

Issues and Requests Relating to Foreign Trade and Investment - Turkey

Category	No	Issue	Issue Details	Requests	References
2 Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Rigorous Localisation Requirement	- At the negotiation table for the Railroad Construction Project under Public Fund, the purchaser tends to require adamantly the Localisation Rates (of minimum 60% of the cost of Machineries And Equipment, and minimum 25% of Railroad Vehicle), while such requirements are not expressly spelt out into law.	- It is requested that GOT repeals or deregulates the Localisation Requirement.	- The Purchaser's Localisation Requirement.
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	- Government of Turkey (GOT) levies Bandroll Tax of 30% in addition to the regular EU duty on DVD players, CD players, blu-ray players and products incorporating radio, making prices of these products extraordinarily expensive.	- It is requested that GOT improves its taxation system.	
			- GOT levies 20% Turkish duty called OTV on amplifiers and speakers.	- It is requested that GOT improves its taxation system.	
			- <u>GOT implements a protective policy of levying special tax of USD 2.10 each on the products manufactured in PRC.</u>	- <u>It is requested that GOT repeals the protective policy.</u>	
			- <u>Members firms' subsidiary (MFS) profitability is suppressed by commodity consumption tax levied upon imported cosmetic products.</u>	- <u>It is requested that GOJ takes step toward GOT's repeal of the import customs tariff.</u>	
(2)	Raised Import Duty	- In January 2009, GOT raised tariff rates on thick medium plate, cold rolled/hot rolled plates, and tin, galvanization, and surface-treated steel plates.	- It is requested that GOT makes it a point to provide "Grace Period" before enforcing the increased tariff rate.		
		- There was a case where tariff increase was announced and executed on the same day without notice.			
		- Additional Bandroll Duty of 30% is levied on the total cost of the hydraulic excavator, not for just the radio receiver, when the latter is mounted on the hydraulic excavator. It compels exporter to remove the radio receiver and ship it separately.		- It is requested that GOT and GOJ conclude FTA to remove the Customs Duty.	
(4)	Compulsory Payment of Extra Duty (SUS Fund) for Settlement of L/C with Usance	- On 29 September 1995, as a part of the tight money policy, GOT levied KKDF equal to 6% on CIF price of goods, if imported by Letter of Credit with usance terms. Though the KKDF was reduced from 6% to 3% in 1998, GOT applied the reduced rate of 3% also in FY2007.	- It is requested that GOT repeals the KKDF system.	- Customs Act, etc.	

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			<p>(Actions)</p> <p>- GOT imposes the Resource Utilization and Support Fund (KKDF) charge of 6% (which is additional import tariff in effect over the declared import amount apart from import duty) on foreign loans to finance imports under L/C with usance, unless proof of payment completion for the full amount of the imported goods is shown to the customs authority upon import of goods into Turkey.</p>		
	(5)	Import Quota System	<p>- Since 24 July 1998, in order to suppress import, GOT has applied the tax exemption quota (TEQ) on hot rolled coil, for 45 tons each, respectively, for thick and intermediate plates (HRC-T/M), and on cold rolled coil sheet (CRC/SHEET) for 10 tons. Users must file applications to Ministry of Commerce based on the past performance and capacity in order to obtain allocation for TEQ. Imports from non-EU countries outside TEQ were imposed 22.5% on HRC-T/M and 30% on CRC/SHEET. Due to the soaring prices and tightening of demand, TEQ system has not been applied in recent years. In 2006, Erdemir (semi-state-owned mill) was completely privatised. It is most likely that the quota system will not be applied in future, either.</p>		
	(6)	Delays in Import Customs Clearance	<p>- There are cases where importers are unable to withdraw cargoes for a long time, due to the delay in import customs clearance procedures. On other occasions, products exported from EU port complete with customs declaration documents likewise get stuck at customs for the delay in customs clearance.</p> <p>- It takes about one-month for customs clearance on the first shipment of new products. Frequently, customs clearance delays due to the arbitrary judgement of individual customs employees in charge, or their personal conveniences. Each time customs clearance at Istanbul gets stuck, importer must individually negotiate with the Central Government in Ankara, while they sustain damage in business. The nebulous practice of customs clearance and high import tariff rates together cause increase in parallel imports.</p>	<p>It is requested that GOT:</p> <ul style="list-style-type: none"> -- stipulate clear-cut Customs Clearance Rules, -- observes such rules, promptly publishes any changes, and -- materialises Expeditious Customs Clearance Procedures. <p>It is requested that GOT:</p> <ul style="list-style-type: none"> -- resolves the customs clearance delays as soon as possible, and -- tightens its control on parallel imports. 	
	(7)	Import Registration of Agrichemicals	<p>- GOT has removed the Measures previously approved on Import Registrations from the G8 Countries including Japan so that they now apply restrictively only to the EU Member States. The Import Registration requirement as to Japan forms a kind of Non-Tariff-Barrier.</p>	<p>It is requested that Ministry of Agriculture and Rural Affairs Turkey resumes the previous practice as to Japan.</p>	<p>Regulation on Chemical Fertilizers Used in Agriculture</p>

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		(8)	Import Disallowed due to the Manufacturing Year Restrictions	<p>- In order to stop inflow of used vehicles, GOT controls delivery / shipment of new cars by "Manufacture Year". For example, if a car manufactured in November 2012 arrives in Turkey after 1 January 2013, its import into Turkey is no longer possible, as it has passed the old year. GOT seems to deregulate this rule in some years. However, such information reaches exporters too late. It deprives them of the benefit from deregulation.</p> <p>- Under the going scheme, customs clearance is possible only during the production year for the construction machineries and equipment (the Products). On the other hand, VAT 8% Refund is available for the Products sold from the free zone to a lease company located outside the free zones (the lease company). Consequently, to receive the VAT 8% Refund, it is necessary to transport the products from the free zone and complete the customs clearance before the end of the production year of the products to the lease company. Then, the problem arises in receiving the VAT Refund of 8%, as the regulatory deadline has lapsed.</p>	<p>- It is requested that GOT:</p> <ul style="list-style-type: none"> -- deregulates restrictions or provides the moratorium period, -- accepts customs clearance of products manufactured in December 2012. <p>- It is requested that GOT takes steps to repeal the going scheme based on the Production Year, or to enable import of the Products up to two-years to resolve the problems over the year-end stock adjustment of the VAT 8% Refund.</p>	
12	Exchange Controls	(1)	Restricted Forward Booking of Foreign Exchange	<p>- Enterprises operating in Turkey may not make forward booking of foreign exchange with banks outside Turkey.</p>	<p>- <u>It is requested that GOT deregulates foreign exchange control.</u></p>	
		(2)	<u>Rapid Exchange Fluctuations</u>	<p>- <u>Radical exchange fluctuations prevail. As it stands, Member firm's subsidiary (MFS) benefits from exchange gain on a direct export transaction in yen. Nevertheless, negotiation for raise in price is difficult. In a transaction with its parent company, the prevailing Yen depreciation enables MFS to offer special prices to its customers. However, MFS runs on a thin margin, so that if the exchange rate swings toward appreciation of Yen, it will instantly show operational loss: such is the severity of the fluctuation band.</u></p>	<p>- <u>It is requested that GOP takes step to:</u></p> <ul style="list-style-type: none"> -- <u>stabilise foreign exchange fluctuations, and</u> -- <u>holds the fluctuation band within a few percents in 6-months.</u> 	
14	Taxation Systems	(1)	Complex Taxation System	<p>- An enterprise in Turkey has been compelled to pay a huge amount of additional tax levy, penalty and arrearage after tax audit for several times. Nebulous taxation system, the total denial of vouchers, documentary evidence, etc. in each case has aggravated, by a large margin, the budgeted profit and loss of its operation.</p>	<p>- It is requested that GOT takes steps to:</p> <ul style="list-style-type: none"> -- clarify both the tax laws and their implementation, and simultaneously -- identify clearly the responsibility for the tax audit and the contents of the Tax Report. 	<p>- Tax Procedures Law other General Tax Laws</p>

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			- GOT collects High Rates of Tax in the names of Special Consumption Tax (SCT), Resource Utilisation Support Fund (KKDF in Turkey), etc. on dubious grounds.	- It is requested that GOT repeals or reduces the Tax Rates.	
	(2)	<u>Unreasonable Treatment over Stamp Tax</u>	<p>- <u>Stamp tax levied at the fixed rate of 0.948% impacts P&L of business operation.</u></p> <p>- <u>Stamp duty on contract is expensive.</u></p> <p>- <u>Apart from the Stamp Duty Act, under Notarisation Act, during notarisation process contracts, etc. collection of stamp duty levy is allowed at notary public's office in Turkey. Stamp duty levy is imposed on (1) stamp duty prepaid documents and (2) documents ratified in overseas (normally not subject to Turkish stamp duty), resulting in double tax levy. It is a substantial risk for tax consequences when bidding for government procurement tender.</u></p> <p>- <u>Due to the ambiguity of the documents subject to stamp duty, MFS in Turkey faces the risk of stamp duty levy on documents signed overseas on projects destined to overseas.</u></p>	<p>- <u>It is requested that GOT repeals the fix rate levy rule (replacing it with the fix amount).</u></p> <p>- <u>It is requested that got relaxes the measures either by reduction of the tax rate or repela of the tax itself.</u></p> <p>- <u>It is requested that GOT takes step to repeal the stamp tax levy provisions under the Notarisation Act.</u></p> <p>- <u>It is requested that GOT clearly identifies the documents, which are subject to stamp duty levy</u></p>	
	(3)	High Domestic Tax Rates	- Tax Rates are high: Tuner Tax (16% on imports), Luxury Tax (6.7% on Television Receivers, 20% on Car-Audio, and Portable Music Player). These High Tax Rates obstruct products diffusion. They serve as breeding ground for illicit sales.	- It is requested that GOT repeals the high tax rates as soon as possible.	
	(4)	Disapproval of Credit Note	- GOT disapproves issuance of Credit Note for correction of the Invoice Amount, or Sales Returns so that the recipient of the goods or the party returning the goods must issue invoice separately. It complicates the accounts, requiring a complex procedure.	- It is requested that GOT streamlines the Taxation System.	
	(5)	Compulsion on use of Sequential Numbering upon Invoices	- GOT compels the use of sequential numbering on all invoices that an enterprise issues, inclusive of print errors whose numbers must be retained until the book is closed at the fiscal term end. Moreover, all print errors must be reported within 2-weeks to the competent taxation authorities. It complicates the operation.	- It is requested that GOT streamlines the Taxation System.	
	(6)	<u>RUSF Tax Levy on Import and External Fund Procurement</u>	- <u>Accompanied by the credit extension tax levied on import with credit extension is called resource utilization support fund (RUSF) in English and KKDF in Turkish. Upon import of products into Turkey, in the absence of proof of payment for cost of goods upon customs clearance.</u>	- <u>It is requested that GOT repeals this tax scheme, or at least reduces the burden of the additional levy.</u>	

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			<p><u>6% additional tax is levied over the declared amount. While this additional tax is levied in the EU member states that have ratified the customs union, in effect, it is additional customs duty.</u></p> <p><u>- RUSF tax levy is an additional tax in substance, levied on fund procurement as well, so that it can also aggravate cash flow:</u></p> <p><u>-- 6% levied on the unpaid portion of CIF price upon customs clearance inn Turkey, and</u></p> <p><u>-- 3% levied upon externally procured fund.</u></p>	<p><u>- It is requested that GOT repeals the RUSF tax levy.</u></p>	
16	Employment	(1) Lengthy and Complex Procedures for Visa Acquisition	<p>- The visa renewal for foreign expatriates including the Japanese nationals requires accompaniment of the family members of the expatriates for filing application, etc. It takes much work and time to complete the complex procedures. Moreover, the visa renewal is necessary in each year.</p> <p><u>- Visa extension is only possible in the capital city. As it stands, it involves complex, lengthy procedures, needing the help of external personnel consultants for practical solution.</u></p> <p><u>- It takes a long time with complex procedures for acquisition of residential certificate for expatriating family members, who face various problems including inability to exiting the country temporarily.</u></p>	<p>- It is requested that GOT streamlines and extends the validity of expatriates' visas.</p> <p><u>- It is requested that GOT:</u></p> <p><u>-- simplifies the procedures, and</u></p> <p><u>-- issues the guideline that enables making realistic preparation.</u></p> <p><u>- It is requested that GOT simplifies the procedures and cuts down the acquisition time, where proof of identity is available for being family members of an expatriate.</u></p>	
		(2) Visa Acquisition Procedures For Despatched Engineers for Long Term Stay	<p><u>- Due to the differences of views on the mid-long term (90 days -) visa issue procedural question by and among ministries and agencies, it takes a long time to complete the despatch procedures. In case of work permit, it takes a longer period (2-3) months, making difficult despatch of technical engineers.</u></p>	<p><u>- It is requested that GOT:</u></p> <p><u>-- clearly defines the visa classes/conditions, and</u></p> <p><u>-- facilitates visa acquisition procedures concerning despatch of engineers.</u></p>	
		(3) Obligation to Employ Indigenous Personnel	<p>- Ministry of Labour and Social Security "Circular of 2 August 2010", requires: "Employment of 5-Turkish Workers for 1-Alien" as a condition for acquisition of Alien work permits. This requirement has neither been removed nor relaxed to this date. Unlike manufacturing operations requiring numerous workers, in the case of trade or service business, only a limited number of workers are necessary. These foreign firms face serious problems in increasing the number of expatriates from Japan.</p>	<p><u>- It is requested that GOT repeals or deregulate the requirements applicable to businesses in non-manufacturing sectors.</u></p>	<p>- Circular of 2 August 2010, The Ministry of Labour and Social Security</p>

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			- <u>The failure to satisfy the 5 Turkish per 1 Alien worker rule results in non issuance of work visa to foreign employees.</u>	- <u>It is requested that got either repeals or degurates the 5 Turkish per 1 Alien worker rule.</u>	
17 Implementation of Intellectual Property Rights ("IPRs")	(1)	Inadequate Protection of Intellectual Property Right	<p>- <u>Legislative overhauls on IPR protection have come a long way in each country. However, Patent Applications have grown in number both domestic and abroad, causing delays and differences in examination. The variances in examination, reflecting differences in the examiners' quality levels, have surfaced as an issue, which also affects the applicants' effort to maintain a stable protection of IPRs.</u></p> <p>- <u>It is impossible to grasp precisely the patent risk of other firms, due to the inefficiency in the overhaul of the statistical data and information, such as the number of patent applications filed and the application database in the developing countries, where the needs are rising for patent applications.</u></p>	<p>- <u>It is requested that GOT goes forward with Inter-Governmental Cooperation such as prompting the use of Patent Prosecution Highway (PPH) and ASEAN Patent Examination Co-operation (ASPEC) to resolve the backlog of patent examination and to promote educating patent examiners as well.</u></p> <p>- <u>It is requested that GOT:</u> -- <u>advances collaboration with patent offices of developed countries and</u> -- <u>overhauls as soon as possible the data base for Intellectual Property Rights.</u></p>	
	(2)	Rampant Counterfeits	- Counterfeits are rampant for PC Accessories and Batteries.	- It is requested that GOT tightens its clampdown upon counterfeits.	
19 Industrial Standards, Approval of Safety Standards	(1)	Emission Control	- Substantive contents remain undisclosed concerning the Turkish Type Approval on engines to be implemented in the beginning of 2014. An enterprise is anxious about what to do, being unable to file its application.	<p>- It is requested that GOT takes steps to:</p> <p>-- establish a sufficient period in order to make the new type approval known to everyone without exception, and</p> <p>-- assure that the benefits under the new emission control are shared without bias, equally, without particular favouritism afforded to a particular engine manufacturer, while deregulating the measures to the remaining manufacturers.</p>	

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23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Inefficient Administrative Procedures	- To satisfy an article in the business performance contract concerning acquisition of GOT's approval, it takes a few months (even in a formal kind, such as transfer of the shares to a subsidiary), affecting, from time to time, business performance and budget/accounts control.	- It is requested that GOT takes steps to enhance its operational efficiency, through delegation of responsibility, etc., in as much as trivial matters require the minister's approval, from time to time.	
		(2)	Difficulty in Acquisition of Authentication on Official Documents	- Official documents addressed to Turkey, Iraq, UAE, Saudi Arabia, etc. require authentication at Chamber of Commerce & Industries, Notary Public, UAE Embassy in Japan (UEJ), etc. Procedures at UEJ are extremely inconvenient, taking a long time from application to receipt (as its authentication is not issued on the spot of filing application), with the application accepted only during the morning hours and the authentication issued only during the afternoon hours.	- It is requested that GOU and GOJ review the authentication requirement.	
24	Indigested Legislation, Abrupt Changes	(1)	Unrealistic Legislative Amendments	- While legislative amendments and enactments of new legislations are frequent, in some cases, not enough thought is given to the impact such amendments and new laws give in their implementation, or more often than not, conflicting laws and schemes have been introduced. A couple of past examples: In order to promote privatisation, there was a law amendment that restricted BOTAS activity, which resulted in the mass gas shortage across the nation. In another case, the accounting standard change took place without advance preparation, causing much confusions and consternations.	- It is requested that GOT: -- puts sufficient study, such as appointing an external consultant service, and at the same time, -- holds public hearing, etc. for participation by Foreign Funded Enterprises and interested parties.	
25	Government Procurement	(1)	<u>Complex/Stringent Qualifications for Government Procurement</u>	- <u>Under Turkish Public Procurement Law, the documental requirements are complex, moreover, tender terms are stringent (for example, tender is cancelled unless by participation in pre-qualification of 7 or more bidders, and passage of pre-qualifications by 5 or more bidders), so that there have been cases whereby public tender gets cancelled time and time again.</u> <u>Due to the absence of the requisite documents for public procurement equivalent to the documents necessary in overseas countries, it is quite possible that foreign funded enterprises are unable to satisfy the requirements for bidding.</u> <u>There have been cases where foreign bidders have gotten disqualified, as the methods employed on Notarisation, Apostille, etc. are different from those in Turkey.</u>	- It is requested that GOT takes step <u>to facilitate the public procurement law.</u>	- PPA Law No.4734 /4735

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26	Others	(1)	Shipping Back of a Cargo due to Non Arrival	- An enterprise experienced cargo returns for a few times, shipped as small cargoes by EMS (international courier service by Japan Post Co., Ltd.) to its customers in India and Turkey. Member firm has switched to DHL and TNT (private international express delivery service) capable of solving non-arrival problems at increased cost, but it wishes to avoid the switch, as it results in increased cost to end users.		
		(2)	<u>Islamic States and Their Impact on Turkey</u>	<u>- Since 2012, a fair progress has taken place for legislative amendments concerning business development in Turkey. Especially, by implementation of the New Company Act, in conformity with the EU legislation, most issues on investment and trade are heading toward solutions. However, there remains one issue that can instantly damage business operation and that is the existence of the Islamic States. The movements of large countries within the area, namely, Turkey, Saudi Arabia, Iran and Egypt, deserve attention. However, it is impossible to remove the influential impacts by the "IS" upon this area, without the capacity for the party itself to settle this conflict or the ability and the willingness to change the circumstances decisively by power such as US outside of "IS" area. Rather, the only means left for solution would be groping for the possibilities to quieting down the disputes under the leadership of a large state within the IS area.</u>	<u>- It is requested that GOJ requests GOT to present GOT's substantive strategy as the affairs stand today. Media reported information is totally devoid of the sense of urgency, filled with articles as if they are happenings that fall on the heads of other people, totally blacking out what's happening in the current Turkish Government Policy, as viewed from the foreign reporters' perspective.</u>	