

THE PROCESS OF MODERNISATION OF THE CUSTOMS UNION
RELATIONS BETWEEN TURKEY AND THE EUROPEAN UNION

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ABSTRACT

THE PROCESS OF MODERNISATION OF THE CUSTOMS UNION RELATIONS BETWEEN TURKEY AND THE EUROPEAN UNION

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This thesis aims to review the process for modernising the Customs Union between Turkey and the European Union, followed by an investigation of the political reasons which led to the suspension of the negotiations. The analysis begins with an appraisal of the theoretical framework to better understand the workings of the Turkey-EU CU as an economic integration model to facilitate and liberalize trade. Then comes an investigation of the important milestones in the relationship between Turkey and the EU in its historical context, to provide insights into the unique characteristics of the CU between the two parties. The scope and the functional shortcomings of the CU are discussed. The case for the revision of the CU between Turkey and the EU is made in the light of the legitimate reasons raised in documents drawn up by crucial agencies in Turkey and the EU and the analyses performed by independent third parties. Moreover, the TTIP and Brexit processes are analyzed as external factors with an effect on the process for the revision of the CU. In conclusion, it is found that politics pose a so-far insurmountable obstacle despite the obvious need for the modernisation of the CU, and the benefits such an update would bring. At this junction, the ups

and downs of the relations between Turkey and the EU are discussed in the historical context, to explain why the CU modernisation process is politicised as such. Moreover, Germany's impact on the politicisation of the negotiations for the modernisation of the CU is investigated, leading to the finding that Germany's perception of Turkey is a determining factor shaping Turkey's accession process and the CU modernisation process.

Keywords: Modernisation of the Customs Union between Turkey and the EU; Turkey- European Union Relations; Politicisation of the Customs Union Modernisation Process; Germany's Role in Decisions of the EU Regarding Turkey.

ÖZ

TÜRKİYE - AVRUPA BİRLİĞİ GÜMRÜK BİRLİĞİ'NİN GÜNCELLENME SÜRECİ

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Bu tezin amacı, Türkiye-Avrupa Birliği Gümrük Birliği güncellenme süreci ve müzakerelerinin durdurulmasının arkasındaki siyasi nedenlerin araştırılmasıdır. İlk olarak, ticareti serbestleştirilen bir ekonomik bütünleşme modeli olan TR-AB GB'ni kavramak adına, gümrük birliği kavramı teori çerçevesinde araştırılmaktadır. Daha sonra, TR-AB GB'nin kendine özgü özelliklerini anlamak adına tarihsel bağlamda TR-AB ilişkilerinin dönüm noktaları incelenmektedir. Bunu takiben, TR-AB GB'nin kapsam ve işlevsel açıdan eksiklikleri, hizmet, tarım gibi önemli sektörlerin GB'ne dahil edilmemesi nedenleriyle birlikte incelenmektedir. TR-AB GB'nin revize edilmesinin gerekliliği vurgulandıktan sonra, bu doğrultuda, AB ve Türkiye'nin resmi kuruluşları tarafından hazırlanan belge ve raporlara, bağımsız üçüncü tarafların değerlendirmeleri ile iş dünyasından kuruluşların görüşlerine göre ele alınan meşru nedenler vurgulanmaktadır. Ayrıca, GB'nin güncellenmesi kapsamında etkili dış faktörler olarak; TTIP ve Brexit süreçleri araştırılmaktadır. Sonuç olarak, GB'nin güncellenmesinin gerekliliği ve avantajlarına rağmen, siyasetin bu süreci sekteye uğrattığı anlaşılmaktadır. Bu kapsamda, GB'nin güncellenmesi

sürecinin siyasallaşmasını anlamak için TR-AB ilişkilerinin inişli çıkışlı seyri tarihsel bağlamda açıklanmaktadır. Buna ek olarak, Almanya'nın GB müzakerelerinin politize edilmesindeki etkisi üzerinde durulmakta ve Almanya'nın Türkiye algısının, genel olarak TR-AB ilişkilerinde özel olarak ise Türkiye'nin AB'ye üyeliği ve Gümrük Birliği'nin güncellenmesi süreçlerinde belirleyici olduğu anlaşılmaktadır.

Anahtar Kelimeler: TR-AB Gümrük Birliği'nin Güncellenmesi; Türkiye-Avrupa Birliği İlişkileri; Gümrük Birliği Modernleşme Sürecinin Siyasallaşması; AB'nin Türkiye Hakkındaki Kararlarında Almanya'nın Rolü.



To my dear family

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LIST OF ABBREVIATIONS

AA	Association Agreement
Brexit	British Exit from the EU
BPTF	Bilateral Preferential Trade Framework
CDU	Christian Democratic Union
CSU	Christian Social Union
CU	Customs Union
DCFTA	Deep and Comprehensive Free Trade Agreement
DEIK	Foreign Economic Relations Board
EEA	European Economic Area
EFTA	European Free Trade Association
EC	European Commission
ECF	Enhanced Commercial Framework
ENC	European Neighbourhood Council
EP	European Parliament
EU	European Union
Eurochambres	Association of European Chambers of Commerce and Industry
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GDP	Gross Domestic Product
IKV	Economic Development Foundation
IPC	Istanbul Policy Centre
MUSIAD	Independent Industrialist and Businessmen's Association
NGO	Non Governmental Organisation
NTB	Non Tariff Barriers
PTA	Preferential Trade Arrangement
SME	Small and Medium Enterprises
SPD	Social Democrat Party

SWOG	Senior Officials Working Group
TDI	Trade Defence Instrument
TOBB	Turkish Union of Chambers and Commodity Exchanges
TR	Turkish Republic
TTIP	Transatlantic Trade and Investment Partnership
TPP	Trans-Pacific Partnership
TUIK	Turkey Statistical Institute, TurkStat
TUSIAD	Turkish Industrialists and Businessmen Association
WB	World Bank
WTO	World Trade Organisation

CHAPTER 1

INTRODUCTION

After the Second World War, up until the Eighties, Turkey embraced the import substitution economic model, applying high custom tariffs to protect domestic producers from international competition. In 1983, with a view to liberalising Turkish economy in a period to follow a military administration, Turgut Özal, then Prime Minister of Turkey, started to attempt fulfilling the obligations assumed with the Association Agreement (AA) (1963) and joining the European Community. Hence, the political and economic circumstances that Turkey went through in the 1970's and 1980's led Turkey to settle with the Customs Union (CU) as it was introduced in 1995 as a final stage of the AA. Based on the CU, industrial and processed agricultural goods are subject to free movement between Turkey and the European Community.

Nevertheless, today's global order stipulates much more complex and deeper economic integration regarding free trade, and common institutional regulations that facilitate liberalised trade. Europe follows this trend with trade rules shaped in line with its founding treaties and trade policy documents, and proceeds with substantial free trade regions by concluding Free Trade Agreements (FTAs). Those FTAs regulate the service sector, public procurements and agricultural goods left uncovered by the EU - Turkey CU. Moreover, various problems are noted with the 1995 CU Agreement, with the effect of hindering rather than facilitating free trade. Therefore, the parties to the agreement concur on the need to update this free trade arrangement and make it more liberalised.

Turkey-EU Customs Union is a part of Turkey accession process into the EU, in a framework with the noted goal of full membership. However, given the lack of

any progress in the accession process, the efforts for the modernisation of the CU also lost their pace, due to the same set of political reasons, which are often summarized as a move away from European values and serious backslidings regarding the EU membership criteria in general, and political criteria encompassing fundamental rights, rule of law, independence of justice etc. in particular.

The present study investigates the political reasons hindering the CU modernisation process in the historical context of EU-TR relations, and seeks ways to revitalize the relations by efforts to facilitate the updating of bilateral trade relations framework, particularly the CU, as an anchor in the context of ruled-based institutionalised relations with the EU, rather than short term bilateral frameworks of cooperation covering a number of issues such as the refugee crisis or energy cooperation.

The present dissertation will try to understand why the CU needs to be updated, and why the CU modernisation process came to halt. In investigating these questions, the arguments raised by the EU and Turkey for updating the CU will be studied. The other questions to be raised include whether economics is the only set of motives guiding the modernisation process, and how the CU modernisation process is shaped by the politicization of Germany.

Finally, the thesis claims that the process of the modernisation of the CU is not actually an economic affair, but a completely political one, which is effectively politicized by a range of actors and circumstances. To make the case for this argument, the legitimate claims of the parties involved will be presented in a comparative context and different points of view will be discussed as part of the extended interpretation. Finally, to delineate the factors which may have led to the suspension of the updating process, the nature of the relations between Turkey and the EU will be discussed with reference to the incentives leading

each party to this process. The analysis will conclude with some deliberation on the possible options for revitalizing the relationship in the foreseeable future.

The first chapter will provide a brief review of the literature on the Customs Union between Turkey and the EU. Then will follow a discussion of the theories on customs unions as part of the historical narrative on free trade formations, with specific references to actual implementation.

Later on, with a view to understanding the political obstacles hindering the CU modernisation process, the historical background of EU-Turkey relations will be discussed, with particular focus on turning points. In the framework of bilateral trade relations in general and the CU in particular, the deficiencies of the context and the excluded industries will be mentioned to come up with a better perception regarding the necessity of updating the CU.

The third chapter will focus on the modernization process itself, discussing in detail the legitimate reasons both the EU and Turkey have for modernising the CU, with reference to official documents, business perspectives and impact analysis. Moreover, TTIP will be discussed as a considerable process which could culminate in the creation of a huge trade block. Furthermore the uncertainties posed by Brexit will also be investigated.

In conclusion, the argument that the CU modernization process is a completely political one, politicized in particular by the attitude of Germany, which stands out among the major players in the EU. In this perspective Turkey should overcome the prevailing political tension and use the CU as an anchor to revitalize and maintain its relations with the EU in the context of rule-based structured integration.

CHAPTER 2

CUSTOMS UNION THEORY

The literature on the topic covered in this study is largely concerned with the modernisation process of the Customs Union. Nevertheless, existing studies on the current form of the CU between Turkey and the EU are discussed briefly. Studies focusing on the CU between Turkey and the EU generally discuss the CU's economic effect on Turkey, since the arrangement's effect on Turkey's trade volume is more visible than its impact on Europe. Moreover, in the context of EU-Turkey relations, the CU is studied often with reference to macro-economic means and Turkey's trade volume, foreign trade composition and competitiveness of its products which are covered by the CU, along with assessments of the CU's contribution to the country's GDP. A number of studies also focus on the CU's impact on specific sectors such as the automotive industry.

The CU's effects on the country can be categorised as static or dynamic.¹ Yet, given the time period under focus, the present study delves mostly into the static effects, as the CU's dynamic effects on Turkey are expected to appear only in the long term. According to Pala (2011), in the period after the execution of the CU, namely between 1996 and 2010, the EU's trade share with Turkey fell, given the effects of the economic crisis and the earthquakes which shook the country. Thus, the CU did not lead to a significant boost in trade, as the proponents of the deal had expected. Akça, Bal and Çağlayan (2017) noted the CU's effect of fostering trade in Turkey, albeit at a limited scale. On the other hand, Karaman

¹ Static effects refer to short term gains associated with the increase of the volume of trade, achieved by eliminating customs tariffs. Dynamic effects, on the other hand, are longer term achievements stipulating improved economic structures or resource productivity.

and Özkale (2016) demonstrated that, in the period of 1982-2004, the CU led to increased trade in the automotive sector, electrical appliances and machinery, while in the case of iron and steel imports, and even with plastic products, there is evidence of trade diversion effects. Overall, however, no trade creation and diversion effect was noted for all kinds of goods. Furthermore, according to Neyaptı, Taşkın and Üngör (2007) the CU had a positive impact on Turkey's trade by increasing trade volume in general, and Turkey's exports to Europe in particular.

Hobikoğlu (2007) investigates both the dynamic and the static effects of the CU on Turkish economy. According to her, the CU has certain shortcomings in terms of its implementation, not least due to the unequal conditions the producers in Turkey and the EU face, making an increase in FDI unlikely. In Hobikoğlu's view, the imports from Europe into Turkey causing unfair competition, more so than the expected benefits of FDI inflow, defined what it meant for Turkey. Yet, despite making references to a lack of function and applicable regulations, Turkey would be expected to benefit substantially from the CU given Turkey's potential with its young population and wealth in raw materials. This line of analysis thereafter leads to a discussion of the positive dynamic and static effects the CU actually had Turkey. Seymen (2009) looked at the CU in the context of its effects on the trade composition of Turkey in the period 1969-2008, and found that the CU slightly altered the volume of trade, with some variation based on the characteristics of the country involved. Apparently, the EU enlargement process affected Turkey's trade composition with new members joining the EU. Hatipler (2011) reached to the conclusion that the CU increased Turkey's trade volume overall, albeit causing an imbalance in favour of imports from the EU leading to a foreign trade deficit in the aftermath of the implementation of the CU in 1996. Kabaalioğlu (2010) took a look at the EU with the practical complications it brought about, and underlined the role of the CU as a step towards full membership in the wider context of EU-TR relations, coming up with the conclusion that the EU should take action to reignite the accession

process. Looking from another perspective Akkemik (2011) observed the CU's impact on Turkish products' competitiveness in the market. He concluded that there certain products such as textiles and automotive exports benefited from considerable positive effects in the period 1996-2006. On the other hand, tech-intensive Turkish products were found to be unable to compete in the market. Taymaz and Yılmaz (2006), in turn, argue that, after 1996, in the light of the increase in imports, the industries with products capable of competing with the imports were successful in terms of improving their productivity.

A review of the studies examining the CU's effects cannot be complete without some reference to studies focusing on its shortcomings and the possible means for its updating and improvement, seeking to remedy its failures, and its extension to cover service sectors as well as agriculture. In this context, some studies investigate the most efficient method for the updating the CU. This is a natural consequence of any investigation about the shortcomings of the CU. Such studies usually support the arguments for the modernisation of the CU and suggest enhancing its scope to make optimal use of the opportunities involved.

For instance, Nas² (2018) demonstrates the shortcomings of the current CU and comes up with certain suggestions for immediate action to reform the CU, focusing, in particular, to a number of issues such as dispute settlement, problems related to FTAs with third parties, visas, and transport quotas. She emphasizes the necessity of updating the CU in line with the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the US. On the other hand, Hakura (2018) notes various design failures of the CU and presents possible solutions to enhance the coverage of the service sector, public procurements and the agricultural sector. The solutions on offer are mostly shaped after the model provided by another round of trade liberalisation involving the EU: EU-Ukraine Deep and Comprehensive Trade Agreement.

² Toperich, S., & Noi, A. Ü. (Eds.). (2018). *Turkey and Transatlantic Relations*. Brookings Institution Press. Chapter seventeen, p.265.

Furthermore, he suggests that the EU-Turkey CU model offers lessons for the Brexit process, in terms of the economic integration of a non-EU country with the bloc. According to those who support the modernization of the CU, the existing model has various defects, given its dated scope and current *modus operandi*. Nevertheless, as an essential and so-called completely accomplished part of EU-TR relations, any modernisation of the CU will benefit both parties. Such a win-win perspective is also found in the studies on the official impact assessment by the European Commission, as well as the assessments put forth by the World Bank and various business associations of Turkey and the EU which offer virtually unanimous support for Turkey's accession process. These analyses also serve as comprehensive resources and present possible ways of updating the CU, by stressing the necessity of legal harmonisation with the EU since the sectors proposed to be included in the framework, namely service, agriculture and public procurements, already perform based on the existing the framework of rules and law.

On another important issue, agriculture, one cannot help but underline the fragility of the whole sector, especially in terms of potential inclusion in the CU framework. According to Bayraç and Yenilmez (2005), without actual membership in the EU, further liberalisation of the agriculture sector would likely have severe consequences. Without subsidies provided within the framework of the Common Agricultural Policy, the domestic producers in Turkey would certainly be affected negatively. Grethe (2003), on the other hand, supports liberalisation of agricultural products, yet underlines the need to perceive liberalisation as a long-term process, given the sensitiveness of the sector and the challenges involved in the implementation of regulations. He adds that liberalisation affecting agricultural goods may be introduced step by step, based on the actual composition of the products. Thus, the agriculture sector may be brought under the CU umbrella gradually. In this line of thinking the studies discussing the modernisation and extension of the scope of the CU generally

have a sceptical perspective towards the inclusion of agricultural goods in the CU framework, given the fragilities of the sector for both parties.

Coming to the politicization of the process of the modernisation of CU, significant studies support Turkey's accession to the EU, with a focus mostly on refreshing and revitalizing the relations between the EU and Turkey by recommending other policy options. Faced with the Council's decision not to open any further chapters regarding the accession process of Turkey, and also not to give the mandate to even start negotiations on CU modernisation, Turkey needs a way out for revamping its relations with the EU. According to Ülgen (2017), the Customs Union is a catalyst for Turkey to integrate its economy to the global market and even is considered an anchor for democratic reforms. In this perspective, Turkey should see the CU not only as an economic arrangement, but also as a political tool to rebuild its relations with the EU in the absence of a favorable political environment to sustain a predictable and stable future for the relations. Arguing for a similar point of view, Eralp (2018) suggests policy options for Turkey on how to sustain relations with the EU. In the long term, in order to focus on the future of relations rather than today's obstacles, the most logical and solid ground rises on the revival of partnership in the context of both short term co-operations (such as the efforts to curb illegal immigration) and a deeper relationship based on common interests voiced through rule based co-operations in a multi-polar world.

At this point, it is necessary to mention Germany's role as a policy maker, in the context of the EU-TR relations. Some studies analyze Germany's role in terms of politicizing the CU modernisation process in particular, and Turkey's accession process in general. Szymanski (2007) provides a historical perspective of the domestic political shifts Germany experienced over the decades, and their impact on her attitudes towards Turkey from 1994 on. Szymanski views the relationship between Germany and Turkey as a dynamic one which is influenced by economic and political factors shaping German position on Turkey's accession

process. Turhan (2016) explained Germany's leading role in shaping EU-TR relations. As a supporter of continued EU-TR relations, she explained how the EU's internal dynamics attribute the leading role to Germany. Paul and Schmidt (2017) also underline the role of Germany regarding EU-TR relations, in the historical narrative. Their analysis suggests breaking the vicious cycle regarding the relations with Germany, which causes ups and downs in the wider context of EU-TR relations. According to them, Germany should not alienate Turkey and should leave the door open for closer cooperation, such as for the modernisation of the CU. Nevertheless, even though these studies support Turkey's integration into the EU, they deem actual membership of Turkey unlikely even though some studies discuss bilateral cooperation as an object with substantial potential, in the wider context of keeping the dialogue between the EU and Turkey going. Various studies focus on Germany's role as a decision maker in the EU regarding EU-TR relations, as well as an important factor in terms of understanding convergences and divergences in the EU-TR relations, since Germany's attitudes directly affect Turkey's position regarding the accession process and the modernisation of the CU. When Germany pursues closer relations with Turkey, Turkey's integration process sails relatively smoothly. On the other hand, when Germany considers Turkey as an alien to Europe, and as a party which is foreign to EU values, she makes the relationship between Turkey and the EU difficult.³

Other studies discuss the modernisation of the CU as a step for deeper integration with the EU. A number of analyses boast a contrary perception towards Turkey's accession process. Akdemir (2017), for instance, observes the course of public opinion regarding Turkey's accession process. According to him, the TR-EU go through ups and downs based on political, economic and cultural experiences. Let alone the failed expectations of the people in Turkey, the EU also raised further obstacles regarding the relations with reference to

³ Germany's role will be discussed in detail in the related chapter.

Cyprus or rising identity-related attitudes towards Turkey's membership. The EU's attitudes combining identity concerns with various specific issues provoke Turkish public against Turkey's EU membership and raise Euroscepticism. On the other hand, Ermağan (2012) observed that nationalism is also on the rise in Turkey, with specific reference to European identity. Moreover, a number of economic and cultural concerns focusing on the supremacy the European institutions would get following accession also raise certain questions in the minds of Turkish people.

Studies on the CU between Turkey and the EU almost always take both the negative and positive aspects of the CU, and voice views in support of modernisation, so as to minimize the adverse effects of the CU rather than abandoning it altogether. For instance, Kalaycı and Küçükali (2018) discuss the disadvantages the CU pose for Turkey, in the lack of membership in the EU. As it is practically impossible to refer to a study expecting Turkey's accession in near future, alternative solutions such as the modernisation of the CU are suggested as a possible remedy in the meantime. Aside from opinion pieces and academic studies, news items published in the media are generally more critical in terms of the negative impacts of the CU, although they rarely propose any solutions.⁴

With regards to the CU modernisation process, most studies focus on the shortcomings of the CU, and possible policy options to present solutions. Some focus on the process with specific reference to politics, while others discuss specific triggers to update the CU, such as TTIP negotiations. Nevertheless, the need to address the CU modernisation process as a whole, with reference to both the political reasons which put it into backburner in the context of the ups and downs of EU-TR relations in historical narrative, is obvious. In this framework, the first point of focus is the necessity of the modernisation of the CU, presenting

⁴ For further information see <https://www.dunya.com/sirketler/gumruk-birligi-bize-zarar-veriyor-haberi-230364> (Date accessed: 25.12.2019)

arguments from the perspective of the EU as well as Turkey, along with other contributing factors necessitating an update. Then would come a discussion of the reasons which hinder this process, in the context of the political relations between the EU and Turkey, all the while analyzing the attitudes of arguably the most important political actor, Germany, within the historical narrative of convergences and divergences of EU-TR relations. Finally, arguing for the modernisation of the CU, the present dissertation approaches the modernisation process as a factor which could potentially revamp the relations between the EU and Turkey. The CU modernization process is perceived as an anchor of Turkey's future relations with the EU in the context of rule-based integration. In this context, a number of proposals which can help appease tense relations and emphasize the win-win nature of the relationship for both parties may be underlined as part of the efforts to update the CU.

The present study rises on the pillars provided by a brief literature review, with references to a number of books and articles as well as official documents such as the opinion of the European Parliament, Turkey's Progress Reports (2014-2019), impact assessments and analyses carried out by European think tanks, Turkish economic and political foundations, and NGOs, with the support of European and Turkish government agencies and affiliated entities. Newspaper articles providing latest news and the comments voiced by business associations are also among the sources of reference used to present the views of both parties involved in the process of CU modernisation.

Before providing the definition of and presenting views about the customs union, one should explain the difference between a free trade agreement (FTA) and a customs union.

A preferential trade agreement (PTAs) is a trade agreement between countries, with the purpose of lowering tariffs for certain products among the contracting parties, and therefore providing preferential access for specific products. Since

the failure of the multilateral context of trade liberalization at Doha Round⁵ under the auspices of World Trade Organisation, the countries around the world have been preferring PTAs. In this context, free trade agreements (FTAs)⁶ and customs unions (CU) represent slightly different approaches to PTAs. Nevertheless, their economic effects still appear comparable, with the central differences between the two groups arising in how external tariffs are implemented and how decision-making mechanisms operate. (Missios, Saggi, Yıldız, 2012; 2) (Viner, 1950; 2) In the case of CUs, members agree to apply the common levels of tariffs when dealing with third parties, whereas in the case of an FTA, the parties are free to set external tariffs as they wish.

Crudely put, customs unions refer to an arrangement that eliminates or lowers the tariff barriers between two states or a group of states, and encourages trade among them, while maintaining tariff barriers against imports from outside. The customs union represents a phase between free trade zones created by FTAs or other PTAs, and may pave the way for a move toward further economic integration (such as a common market), which adds a common tariff to arrangements to enable the free movement of capital, resources and labour. Thus, customs unions can be summarized as free trade areas involving a common tariff framework.

According to Jacob Viner (1950), who is often credited as the leading name who came up with the theoretical foundations of customs unions, a customs union should meet three requirements: First, the tariffs between member countries must be eliminated. Secondly, the member countries should agree on a uniform tariff on imports from outside the union. Finally, the revenues derived by the customs

⁵ For further information see https://www.wto.org/english/tratop_e/dda_e/dda_e.htm (Date Accessed: 17.11.2019)

⁶ A free trade agreement (FTA) is a pact between two or more states to lower trade barriers. Under a FTA, goods and services can be imported or exported across international borders with little or no tariffs, quotas or subsidies. <https://www.investopedia.com/terms/f/free-trade.asp> (Date accessed: 17.11.2019)

union should be allocated among the members in accordance with a specific formula. Moreover, the economies of countries establishing a customs union should be competitive (and comparable if possible) and not complementary, for an efficient reallocation of resources to appear after the establishment of the customs union.

At this junction, a few historical examples of customs unions could help explain the characteristics of the concept. Zollverein was one of the earliest customs unions established, and was set up in 1834 by several German states, under the leadership of Prussia. The customs union agreement signed in 1857 between Austria and Modena provides yet another example. Up until these arrangements, various countries were bound with most favoured nation (MFN) contracts which regulated various aspects of economic and commercial relations. With the customs union agreements, controversies arose in an environment where MFN contracts governed almost all trade relations. For instance, in 1867 Napoleon III demanded free entry into Zollverein customs union area for French products, with reference to an agreement signed between France and Prussia in 1865. However, his claim was denied. Other diplomatic conflicts also arose regarding the most favoured nation obligations versus customs union agreements. (Viner, 1950; 6-7)

Efforts to relieve parties from existing most favoured nation obligations took various forms: imperial commercial arrangements between the territories of an empire; regional arrangements such as Balkan or Nordic leagues, and multilateral agreements that did not limit the number of countries or regions involved in nonexclusive arrangements. Another example of an effort to achieve exemption from most favoured nation obligations appeared in 1880s as European countries under the leadership of Austria⁷ intended to take certain measures against the argued unfair commercial competition of American goods in

⁷ At that time Austria stood out as the European country that is most autonomous from the US from an economic perspective. (Viner, 1950; 27)

European markets, as a result of the most favoured nation obligations. (Viner, 1950; 26-27)

Viner implies that this example can be considered the earliest proposal to come up with something resembling an European economic union. (Viner, 1950; 26) Regarding customs unions Viner also refers to the process of acceptance of exemption from the most favoured nation principle, towards the formation of free trade agreements and customs unions, through a number of international agreements and conferences such as the Havana Charter. In this context the Havana Charter⁸ is noteworthy as it cleared the way for free trade agreements and customs unions in the international arena. The “free trade area” term was then used for the first time as a technical term with a specific definition. Therefore, it was a big step to remove a major obstacle in front of free trade agreements, with the most favoured nation principle being relegated to a secondary position. (Viner, 1950; 152-160)

Once the way for free trade was clear, Viner notes, the conditions for customs unions and their general effects as described, began to appear as per the theory he developed. After an initial focus on the economy, Viner proceeds to provide various political perspectives entailing incentives for the formation of customs unions. As he put it, a customs union may appear as a force for negotiation or as a tool for fair competition, and in time become more powerful through expansion. Viner also refers to the geographical position of countries included in a customs union, the need for coordination and mutual supervision to achieve the standardization of regulations and the simplification of obligations, not to mention practical issues such as transportation arrangements. He then proceeds to delineate the terms of an ideal customs union by providing historical examples. (Viner, 1950, Chapter 3-4-5)

⁸ Havana Charter: The final act of a conference about multilateral trade liberalization which is organized by International Trade Organisation under the auspices of the United Nations, in 1948.

On the theory front, Viner is widely accepted to be the first scholar specializing on customs unions, and the points he raised are still considered relevant, albeit with various shortcomings in the eyes of subsequent generations of economists and scholars. Therefore, to understand other customs theories and to assess the effects of customs unions, the perspective provided by Viner's theory is still crucial as a valuable starting point. Moreover, various criticisms of and studies building on Viner's ideas lead to a more comprehensive perspective.

Customs unions are complex patterns, each presenting a distinct case, as some are supported by the proponents of free trade given their effects of trade liberalization through the elimination of tariff barriers, while others are proposed by protectionists given their ability to encourage trade within a smaller group instead of with the wider world, and thus to protect domestic producers with tariffs. (Viner, 1950; 51-52) (Krauss, 1972; 413)

Viner basically focused on welfare effects associated with changes in the place of production. He investigated the questions related to production site changes occurring after the customs union, stipulating a move from higher-cost production to lower-cost, or vice versa. Viner states that such questions cannot be answered a priori, and that a meaningful answer can be developed only through experience with the practical implementation each customs union. (Viner, 1950; 53) Furthermore, he claims, customs unions do not necessarily increase welfare, and one cannot take such an effect for granted. (Krauss, 1972; 413)

To provide some concrete basis in the face of such inherent ambiguity, Viner focused on the theoretical terms of trade creation and trade diversion. A hypothetical world where countries A, B and C trade with each other can help to describe Viner's perspective. In that world, A produces commodity X at a low cost level, while B produces the same product at a higher cost. If a customs union between A and B is formed, B would be inclined to buy commodity X

from the lower cost producer that A is, instead of higher cost domestic producers. The substitution of a cheaper imported product for a higher cost domestic one is called the trade creating effect, which efficiently expands trade and gains acclaim from the proponents of free trade. In case country A produces commodity X at a higher cost, while country C produces it at a lower cost level, with country B having equal tariffs on the products of countries A and C, it would be only natural to see country B import the commodity X from country C, which stands out as the lower cost producer. If, through a new customs union, country B eliminates tariffs on imports from country A, the imports from country A may become cheaper to buy, even though their production costs for commodity X may still be higher than those incurred by country C. As country B maintains the tariffs on imports from country C, overall, the prices of commodity X imported from country C may be higher than the overall prices applicable to imports from country A. This effect, which changes the cost picture is called trade diversion. Therefore, a customs union can lead to a reduction of welfare by shifting trade from a lower cost exporter to a higher cost partner. Given the fact that he was the first one to come up with such a conceptualization, Viner is widely recognized as the pioneer of the customs union theory. (Krauss, 1972; 414) (Lipsey, 1960) From the perspective of Viner, diverting trade from lower cost to high cost products reinforces the tariff protection framework against countries outside the union, in a manner often approved by protectionists. (Viner, 1950, 51-54)

Yet, one should also note that, even though Viner's conceptual contributions are valid and accepted overall, they are also widely criticized. To get a holistic perspective of the customs union theory, his critics as well as other contributions must be discussed even if briefly.

The primary criticism directed against Viner is built on his assumption of fixed commodity prices and consumption rates. He is also criticized for focusing on the welfare effect only at a global scale. Lipsey criticizes Viner for ruling out

substitution between commodities and also failing to analyze all aspects of a shift of trade from one country to another, and being content with a reference to the physical move only. (Lipsey, 1960; 500-501)

Lipsey essentially agrees with Viner with reference to the notions of trade creation and trade diversion, and attributes great importance to Viner's assumptions. Yet he also presumes that customs unions would affect relative prices and therefore indirectly alters consumption patterns, leading to substitution of various commodities with each other, and thus a change in trade volumes. Building on what J.E. Meades argued, Lipsey also investigates the changes in consumption as a result of removing tariff barriers. Focusing on changes in consumption, and assuming elastic demand and relatively fixed production, Meade suggests that a customs union may lead to an increase in the volume of trade even if the customs union would be expected to lead to a diversion of trade. In Meade's formulation, this effect is called trade expansion (increase in the volume of imports). (Lipsey, 1960; 505) (R. G. Lipsey and Kelvin Lancaster, 1956-1957; 13)

Lipsey as well as Meade presumed that when a trade diverting customs union occurred, people tend to seek and buy cheaper substitutes of a given good, which had previously been imported from a third country at a lower cost level, and which is now being imported from the partner country in the customs union at a higher price point. Such a tendency would lead to an increase in the volume of imports from the country with which a customs union is established. (Lipsey, 1960; 500-502) Therefore, a trade diversion customs union does not always have to cause a reduction of welfare. Such a result can be brought about in a trade diverting customs union as the structure of relative price changes necessarily affecting consumption are taken into account. This, in turn, is called the consumption effect or the trade volume effect.

Lipsey is also noteworthy with his contribution of the concept of inter-commodity substitution, and built on Viner's analysis of intercountry substitution to come up with a clearer distinction of the consumption effects regarding price shifts affecting the substitution of commodities, which would ultimately lead to changes in production and consumption.

Viner has indisputably gave start to the theory in this field and also identified its conditions, possible effects and even certain political aspects of customs unions. However, from a theoretical perspective, the variables presented as part of the conceptualization were often found lacking. Against a background of such noted shortcomings, the contributions made and interpretations proposed by Lipsey, Meade, Corden (1972), and Bhagwati are also noteworthy.

Furthermore, Corden incorporated economies of scale into the customs union theory to see if the concepts of trade creation and trade diversion are relevant. Corden's analysis takes average cost of production and domestic prices, which, in turn, are determined by the cost of imports. By comparing those costs, he is able to guess whether the goods will be produced inside the country, or imported from a third country. He validates conventional concepts of trade creation and trade diversion and even introduces two of new versions of them: cost reduction and trade suppression effects. (Corden, 1972; 465) The former, building on trade creation, involves trade moving to lower cost producers and average cost levels less than the domestic prices, so that producing that commodity within the union costs much less than the prices which would appear with imports. In such a process the cost reduction effect rather than the conventional trade creation effect dominates, because not a simple shift from an expensive source of supply to a cheaper one but instead involves the reduction of costs with the existing source of supply. (Corden, 1970; 467-468) In other respects, when imports from a third country are replaced by domestic production, there is bound to be a trade suppression effect similar to the trade diversion effect, for the rather expensive source replaces a cheaper one. However, this time the expensive source is a new

one set up by a domestic producer rather than one in a union partner country. (Corden, 1972; 468)

Some if not all notions of customs theories are imbued with several variables such as the location of production, consumption patterns, terms of trade, or the economies of scale.

In terms of their rather general effects, the customs unions have considerable influence on international mobility of factors of production, capital movements and shifts and reallocation of sources, changes in the habits of consumption, production, political relations and much more with an effect on world welfare. Even though, sometimes they may appear welfare reducing, customs unions are generally perceived as positive developments, since they eliminate barriers before trade, and they pave the way for free trade.

All these effects are reflections of customs unions' initial effects which are called static effects. Welfare effects, cost reduction or trade creation are but a few of these static effects. On the other hand, Krugman, Van Kemph and Bhagwati are interested mostly on non-economic incentives of free trade arrangements and of the political economy of customs unions. They investigate the customs unions' dynamic effects appearing in the longer term such as their impact on the attitudes of countries. For instance, in the context of dynamic effects, whether signing an FTA encourages countries to becoming a part of multilateral trade arrangements stands out as a promising research question. In the case covered here, it can be demonstrated that the result seems to undermine multilateral trade formations, with executing an FTA leading to a reduction of the incentives for joining in a customs union. (Liu, 2008; 266,267)

In case of the customs union between Turkey and the EU, the arrangement does not meet all the requirements Viner would expect from a perfect customs union. First of all, Turkey is not a member of the EU, so she is not a party to the

decision making mechanism governing the Common Customs Tariff regulations, also be informed about changes of implementations delayed and both parties cannot go alone taking decisions that would affect trade. Secondly, a true customs union should eliminate all tariff barriers between member countries. Yet in the case of the TR-EU CU, there are non-tariff barriers and instruments in place to defend certain sectors, stipulating quotas or qualitative restrictions to trade that both EU and Turkey erect against each other, claiming special circumstances.⁹ Furthermore according to the customs union theory a customs union should present a common face to the outside world, not to mention a common policy framework. However, Turkey does not enjoy the same opportunities with the EU, in terms of EU's FTAs with third parties. Turkey even lacks the ability to take part in the negotiations for free trade agreements which would have a certain negative impact on its market. To understand the negative effects such free trade agreements executed by the EU have on Turkish economy, the trade diversion concept would be most helpful and explain trade increasing effects (positive impacts) whereas the concept trade creation will be at the focus of this thesis.

Based on these, one can forcefully argue that, according to the customs union theory, a customs union is a mode or a phase of economic integration. In this sense, that of the EU is consistent with the definition. However, the one between Turkey and the EU, involving two parties which are seem to be stuck in the phase of the CU (without progressing further), does not. Even if Turkey wills to move further, the EU does not seem eager to deepen its integration with Turkey. In this thesis, the deficiencies of this specific CU will be discussed in detail. The CU will be presented as part of the historical narrative of EU-TR relations, and the reasons causing the standstill in the CU updating process, particularly the

⁹ Such as embargoes and sanctions. Generally, NTBs are a part of political economy tools to control the amount of trade with other countries. For further information see <https://www.investopedia.com/terms/n/nontariff-barrier.asp> (Date accessed: 19.12.2019)

political ones, will be investigated against the background of Turkey's suspended accession process.



CHAPTER 3

HISTORICAL PROCESS LEADING TO THE CUSTOMS UNION BETWEEN TURKEY AND THE EU

In this chapter, the historical context of Turkey's relation with the European Union (EU) will be presented, with specific reference to certain turning points. The Association Agreement of 1963, the Additional Protocol of 1970, and the preferential trade agreements of 1995 and 1998 will be discussed. In the context of explaining why certain sectors such as agriculture and services were excluded from this framework, the shortcomings of the CU will be reviewed, with specific reference to the Common Agricultural Policy of Europe and Turkey's various legislative initiatives.

The Treaty of Rome signed by six Western European countries entered into force in 1958. With a view to avoiding alienation from a potential political formation in Europe, Turkey applied to join the community soon after. After negotiations in 1963, Ankara Agreement was signed, establishing the association between the European Economic Community (EEC) and Turkey. Ankara Agreement aimed to encourage commercial relations between the parties, to accelerate the development of Turkey's economy and living standards, particularly by establishing a customs union. Ankara Agreement (also known as the Association Agreement) (AA) envisages three stages to complete harmonization of Turkish economy and to finalize the Customs Union: preparatory, transition and final stages, with protocols establishing the rules for the preparatory stages.

In the Association Agreement (1963), all issues are regulated with reference to the Treaty Establishing the European Economic Community, in terms of determining the context of the Customs Union such as the free circulation of

industrialized goods, agricultural goods, free movements of labour, freedom to provide services etc. without specific restrictions. (Ankara Agreement, 1963; Articles 11, 12, 14) The ultimate goal was full membership of Turkey after a certain process of legislative and technical harmonization.

Starting with the Ankara Agreement, the EEC began to apply lower tariff barriers on specific products such as hazelnuts, dried figs, grapes and tobacco. Additionally, with article 38, the AA introduced the regulation of certain agricultural products within the framework of the Common Agricultural Policy. (Akçay, Özçelik; 2012, Chapter 15)

The negotiations for the transition stage began during the preparatory stage, and culminated in the Additional Protocol in 1970.

Through the Additional Protocol the parties settled on arrangements and timetables for the transition stage referred to in the Association Agreement (1963). Turkey promised to abolish protectionist practices regarding customs duties, and to harmonize with the arrangements introduced by the EEC, through a gradual process covering twelve years, and twenty years in the case of certain sensitive sectors. (Additional Protocol, 1970, Article 11) According to Additional Protocol, the parties were not supposed to implement any quotas and quantitative restrictions on each other. Moreover, Turkey was obliged to harmonise its tariff regulations towards third countries with the Common Customs Tariffs (CCT) of the European Community.

The EEC unilaterally abolished tariff barriers affecting imports from Turkey. Turkey, on the other hand, after applying a number of tariff reductions, announced its intention to postpone its obligations stemming from the Additional Protocol, with reference to the economic difficulties she had been enduring. During those years the relationship between the EU and Turkey were tense, with the effects of various political issues, not to mention the 1980 coup d'état being

felt. A point to be noted here is that while Turkey tried and met its obligations related to the Common Customs Tariff (CCT), the EC did not implement the Association Agreement's provision regarding the free movement of workers. (Akçay, Özçelik, 2012; 536)

Upon return to civilian government, the process for integration with the free market along with further liberalisation of the economy resumed, and began to shape Turkish foreign trade policy. With a view to getting some help with its troubled political position, Turkey applied for a membership in European Coal and Steel Community, EURATOM and European Economic Community in 1987. However, the Commission of the EC responded to that application by underlining that Turkey was still supposed to fulfil the final stage of the CU.

The process to culminate in the final stage of the Association Agreement concluded in 1963, is purportedly designed to achieve the goal of Turkey's accession into the EEC. In this context, all matters related to integration and harmonizing Turkey's economy and trade are regulated with reference to the Founding Treaties of the EEC, without exception. Nevertheless, given the fragility and volatility of Turkey's political circumstances in late 1970s and 1980s, the transition process was disrupted more than once, bringing the relationship to a standstill. The changing political picture in the international arena¹⁰ not to mention the increasing labour migration from Turkey to Europe, along with the prevalence of a civilian administration with a liberal outlook changed the perception of Turkey in Europe, helping recover the relationship from the verge of total collapse.

¹⁰ Detente and the subsequent collapse of the Soviet Union removed most of the tension in the international arena by literally as well as figuratively tearing down the wall between the East and the West. Moreover, developments such as the Helsinki Final Act under the auspices of the Conference on Security and Cooperation in Europe, to establish and strengthen relations between countries helped facilitate cooperation in the international arena.

On 6 March 1995, through the European Community (EC) - Turkey Association Council Decision, a Customs Union between Turkey and the European Union was established for industrial goods and processed agricultural products. As part of the deal, Turkey attuned her customs regulations and policies regarding commercial relations with third countries with those of the EU. With this decision free movement of industrial products and processed agricultural products was assured with instruments designed by the parties in line with specific conditions applicable. On the other hand, the Customs Union specifically excluded agriculture and service sectors. Moreover, issues such as the free movements of workers, Turkey's participation in related decision making processes regarding commercial relations with third parties which enter into FTAs with the EU were also left outside, making the deal far from a complete or perfect customs union in Viner's book. (Viner, 1950; 4)

Turkey-EC Association Council Decision established the Customs Union by officially concluding the transition phase and starting off the final phase of the fulfilment of obligations laid down in Ankara Agreement. The Decision states that "the Customs Union represents an important step, in political and economic terms, within the Association Relation between Parties". (Decision No. 1/95 of the EC-Turkey Association Council). The exclusion of agriculture and the service sectors from the Customs Union Agreement, on the other hand, denotes a change in Turkey's priorities, and the attribution of importance to a Customs Union instead of rather than aiming for full membership. Since including the service sector and agriculture makes the harmonization process more complicated, and as agriculture is considered a vulnerable area, which is subject to the highest rates of import duties. Moreover, issues such as the free movement of workers and businessmen, including the elimination of all transport duties, are related to full membership as stipulated in Ankara Agreement, whereas with the Association Council Decision no. 1/95 Turkey settled with eliminating tariffs on industrial products and aligning its commercial policies with those of the Community.

In 1996, the Coal and Steel Free Trade Agreement was signed between Turkey and the European Community, providing a preferential trade framework for the covered products, which were excluded from the customs union.¹¹ Afterwards, a trade regime on agricultural products was similarly established with the Turkey-EC Association Council Decision no. 1/98, which also provided for a preferential trade arrangement on agricultural products. As mentioned before the preferential trade arrangements constitute means for trade liberalization but fall short of a customs union, and are often considered a step backwards from an actual customs union. (Decision No. 1/98 of the EC-Turkey Association Council, dated 25 February 1998, on the trade regime for agricultural products, page 2)

In 1999, Turkey was accorded the candidate status for EU membership at Helsinki Summit. In years 2001 and 2002 Turkey implemented various economic and institutional reform packages encouraged by IMF and the World Bank, and accordingly made significant progress on the economic front.

With reference to ongoing economic development of Turkey, the EU initiated the accession negotiations with Turkey in 2005, underlining their open-ended nature. In 2006, The EU blocked 8 eight chapters, which cover obligations stemming from the full implementation of the Customs Union Agreement as provided in the Additional Protocol, in connection with the Cyprus issue. Later, 14 chapters were blocked through the decision of the Council of the European Union with reference to the political tensions involving Cyprus. Most recently, in June 2016, the 16th chapter was opened.¹² In December 2016, however, the Council decided to suspend accession negotiations (along with initiatives for the modernisation of the CU). Once more, based on the concerns of Germany and countries with a

¹¹ For further information see https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/customs-unions/turkey-customs-unions-preferential-arrangements_en (Date Accessed:30.11.2019)

¹² For further information see https://www.ab.gov.tr/katilim-muzakerelerinde-mevcut-durum_65.html (Date accessed: 30.11.2019)

similar perspective, such as Austria and France, political reasons in connection with the internal disturbances Turkey had been experiencing in the aftermath of the attempted coup were noted as justification.

To analyze the process for the modernisation of the Customs Union, which began in 2014 and which was suspended by the Council withholding even the mandate for starting negotiations, one should have a robust understanding of the political relations between the EU and Turkey.

Crudely put, the CU is an outcome of the association agreement executed between Turkey and the EU in 1963. Given its scope defined by the conditions prevailing then, the process naturally suffers from various challenges arising from the current picture of the trade integration between Turkey and the EU.

Table 1. EU-Turkey Bilateral Relations

Association	1963 Association Agreement (Ankara Agreement)	Establishes the Association between EEC and Turkey, aiming to empower trade and economic relations, and stipulating the establishment of the CU in three stages.
	1970 Additional Protocol	Sets out the rules for implementation of the transitional stage of the CU by projecting the abolition of customs duties over twenty years.
Current Bilateral Preferential Trade Framework (BPTF) including Customs Union for industrial goods	1995 Customs Union Decision	Establishes the CU for industrial goods in the final stage of the process. Requires legislative alignment regarding external tariffs, customs and technical regulations, as well commercial policy of Turkey with those of the EU.
	1996 Coal and Steel FTA	FTA on coal and steel products (including rules on competition).
	1998 Agriculture and Fishery FTA	Bilateral preferential concessions in agricultural and fishery products.
Accession Process	1999 Turkey granted candidate status for EU accession	Turkey undertakes a political commitment to harmonise its legislation with the EU Acquis
	2005 Start of the accession negotiations	To date 17 out of 35 chapters were opened. Currently, suspended by the decision of the European Council.

¹³ This table is taken from the Impact Assessment of the European Commission, page 5. (31.12.2016) https://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155238.pdf (Date accessed: 20.10.2019)

Table 2. Existing Bilateral Trade Relations Framework between the EU and Turkey (BPTF)

Trade in goods	
Industrial goods	1995 Customs Union Decision: Customs Union for all industrial goods (except coal and steel), including processed agricultural goods (except their agricultural components), free circulation of goods
Agricultural and fishery goods	1998 bilateral preferential trade concessions
Coal and Steel Products	1996 FTA, full coverage of this category of products. FTA, not a customs union
Customs	Common Customs Code and Legislation (Customs Union)
Non-tariff barriers	Technical barriers to trade (Not covered)
Trade defence measures	Possible to impose anti-dumping measures if is justified, bilateral safeguards are also possible (Covered in the Customs Union)
Trade in services	Not covered
Investment	Not covered (bilateral investment treaties between Turkey and 26 EU member States)
Intellectual Property Rights	(Covered in the Customs Union)
Public procurement	Not covered
Regulatory cooperation	Not covered, Nevertheless, as candidate country Turkey has already committed to harmonisation with EU Acquis
Rules (Sustainable development, trade in energy, raw materials, SMEs etc.)	Not covered, however, in several areas there is strong cooperation between Turkey and the EU.

¹⁴ This table is taken from the Impact Assessment of the European Commission (2016, 31 December) page 9. https://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155238.pdf (Date accessed: 20.12.2019)

3.1. Deficiencies of the Customs Union

The CU Agreement in its existing form is a product of the requirements of the 90s. Nevertheless, today its certain shortcomings regarding its limited scope and functioning are becoming stark. Before presenting the grounds for revising the CU from the perspective of Turkey as well as that of the EU, a general picture of existing shortcomings will be presented, followed by a discussion of the modernisation required, with reference to the needs of Europe, Turkey as well as the business world.

On the limited scope of the CU, one cannot help but observe that it only encompasses industrial goods, unlike new FTAs (which implement deeper economic integration in the field of service sector, primary agricultural goods and public procurements). In a number of areas such as tourism, education, healthcare, transportation and financial services Turkey needs better integration with the EU, through sustained legal harmonisation in related policy areas. (Hakura, 2018; 3)

To achieve progress, modernisation efforts try to achieve deeper integration by facilitating the involvement of new areas including SMEs, sustainable development and environmental issues, and intellectual property rights. (European Parliament, Directorate-General for External Policies, 2016; 25)

On the regulative flaws of the current CU, one can refer to the use of trade defence instruments (such as anti-dumping and safeguard measures), lack of notification mechanisms regarding technical legislation harmonisation, the failings of the dispute settlement mechanism, NTBs (especially the implementation regarding the regulations introduced by a EU body, such as the European Medicines Agency and the European Chemical Agency), transport quotas and visa obstacles faced by business people, and also the disadvantages imposed due to not being a member of the EU, isolating Turkey from the

decision making processes regarding the matters related to the CU, and not giving it a say on EU's negotiations for FTAs.

A rather detailed assessment of the CU in terms of its deficiencies regarding scope and functioning will begin with the specification of the reasons which led to such a limited scope in the first place.

3.2. Reasons Which Led to the Exclusion of Certain Sectors

Following the establishment of the Republic of Turkey, the doctrine of etatism was embraced, bringing about a state led development perspective with a strong focus on an economy driven by agriculture, and economic growth brought about by government policies. Turkish economy was organised around import substitution policies. The first, second and third development plans aimed to revive domestic industries and demand. Yet by 1970s, Turkey was experiencing a severe economic crisis in parallel with the turbulences in the global economy. Domestic political turbulences also played their part with negative consequences for the economy. While Turkish economy was still mostly based on agriculture, the service sector and private investments also contributed to growth. Negative growth rates, rising unemployment, commodity supply problems and depression in the economy in addition to political disputes culminated in a coup d'état in 1980. (Düzgit, Tocci, 2015; 94) (Dağdemir, Küçükkaya, 1991; 124)

After the 1980 coup d'état, in the context of returning to a civilian government, the Prime Minister, Turgut Özal initiated a number of structural reforms towards liberalisation with a view to attracting foreign investors. However, the course of Turkish economy was still extremely volatile. The growth of GDP was also unstable over the years, with regular economic crises hitting the country, leading to bank failures, high levels of government debt, and huge balance of payment deficits. (Düzgit, Tocci, 2015; 92-93)

The Additional Protocol of 1970 to complement the Association Agreement aimed to facilitate the integration of Turkish economy with that of the EU. Yet, the crises in Turkey led to significant instabilities which delayed the transition phase of the CU as per the agreement of 1963. Therefore, one should bear in mind that the CU is a product of this complicated process which went through numerous ups and downs. In this context, the liberalisation reforms introduced in 1980s by Özal, and the expectation of structural economic reforms to prevent further economic crises in Turkey, led to a perspective considering the CU Agreement as an incentive, considering it an anchor of economic and political stabilization of Turkey. (Düzgit, Tocci, 2015; 95)

The next few pages will delve on why certain sectors were left outside the scope of the CU, with a view to helping understand the general political and economic environment of the years in which the CU was designed and executed. Agriculture presents a good starting point in this context.

Agriculture is a crucial sector for both Turkey and the European Union. To ensure the inclusion of agricultural products in free circulation, Turkey is expected to embrace the Common Agricultural Policy of the European Union. To do so, Turkey would be expected to complete the harmonisation of her regulations with the *Acquis communautaire*. Yet, Turkey has a very substantial agricultural base. Such a harmonization may create various ambiguities and risks, particularly as Turkey's agriculture sector and the mechanisms involved are completely different from those of Europe. Turkey employs rather more traditional production methods on smaller land-holdings. Moreover, the technical procedures required, and the subsidies involved may cost considerable amounts. Since Turkey is not a member of the EU, she cannot depend on EU funds to meet such costs, and thus has to afford all financial requirements on her own.¹⁵

¹⁵ Since Turkey's accession process is effectively on hold, the financial aid mechanisms such as SAPARD (Special Accession Programme for Agriculture and Rural Development) which is applied in pre-accession processes, is also suspended. (Metin, C., & Esengün, K., 2007)

Agriculture accounts for 11% of Turkish economy, and import tariffs and taxes involved are high (35–42%). If Turkey is forced to give up that revenue, she will certainly face substantial hardship. To make the picture no less complicated, the EU provides subsidies for producers, and those subsidies may cause unfair competition with Turkish producers, providing substantial advantages to European producers. (Bayraç, Yenilmez, 2005; 32-40) In this perspective, Turkey faces significant internal constraints regarding agricultural structures and policies, and lacks the financial means to facilitate a transformation to bring its agricultural sector in tune with the EU, and to ensure its inclusion in the Customs Union.

On the other hand, Turkey's inclusion in the Common Agricultural Policy framework would impose a certain financial burden on the European Community Budget. Since the last round of enlargement, involving the countries of the Central and Eastern Europe, the EU channels substantial amounts to subsidize agricultural expenditures, through a number of means ranging from subsidized prices to reforms covering extensive structural policies. (Bayraç, Yenilmez, 2005; 30)

Another sector left outside the scope of the Customs Union is the service sector, with issues involving the abolition of transport duties, and the free movement of workers. Due to challenges involved in the process of harmonization with European regulations, merging the service markets with those of Europe may lead to unforeseen consequences and leave Turkish economy vulnerable. On the other hand, the priorities of the parties may have changed since the days when the Customs Union was implemented. The CU should be considered as a result of 1990's political environment. Economic conditions prevailing then shaped the preferences of Turkey, which forced the government to push for a resumption of the relations with the European Community and integrate the country's economy with the global trade system through liberalization. Thus, even though Turkey was unable to meet all obligations stemming from the 1970 Additional Protocol,

in 1995 it was faced with the absolute need to sign the Customs Union under the circumstances prevailing then, without waiting for the inclusion of agriculture and the service sector, and perhaps more crucially, the free movement of workers and free transportation quotas.

After all, the Customs Union brought significant benefits to Turkish economy, helped improve the country's competitiveness, while the requirements introduced for production and regulatory alignment brought higher standards for Turkish producers to embrace in the wider context of world trade.

According to TUSIAD's¹⁶ assessment of the Customs Union (2015), the Customs Union which entered into force in 1995 covering only industrial goods and processed agricultural products, directly affected 20% of Turkish economy. According to the World Bank (2014), Turkey's exports to the EU would have been 3 to 7.2% less, if the parties signed a FTA instead.

According to quantitative data provided by TUIK¹⁷, in 2018 43.2% of exports and 28.5% of imports of Turkey were with EU countries. Clearly, the EU ranks at the top of the list of Turkey's trade partners, in terms of volume.¹⁸

The Customs Union between Turkey and EU has been in effect without change since its introduction in 1995. In the period of twenty-four years since, Turkey and the EU went through different political and economic processes and Turkish

¹⁶ TUSIAD –Turkish Industry and Business Association– was established in 1971 in Istanbul, by leading Turkish investors from industry and service sectors.

¹⁷ Turkey Statistical Institute, often abbreviated as TurkStat (TUIK), is a research institution affiliated with the Ministry of Finance and Treasury of the Republic of Turkey

¹⁸ This figure includes the United Kingdom as well.
<http://www.tuik.gov.tr/UstMenu.do?metod=temelist> (Date accessed: 30.11.2019)

economy went through significant transformation, with increased involvement in international markets since 1995.

In the meantime, the EU signed various bilateral trade agreements with more than 70 countries. 38 of these are currently fully in place while 48 are partly in effect. Some of those agreements are Economic Partnership Agreements which only regulate commercial rules according to agreed terms such as the Most Favoured Nation principles, and which do not eliminate all trade barriers. On the other hand, 40 agreements with various titles such as Association Agreements, Economic Area Agreements, Deep and Comprehensive Free Trade Agreements all eliminate trade barriers and establish free trade areas.¹⁹ The FTAs signed by the EU usually cover primary agricultural products and service sectors. Against this background, the Customs Union between Turkey and the EU became outdated and arguably no longer meets the needs of its parties.

In this light, the need to expand the scope of the CU is considered obvious. The legitimate reasons for updating the customs union from the perspective of the EU and Turkey will be represented in the next chapter.

¹⁹ For further information see http://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/#_in-place (Date accessed: 30.11.2019)
<https://www.gov.uk/government/publications/existing-free-trade-agreements-if-theres-no-brex-it-deal/existing-free-trade-agreements-if-theres-no-brex-it-deal> (Date accessed: 30.11.2019)
<https://ticaret.gov.tr/data/5b872ada13b8761450e18f4b/2d5896beff4a9ac2a0ef64b67741cecf.pdf> (Date accessed: 30.11.2019)

CHAPTER 4

CALL FOR MODERNISATION OF THE CUSTOMS UNION

The current political incentives shaping Turkish-EU relations mostly stem from the deadlock of the accession negotiations by de facto veto of Cyprus in the Council of the European Union, and the backing Cyprus gets from a number of other EU members, including but not limited to Germany. Against this background, it is necessary to revamp the bilateral relations from another aspect of integration between Turkey and the EU. Moreover, existing flaws of implementation regarding the institutional context of the CU, such as the dispute settlement mechanism, highlight a crucial point, namely the obsolescence of the CU in its 1996 version. It is obvious that the scope of the CU should be extended. Besides, it should be noted that although the whole process is closely related and open to the impact of politics, there are also certain crucial economic reasons for embarking on this process.

Looking at the issue from different perspectives, various studies sponsored by various institutions and organizations from Turkey, the EU, and third parties came up with different assessments of the modernisation of the CU. Eventually, in the light of the shortcomings of bilateral trade relations, both parties agreed that the existing framework of trade relations is insufficient for establishing and maintaining close and ambitious trade relations between the EU and Turkey. Therefore, the two contracting parties established a joint Senior Working Group (SWOG) and tasked it with working on the modernisation of the CU. The Working Group (SWOG) had several meetings in 2014 and 2015, and eventually on 27 April 2015, released a report on updating EU-Turkey trade relations with the aim of reforming the CU due to the recent developments and the expansion

process the EU went through, with specific reference to the evaluation by the World Bank. The SWOG, with reference to the expansion of the bilateral preferential trade relations so as to cover services and public procurement, and to stipulate further liberalisation regarding agricultural products, also underlines the need for Turkey to be more involved in the trade negotiations and decision making processes.²⁰

In this context, on 12 May 2015 the EU Commissioner and Turkey's Minister of Economy settled the framework for preparations for future negotiations to update the CU. On 29 November 2015, the Heads of States announced that they would start preparatory studies as a preliminary work for further official negotiations to reveal the necessity of the modernisation of bilateral trade relations between Turkey and the EU. As a first step, impact assessments and reports were prepared.²¹ The impact assessments and the detailed analysis by European Commission led to the recommendation to the European Council for an executive decision to start an official initiative for updating the CU and to upgrade trade relations compatible with recent FTAs and requirements, while the formal process of modernisation was put on hold due to certain non-economic reasons.

Before discussing the reasons associated with such interruption, this chapter will first present the views and expectations of the parties, to help understand the legitimate causes necessitating a revision of the CU. Later, the effects of

²⁰ SWOG Report (2015, 27 April)
https://trade.ec.europa.eu/doclib/docs/2016/march/tradoc_154367.pdf (Date accessed: 30.11.2019)

²¹ On the European side, the preparation phase is mainly composed of the World Bank's assessment of the CU modernisation, the European Commission's Impact Assessment, a study from an external independent consultant named BKP, and a public consultation process implemented by the EU Commission. On the Turkish side, the preparations included the report of the Economic Development Foundation and studies by TUSIAD and MUSIAD.

substantial trade liberalisation frameworks the EU is involved in, such as the TTIP, not to mention those of the Brexit deal, will be analyzed.

4.1. The European Union Side

This section discusses the views voiced by the European Union camp. The European perspective towards updating the Customs Union with Turkey will be described with reference to the study of the World Bank and BKP Consultants, as well as the impact assessment of the European Commission, along with opinions raised in the European Parliament in the light of the Country Reports of Turkey (2014-2019), regarding the relevant trade policy documents of the EU, such as Trade for All - Toward a More Responsible Trade Policy (2015) and also the views of the business world, as voiced through Eurochamber papers, not to mention the opinions voiced in the media.

4.1.1. The European Commission

In the beginning of the whole process, the European Commission prepared an inception impact assessment called “Enhancement of the EU-Turkey bilateral trade relations and modernisation of customs union” in August 2015 as a roadmap for the process of enhancing bilateral trade relations between Turkey and the EU in general, and the modernisation of the EU-Turkey CU in particular. The second step of the process entailed the identification of the stakeholders and the delineation of a consultation strategy with regards to the planning of impact assessment. Public authorities, partners from the private sector, business associations and Chambers of Commerce from both sides, not to mention think tanks, NGOs, and SMEs were the leading stakeholders to be consulted. The strategy adopted was based on public consultation and direct consultation (by organizing meetings and forums with various stakeholders from both parties) methods. The public consultation was carried out with the online questions

posted on the website of the EU,²² seeking to understand the perceptions towards the necessity of the modernisation of the CU. Public consultation brought in 169 answers to 41 questions posted, voicing the opinions of various stakeholders, regarding the potential content of the new trade agreement and the updated trade relations between Turkey and the EU. Those views are also presented in the impact assessment.

In addition to the World Bank, BKP Consultancy also prepared an evaluation and comprehensive analysis of the EU-Turkey Customs Union at the European Commission's request. Later, the Commission utilized these studies to come up with a final impact assessment and recommendation for the Council on the modernisation of the bilateral trade relations, particularly the CU. This in-depth analysis covers both the existing CU and possible more liberalized future versions of it. The studies reveal potential effects of the modernisation of the CU and preferential trade arrangements, pointing out issues of concern and deficiencies, along with suggested policy options.

First and foremost, the World Bank (WB) study (2014) provided an evaluation of the CU, emphasizing the shortcomings of the 1995 agreement, in the light of changing dynamics and growth of global economy and Turkish economy. With the CU, Turkish companies were able to get involved in major production chains such as those of Renault or Fiat. Substantial amounts of FDI were channelled in by European investors. Moreover, by trading with the wider European market improved the productivity and capacity of Turkish producers through efforts for

²² On 16 March 2016, the European Commission launched an open online public consultation with a view to collecting stakeholders' input regarding the process to modernise the EU-Turkey trade and economic relations. Respondents were invited to respond to 41 questions covering a wide range of themes concerning trade between the EU and Turkey, including the modernisation of the current agreement, customs practice, trade barriers, public procurement, competition law, intellectual property rights and the impact that a new agreement would have on social rights, human rights and the environment. https://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155241.pdf (Date accessed: 25.12.2019)

compliance with EU standards. The whole process has deepened Turkey's integration into the European supply and production chains.

According to WB's evaluation (2014), the CU acts as a catalyser for Turkey's integration with Europe and global trade. To sustain that integration, and to fully benefit from the potential offered by the CU, some revision would be necessary. One way to do that would be to sign an FTA replacing the old CU, but it is not considered a viable option, as it would be much more costly and complicated to implement the rule of origin, not to mention its potential detrimental effects on the volume of trade between Turkey and the EU.

The evaluation by the WB presents realistic alternatives to boost the efficiency of the CU. The asymmetry caused by FTAs with third parties, cooperation on technical regulation (common anti-dumping practices, trade defence instruments, compensatory arrangements, customs duty, and joint customs checkpoints), transportation quotas, possible inclusion of agriculture and service sectors, visa requirements for businessmen and fast-track processes for European contractors regarding public procurements in Turkey are the topics discussed in the evaluation with respect to the modernisation of the CU between Turkey and the EU.

Moreover, the WB Report establishes a connection between the deficient design of the CU and Turkey's level of adaptation of EU acquis, with reference to examples such as the ineffective notification mechanism regarding new regulations.

The WB also conducted a survey in seven Turkish cities, asking about visa restrictions Turkish businessmen face in Europe. According to results of the

survey; visa charges, the time required to obtain a visa, and the rejection of visa applications are the leading problems. (World Bank, 2014; 71)²³

The policy proposals presented by the WB, in terms of overcoming the obstacles for proper functioning of the CU, and improving its potential benefits include the convening of sub committees under the Trade Policy Committee (TPC) of the European Union, to enable Turkey's involvement in EU's negotiations with third parties. Another recommendation is about the liberalization of the highway transportation regime regarding the products covered by the CU. It is also recommended to provide a specific class of visas for business people who stay in the EU for business purposes. A working dispute settlement mechanism and means to overcome technical obstacles faced by the parties, would be possible through a functioning dialogue mechanism, the report argues. On agricultural products, the report recommends inclusion in a FTA rather than an all-out imposition of the CAP. Finally, the service sector should be involved in the bilateral preferential trade framework through an FTA, which provides only access to markets which do not require comprehensive regulation, so as to facilitate the harmonisation of the regulations. The recommendations of the WB seem more practical and relevant when compared to the arguments of other parties. The prevailing narrative implies that the CU offers thoroughly underutilized potential. Therefore, revising the CU is a must for both parties.

Following the WB evaluation of the CU between Turkey and the EU, the European Commission made another assessment of the existing CU: 2016 Final Report of the BKP Consultant for the EU Commission, titled "Study of the EU-Turkey Bilateral Preferential Trade Framework, Including the Customs Union,

²³ For further information see <http://documents.worldbank.org/curated/en/298151468308967367/pdf/858300ESW0P1440disclosed090260140TR.pdf> (Date accessed: 10.11.2019)

and an assessment of Its Possible Enhancement.”²⁴ This comprehensive analysis which includes data from before the implementation of the update and potential results of modernisation, provides a historical perspective of the relations between Turkey and the European Union and presents a literature survey on the Customs Union’s effect on parties, with a particular focus on its effect on Turkey. The analysis begins with a detailed assessment of the existing situation and the relations with reference to the Customs Union as it exists. The effects of liberalization on industrial goods and processed agricultural goods are analyzed to see if they contributed to Turkey’s and the EU’s economy, and if they led to any significant change in the past twenty-four years. According to the analysis, the effects of the preferential trade relations seem to be positive, with the reduction of the cost of trade being presented as the main factor to lead to this favourable effect.

Apart from their general effects, the specific effects of the bilateral trade relations on other sectors and foreign direct investment (FDI) are deemed positive. Even the environmental and social effects on the parties, as well as the regulatory and institutional effects on commercial policies were investigated. By doing so, Turkey’s regulatory convergence is assessed. It is noted that Turkey made significant efforts for alignment with EU regulations, yet obstacles before free trade still linger in some areas such as pharmaceuticals regulations. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 115).

The FTAs EU signs with third countries stands out as another important issue. A noteworthy amount of the EU’s trade partners in such deals are reluctant to negotiate with Turkey for establishing similar trade relations. The report reveals that the EU has 16 asymmetric FTAs that Turkey does not have. Turkey, in turn,

²⁴ For further information see https://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2016/turkey_anx6_en.pdf (Date accessed: 10.11.2019)

has only one such agreement (with Malaysia). (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 144-147). To overcome this asymmetric situation Turkey's revamp of its trade policy and efforts under "Vision 2023" and the "Tenth Development Plan 2014-2018" are appreciated by the EU Commission as significant efforts towards signing next generation free trade agreements (covering the service sector and foreign direct investment as well)²⁵ and convergence with the EU's Global Europe Strategy (2006) and Trade For All - Towards a More Responsible Trade and Investment Policy (2015).

Moreover, The Study (2016) also mentions the significance of the settlement of disputes, and notes this issue as one of the major shortcomings of the Bilateral Preferential Trade Framework (BPTF) referring to the World Bank Report (2014) about the modernisation of the Customs Union. The existing dispute settlement mechanism is the one stipulated in Ankara Agreement (AA 1963, Article 25). In that mechanism, the parties may ask for consultations from the European Court of Justice or the Association Council, and if the Association Council fails to settle the dispute, the parties can take it to arbitration under the procedures stated in the Agreement. (Ankara Agreement, 1963, Article 61, 62) However, the dispute can be taken to the Council or the Court only if a consensus is achieved to do so, in the Association Council. This requirement effectively blocks the process, while the conditions for arbitration do not make the decision of the Association Council easier.

According to the Study (2016), in recent decades Turkey has been expanding its share in global trade and gained market access after establishing concrete trade relations with the European Community. This increased level of access to markets, however, requires further regulatory harmonisation with the EU Acquis bringing about a positive change in affected industries. Due to the increasing

²⁵ For instance Turkey-Singapore FTA covers the service sector and procurements. Also, this FTA is Turkey's first overall agreement including areas such as IP rights, e-commerce, competition, and transparency. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 22).

competition in global trade, the composition of Turkish exports changed, while productivity levels improved in parallel to trade liberalisation in Turkey. The Study (2016) notes, however, in spite of those facilitating effects of the Customs Union the development in terms of technology levels employed in production, the transition from mid-tech to high-tech production has been very slow, while the BPTF relations retain their importance.

Once more, the Study suggests that Turkey has abilities to undertake stronger commitments in her FTAs with third parties thanks to the returns of the CU. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 50-55).

Alongside the dynamic effects of the Customs Union, the Study (2016) emphasizes the lagging trade relations in traditional agricultural goods, and considers high tariffs Turkey imposed on agricultural goods as an obstacle. Since 1998, trade in agricultural goods faces great restrictions, and the EU's offers to expand trade liberalisation onto the agriculture sector to ensure larger market access for both parties remain unimplemented.

Non-Tariff Barriers (NTBs)²⁶ are also considered as a serious limitation and a set of obstacles impeding free trade. Both parties raised claims on this issue. For instance Turkey does not allow the imports of boron compounds claimed to be dangerous, without presenting any scientific evidence. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 55) The tariffs Turkey applies on alcoholic beverages is another point. On the other side, Turkey claims that the border controls imposed by the EU on agricultural

²⁶ NTB: Apart from the tariffs (the tax system applied at customs), all kinds of instruments and policies that prevent the international flow of goods and services under free trade conditions are called non-tariff trade barriers. Some of these are applied to countries or companies trying to dominate the market by unfairly promoting their own products in exports. Although they are often perceived as obstacles to free trade, they are also claimed to be measures to maintain fair competition and prevent unfair practices. (Eğilmez, 2012)

products pose a barrier, while the EU defends her case with a reference to Newcastle disease. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 57)

Trade in agricultural goods based on WTO rules²⁷ and trade in the service sector are not covered by any BPTF with the European Community, and are only regulated according to the MFN regime, which is rather disadvantageous compared to current international trade practices. Moreover, on the point of trade in the service sector, the Study (2016) agrees with the claims that transport quotas impose significant costs on Turkish exporters, and effectively hinder free trade.

From a different perspective, one would argue that liberalisation of trade in goods has positive indirect effects on trade in services due to the complementary structures involved. In the context of such support provided to the service sector, FDIs are also motivated by such indirect effects of free trade of goods. For instance, the transfer of regional headquarters of operations of an enterprise from home country to the host country is an often witnessed example of movement of services facilitated by free movement of goods. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 67)

Public procurement is considered yet another crucial issue, and analyzed in detail in the Study. Against the background of the argument that, with the most recent changes, foreign parties can take part in tenders in Turkey, the Study still argued that Turkey hinders foreign suppliers by implementing restrictive measures. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 64) According to the data presented in the Study 99.7% of the

²⁷ Rules generally include reductions in subsidies and protection as well as other measures regulating trade, and represent a level of liberalisation lower than usual, albeit compatible with the EU Common Market rules regarding CAP or new generation EU FTAs.

tenders are won by local bidders. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 63)

After analyzing the process of bilateral trade relations with Turkey, the Study (2016) presents two possible solutions for updating the old-fashioned perspective of the Customs Union: the Enhanced Commercial Framework (ECF) and the Deep and Comprehensive Free Trade Agreement (DCFTA). In the case of the ECF, the CU is preserved with its existing scope (industrial products), now complemented with agricultural and fishery products, and the service sector, whereas NTBs and public procurement would be covered by an FTA. In the case of DCFTA, the new agreement is proposed as a replacement for the CU, establishing an FTA which covers trade in goods, covering industrial and agricultural products, fishery products, the service sector, NTBs and public procurement. The Study reaches to the conclusion that the ECF scenario would be beneficial for both parties, whereas the DCFTA's effect on the EU would be negligible, while Turkey would feel various negative effects related to increasing costs of trade due to the move from a CU to an FTA. Another effect would be to give more independence to Turkey in regulating its trade policy on industrial goods, at the price of moving away from deepening trade liberalisation. (BKP Development Research & Consulting in consortium with Panteia and AESA, 2016; 232-238)

This detailed analysis of the bilateral trade relations between Turkey and the EU through a number of distinct lenses, presents the overall state of trade, along with its effects on both parties. In the case of public procurement, for instance, restrictions that utilise price advantages (15%) for domestic suppliers in Turkey cause unfair competition against European contractors.

Thus, according to the Study (2016), there are significant effects working to the detriment of bilateral trade relations between Turkey and the EU. Non-economic factors and growing globalisation top the list of such factors. Nevertheless, the

Study of the BKP considers bilateral trade relations as an anchor and a vehicle that keeps relations much deeper and broader.

After the preparation era explained above, the Impact Assessment was presented by the EU Commission with a recommendation to the European Council, requesting mandate to initiate negotiations for the extension of the scope of the Bilateral Trade Relations between Turkey and the EU, mostly meaning the modernisation of the CU.

In the Impact Assessment of the Commission which is affirmed by the evaluations of the independent research specialist (BKP Consultation), the World Bank's analysis (2014) and the public consultation²⁸, the effects of the modernisation of the customs union are predicted, with emphasis on the necessity of updating the bilateral trade relations framework. The Impact Assessment is crucial in terms of addressing the key questions such as why the CU should be modernised, what are the major issues it has, and why the matter is still on the agenda after 20 years? This section of the study will discuss the reasons triggering action by the EU.

With a view to defining the problem, the Assessment of the Commission notes two specific deficiencies which hinder trade between the parties and which require revision of the framework: the Scope and the functioning of the BPTF.

According to the findings of the impact assessment, the fact that the bilateral preferential trade framework remains limited to industrial goods, and excludes agriculture stands out as the issue. Public procurements and the service sector are also left out. Such an arrangement falls short of achieving the full potential of

²⁸ Most of the respondents to the survey believed that the existing bilateral trade agreements were not satisfactory. For further information see https://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155241.pdf (Date accessed:30.11.2019)

trade among the parties, and leads to an unstable and insufficient trade and economic environment for both countries.

With reference to the limited scope of the existing BPTF, one can note that the trade relations do not cover services and public procurements, which stand out as crucial areas for both parties' economic development. Moreover, as mentioned before the FTAs the EU concludes with third parties create unpredictable trade conditions for Turkey. The risk appears especially when the EU extends preferential trade arrangements to third parties, while not providing the same level of affirmative preferential arrangements to Turkey. Such an issue may occur in any sector other than industrial goods for which the BPTF is adequate thanks to the CU, and may reduce competitiveness and also create trade diversion effects for domestic products in Turkey's market.

Moreover, The Impact Assessment of the Commission also discusses the negative effects of non-tariff barriers, especially with regards to bilateral exports of agricultural and fishery products. Under the BPTF, the EU claims that she provides a comparatively more liberal regime for agricultural imports from Turkey: the *ad valorem*²⁹ duty is mostly eliminated from almost all agricultural and fishery products. In contrast, Turkey applies high tariffs on those products and barely implements preferential concessions for European exports. This issue is also mentioned in the public consultation by firms wishing to export agricultural products to Turkey.³⁰ Besides, the EU's agricultural exports face various NTBs in Turkish market, such as those applied for meat products.

²⁹ A duty based on the assessed value of the products.

³⁰ The large majority of the respondents involved in trade in agricultural and fishery products reported that they would like to engage in exports to Turkey but are prevented from doing so due to the high level of import duties. Results of the stakeholder consultation, 2016, page 4, For further information see http://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155241.pdf (Date accessed: 17.11.2019)

Another issue that makes it hard to achieve the true potential of bilateral trade relations is the fact that the service sector is left out. According to the Impact Assessment (2016), liberalisation in the service sector would absolutely be beneficial for both Turkey and the EU by affecting the value chains and liberalising the companies, all the while attracting the flow of foreign direct investment. Distinctively, the EU side complains about the restrictions and not being provided the opportunities provided to local firms in the context of public procurements in Turkey.

The last set of problems noted with respect to the scope of the BPTF is about the lack of regulations which would support trade and investment in a number of fields such as sustainable development, energy and SMEs.

Regarding the functioning of the BPTF, Turkey's inability to negotiate parallel FTAs with third parties with which the EU engages stands out as an important issue. Existing trade relations does not provide a platform for Turkey to conclude FTAs with those third parties. Also, Turkey's shortcomings in terms of aligning its regulatory framework with that of the EU, and the failures of the dispute settlement mechanism bring about a state of affairs where the potential of trade relations remains unfulfilled, necessitating an update of the BPTF design.

Finally, the reason that the EU should act is to create more favourable conditions for enhancing trade relations and investments between Turkey and the EU. This objective is compatible with the general objectives of the EU as stipulated in the Treaty of the European Union.³¹ Also, in the EU publication titled "Trade for All - Towards a more responsible trade and investment policy"³², it is clearly stated

³¹ Lisbon Treaty, Article 2, Chapter 1;10
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2007:306:FULL&from=EN>
(Date Accessed: 11.11.2019)

³² A trade policy document of the EU that is released in 2015 by the EU Commission to enhance trade relations with the wider world.

that modernising the CU to establish a more ambitious context regarding trade relations with Turkey is a means towards achieving the Commission's will to maintain and boost the economic potential. "Foreign Council Conclusion on Trade in 2014" and the "Europe 2020 Communication" also support the aim of the modernisation of the BPTF by encouraging free trade.³³ Moreover, these policy objectives are in line with the Charter of the Fundamental rights of the EU, namely sustaining better lives and equal welfare conditions for the people.³⁴

According to the Impact Assessment (2016), the model is expected to modernise the existing CU by underlining its existing deficiencies. Also the extension of preferential concessions to new areas such as services, agriculture and public procurements is assumed to be the most favourable option for both the EU Commission, and Turkey, not to mention the businesses to benefit.

The review of the points raised by the European Commission and the independent consultants' studies sponsored by the Commission, is now to be followed by the analysis provided in a paper ordered by the European Parliament's International Committee on Trade, with reference to the opinion of the business world. Thereafter, the current Country Report (2019) is discussed with reference to the opinion of the EU Parliament about Turkey in general and, the CU in particular, to get a better understanding of why the efforts for modernisation came to halt.

³³ For further information see European Council Conclusions – 26/27 June 2014 https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/143478.pdf (Date accessed: 30.11.2019)
Europe 2020.
<https://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf> (Date accessed: 30.11.2019)

³⁴ For further information see https://www.europarl.europa.eu/charter/pdf/text_en.pdf (Date accessed: 30.11.2019)

4.1.2. European Parliament

In the Workshop titled “Bringing EU-Turkey Trade and Investment Relations up to Date?” organized by the Policy Department, Directorate General for External Policies, for the Committee on International Trade (INTA) (2016), upon the request of the European Parliament, the necessity of the revision of the trade relations is noted once more. In the paper produced through that workshop, a deep and comprehensive integration agreement that complements the CU is presented as the most concrete alternative.

According to the INTA Paper (2016) Turkey align its posture with the current trade and investment relations worldwide. For instance, before the conclusion of the TTIP, Turkey should immediately take action for updating its bilateral trade relations. Otherwise her exports to the US and the EU could be affected negatively by trade barriers at US borders. The EU side sees great potential in Turkey-EU partnership in terms of economy, security, and socio-cultural relations. On the other hand, the EU is facing internal and external challenges: inside the EU, recovery following the crisis affecting the Eurozone and nowadays, the complex Brexit process stand out as the leading challenges. To overcome these issues, the EU needs to come up with new means to further development and employment. The external threats noted in the paper are mostly about the security challenges posed by immigration. The more than 20 years old CU between Turkey and the EU does not cut in terms of achieving the full potential of the relations with Turkey. The European Parliament workshop reached to the conclusion that a revision of the CU is needed so as to be able to negotiate a new trade agreement covering new areas like services, agriculture and public procurements. The study underlines the need for a structure similar to current extensive and comprehensive trade agreements the EU has been concluding/negotiating, such as TTIP, CETA, TPP, and the EU-South Korea Trade Agreement.

The preparation phase of that process began with the European Parliament (EP) Resolution dated 24 November 2016, regarding EU-Turkey relations. The Resolution underlines the strategic importance EU-Turkey relations. Nevertheless, EP noted that the measures taken after the 15th July coup attempt often violate the principle of rule of law and fundamental human rights. According to the EU, Turkey is moving away from the EU's founding values day by day. The EP pressed the Commission to a temporary suspension of the accession negotiations and demanded that no additional chapters are to be opened.³⁵ Also, the EU notes that Turkey has not fulfilled 7 of the 72 requirements of the visa liberation roadmap.³⁶ The EU Parliament emphasizes the importance of the CU for Turkey and the serious consequences cancelling the efforts for updating the CU would have. Finally, the EP stated that Turkey is reluctant to exhibiting political will to cooperate with the EU. This resolution drew immediate reaction from Turkey against the EU, as will be summarized in the chapter on Turkey's position.

In January 2017, European Parliament Committee on International Trade (INTA) released a draft report titled "Towards a new trade framework between the EU and Turkey and Modernisation of the CU"³⁷. The Committee asserts a precondition for updating the CU: Turkey should eliminate any unilateral protectionist or limiting measures such as the NTBs. The draft report puts

³⁵ For further information see The European Parliament Resolution 24 November 2016. http://www.europarl.europa.eu/doceo/document/TA-8-2016-0450_EN.pdf (Date accessed: 20.11.2019)

³⁶ For further information see Turkey's progress on the visa liberalisation roadmap 4 May 2016 https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey_progress_visa_liberalisation_roadmap_en.pdf (Date accessed: 20.11.2019)

³⁷ For further information see https://www.europarl.europa.eu/doceo/document/INTA-PR-595643_EN.pdf?redirect (Date accessed: 20.11.2019)

emphasis on the alignment of Turkish laws with EU acquis, with specific mention of the protection of intellectual property rights. Furthermore, the need for means to enable Turkey's participation in negotiations for FTAs with third parties is underlined, and the possibility of granting Turkey observer status in relevant meetings is mentioned as a way to secure Turkey's involvement in the decision making mechanism regarding the EU trade policy.

In March 2017 European Parliament Research Services' (EPRS) Briefing on International Agreements in Progress³⁸, it is affirmed once again that even though the EU-Turkey CU has provided benefits for both parties, the bilateral trade relations are based on an obsolete framework and need to be adopted to changes in current FTAs and the global economic environment. As mentioned before, for that purpose, in December 2016 the EU Commission called for the Council to initiate negotiations. Distinctively, according to the Brief of the European Parliament, (which recommends modernisation of the CU), the lack of alignment of Turkey's laws and regulations with the EU acquis poses an obstacle regarding accession negotiations and bilateral relations.

Another briefing issued by the EU Parliamentary Research Services in April 2017³⁹ stated that 2016 was a challenging year both for Turkey and the EU given the immigration crisis, developments about Syria, and the attempted military coup in Turkey. Against a background of tense political relations between Turkey and the EU, in some member states, public opinion supports an alternative for Turkey's membership to the EU, such as only economic integration. However, according to the Brief, accession remains the final

³⁸ The European Parliament Research Services, Reinforcing the EU - Turkey Bilateral Trade: Upgrading the Customs Union March 2017

³⁹ Mapping EU-Turkey Relations: State of Play and options for the future, April 2017
[http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599388/EPRS_BRI\(2017\)599388_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599388/EPRS_BRI(2017)599388_EN.pdf) (Date Accessed: 01.11.2019)

objective, and keeping it as the final objective facilitates Turkey's potential for reform and keeping her regulatory structures close to the EU. The political crisis of 2016 provoked debates about Turkey's accession in member states like Austria and Denmark. The voice for opposition was raised first in Germany, followed by Sarkozy stating that the negotiations are an open ended process.⁴⁰ Nevertheless, Turkey and the EU are still together in handling and managing the immigration crisis. Moreover, alongside its demands for updating the CU, Turkey also demands visa exemptions noting that other non-member countries such as Moldova and Georgia are not subjected to visa requirements by the EU.⁴¹ Furthermore, in the light of the developments occurring since then, the future of Turkey and the UK can possibly create a new orbit, yet the experience of EU-Turkey CU remains a unique case. The Brief is concluded with the statement that the EU is committed to the modernisation of the CU, underlining universal values and respect for the rule of law.

Finally, representing the European Parliament's position following the release of the European Commission's 2018 report on Turkey, the Foreign Affairs Committee Report states that "the Committee has concerns regarding human rights violations and calls on formal suspension of the accession negotiations with Turkey; however remains committed to the democratic dialogue and ask for the Commission to use IPA II and IPA III⁴² funds to support civil society in Turkey. It recommends that the door should remain open for the modernisation

⁴⁰ [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599388/EPRS_BRI\(2017\)599388_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599388/EPRS_BRI(2017)599388_EN.pdf) (Date Accessed: 01.11.2019)

⁴¹ For further information see https://ec.europa.eu/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/visa-liberalisation-moldova-ukraine-and-georgia_en (Date Accessed: 30.11.2019)

⁴² IPA: Instrument for pre-accession assistance. For further information see [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/630298/EPRS_BRI\(2018\)630298_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/630298/EPRS_BRI(2018)630298_EN.pdf) (Date accessed: 30.11.2019)

and the updating 1995 Customs Union, should improvements take place on democratic reforms”⁴³(European Parliament, March 2019, Turkey: 2018 Country Report)

4.1.3. Business World

The business world also supports the modernisation of the scope of the trade relations between Turkey and the EU. According to the American Chamber of Commerce to the European Union (AmCham EU), with reference to the experiences of AmCham EU member companies and their customers, American Business in Europe calls for more technical regulations that would simplify trade between parties. For instance, the use of the online version of the A.TR. Certificate instead of its printed version is recommended, among other recommendations regarding surveillance and pricing requirements etc. Businesses desire negotiations on the modernisation process to be transparent and multilateral, also ask Turkey to reconsider accession into the Information Technology Agreement (ITA).⁴⁴

The European Chamber of Commerce (Eurochambres) also supports the strengthening of trade and economic relations with Turkey and following various projects such as the EU-Turkey Chambers Forum (2007-2013) and Turkish Chambers Development Programme (2001-2005), in September 2018, Eurochambres and The Union of Chambers and Commodity Exchanges of Turkey (TOBB) initiated a new programme to maintain and improve economic

⁴³ For further information see [http://www.europarl.europa.eu/RegData/etudes/ATAG/2019/635551/EPRS_ATAG\(2019\)635551_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2019/635551/EPRS_ATAG(2019)635551_EN.pdf) (Date Accessed: 01.11.2019)

⁴⁴ A significant tariff arrangement regarding the elimination of import duties on trade in the information technologies sector as negotiated concluded under the auspices of the WTO in Singapore, 13 December 1996. For further information see https://www.wto.org/english/tratop_e/inftec_e/itaintro_e.htm (Date accessed: 30.11.2019)

dialogue between the parties. At that time, the President of the Eurochamber, Christoph Leiti stated with reference to the complicated relationship between Turkey and the EU, that the new initiative is needed even more and drew attention to the importance of economic dialogue and cooperation in the face of political deadlocks, while encouraging the project as a bridge between Turkey and the EU.⁴⁵

4.1.4. Review of the Country Reports for Turkey (2014-2019)

In this section, to provide a thorough review of the current situation in terms of the implementation of the Customs Union and the related chapters (for instance the free movement of goods, capital and workers, public procurements), Turkey Country Reports (formerly Progress Reports) prepared by the EU Commission are used. Moreover, to analyze the changes in the EU's attitude towards Turkey, regarding the suspension of the accession process and CU modernisation talks, the Reports for the period 2014 - 2019 are analyzed in a comparative perspective. Firstly, at the Copenhagen Summit on 22 June 1993, the European Council set the rules for further European enlargement towards likely candidate countries. These conditions are fundamental principles applicable to all candidate countries required to be fulfilled for accession. The rules can be summarized as the political criteria, economic criteria and the ability of adoption of the EU Acquis.⁴⁶ As a means to track progress regarding these conditions, the EU Commission observes the candidate's progress regarding its level of compliance with the Copenhagen criteria and informs the European Parliament and the EU

⁴⁵ For further information see Joint Press Release, Istanbul, 7 September 2018 Eurochambers <http://www.eurochambres.eu/Content/Default.asp?PageID=1&DocID=7986> (Date accessed:30.11.2019)

⁴⁶ "Political criteria: Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; economic criteria: a functioning market economy and the capacity to cope with competition and market forces; administrative and institutional capacity to effectively implement the Acquis and ability to take on the obligations of membership." https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/accesion-criteria_en (Date accessed: 22.12.2019)

Council about the process. For this purpose, the Commission prepares annual Country reports.

Turkey Country Reports, in particular those starting with the Turkey Report 2014, at a time when accession negotiations were still in progress, are examined here. The reports noted the implementation of judicial reform packages and also the efforts for building stronger foundation for the settlement of the Kurdish issue were as positive developments regarding the political criteria. The existence of a functioning economy is with solid growth performance to strengthen Turkish economy against shocks was also underlined. Nevertheless, some risks stemming from the current account deficit making the economy vulnerable to macroeconomic imbalances were also noted. (Turkey 2014 Report; 20) Regarding the implementation of the CU, on the one hand there was still room for alignment with the Acquis. (Turkey 2014 Report; 72) On the other hand, regarding the functioning of the Customs Union, the Commission proposed a study by the World Bank, and depending on the recommendations presented as part of the evaluation completed in 2014 regarding the broadening of trade relations, discussions started between the Commission and Turkey. (Turkey 2014 Report; 5)

In the Report for 2015, against a background of the elections in Turkey, it was noted that the pace of the reforms was lost. Turkish economy was perceived as a good functioning economy with moderate growth rate. Once more, the current deficit account was underlined. Nevertheless, Turkey seemed to have the strength to cope with competitive pressures in the market. Regarding the alignment with EU acquis, Turkey was noted to slowly continue harmonising its regulations, and to achieve a good level of preparation. In May 2015, the Commission and Turkey agreed on starting negotiations for the modernisation and enhancement of the CU. (Turkey 2015 Report; 87) Thereafter, the Commission prepared an Impact Assessment underlining the importance of Turkey for the EU from a trade perspective. On chapter 29 related to the

implementation of the CU, in 2015 Turkey achieved a commendable level although, no further progress was made. There was a need for harmonisation of the customs regulations though, with positive developments being registered regarding the regulations for the standardization of rule of origin. (Turkey 2015 Report; 79)

In the 2016 Report, regarding political criteria, it is noted that before the coup attempt the Parliament prepared the legislative agenda for the implementation of the reform plan and the legislative requirements of the visa liberalisation roadmap. (Turkey 2016 Report; 5) With respect to economic criteria, it was noted that Turkish economy was an advanced and well functioning market economy, even though large current account deficits made it vulnerable. (Turkey 2016 Report; 7) Furthermore, Turkey was noted to continuing its efforts to align with the EU acquis –albeit at a slow pace– with the notable exception of the regulations related to visa liberalisation. (Turkey 2016 Report; 8) Still, modernisation and extension of the CU talks was expected to start with the executive decision of the Council by the end of 2016. A good level of preparation related to the CU was noted, even though no progress was made in the reporting year. Furthermore, no progress was made regarding customs regulations. (Turkey 2016 Report; 89)

As the European Commission did not publish a Country Report for Turkey in 2017, there will be no references to progress regarding of Copenhagen criteria during that period.

In the 2018 Report, the EU strongly condemned the coup attempt, and noted the hopes for the discontinuation of the state of emergency. The EU affirmed its support for Turkish democracy and institutions. Nevertheless, the EU voiced its concerns regarding the preparation level with the political criteria in general, and rule of law, right to fair trial etc. in particular. Regarding the political criteria, on April 17, the Parliamentary Assembly of the Council of Europe decided to

reopen its monitoring measures for Turkey, which were closed since 2005. (Turkey 2018 Report; 10) With reference to the economic criteria, Turkey was noted to maintain a good functioning economy. Regarding the CU, it was again noted that Turkey sustained a good level of implementation, even though no further progress was made. (Turkey 2018 Report; 8)

Finally, in 2019 Turkey Report, the EU underlined its serious concerns regarding deteriorating human rights, democracy and the rule of law. Turkey discontinued its derogations with the European Convention on Human Rights. Nevertheless, the monitoring procedure that was re-introduced by the Parliamentary Assembly of the Council of Europe in April 2017 remains in place. With regards to economic criteria, in contrast to preceding four reports, it was noted that serious backslides related to functioning of economy had been occurring. The EU criticized Turkish authorities' intervention on price mechanisms and limitations regarding the use of foreign currency as developments with a negative impact on the functioning market economy. Concerns about the autonomy of major economic institutions such as the central bank were also underlined. (Turkey 2019 Report; 8) The EU observed that the current account deficit reached substantial levels leading to a free fall of the value of Turkish lira. Moreover, the inflation rose to very high levels, while a currency crisis happened in all but name. Regarding the CU preparation level, the EU observed some progress during the reporting period, regarding regulations on customs. (Turkey 2019 Report; 97)

To sum up, from 2014 to 2019, the EU noted loss of ground regarding the membership criteria applicable to Turkey. Moreover, Turkey was returned to the monitoring phase, which had been closed since 2005. The EU observed serious troubles even with the functioning of the economy. To understand the standstill dominating Turkey-EU relations in respect of the suspension of accession negotiations and modernisation and extension talks regarding the CU, these Country Reports provide an essential perspective. Now, an in-depth review of

the report for year 2019 is in order, with a view to coming up with a better understanding of the issues discussed in the present study.

4.1.4.1. 2019 Turkey Country Report with the Report of the European Parliament

Regarding the CU, which was covered by chapter 29 of the accession process, Turkey's preparation level for the CU is evaluated as good and it is accepted that Turkey has made progress related to the rules on tariff quotas during the reporting period. However, the harmonisation of the regulations on free zones, customs duties and surveillance measure has yet to reach to a complete compliance with the EU Acquis. To move further, the Commission demands improved risk-based controls and the elimination of import and export limitations blocking free movement of goods, providing and maintaining a secure, safe and more liberalised trade environment. (Turkey 2019 Report; 97)

The Report (2019) deems the functioning of the market economy in Turkey at an advanced level, but notes that measures such as interference on the price formation and the restriction on the use of foreign currency cause deterioration of the market economy and backslides in external financing. The Commission suggests arrangements such as increasing fiscal transparency and credibility, cutting down subsidies which encourage borrowing by larger firms, supporting local savings, reducing the government's influence on finance, and providing incentives for women in the labour market. (Turkey 2019 Report; 53)

The level of progress achieved with the free movement of goods is considered acceptable. Nevertheless, the Report deems the level of alignment with the Acquis to be limited. In the coming period, efforts to achieve progress in terms of the level of alignment with the EU Acquis and to eliminate restrictions before the free movement of goods, are expected as remedies against significant issues concerning the CU. Obligations such as technical barriers, domestic

requirements discriminating against EU products, and restraining the functioning the CU properly are noted. (Turkey 2019 Report; 62)

The preparations for the free movement of workers and the freedom to provide services are assumed to be in their early stages and there no progress was recorded in 2018. Turkey is supposed to join to European Employment Services and other networks of social security systems. With reference to the service sector, Turkey still needs to comply with the Acquis, particularly the Services Directive, and should establish a single point of contact. (Turkey 2019 Report; 64)

Then the Report proceeds to assess Turkey's preparations for the free movement of capital as moderate. With reference to the currency volatility in August 2018, it is noted that Turkey suffered serious outflows. Regulations are considered inadequate; so is the level of alignment with EU Acquis. Anyway, it is noted that Turkey covered some distance on the fight against money laundering and the financing of terror. (Turkey 2019 Report; 65)

About public procurements, the Report notes the level of preparation to be moderate and underlines further efforts to ensure alignment with the Acquis as a necessity. The discriminative domestic price advantages accorded to local firms outside the official regulations were criticized and the need to set up a truly independent procurement agency and defining its responsibilities is underlined. (Turkey 2019 Report; 66-67)

Following the Commission's report on Turkey 2018, the European Parliament released a Resolution about the Report (2019)⁴⁷. In chapter 23, the EU Parliament voices its view for the upgrading of the CU. Underlying fundamental

⁴⁷ For further information see

http://www.europarl.europa.eu/doceo/document/TA-8-2019-0200_EN.pdf (Date accessed: 30.11.2019)

effects of the CU, with a marked potential for being the core of bilateral trade relations and the necessity of including new areas (public procurement, agriculture, service) in the framework are noted. The bilateral trade relationship is the essence of the strong ties between Turkey and the EU, especially since 1995. The modernisation of the CU so as to include new areas such as services, agriculture and public procurements is seen as a form of insurance for the future of committed relations. Turkey presents a profitable growth market for the EU. The Resolution states that the upgrading of the CU will ensure desirable democratic terms for Turkey, which are linked with the accession process, and will improve the country's perception in the eyes of the EU. To start preparations for the revision of bilateral trade relations, the EU expects Turkey to make an announcement about its serious commitment to reforms on fundamental rights. In this context, the EU believes that there should be a clause with reference to human rights and fundamental rights in any CU enhancement agreement. Such a commitment would eliminate a further cause of obstruction hindering the negotiations between the EU and Turkey. The EU also reiterates the necessity of the implementation of the Additional Protocol for all member states, including Cyprus.

4.2. TTIP: The Effects of EU's FTAs on Turkey

After the global economic crisis of 2008, to cope with the recession, the EU and the US initiated trade negotiations in 2011. Parties decided that the most effective way to maintain and increase growth and boost employment would be the integration of the two markets. On the other hand, the EU has also revised its trade outlook after the failure of the WTO's Doha Round. Armed with that new trade perspective, the EU is more inclined to concluding FTAs with third parties while the new generation trade agreements are more ambitious and cover new areas such as the services, for free trade between the parties.

In this context, with the aim of establishing a giant trade block, the EU and the US initiated negotiations for a comprehensive free trade agreement that goes beyond a customs union and may create such a trade bloc which would then set the direction of international trade. The US is already the top exporter for the EU, and the second biggest importer from the block. Therefore, the trade among the parties is already considerable, and would only make it natural to seek some means to come up with a unified block. (Sülün, 2018; 111)

For the EU, dealing with the effects of recession affecting the Community, and boosting the economies of some member countries (such as Spain or Greece), sustaining a steady course for EU integration, are the factors which make the negotiations for TTIP noteworthy. For the US, a trade block being built up with partners in Asia, as the Trans-Pacific Partnership⁴⁸ made TTIP a favourable option to ensure the associations of the US with both sides of the world.

TTIP is expected to cover market access in all sectors such as, agriculture, government procurement and services, not to mention regulatory issues such as the NBTs, technical barriers to trade, and investment protection. It will also involve means to deal with global challenges and opportunities such as labour regulations and intellectual property rights. (Sülün, 2018; 112)

During the negotiations, protests against the TTIP and CETA⁴⁹ developed in several European Countries. In Austria, France, and the Netherlands public protests were held, along with signature campaigns against the TTIP, mobilizing

⁴⁸ Trans-Pacific Partnership (TPP): The agreement would have lowered tariffs and other trade barriers among Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. For further information see <https://www.investopedia.com/terms/t/transpacific-partnership-tpp.asp> (Date Accessed:17.11.2019)

⁴⁹ The Comprehensive Economic and Trade Agreement, or CETA, is a trade agreement between the EU and Canada. For further information see <https://ec.europa.eu/trade/policy/in-focus/ceta/ceta-explained/> (Date Accessed:17.11.2019)

thousands from all over Europe. Furthermore, the governments involved were also sceptical about the deal, and were suspicious about potential harms the TTIP would cause on the EU. For instance, opening up markets to genetically modified foods coming from the US, possible flow of low-cost labour from the US to Europe and enabling competing services in healthcare, education, and other public services raised serious concerns about the prosperity and the future of the EU.

Meanwhile, in the US, Donald Trump won the 2016 presidential elections, based on his election pledges focusing on protectionist economic policies, and a promise to stop TTIP negotiations.

On the European side, just like the case with the TTIP, the CETA process also raised significant questions regarding the transparency of trade negotiations and deals between the parties. Thus, member states demanded CETA to be a “mixed agreement” which would necessitate approval by individual governments of the member states, rather than a “European Agreement” negotiated and ratified only at level of the union-level bodies.

On 23 June, 2016, Great Britain voted in a referendum on continued EU membership. The result was a decision to leave the union, a process named Brexit, getting 55% of the votes. The leading factors which brought about the Brexit decision include the effects of increased immigration, the EU budget and decision making processes, huge commercial trade formations that the EU negotiates at the union level. Moreover, the fact that the US side was not willing to compromise in the trade negotiations, just like Canada’s position in CETA, also fostered scepticism towards the trade agreements the EU had negotiated. Nevertheless, after Donald Trump won the elections, he stopped the negotiations as he promised, and TTIP trade talks came to a halt. In any case, TTIP and CETA processes have ignited attempts for leaving the European Union among member countries, with Brexit standing out as the obvious example.

All through this process, TTIP negotiations caused serious concern in Turkey. As the plans for TTIP involved the elimination of all trade barriers between the US and the EU, and as it represented something much more extensive than a simple economic initiative, expected to create the biggest trade block in the world by bringing together two great trade actors together, it also represented a crucial strategic attempt. However, as Turkey had already signed the Customs Union Agreement with the EU, the TTIP would potentially pose significant threats on Turkish economy, unless she was also involved in the negotiations.

Turkey is concerned about TTIP for mainly two reasons: first of all, trade would be affected due to the removal of customs barriers between the parties. Secondly, the arrangement would increase the burden of regulatory harmonisation. (Toperich, Ü.Moi, 2018; 267)⁵⁰ In this respect, once the TTIP is concluded, Turkey would be rendered unable to apply customs duties on import products from the US, as these products would already be in free circulation in the EU market. Furthermore, if Turkey is not included in TTIP negotiations or another FTA with the US, Turkey's products would face custom duties in the borders of the US. (Çetingüleç, 2015)⁵¹ Turkey's customs revenues would decrease whereas its domestic market would experience trade diversion effects due to changes in demand favouring low cost products imported from the US, instead of local products. Eventually, local industries would suffer and domestic production would decrease, with unemployment and trade deficit rising, following the TTIP. It is clear that TTIP would be detrimental to trade interests of Turkey. (Akman, 2014; 3)

⁵⁰ Related chapter titled Assessing the Possibility of a Modernized EU-Turkey Customs Union with a view to the TTIP Process is written by Çiğdem Nas. Toperich, S., & Noi, A. Ü. (Eds.). (2018). *Turkey and Transatlantic Relations*. *Brookings Institution Press*. Chapter seventeen, p.265.

⁵¹ For further information see <https://www.al-monitor.com/pulse/fr/originals/2015/05/turkey-trade-victory-transatlantic-investment-partnership.html> (Date accessed: 24.10.2019)

According to Turkish officials, even leaving the existing CU could present a favourable option in the face of the negative effects of the TTIP trade deal. At the time, the government was analyzing various solutions alternatives, with the Central Bank of Turkey evaluating the potential impact of TTIP on Turkey: If Turkey joined this huge trade bloc, and had the ability to export her goods to the United States free from customs duties, her exports would increase by about 7%. However in case it is excluded from TTIP, its Gross Domestic Product (GDP) would be expected to fall by USD 4 billion. If Turkey had been included, her GDP would expectedly rise by USD 31 billion, with the TTIP bringing certain welfare benefits. (Çetingüleç, 2015)

Table 3. Alternative methods for Turkey to be included in the TTIP Process

Alternative scenarios for inclusions in TTIP			
Synchronized or parallel Trilateral Negotiations between TR-EU-USA (Not possible)	Inclusion based on the scope of the existing TR-EU Customs Union. (Andorra Model)	Separate partnership relations with the USA (TR-USA FTA)	Inclusion as a member of the TTIP (Docking model)

Four policy options can be applied for dealing with the negative effects of the TTIP (Table 3). Joining in the negotiations with both parties may be considered the ideal option. Yet, the EU does not seem to be in favour of Turkey's involvement, rendering this option not a very probable one. As compensation for not being involved, Turkey may demand the inclusion of a separate clause in TTIP, regulating the conditions of trade partnership applicable to Turkey, and stipulating that the partnership would apply under equal terms for Turkey within the framework of the existing Turkey-EU Customs Union.⁵² However, the

⁵² This method is called Andorra 10 model, and would automatically have ensured Turkey to be involved in the TTIP agreement based on the existing conditions of the EU-TR CU, eliminating at least all trade barriers for Turkish industrial goods. Nevertheless, Turkey is not a small country

possibility to persuade European officials for including a separate Turkey clause in the deal also seems unlikely. Crudely put, expecting the EU to include Turkey in the process would not go beyond wishful thinking. Against this background, enabling Turkey's accession into TTIP after the execution of the agreement would be yet another alternative. However, such a "docking method" also requires certain provisions to enable third parties accession, and would still require the original parties' approval. (Akman, 2014; 7, 8, 20)

Since the EU does not seem eager to bargain on behalf of Turkey, the policy options discussed above are not very probable. Against this background the final option presented, namely negotiating a parallel FTA with the US would help with Turkey's concerns. Provided that negotiating a thorough a FTA is a long and windy process, this alternative would also not help, at least in the short to medium term. On the other hand, these policy options can only be binding in the existence of the TTIP agreement. With reference to comparable trade initiatives between the EU and other third parties, such as Canada or India, similar concerns arise with respect to Turkish goods. Since CETA (2017), the EU-Japan (2019) and EU-Mexico (2018) trade agreements came into effect, Turkish products are already facing significant competition, which can often be perceived unfair in the light of such newer trade deals. Given the fact that Turkey's EU accession process is effectively on pause, and full membership does not seem likely in the near future, the optimal option would be updating and deepening the bilateral trade relations with the EU, and thus, the CU.⁵³ Revising the CU would make it easier for Turkey to regulate the decision making process, facilitate the development of new industries and accelerate regulatory alignment, and perhaps most importantly, overcome the asymmetrical trade arrangements the EU's FTAs

like Andorra, and her involvement would lead to significant effects, so this option is not likely to be applied.

⁵³ For further information see <https://www.tepav.org.tr/tr/haberler/s/3688> (Date accessed: 27.10.2019)

pose for Turkey. Anyway, following his election as the President of the US, Trump immediately suspended the trade negotiations in line with his election pledge for protectionist policies. Nevertheless, nowadays trade talks between the European Commission and the US continue behind closed doors⁵⁴ and the TTIP process may be revitalized in the future. Therefore Turkey should be prepared to deal with potential negative effects on her economy, and find ways to get equal terms in global trade, and protecting its access to markets in the face of existing significant FTAs the EU has executed.

From a different perspective, being a part of the TTIP process is perceived as a necessity for Turkey, given her current level of involvement in the Western-led political and security structures, so as to sustain the “transatlantic model” to boost prosperity and stability in her region. (Kirişçi, 2013; 20)

4.3. Brexit and Possible Opportunities Involved

In the light of rising scepticism towards enlargement and deepening European integration, as well as the non-transparent trade arrangements, the rise of anti-immigrant movements, and the perception of the EU as a financial burden on the United Kingdom (UK), not to mention the reaction against Turkey’s possible accession into the EU⁵⁵, a referendum was held on 23 June 2016, to decide whether the UK should stay as a member of the EU or leave it. The public vote

⁵⁴ For further information see

<https://corporateeurope.org/en/international-trade/2019/02/ttip-reloaded-big-business-calls-shots-new-eu-us-trade-talks> (Date accessed: 27.10.2019)

⁵⁵ From the perspective of Brexit supporters, Turkey is a country which shares a border with Syria and Iraq, where human rights violations occur, and from where large numbers of refugees come. So, people who are in favour of leaving the EU embrace the view that immigration would only increase with Turkey’s accession into the EU, and this would facilitate terrorism in a borderless EU including Turkey. Apart from uncontrolled immigration, the voters in the UK have concerns about Turkey’s accession with reference to its potential influence in EU’s decision making mechanisms, given the fact that it would become the member with the second largest population, after Germany. (Gasimzade, 2018; 6)

brought a perhaps unexpected result, where 52% of the voters chose the option to leave the EU.⁵⁶

Based on the initial timetable, the Brexit should have been completed by 29 March 2019. However, the deadline was postponed twice and the proposed Brexit deals were rejected by the UK Parliament during Theresa May's tenure as the Prime Minister. On 17 October, 2019 the current Prime Minister, Boris Johnson presented a revised Brexit deal to the Parliament. However, the vote in the Parliament did not produce the expected result. So, Johnson asked for another postponement of Brexit. If the deal is approved, the UK would leave the EU on 31 January 2020. Calling for elections to change the composition of the Parliament to secure the majority needed for passing the Brexit deal was the next move for Johnson. On the other side, the European Union granted 3 more months for an agreement on the deal for Brexit.⁵⁷ Therefore, at the moment, the actual effect of the Brexit on Turkey is not yet certain, given the specifics of UK's divorce with the Union have yet to be established.

According to the European Bank for Reconstruction and Development (EBRD)'s Report (2019), a no deal Brexit would have considerable disruptive effects on direct trade and even indirect value-added trade, especially for developing countries such as Turkey. (Also not being a member of the EU would exacerbate the impact, given Turkey's exclusion from the decision making processes). In the report, Turkey is noted among the countries that would face the highest levels of trade disruption due to Brexit. The UK accounts for a very significant portion of Turkey's exports, not only in terms of direct exports to the UK, but also in the light of third party exports to the UK, based on intermediary goods produced by

⁵⁶ For further information see <https://www.bbc.com/news/uk-politics-32810887> (Date accessed: 28.10.2019)

⁵⁷ For further information see <https://www.theguardian.com/politics/2019/oct/28/eu-agrees-brexit-extension-to-31-january-flexextension> (Date accessed: 28.10.2019)

Turkey. In case of a no deal Brexit, Turkish goods will face major customs barriers on the borders of the UK.

According to Turkish Ministry of Trade, the will to have deal in the Brexit process is strong. Nevertheless, Turkey should be prepared for any possibility due to Brexit's direct effects on trade. In this context, high level dialogue in the political arena as well as with the involvement of business associations has been going on since the start of the Brexit process. Moreover, with a view to providing information about the process to traders, companies and the business world, the Ministry of Trade released an analysis of the possible customs duties and taxes which may apply in case of a no deal Brexit, and stated that in such a scenario, Turkish products would not benefit from the A.TR1 document and free movement provided by the CU. At the opposite end of the spectrum of possibilities, if the UK Parliament agrees on the deal for leaving the EU and accepts the agreement as Turkey hopes, the CU would still remain in effect for a period of 12 months, so Turkish goods would continue to benefit from free movement and customs arrangements while a new trade agreement can be executed between the EU and the UK.⁵⁸ Thus, Turkey hopes for a deal between the parties, as a no-deal Brexit would have immense and severe consequences for Turkish economy, which has a significant volume of trade with the UK.

Moreover, with Ankara Agreement (1963), Turkish citizens were granted the right to start a business and settle down in the UK. Brexit would also amount to the UK's withdrawal from Ankara Agreement. Hence, Turkey would be expected to attempt and broker another deal to protect the existing rights of Turkish citizens.

⁵⁸ For further information see <https://www.ticaret.gov.tr/dis-iliskiler/brexit> (Date accessed: 28.10.2019)

Another sensitive issue would probably be of concern for the food industry in both the UK, EU and Turkey. Turkey has been expanding her share in UK's overall foreign trade. Studies to analyze the potential impact of Brexit on the sector are few and far between, however. To derive some benefits from such a risky situation, Turkey would better enhance her competitiveness in production and get ready for any eventuality, with a view to securing a higher share in the UK's trade. (Eren, 2019; 7)

According to TUIK figures, the UK ranks 7th among the sources of Turkey's imports and 2nd among the destination of exports in 2018. The top of the list of Turkey's export destinations is occupied by Germany.⁵⁹ Given the rather tense political relations between Turkey and the EU, negative views and statements voiced by Germany regarding the modernisation of the CU and Turkey's accession process, the UK had often stood as a close partner for Turkey, supporting continued cooperation in a framework sustainable within the EU, as a most important ally for Turkey, both economically and politically. The situation to develop in the aftermath of a potential Brexit thus poses further political risks for Turkey, which would only benefit from strengthened bilateral relations with the UK.

The "Future of Turkey-United Kingdom Relations" meeting hosted by TOBB provided a venue to discuss the future of the relations. The prevailing perspective in the meeting was that business community in Turkey supports a separate FTA so as not to lag behind in building and maintaining trade relations with and not to harm Turkish businesses in the UK. Representing the UK, the Secretary of State for International Trade, Liam Fox underlined deep-rooted relations between Turkey and the United Kingdom, and added that the UK would never pursue protectionist measures and would always advocate free trade. In this perspective,

⁵⁹ For further information see Dış Ticaret Verileri, Ülke Gruplarına göre İthalat/İhracat <http://www.tuik.gov.tr/UstMenu.do?metod=temelist> (Date accessed: 28.10.2019)

Brexit should be perceived as an opportunity rather than a threat for Turkey, in terms of enhancing and expanding existing relations. Fox's statements can be interpreted to suggest that the United Kingdom aims to build its independent commercial network, and looks forward to Turkey's inclusion in that new potential structure as an important partner.⁶⁰ Likewise, the UK did it with the EEA EFTA Countries in December 2018 by signing a deal not to cause any harm on the existing rights of citizens, and to resolve separation issues.⁶¹ In this context, Turkey should act wisely and maintain close economic and political relations with the UK, since cooperation between the two countries extends well beyond trade. For instance, when faced with the refugee crisis, both countries exhibited a strong will to solve the problem, whereas on the foreign direct investment front, one cannot help but notice the significant investments UK firms made in Turkish companies, as well as the operations of almost 3,000 British companies in Turkey (such as BP, Vodafone, British Aerospace, Unilever, and famous retail chains such as Harvey Nichols, M&S, and Kingfisher). Against this background, FDI by British investors brings in significant stability into Turkish economy. (Gasimzade, 2018; 8)

Yet another point to take into account with Brexit is that, the break-up would certainly affect the budget of the EU directly, and the funds flowing into Turkey, such as the IPA funds and the 3 billion Euros promised for refugees in Turkey, indirectly. Also, after the Brexit, the EU could take a direction moving away from deepening European integration and put an effective stop to the enlargement process, choosing to focus more on internal issues to revitalize the existing European identity. Such a change in perspective would also have a negative effect on Turkey, eliminating any chance, however slim, of achieving

⁶⁰ For further information see <http://www.tobb.org.tr/Sayfalar/Eng/Detay.php?rid=24625&lst=MansetListesi> (Date accessed: 28.10.2019)

⁶¹ For further information see <https://www.efta.int/EEA/news/EEA-EFTA-Separation-Agreement-UK-reached-511351> (Date accessed: 15.01.2020)

progress in her accession process. Thus, Turkey should also make efforts to fulfil membership criteria and effect regulatory arrangements regarding alignment with the EU Acquis, all the while making efforts to sustain relations with both the EU and the UK, if she is to turn the Brexit process into an opportunity. (Arisan Eralp, 2013; 2-4), (Arisan Eralp, 2016; 1,2,3)

Before Brexit, the UK government was a strong supporter of Turkey's accession into the EU. For instance, a former Prime Minister of the UK, David Cameron, called Turkey a great European power, while her successor Theresa May saw Turkey as "a great, global, trading nation" on the occasion of signing a defence agreement. In parallel with the views of the leader of the UK, President Erdoğan of Turkey stated his country intended to increase its trade with the UK.⁶² Moreover, the current Prime Minister of the UK, Boris Johnson, who was then the Foreign Secretary in May government, called Turkey an essential partner, especially in terms of countering terrorism.⁶³ In a post- Brexit future, the volume of trade between the EU and the UK may fall, opening up some room for growth for trade with Turkey. Moreover, Turkey may become a key country shaping the UK's dealings with its major partners in the Middle East. (Gasimzade, 2018; 8)

On 17 October 2019, the UK Parliament rejected the draft deal for Brexit, whereupon Prime Minister Boris Johnson asked for an extension to Brexit deadline, which was duly granted by the EU. It is evident that both the EU and the UK are trying to come up with a deal on UK's departure from the EU. Nevertheless, Turkey should act with a proactive perspective to keep its relations

⁶² For further information see <https://www.independent.co.uk/voices/president-erdogan-theresa-may-post-brexit-trade-turkey-a8351531.html> (Date accessed: 02.11.2019)

⁶³ For further information see <http://www.hurriyetdailynews.com/turkey-to-remain-an-indispensable-partner-after-brexit-uk-foreign-minister-johnson-111244> (Date accessed: 02.11.2019)

strong, and to move further with dedicated arrangements with the UK to cushion the blow of the Brexit, and also potential negative effects of post-Brexit governance of Europe (given the fact that they have already voted for leaving the EU, they may not be supportive for Turkey). Thus, both from an economic perspective, and in order to maintain a strong political standing in Europe, Turkey should make the most out of this historical development.⁶⁴

To sum up, it would not be far-fetched to state that the EU side supports updating the CU. Turkey Country Reports for 2014 and 2015, as well the Commission's impact analysis, not to mention a bunch of other official and non-official documents and opinion pieces demonstrate that the EU agrees with Turkey about the potential contributions the CU's modernisation would make for the European Union's economy, creating jobs and various market opportunities. Furthermore, the EU claims that the CU's modernisation's positive economic effects would be more significant and visible with Turkey than the EU. Moreover, the EU encourages the efforts to revise the CU in terms of its existing function to sustain a more stable economic environment in Turkey for European Investors, as well as its scope to include new markets such as the service sector and primary agricultural goods. The EU side generally insists that Turkey should allow the participation of foreign contractors, and provide more equal and transparent competitive conditions in public procurements. In this perspective, state subsidies, non-tariff barriers, trade defence instruments and public procurements stand out as the major issues to be underlined, along with a working dispute settlement mechanism and regulatory alignment with EU regulations.

On the point of EU's FTAs, TTIP stood out as the primary source of motivation that led Turkey to urgent action to update the CU, due to its potentially huge effects on Turkish economy. However, in the aftermath of the presidential elections in the US, that country's perspective on trade policy framework

⁶⁴ For further information see <https://www.theguardian.com/politics/2019/oct/23/brexit-european-leaders-back-call-for-delay-end-january-extension> (Date accessed: 28.09.2019)

changed substantially towards a protectionist outlook, as attested by the statements of President Trump. Nowadays the conclusion of the TTIP between the EU and the US seems rather unlikely. Nevertheless, this step backwards from the establishment of huge trading blocs should not lead to a disinterest on the CU update process. For once, TTIP was not the only trade bloc to be established in the past decade, and the EU assumed a rather liberal outlook towards executing FTAs which affect Turkish economy and push Turkish products to the fringes of the markets (e.g. CETA, EU Korean and EU Japan FTAs). Then again, TTIP negotiations may restart anytime and Turkey should be prepared for their eventual conclusion.

Finally, with respect to the Brexit, particularly in a no-deal scenario, Turkey should protect its existing economic and trade relations with the UK. Moreover, Turkey should engage in proactive policies to rewrite existing trade relations by signing a deep and comprehensive trade agreement not to lose its share of trade with the UK, and not to alienate the investors from London. On the other hand, the UK was the strongest ally of Turkey in the EU. Therefore, Turkey should revitalize its relations with the EU and redefine existing ties to build solid partnerships to balance unfavourable attitudes towards Turkey's accession process and Turkish-EU relations inside the EU.

4.4. Turkish Claims on Customs Union Modernisation

4.4.1. Official Perspectives

According to the Ministry of Foreign Affairs, the Customs Union contributed to Turkish economy by attracting foreign investors to Turkey, and improving production standards as well as the regulatory system in tune with those of the EU. Thus, Turkey gained a significant edge in terms of competitiveness in international trade. Nonetheless, a number of obstacles and issues stand out with the CU, mostly due to the fact that it is the fruit of a transitional process, which is

supposed to culminate with Turkey's accession into the EU. The Ministry deems it necessary to update the obsolete CU framework, to match the characteristics of newer FTAs. For this purpose, the Ministry of Foreign Affairs is pushing for attempts to open official proceedings with regards to getting approval from the European Commission, with the sole but significant condition that such CU modernisation process should not constitute an alternative over Turkey's full membership with the EU.

According to the Ministry of Trade, the Turkish-EU Customs Union is a transitional regulation that is implemented before full membership of Turkey. Therefore, it should be updated to eliminate the asymmetry that has been created by lack of regulations regarding the CU. For that purpose, the Ministry of Trade has published the lists of major points to be updated since the establishment of the CU. To sustain compatibility with EU regulations and procedures, the Ministry engaged in deliberations and consultations with all stakeholders who are potentially affected by this process while even the website of the Ministry presents forms for all parties to express their opinions about the Customs Union modernisation process in general and the inclusion of the service sector and public procurements in particular.⁶⁵

According to press releases by the Ministry of Trade, regarding the impact assessment on modernisation of the Customs Union, to understand the long term economic effects involved in revising the CU, a study was conducted by independent bodies, discussing four basic scenarios. In the first scenario, structural problems associated with the functioning of the existing CU are resolved, along with 50% liberalisation regarding agricultural goods, and complete coverage of the public procurement system and service sector. In the second scenario, in addition to the assumptions of the first scenario, complete

⁶⁵ For further information see <https://www.ticaret.gov.tr/dis-iliskiler/avrupa-birligi/gumruk-birliginin-guncelleme-sureci> (Date accessed: 28.09.2019)

liberalisation of the agriculture and service sectors is expected. The third scenario, on the other hand, does not stipulate the inclusion of new sectors, and makes do with just converting the old CU agreement into an FTA (covering only industrial goods). Finally, the fourth scenario envisages transforming the existing CU into a Deep and Comprehensive Free Trade Agreement covering service and agriculture sectors as well as public procurements. Among all options, the second scenario which keeps the existing CU and proceeds with the elimination of all barriers in agriculture and service sectors and public procurements for both sides, is considered the one most beneficial for Turkish economy with an expected 1.9% increase in GDP, not to mention 24% increase in exports to EU countries and 15% increase in overall exports, along with a 1% fall in customer prices and 1.6% increase in household consumption. Therefore, consumer welfare would be affected positively by such a modernisation of bilateral trade relations.⁶⁶

In the latest meeting themed “Trade Wars, Brexit and the Future of Multilateral System” on 8 October 2019 Pekcan, the Minister of Trade, stated that Turkey is in favour of pursuing dialogue with the EU regarding the modernisation of the CU to make it compatible with the requirements of global competitive trade. Accordingly, revising the CU is deemed beneficial for both parties and to cope with trade wars, not to mention what the Brexit will bring. Against this background, Turkey embraces a more proactive perspective for revising the CU.⁶⁷

⁶⁶ For further information see <https://ticaret.gov.tr/data/5b87239113b8761450e18ee6/Etki%20Analizi%20-%20Bas%C4%B1n%20Bildirisi.pdf> (Date accessed: 31.10.2019)

⁶⁷ For further information see <https://www.ticaret.gov.tr/haberler/ticaret-savaslari-brexit-ve-cok-terafli-ticaret-sisteminin-gelecegi-toplantisi> (Date accessed: 01.11.2019)

In their speeches, Turkish Foreign Minister Mevlüt Çavuşoğlu and former Ministers of European Union, Ömer Çelik and Faruk Kaymakçı (current Head of the EU Department in the Ministry of Foreign Affairs) repeated their view that the Customs Union presents opportunities for both the EU and Turkey. According to them, this win-win situation must be enhanced through the modernisation of the CU and this updating process should be safe from politics not to hinder this beneficial partnership. Another point underlined is that Turkey never considers the CU as an alternative to Turkey's accession process.⁶⁸

Furthermore, Turkish Officials emphasize unfair one-sided declarations of Germany regarding its will to stop preparatory talks for the modernisation of the CU, and ask for the mandate from the Council of the EU by disregarding Germany's unilateral statements which cannot attributed to all European Union member countries.

Lastly, the latest Reform Action Plan Press Statement (RAG)⁶⁹ (2019) will be examined as an official effort on part of Turkey, to ensure alignment with the reforms and EU regulations. In the report Turkey once more refers to the expectations about restarting the CU modernisation process and the will to sustain high level dialogue within the framework of close partnership. Turkey pursues her decided outlook towards EU membership. The RAG meeting, however, is also special, given the participation of the President Recep Tayyip

⁶⁸For further information see

<https://www.haberler.com/bakan-cavusoglu-gumruk-birligi-anlasmasi-nin-10426336-haberi/>
<https://www.dw.com/tr/g%C3%BCmr%C3%BCK-birli%C4%9Fi-krizinin-kaybedeni-kim/a-40234612>
<https://www.ntv.com.tr/turkiye/ab-bakani-celik-gumruk-birligi-guncellemesi-icin-haziriz,EhbC4HA6T0KTXm2FCPktrA> (Date accessed:20.12.2019)

⁶⁹ Reform Action Group (RAG) was established in September 2003 to keep track of the reforms introduced to ensure alignment with EU's regulations in order to meet the Copenhagen political criteria and to ensure the effective implementation of the reforms for Turkey. https://www.ab.gov.tr/49767_en.html For the latest Press Release of the RAG visit https://www.ab.gov.tr/siteimages/birimler/sidb/6_reg_basin_bildirisi-09.05.2019.pdf (Date accessed: 20.12.2019)

Erdoğan. His attendance demonstrates the importance attributed to relations between Turkey and the EU.

4.4.2. The Opinions of Business Associations and Foundations: TUSIAD, MUSIAD, TOBB, DEIK, IKV and TEPAV, IPC

The Customs Union is an ongoing process that should be consistently worked on and revised, to keep it compatible with the order of the day. Thus, it should not be treated as a completed process and practice. Whenever talking about the modernisation of the CU, TUSIAD, the Turkish Industry and Business Association, refers to a comprehensive study on policy alternatives Turkey should pursue for liberalising bilateral trade relations with the EU. In the study by TUSIAD (2015), the asymmetric structure of trade relations in the context of the EU's FTAs with third parties, the dispute settlement mechanism, public procurements, agriculture, the liberalisation of the service sector (with a particular focus on the financial sector and banking practices), trade defence instruments (TDIs), complete liberalisation for industrial goods (eliminating lingering restrictions which were kept in place in 1995. These include restrictions on the trade in second hand machinery and equipment and cars trade between the EU and Turkey) are emphasized as major issues.

The modernisation of the CU is expected to bring more alignment in the regulatory framework, and Turkey would benefit from legislative harmonization in terms of opening new chapters in membership negotiations. Once the regulatory framework catches up, the chapters would be concluded rather easily given the concurrence of the policy frameworks involved. Besides, such an approach to EU's regulatory perspective on trade would make application predictable, and help sustain transparent governance. The regional risks currently shouldered by Turkey would be eliminated; the investment environment would regenerate, making Turkey more attractive for foreign investment, with expected increases in overall productivity, not to mention the significant economic growth

potential among the expectations. NTBs elimination would also serve as important factors which would extend the trade volume between parties.

The report (2015) also underlines the most suitable policy options that would cause less harm on Turkish economy while deepening liberalisation of trade. For instance, regarding the expansion of the free trade framework to cover the service sector, given the difficulties involved in achieving complete legislative alignment with the European Single Market, a hybrid yet deep and comprehensive FTA model is presented as an optimal choice. Since, GATS rules⁷⁰ stipulate a lower level of liberalisation, another option to bring about a complete alignment with European Single Market as per the European Economic Area (EEA) model⁷¹ would lead to policy dependence in the decision making, while the hybrid model seems to be more advantageous, as shown by the experience of EU-Ukraine Deep and Comprehensive Free Trade Agreement (DCFTA). (TUSIAD, 2015; 9)

Moreover, deepening the CU would solve a number of technical problems in implementation, and enable a better functioning non-political dispute settlement mechanism.

As the perspective for updating the Customs Union, TUSIAD's report supports deepening trade liberalisation. Although the benefits of harmonisation of rules are obvious, the Report (2015) draws attention to the difficulty of complete regulatory alignment with European Single Market, which would require Turkey to follow every regulatory enactment of the EU regarding trade policies, and

⁷⁰ The General Agreement on Trade in Services (GATS). For further information see https://www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm (Date accessed: 30.11.2019)

⁷¹ European Economic Area (EEA) Model: The agreement establishing the EEA entered into force on 1 January 1994, bringing together the EU Member States and the three EEA EFTA States (Iceland, Liechtenstein and Norway) in a single market. These countries obliged to implement EU regulations and decisions in the field of integration: free movement of goods, services and capital. <https://www.efta.int/eea/eea-agreement> (Date Accessed: 15.11.2019)

without any involvement in the negotiations or the decision-making processes. Thus, the Report argues, Turkey should follow hybrid models which allow complete alignment in sectors that have already been regulated in the 1995 CU Decision. For the other new domains offering the potential of deepening, Turkey should opt for an FTA model.

In the analysis of the MUSIAD, the Independent Industrialists' and Businessmen's Association (2017), which is prepared with the contributions of European Neighborhood Council (ENC), ten interviews were carried out with experts from the academic world, economists with close connections with the business world, as well as government officials from Turkey and the EU to come up with an informed perspective on the modernisation of the CU. The experts consulted voiced views in support of the modernisation of the Customs Union, due to its potential of improving welfare by raising life standards and creating win-win opportunities for both parties. The analysis assumes that any politicization of the negotiations would have extremely adverse effects on hampering the process. (Vesterbye, Akman, 2017; 30) Turkey demands reforming of the Customs Union in order to solve some structural issues and most frequently noted problem is its isolation from the decision making process, referring to the asymmetry of the relationship. Both parties desire modernisation in the light of concrete longstanding proven positive effects of the CU in terms of growth and welfare, as well as its transformative power on Turkish economy, preparing her for embracing global standards.

Many stakeholders from both parties, and especially the SMEs also eagerly support this updating process. Turkey presents important market opportunities for European SMEs. On the other hand, SMEs in Turkey may reach out to foreign markets and financial resources more easily, utilizing the means available to their European counterparts, all the while embracing higher standards to prepare them for competition. (Vesterbye, Akman, 2017; 13-14)

Economic integration seems to be the most effortless and fastest option for maintaining good relations, despite political tensions experienced with some EU countries. Regarding the method of the updating the CU, MUSIAD's analysis also underlines the option of DCFTA (to cover the new areas while enhancing and preserving the existing CU) rather than a move backwards towards an FTA.⁷²

Some analyses of potential approaches to CU modernisation focus on specific points to provide insights into different perceptions for understanding the process. For instance in Foreign Economic Relations Board's analysis titled The Business Case for a EU-Turkey Customs Union (2018) prepared by Sinan Ülgen argues that the customs union, which is perceived as an anchor for EU-Turkey relations, is not just an economic phenomena providing only economic benefits to lead to GDP increase. It is also deeply connected with public and private institutions, laws, regulations and governance. (Ülgen, 2018; 8)

Currently, in the face of rising protectionism, upgrading the CU would benefit both Turkey and the EU, in terms of fighting against protectionism and also strengthening the parties' position in trade negotiations with third parties. (Ülgen, 2018; 11) Moreover, such a revision of the CU would promote a more competitive environment for EU industries. In the case of the service sector, which constitutes 70% of both parties' economies, one cannot ignore the great opportunities it will provide to companies by enabling access to wider markets. Apart from the significance of the service sector, Sinan Ülgen focuses on public procurements, state subsidies and the proper dispute settlement mechanisms, because he believes that such obstacles emerged especially because prevailing

⁷² Signing an FTA may help eliminate the asymmetrical relations with the EU. Nonetheless, such a backslide against a background of liberalisation of trade worldwide would create considerable costs associated with the rule of origin (The official source of an export item in the context of international trade. In Customs Union a product's rule of origin does not pose a significant concern) and would also amount to giving up the historical goal of full membership with the EU. <https://www.instituteforgovernment.org.uk/explainers/trade-rules-origin> (Date accessed: 31.10.2019)

assumptions regarding these fields, hence the closer associations between the political and economic aspects of the CU modernisation process. Since, the dispute settlement mechanism cannot effectively bring solutions for disagreements between the parties, due to its design feature enabling both parties to stop the process, the obvious consequence is a political erosion of mutual commitments from the perspective of Turkey and the EU. Furthermore, establishing a functioning dispute settlement mechanism may bring political clarity and predictability, both of which are considered advantages regarding trade and investment. (Ülgen, 2018; 18)

According to DEIK (2018), Turkey has lost its trust in the accession process due to its uncertainty and elusive extension. Thus, for Europe, eliminating trade barriers mutually would provide the opportunity to overcome the deadlock between the parties, which stem from certain political reasons, and instead recover the EU's main role as the source of reform in Turkish policy frameworks. In the same perspective, Turkey after the crisis of 2001, found revitalized relations with the EU as a means to sustain improved growth in a stable and flexible financial environment, and even a contributor to substantial structural reforms. The Customs Union is perceived as the only binding means to restart the accession process, and the only way out from the vicious circle of political discussions. Thus, reforming the CU is deemed to be mutually beneficial, and an opportunity to re-open the accession talks by revitalizing reforms in Turkey.

Economic Development Foundation (2017) also underlines the necessity of the modernisation of the CU. Alongside the arguments for the expansion of the CU to cover new areas, structural obstacles such as transportation quotas are also expected to be solved through such a reform which involves revising the implementation regulations to eliminate Technical Barriers to Trade and to improve the implementation of Intellectual Property Rights. The modernisation of the Customs Union is believed to provide the crucial driving impetus for the

liberalisation of Turkish economy, and enabling its involvement in global markets, competing with other countries in general, and the EU's FTA partners in particular, on an equal footing. (IKV Report, 2017; 40)

When the CU agreement was first implemented in 1995, the business world was reluctant about its effects and was afraid of being required to compete with European goods, which were expected to flock in following the opening of the borders, and thus lobbied against the trade agreement. However, after experiencing the economic crises and high inflation rates of the 90s, in their search for a rather stable environment, the business community gradually embraced new attitudes towards the Customs Union, in terms of its effects on Turkish economy and political environment. Witnessing the considerable increases in Turkey's exports, not to mention the proper functioning of the regulatory framework, the Turkish business community became strong and loyal supporters of the CU. Even in the face of political tensions between Turkey and the EU, business associations established close ties with Europe, conducted education programmes about the EU, organized meetings to discuss ideas in favour of European Union, particularly regarding accession talks and economic integration, and even carried out public relations campaigns and networking with their European counterparts. (Ülgen, 2006)

A number of organizations such as IKV, TOBB, and TUSIAD became supporters of the "accession-driven reform process", not only because of its economic; welfare boosting effects, but also the contributions of the CU and the EU accession process as an anchor for democratization, providing protection for the rule of law and fundamental rights by integrating Turkey into a rules-based harmonised framework, enhancing policy predictability to achieve a more stable environment facilitating investments for both domestic and international investors.

Therefore, one would not be off the mark to argue that the business community in Turkey has always been a strong supporter of the EU accession process including but not limited to the modernisation of the CU. According to Sinan Ülgen (2002) it should be remembered that the Customs Union helped overcome the protectionist tendencies in response to the Asian crisis, as Turkish exports to the EU remained unaffected by the whole ordeal. Hence, the Customs Union can be considered a shelter for both economies in terms of protecting them from the challenges of globalisation.

In the light of these motivations, the factors contributing to a perspective supportive of the Customs Union are mostly about developing the current economy and trade conditions. For instance, if, as Ülgen argues for, the service sector had been included in the Customs Union, Turkey would not have faced already a number of obstacles it did at the time of privatizing some entities such as Turk Telekom, due to a lack of regulative harmonisation in related sector. (Ülgen, 2002; 4)

The Customs Union, which prepared Turkey for various challenges of globalisation, currently needs substantial revision. This concrete need has been lately stated by Rifat Hisarcıklioğlu, the President of TOBB and the Vice President of Eurochambres, speaking as a representative of the business world in the Meeting of the EU-Turkey Joint Consultative Committee, held in Brussels on 8 April 2019: “Negotiations to modernize the Customs Union should begin. Postponement of this issue for political reasons is unjust. This modernisation is beneficial for Turkey and the EU.”⁷³ Turkey and European countries face common issues such as illegal immigration flows, terrorism, energy security, climate change and protectionist tendencies in global trade. In order to respond

⁷³ For further information see <https://www.tobb.org.tr/Sayfalar/Detay.php?rid=24433&lst=MansetListesi> accessed:09.11.2019)

(Date

to those challenges effectively, Turkey and the EU should cooperate and combat those issues together. Hisarcıklioğlu further underlines that Turkey and the EU are also interconnected in economic terms, particularly regarding the CU. He emphasized that Turkey is willing to continue the reform process which is required for the EU accession process. With regards to the fundamental reforms, Turkey indicates her decided outlook for implementing rule of law, and protecting fundamental rights and freedoms, even though it is accepted that there are some deficiencies. Yet from a business perspective, Turkey's determination for reforms is rather obvious.⁷⁴

The business community in Turkey expresses a general reaction to the attitude of Germany regarding the interruption of the preparations for updating the CU. The General Secretary of the Federation of Food and Beverage Industry Associations of Turkey, İlknur Menlik underlines that if the parties include certain agricultural products such as olives and tomatoes in the Customs Union framework, Turkey can become more competitive among the Mediterranean countries.⁷⁵ She accepts the difficulties involved in the implementation to ensure a potential extension of the CU to cover agricultural products, and underlines the necessity of regulatory alignment with the EU to facilitate such potential further liberalisation of trade.

Various scholars also criticize the politicization of the CU modernisation process. The CU, which represents a successful though twenty years old integration model should be updated to reflect the current conditions of world trade. According to scholars, the CU is an outcome of close political relations

⁷⁴ For further information see <https://www.tobb.org.tr/Sayfalar/Detay.php?rid=24433&lst=MansetListesi>
Accessed:09.11.2019)

(Date

⁷⁵ For further information see <https://www.dw.com/tr/g%C3%BCmr%C3%BCK-birli%C4%9Fi-krizinin-kaybedeni-kim/a-40234612> (Date accessed: 2512019)

established in the past to help with developing stronger and deeper relations between Turkey and the EU.⁷⁶

Finally, the Turkish side is on the same page with the EU side on the need for updating the CU. Nevertheless, the parties focus on certainly different aspects of the overall picture. In the case of Turkey, among other shortcomings of the CU, not being involved in the decision making processes of the EU is one of the main challenges Turkey faces in respect of the alignment of changing regulations related to the customs union, as well as not having a right to speak on issues affecting her economy in general, and trade in particular. Moreover, the regulations regarding the EU's FTAs with third parties are also crucial. Since, countries which have FTAs with the EU are not obliged to sign a parallel FTA with Turkey, their products in free circulation in the EU market can enter into Turkey without facing any restrictions. Nevertheless, Turkish products do not get the same opportunities. Those countries are often reluctant to initiate separate or parallel trade talks with Turkey, so with a view to coming up with parallel arrangements with them outside the CU, the EU should include Turkey in its trade deals. Aside from the shortcomings stemming from exclusion from the EU's FTAs and decision-making processes, it also should be noted that the existing CU has serious implementation flaws and has an outdated scope. Turkey needs to expand the scope of the CU so as to cover the service and agricultural sectors, in its bid to getting access to larger markets.

Turkey and the EU agree on the necessity of updating the CU. Although they have different priorities regarding various the shortcomings of the CU, both parties see the updating process as a win-win situation. However, the efforts for such a process came to nothing, and the modernisation of the CU was put on hold even before it began upon Germany's statement to the effect that "no more

⁷⁶ For further information see <https://www.dw.com/tr/g%C3%BCmr%C3%BCK-birli%C4%9Fi-krizinin-kaybedeni-kim/a-40234612> (Date accessed: 2512019)

preparation work would be done”. Given the political circumstances prevailing between Turkey and the EU, the modernisation process came to standstill despite its advantages for both parties. The next chapter will discuss the reasons for pausing the process and the main political reasons involved, hindering this mostly economic arrangement.



CHAPTER 5

POLITICIZATION OF THE CUSTOMS UNION

5.1. Potential Political Reasons Hindering the CU Modernisation Process

Both the EU and Turkey agree on the significance of updating the CU. The Commission released the Impact Assessment (2016) with the recommendation that updating the CU would be beneficial for both parties. The European Commission asked for a mandate from the European Council to start updating negotiations with Turkey on 23 December 2016. (Hakura, 2018; 11) Nevertheless, bilateral political tensions with Germany affected this economic integration process and even caused backsliding from the narrative entailing the possibility of membership in the wider framework of EU-Turkey relations, to the uncertain “privileged partnership” or “a possible new format of cooperation”⁷⁷ model proposed by both France and Germany. (Saatçioğlu, Tekin, Ekim, Tocci, 2019;21)

After the coup attempt of 15 July 2016, the EU was prompt in condemning this heinous attempt. Yet, soon after the EU suspended the talks for reforming the CU due to the declaration of a state of emergency, and Turkey’s argued move away from European values such as democracy, rule of law and human rights (Eralp.A.,2018; 2).

To be honest, the projected benefits the EU would derive from updating the CU are rather small in comparison to those Turkey would derive. Impact assessment

⁷⁷ E.Macron and the Commissioner for European Neighbourhood Policy and Enlargement Negotiations discussed the possible future of EU Turkey relations out of the context of membership. (Saatçioğlu, Tekin, Ekim, Tocci, 2019;21)

by the European Commission concluded that the potential effects and benefits of this process on Turkey would be more pronounced. Nevertheless, Ülgen (2017) argues that this impact analysis might not be exhaustive as there are a large number of variables involved. For instance, the inclusion of the service sector in the customs union framework would obviously benefit the EU due to new investment and market opportunities. (Ülgen, 2017; 6)

On the other hand, Germany announced its will to suspend the process of updating the CU. Germany links the talks directly to the current state of the rule of law in Turkey. So the Commission's 2018 Turkey Report and European Parliament's findings regarding the political criteria become noteworthy once more, as the EU Parliament claims that Turkey is experiencing "serious backsliding in terms of human and fundamental rights".⁷⁸ Furthermore, law enforcement regarding existing fundamental rights is perceived rather insufficient and defective especially in terms of the independence of various institutions and courts.⁷⁹

From a different perspective, Germany's attitude towards Turkey's potential economic and political integration into the EU, despite the high volume of trade and even a substantial Turkish presence in Germany, the prejudices and xenophobic tendencies prevailing in both parties should be mentioned. (Turhan, Seufert, 2015; 7) The identity issue, which is expressed by nationalist groups and extreme right in the EU, is now a major topic on the European agenda. Significant groups, political parties, and entities in the EU claim that Turkey basically does not belong in Europe. Therefore, identity might be perceived as

⁷⁸ For further information see https://ec.europa.eu/commission/presscorner/detail/en/COUNTRY_19_2781 (Date Accessed:09.11.2019)

⁷⁹ For further information see https://ec.europa.eu/commission/presscorner/detail/en/COUNTRY_19_2781 (Date Accessed:09.11.2019)

another major obstacle in the context of developing the relations among the parties. (Saatçioğlu, Tekin, Ekim, Tocci, 2019; 4)

Nevertheless, a rather deeper analysis of European perception cannot be considered thorough without reference to rising populism, the growing popularity of extreme right and anti-immigrant views. The Brexit process also forces the EU to look inside rather than pursuing enlargement or deepening the European integration. Thus, identity stands out as another important factor shaping the relationship. (Saatçioğlu, Tekin, Ekim, Tocci, 2019; 4)

As noted above, in December 2016 the Council stepped back from even starting the negotiations, let alone completing them. Although the CU modernisation process is all about further trade liberalization for the benefit of the parties, it is increasingly politicized, and taken out of a rather economic context.

The EU's political stance was voiced once again in the European Parliament resolution suggesting the formal suspension of the accession negotiations with Turkey in March 2019, after the Commission released 2019 Turkey Report. However this last decision can be considered merely a formal affirmation of an already effective suspension introduced by the Council as early as 2016.

The attitudes of the EU, and particularly those of Germany also caused reluctance among Turkish bureaucrats. Germany accused Turkish bureaucrats and government officials with moving away from European values. On the other side, The Spokesperson of the Presidency of Turkey İbrahim Kalın, stated that the EU creates an “other” with its marginalizing expressions towards Turkey.⁸⁰ Moreover, this state of affairs caused reluctance among Turkish officials regarding issues concerning the EU. In his speech, the former Minister of the European Union, Ömer Çelik stated that “The modernisation of the CU is a win-

⁸⁰ For further information see <https://www.amerikaninsesi.com/a/ab-turk-yetkililerin-tavirlari-turkiyenin-abye-katilmasini-imkansiz-kiliyor/4014332.html> (Date accessed: 25.12.2019)

win process and the demand for updating the CU came from the EU. Turkey is not in a hurry.”⁸¹

After discussing potential political and economic reasons which led to the suspension of the CU updating talks, the politicization of this process will be investigated with reference to major reasons which brought about the current state of the relations. In this context the relations between the two sides will be considered in the narrative of convergences and divergences in the historical context.

5.2. The Ups and Downs of EU-Turkey Relations

In this section, after explaining possible non-economic reasons of pausing the modernisation talks, Turkey-EU relations will be examined in depth, to reveal the convergences and divergences of the relations in the historical narrative.

Turkey and the EU began their association relationship in 1963, with the Ankara Agreement. Then came the Additional Protocols, regarding the completion of the final stage of the association designated in the AA (1963), and the Customs Union to eliminate trade barriers and sustain free movements of industrial goods, in 1995. Turkey’s ultimate aim has always been full membership in the EU. Turkey’s candidate status was approved in 1999 Helsinki Summit. In this section, the volatile progress of the EU- Turkey relations will be analyzed from that point on, to determine convergences and divergences of this relation within the historical context. Moreover, the factors shaping the relationship between the EU and Turkey, providing a positive environment or instead putting obstacles will be addressed to identify the ups and downs of the relations.

⁸¹ For further information see <https://businessht.bloomberght.com/piyasalar/haber/1601310-gumruk-birligi-nin-guncellenmesi-icin-acelemiz-yok> (Date accessed: 25.12.2019)

Once accepted as a candidate country, Turkey accelerated its political reform process for alignment with the Acquis. Constitutional amendments on relevant issues, harmonization and judicial reform packages were passed by the Grand National Assembly of Turkey. The political reforms brought an institutional framework for the protection of human rights in Turkey. Other legislative changes included the abolition of the death penalty, prevention of torture and cruel treatment, and protection of woman rights, as crucial steps taken under the rule of the Justice and Development Party. With the progress in fulfilling the political criteria, accession negotiations were opened in 2005.

Nevertheless, after this positive political environment was hindered by the Cyprus issue. In the wider context of the negotiations, eight chapters are blocked due to Turkey's refusal to extend the Additional protocol to Cyprus. The EU refers to failure to fulfil the requirements stemming from the association relations as a justification for blocking those chapters. After all the efforts for political reform and the harmonization process, pausing and slowing down of the negotiations caused reluctance in Turkey and hurt the credibility of the EU among Turkish people.

Soon after their beginning in 2005, the accession negotiations in 2005 lost their pace. Moreover, with the EU's Enlargement to the East in 2004 and 2007⁸² brought in twelve new states into the ranks of the EU in two waves, increasing the number of EU members from 15 to 27 in a very short time frame.⁸³ On the other hand, the rejection of the European Constitution in 2005 in the referendums in France and Netherlands showed that people were not yet ready for further deepening of the EU integration. The last wave of enlargement also revealed the limits of the enlargement policy. The referendum also provided clues into the

⁸² For further information see https://www.ab.gov.tr/enlargement_109_en.html (Date accessed: 25.12.2019)

⁸³ The EU enlargement policy. For further information see https://www.ikv.org.tr/ikv.asp?ust_id=31&id=232 (Date accessed: 25.12.2019)

European public's perceptions towards Turkey's accession process. The European public was clearly sceptical of Turkey's potential EU membership. Thus, the EU moved away from enlargement and focused on deepening integration.

By the year 2007, the possibility of a "privileged partnership" for Turkey came to be voiced rather frequently, as an alternative to full membership. In 2008, economic crises hit the European countries hard, bringing about the Eurozone crisis. The problems forced the EU to take a look inwards. After emerging from the economic crisis, Germany, with its obvious economic stability became an even more dominant power in the EU. Germany had few initiatives to maintain relations with Turkey as per the encouragement provided by its business community in search of markets so as to achieve faster recovery from adverse effects of the economic crisis.

Meanwhile from 2009 on, Turkish foreign policy orientation moved from the EU towards the Middle East and North Africa, with a focus on establishing close relations with Muslim countries. Such a change in Turkey's policy orientation is discussed extensively. Nevertheless, from 2011 on, a number of uprisings began in Muslim countries in the Middle East and North Africa, demanding political transformation. At that point, a new chapter began in the relationship between Turkey and the EU. Especially the Syrian civil war and the associated refugee crisis brought about significant security challenges in the region, with severe effects on both Turkey and the EU. (Oran, 2015; 431)

In the 2015, to cope with the refugee crisis, the EU decided to cooperate with Turkey by coming up with an action plan. From that point on, EU-Turkey relations gained impetus once again. Germany's Chancellor, Angela Merkel set the rules for a new era of cooperation with Turkey, with a deal encompassing two parts: three billion Euros in aid for Turkey in exchange of Turkey's commitment to host refugees subject to certain rules. As part of this bargain, it

was agreed to continue with accession negotiations as well. Regarding the CU, the need for revising the agreement and extending its scope were also mentioned, followed by an impact assessment which reached to the conclusion that the modernisation of the CU would create various opportunities for both parties. During this convergence of the relations, the 62nd Government of Turkey announced the “New EU strategy of Turkey”⁸⁴ promising to continue the political reform process. (Oran, 2015; 432) In the context of the Strategy, reforms related to legislative harmonisation and broadening the scope of the fundamental rights were emphasized. In the meeting of the Reform Action Group in 2015, the decision to push for further political reforms, and make year 2016 known for a refocus on a EU-oriented outlook in Turkey-EU relations. Further steps were taken such as organizing the first intergovernmental conference between Turkey and the EU, to get more accurate results from the relations and to sustain the impetus of the relations. Moreover, visa a liberalization roadmap⁸⁵ was agreed on 18 March 2016.

Unfortunately, Turkey experienced a coup attempt on 15 July 2016, with serious effects regarding politics in Turkey. In the context of the fight against terrorism, a state of emergency was declared. In the process, Turkey did not get the support it expected from the EU. The lack of trust between the two sides led to an increase in Eurosceptism in Turkey. Moreover, in the EU rising waves of populism and xenophobic tendencies used anti Turkish narrative as a tool to win elections. To make the matters no less complicated, the Brexit issue occupied the EU with its possible effects on the EU. Thus, after 2016 the relations started to

⁸⁴ For further information see https://www.ab.gov.tr/files/onemlibelge/62_hukumet_doneminde_turkiye_ab_iliskileri.pdf (Date accessed: 25.12.2019)

⁸⁵ For further information see https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey_progress_visa_liberalisation_roadmap_en.pdf (Date accessed: 25.12.2019)

experience another phase of divergence. It is no coincidence that during this period the EU announced its decision to suspend Turkey's accession negotiations, as well as the talks on the updating and expanding the scope of the CU. Both parties' prejudices towards each other reached their zenith. The EU accused Turkey with violating human rights. In the 2019 Turkey Report, serious backslidings regarding the political and economic criteria were underlined.

Finally, Turkey and the EU has experienced numerous ups and downs stemming from globalization challenges, economic crises, security and regional crises affecting Turkey and the EU's internal political dynamics and international politics. Today, Turkey and the EU are going through yet another divergence era in their hitherto complicated relations. It is crucial to build a constructive chapter out of this negative phase, as has always been done before. Currently, the government announced its will to initiate a judicial reform package as a preparation for opening chapter 23 of the negotiations, namely Judiciary and Fundamental Rights. According to the last Reform Action Group meeting, the President Recep Tayyip Erdoğan announced the efforts for such preparations.⁸⁶

These attempts should be encouraged to promote further efforts for revitalizing the relations with the EU. On the EU camp, Germany in particular should act free from prejudices and take necessary steps to revamp the relations. The CU modernization talks may provide the spark for restarting the negotiations as it offers a win-win picture for both parties. After analyzing the volatile nature of the Turkish-EU relations through the history, the main decisive factor of the relations in these days, Germany and its position towards Turkish-EU relations should be analyzed from a broader perspective of the politicization of the CU modernization process between parties.

⁸⁶ For further information see https://www.ab.gov.tr/51628_en.html (Date accesses: 25.12.2019)

5.3. Germany's Role in the EU regarding Turkey's Accession Process and the CU Modernisation Process

Turkey and Germany have close and deep-rooted relations regarding politics, economy and security. Germany is the biggest trade partner of Turkey. Moreover, Germany invested substantial amounts in Turkey as foreign direct investments, with more than six thousand German companies operating in Turkey while Turkish companies are also increasingly involved in Germany's economy. (Turhan, 2016; 1) On a number of foreign policy issues the two countries are actively cooperating in international organisations such as the OSCE, NATO and G-20. Moreover, Germany is home to two million Turks who moved to the country through a number of decades since 1950s. The two countries have high level political dialogue meetings, engaging in collaboration on vital issues regarding the Syrian refugee crisis.

In the light of the bilateral relations between the two countries, Germany's leading role in EU's decision making mechanisms should be advantageous in terms of furthering accession negotiations and the talks for updating the CU. Yet, the opposite effect seems to have arisen. To understand why, the impact of politics on such a technical economic issue will be analyzed.

Germany's position on Turkey's accession process presents an important aspect of the bilateral relations between Turkey and Germany. To understand the reasons of the last divergence in the EU-Turkey relations, one should focus on Germany's role in the EU, given its decisive position as a policy maker regarding Turkey's membership.

First of all, the EU takes important decisions in the two intergovernmental structured institutions: the European Council and the Council of the EU. Regarding a candidate's membership these two institutions have a definite say on accession negotiations. These two major institutions of the EU are composed of

the heads of states and ministers. Their decisions are based on negotiations, talks and bargaining among top decision-makers of Europe. Obviously, in these structures the largest country has substantial leverage with its political power regarding population, economy and military structures. (Turhan, 2016; 2)

With its large population and strong economy, Germany occupies the leading position in EU's decision making processes along with France and Britain. This argument is also valid in the context of Turkey's accession process. (Turhan, 2016; 2) Therefore, given Germany's central position in the EU, on the issues related to Turkey the bilateral relations of Turkey and Germany becomes particularly important.

Turkey has for long been a strategic partner for the Germany. However in the context of Turkey's accession, Germany does not support the membership, but often encourages alternative approaches to cooperation such as the CU. (Paul, Schmidt, 2017; 1)

Between 1994 and 1998, the Christian Democratic Union (CDU)/ Christian Social Union (CSU) coalition governing the country under the chancellorship of Helmut Kohl was in favour of establishing a privileged partnership with Turkey. The decision for the CU was taken as an example of this perspective, rather than as a promise for accession. The European Union was considered a European Project with a substantial cultural element. Furthermore, in 1996, Necmettin Erbakan, the leader of the Welfare Party, which is often associated with political Islam, came to power. Against this background, Kohl's position reflected the views of European Christian Democrats.

The only exception in terms of the attitude towards Turkey's full membership was exhibited under the government of the Social Democrat (SPD) and Green Party Coalition in 1998-2005. In these years Turkey gained the candidate status and the accession negotiations began. Under the Gerhard Schröder government,

Germany's position towards Turkey's EU membership had changed. The first contributing factor made itself felt in the form of the events in Kosovo, and NATO's intervention in 1999. The developments in that part of Europe underlined the importance of the EU in sustaining security on the wider European continent. The security issue has since been gaining importance and the discourse of cultural differences had been fading into the background. In parallel to that change of perspective, Turkey had been going through a reform process regarding fundamental rights, with capital punishment being removed from the books, and some other restrictions to the freedom of speech being eliminated. Moreover, in the face of the challenges of globalisation, promoting security became an important priority leading the German government to supporting Turkey's membership perspective. According to the German government of the day, Turkey's accession to the EU would contribute to the consolidation of democracy in Turkey, and helping the reforms in Turkey was a must. It was expected that Turkey would eventually bring this successful reform process to the Middle East, Central Asia and South Caucasus, as a promoter of reform. In this perspective, security in the region became a crucial concern. In those years, the existing Turkish population living in Germany was yet another factor that contributed to shaping the German government's views about Turkey. (Szymanski, 2007; 31, 32)

Nevertheless, the 2005 elections brought the Grand Coalition of CDU / SPD to government in Germany. In the earlier years of that coalition foreign affairs were left to SPD. However the centre-right Christian Democratic Party (CDU) led by Angela Merkel, who became the Chancellor, was the major partner in the coalition. After the elections, she declared that the accession negotiations are an open ended process. Merkel slowly but surely put the brakes on the negotiations either by standing idle or refusing to handle certain problems between Turkey and EU, regarding a number of issues such as the Cyprus problem. In 2006, eight chapters of the negotiations were blocked, and the extension of the Additional Protocol (1970) to cover Cyprus as well was noted as the requirement to remove

the block. To support those negative attitudes towards Turkey's accession process, CDU claimed that Turkey geographically is not a part of Europe, that Turkey is a Muslim country with different traditions and political culture, that economically Turkey is considered a poor country exhibiting uneven development, and that Turkey is incapable of fulfilling the Copenhagen political criteria. (Szymanski, 2007; 34) The discussion of the reasons shaping Germany's attitude towards Turkey's accession process, will be followed by an analysis of the decisive role of Germany, especially with reference to the economic conditions which further reinforced Germany's position in the EU decision making mechanisms.

After 2008, the central axis of the EU, the Eurozone, went through a significant crisis. Germany's role in the development of EU policies in general, and EU's enlargement policies in particular became more visible against that background. Germany stood out as the country which was left virtually unscratched by the Eurozone crisis. Germany's position as a main contributor to the EU budget and possible solutions to overcome the crisis, only further strengthened Germany's leading position in the EU decision making system. Germany was considered the only economy that can keep Europe afloat. (Turhan, 2016; 26) Finally, this economic power enabled Germany in taking unilateral action regarding important EU wide decisions such as rejection of debt mutualisation.

Another example of rising influence of Germany in EU's decision-making structures, regarding Turkey's accession process in particular, one can point out how chapter 22 regulating the regional policy and coordination of structural instruments was hindered by France since 2007. Since that chapter is directly related to the membership, French President Sarkozy effectively blocked the opening of that Chapter. Nevertheless, German government had a different perspective towards the opening of the chapter 22. German Chancellor Angela Merkel called for the opening of the chapter in February 2013, as in 2012 and 2013 German economy had zero growth and even suffered from some recession.

Therefore German industries urgently needed increased access to Turkish market to eliminate the negative effects of the Eurozone crisis. In those years, German industry became the most prominent supporter of Turkey's accession process. Nevertheless, in response to Gezi Park events, German government blocked the opening of chapter 22. A speaker from German government stated that "there is surely an overall political context, and as is always the case in life, everything is ultimately connected with each other." (Turhan, 2016; 27)

Lately, regarding the refugee crisis, Germany sought to finalise the deal with Turkey by setting certain conditions. Moreover, in 2015, Merkel unilaterally announced the will to open a new chapter in Turkey's accession process. Likewise, in 2016, speaking on behalf of the EU, she announced her will to suspend the negotiations and the talks on updating the CU.

Hence, in the current era of distinctive crises such as the refugee crisis, not to mention the democratic legitimacy problems alongside the old-school economic and security crises, Germany seems to occupy the leading position in the EU. (Turhan, 2016; 29) So, in the near future, Germany is likely to shape the decisions regarding Turkish-EU relations. Therefore, any potential revitalization of Turkish-EU relations, not to mention the talks on updating the CU, would naturally be shaped by Turkey's relations with Germany. In this context, efforts to change the negative perception of Turkey in Germany would be most valuable. Otherwise, Germany, speaking for and leading the EU would continue to have a negative perspective towards Turkey's potential accession, in the light of internal politics of Germany as well as the EU. Turkey should emphasize her role as a stabilizer and mediator in the region, as Germany already benefits from and utilizes Turkey's position in efforts to solve a number of international crises. Therefore, Turkey should break the vicious circle regarding her relations with Germany and the EU.

5.4. Possible Future of the Relations

From the perspective of the EU, in the multipolar world order, it is significant to establish partnership in order to cope with a number of global challenges such as protectionism, authoritarian and populist tendencies. Turkey occupies a strategic position as a mediator and negotiator for the EU, with key regional partners such as Israel, Russia and other Middle Eastern countries. Turkey's undeniable role as a stabilizer in the region is also proven by bilateral cooperation regarding the Syrian refugee crisis. The other areas of potential bilateral cooperation include security and energy. (Eralp, 2019; 1-2)

From an economic perspective, the modernisation of the CU will present new market opportunities attractive for European investors and companies, not to mention a host of new job opportunities to contribute to general welfare. (World Bank Report, 2014)

For Turkey, it is a necessity to update the CU and solve its inherent defects, so as to bring in benefits from potential economic liberalisation and stabilizing its economy, boosting growth, and achieving sustainable development while avoiding the negative effects the EU's FTAs with third parties may cause. Apart from those extremely pertinent economic reasons, the CU is also perceived as an anchor which might help revamp Turkish-EU relations by reinforcing democratic institutions in Turkey.

Throughout the history of the Turkish-EU relations, numerous ups downs have been experienced, such as the days of the 1980's military administration, 2013 Gezi protests and so on. In the period of 2001-2007, Turkey's European accession process was combined with increasing economic growth (supported by World Bank and IMF loans), against a background where the process towards EU membership was considered an anchor of democratic institutions of Turkey. Currently, the CU might again be employed as an anchor for the regaining the

impetus in EU-Turkey relations, going beyond simple bilateral cooperation towards ruled-based comprehensive approaches. (Acemoğlu, Ucer, 2015; Section 2) (Eralp, 2018; 5-6) (Eralp, 2019; 1)

At this point, Turkey should assume an active attitude to establish stronger ties and keep dialogue vivid while observing the practical recommendations regarding the updating of the CU as a means to restart the modernisation process⁸⁷. After the suspension of the negotiations, high level political dialogue with the EU still continues, while dialogue at the level of political leaders would provide another opportunity for maintaining close relations. Even though bilateral relations would not be enough for establishing long term robust cooperation with the EU, they may still be of use for revitalizing the integration process.

Among other reasons for initiating the CU modernization process once again, the extension of the scope to ensure the inclusion of the service sector will gain importance in the light of current economic circumstances Turkey may experience in the coming time frame. After the rise of exchange rates in August 2018, Turkish economy is still going through the recovery stage. In such a politically and economically volatile environment, Turkey has struggled to stabilize exchange rates, and although inflation rates seem to run lower at the moment, geopolitical risks perceived by foreign investors are still noteworthy. Moreover, given the burden imposed by the last economic crisis, a new option has been emerging. Asset Management Companies which bought the bad loans from banks and financial institutions are intended to sell those loans to foreign investors.⁸⁸ However, the current laws do not regulate the financial services as

⁸⁷ For instance, rather than detailed complex regulations covering every field of the services sector, malfunctioning of the CU may be handled as a first step.

⁸⁸ For further information see <https://www.reuters.com/article/us-turkey-banks-unlu-co/unluco-says-foreign-funds-keen-to-buy-up-turkish-bad-loans-idUSKBN1XE1BC> (Date Accessed:17.11.2019)

required; so there is an urgent need to reform the legislative framework to render it compatible with global regulations regarding the services sector.⁸⁹



<https://www.nasdaq.com/articles/unluco-says-foreign-funds-keen-to-buy-up-turkish-bad-loans-2019-11-04> (Date Accessed: 17.11.2019)

⁸⁹ The potential effects or consequences of such a sale of bad loans to foreigners on the society or Turkish economy are still unknown. In this context harmonisation of the regulations regarding finance with those applicable in the global contexts is crucial.

CHAPTER 6

CONCLUSION

A Customs Union is an arrangement between two or more states, abolishing trade barriers posed by customs tariffs, quotas or duties. Members of a CU implement common external tariff schedules towards the rest of the world, and encourage free trade among the members of the CU. A CU is a form of economic integration that is deeper than free trade areas established through FTAs, which do not stipulate shared external tariffs, but shallower than common markets which stipulate free movement of resources in addition to common tariffs. A CU aims to facilitate smooth trade conditions for the member states, and encourages economic cooperation by eliminating the burdens of trade barriers. Given its nature of being a form of economic integration, a CU should liberalize trade between its members and homogenize the trade barriers facing third countries. According to Jacob Viner (1950), who built the theoretical foundations of customs unions, a customs union should meet three requirements: First, the tariffs between member countries must be eliminated. Secondly, the member countries should agree on a uniform tariff on imports from outside the union. Finally, the revenues derived by the customs union should be allocated among the members in accordance with a specific formula.

Through the decision to establish a CU between Turkey and the EC in 1995, the transition phase stipulated in the Additional Protocol of 1970 was completed after 22 years, and the final phase of Turkey's EU accession process began.

The CU (1995) is a product of the association relations between Turkey and the EU, established in the 1963 with the Association Agreement. The CU provided a unique institutionalised framework for the EU-Turkish integration process.

Through the implementation of the CU, both Turkey and the EU benefited from increasing their trade volumes and getting access to new markets. According to 2018 Eurostat trade statistics, Turkey is the fifth largest export partner and sixth largest source of imports for the EU, while the EU is Turkey's largest trading partner regarding both exports and imports.⁹⁰ Moreover, close partnership in trade brought along the alignment of Turkish regulatory framework with the *acquis communautaire*, making it easier to harmonise regulations regarding the CU in particular. Nevertheless, with reference to the definition of the perfect CU in Viner's CU theory, the Turkey–EU CU is far from perfect and complete, as there are still some trade barriers between Turkey and EU regarding certain sectors and EU does not implement uniform tariff on import from outside the Union by concluding EU FTAs with third parties. Even though the CU is the strongest cooperation field between Turkey and the EU, in place without interruption since 1995, it is far from meeting the current requirements of international free trade.

With its outdated scope, the CU does not cover crucial sectors such as the services and agriculture sectors, and public procurements. Since these sectors account for the vast majority of the economies of both parties, they should certainly be included to benefit from such a union. Extension of the scope of the CU can also help sustain economic growth by opening new markets and job opportunities, and thus improve welfare of the people. Moreover, current functioning of the CU is problematic enough to hinder trade between both parties. The issues such as the inoperative dispute settlement mechanism certainly do not help with the levels of trust the business communities of the parties have in the arrangement. Moreover, in the current form of CU, both parties have certain important reasons for updating the CU to benefit more from it. The EU side demands further regulatory alignment with the *Acquis*,

⁹⁰ Turkey-EU - international trade in goods statistics. For further information see [https://ec.europa.eu/eurostat/statistics-explained/index.php/Turkey-EU - international trade in goods statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php/Turkey-EU_-_international_trade_in_goods_statistics) (Date accessed: 05.01.2020)

standardization regarding customs procedures, and the complete elimination of NTBs. Moreover, the EU side emphasizes its demand for the opening up of the public procurements to contracting bids of the European firms working under equal conditions with domestic Turkish firms. Finally, the EU is eager for opening up the services sector to free trade between parties.

On the other hand, it is essential for Turkey to become a part of the EU's decision-making processes for the policy decisions related to the CU. Not being informed about the current decisions causes both delays in implementation, and operational problems, and requires the blind implementation of all decisions concerning the CU, without getting a say on the matter. Besides, the FTAs the EU executes with third parties harm Turkish trade, and put Turkish products in a disadvantageous position in third country markets. As a minimum, Turkey should have the opportunity to be involved in trade talks the EU is having with third parties, since Turkey is the only country that have a CU with the EU (ignoring Andorra, Monaco and San Marino due their minuscule economies). In the context of the EU's FTAs with third parties, the possibility of the conclusion of TTIP and other significant FTAs to create huge trade blocs would probably cause damage on Turkish trade. In addition to the problems it poses in relation to the scope and functioning of the CU, the Brexit process will also create uncertainties regarding the future of the trade relations between the parties involved. Turkey should seek to protect its existing economic and trade relations with the UK and should implement proactive policies to formulate its existing trade relations with that country by signing a brand new deep and comprehensive trade agreement with the UK.

Because of both the internal reasons stemming from the structure of the CU itself, and the external challenges posed by a number of developments such as TTIP and Brexit, the CU should be updated and extended to cover new sectors. Although, the EU and Turkey focus on different points, they nonetheless agree on the need to update the CU, as the modernisation of the CU is expected to be

beneficial for both parties by bringing economic benefits. The EU and Turkey initiated a process of evaluation and impact assessment regarding the potential policy options for updating the CU.

Nevertheless, the process is now put on hold by Germany's announcement halting the preparations phase, before even the talks could start. Despite its economic and technical advantages, the CU modernisation process is stopped due to political reasons, as part of a wider trend entailing the suspension of the Turkey's accession process as well. In principle, the CU is essential for Turkish-EU relations, as it establishes a crucial economic bond. It is also formally independent of the accession process, so that updating the CU should not be affected by the suspension of the accession negotiations. However, in the end the CU modernisation process came to be blocked by politics.

From the beginning of Turkey's accession process which has started in 1963 with the Ankara Agreement, the relations between the EU and Turkey have always been volatile. A number of challenges such as the global economic crisis, security crisis, and the Cyprus affect the relationship between the parties. At times these challenges lead to further cooperation among them, at others they bring about severe divergences. Nevertheless, in the case of hindering the process of updating the CU, Germany's dominant position in the decision-making mechanisms of the EU was the major factor which led to a sudden disruption of the talks. Germany's attitude against both Turkey's membership and any further integrations with Turkey on the CU, in turn, was shaped by identity narratives with hues of xenophobia, populism and nationalist instincts. From German eyes, Turkey does not seem to be European. Moreover, after the attempted coup of 15 July, Germany claimed that Turkey is moving away from European values and principles, and accused Turkey with violating fundamental rights. Doing so, Germany actually created a shaky environment by not reacting immediately in the face of the attempted coup, and pointing out that Turkey backslides from the membership criteria, in terms of political, economic and

legislative alignment. Nevertheless, regarding the refugee crisis, Germany would better look in the mirror and stop underestimating the contributions of Turkey in the domain of fundamental rights and European values. On the other hand, Turkey should take Germany's leading role as a decision maker in the EU, regarding its relations with the bloc.

Finally, as a free trade formation, the CU is actually not a purely economic arrangement, but instead a wholly political process which is totally vulnerable to political discourses. Although the necessity of updating the CU due to its malfunctioning and deficient scope, the politicization of this economic integration model by different actors and conditions eventually culminated in the suspension of the process of updating the CU.

Turkish-EU relations are currently going through a phase of serious divergence. Both parties are sceptical and mistrustful towards each other, and this time the crisis does not seem to be temporary. (Arisan Eralp, 2019; 1) Although the two sides are mutually dependent on each other in terms of economic, political and cultural issues, not to mention security concerns, and even though they often cooperate in the face of challenges such as immigration or international terrorism, they still stand apart in their perspectives. The crisis does not look as if it will wither away easily in the near future. Nevertheless, the parties should take initiative for overcoming their disagreements and reinforce their dialogue. Turkey and the EU should not move away from a rule-based institutional relationship such as the CU, which is a tool beneficial and rewarding for both parties, and which should be used to revitalize the relations between Turkey and the EU. There is little to lose from updating the trade framework. Thus, as a proposal based on independent assessments of the CU, the updating process could be approached by Turkey practically by choosing the issue areas that can quickly be regulated instead of opting for legally complex issues to handle. For this purpose, the eagerness of the business community for building strong ties provides another useful means. On the other hand, the EU should take a critical

look at its own dealings, particularly with reference to internal affairs of Turkey, and abandon its narrow minded perspective based on cultural bias, before rebooting healthy communications. Turkey and the EU should try and work together to overcome the obstacles blocking the way towards deeper and stronger relations, by establishing new ways of contacts between the people of both sides to reduce distrust. Doing so will make space available for keeping dialogue vivid until a better time to establish deeper relations regarding both the CU modernisation process and Turkey's accession.



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APPENDICES

A. TURKISH SUMMARY / TRKE ZET

Gmrk Birlięi (GB), iki veya daha fazla lke arasındaki gmrk tarifeleri, kotaları veya vergileri gibi ticaret engellerini ortadan kaldırarak serbest ticaret alanları oluřturan ticaret dzenlemelerine verilen isimdir. Bir gmrk birlięine ye taraflar dnyanın geri kalanına ortak gmrk tarifeleri uygularken, GB yeleri arasında serbest ticaret de teřvik edilmiř olur. GB, serbest ticaret anlařmaları (STA) ile oluřturulan ve dıřarıya karřı birlikte uygulanan ortak gmrk tarifelerinin bulunmadıęı serbest ticaret alanları ve ortak gmrk tarifesine ek olarak para, iř gc, mal ve hizmet gibi kaynakların serbest dolařımını da kapsayan ortak pazarlar arasında konumlanan bir ekonomik btnleřme bięimidir. Gmrk Birlięi, ye devletler aısından ticareti kolaylařtırmayı amalamaktadır ve ticaretin nndeki engellerin ykn ortadan kaldırarak ekonomik iř birlięini teřvik etmektedir. Gmrk birliklerinin teorik temellerini attıęı kabul edilen Jacob Viner'e (1950) gre, bir gmrk birlięi  şartı karřılamalıdır: Birincisi, ye lkeler arasında gmrk vergileri tamamen kaldırılmalıdır. İkincisi, ye lkeler, birlik dıřından yapılan ithalat konusunda tek tip bir gmrk vergisi tarifesi zerinde mutabakata varmalıdır. Son olarak, gmrk birlięi kapsamında elde edilen gelirler, yeler arasındaki anlařma ile belirlenen bir formle gre daęıtılmalıdır. Ayrıca, gmrk birlięini kuran lkelerin ekonomileri, gmrk birlięinin kurulmasından sonra kaynakların verimli bir řekilde yeniden tahsis edilmesi perspektifinde rekabeti bir yapı sergileyebilmelidir.

İkinci Dnya Savařı'ndan sonra, Seksenli yıllara kadar, Trkiye, yerli reticileri uluslararası rekabetten korumak iin yksek gmrk vergileri uygulayarak ithal ikameci ekonomik modeli benimsemiřtir. 1983'e gelindięinde, lkemiz

ekonomisini serbestleřtirmek amacıyla, dönemin Başbakanı Turgut Özal, Ortaklık Anlaşması (AA) (1963) ile üstlenilen yükümlölüklerin yerine getirilmesi yönünde adımlar atmaya başlamıştır. Türkiye'nin 1970'lerde ve 1980'lerde içinde bulunduđu siyasi ve ekonomik koşullar, 1995 yılında AA'nın son aşaması olarak belirlenen Gümrük Birliđi'nin uygulamaya koyulmasının önünü açmıştır.

Bununla birlikte, günümüzün küresel düzeni, serbest ticaret ve onu kolaylařtıran ortak kurumsal düzenlemelerle ilgili çok daha karmařık ve daha derin ekonomik entegrasyon modelleri öngörmektedir. Avrupa bu eğilimi, kurucu antlaşmaları ve ticaret politikası belgeleri doğrultusunda şekillenen ticaret kuralları ile izlemekte ve birçok ülkeyle yeni nesil Serbest Ticaret Anlaşmaları (STA) imzalayarak yeni serbest ticaret bölgeleri oluşturmaktadır. Söz konusu STA'lar, AB-Türkiye GB düzenlemeleri kapsamında yer almayan hizmet sektörünü, kamu ihalelerini ve tarım ürünlerini de düzenlemektedir. Ayrıca GB, 90'lı yılların gereksinimlerinin bir ürünü olması neticesinde mevcut haliyle sınırlı kapsamı ve işleyiři ile ilgili bazı eksiklikleri ile dikkat çekmektedir. Bu nedenle, anlaşmaya taraf olan Türkiye ve AB bu serbest ticaret düzenlemesinin güncellenmesi ve bu kapsamda işleyişindeki aksaklıkların ve ayrıca içeriğinin genişletilerek ticaretin daha da serbest hale getirilmesi geređi konusunda mutabakata varmışlardır.

Türkiye-AB Gümrük Birliđi, Türkiye'nin tam üyelik hedefi çerçevesinde AB'ye katılım sürecinin bir parçasıdır. Bununla birlikte, AB tarafından, Avrupa değerlerinden uzaklaşılması ve AB üyelik kriterlerinin yerine getirilmesinde gerileme gibi siyasi nedenler öne sürölerek katılım sürecinin askıya alınmasına paralel olarak GB'nin güncellenmesi konusundaki çalışmalar da sekteye uğramıştır.

Bu tez, AB-TR ilişkilerinin tarihsel bağlamında GB'nin güncellenmesi sürecini engelleyen siyasi nedenleri arařtırmakta ve durma noktasındaki ilişkileri canlandırmak adına taraflar arasındaki ticari ilişkilerin, özellikle de GB'nin, bir

destek unsuru olarak kullanılmasını önermektedir. Bu kapsamda, TR-AB ilişkilerinin geleceği açısından mülteci krizi veya enerji iş birliği gibi kısa vadeli ikili iş birliği alanları yerine AB ile birlikte kural temelli, yasal uyumlaştırma gerektirecek kurumsallık çerçevesinde bir bütünleşme tercih edilmelidir.

Bu çalışma, GB'nin neden güncellenmesi gerektiğini ortaya koymakta ve bu sürecin taraflara sağlayacağı olası kazançlara rağmen neden durduğunu anlamaya çalışmaktadır. Bu soruların cevapları araştırılırken, AB ve Türkiye'nin GB'nin güncellemesinin gerekliliğine dair ortaya koydukları argümanlar incelenmektedir. Ayrıca ekonomik ve ticari nedenlerin GB'nin güncellenmesi sürecinde temel belirleyiciler olup olmadığı ve GB modernizasyon sürecinin Almanya'nın perspektifi doğrultusunda siyasallaşması da incelenmektedir.

Son olarak, tezde GB'nin modernizasyonu sürecinin aslında ekonomik bir mesele değil, bir dizi aktör ve koşul tarafından etkili bir şekilde siyasallaştırılan tamamen politik bir mesele olduğunu öne sürülmektedir. Bu iddiayı ortaya koymak için, ilgili tarafların öne sürdükleri gerekçeler karşılaştırmalı bir bağlamda sunulmakta ve farklı bakış açılarından genişletilmiş bir değerlendirmeye tabi tutulacaktır. Son olarak, güncelleme sürecinin askıya alınmasına yol açmış olabilecek faktörleri tanımlamak için, Türkiye ile AB arasındaki ilişkilerin niteliği, tarafların her birini bu sürece yönlendiren teşviklere değinilerek tartışılacaktır. Analiz, öngörülebilir gelecekte ilişkiyi canlandırmak için olası seçenekler üzerine bazı tartışmalarla sonuçlanacaktır.

Bu bağlamda çalışmanın ilk bölümü, Türkiye ve AB arasındaki Gümrük Birliği hakkındaki literatürün kısa bir incelemesini sunduktan sonra, bir serbest ticaret oluşumu olarak gümrük birliği hakkındaki tartışmaları ve ekonomiye etkilerini genel bir çerçevede tarihsel bağlamda incelemektedir. Daha sonra, GB modernizasyon sürecinin önündeki siyasi engelleri anlamak amacıyla, AB-Türkiye ilişkilerinin tarihsel arka planı, dönüm noktalarına odaklanılarak tartışılacaktır. Genel olarak ikili ticaret ilişkileri ve özellikle Türkiye-AB

Gümrük Birlięi çerçevesinde, işlevsel eksikliklerinin yanı sıra GB kapsamına dahil edilmeyen sektörlerle değinilerek, GB'nin neden güncellenmesi gerektięi açıklanmaktadır. Bunu takiben, AB ve Türkiye'nin GB'ni güncellenmesinin gereklilięi kapsamında öne sürdükleri gerekçeleri; resmî belgeler, iş dünyasının perspektifi ve etki analizine atıfta bulunarak detaylı bir şekilde tartışılarak modernleşme sürecinin kendisine odaklanılacaktır. Ayrıca ileride çok büyük bir ticaret bloęu yaratma olasılıęı kapsamında önemli bir dış etken olarak TTIP tartışılacaktır. Bunun yanında, Türkiye'nin AB ile ticaretinde en büyük ikinci paya sahip ülke olan Birleşik Krallık'ın AB'den ayrılması süreci olan Brexit'in Türkiye ekonomisi açısından getirdięi belirsizlikler ve olası çözüm önerileri araştırılacaktır. Sonuç olarak, GB modernizasyon sürecinin, özellikle AB karar mekanizmalarındaki etkisiyle öne çıkan Almanya'nın tutumu ile siyasallaştırılan, tamamen politik bir süreç olduęu iddiası öne sürölmektedir. Bu bağlamda, Türkiye, AB ile mevcut siyasi gerginlięin üstesinden gelmeli, yeni iletişim kanalları ve platformlar aracılıęıyla GB'nin güncellenmesi müzakerelerinin başlamasını sağlamak adına çalışmalar yürötmeli ve bu süreci AB ile ilişkilerini canlandırmak ve sürdürmek için bir destek noktası olarak kullanılmalıdır.

Türkiye-Avrupa Birlięi Gümrük Birlięine giden süreç 1958 yılında altı Batı Avrupa ülkesi tarafından imzalanan Roma Antlaşmasının akabinde, Türkiye'nin Avrupa'daki potansiyel bir siyasi oluşumun dışında kalmamak adına kısa bir süre sonra topluluęa katılmak için yaptıęı başvuruyla başlamıştır. 1963 yılındaki müzakerelerin ardından Avrupa Ekonomik Topluluęu (AET) ile Türkiye arasında Ankara Anlaşması (AA) imzalanmıştır. Ankara Anlaşması, taraflar arasındaki ticari ilişkileri teşvik etmeyi ve özellikle gümrük birlięi kurarak Türkiye ekonomisinin ve yaşam standartlarının gelişimini hızlandırmayı amaçlamıştır. Ankara Anlaşması (Ortaklık Anlaşması olarak da bilinir), Türkiye ekonomisinin Avrupa Ortak Pazarı'na uyumunun tamamlanması ve Gümrük Birlięi kurulması için üç aşama öngörmektedir: hazırlık, geçiş dönemi ve son aşama.

Ortaklık Anlaşması'nda sanayi ürünlerinin serbest dolaşımı, tarımsal ürünler, işgücünün serbest dolaşımı, hizmet sunma serbestliği gibi konular Gümrük Birliği bağlamında Avrupa Ekonomik Topluluğunu Kuran Anlaşma'ya atıfla düzenlenmektedir. (Ankara Anlaşması, madde 11, 12, 14) Ankara Anlaşmasının imzalanmasındaki nihai hedef, belirli bir yasal ve teknik uyum sürecinden sonra Türkiye'nin tam üyeliğidir.

1963 yılında imzalanan Ortaklık Anlaşması hükümleri gereği geçiş döneminin sonunda, Gümrük Birliğinin tamamlanması hedeflenmiştir. Buna göre, hazırlık döneminin tamamlanmasını takiben, 13 Kasım 1970 tarihinde imzalanan Katma Protokolle düzenlenen geçiş dönemi hükümleri gereğince Türkiye ve Avrupa Topluluğu arasında Gümrük Birliğinin aşamalı olarak tesis edilmesini amaçlanmaktadır. Gümrük Birliğinin uygulamaya koyulması kapsamında Avrupa Ekonomik Topluluğu (AET), 1971 yılından başlayarak Gümrük Birliğinin kapsadığı sanayi ürünlerine uygulanan vergi ve kısıtlamaları Türkiye lehine tek taraflı olarak kaldırmıştır. Ülkemiz için ise Katma Protokolün yürürlüğe girdiği 1973 yılından itibaren 22 yıla varan aşamalı bir geçiş süreci kabul edilmiştir. Türkiye, Katma Protokolde yer alan düzenlemeleri 1978 yılına kadar uygulamış, ancak sonrasında yaşanan ekonomik koşullar sebebiyle, AET'ye karşı yükümlülüklerinin 5 yıl süreyle ertelenmesini istemiştir.

İkinci Dünya Savaşı'ndan sonra 1980'li yıllara kadar, Türkiye ithal ikameci ekonomik modeli uygulamaktaydı. Bu kapsamda, yüksek gümrük vergileri yerli üreticileri uluslararası rekabetten korumaktaydı. 1980 darbesi akabinde askeri yönetiminden sonra, 1983 yılında tekrar sivil yönetimin görev başına geldiği süreçte dışa açılma ve ekonomik liberalleşme yönündeki perspektifle birlikte, Türkiye 1987 yılında Avrupa Topluluğuna tam üyelik başvurusunda bulunmuş ve aynı zamanda Katma Protokolden kaynaklanan ertelenmiş yükümlülüklerini yeniden uygulamaya başlamıştır. Ancak bu dönemde tam üyelik başvurusu sonuçsuz kalmış, Türkiye'nin henüz üyeliğe hazır olmadığı dile getirilmiştir. Bu gelişmeleri takiben, Katma Protokole istinaden 1995 yılında tamamlanacak olan

geçiş süreciyle kurulması planlanan Gümrük Birliği durma noktasına gelen ilişkileri yeniden canlandırmak adına sadece ekonomik ve ticari değil aynı zamanda da siyasi bağlamda da etkili bir adım olarak algılanmıştır. Bu kapsamda Türkiye için AB üyelik sürecinde kritik öneme sahip aşama olan Gümrük Birliği 1995 yılında AA'nın son aşaması olarak Türkiye ve Avrupa Birliği arasında tesis edilmiştir. Gümrük Birliği ile birlikte, Türkiye ile Avrupa Birliği ülkeleri arasında sanayi, ürünleri ve işlenmiş tarım ürünlerinin ithalatı ve ihracatında gümrük vergisi, resim, harçlar ve miktar kısıtlamaları kaldırılarak, kapsam dâhilindeki ürünler taraflar arasında serbest dolaşıma girmiştir.

GB (1995), 1963 yılında Ortaklık Anlaşması ile Türkiye ve AB arasında kurulan ortaklık ilişkilerinin bir ürünüdür. GB, kendine has bir örnek olarak Türkiye'nin AB bütünleşmesinde kurumsal bir çerçeve sunmaktadır. GB hem Türkiye hem de AB açısından ticaret hacmini artırmayı ve yeni pazarlara ulaşmayı kolaylaştırmıştır. 2018 Eurostat verilerine göre Türkiye AB için en büyük beşinci büyük ihracat ortağı ve altıncı büyük ithalat kaynağı iken, AB ise Türkiye'nin hem ihracat hem de ithalat konusunda en büyük ticaret ortağıdır. Ancak, J. Viner'in (1950) GB teorisine atıfta bulunmak gerekirse, Türkiye-AB GB mevcut haliyle gerek kapsamı gerekse Türkiye'nin AB karar mekanizmalarında yer almaması açısından ideal GB tanımından çok uzaktır. Gümrük Birliği, Türkiye ile AB arasındaki tamamlanmış ve uygulamada olan tek ve en güçlü kurumsal temelli iş birliği alanı olmasına rağmen, bugünün uluslararası serbest ticaret perspektifinin gerektirdiği koşulları sağlayamamaktadır.

Hizmet, tarım, kamu ihaleleri gibi her iki tarafın da ekonomilerinin büyük bir kısmını oluşturan önemli sektörleri kapsamaması sebebiyle Türkiye-AB GB günümüzde imzalanan serbest ticaret anlaşmalarının gerisinde kalmaktadır. GB'nin kapsamının genişletilmesi, yeni pazarlar ve iş fırsatları yaratarak taraflar açısından ekonomik büyümenin sürdürülmesine yardımcı olabilir ve böylece refah düzeyi artırılabilir. Ayrıca, kapsamının yanı sıra GB'nin mevcut işleyişi de her iki taraf arasındaki ticareti neredeyse engelleyecek kadar sorunludur. Örneğin

gerektiği gibi işlemeyen uyuşmazlıkların çözümü mekanizması gibi konular her iki tarafın iş dünyasında güvensizliğe neden olmaktadır. Ek olarak, her iki tarafın GB'nin güncellenmesini talep etmek için somut nedenleri vardır. AB tarafı, gümrük uygulamalarına ilişkin müktesebata ve standardizasyona daha fazla uyum talep etmekte ve Türkiye'den tarife dışı engellerin tamamen kaldırılmasını istemektedir. Ayrıca AB tarafı, süreçlere yerli firmalar ile eşit şartlarda katılmak için kamu ihalelerinin de kapsam dâhiline alınması ve bu alanda AB mevzuatı ile uyumun artırılması yönündeki talebini vurgulamaktadır. Son olarak AB, özellikle finans gibi hizmetlerde serbestleşmeyi sağlamak adına hizmet sektörünün de taraflar arasında serbest ticarete açılması hususunda isteklidir.

Türkiye'ye göre ise, ülkenin AB'nin GB politikası bağlamındaki kararlarına ilişkin karar alma süreçlerine katılması gereklidir. Türkiye açısından AB karar mekanizmasına dâhil olunmaması, alınan yeni kararlardan geç haberdar olmaya, dolayısıyla da hem uygulamada gecikmelere hem de operasyonel aksaklıklara neden olabilmektedir. Türkiye'nin karar mekanizmasında yer alamaması GB kapsamındaki kararları olduğu gibi uygulama ve kendi yasalarını bunlar ile uyumlu hale getirme yükümlülüğünü de beraberinde getirmektedir. Ayrıca, AB'nin üçüncü taraflarla imzaladığı STA'lar Türkiye'nin dış ticaretini olumsuz etkilemekte ve STA imzalanan üçüncü ülke pazarlarında Türk ürünlerinin haksız gümrük vergilerine maruz kalması sebebiyle ticareti saptırıcı etkilerin ortaya çıkmasına sebep olmaktadır. Bu noktada Türkiye en azından AB ve üçüncü taraflar arasında gerçekleştirilen müzakerelere katılma fırsatına sahip olmalıdır, çünkü Türkiye AB ile bir gümrük birliği içinde olan tek ülkedir. (Andorra, Monako ve San Marino ekonomik büyüklükleri nedeniyle dikkate alınmamaktadır.) Üçüncü taraflarla birlikte AB STA'ları kapsamında, TTIP ve benzeri devasa ticaret blokları oluşturan diğer büyük STA'ların hayata geçirilmesi Türkiye'nin dış ticareti üzerinde olumsuz etkiler doğurmaktadır. GB'nin kapsamı ve işleyişi ile ilgili eksikliklerin yanı sıra, Brexit süreci de gelecekteki ticari ilişkilerle ilgili belirsiz koşullar yaratması açısından GB'nin güncellenmesi ihtiyacını doğurmaktadır. Türkiye, İngiltere ile mevcut ekonomik

ve ticari ilişkilerini korumak adına İngiltere ile derin ve kapsamlı bir ticaret anlaşması imzalamalı ve mevcut ticari ilişkileri yeniden oluşturmak için proaktif politikalar yürütmelidir.

Hem GB'nin yapısından kaynaklanan dâhili nedenler, hem de TTIP ve Brexit gibi dışsal etkenler nedeniyle, GB güncellenmeli ve yeni sektörleri de kapsayacak biçimde genişletilmelidir. Her ne kadar AB ve Türkiye, GB'nin güncellenmesi bağlamında farklı noktalara vurgu yapsalar da GB'nin modernizasyonu, her iki taraf için ekonomik faydalar sağlayacağı için Türkiye ve AB tarafları revizyon konusunda mutabıktırlar. Bu kapsamda AB ve Türkiye, gerek Dünya Bankası gibi bağımsız üçüncü tarafların gerekse resmî kurumların GB hakkındaki etki analizleri ve değerlendirmeler vasıtasıyla GB'nin güncellenmesi sürecine ilişkin en uygun politika seçeneğinin değerlendirilmesi ve etki analizi çalışmalarını ve kamuoyu araştırmalarını başlatmıştır.

Bu noktada, Almanya'nın hazırlık askıya alma yönündeki kararıyla duraklayan süreçte, GB güncellenmesine dair müzakereler dahi başlayamamıştır. Ekonomik getirilerine ve teknik avantajlarına rağmen, GB'nin güncellenmesi süreci, Türkiye'nin katılım sürecinin askıya alınmasına paralel olarak siyasi nedenlerle durdurulmuştur. Temel olarak GB, Türkiye-AB ilişkileri için önemli bir ekonomik zemin tesis etmekte olup, resmiyette katılım süreciyle bağlantısı yoktur. Bu sebeple de Gümrük Birliğinin güncellenmesi sürecinin katılım müzakerelerinin askıya alınmasından etkilenme olasılığı düşüktür. Ancak, fiiliyatta GB modernizasyon süreci, siyasi sebeplerle katılım müzakerelerinin askıya alınmasıyla birlikte engellendi.

Türkiye'nin AB'ye katılım sürecinin başlangıcından itibaren, AB ile Türkiye arasındaki ilişkiler her zaman inişli çıkışlı bir rota izlemiştir. İlişkiler, küresel ekonomik kriz, güvenlik krizi, Kıbrıs sorunu gibi farklı süreçlerden etkilenmiş, bazı dönemlerde zorluklar taraflar arasında yakın iş birliği kurulmasına (Suriye göç krizinde olduğu gibi), bazı dönemlerde ise ciddi uzaklaşmalara (Kıbrıs

sorununda olduđu gibi) neden olmuştur. Bununla birlikte, Almanya'nın AB'nin karar alma mekanizmasındaki baskın konumu ışığında müzakerelerin keskin bir şekilde sona ermesi söz konusu olmuştur. Almanya'nın hem Türkiye'nin üyeliğine hem de GB gibi diğer TR-AB bütünleşme modellerine karşı tutumunun, Türkiye'ye yönelik yabancı düşmanlığı, popülizm ve milliyetçi içgüdülerle kimlik üzerinden inşa edildiği gözlenmektedir. Türkiye, Almanya'nın gözünde Avrupalı değildir. Buna ek olarak, darbe girişiminden sonra Almanya, Türkiye'nin Avrupa değerlerinden ve ilkelerinden uzaklaştığını iddia ederek Türkiye'yi temel hakları ve özgürlükleri ihlal etmekle suçlamıştır. Almanya aslında darbe girişimine hemen tepki vermeyerek güvenilir olmayan bir tutum sergilemiş ve Türkiye'nin hem siyasi ve ekonomik bağlamda hem de AB müktesebatına yasal uyum konusunda üyelik kriterlerinden uzaklaştığını iddia etmiştir. Almanya, mülteci krizi konusunda kendine dönerek Türkiye'nin temel haklar ve Avrupa değerleri konusundaki katkılarını küçümsememelidir. Öte yandan, Türkiye ise AB ile ilişkileri bağlamında Almanya'nın karar alıcı rolünü dikkate alarak hareket etmelidir.

Bir serbest ticaret oluşumu olarak, GB'nin güncellenmesi aslında ekonomik değil, tamamen siyasi söylemlerden etkilenmeye açık, son derece politik bir süreçtir. Düzgün işlemeyen yapısı ve eksik kapsamı nedeniyle güncelleme ihtiyacı olsa da bu ekonomik bütünleşme modelinin farklı aktörler ve koşullar tarafından siyasallaştırılması, GB'nin güncellenmesi sürecinin askıya alınmasına neden olmuştur.

AB-TR ilişkileri bağlamında, günümüz itibariyle ciddi bir uyuşmazlık yaşanmaktadır. Her iki taraf da diğerine karşı şüpheli ve güvensizdir ve bu sefer kriz geçici görünmemektedir. Her ne kadar iki taraf da birbirine ekonomik, siyasi ve kültürel açıdan ve ayrıca güvenlik bağlamında bağımlı olsa da, hatta göç, uluslararası terörizm gibi konularda iş birliği mekanizmalarında beraber çalışsalar da günümüz itibariyle ilişkilerde yaşanan uzaklaşmayla birlikte, Türkiye ve AB birbirlerine karşı konum almaktadır. Yakın gelecekte bu kriz

durumunu kolayca tersine çevirmek pek mümkün görünmemektedir. Bununla birlikte, taraflar anlaşmazlıkların üstesinden gelmek ve sürdürmek için sorumluluk almalıdır. Türkiye-AB ilişkileri, Gümrük Birliği gibi kurallara dayalı kurumsal temelli yapıdan uzaklaşmamalıdır. Ülkemiz açısından örnek vermek gerekirse, hâlihazırda hükümetimiz, 23. Yargı ve Temel Haklar Fasılı'nın açılış kriteri olarak yargı reformu paketinin hazırlanmasına başladığını ilan etmiştir. Son Reform Eylem Grubu toplantı raporuna istinaden, Cumhurbaşkanı Recep Tayyip Erdoğan konu hazırlık çalışmalarının başladığını duyurmuştur. Bu ve benzeri girişimler, AB ile ilişkileri yeniden canlandırmak adına hayati öneme sahiptir.

Çok kutuplu dünya düzeninde korumacılık eğilimi, popülist ve aşırı milliyetçi eğilimler, terör gibi küresel sınamalarla başa çıkmak için ortaklık ilişkileri kurmak önem taşımaktadır. Siyasi acıdan bakıldığında, Türkiye; İsrail, Rusya ve diğer Orta Doğu Ülkeleri gibi ülkelerle kurduğu ilişkiler kapsamında AB için hem arabulucu rolüyle hem de kilit bölgesel ortaklarla stratejik bir konuma sahiptir. Türkiye'nin bölgesindeki dengeleyici rolü, Suriye mülteci krizi kapsamındaki işbirliği ile de kanıtlanmıştır. (Eralp, 2018; 4-5) Ekonomik açıdan bakıldığında ise, GB'nin güncellenmesi, AB'li yatırımcılar ve şirketler için önemli fırsatlar barındıran yeni pazar sunacaktır. Ayrıca yeni iş fırsatları ile birlikte vatandaşların refah düzendi artış sağlaması da beklenmektedir. (Dünya Bankası Raporu, 2014) Türkiye için ise GB'nin güncellenmesi; işleyişindeki eksikleri gidermek, ekonomik büyümeye ivme kazandırmak ve sürdürülebilir kalkınma için yeni yollarından faydalanmak ve ayrıca AB'nin üçüncü taraflarla imzaladığı STA'ların ülkemiz ekonomisi üzerindeki olumsuz etkilerini önlemek açısından gereklidir. GB, bahsedilen ekonomik ve siyasi nedenlerin yanı sıra, Türkiye-AB ilişkilerini canlandırmaya yardımcı olabilecek bir araç olarak da son derece kritik bir öneme sahiptir.

Sonuç olarak, Her iki taraf için de kazan-kazan durumu yaratan niteliğiyle GB, Türkiye ile AB arasındaki ilişkileri canlandırmak için kullanılmalıdır. Ticari

ilişkilerin güncellemesinden kaybedilecek bir şey olmadığı açıktır. Dolayısıyla, her iki tarafın da GB hakkında hazırladığı analizlerden çıkarılan bir öneri olarak Türkiye'nin ilk etapta bu sürece gerçekçi yaklaşması gerektiği, yasal açıdan karmaşık alanları revize ederek güncellemek yerine hızlı bir şekilde düzenlenebilecek alanları seçerek, GB'nin işlevsel aksaklıklarını gidermeye çalışmasının faydaları dile getirilmektedir. Bu amaçla, başka bir yoldan güçlü bağlar kurmak için iş dünyasının istekliliğinden faydalanılabilir. Öte yandan AB, Türkiye'nin iç işleri hakkında değerlendirmelerde bulunurken, kendini de eleştirebilmeli ve sağlıklı iletişimi yeniden başlatmak için kültürel önyargılara dayanan dar görüşlü perspektiften vazgeçmelidir. Türkiye ve AB arasında, güvensizliğin üstesinden gelmek adına yeni temas yolları kurularak ilişkilerin önündeki engelleri ortadan kaldırmak için ortaklaşa çalışılmalıdır. Diyalogu canlı tutmak, ilerleyen dönemde hem GB modernizasyonu süreci hem de Türkiye'nin katılım süreci bağlamında daha derin ilişkiler kurmak için doğru zaman gelene kadar süreci canlı tutacaktır.

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