY TURKISH OFFICIAL GAZETTE DATED DECEMBER 29, 1995 NO: 22508

NAME OF LEGISLATION	OUTLINE
Communication amending the Customs Regulation on the Implementation of Customs Law no: 1615 and adding Annexes 64, 65 and 66 to the same Regulation	This Communication makes certain amendments to the existing Customs Regulation in order to eliminate any problems that may stem from the fact that the draft text amending the existing Customs Law in line with the Community Customs Code has not yet been ratified by the Parliament.
Regulation amending the Regulation on surveillance and safeguard measures on imports originating in certain third countries	Gloves with CN code 4203.29.21 and shoes with CN code 6403.59, which appeared in the list of products subject to surveillance on importation from the People's Republic of China in the earlier Regulation dated Nov. 1, 1995, were deleted from that list and added to the list of products subject to quantitative restrictions on imports from the same country.

NAME OF LEGISLATION	OUTLINE
<p>Communication no. 95/7 amending Communication 95/1 on importation of textile products from countries subject to quotas under a double-checking system and Communication 95/2 on distribution and management of the first portion of quotas</p> <p>Communication no. 95/8 amending Communication 95/3 on importation of textile products from countries subject to surveillance measures under a double-checking system and Communication 95/4 on importation of textile products from countries subject to surveillance measures under a single-checking system</p>	<p>Within the framework of the efforts carried out for Turkey's adoption of the Community's surveillance and safeguard measures applied on textiles and clothing products originating in third countries, for the time being Turkey will apply a double-checking system for imports from countries with which an agreement has been signed and a single-checking system for the remaining countries. As agreements are signed with new countries, a double-checking system will start to be implemented for imports originating in them.</p>

MEASURES INTRODUCED BY TURKISH OFFICIAL GAZETTE DATED DECEMBER 30, 1995 NO: 22509 bis

NAME OF LEGISLATION	OUTLINE
<p>Decision no. 95/7591 putting into force the Customs Tariff Code based on the Harmonized System Nomenclature</p>	<p>The new tariff Code introduces full harmonization with the Community's Combined Nomenclature on an 8-digit basis and redefines Turkey's duty rates in line with international obligations.</p>

MEASURES INTRODUCED BY TURKISH OFFICIAL GAZETTE DATED DECEMBER 31, 1995 NO: 22510

NAME OF LEGISLATION	OUTLINE
<p>Decision no. 95/7605 amending the Decision on surveillance and safeguard measures on imports of textile products originating in certain third countries not covered by bilateral agreements, protocols or other arrangements</p>	<p>Article 5 of Decision no. 95/6816, dated June 1, 1995, laying down the responsibilities of the Board established by that Decision have been reviewed.</p>
<p>Decision no. 95/7607 amending the Decision on surveillance and safeguard measures on imports of certain textile products</p>	<p>Article 5 of Decision no. 95/6815, dated June 1, 1995, laying down the responsibilities of the Board established by that Decision and Article 10 concerning urgent measures have been reviewed.</p>

NAME OF LEGISLATION	OUTLINE
Regulation no. 95/7608 on Protection of Turkey's Commercial Rights	This Regulation abrogates Decision no. 95/6817 on direct measures against unfair commercial practices of third countries. The new legislation introduces provisions that protect Turkey's rights in line with the guidelines set forth by the WTO.
<p>Decision no. 95/7614 on Exemption from Customs Duty for Certain Personal and Commercial Goods</p> <p>Communication no. 96/2 on Exemption from Customs Duty for Certain Personal and Commercial Goods</p> <p>Communication no. 96/1 on Exemption from Customs Duty for Certain Personal Goods</p>	These texts lay down the <u>conditions under which real persons can import private motor vehicles, etc., into Turkey free of customs duties.</u>
Decision no. 95/7615 on Inward Processing Regime (the Implementing Communication was published in the Official Gazette dated January 5, 1996, no. 22515)	This Decision establishes the basic principles of the system of inward processing and is aimed at Turkey's adoption of the corresponding Community regime laid down in the Community Customs Code.
Decision no. 95/7616 on the Establishment and Management of Quotas and Tariff Quotas on Exports	With this Decision, Turkey has taken the necessary steps to harmonize with the parallel Community legislation as set forth in Council Regulation no. 520/94.
Decision no. 95/7617 on Outward Processing Regime	This Decision establishes the basic principles of the system of outward processing.
Regulation amending the Regulation on surveillance and safeguard measures on imports of textile products originating in certain third countries not covered by bilateral agreements, protocols or other arrangements	Amendments were made in certain provisions and Annexes IA, IB, IV, V and IX of the Regulation which is the basic legislation in this field and which was published in the Official Gazette no. 22300 dated June 1, 1995.
Regulation amending the Regulation on surveillance and safeguard measures on imports of certain textile products	Annexes IVC and IVD of the basic Regulation published on June 1, 1995 have been abrogated, and some changes were made in the text.

MEASURES INTRODUCED BY TURKISH OFFICIAL GAZETTE DATED DECEMBER 31, 1995 NO: 22510 bis

NAME OF LEGISLATION	OUTLINE
Decision no. 95/7606 on the Import Regime; Regulation on Imports and Implementing Communications	The Import Regime terminates the use of import certificates, and gives all real and legal persons the right to make imports provided that they have a tax number. The regime also covers provisions aimed at harmonization with the Community legislation in the field of state monopolies of a commercial nature.

MEASURES INTRODUCED BY TURKISH OFFICIAL GAZETTE DATED JANUARY 6, 1996 NO: 22515

NAME OF LEGISLATION	OUTLINE
Decision no. 95/7623 on the Export Regime; Regulation on Exports and Implementing Communications	The regime reviews all measures aimed at promoting or restricting exports in line with the provisions laid down by the GATT and other international treaties. The Regime terminates the use of export certificates, and gives all real and legal persons the right to make imports provided that they have a tax number. The regime also covers provisions aimed at harmonization with the Community legislation in the field of state monopolies of a commercial nature.

Relations with TURKEY

An Overview

★ The European Community has contractual links with Turkey since 1963.

★ On 12 September 1963 the European Community signed an **Association Agreement** with Turkey aiming at establishing a customs union and in principle paving the way for accession.

On 1 December 1964, the Association Agreement entered into force for an unlimited period.

★ On 14 April 1987 **Turkey applied for membership**, and on 14 December 1989 the European Commission delivered its opinion on the application.

The opinion of the Commission did not lead to the opening of accession negotiations, but to a wider integration of Turkey into the overall economy of the European Union.

This would be further enhanced with the implementation of the final phase of the Customs Union.

Relations with Turkey

The Customs Union

Decision taken by the EC-Turkey Association Council

★ Entry into force

The decision of 6 March 1995 by the EC-Turkey Association council to move the final phase of the customs union received Parliamentary assent on 13 December 1995, enabling it to come into force on 31 December 1995.

The attached provisions on financial co-operation, political dialogue and institutional Cupertino came into force on the same date.

★ Customs & Legal content

★ The decision on customs union details the workings of the final phase, following the pattern set out in the 1960 Ankara Agreement and the additional Protocol of 1970, which provide for the following.

★ The decision on customs union details the workings of the final phase, following the pattern set out in the 1960 Ankara Agreement and the additional Protocol of 1970, which provide for the following.

- The immediate reciprocal abolition of customs duties and equivalent levies on

- manufactured goods. Processed agricultural goods are covered by special arrangements^{XXX} (Turkish customs duties to be phased out by 1999)
- ▬ The immediate reciprocal abolition of quantitative restrictions or equivalent measures on imports and exports on industrial goods. However, for the Community to abolish textile quotas on Turkey, the Turks will first be obliged to implement specific measures on competition, intellectual property and external textiles policy. Since Turkey has done that, the Community must abolish the quotas in order for the customs union to come into effect.
- Immediate adoption by Turkey of the common customs tariff (save for the few exceptions listed in the annex to the Association Council's Decision 2/95).
- ▬ The five-year phasing-in by Turkey of the Community's policy of trade preferences including the GSP, the tariff concessions for countries which have association agreements with the Community (including Cyprus), the Europe agreements, the Mediterranean partnership agreements, etc.
 - ▬ Immediate and full adoption by Turkey of the common commercial policy (especially external textiles policy). As regards motor vehicles, the Community and Turkey will exchange trade figures to avoid any circumvention of the agreement with Japan.
- Immediate adoption by Turkey of customs laws which conform to the Community Customs Code.
- ▬ The adoption by Turkey of existing Community competition law. Certain important provisions are to be adopted immediately (introduction of a competition law, establishment of a ruling body on competition, adoption of EC rules on state aid for the textile sector). The other provisions (aid for non-textiles industries, state monopolies, etc.) are to be adopted within two years of the entry into force on the customs union. The continuing use if need be of Community trade defence mechanisms pending actual Turkish implementation of competition laws comparable to those in the Community. Adoption by Turkey of existing Community law and some of the provisions of TRIPS relating to intellectual, industrial and commercial property. The most important elements are to be adopted immediately (accession to international conventions, adoption of EC copyright law, etc.) while the remaining provisions must be adopted within three years of the start of the customs union. Turkey must also make it possible for pharmaceutical procedures and products to be patented from 1 January 1999. An institutional consultation mechanism (including participation by Turkish experts in certain technical committees chaired by the Commission) to ensure that new Community laws are simultaneously adopted by Turkey in areas of relevance to the customs union (commercial policy and agreements with non-member countries which include provisions covering trade in industrial goods; legislation on competition and the protection of intellectual, industrial and commercial property; and customs law). Where Turkish and Community law differ, the Community shall have the option of taking any protection measures necessary. The same consultation mechanism shall be used *mutatis mutandis* where Turkey plans to take measures in areas covered by the decision on customs union.
- A general interpretative clause stipulating that the decision of 6 March must be interpreted in accordance with relevant judgements of the court of Justice of the European Communities.
- Postponement of full movement for farm produce to a later stage.

★ The decision does not deal with the right of establishment and provision of services or with the free movement of Turkish workers within the EU.

This issue remains subject to the provision of the Ankara Agreement and the Additional Protocol and to previous decisions of the Association Council.

★ Further Cooperation

★ Also agreed on 6 March was a resolution by the EC-Turkey Association Council to boost co-operation. It provides for the following. xxx

- The conclusion of a free-trade agreement for ECSC products. With negotiations completed, the agreement should come into force at the start of 1996.
- Mutually beneficial two-way concession on farm produce. Negotiations are still under way.
- Further political dialogue on all areas of interest to both sides and closer institutional co-operation.

★ Financial cooperation

★ In its financial declaration of 6 March, the Community undertook to resume financial cooperation with Turkey with the entry into force of the customs union.

From 1996, therefore, Turkey should receive ECU 375 million from the Community budget in a specially designed five-year scheme for the country, up to ECU 750 million of EIB loans over five years and MEDA financing.

The financial declaration also mentions the possibility of macroeconomic financial assistance for Turkey under set conditions if the country needs it.

☞ Relations with Turkey

The European Union in the World

xxxii

Relations with TURKEY
Statement
by Commissioner van den Broek
on Turkey

Strasbourg, Sept. 18, 1996

In the European Parliament, Foreign relations Commissioner Hans van den Broeck commented the relations of the European Union with Turkey :

xxxiii

"... The Customs Union, in place since January 1996, is functioning without too much obstacles. There where problems did arise, experts from both parties could solve them easily.

The trade exchanges have been increasing at the benefit of the European Union, while our imports from Turkey have also increased. Its micro-economic impact is difficult to assess already yet. However, it is clear, as expected, that the negative effects of the Customs Union on the Turkish national budget - resulting from substantially decreased custom revenues - have their full impact on the Turkish economy, which is already under pressure anyway.

Concerning the financial cooperation, the Irish Presidency has outlined the existing situation. The financial support as part of the Customs Union agreement of 6 March 1995 (ECU 375 million special aid + ECU 750 million EIB-loans) are still being blocked because of political reasons. The same applies for the balance of payment assistance, which was also foreseen at that time.

The only part of the five financial chapters earmarked for Turkey which is not blocked yet, concerns the eligibility of Turkey to get financing through the MEDA-programme.

Concerning the situation in relation to the democratic developments and the human rights in Turkey, I would like to underline ... that the results of the elections which took place by the end of 1995 still determine this situation. We all could notice that the government Yilmaz-Ciller, after a short period already, had to be replaced by a government with quite a different composition, namely the Islamic party of Mr Erbakan and the True Path Party of Mrs Ciller. These political changes have slowed down the economic and political developments in Turkey, in particular from the legislative point of view. As a result of that, several intentions of previous governments aiming at deepening democratisation, have not been transformed into legislation.

During the hunger strikes of (Kurdish) prisoners the Commission also intervened with Mrs Ciller. Eventually, we could subscribe to the solution which had been reached, although we deeply regretted the fact that meanwhile human lives had been lost.

The political situation in Turkey is complicated and at this moment, it is difficult to come to far-reaching conclusions concerning the direction Turkey will choose for its foreign policies, including its relations with Europe. We do insist very much that Turkey ceases to put further pressure on Greece concerning new territorial claims, military provocations or otherwise. Territorial claims have to be put before the International Court in The Hague.

We attach great importance to a good relationship with Turkey. It is an important country and consequently it bears a large responsibility for freedom and stability in its own country as well as in the region. We know and welcome the European orientation of successive Turkish governments. The Customs Union was meant to provide a signal of "rapprochement" in that direction.

The Commission does not and will not plead in favour of a policy of isolation towards Turkey. However, we are also of the view that our relations with Turkey urgently need new clear impulses from the Turkish side which would contribute to a climate, instrumental to find solutions for important problems already mentioned and which have a burden on the relations with Greece and the Union as a whole.

☞ [DG I.A HomePage](#)



EIB FINANCING IN TURKEY

Since 1963, the European Investment Bank (EIB), the European Union's long-term financing institution, has provided ECU 705 million towards key investments in Turkey. This finance has been made available under Financial Protocols attached to the EEC-Turkey Cooperation Agreement. The Agreement signalled the intention of Turkey and the EEC to strengthen economic and trade relations. It forms part of a wider European cooperation policy to develop relations with third countries in the Mediterranean region, complementary to the policies of individual European Union (EU) Member States.

While the EIB's activity is mainly concentrated within the Union, the Bank is also an important source of finance within the context of the EU's technical and development cooperation in Turkey and 11 other countries in the Mediterranean region.

In Turkey, and most of the Mashreq and Maghreb countries, the Bank's financing has been carried out under Financial Protocols which define the amount of funds to be made available, agreed by the EU and the country concerned. The amount available through the EIB consists of EIB loans and loans on special conditions from budgetary resources, managed by the EIB under mandate from the European Union. The Financial Protocols concerning EIB finance in Turkey are as follows :

- 1st - 1964-1969 : ECU 175 million loans on special conditions from budgetary resources.
- 2nd - 1973-1976 : Total of ECU 220 million, including ECU 25 million EIB loans and ECU 195 million Special loans from budgetary resources.
- Supplementary Protocol: ECU 29.2 millions loans on special conditions from budgetary resources.
- 3d - 1979- 1981 : Total of ECU 310 million, including ECU 90 million EIB loans and ECU 220 million Special loans from budgetary resources.

In Turkey, a total of ECU 705 million has so far been advanced by the EIB under Financial Protocols over the past 33 years to support projects in energy, industry and transport.

The Union's cooperation with the Mediterranean region was given fresh impetus with the launching, in 1992, of its **Redirected Mediterranean Policy**. The EIB is playing a key part in implementing the financial cooperation component of this policy, which foresees ECU 1.5 billion of EIB loans allocated bilaterally to specific beneficiary states under 5-year individual Financial Protocols. This is supplemented by a global "Horizontal" or "Outside - Protocol" facility of ECU 1.8 billion for the Mediterranean as a whole. The " Horizontal " facility is aimed at financing infrastructure projects with a regional dimension or interest, as well as projects to protect the environment, the latter attracting a 3 % interest rate subsidy on EIB loans, financed out of European Union budgetary resources.

In Turkey, ECU 93.5 million from the " Horizontal " facility was advanced in 1995 for the wastewater collection and treatment system in Antalya, on the south coast of Turkey, and for works to improve living-conditions in Ankara , and for interconnecting the Turkish

and Syrian electricity networks. The EIB supports the investments because of their environmental and regional benefit in the Mediterranean.

More than half of the EIB's finance, ECU 400 million, has gone towards development of Turkey's energy potential, for the construction of hydroelectric schemes in Eastern Anatolia mainly on the Euphrates, the exploitation of lignite deposits at Elbistan and improvements in the electricity transmission system, including the installation of a national electricity grid control centre, upgrading of the high-voltage supply grid and installation of new power lines to Ankara and Istanbul, as well as to regional interconnections.

Small and medium-sized industry projects have been financed through global loans to the Industrial Development Bank of Turkey (TSKB) and the Industrial Credit and Investment Bank (SYKB). Global loans are made available to financing intermediaries for on-lending in smaller amounts according to criteria established by the EIB for investment carried out by small and medium-sized enterprises.

Larger industrial projects, mainly involving paper, petrochemicals and fertiliser schemes have been financed directly by the EIB.

In the transport sector, amongst the projects supported by the EIB was the construction of the first Bosphorous suspension bridge and 19 km of associated link between Europe and Asia Minor. Finance also went towards the modernisation of the Turkish railway system through the construction and introduction of diesel locomotives, electrification of the Istanbul-Adapazari line. EIB financed also the purchase of aircrafts for domestic air services.

In the framework of the EU-Turkey Customs Union in force since the 1st January 1996, a "Special Action" financing package for the period 1996-2001 when approved, foresees ECU 750 million in EIB loans and ECU 375 million from budgetary funds for risk capital operations and interest rate subsidies for environmental projects.

With over ECU 3 billion lent between 1990 and 1995 in countries on the southern and eastern rims of the Mediterranean, the EIB is a major player in implementing the European Union's "Redirected Mediterranean Policy" and its priority goals which include **supporting the peace process in the Middle East**. Under this latter heading, the EIB has already made an appreciable contribution towards fostering the area's economic development, financing infrastructure, energy management and environmental protection investment in Egypt, Jordan and Israel.

February 1996

xxxiv

JA-STEMMER JA-STIMMEN ΥΠΕΡ FOR A FAVOR JAA-ÄÄNIA POUR FAVOREVOLI VOOR A FAVOR JA-RÖSTER

ARE : Barthet-Mayer, Castagnède, Dary, Dell'Alba, Ewing, Fouque, Laumière, Mamère, Pradier, Sainjon, Saint-Pierre, Sánchez Garcia

EDN : Berthu, Blokland, Fabre-Aubrespy, des Places, Poisson, Seillier, Souchet, Striby, van der Waal

ELDR : André-Léonard, Bertens, Boogerd-Quaak, Bossi, Brinkhorst, Capucho, Cars, Cox, De Clercq, De Melo, de Vries, Dybkjær, Eisma, Farassino, Fassa, Formentini, Gasóliba i Böhm, Gredler, Haarder, Järvihti, Kestelijn-Sierens, Kjer Hansen, Larive, Mendonça, Mulder, Neyts-Uyttebroeck, Nordmann, Olsson, Pelttari, Plooi-van Gorsel, Porto, Rehn Elisabeth, Rehn Olli, Riis-Jørgensen, Rynnänen, Spaak, Teverson, Vallvé, Vaz Da Silva, Väyrynen, Watson, Wiebenga, Wijsenbeek

NI : Amadeo, Angelilli, Bellere, Cellai, Muscardini, Musumeci, Nußbaumer, Pañgi, Rauti, Riess, Schreiner, Trizza

PPE : Alber, Añoberos Trias de Bes, Aretio Toledo, Arias Cañete, Banotti, Bardong, Baudis, Bébéar, Bennasar Tous, Berend, Bernard-Reymond, Bianco, Böge, Bourlanges, de Bremond d'Ars, Brok, Camisón Asensio, Campoy Zueco, Carlsson, Casini Carlo, Cassidy, Castagnetti, Cederschiöld, Chanterie, Crichtester, Colombo Svevo, Cornelissen, Corrie, Cushman, D'Andrea, De Esteban Martín, Deprez, Donnelly Brendan, Eoner, Elles, Estevan Boiea, Fabra Vallés, Ferber, Fernandez Martín, Ferrer, Ferni, Filippi, Fontaine, Fraga Estevez, Friedrich, Funk, Gaigg, Galeote Quecedo, García-Margallo y Marfil, Garriga Polledo, Gil-Robles Gil-Deigado, Glis, Glase, Goepel, Gomolka, Graziani, Grosch, Grossetête, Güntner, Hansch, Herman, Hernandez Mollar, Hoppenstedt, Jackson, Janssen van Raay, Jarzembowski, Jouppila, Keppeihoff-Wiechert, Kittelmann, Kläß, Koch, Konrad, Knstoffersen, König, Langen, Laurila, Lehne, Lenz, Lese, Linzer, Lucas Pires, Lulling, McCartin, McIntosh, McMillan-Scott, Maj-Weggen, Malangré, Mann Thomas, Martens, Mather, Matutes Juan, Mayer, Mendez de Vigo, Menrad, Mombaur, Mosiek-Urbahn, Nassauer, Nicholson, Oomen-Ruijten, Oostlander, Pack, Palacio Valledorsundi, Peijs, Perry, Pex, Plumb, Poettering, Poggolini, Posselt, Pronk, Provan, Quisthoudt-Rowohl, Rack, Reding, Rinsche, Robles Piquer, Rovsing, Rusanen, Salafranca Sánchez-Neyra, Schiedermeier, Schiembuer, Schleicher, Schlüter, Schnellhardt, Schröder, Schwaiger, Secchi, Sonneveld, Soulier, Spencer, Spindelegger Stasi, Stenmarck, Stevens, Stewart-Ciark, Sturdy, Theato, Thyssen, Tillich, Tindemans, Toivonen, Valdivielso de Cué, Valverde López, Varela Suanzes-Carpegna, van Velzen W.G., Verwaerde, Viola, Virgin

PSE : d'Ancona, Andersson Jan, Aparicio Sanchez, Apolinário, Baldarelli, Baffe, Barón Crespo, Barros-Moura, Billingham, van Biadél, Blak, Botz, Cabezón Alonso, Campos, Candal, Carro, Casticum, Caudron, Coates, Colajanni, Colino Salamanca, Collins Kenneth D., Coom i Naval, Correia, Cot, Crampton, Crawley, Crepaz, Cunningham, Dankert, David, De Coene, De Giovanni, Desama, Díez de Rivera Icaza, Dührkop Dührkop, Dury, Elliott, Evans, Fantuzzi, Fayot, Ford, Fritos Gama, García Anas, Gebhardt, Ghilardotti, Glante, Gonaon, González Triviño, Graenitz, Green, Gröner, Guigou, Hansch, Hailam, Hardstaff, Harrison, Haug, Hawlicek, Hendrick, Hindley, Hoff, Howitt, Hughes, Hume, Ivari, Imbeni, Izquierdo Colado, Izquierdo Rojo, Jensen Kirsten, Jóns, Kerr, Kindermann, Kinnock, Kouchner, Krehi, Kuckelkorn, Kuhn, Lage, Lange, Lindeberg, Linkohr, Lüttge, Loow, McCarthy, McGowan, McMahon, McNally, Malone, Mann Enka, Manzeila, Marinno, Mannucci, Martín David W., Medina Ortega, Megahy, Meier, Mendiluce Perero, Metten, Miller, Miranda de Lage, Morán López, Morgan, Murphy, Myller, Needle, Nenoni, Newens, Newman, Oddy, Paakkinen, Pérez Royo, Pery, Peter, Piecyk, Pons Grau, van Putten, Randzio-Plath, Rapkay, Read, Rehder, Ribeiro Moniz, Rocard, Rothe, Rothley, Rönnholm, Sakellariou, Sanz Fernández, Schäfer, Schiechter, Schmid, Schulz, Seal, Simpson, Sindal, Skinner, Speciale, Spiers, Stockmann, Tannert, Tappin, Terrón i Cusi, Thomas, Tomlinson, Tongue, Torres Marques, Trautmann, Truscott, Van Lancker, Vecchi, van Velzen Wim, Verde i Aldea, Waidehich, Walter, Watts, Weiler, Wemneuer, White, Whitehead, Wilson, Zimmermann

UPE : Cabrol, Caccavaie, Podesta', Scapagnini

V : Cohn-Bendit, van Dijk, Graefe zu Baringdorf, Hautala, Müller, Orlando

NEJ-STEMMER NEIN-STIMMEN KGTÚ AGAINST ENCONTRA EI-ÄÄNIA CONTRE CONTRARI TEGEN CONTRA NEJ-RÖSTER

ARE : Macartney

GUE/NGL : Theonas

NI : Antony, Biot, Dillen, Feret, Gollnisch, Lang Carl, Le Gallou, Le Pen, Le Rachinel, Martinez, Megret, Stirbois, Vanhecke

PPE : Argyros

PSE : Morris

UPE : Daskalaki, Kakkamanis

EDN : Bonde, de Gaulle, Krarup

ELDR : Goerens, Lindqvist, Moretti

GUE/NGL : Ainardi, Alavanos, Aramburu del Rio, Carnero González, Castellina, Elmala, Eriksson, Gutiérrez Díaz, Jové Peres, Maset Campos, Miranda, Novo, Papayannakis, Pettinari, Puerta, Ribeiro, Sierra González, Sjöstedt, Sornosa Martínez, Svensson, Vinci

PPE : Anastassopoulos, Christodoulou, Dimitrakopoulos, Habsburg, Hatzidakis, Imaz San Miguel, Kellert-Bowman, Lambrias, Moorhouse, Mouskouri, Saris, Trakatellis

PSE : Ahlqvist, Avgerinos, Barzanti, Bontempì, Bowe, Falconer, Katiforis, Klironomos, Kokkola, Kranidiotis, Lambraki, Lomas, Panagopoulos, Papakyriazis, Roth-Behrendt, Roubatis, Salisch, Smith, Stewart, Theorin, Tsatsos, Waddington, West, Wibe

UPE : Abovile, Arroni, Azzolini, Baldi, Bazin, Caligaris, Carrère d'Encausse, Chesa, Collins Gerard, Crowley, Danesin, Donnay, Fitzsimons, Florio, Fontana, Gallagher, Garosci, Giansily, Guinebertière, Hermange, Hyland, Jacob, Killilea, Ligabue, Malerba, Parodi, Pasty, Pompidou, Santini, Schaffner, Tajani, Todini, Viceconte, Vieira

V : Bloch von Blottnitz, Breyer, Gahrton, Holm, Kreissl-Dörfler, Lannoye, Lindholm, Ripa di Meana, Roth, Schoedter, Schörling, Sotwedel-Schäfer, Tamino, Telkämper, Ullmann, Wolf