





POLICY BRIEF


How Should the EU Approach the Customs Union with Turkey to Improve Democratic Norms?

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1. Background

Following the several years of crisis in EU-Turkey relations, in October 2020, European Council stated their willingness to pursue a *positive agenda* upon Turkey's constructive efforts to de-escalate the tension in the Mediterranean.¹ The positive agenda's dynamics are primarily centered on modernizing the Customs Union in exchange for Turkey's continuing good faith.

The EU-Turkey Customs Union, which was established in 1995 and considered as the backbone of EU-Turkey relations, covers industrial products trade and consequently the majority of trade flows. The Customs Union entails far more integration than a free trade arrangement. It requires Turkey to adhere to the EU's Common Customs Tariff and rules for third-country imports, as well as to align domestic legislation with the EU *acquis* on goods, and to adapt EU rules on commercial policy, competition policy, and intellectual property rights.²

The EU Commission and Turkey announced in May 2015 that they had reached an agreement on modernizing the 20-year-old Custom Union.³ The Commission presented draft negotiating guidelines on a new agreement to modernize the Customs Union and expand the scope of the bilateral preferential trade partnership with Turkey to the Council in December 2016.⁴ They envision enhanced reciprocal liberalization in agriculture and services trade, as well as market access in public procurement and deeper commitments to competition, intellectual property rights, and long-term development.

Although the Commission's impact assessment suggested the modernization would have a significant positive effect on both Turkey's and the EU's economies, the failed coup attempt in July 2016 had already strained relations between the parties, and the modernization did not occur. Turkey's trend toward a more autocratic regime, as well as measures that went against EU norms and objectives, exacerbated the deterioration of relations in the years that followed. Consequently, the European Council formally concluded on 26 June 2018, and then reiterated on 18 June 2019, that "no further work towards the modernisation of the EU-Turkey Customs Union is foreseen."⁵

A new chapter in EU-Turkey relations opened upon Turkey's emphasis on their willingness to re-engage with the EU and demonstrate goodwill in the eastern Mediterranean. According to the statement issued at the European Council meeting in March 2021 geopolitics and migration have put human rights to the back of the EU's priority list when it comes to Turkey.⁶ In fact, in the EU summit that was held in Brussels on June 24-25, the EU did not address that the Erdogan administration criminalizes journalists while it stood up to Russia and Belarus for press freedom and was able to

¹ European Council (October 1, 2020). *European Council conclusions on external relations, 1 October 2020*. Retrieved on April 11, 2021 from European Council <https://www.consilium.europa.eu/en/press/press-releases/2020/10/01/european-council-conclusions-on-external-relations-1-october-2020/>

² <https://op.europa.eu/en/publication-detail/-/publication/2133b382-8b21-11eb-b85c-01aa75ed71a1/language-en>

³ European Commission, "EU and Turkey Announce Modernization of Custom Union", Brussels, 12 May 2015, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1307>.

⁴ <https://op.europa.eu/en/publication-detail/-/publication/2133b382-8b21-11eb-b85c-01aa75ed71a1/language-en>

⁵ Ibid.

⁶ <https://www.consilium.europa.eu/media/48976/250321-vtc-euco-statement-en.pdf>

apply sanctions almost immediately.⁷ In her speech on June 24, 2021, German Chancellor Angela Merkel bolsters the EU's approach by saying: “the EU and Turkey should advance their cooperation on trade and migration issues, despite the serious differences on the rule of law and respect for human rights between the two sides”.⁸ This can be interpreted as an attempt to adopt a modus vivendi: Brussels and Ankara recognize that this is the type of relationship they currently have, and it may be the best way to maintain their relationship during difficult times.⁹

However, some member states are concerned by the possibility that this new approach of the EU could further weaken Turkey’s democratic progress. Correspondingly, it is emphasized in the European Parliament’s highly critical report on Turkey that relations with Ankara, particularly on the customs union, must be tied to “democratic conditionality” in the country, and accession discussions should be suspended if the “negative trend” is not immediately reversed.¹⁰ Given that these two opposing standpoints are still on the table, this paper will address how the EU should approach upgrading the Customs Union with Turkey in order to improve democratic norms in the country.

2. Current State of Play

Turkey from the EU’s Perspective

Turkey’s geopolitical importance for the EU's foreign policy goals and country’s de-escalation efforts in the Mediterranean combined with significant historical economic links of both parties gradually improved relations and in October 2020, the European Commission identified Turkey as a "key partner" in its *Turkey 2020 Report*.¹¹

Turkey was the EU's sixth largest trade partner in 2020, accounting for 3.6 percent of the EU's total goods trade with the rest of the world. In absolute terms, the EU's imports and exports to Turkey totaled €62.6 billion and €69.9 billion, respectively; the latter represents almost 0.5 percent of the EU's nominal GDP in 2020.¹² According to the IMF's economic prediction¹³ the EU faces a severe risk of falling behind the US and China throughout the economic recovery process from COVID-19 if it does not implement proactive strategies to avoid this. To this end, it would be particularly desirable for the EU to further strengthen economic and strategic connections with Turkey.

Turkey can also be an ideal candidate for shifting some of the production processes closer to the EU in an attempt to lessen China dependency due to its strategic geographical location in terms of supply chain and the relatively cheaper labor market. Modernizing the Customs Union with Turkey would be suitable to this end and for the EU's ambition for greater strategic autonomy, which was one of the

⁷ <https://www.duvarenglish.com/merkels-farewell-gift-to-erdogan-news-58071>

⁸ <https://www.duvarenglish.com/merkel-says-strategic-ties-with-turkey-should-be-maintained-despite-serious-differences-on-human-rights-news-57944>

⁹ <https://ecfr.eu/publication/new-energies-how-the-european-green-deal-can-save-the-eus-relationship-with-turkey/>

¹⁰ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0243_EN.pdf

¹¹ European Commission (October 6, 2020). *Turkey 2020 Report*. Retrieved on April 12, 2021 from European Commission https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey_report_2020.pdf

¹² <https://ec.europa.eu/trade/policy/countries-and-regions/countries/turkey/>

¹³ <https://www.imf.org/en/Publications/WEO/Issues/2021/03/23/world-economic-outlook-april-2021>

von der Leyen Commission's top priorities.¹⁴ However, the EU has outside options, such as Morocco, as well as inside options, such as Poland and Romania, to limit China's role as a leading manufacturer.¹⁵

From the standpoint of the EU's refugee geopolitics, a stable relationship with Turkey is particularly desired. Turkey has been accepting Syrian refugees since 2011, and as of June 2021, the total number of Syrian refugees with temporary protected status has reached 3.684 million¹⁶, accounting for nearly 4.5 percent of the Turkish population and making Turkey the world's largest refugee host country. In the search for avoiding any further EU-border crisis and to find long-term solutions for settling refugees until the Syrian civil war is resolved, the EU's offer to Turkey has grown in importance. In this context, modernizing the Customs Union would be a welcome economic boost for Turkey; thereby, it can be utilized as a mutually beneficial tool to fortify the relationship between the two parties.

Turkey's Economic Vulnerability and Geopolitical Isolation

The impact of COVID-19 on the Turkish economy was severe, as it was for all other nations; however, hardened structural problems such as autocratic management of crucial economic institutions and broader balance of payment issues magnified the domestic economic crisis. Inflation, unemployment, and gross domestic product (GDP) indicators were at their worst levels in ten years, revealing how much the economy has deteriorated.¹⁷ Furthermore, the national debt-to-GDP ratio has been steadily rising, accumulating financial risks even more and perhaps leading to a currency crisis similar to that of 2018.¹⁸

Aside from economic mismanagement, erratic foreign policy decisions aggravate Turkey's political relations with its traditional partners and allies, pushing the country further to geopolitical isolation. Country's track record of straying from basic human rights and democratic norms, military interventions in Libya and Syria, threats of refugee crisis and escalating tension in the Mediterranean, have severely harmed the relations with the EU.¹⁹ The European Union is Turkey's most prominent trade partner, as well as a source of investment. In fact, according to the most recent pre-pandemic numbers, Turkey exports €69.8 billion, almost 43% of its total exports, to the EU and €58.5 billion of its foreign direct investment coming from the EU.²⁰ The EU has been credited for generating the majority of Turkey's foreign direct investments; however, this trend has come to a stop²¹ due to

¹⁴ [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/646148/EPRS_BRI\(2020\)646148_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/646148/EPRS_BRI(2020)646148_EN.pdf)

¹⁵ <https://0-www-economist-com.lib.unibocconi.it/europe/2021/07/10/recep-tayyip-erdogans-image-and-turkeys-economy-are-both-taking-a-battering>

¹⁶ Retrieved on April 12, 2021 <https://multeciler.org.tr/turkiyedeki-suriyeli-sayisi/>

¹⁷ <https://www.statista.com/statistics/263708/unemployment-rate-in-turkey/>

¹⁸ <https://www.chathamhouse.org/2020/02/credit-fuelled-economic-recovery-stores-trouble-turkey>

¹⁹ Retrieved on April 12, 2021 from European Parliament

[https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2020\)659411](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2020)659411)

²⁰ https://eeas.europa.eu/headquarters/headquarters-homepage/95930/eu-turkey-relations-need-build-bridges_en

²¹ Retrieved on April 12, 2021 from European Parliament

[https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2020\)659411](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2020)659411)

strained relations, and as part of it, the Volkswagen Group's US\$1.4 billion investment in Turkey was initially paused, then cancelled and relocated to Slovakia.²²

With the new president in the White House who prioritizes democratic principles and institutions, strengthening US-Turkey relations does not appear to be viable, given Turkey's choice to move toward a more autocratic rule.²³ Moreover, bilateral problems including Turkey's purchase of S-400 missile systems, Halkbank's criminal proceeding, and recently, US's recognition of 1915 mass killings of Armenians as genocide obstruct constructive developments in US-Turkey relations.²⁴ Improving Turkey's relations with alternative countries does not seem to help the country's economic woes, given the fact that in 2020, Turkish exports to Russia and China accounted for only 2.7% and 1.7% of its total exports respectively.²⁵

Exacerbating economic outlook and waning diplomatic relations with long-lasting partners have consistently eroded the support for the Justice and Development Party (AKP) since the 2015 elections -the first time AKP could not form a single-party government since they came into power in 2002. Moreover, both President Erdogan's and AKP's reputations are suffering more with the recent accusations of corruption by Sedat Peker, an exiled mobster, through a series of internet videos.²⁶ It became evident that even AKP supporters are less lenient to such news during an economic downturn.

As a result, polls indicate that President Erdogan's popularity is at an all-time low, and that if elections were held today, President Erdogan would lose any of the key opposition contenders.²⁷ Hoping to alleviate economic contraction and eventually regain its voters' support, President Erdogan turned towards the EU to improve impaired relations.²⁸ This provides the EU considerable leverage and the EU should lay down gradual democratic development conditions for Turkey to fulfill in order for the discussions to move forward.

3. Policy Recommendations

President Erdogan and the AKP have been looking for a geopolitical partner to assist them in overcoming the deterioration of internal and external affairs for some time. However, economic data and Turkey's attitude demonstrates that there are no attractive outside options for Turkey other than the EU, while the EU has more attractive outside and inside options to replace Turkey in regards to achieving its short and long term economic objectives. Furthermore, the domestic economic situation intensifies in the lack of tangible developments, further eroding President Erdogan's support. It raises Turkey's haggling cost -cost associated with the bargaining process due to its time consuming

²² Ibid.

²³ <https://ecfr.eu/article/turkey-beyond-erdogan-how-the-eu-risks-letting-down-turkish-democrats/>

²⁴ <https://ecfr.eu/wp-content/uploads/New-energies-How-the-European-Green-Deal-can-bring-Turkey-and-the-EU-together.pdf>

²⁵ <https://tradingeconomics.com/turkey/exports-by-country>

²⁶ <https://www.youtube.com/user/pekersedsat>

²⁷ <https://0-www-economist-com.lib.unibocconi.it/europe/2021/07/10/recep-tayyip-erdogans-image-and-turkeys-economy-are-both-taking-a-battering>

²⁸ <https://www.reuters.com/article/us-turkey-eu-idUSKBN2820D8>

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nature²⁹- substantially, placing the country in a relatively more impatient position. Finally, Turkey's position as a refugee guardian, which prevents a further humanitarian crisis, drew praise from the EU and provided Turkey some bargaining leverage; however, the overall picture shows that the EU holds all the cards.

Moreover, as stated in the Commission working draft “the EU is founded on the values of respect for human rights, democracy and the rule of law. The EU's internal and external actions are guided by these values.³⁰ It is important for the EU to be consistent with its founding principles; therefore, rather than taking a merely pragmatic approach that aims to stimulate economic recovery and overlooks democratic improvement of an ally, the EU should prioritise to achieve progress in Turkey on the EU's core values. It's worth noting that, rather than a discretionary management strategy, modernization of the Customs Union entails regulatory changes as well as a more rule-based economic and civic society³¹, implying that the customs union itself improves some degree of institutional norms.

These natural improvements of the customs union, however, are insufficient to reverse Turkey's present adverse democratic trend; thus, more concrete measures are required. To this end, the EU should form a structure that certain elements in the modernized customs union should be conditional upon specific actions of democratic improvements; thus, Turkey's actions will determine how much they get from this arrangement. For instance, withdrawing from the Istanbul Convention, threatening to close down the political party HDP and ignoring the verdicts of the European Court of Human Rights on the imprisonment of Osman Kavala and Selahattin Demirtas are some examples of developments that have alarmed the EU about Turkey's anti-democratic path. Each issue's desired improvements should be linked to, and must be a precondition for, one of the key aspects of the modernized customs union: agricultural product liberalization, services trade liberalization, and public procurement liberalization. This method would be more realistic and practical compared to the plan that requires lump-sum, front-loaded conditionality on the same issues because of its nature of offering additional options to Turkey.

To sum up, given the EU's negotiating advantage and fundamental foreign policy goals, modernisation of the Customs Union with Turkey should be conditional on the country's gradual development in democratic principles and the rule of law. In the absence of such a requirement, any agreement would undermine decades of domestic reforms gained throughout the accession process, rewarding Turkey's backsliding on democracy, fundamental rights, and the rule of law.³²

Lastly, as a deterrent factor, if Ankara decides to act against EU interests, economic sanctions should be implemented to force the Erdogan administration to comply with EU rules and interests³³.

²⁹ Muthoo, Abhinay. "A non-technical introduction to bargaining theory." *WORLD ECONOMICS-HENLEY ON THAMES*- 1.2 (2000): 145-166.

³⁰ European Commission. (2020, March 25). The EU Action Plan for Human Rights and Democracy. Retrieved January 27, 2021 from: https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_490

³¹ https://www.swp-berlin.org/publications/products/arbeitspapiere/CATS_Working_Paper_Nr_5_Doruk_Arbay.pdf

³² <https://www.theparliamentmagazine.eu/news/article/european-parliament-adopts-highly-critical-report-on-turkey>

³³ [https://ec.europa.eu/transparency/documents-register/detail?ref=JOIN\(2021\)8&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=JOIN(2021)8&lang=en)

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