

Brussels, 6 June 2016

ORGALIME answer to the Public Consultation on the future of EU-Turkey trade and economic relations - non-tariff and tariff barriers in trade with Turkey

1. Introduction

Orgalime welcomes the opportunity to provide input on the future of the EU - Turkey trade and economic relations in the context of the revision of the EU - Turkey Customs Union.

Trade between the EU and Turkey is very important for both parties and the correct application of the Customs Union can enable smooth trading relations between them.

2. Non-tariff barriers

The Turkish authorities are imposing unjustified restrictions on our industries, for products intended for export to and trading with Turkey. Turkey has taken an increasingly protectionist stance by putting in place a series of non-tariff measures harming imports, in violation of the provisions of the EU - Turkey Customs Union. These measures have escalated since 2015 and especially since the beginning of 2016, resulting in substantial additional costs and administrative burdens for our industries as our products have been systematically held up at Turkish customs. This matter is therefore becoming extremely urgent, hence we would like to encourage the Commission to undertake appropriate initiatives to ensure a fair trade between the EU and Turkey as soon as possible.

Whilst Turkey can certainly check the conformity of products it imports according to the European regulations it applies on the basis of the EU - Turkey Customs Union, these controls must be done in a consistent and proportionate manner as not to hamper trade. This is not the case today and the situation is worsening.

There are currently inconsistent positions and a lack of coordination among the different Turkish authorities, namely the Ministry of Economy, the Ministry of Science and Technology and TSE (*Türk Standardlari Enstitüsü* – Turkish standardisation Institute). In many cases, requests have changed from one shipment to another for the same type of equipment (switching from request for a technical file, to an update of the Declaration of Conformity, to the certificate of import etc.).

Orgalime, the European Engineering Industries Association, speaks for 41 trade federations representing the mechanical, electrical, electronic, metalworking & metal articles industries of 24 European countries. The industry employs some 10.9 million people in the EU and in 2015 accounted for more than €1,900 billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union

Turkish authorities have an erroneous understanding of what sound market surveillance should be. Some requests are disproportionate as they have no effect on the level of a product's safety - there seems to be an undue interpretation of the notion of "serious risk".

The Turkish authorities need to respect companies' confidentiality. Reports, repeatedly requested from manufacturers, have worryingly and in many instances been shared with other (competing) companies.

Moreover, the Turkish authorities are misapplying the EU technical legislation (Directives and Regulations), ultimately causing technical barriers to trade.

The fact that no written statement or references to Turkish law have been provided to justify specific requests makes it extremely difficult for economic operators to accurately report the problems encountered (see annex I for examples of problems encountered)

3. Tariff barriers

Turkey has adopted a new provision foreseeing a tariff barrier for some products (see annex II for the details).

Trade between the EU and Turkey, which stands today, for our industries, at 32 billion euro, is very important for both parties, but it is currently being put at risk by Turkey's increasingly protectionist stance due to unsubstantiated requests and the above-mentioned constraints which run counter to Turkey's obligations under the Customs Union Agreement.

Please find below specific examples of problems encountered in trading with Turkey.

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Annex I - Examples of non-tariff measures

AGORIA (Belgian Technology Industry Association)

Products affected: printers and cutting plotters; pressure equipment; agricultural machinery and tractors; air conditioning units; construction (home automation)

Documents requested/Burdens experienced:

- Repeated requests for CE, CB and MET certificates and also test reports (even in the case of repeated imports); Turkey considering use of harmonised standards as expired;
- Request for PED certificates to complement the DoC;
- Request for splitting up the DoC per directive instead of a single DoC that contains all the information required by different directives and the relevant standard;
- Request to update the DoC to include the following:
 - in addition to adding the EMC, adding the relevant EMC standards, although they are already included in the R&TTE Directive referenced in the company's DoC
 - adding the date of CE marking (month and year) at the bottom of the DoC;
- Test reports for the MD, EMC and LVD;
- Other bureaucratic constraints: e.g. instruction manual in Turkish.

ANIMA (Italian Federation of National Associations of Mechanical and Engineering Industries)

Products affected: industrial trucks, telehandlers, valves, pumps, machinery and equipment for the production, processing and preservation of food

Documents requested/Burdens experienced:

- Request for third-party certification even when not necessary;
- Request for additional standards and Directives/Regulations to be cited in the DoC even when not applicable;
- Request for full test reports and a technical file even when this information is confidential;
- Request for a DoC for every single product (the same DoC for a product family is not accepted).

Impact of these issues:

- delays with delivery of the product;
- additional costs for products held up at customs;
- delays or loss of new orders;
- risk that trade secrets are disclosed;
- fines (because of non-delivery of test reports).

Confederation of Danish Industry

Products affected: pumps, electric linear actuator systems, designer objects for household use

Documents requested/Burdens experienced: request for full test reports and a technical file to be handed over to the Turkish authorities either directly or via the company's customers; also test reports sometimes required in accordance with the latest versions of standards (not yet required in the EU).

Impact of these issues: The company manufacturing electric linear actuator systems submitted the requested technical file (risk that trade secrets are disclosed).

Risk declaration: There have been no incidents of unsafe products/malfunctions and no non-conformity cases; the authorities have given no specific reasons for these requests.

GAMBICA (UK Trade Association for Instrumentation, Control, Automation and Laboratory Technology)

Products affected: test & measurement equipment

Documents requested/Burdens experienced: Turkish customs insist on test reports to back up the DoC. Furthermore, the requirements for the format and delivery of the test reports are not clear, as documentation and help in using the TAREKS systems are not easy to access.

TEKNIKFÖRETAGEN (Association of Swedish Engineering Industries)

Products affected: forestry and garden machinery

Documents requested/Burdens experienced: For shipments to Turkey the affected company has had problems for the last two years, having its products detained by Customs. The Turkish Customs authorities refer to EU directives, mainly the Machinery Directive but also other Directives such as the LVD and the EMC Directive. When the company's distributors in Turkey asked for domestic legal references they received none. Turkish authorities merely referred to EU legislation and the Customs Union agreement. Turkish authorities require that the distributor's name and address be included on the packaging. This is not in conformity with the Machinery Directive. If the company's shipments do not pass the checks they are subject to market control. Moreover, Turkish authorities request test reports and other sensitive information.

Impact of these issues: The company stated that about every second shipment is detained.

VDMA (German Association of Engineering Industries)

Documents requested/Burdens experienced: Customs not only require a declaration of conformity (as stated in Turkish regulations) but also that this DoC must be approved by a certified body. This additional requirement is not in line with current Turkish regulations.

Annex II – Example of tariff barriers

In June 2015, Turkey has adopted a new provision (see the Additional Decision to the Importation Regime Decision (2015/7712 as published in the Official Gazette on the 07.06.2015 and issue numbered 29379) foreseeing a 20% tax on certain products, including lightening equipment (code 9405). On top of an ATR, an origin certificate needs to be provided, otherwise an additional 20% tax will apply for EU products. It is necessary to go through an external contractor to get a certificate of origin, entailing additional costs. This new provision goes against with the EU-Turkey custom Union.