

**FRAMEWORK AGREEMENT**

**ESTABLISHING A FREE TRADE AREA**

**BETWEEN**

**THE REPUBLIC OF TURKEY**

**AND**

**THE REPUBLIC OF KOREA**

## PREAMBLE

The Republic of Turkey and the Republic of Korea (hereinafter referred to as “the Parties” or “Turkey” or “Korea,” where appropriate);

RECOGNISING their longstanding and strong friendship based on common principles, values and history;

DESIRING to further strengthen their economic relationship as part of, and in a manner coherent with, their overall relations, and convinced that this Framework Agreement will create a new climate for the development of trade and investment between the Parties;

CONVINCED that this Framework Agreement will create an expanded and secure market for goods and services and a stable and predictable environment for investment, thus enhancing the competitiveness of their firms in global markets;

DESIRING to promote transparency for all interested parties;

SEEKING to establish clear and mutually advantageous rules governing their trade and investment and to reduce or eliminate the barriers to mutual trade and investment;

DESIRING to raise living standards, promote economic growth and stability, create new employment opportunities and improve the general welfare by liberalising and expanding mutual trade and investment;

DECLARING their readiness to undertake activities with a view to promoting harmonious development of their trade as well as to expanding and diversifying their mutual cooperation in the fields of joint interest, thus creating a framework and supportive environment based on equality, non-discrimination, and a balance of rights and obligations;

BUILDING on their respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994 and other multilateral, regional and bilateral agreements and arrangements to which they are party;

RESOLVED to contribute to the strengthening and reinforcement of the multilateral trading system as established through the World Trade Organization; and

DESIRING to strengthen the development and enforcement of labour and environmental laws and policies, promote basic workers’ rights and sustainable development;

HAVE AGREED as follows:

## CHAPTER 1 INITIAL PROVISIONS AND GENERAL DEFINITIONS

### ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

The Parties hereby establish a free trade area in accordance with this Framework Agreement.

### ARTICLE 1.2: OBJECTIVES

The objectives of the Turkey-Korea FTA are:

- (a) to gradually liberalise and facilitate substantially all trade in goods between the Parties in conformity with Article XXIV of “GATT 1994”;
- (b) to gradually liberalise trade in services and investment between the Parties, in conformity with Article V of “GATS”;
- (c) to promote competition in their economies, particularly as it relates to economic relations between the Parties;
- (d) to adequately and effectively protect intellectual property rights;
- (e) to contribute, by removing barriers to trade and by developing an environment conducive to increased investment flows, to the harmonious development and expansion of world trade;
- (f) to commit, in the recognition that sustainable development is an overarching objective, to the development of international trade in such a way as to contribute to the objective of sustainable development and strive to ensure that this objective is integrated and reflected at every level of the Parties’ trade relationship; and
- (g) to promote foreign direct investment without lowering or reducing environmental, labour or occupational health and safety standards in the application and enforcement of environmental and labour laws of the Parties.

### ARTICLE 1.3: GENERAL DEFINITIONS

For the purposes of this Framework Agreement, unless otherwise specified

**days** means calendar days;

**DSU** means *Understanding on Rules and Procedures Governing the Settlement of Disputes*, in Annex 2 to the WTO Agreement;

**existing** means in effect on the date of entry into force of this Framework Agreement;

**GATS** means the *General Agreement on Trade in Services*, in Annex 1B to the WTO Agreement;

**GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, in Annex 1A to the WTO Agreement;

**goods** means products as understood in GATT 1994;

**Joint Committee** means the Joint Committee established under Article 7.1 (Joint Committee);

**Turkey-Korea FTA** means the Turkey-Korea Free Trade Agreement established by this Framework Agreement and other relevant agreements stipulated in Article 1.4.2;

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

**national** means:

- (a) for Korea, a Korean national within the meaning of the *Nationality Act*; and
- (b) for Turkey, a Turkish citizen within the meaning of the *Turkish Constitution*;

**person** means a natural person or a juridical person;

**state enterprise** means an enterprise that is owned, or controlled through ownership interests, by a Party;<sup>1</sup>

**territory** means:

- (a) for Korea, the land, maritime, and airspace under its sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with international law and its law; and
- (b) for Turkey, the land territory, internal waters, the territorial sea and the airspace above them, as well as the maritime areas over which Turkey has sovereign rights or jurisdiction for the purpose of exploration, exploitation and preservation of natural resources whether living or non-living pursuant to international law;

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<sup>1</sup> For greater certainty, ownership, or control through ownership interests, may be direct or indirect.

**TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, in Annex 1C to the WTO Agreement;<sup>2</sup>

**WTO** means the World Trade Organization; and

**WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done on April 15, 1994.

#### ARTICLE 1.4: RELATION WITH OTHER AGREEMENTS

1. The Parties confirm their rights and obligations under the WTO Agreement and under any other international agreements to which they are a party.
2. The following agreements shall form part of legal instruments establishing the Turkey-Korea FTA upon their respective entry into force:
  - (a) this Framework Agreement;
  - (b) the Agreement on Trade in Goods under this Framework Agreement as provided for in Article 1.5.1;
  - (c) agreements on trade in services and on investment that may be concluded in accordance with Article 1.5.2 to Article 1.5.4; and
  - (d) any other agreements such as government procurement that may be concluded in the context of the Turkey-Korea FTA.
3. Except as otherwise provided in this Framework Agreement, this Framework Agreement or any action taken under it shall not affect or nullify the rights and obligations of a Party under the existing agreements to which it is a party.

#### ARTICLE 1.5: LIBERALISATION

1. The Parties shall gradually liberalise substantially all the trade in goods between the Parties over a transitional period starting from the date of entry into force of and in accordance with the Agreement on Trade in Goods under this Framework Agreement and in conformity with Article XXIV of GATT 1994.
2. The Parties shall gradually liberalise trade in services and investment between the Parties in conformity with Article V of GATS.
3. The Parties shall begin negotiations on agreements on trade in services and on investment immediately after entry into force of the Agreement on Trade in Goods.

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<sup>2</sup> For greater certainty, “TRIPS Agreement” includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

4. The Parties, without prejudging the outcome of the negotiations, shall facilitate negotiations on agreements on trade in services and investment under this Framework Agreement with a goal of concluding the negotiations no later than one year after entry into force of the Agreement on Trade in Goods.

#### ARTICLE 1.6: DISPUTE SETTLEMENT

1. Without prejudice to the outcome of negotiations on the agreements to be concluded stipulated in Article 1.4.2, any dispute concerning the interpretation, implementation or application of the Turkey-Korea FTA shall be resolved through the procedures and mechanism as set out in Chapter 6 (Dispute Settlement).

2. Notwithstanding paragraph 1, any disputes arising from paragraph 4 of Article 1.5 shall not be subject to Chapter 6 (Dispute Settlement).

## CHAPTER 2 INTELLECTUAL PROPERTY RIGHTS

### ARTICLE 2.1: GENERAL PROVISIONS

1. The Parties recognise the importance of intellectual property in promoting economic and social development, technological innovation, and the transfer and dissemination of technology to the mutual advantage of technology producers and users, particularly in the new digital economy.

2. The Parties shall ensure an adequate and effective implementation of the international treaties dealing with intellectual property to which they are party, including the TRIPS Agreement. This Chapter shall complement and specify the rights and obligations between the Parties under the TRIPS Agreement.

3. The objectives of this Chapter are:

- (a) to facilitate the production and commercialisation of innovative and creative products in the Parties; and
- (b) to achieve an adequate and effective level of protection and enforcement of intellectual property rights.

4. For the purposes of the Turkey-Korea FTA, intellectual property rights embody:

- (a) copyright, including copyright in computer programmes and in databases, and related rights;
- (b) patents and utility models;
- (c) trademarks;
- (d) service marks;
- (e) designs;
- (f) layout-designs (topographies) of integrated circuits;
- (g) geographical indications;
- (h) plant varieties; and
- (i) protection of undisclosed information.

5. The Parties agree to exchange views and information on their practices and policies affecting transfer of technology, both within their respective territories and with non-parties. This shall in particular include measures to facilitate information flows, business partnerships, licensing and subcontracting. Particular attention shall be paid to the conditions necessary to create an adequate enabling environment for technology transfer in

the host countries, including, *inter alia*, issues such as development of human capital and legal framework.

6. Nothing in this Chapter shall prevent a Party from adopting appropriate measures to prevent the abuse of intellectual property rights by right holders or the resort to practices that unreasonably restrain trade or adversely affect the international transfer of technology provided that such measures are consistent with the Turkey-Korea FTA.

7. The Parties shall provide the legal means for interested parties to prevent commercial use of country names of the other Party in relation to goods in a manner which is likely to mislead consumers as to the origin of such goods.

8. The Parties agree to cooperate with a view to supporting implementation of the commitments and obligations undertaken under this Chapter. Areas of cooperation include, but are not limited to, the following activities:

- (a) notification of contact points;
- (b) exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement;
- (c) exchange of experiences on legislative progress;
- (d) exchange of experiences on enforcement of intellectual property rights;
- (e) exchange of information regarding the intellectual property systems, aimed at promoting the efficient registration of industrial property rights;
- (f) capacity-building;
- (g) promotion and dissemination of information on intellectual property rights in, *inter alia*, business circles and civil society;
- (h) promotion of public awareness of consumers and right holders; and
- (i) other activities and initiatives as may be mutually determined between the Parties.

## ARTICLE 2.2: COPYRIGHT AND RELATED RIGHTS

### *Protection Granted*

1. The Parties shall comply with:

- (a) Articles 1 through 22 of the *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting*



*Organizations* (1961) (hereinafter referred to as the “Rome Convention”);

- (b) Articles 1 through 18 of the *Berne Convention for the Protection of Literary and Artistic Works* (1971) (hereinafter referred to as the “Berne Convention”);
- (c) Articles 1 through 14 of the *World Intellectual Property Organization* (hereinafter referred to as the “WIPO”) *Copyright Treaty* (1996) (hereinafter referred to as the “WCT”); and
- (d) Articles 1 through 23 of the *WIPO Performances and Phonograms Treaty* (1996) (hereinafter referred to as the “WPPT”).

#### *Protection of Technological Measures*

2. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by right holders of any copyright or related rights in connection with the exercise of their rights under each Party’s domestic laws and that restrict acts, in respect of their works or other subject matters, which are not authorised by the right holders of copyright or related rights concerned or permitted by the law of a Party.

#### *Protection of Rights Management Information*

3. Each Party shall provide adequate legal protection against any person knowingly performing without authority any of the following acts:

- (a) the removal or alteration of any electronic rights management information; or
- (b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under the Turkey-Korea FTA from which electronic rights management information has been removed or altered without authority,

if such person knows, or has reasonable grounds to know, that by doing so it is inducing, enabling, facilitating or concealing an infringement of any copyright or any rights related to copyright as provided by the law of the relevant Party.

4. For the purposes of the Turkey-Korea FTA, **rights management information** means any information provided by right holders which identifies the work or other subject matter referred to in the Turkey-Korea FTA, the author or any other right holder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information.

5. Paragraph 4 shall apply when any of these items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in the Turkey-Korea FTA.

#### ARTICLE 2.3: TRADEMARKS

1. Each Party may provide that trademarks include certification marks or guarantee marks.

2. Each Party shall provide that the owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs, at least for goods or services that are identical or similar to those goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign, for identical goods or services, a likelihood of confusion shall be presumed.

3. Each Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

4. Both Parties reaffirm the obligations under the *Paris Convention for the Protection of Industrial Property* (1967) and the TRIPS Agreement with respect to protection of well-known marks<sup>3</sup>. Additionally, for the protection of well-known marks with respect to identical or similar goods or services, neither Party shall deny remedies or relief solely because of the lack of:

- (a) a registration;
- (b) inclusion on a list of well-known marks; or
- (c) prior recognition of the mark as well-known.

5. Each Party shall provide a system for the registration of trademarks in which the reasons for a refusal to register a trademark shall be communicated in writing and may be provided electronically to the applicant or his/her representative who will have the opportunity to contest such refusal and to appeal a final refusal judicially. Each Party shall also introduce the possibility to oppose trademark applications. The Parties shall provide a publicly available electronic database of trademark applications and trademark registrations.

6. Each Party shall provide that initial registration and each renewal of registration of a trademark shall be for a term of no less than 10 years.

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<sup>3</sup> For the purposes of determining whether a mark is well-known, neither Party shall require that the reputation of the trademark extend beyond the sector of the public that normally deals with the relevant goods or services.

7. Each Party shall provide a system that permits owners to assert rights in marks, and interested parties to challenge rights in marks, through administrative or judicial means, or both.

#### ARTICLE 2.4: PROTECTION OF GEOGRAPHICAL INDICATIONS

1. With the recognition of the importance of the protection of geographical indications, each Party shall provide a system for the protection of geographical indications in accordance with Section 3, Part II of the TRIPS Agreement regarding Geographical Indications and protect the geographical indications of the other Party in accordance with its legislation.

2. The names listed in the Turkish List of Annex 2 are geographical indications which have been registered under Turkey's relevant laws, within the meaning of paragraph 1 of Article 22 of the TRIPS Agreement. Subject to Korea's laws and regulations, in a manner that is consistent with the TRIPS Agreement, such names will be protected as geographical indications in the territory of Korea.

3. The names listed in the Korean List of Annex 2 are geographical indications which have been registered under Korea's relevant laws, within the meaning of paragraph 1 of Article 22 of the TRIPS Agreement. Subject to Turkey's laws and regulations, in a manner that is consistent with the TRIPS Agreement, such names will be protected as geographical indications in the territory of Turkey.

4. The Parties shall enter into consultations to protect additional geographical indications, at the request of any Party, after the entry into force of this Framework Agreement. As a result of these consultations, the Parties shall protect, under the terms stated in the Turkey-Korea FTA, such geographical indications.

#### ARTICLE 2.5: ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

1. Each Party shall establish provisions for the enforcement of intellectual property rights in its domestic laws in accordance with the TRIPS Agreement, in particular Articles 41 through 61.

2. Without prejudice to its domestic laws, each Party shall provide measures to curtail repeated copyright and related rights infringement on the internet.

#### ARTICLE 2.6: MONITORING AND REVIEW

1. The implementation of this Chapter shall be regularly monitored by the Parties. If problems in the area of intellectual property affecting trading conditions were to occur, consultations in the Joint Committee shall be undertaken, on request of a Party, with a view to reaching mutually satisfactory solutions.

2. In pursuance of the objectives of this Chapter, the Parties shall enter into consultations with a view to reviewing the overall implementation of this Chapter and

achieving a higher level of intellectual property rights protection, on request of a Party, after three years from the date of entry into force of this Framework Agreement.

**ANNEX 2**  
**GEOGRAPHICAL INDICATIONS**

**PART A. GEOGRAPHICAL INDICATIONS OF TURKEY**

<b>Name to be protected</b>	<b>Product</b>	<b>Transcription into Korean alphabet</b>
Hereke carpet	Carpet	□□□ □□/□□□ □□□
Bünyan carpet	Carpet	□□ □□/□□ □□□

**PART B. GEOGRAPHICAL INDICATIONS OF KOREA**

<b>Name to be protected</b>	<b>Product</b>	<b>Transcription into Latin alphabet</b>
□□□□ (Korean Red Ginseng)	Red Ginseng	Goryeo Hongsam
□□□□ (Korean White Ginseng)	White Ginseng	Goryeo Baeksam

## CHAPTER 3 COMPETITION

### ARTICLE 3.1: DEFINITIONS

For the purposes of this Chapter

**competition laws** means

- (a) for Turkey, *Act No 4054 on the Protection of Competition*, and its implementing regulations and amendments;
- (b) for Korea, *the Monopoly Regulation and Fair Trade Act* and its implementing regulations and amendments; and
- (c) any changes that instruments set out in this Article may undergo after this Framework Agreement enters into force.

**anti-competitive practices** means

- (a) agreements and concerted practices<sup>4</sup> between undertakings, decisions and practices by associations of undertakings, which have as their object or effect the prevention, restriction or distortion of competition in the territory of either Party;
- (b) any abuse by one or more undertakings of a dominant position in the territory of either Party; or
- (c) concentrations between undertakings, which significantly lessen competition, in particular as a result of the creation or strengthening of a dominant position in the territory of either Party.

### ARTICLE 3.2: PRINCIPLES

1. The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties undertake to apply their respective competition laws so as to prevent the benefits of the trade liberalisation process from being removed or eliminated by anti-competitive practices.

2. The Parties shall maintain in their respective territories comprehensive competition laws which effectively address restrictive agreements, concerted practices and abuse of dominant position, and which provide effective control of concentrations between undertakings.

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<sup>4</sup> The application of this Chapter to concerted practices is determined by each Party's competition laws.

### ARTICLE 3.3: IMPLEMENTATION

1. The Parties shall maintain an authority responsible and appropriately equipped for the implementation of the competition laws.
2. The Parties recognise the importance of applying their respective competition laws in a transparent, timely and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the parties concerned.

### ARTICLE 3.4: COOPERATION

1. The Parties recognise the importance of cooperation and coordination between their respective competition authorities to further enhance effective competition law enforcement and to fulfil the objectives of the Turkey-Korea FTA.
2. The Parties shall cooperate in relation to their respective enforcement policies and in the enforcement of their respective competition laws, including through notification, consultation and exchange of non-confidential information.

### ARTICLE 3.5: CONSULTATION

1. To foster mutual understanding between the Parties, or to address specific matters that arise under this Chapter and without prejudice to the autonomy of each Party to develop, maintain and enforce its competition laws and policies, each Party shall, upon request of the other Party, enter into consultations on issues raised by the other Party.
2. The Party to which a request for consultations has been addressed shall give full and sympathetic consideration to the concerns of the other Party.

### ARTICLE 3.6: NOTIFICATION

1. Each Party shall, through its competition authority, notify the competition authority of the other Party of an enforcement activity regarding anti-competitive practices if it considers that such enforcement activity may substantially affect important interests of the other Party.
2. Provided that it is not contrary to the Parties' competition laws and does not affect any investigation being carried out, the notification shall take place at an early stage of the enforcement activity.

### ARTICLE 3.7: CONFIDENTIALITY

1. The competition authority of a Party shall, upon request of the competition authority of the other Party, endeavour to provide information to facilitate effective enforcement of their respective competition laws, provided that it does not affect any

ongoing investigation and is compatible with the rules and standards of confidentiality of each Party.

2. The competition authority of each Party shall maintain the confidentiality of any information provided in confidence by the competition authority of the other Party and shall not disclose such information to any entity that is not authorised by the competition authority providing the information.

#### ARTICLE 3.8: STATE ENTERPRISES

1. Each Party shall ensure that state enterprises are subject to their respective competition laws and do not adopt or maintain any anti-competitive practices that affect trade between the Parties, insofar as the application of this provision does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

2. Nothing in paragraph 1 shall be construed to prevent a Party from establishing or maintaining state enterprises.

#### ARTICLE 3.9: DISPUTE SETTLEMENT

Neither Party shall have recourse to Chapter 6 (Dispute Settlement) for any matter arising under this Chapter.



## CHAPTER 4 TRANSPARENCY

### ARTICLE 4.1: EXCHANGE OF INFORMATION

1. On request of the other Party, and to the extent possible under its domestic legislation, a Party shall promptly provide information and reply to any question from the requesting Party relating to an actual or proposed measure that might substantially affect the operation of the Turkey-Korea FTA.
2. The information referred to under this Chapter shall be considered to have been provided when the information has been made available by appropriate notification to the WTO or when the information has been made available on the official, public and fee-free accessible website of the Party concerned.
3. Nothing in the Turkey-Korea FTA shall require any Party to disclose confidential information, the disclosure of which would impede law enforcement, otherwise be contrary to the public interest or prejudice the legitimate commercial interests of any economic operator.
4. In the case of any inconsistency between the provisions of this Chapter and provisions relating to transparency in other Chapters of the Turkey-Korea FTA, the latter shall prevail to the extent of the inconsistency.

### ARTICLE 4.2: PUBLICATION AND ADMINISTRATIVE PROCEEDINGS

1. For the purposes of this Article, **interested person** means any natural or juridical person that may be subject to any rights or obligations under measures of general application within the meaning of paragraph 2.
2. Each Party shall exert its best efforts to ensure that its laws, regulations and administrative rulings of general application relating to trade matters covered by the Turkey-Korea FTA, are promptly published or made publicly available.
3. To the extent possible under its domestic legislation, each Party shall provide interested persons and the other Party reasonable prior notice of measures to implement its laws, regulations and administrative rulings of general application relating to trade matters covered by the Turkey-Korea FTA, and a reasonable opportunity to comment on such measures on request of the other Party.

### ARTICLE 4.3: REVIEW AND APPEAL

Without prejudice to its domestic legislation:

- (a) Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, correction of administrative action relating

to matters covered by the Turkey-Korea FTA. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

- (b) Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:
  - (i) a reasonable opportunity to support or defend their respective positions; and
  - (ii) a decision based on the evidence and submissions on record or, where required by its domestic legislation, the record compiled by the administrative authority.
- (c) Each Party shall ensure, subject to appeal or further review as provided for in its domestic legislation, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

## CHAPTER 5 TRADE AND SUSTAINABLE DEVELOPMENT

### ARTICLE 5.1: CONTEXT AND OBJECTIVES

1. Recalling *Agenda 21 on Environment and Development of 1992*, the *Johannesburg Plan of Implementation on Sustainable Development of 2002*, and the *2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work*, the Parties reaffirm their commitments to promoting the development of international trade in such a way as to contribute to the objective of sustainable development and shall strive to ensure that this objective is integrated and reflected at every level of their trade relationship.
2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development. They underline the benefit of cooperation on trade-related social and environmental issues as part of a global approach to trade and sustainable development.
3. The Parties recognise that it is not their intention in this Chapter to harmonise the environment or labour standards of the Parties, but to strengthen their trade relations and cooperation in ways that promote sustainable development in the context of paragraphs 1 and 2.

### ARTICLE 5.2: SCOPE

1. Except as otherwise provided in this Chapter, this Chapter applies to measures adopted or maintained by the Parties affecting trade-related aspects of environmental and labour<sup>5</sup> issues in the context of Articles 5.1.1 and 5.1.2.
2. The Parties stress that environmental and labour standards should not be used for protectionist trade purposes. The Parties note that their comparative advantage should in no way be called into question.

### ARTICLE 5.3: RIGHT TO REGULATE AND LEVELS OF PROTECTION

Recognising the right of each Party to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, each Party shall seek to ensure that those laws and policies provide for and encourage high levels of environmental and labour protection, consistent with the internationally recognised standards or agreements referred to in Articles 5.4 and 5.5, and shall strive to continue to improve those laws and policies.

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<sup>5</sup> When labour is referred to in this Chapter, it includes the issues relevant to the *Decent Work Agenda* as agreed on in the International Labour Organization (hereinafter referred to as the “ILO”) and in the *2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work*.

#### ARTICLE 5.4: MULTILATERAL LABOUR STANDARDS AND AGREEMENTS

1. The Parties recognise the value of international cooperation and agreements on employment and labour affairs as a response of the international community to economic, employment and social challenges and opportunities resulting from globalisation. They commit to consulting and cooperating as appropriate on trade-related labour and employment issues of mutual interest.
2. The Parties reaffirm the commitment, under the *2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work*, to recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all, including men, women and young people.
3. The Parties, in accordance with the obligations deriving from membership of the ILO and the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*, adopted by the International Labour Conference at its 86th Session in 1998, commit to respecting, promoting and realising, in their laws and practices, the principles concerning the fundamental rights, namely:
  - (a) freedom of association and the effective recognition of the right to collective bargaining;
  - (b) the elimination of all forms of forced or compulsory labour;
  - (c) the effective abolition of child labour; and
  - (d) the elimination of discrimination in respect of employment and occupation.
4. The Parties reaffirm the commitment to effectively implementing the ILO Conventions that Turkey and Korea have ratified respectively.

#### ARTICLE 5.5: MULTILATERAL ENVIRONMENTAL AGREEMENTS

1. The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems and they commit to consulting and cooperating as appropriate with respect to negotiations on trade-related environmental issues of mutual interest.
2. The Parties reaffirm their commitment to the effective implementation in their laws and practices of the multilateral environmental agreements to which they are party.
3. The Parties reaffirm their commitment to reaching the ultimate objective of the *United Nations Framework Convention on Climate Change and its Kyoto Protocol*. The

Parties commit to cooperating on the development of the future international climate change framework in accordance with the *Bali Action Plan*.<sup>6</sup>

#### ARTICLE 5.6: TRADE FAVOURING SUSTAINABLE DEVELOPMENT

1. The Parties reconfirm that trade should promote sustainable development in all its dimensions. The Parties recognise the beneficial role that core labour standards and decent work can have on economic efficiency, innovation and productivity, and the Parties highlight the value of greater policy coherence between trade policies, on the one hand, and employment and labour policies on the other.

2. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services, including environmental technologies, sustainable renewable energy, energy-efficient products and services and eco-labelled goods, including through addressing related non-tariff barriers. The Parties shall strive to facilitate and promote trade in goods that contribute to sustainable development, including goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability.

#### ARTICLE 5.7: UPHOLDING LEVELS OF PROTECTION IN THE APPLICATION AND ENFORCEMENT OF LAWS, REGULATIONS OR STANDARDS

1. Each Party shall not fail to effectively enforce its environmental and labour laws, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties.

2. Each Party shall not weaken or reduce the environmental or labour protections afforded in its laws to encourage trade or investment, by waiving or otherwise derogating from, or offering to waive or otherwise derogate from, its laws, regulations or standards, in a manner affecting trade or investment between the Parties.

#### ARTICLE 5.8: SCIENTIFIC INFORMATION

The Parties recognise the importance, when preparing and implementing measures aimed at protecting the environmental and social conditions that affect trade between the Parties, of taking account of scientific and technical information, and relevant international standards, guidelines or recommendations.

#### ARTICLE 5.9: TRANSPARENCY

The Parties, in accordance with their respective domestic laws, agree to develop, introduce and implement any measures aimed at protecting the environment and labour conditions that affect trade between the Parties in a transparent manner.

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<sup>6</sup> UNFCCC Decision-1/CP.13 adopted by the 13th session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.

## ARTICLE 5.10: COOPERATION

1. Recognising the importance of cooperating on trade-related aspects of social and environmental policies in order to achieve the objectives of the Turkey-Korea FTA, the Parties commit to initiating cooperative activities as set out in paragraph 2.

2. In order to promote the achievement of the objectives of this Chapter and to assist in the fulfilment of their obligations pursuant to it, the Parties have established the following indicative list of areas of cooperation:

- (a) exchange of views on the positive and negative impacts of the Turkey-Korea FTA on sustainable development and ways to enhance, prevent or mitigate them, taking into account sustainability impact assessments carried out by the Parties;
- (b) cooperation in international fora responsible for social or environmental aspects of trade and sustainable development, including in particular the WTO, the ILO, *the United Nations Environment Programme* and multilateral environmental agreements;
- (c) cooperation with a view to promoting the ratification of fundamental and other ILO Conventions and multilateral environmental agreements with an impact on trade;
- (d) exchange of information and cooperation on corporate social responsibility and accountability, including on the effective implementation and follow-up of internationally agreed guidelines, fair and ethical trade, private and public certification and labelling schemes including eco-labelling, and green public procurement;
- (e) exchange of views on the trade impact of environmental regulations, norms and standards;
- (f) cooperation on trade-related aspects of the current and future international climate change regime, including issues relating to global carbon markets, ways to address adverse effects of trade on climate, as well as means to promote low-carbon technologies and energy efficiency;
- (g) cooperation on trade-related aspects of biodiversity including in relation to biofuels;
- (h) cooperation on trade-related measures to promote sustainable fishing practices;
- (i) cooperation on trade-related measures to tackle deforestation including by addressing problems regarding illegal logging;

- (j) cooperation on trade-related aspects of multilateral environmental agreements, including customs cooperation;
- (k) cooperation on trade-related aspects of the ILO *Decent Work Agenda*, including on the inter-linkages between trade and full and productive employment, labour market adjustment, core labour standards, labour statistics, human resources development and life-long learning, social protection and social inclusion, social dialogue and gender equality;
- (l) exchange of views on the relationship between multilateral environmental agreements and international trade rules;
- (m) exchange of information and cooperation on the prevention of industrial pollution and best practice techniques; and
- (n) other forms of environmental cooperation as the Parties may deem appropriate.

3. The Parties shall exert their best efforts to ensure that the applications and benefits of cooperative activities between them are as broad as possible.

#### ARTICLE 5.11: CONTACT POINTS

1. For the purpose of implementing this Chapter, the Parties hereby establish the following contact points for environment and labour issues respectively:

- (a) for Turkey: Ministry of Environment and Urbanisation and Ministry of Labour and Social Security, or their successors; and
- (b) for Korea: Ministry of Environment and Ministry of Employment and Labor, or their successors.

2. To the extent possible under its domestic legislation, each Party shall provide information through its contact point on the request of the other Party and reply promptly to any question from the other Party relating to this Chapter. Each Party shall notify the other Party of any changes of its contact point in due time.

#### ARTICLE 5.12: INSTITUTIONAL MECHANISM AND DISPUTE SETTLEMENT

1. On request of a Party, the Joint Committee may decide to establish a committee or working groups to deal with any matter of mutual interest arising under this Chapter.

2. The committee or working groups to be established pursuant to paragraph 1 shall comprise officials from the relevant ministries of each Party.

3. Neither Party shall have recourse to Chapter 6 (Dispute Settlement) for any matter arising under this Chapter.

## **CHAPTER 6 DISPUTE SETTLEMENT**

### **ARTICLE 6.1: OBJECTIVE**

1. The objective of this Chapter is to avoid and settle any dispute between the Parties concerning the good faith application of the Turkey-Korea FTA and to arrive, where possible, at a mutually agreed solution.
2. The Parties shall at all times endeavour to agree on the interpretation and application of the Turkey-Korea FTA, and shall make every attempt through cooperation and consultations to avoid and settle disputes between the Parties and to arrive at a mutually satisfactory resolution of any matter that might affect the operation of the Turkey-Korea FTA.

### **ARTICLE 6.2: SCOPE**

This Chapter shall apply to any dispute concerning the interpretation and application of the Turkey-Korea FTA, unless otherwise provided.

### **ARTICLE 6.3: CHOICE OF DISPUTE SETTLEMENT PROCEDURE**

1. Recourse to the dispute settlement provisions of this Chapter shall be without prejudice to any action in the WTO framework, including dispute settlement action.
2. However, where a Party has, with regard to a particular measure, initiated a dispute settlement proceeding, either under this Chapter or under the WTO Agreement, it shall not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has been concluded. In addition, unless the forum selected fails for procedural or jurisdictional reasons, a Party shall not subsequently initiate dispute settlement proceedings in the other forum, if an obligation is identical under the Turkey-Korea FTA and under the WTO Agreement.
3. For the purposes of paragraph 2:
  - (a) dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the DSU and are deemed to be concluded when the Dispute Settlement Body adopts the Panel's report, and the Appellate Body's report as the case may be, under Articles 16 and 17.14 of the DSU; and
  - (b) dispute settlement proceedings under this Chapter are deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 6.5.1 and are deemed to be concluded when the arbitration panel issues its ruling to the Parties and to the Joint Committee under Article 6.10.3.



#### ARTICLE 6.4: CONSULTATIONS

1. Each Party may request consultations with respect to any matter relating to the interpretation and application of the Turkey-Korea FTA, pursuant to Article 6.2.
2. In order to initiate the consultation procedure, a Party shall deliver written notification to the other Party, stating the reasons for the request, including the identification of the measure at issue and an indication of the legal basis for the complaint. A copy of the request for consultations shall be delivered to the Joint Committee.
3. The Party to which the request for consultations is made shall reply within 10 days of the date of receipt.
4. These consultations shall take place within 30 days of the date of receipt of the request for consultations. Consultations shall take place, unless the Parties agree otherwise, in the territory of the Party complained against.
5. Upon initiation of consultations, the Parties shall provide information to enable the examination of how the measure at issue might affect the interpretation and application of the Turkey-Korea FTA, and give confidential treatment to the information exchanged during consultations.
6. Consultations under this Article shall be confidential and without prejudice to the rights of either Party in any further proceedings.

#### ARTICLE 6.5: ESTABLISHMENT OF THE ARBITRATION PANEL

1. If the Parties do not reach a mutually satisfactory solution within 30 days of the date of receipt of the request for the consultations, the complaining Party may request the establishment of an arbitration panel.
2. The request for the establishment of an arbitration panel shall be made in writing to the Party complained against and the Joint Committee. The complaining Party shall identify in its request, the specific measure at issue, the legal basis of the complaint including any provision of the Turkey-Korea FTA, and the factual basis for the complaint.
3. The establishment of an arbitration panel shall not be requested on any matter relating to a proposed measure.

#### ARTICLE 6.6: TERMS OF REFERENCE OF THE ARBITRATION PANEL

Unless the Parties otherwise agree, within 20 days of the date of receipt of the request for the establishment of the arbitration panel, the terms of reference of the arbitration panel shall be:

“To examine, in the light of the relevant provisions of the Turkey-Korea FTA, the matter referred to in the request for the establishment of an arbitration panel

pursuant to Article 6.5, to make findings together with the reasons on the compatibility of the measure with the Turkey-Korea FTA, and to issue a written report containing the reasons for the findings for the resolution of the dispute.”

#### ARTICLE 6.7: COMPOSITION OF THE ARBITRATION PANEL

1. An arbitration panel shall consist of three arbitrators.
2. Each Party shall appoint one arbitrator, who may be its national, within 20 days of the date of receipt of the request for the establishment of the arbitration panel. The Parties shall agree on and appoint the third arbitrator, who shall be the chairperson of the arbitration panel, within 45 days of the date of receipt of the request for the establishment of the arbitration panel, taking into account the list established pursuant to paragraph 4. If the Parties fail to agree on and appoint the third arbitrator within 45 days, the third arbitrator shall be chosen within seven days by lot from the list established pursuant to paragraph 4. The selection shall be done by the chairperson of the Joint Committee, in the presence of representatives of each Party.
3. The date of establishment of an arbitration panel shall be the date on which the three arbitrators are appointed.
4. The Joint Committee shall, in its first meeting, establish a list of 10 individuals who are willing and able to serve as third arbitrator. The Joint Committee shall ensure that the list always contains 10 individuals at any point in time. These individuals shall not be a national of either Party, nor have his or her permanent place of residence in either Party, nor be employed by either Party, nor have dealt with the dispute in any capacity.
5. All arbitrators shall have specialised knowledge or experience in law, international trade or other matters relating to the Turkey-Korea FTA, or in the resolution of disputes arising under international trade agreements. Each arbitrator shall be independent, serve in their individual capacities and not be affiliated with, nor take instructions from, any Party or organisation related to the dispute, and shall comply with Annex 6-B.
6. Where a Party considers that an arbitrator does not comply with the requirements of Annex 6-B, the Parties shall consult and, if so agreed, the Parties shall replace that arbitrator in accordance with paragraph 7.
7. If an arbitrator appointed under this Article becomes unable to participate in the proceeding or resigns, or is to be replaced according to paragraph 6, a successor shall be selected within 10 days in accordance with the selection procedure followed to select that arbitrator. The successor shall have all the powers and duties of the original arbitrator. The work of the arbitration panel shall be suspended for a period beginning on the date the arbitrator becomes unable to participate in the proceeding, resigns, or is to be replaced according to paragraph 6. The work of the arbitration panel shall resume on the date the successor is appointed.

## ARTICLE 6.8: PROCEEDINGS OF THE ARBITRATION PANEL

1. The arbitration panel shall meet in closed session, unless the Parties decide otherwise.
2. The Parties shall be given the opportunity to provide at least one written submission and to attend any of the presentations, statements or rebuttals in the proceedings. All information or written submissions submitted by a Party to the arbitration panel, including any comments on the interim report and responses to questions put by the arbitration panel, shall be made available to the other Party.
3. A Party asserting that a measure of the other Party is inconsistent with the Turkey-Korea FTA shall have the burden of establishing such inconsistency. A Party asserting that a measure is subject to an exception under the Turkey-Korea FTA shall have the burden of establishing that the exception applies.
4. The arbitration panel should consult with the Parties as appropriate and provide adequate opportunities for the development of a mutually satisfactory resolution.
5. The arbitration panel shall aim to make its decisions, including its report, by consensus but may also make its decisions, including its report, by majority vote.
6. On request of a Party or on its own initiative and subject to such terms and conditions as the Parties may agree within 10 days of the date of establishment of the arbitration panel, the arbitration panel may seek information from any relevant source and may consult experts to obtain their opinion or advice on certain aspects of the matter. The arbitration panel shall provide the Parties with a copy of any advice or opinion obtained and an opportunity to provide comments.
7. The deliberations of the arbitration panel and the documents submitted to it shall be kept confidential.
8. Notwithstanding paragraph 7, either Party may make public statements as to its views regarding the dispute, but shall treat as confidential information and written submissions submitted by the other Party to the arbitration panel which the other Party has designated as confidential. Where a Party has provided information or written submissions designated to be confidential, that Party shall, within 20 days of a request of the other Party, provide a non-confidential summary of the information or written submissions which may be disclosed publicly.
9. Each Party shall bear its own expenses and the cost of the arbitrator it appoints pursuant to Article 6.7.2. The cost of the chairperson of an arbitration panel and other expenses associated with the conduct of the proceedings shall be borne by the Parties in equal shares. The costs and expenses of the arbitrators shall normally conform to WTO standards.

#### ARTICLE 6.9: SUSPENSION OR TERMINATION OF PROCEEDINGS

1. The Parties may agree that the arbitration panel suspend its work at any time for a period not exceeding 12 months from the date of such agreement. In the event of such a suspension, the time-frames regarding the work of the arbitration panel shall be extended by the amount of time that the work was suspended. If in any case, the suspension of the work of the arbitration panel exceeds 12 months, the authority for the establishment of the arbitration panel shall lapse unless the Parties agree otherwise. This lapse shall not prejudice to the rights of the complaining Party to request, at a later stage, the establishment of an arbitration panel on the same subject matter.
2. The Parties may agree to terminate the proceedings of the arbitration panel by jointly so notifying the chair of the arbitration panel at any time before the issuance of the final report to the Parties.

#### ARTICLE 6.10: ARBITRATION PANEL REPORT

1. The arbitration panel shall issue to the Parties an interim report setting out the findings of facts, the applicability of the relevant provisions and the basic rationale behind any findings within 90 days of the date of establishment of the arbitration panel. If the Parties agree, the interim report may also contain recommendations. Where the arbitration panel considers that this deadline cannot be met, the chairperson of the arbitration panel must notify the Parties and the Joint Committee in writing, stating the reasons for the delay and the date on which the panel plans to issue its interim report. Under no circumstances should the interim report be issued later than 120 days after the date of the establishment of the arbitration panel.
2. Any Party may submit a written request for the arbitration panel to review precise aspects of the interim report within 14 days of the issuance of the interim report. After considering any written comments by the Parties on the interim report, the arbitration panel may modify its report and make any further examination it considers appropriate.
3. The arbitration panel shall issue its final report to the Parties and to the Joint Committee within 120 days of the date of the establishment of the arbitration panel. Where the arbitration panel considers that this deadline cannot be met, the chairperson of the arbitration panel shall notify the Parties and the Joint Committee in writing, stating the reasons for the delay and the date on which the panel plans to issue its ruling. Under no circumstances should the ruling be issued later than 150 days after the date of the establishment of the arbitration panel.
4. The report of the arbitration panel shall be drafted without the presence of the Parties. The arbitration panel shall base its report on the relevant provisions of the Turkey-Korea FTA, and the submissions and arguments of the Parties, and may take into account any other relevant information provided to the arbitration panel.
5. Arbitration panels shall interpret the Turkey-Korea FTA, in accordance with customary rules of interpretation of public international law and due account being taken of the fact that the Parties shall perform the Turkey-Korea FTA, in good faith and avoid circumvention of their obligations.

6. On matters of urgency, including those regarding perishable goods, the arbitration panel shall make every effort to issue its interim and final reports to the Parties within half of the respective time periods under paragraphs 1 and 3. The arbitration panel may issue a preliminary report on whether a case is urgent.

7. The report of the arbitration panel shall be final and binding on the Parties.

8. The report of the arbitration panel shall contain both the descriptive part summarizing the submissions and arguments of the Parties and the findings and determinations of the arbitration panel. If the Parties agree, the arbitration panel may make recommendations for resolution of the dispute in its report. The findings and determinations and, if applicable, any recommendations of the arbitration panel cannot add to or diminish the rights and obligations of the Parties provided in the Turkey-Korea FTA.

#### ARTICLE 6.11: IMPLEMENTATION OF THE REPORT

1. Unless the Parties agree otherwise, the Party complained against shall eliminate the non-conformity as determined in the report of the arbitration panel immediately, or if this is not practicable, within a reasonable period of time.

2. The reasonable period of time referred to in paragraph 1 shall be mutually determined by the Parties. Where the Parties fail to agree on the reasonable period of time within 45 days of the date of issuance of the final report of the arbitration panel referred to in Article 6.10, the complaining Party may refer the matter to an arbitration panel, which shall determine the reasonable period of time.

3. The Party complained against shall notify to the complaining Party the implementing measures that it has taken to comply with the determinations and, if any, recommendations of the arbitration panel, before the expiry of the reasonable period of time agreed by the Parties or determined by the arbitration panel in accordance with paragraph 2. Where there is disagreement between the Parties as to whether the Party complained against has eliminated the non-conformity as determined in the report of the arbitration panel within the reasonable period of time as determined pursuant to paragraph 2, either Party may refer the matter to an arbitration panel.

#### ARTICLE 6.12: NON-IMPLEMENTATION, COMPENSATION AND SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS

1. If the Party complained against fails to notify the implementing measures before the expiry of the reasonable period of time, or notifies the complaining Party that implementation is impracticable, or the arbitration panel to which the matter is referred pursuant to Article 6.11.3 rules that the Party complained against has failed to eliminate the non-conformity within the reasonable period of time, the Party complained against shall, if so requested by the complaining Party, enter into negotiations with the complaining Party with a view to reaching a mutually satisfactory compensation.

2. If there is no agreement on satisfactory compensation within 20 days of the date of receipt of the request mentioned in paragraph 1, the complaining Party may suspend the application to the Party complained against of concessions or other obligations under the Turkey-Korea FTA, after giving notification of such suspension 30 days in advance. Such notification may only be given 20 days after the date of receipt of the request mentioned in paragraph 1.

3. The compensation referred to in paragraph 1 and the suspension referred to in paragraph 2 shall be temporary measures. Neither compensation nor suspension is preferred to full elimination of the non-conformity as determined in the report of the arbitration panel. The suspension shall only be applied until such time as the non-conformity is fully eliminated or a mutually satisfactory solution is reached.

4. In considering what concessions or other obligations to suspend pursuant to paragraph 2:

- (a) the complaining Party should first seek to suspend concessions or other obligations with respect to the same sector(s) as that in which the report of the arbitration panel referred to in Article 6.10 has found a failure to comply with the obligations under the Turkey-Korea FTA;
- (b) if the complaining Party considers that it is not practicable or effective to suspend concessions or other obligations with respect to the same sector(s), it may suspend concessions or other obligations with respect to other sectors. The notification of such suspension pursuant to paragraph 2 shall indicate the reasons on which it is based. In the selection of the benefits to suspend, the complaining Party will take into consideration those which least disturb the functioning of the Turkey-Korea FTA; and
- (c) the level of suspension referred to in paragraph 2 shall be equivalent to the level of the nullification or impairment.

5. If the Party complained against considers that the requirements for the suspension of concessions or other obligations by the complaining Party set out in paragraph 2, 3, or 4 have not been met, it may refer the matter to an arbitration panel. Concessions or other obligations shall not be suspended until the arbitration panel has issued its ruling.

6. The arbitration panel that is established for the purposes of this Article or Article 6.11 shall have, to the extent possible, as its arbitrators, the arbitrators of the original arbitration panel. If this is not possible, then the arbitrators of the arbitration panel that is established for the purposes of this Article or Article 6.11 shall be appointed pursuant to Article 6.7. The arbitration panel established under this Article or Article 6.11 shall issue its report to the Parties within 20 days on the reasonable period of time and 45 days on the other issues after the date when the matter is referred to it. When the arbitration panel considers that it cannot issue its report within the aforementioned periods, the relevant period may be extended by the arbitration panel for a maximum of 30 days with the consent of the Parties. The report shall be final and binding on the Parties.

ARTICLE 6.13: RULES OF PROCEDURE

1. Dispute settlement procedures under this Chapter shall be governed by Annex 6-A. Arbitration panels may, after consulting the Parties, adopt additional rules of procedure not inconsistent with the Turkey-Korea FTA.
2. Any time period or other rules and procedures for arbitration panels provided for in this Chapter may be modified by mutual consent of the Parties. The Parties may also agree at any time not to apply any provision of this Chapter.

**ANNEX 6-A**  
**RULES OF PROCEDURE FOR ARBITRATION**

*Definitions*

1. For the purposes of this Chapter:

**adviser** means a person retained by a Party to advise or assist that Party in connection with the arbitration panel proceeding;

**arbitration panel** means a panel established under Article 6.5;

**arbitrator** means a member of an arbitration panel established under Article 6.5;

**assistant** means a person who, under the terms of appointment of an arbitrator, conducts research or provides assistance;

**complaining Party** means a Party that requests the establishment of an arbitration panel under Article 6.5;

**Party complained against** means the Party that is alleged to be in violation of the Turkey-Korea FTA, as referred to in Article 6.2;

**representative of a Party** means any person appointed by a Party according to its domestic legislation;

*Logistical Administration*

2. The Party complained against shall be in charge of the logistical administration of dispute settlement proceedings, in particular the organisation of hearings, unless otherwise agreed.

*Notifications*

3. Any request, notice, written submissions or other document delivered by either Party or the arbitration panel shall be transmitted by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record of the sending thereof.

4. A Party shall provide a copy of each of its written submissions to the other Party and to each of the arbitrators. A copy of the document shall also be provided in electronic format.

5. All notifications shall be made and delivered to the Ministry of Economy of the Republic of Turkey and to the Ministry of Foreign Affairs and Trade of Korea, respectively.



6. Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitration panel proceeding may be corrected by delivery of a new document clearly indicating the changes.

7. If the last day for delivery of a document falls on a legal holiday of either Party, the document may be delivered on the next business day.

#### *Preliminary Session*

8. Unless the Parties otherwise agree, they shall meet with the arbitration panel within seven days of the date of the establishment of the arbitration panel in order to determine such matters that the Parties or the arbitration panel deem appropriate, including the remuneration and expenses that shall be paid to the arbitrators.

#### *First Submissions*

9. The complaining Party shall deliver its first written submission no later than 20 days after the date of establishment of the arbitration panel. The Party complained against shall deliver its written counter-submission no later than 20 days after the date of delivery of the complaining Party's first written submission.

#### *Operation of Arbitration Panels*

10. The chairperson of the arbitration panel shall preside at all of its meetings. An arbitration panel may delegate to the chairperson authority to make administrative and procedural decisions.

11. Except as otherwise provided in the Turkey-Korea FTA, the arbitration panel may conduct its activities by any means, including telephone, facsimile transmissions or computer links.

12. Only arbitrators may take part in the deliberations of the arbitration panel, but the arbitration panel may permit assistants of the arbitrators to be present during such deliberations.

13. The drafting of any decision and ruling shall remain the exclusive responsibility of the arbitration panel and shall not be delegated.

14. Where a procedural question arises that is not covered by the Turkey-Korea FTA, an arbitration panel may adopt an appropriate procedure that is not inconsistent with the Turkey-Korea FTA.

15. When the arbitration panel considers that there is a need to modify any time period applicable in the proceeding, or to make any other procedural or administrative adjustment in the proceeding, it shall inform the Parties in writing of the reasons for the modification or adjustment with the indication of the period or adjustment needed.

## *Hearings*

16. Unless the Parties otherwise agree, at least one hearing shall be held. The chairperson shall fix the date and time of the hearing in consultation with the Parties and the other members of the arbitration panel. The chairperson of the arbitration panel shall notify in writing to the Parties of the date, time and location of the hearing. That information shall also be made publicly available by the Party in charge of the logistical administration of the proceeding, when the hearing is open to the public.

17. Unless the Parties otherwise agree, the hearing shall be held in Seoul where the complaining Party is the Republic of Turkey, or in Ankara, where the complaining Party is the Republic of Korea.

18. The arbitration panel may convene additional hearings if the Parties so agree.

19. All arbitrators shall be present during the entirety of any hearing.

20. Representatives of a Party, advisers to a Party, administration staff, interpreters, translators, court reporters, and assistants of the arbitrators may attend the hearing(s), irrespective of whether the hearings are open to the public or not. Only the representative(s) and advisor(s) of a Party may address the arbitration panel.

21. No later than five days before the date of a hearing, each Party shall deliver to the arbitration panel a list of the names of those persons who will make oral arguments or presentations at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

22. The hearings of the arbitration panels shall be closed to the public. The Parties may decide to open the hearings partially or completely to the public. The arbitration panel shall meet in closed sessions when the submissions and arguments of a Party contain business confidential information.

23. The arbitration panel shall conduct the hearing in the following manner, ensuring that the complaining Party and the Party complained against are afforded equal time:

### *argument*

- (a) argument of the complaining Party; and
- (b) argument of the Party complained against.

### *rebuttal argument*

- (a) reply of the complaining Party; and
- (b) counter-reply of the Party complained against.

24. The arbitration panel may direct questions to either Party at any time during a hearing.

25. The arbitration panel shall arrange for a transcript of each hearing to be prepared and shall, as soon as possible after it is prepared, deliver a copy of the transcript to the Parties.

26. Within 10 days of the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arises during the hearing.

#### *Questions in Writing*

27. The arbitration panel may at any time during the proceedings address questions in writing to a Party or both Parties. The arbitration panel shall deliver the written questions to the Party whom the questions are addressed and shall send a copy of the questions to the other Party.

28. A Party to whom the arbitration panel addresses written questions shall deliver a copy of any written reply to the other Party and to the arbitration panel. Each Party shall be given the opportunity to provide written comments on the reply within five days of the date of delivery.

#### *Ex Parte Contacts*

29. The arbitration panel shall not meet or contact a Party in the absence of the other Party.

30. No arbitrator may discuss any aspect of the subject matter of the proceeding with a Party or both Parties in the absence of the other arbitrators.

#### *Suspension of Time Periods on Request of Technical Advice*

31. The arbitration panel, consulting with the Parties and technical experts, determine the time period that the technical experts are to submit their opinions or advice. If the technical experts cannot submit their opinions or advice within the period established pursuant to the first sentence of this paragraph, the arbitration panel, consulting with the Parties, may give additional time to technical experts. In no case this additional period exceeds the half of the period established pursuant to first sentence of this paragraph.

32. When a request is made for a written report of an expert, any time period applicable to the arbitration panel proceeding shall be suspended for a period beginning on the date of delivery of the request and ending on the date the report is delivered to the arbitration panel.

#### *Amicus Curiae Submissions*

33. Unless the Parties otherwise agree within three days of the date of the establishment of the arbitration panel, the arbitration panel may receive unsolicited written

submissions from interested natural or juridical persons of the Parties, provided that they are made within 10 days of the date of the establishment of the arbitration panel, that they are concise and in no case longer than 15 typed pages, including any annexes, and that they are directly relevant to the factual and legal issue under consideration by the arbitration panel.

34. The submission shall contain a description of the person, whether natural or juridical, making the submission, including the nature of its activities and the source of its financing, and specify its nationality or place of establishment and the nature of the interest that person has in the arbitration proceeding. It shall be made in the common working language in accordance with paragraph 36.

35. The arbitration panel shall list in its ruling all the submissions that it has received and that conform to the paragraphs 33 and 34. The arbitration panel shall not be obliged to address, in its ruling, the factual or legal arguments made in such submissions. Any submission obtained by the arbitration panel under paragraphs 33, 34 and 35 shall be submitted to the Parties for their comments.

#### *Translation and Interpretation*

36. Unless otherwise agreed during the consultations referred to in Article 6.4, and no later than the meeting referred to in paragraph 8, the common working language for the proceedings of the arbitration panel shall be English. If a Party decides to use interpretation during the proceedings, the arrangement and the cost shall be borne by that Party.

#### *Computation of Time*

37. All time periods laid down in this Chapter shall be counted in calendar days, the first day being the day following the act or fact to which they refer.

38. Where, by reason of the operation of paragraph 7, a Party receives a document on a date other than the date on which the same document is received by the other Party, any period of time the calculation of which is dependent on such receipt shall be calculated from the last date of receipt of such document.

#### *Other Proceedings*

39. If an arbitration panel is established for the purposes of Articles 6.11 and 6.12, the Party making a request under these Articles shall deliver its first written submission within 10 days of the date the request is submitted, and the responding Party shall deliver its written counter-submission within 10 days of the date of delivery of the first written submission.

40. If appropriate, the arbitration panel shall fix the time limit for delivering any further written submissions, including rebuttal written submissions, so as to provide each Party with the opportunity to make an equal number of written submissions subject to the

time limits for arbitration panel proceedings set out in Articles 6.11 and 6.12 and this Annex.

41. Unless otherwise provided, this Annex is also applicable to procedures established under Articles 6.11 and 6.12.

**ANNEX 6-B**  
**CODE OF CONDUCT FOR MEMBERS OF ARBITRATION PANELS**

*Definitions*

1. For the purposes of Chapter 6:

**candidate** means an individual whose name is on the list of arbitrators referred to in Article 6.7 and who is under consideration for appointment as an arbitrator under Article 6.7;

**proceeding**, unless otherwise specified, means an arbitration panel proceeding under Chapter 6;

**staff**, in respect of an arbitrator, means persons under the direction and control of the arbitrator, other than assistants.

*Responsibilities to the Process*

2. Every candidate and arbitrator shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved. Former arbitrators must comply with the obligations established in paragraphs 16, 17, 18 and 19.

*Disclosure Obligations*

3. Prior to confirmation of his or her selection as an arbitrator under Article 6.7, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

4. Once selected, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in paragraph 3 and shall disclose them. The obligation to disclose is a continuing duty which requires an arbitrator to disclose any such interests, relationships and matters that may arise during any stage of the proceeding. The arbitrator shall disclose such interests, relationships and matters by communicating them in writing to the Joint Committee for consideration by the Parties.

*Duties*

5. Upon selection, an arbitrator shall perform an arbitrator's duties thoroughly and expeditiously throughout the course of the proceeding.
6. An arbitrator shall carry out all duties fairly and diligently.

7. An arbitrator shall consider only those issues raised in the proceeding and necessary for a decision and shall not delegate the duty to decide to any other person.

8. An arbitrator shall take all reasonable steps to ensure that the arbitrator's assistant and staff comply with paragraphs 2, 3, 4, 17, 18 and 19.

9. An arbitrator shall not engage in *ex parte* contacts concerning the proceeding.

10. A candidate or arbitrator shall not communicate matters concerning actual or potential violations of this Annex unless the communication is made to the Joint Committee in order to ascertain whether that candidate or arbitrator has violated, or may violate, this Annex.

#### *Independence and Impartiality of Members of Arbitration Panels*

11. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall avoid creating an appearance of impropriety or bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, and loyalty to a Party or fear of criticism.

12. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the arbitrator's duties.

13. An arbitrator shall not use his or her position on the arbitration panel to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence the arbitrator.

14. An arbitrator shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the arbitrator's conduct or judgement.

15. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the arbitrator's impartiality or that might reasonably create an appearance of impropriety or bias.

#### *Obligations of Former Arbitrators*

16. All former arbitrators must avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decision or ruling of the arbitration panel.

#### *Confidentiality*

17. An arbitrator or former arbitrator shall not at any time disclose or use any non-public information concerning the proceeding, or acquired during the proceeding, except

for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others, or to affect adversely the interest of others.

18. An arbitrator shall not disclose an arbitration panel ruling or parts thereof prior to its publication.

19. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitration panel, or any arbitrator's view.

*Responsibilities of Assistants and Staff*

20. Paragraphs 2, 3, 4, 16, 17, 18 and 19 shall apply also *mutatis mutandis*, to assistants and staff.



## CHAPTER 7 INSTITUTIONAL PROVISIONS

### ARTICLE 7.1: JOINT COMMITTEE

1. The Parties hereby establish a Joint Committee comprising representatives of Turkey, on the one hand, and representatives of Korea, on the other.
2. The Joint Committee shall meet once a year or on request of either Party in Ankara or Seoul alternately. The Joint Committee shall be co-chaired by the Minister of Economy of Turkey and the Minister for Trade of Korea; or their respective designees. The Joint Committee shall agree on its meeting schedule and set its agenda.
3. The Joint Committee shall:
  - (a) ensure that the Turkey-Korea FTA operates properly;
  - (b) supervise and facilitate the implementation and application of the Turkey-Korea FTA, and further its general aims;
  - (c) supervise the work of all committees, working groups and other bodies established under the Turkey-Korea FTA;
  - (d) consider ways to further enhance trade relations between the Parties;
  - (e) without prejudice to the rights conferred in Chapter 6 (Dispute Settlement), seek appropriate ways and methods of forestalling problems which might arise in areas covered by the Turkey-Korea FTA, or of resolving disputes that may arise regarding the interpretation or application of the Turkey-Korea FTA;
  - (f) study the development of trade between the Parties; and
  - (g) consider any other matter of interest relating to an area covered by the Turkey-Korea FTA.
4. The Joint Committee may:
  - (a) decide to establish and delegate responsibilities to committees, working groups or other bodies;
  - (b) communicate with all interested parties including private sector and civil society organisations;
  - (c) decide to recommend to the Parties amendments to the Turkey-Korea FTA;
  - (d) adopt interpretations of the provisions of the Turkey-Korea FTA;

- (e) make recommendations or adopt decisions as envisaged by the Turkey-Korea FTA;
- (f) adopt its own rules of procedure; and
- (g) take such other actions in the exercise of its functions as the Parties may agree.

5. When a Party submits information considered as confidential under its laws and regulations to the Joint Committee, committees, working groups or any other bodies, the other Party shall treat that information as confidential.

#### ARTICLE 7.2: COMMITTEES AND WORKING GROUPS

1. The committees, working groups or any other bodies may be established under the auspices of the Joint Committee.

2. The composition, frequency of meetings, and functions of the committees, working groups or any other bodies may be established either by relevant provisions of the Turkey-Korea FTA or by the Joint Committee acting consistently with the Turkey-Korea FTA.

3. The committees, working groups or any other bodies shall inform the Joint Committee of their schedule and agenda sufficiently in advance of their meetings. They shall report to the Joint Committee on their activities at each regular meeting of the Joint Committee. The creation or existence of a committee, a working group or any other body shall not prevent either Party from bringing any matter directly to the Joint Committee.

4. The Joint Committee may decide to change or undertake the task assigned to a committee, a working group or any other body; or may dissolve a committee, a working group or any other body.

#### ARTICLE 7.3: DECISION-MAKING

1. The Joint Committee shall, for the purpose of attaining the objectives of the Turkey-Korea FTA, have the power to take decisions in respect of all matters in the cases provided by the Turkey-Korea FTA, without prejudice to the Parties' respective applicable legal requirements and procedures.

2. The decisions taken shall be binding on the Parties, which shall take the necessary measures to implement the decisions taken in accordance with their respective applicable legal requirements and procedures. The Joint Committee may also make appropriate recommendations.

3. The Joint Committee shall draw up its decisions and recommendations by agreement between the Parties.

#### ARTICLE 7.4: AMENDMENTS

The Parties may agree, in writing, to amend the Turkey-Korea FTA. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures, or on such other date as the Parties may agree.

#### ARTICLE 7.5: CONTACT POINTS

1. In order to facilitate communication between the Parties on any trade matter covered by the Turkey-Korea FTA, the Parties hereby establish the following contact points:

- (a) for Turkey, the Ministry of Economy, or its successor; and
- (b) for Korea, the Ministry of Foreign Affairs and Trade, or its successor.

2. On request of either Party, the contact point of the other Party shall indicate the office or official responsible for any matter pertaining to the implementation of the Turkey-Korea FTA, and provide the required support to facilitate communication with the requesting Party. Each Party shall notify the other Party of any changes in its contact point in due time.

**CHAPTER 8**  
**EXCEPTIONS AND FINAL PROVISIONS**

**Section A: Exceptions**

ARTICLE 8.1: TAXATION

1. For the purposes of this Article, **tax convention** means a convention for the avoidance of double taxation or other international taxation agreement or arrangement in force between the Parties; and taxation measures do not include a “customs duty” as defined in Article 2.2 (Customs Duty) of the Agreement on Trade in Goods as stipulated in Article 1.4.2 (Relation with Other Agreements).
2. Except as provided in this Article and without prejudice to the outcome of negotiations on the agreements to be concluded stipulated in Article 1.4.2 (Relation with Other Agreements), nothing in the Turkey-Korea FTA shall apply to taxation measures.
3.
  - (a) the Turkey-Korea FTA shall only grant rights or impose obligations with respect to taxation measures where corresponding rights or obligations are also granted or imposed under Article III of GATT 1994.
  - (b) Article 2.9 (Duties, Taxes or Other Fees and Charges on Exports) of the Agreement on Trade in Goods shall apply to taxation measures.
4.
  - (a) Nothing in the Turkey-Korea FTA shall affect the rights and obligations of either Party under any tax convention in force between the Parties. In the event of any inconsistency relating to a taxation measure between such tax convention and the Turkey-Korea FTA, the tax convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, the competent authorities under the tax convention shall have sole responsibility for determining whether any inconsistency exists between the tax convention and the Turkey-Korea FTA.
  - (b) For the purposes of this paragraph, competent authorities are:
    - (i) in the case of Korea, the Deputy Minister for Tax and Customs, Ministry of Strategy and Finance, or his authorised representative; and
    - (ii) in the case of Turkey, the Minister of Finance, or his authorised representative.

ARTICLE 8.2: BALANCE-OF-PAYMENTS EXCEPTIONS

1. Without prejudice to the outcome of negotiations on the agreements to be concluded stipulated in Article 1.4.2 (Relation with Other Agreements), should a Party decide to impose measures for balance-of-payments purposes, it shall do so only in

accordance with its rights and obligations under GATT 1994, including the *Declaration on Trade Measures Taken for Balance of Payments Purposes* (1979 Declaration) and the *Understanding on the Balance of Payments Provisions of the GATT 1994* (BOP Understanding). In adopting such measures, the Party shall immediately consult with the other Party.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory.

#### ARTICLE 8.3: SECURITY EXCEPTIONS

Nothing in the Turkey-Korea FTA shall be construed:

- (a) to require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;
- (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
  - (i) connected with the production of or trade in arms, munitions or war material or relating to economic activities carried out directly or indirectly for the purpose of provisioning a military establishment;
  - (ii) relating to fissionable and fusionable materials or the materials from which they are derived; or
  - (iii) taken in time of war or other emergency in international relations; or
- (c) to prevent a Party from taking any action in order to carry out its international obligations for the purpose of maintaining international peace and security.

### **Section B: Final Provisions**

#### ARTICLE 8.4: ENTRY INTO FORCE

1. This Framework Agreement shall be approved by the Parties in accordance with their own procedures.

2. This Framework Agreement shall enter into force on the first day of the second month, following the date of the exchange of the written notifications through diplomatic channels, by which the Parties inform each other that all necessary requirements foreseen

by their domestic legislation for the entry into force of this Framework Agreement have been fulfilled, or on such other date as the Parties may agree.

#### ARTICLE 8.5: DURATION

1. This Framework Agreement shall be valid indefinitely.
2. Either Party may notify in writing the other Party of its intention to denounce this Framework Agreement.
3. The denunciation shall take effect six months after the notification under paragraph 2.

#### ARTICLE 8.6: ANNEXES

The Annexes to this Framework Agreement shall form an integral part thereof.

#### ARTICLE 8.7: CUSTOMS UNIONS AND FREE TRADE AREAS

1. Nothing in this Framework Agreement shall preclude the maintenance or establishment of customs unions, free trade areas or other arrangements between either of the Parties and non-parties, insofar as they do not alter the rights and obligations provided for in this Framework Agreement.
2. On request of a Party, consultations between the Parties shall take place within the Joint Committee concerning agreements establishing or adjusting customs unions or free trade areas and, where required, on other major issues related to the Parties' respective trade policies with non-parties.
3. In case of accession of Turkey to the European Union, the Parties shall enter into consultations on the consequences of the accession.

#### ARTICLE 8.8: AUTHENTIC TEXTS

This Framework Agreement is drawn up in duplicate in the Turkish, Korean and English languages, each of these texts being equally authentic. In case of divergence, the English text shall prevail.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto, have signed this Framework Agreement.

DONE at Ankara, Republic of Turkey, in duplicate, this first day of August two thousand and twelve.

**For the Republic of Turkey**

**Zafer ÇAĞLAYAN**  
**Minister of Economy**

**For the Republic of Korea**

**Taeho BARK**  
**Minister for Trade**