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MODERNISATION OF THE TURKEY-EU CUSTOMS UNION

Building a new partnership on past achievements

Introduction

Turkey-European Union (EU) relations may have had a convoluted and complicated trajectory, but it is probably fair to say that the two parties have reached a degree of integration and interconnectivity that would allow neither side to run the engagement into the ground. Embarked on more than 60 years ago with the eventual prospect of full membership, these relations have encountered many ebbs and flows, were often stalled and hindered, and have yet to come to fruition in terms of their ultimate prospect. The impasse in the relationship has become a nuisance in the light of the numerous issues and concerns, so much so that EU has recently come up with the notion of a *Positive Agenda*, one that will create the semblance of a functioning partnership.

The one aspect that has materialized and matured within the scope of the relations, however, has been the Customs Union (CU), which was concluded and launched 25 years ago. It appears now that the time has come to update and modernise that aspect of the relationship in line with the decarbonization agenda of the EU.

This paper argues that CU modernisation, in line with the changing imperatives brought along with the Green Deal, provides a concrete step in preparing the ground for a

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positive agenda, better collaboration and potentially deeper integration in Turkey-EU relations amid the drastic overhaul of the global economic and political order. Indeed, the EU Green Deal, initiated in 2019 and solidified in 2021, has rendered the basis provided by the initial proposals regarding both CU modernisation and the “Positive Agenda” inadequate and imbalanced. We believe that updating the CU in line with the Green Deal will pave the way for much-needed stability, trust, and a non-binary/positive-sum perspective of interest for improved communication and cooperation.

The challenges are compelling and pressing. EU, as the leading proponent of multilateralism, globalisation, democracy, and liberal economic and political values, is facing multifaceted challenges to its *raison d'être*. The current crises of European integration, emanating from both internal and external dynamics, are indeed serious and multifaceted: from sovereign debt crisis to migration debate, from populist challenges to democratic backsliding, from rising nationalistic and nativist tendencies to enlargement fatigue, from challenges posed by fractures in the Transatlantic relations to the discontent with globalisation, from Brexit debacle to the debate on the safeguarding and effective enforcement of EU's values, especially the rule of law. With the introduction of the Green Deal, European institutions have arguably sought to create a positive and progressive agenda for and within the EU, as well as claiming a new global normative and practical leadership role.

Turkey, on the other hand, has been going through an extended period of political, social and economic transformation, which has included radical changes to its constitutional structure, as well as challenges to its established foreign policy priorities and objectives, its Western orientation and its EU vocation in particular. These tendencies have resulted in a deep fragmentation and polarisation in the Turkish society and have taken its toll on its relations with EU. Furthermore, the current economic fragility of Turkey, with a sliding growth rate, a vast and entrenched current account deficit, heavy reliance on short-term financial capital inflows, declining foreign direct investment, and large foreign currency liabilities on the part of the private sector, further exacerbates the reliance on EU for the sustenance of the economy. Finally, the dissipating faith in the rule of law and its toll on the entire polity suggests that Turkey can make use some of the anchoring function of a rule- and norm-based forms of governance.

We believe that, taking into consideration the twin transformation sought by EU, i.e. the green and digital revolutions; CU modernisation can provide an effective framework to upgrade the Turkey-EU relations. With growing challenges brought on by the climate crisis and the turbulent nature of digitalization, regional instabilities and insecurities, as well as the competition from the US and China, the leadership role and geostrategic autonomy of EU will depend on successfully managing the interconnectedness of the wider European entity. In order to maintain its regulatory power, its leverage and capacity for rule transfer, value promotion, and effective conditionality, EU needs to find a functioning normative structural and legal framework to organize relations with its neighbourhood and beyond. It is therefore vital that the twin goals of digitalisation and green transformation should proceed in a consistent, inclusive, and interdependent manner. Turkey is crucial to this vision.

Based on these observations, we call on a revived and innovative approach from both EU and Turkey, which might be regarded as a suitable test case for so-called “principled pragmatism”. Within this framework, CU modernisation emerges as the most rational and feasible mechanism for EU to entice Turkey to be part of the twin transformation and the Green and Digital European future.

A brief history of Turkey-EU relations and the Customs Union

Turkey-EU association relationship was established under the 1963 Ankara Agreement, which refers to a process towards abolishing the restrictions on the free movement of goods, workers, capital and services as well as the freedom of establishment between the contracting parties⁷. The economic objective of the Agreement was "...to promote the continuous and balanced strengthening of trade and economic relations between the Parties, while taking full account of the need to ensure an accelerated development of the Turkish economy and to improve the level of employment and living conditions of the Turkish people"⁸. The main instrument to achieve this objective was stipulated as establishing a CU⁹. Moreover, the Agreement expressed the goal to gradually enable of the free movement of workers, services and capital between the parties¹⁰, as well as a political objective to prepare the ground for Turkey's prospective membership: "...as soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community."¹¹

Turkey applied to join the (then) European Community (EC) in 1987, which the EC rejected on grounds of economic and political inadequacy, despite acknowledging Turkey's eligibility for eventual membership. The CU, stipulated in the Ankara Agreement as a stepping stone for integration, has come into effect in 1996 and marked the transition to the final stage of the association. Turkey's membership negotiations formally started in 2005, but was soon stalled when negotiation chapters that were related with the CU were suspended due to the reflection of Cyprus problem in the form of failure to implement the Additional Protocol.

Met with serious concerns and criticism in its day, CU has in fact proven to be a very positive transformative force for the Turkish economy. From 1995 to 2019, Turkey's volume of trade with the EU-27 has more than quintupled from around USD 29bn to USD 153bn. Over the same period, its imports have grown by 333% (from USD 17bn to USD 73.6bn), while its exports grew by a whopping 569% (from USD 11.9bn to USD 79.6bn). Turkey has therefore reversed the trade balance to its favour and begun to enjoy a surplus in its EU trade partnership.

The quantitative shift was matched and even surpassed by a qualitative shift in trade patterns. The CU transformed Turkey from its status as mainly an exporter of textiles and agriculture into an industrial manufacturer and exporter, primarily of automotive and

⁷ These provisions were further developed in the Additional Protocol and in Association Council Decisions.

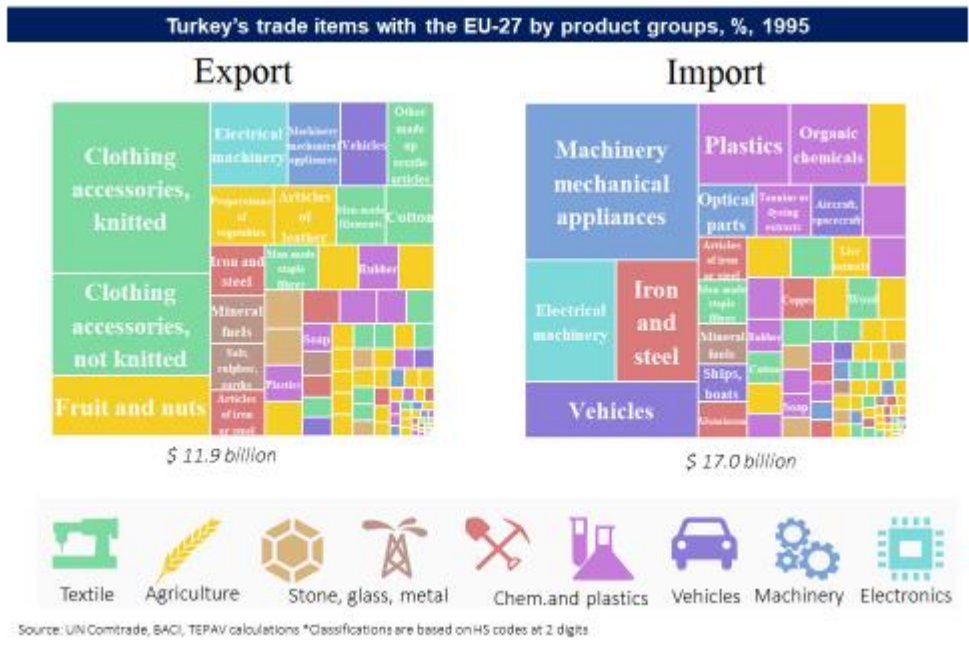
⁸ Agreement Establishing an Association Between the European Economic Community and Turkey (Ankara Agreement), Article 2/1

⁹ Ankara Agreement Article 2/2: "...in order to attain the objectives set out in paragraph 1, a customs union shall be progressively established in accordance with Article 3, 4 and 5."

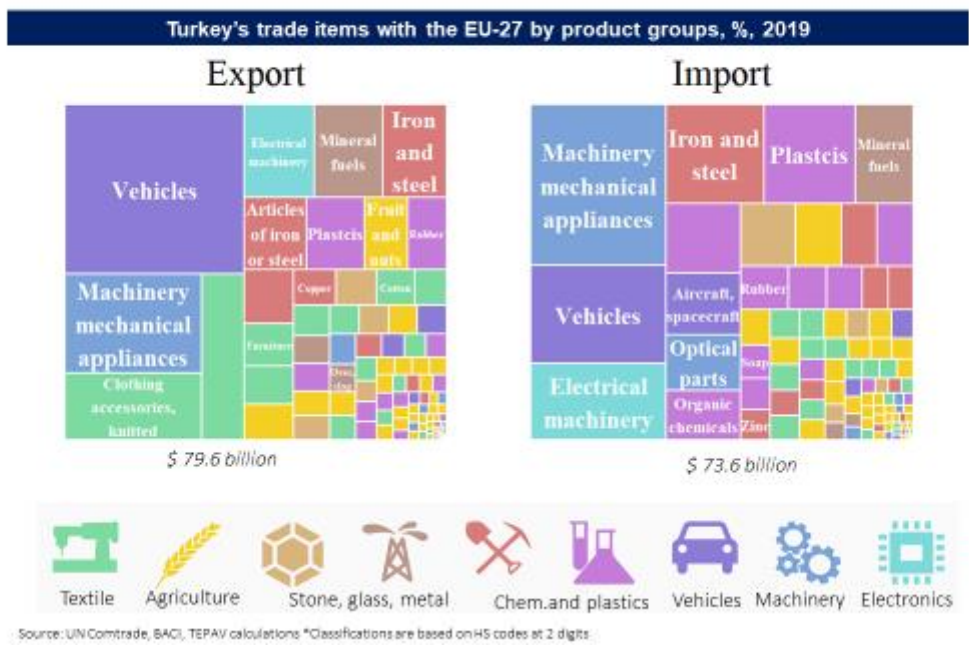
¹⁰ Ankara Agreement Articles 12-20

¹¹ Ankara Agreement Article 28. Despite not establishing a firm legal obligation, this provision can be considered as a conditional political commitment for both parties. For EU legal order, Ankara Agreement, as well as other association agreements, constitutes a *sui generis* international agreement, which signify less than accession to EU but much more than a mere trade agreement. The agreement envisages a progressive and expanding relationship, since it is a progressive and expanding agreement itself. It is a framework agreement that mainly contains provisions for an aim or objective or a programme which needed to be fleshed out by further decisions or measures of the institutions of the Association relationship. The main provisions of Ankara Agreement are based on, inspired by, or referred to, with the similar provisions of the Rome Treaty establishing a European Community (a.k.a. the Treaty on the Functioning of the EU). Hence, not only does the Ankara Agreement constitute an integral part of EU legal order, but also binds EU, its Member States and Turkey alike.

machinery. The data below demonstrates the extent to which the CU has shifted the axis of the Turkish economy for the better.



Slayt 2



Slayt 2

Despite the failure to achieve the ultimate goal of full membership, the CU has nevertheless proven to be a success story. Although Turkey and the EU experienced crises and problems in their political relations, CU has continued to function across decades, upgrading the Turkish industry and making Turkey an indispensable link in the EU value chains. The CU served the aim of accelerating trade flows, increasing the share of medium and high tech products while decreasing the share of low tech products in Turkish exports, and facilitating foreign direct investment flows.

The rationale for a modernised CU

The CU has proved to be a critical anchor for the transformation and the development of the Turkish economy not only by allowing access to a vast and prosperous market, boosting trade, competitiveness, and an industrial transformation brought on by technological investments, but also by providing the legal and institutional infrastructure of a rule-based free market economy and prompting economic actors, public and private alike, to operate in a highly regulated and technologically advanced milieu. The experience also provided a backbone to the economic and political reform process in the early 2000s, which was propelled with the declaration of Turkey's candidacy at the Helsinki Summit of 1999.

In line with the faltering of Turkey's EU accession process, over the past decade, the Turkish economy has witnessed serious backsliding in reforms, weakening of institutional and rule-based economic governance, and undermining of the independence and competence of the regulatory institutions. Instead of rule-based governance, exercise of discretionary power has become the rule. This, incidentally, has coincided with the loss of faith in the country's EU accession process. Hence, the economic progress and well-being of Turkey has gradually been diluted in parallel with the loss of political impetus for democratization and good governance. These issues, along with emerging and solidifying geopolitical and strategic challenges in the wider neighbourhood, promise significant potential benefits from a renewed and enhanced collaboration scheme with the EU.

On the other side of the equation, EU has vested interests in improving its relations with Turkey as well. One obvious reason is the economy, considering the fact that an essential part of Turkey's appeal for EU is its economic potential. The economies of EU and Turkey are highly integrated, as Turkey is currently EU's fifth largest trading partner, while EU is Turkey's largest. According to a survey by the European Council on Foreign Relations (ECFR) on perceptions of Turkey among EU Member States, trade is cited as the most important aspect of Turkey-EU relations, and economic relations with the country underscored as an important reason for maintaining the alliance¹². Along with trade, EU remains Turkey's most important economic partner in terms of foreign investment and tourism, as well as various other economic fields that offer mutual benefits.

Other reasons can also be cited, which go well beyond purely commercial concerns: For one, despite environmental measures like the Carbon Border Adjustment Mechanism (CBAM), which may also be evaluated as a form of new protectionism, EU will find it hard to fulfil its ambitious climate change reform agenda unless it integrates Turkey into the process as a prepared and mobilized actor, considering the size and position of Turkey in the European economy. On another critical front, the ongoing waves of migration and asylum-seeking will only be exacerbated under the climate crisis, compounded by political instability, for which Turkey and EU will inevitably be compelled to deepen their cooperation. Within the current scheme of rising political, economic, social and environmental turbulence, both in EU and Turkey as well as their immediate shared neighbourhood, a wider and deeper definition of security compels both parties to deepen their collaboration.

The record demonstrates that deeper cooperation schemes between EU and Turkey, including the CU, have proven beneficial to both parties. In this new geo- and eco-strategic environment, the 1995 CU proves to be outdated and in dire need of revision. Cognizant of this fact, the European Commission has been an ardent supporter of CU modernisation over

¹² Aslı Aydıntaşbaş, "The Discreet Charm of Hypocrisy: An EU-Turkey Power Audit", ECFR, 23 March 2018, p.27.

the past few years. The CU modernisation is a likely candidate to be one of the most concrete constituents of the “positive agenda” cited by EU in its recent summits.

CU modernisation has come onto the EU’s agenda in 2014 with the initiative of the European Commission, based on an evaluation report by the World Bank¹³ requested by the Commission itself. In December 2016, the Commission adopted a recommendation to open negotiations with a view to expand and modernise the EU, and forwarded it to the Council of the EU, where it has been under consideration since. The main aim was to bring the CU up to date and on par with global economic and commercial developments, and to boost growth, which meant extending the CU to encompass trade in services, public procurement and agricultural products; introducing a functioning dispute settlement mechanism; and improving the asymmetrical nature of the CU, particularly regarding common external policy.

Why not simply opt for a Free Trade Agreement?

As with any political plan or idea, the prospect of CU modernisation does not go unchallenged on either side. While some factions within EU tend to oppose the idea of furthering collaboration with Turkey in any shape or form, in Turkey there are proponents of a less binding Free Trade Agreement (FTA) to replace the CU.

The authors of this paper believe that there are various drawbacks to such proposals, and even from a purely economic perspective, the rationale is weak. A key element of the CU to take into account is the principle of the free movement of industrial goods (as well as processed agricultural goods) between the parties, based on Article 3 of the 1/95 Decision of the Association Council. The principle of free movement of goods and especially the cumulation of origin, as well as devising a common external trade policy vis-à-vis third parties are the key features that differentiate a CU from an FTA, and renders it a more advanced level of trade liberalisation. A product manufactured in Turkey in compliance with EU standards, or imported from a third country in compliance with the necessary requirements, can acquire an A.TR document. This document means that the product can be exported to EU free of tariffs and quotas, and will be in free circulation inside the CU without the need for additional documentation, such as a certificate of origin. The same is true for products originating from EU Member states that are imported to Turkey. Conversely, an FTA would necessitate the implementation of rules of origin which may divert and lessen trade flows. A report which was prepared for the International Trade Committee of the European Parliament (INTA) also noted that replacing the Customs Union with a deep and comprehensive FTA is expected to decrease trade flows between Turkey and the EU, with a negative impact on Turkish GDP (decrease of 0.8 %) and also hamper Turkey’s attractiveness for EU investments.¹⁴

Needless to say, an FTA will inevitably dilute the form and level of collaboration and integration between EU and Turkey, and fail to provide the necessary incentives and mechanisms that will facilitate Turkey’s alignment with the EU Green Deal agenda and the mandated decarbonization efforts. While the CBAM provision under the Green Deal compels all EU trade partners to follow suit with its own decarbonization agenda, deeper forms of integration and collaboration, hopefully complemented by a spirit of solidarity, will provide the transformative anchor that Turkey needs to materialize this ambitious transition. As the

¹³ The World Bank, Evaluation of the EU-Turkey Customs Union, Report No. 85830-TR March 28, 2014.

¹⁴ Erdal Yalcin, Gabriel Felbermayr, “The EU-Turkey Customs Union and trade relations: what options for the future?”, In-depth Analysis required by the INTA Committee, July 2021, p.28-29.
[https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/653640/EXPO_IDA\(2021\)653640_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/653640/EXPO_IDA(2021)653640_EN.pdf)

application of the UK-EU FTA following Brexit has already shown, the requirement for certificates of origin and import restrictions based on local content create cumbersome procedures and hinder free trade between parties. Even the formulation of the UK-EU FTA has demonstrated the difficulties of negotiating an FTA from scratch between highly integrated economic polities. Economic analyses demonstrate that a CU guaranteeing the free movement of goods without formalities, such as certificates of origin or restrictive requirements such as the local content of products, enhance bilateral trade. Economic impact assessment studies conducted by the European Commission and the Ministry of the Economy of Turkey (currently Ministry of Trade) as part of the preparatory work for CU modernisation in 2016 conclude that the best scenario in terms of economic benefits is modernising, updating and upgrading the CU, rather than concluding an FTA or preserving the CU as is¹⁵. The impact assessment carried out by the EU anticipates gains from CU modernisation to reach EUR 5.4bn, corresponding to 0.01% of GDP for EU; and EUR 12.5bn, corresponding to 1.44% of GDP for Turkey¹⁶. A position paper that reflected the viewpoints of the business community, likewise, argues that “initiating CU modernisation could serve as an opportunity for a better future conjuncture of EU-Turkey relations, while providing effective communication and cooperation channels”¹⁷.

On another note, considering the fact that the Turkey-EU CU is based on an Association Agreement that aims to establish free movement of factors of production, with a view to to prepare the country for future membership; abrogating the CU will likely mean abrogating, or at least challenging the principal *raison d'être* of the Agreement, thereby placing the Turkey-EU relationship on an even more slippery slope than today. The Ankara Agreement still remains the basic document providing a framework to Turkey-EU relations, and backpedalling from the Agreement would not only curb current channels of cooperation and communication, while the goal should be the exact opposite, but also roll back numerous benefits enjoyed by Turkish nationals doing business in and with the EU member states.

Issues with the current CU and potential tenets of a modernised CU

While the CU has been beneficial to Turkey, it has definitely not been friction- or problem-free. One prominent issue is the common external policy. Turkey, as a CU partner, is under the obligation to align with EU's commercial policy and common commercial tariff in its trade with the third countries, as stipulated in CU decision No. 1/95, without having a say in neither the decision-making nor the 'decision shaping'. This means that whenever EU signs an FTA with a third country, Turkey has to follow suit and start FTA negotiations with that country. In certain cases this leads to delays and an asymmetrical situation whereby the third country's goods can enter the Turkish market without any charges or restrictions due to the CU, whereas Turkish goods do not enjoy quota-free access to the third country market until a separate FTA is signed between Turkey and the country in question. To counter the adverse

¹⁵ Please see Commission Staff Working Document, Impact Assessment Accompanying the document Recommendation for a Council Decision authorising the opening of negotiations with Turkey on an Agreement on the extension of the scope of the bilateral preferential trade relationship and on the modernisation of the Customs Union {COM(2016) 830 final} {SWD(2016) 476 final}, 21.12.2016, https://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155238.pdf ; Press release of the Ministry of trade regarding the impact assessment, <https://ticaret.gov.tr/data/5b87239113b8761450e18ee6/Etki%20Analizi%20-%20Bas%C4%B1n%20Bildirisi.pdf>

¹⁶ European Commission, Commission Staff Working Document, Impact Assessment, p.27

¹⁷ Please see “Customs Union Position Paper” prepared by TEPAV and AHK Turkey, with the support of bilateral European Chambers and TOBB, 14.01.2021, [https://www.tepav.org.tr/upload/mce/2021/haberler/customs_union_position_paper_prepared_by_ahk_turkey_a nd_tepav_with_the_support_of_tobb_and_bilateral_european_chambers.pdf](https://www.tepav.org.tr/upload/mce/2021/haberler/customs_union_position_paper_prepared_by_ahk_turkey_a_nd_tepav_with_the_support_of_tobb_and_bilateral_european_chambers.pdf)

impacts, Turkey has been applying additional duties to goods originating from third countries entering the Turkish market via EU member states, which sparked criticism and complaints by EU exporters who faced additional barriers to enter the Turkish market. Yet the additional quotas have not led to any trade diversion, as demonstrated by data-based TEPAV studies¹⁸.

Additional difficulties in the functioning of the CU include transport quotas applied to Turkish trucks carrying goods to the European market, as well as an evident need for an effective dispute resolution mechanism. These so-called “trade irritants”, as well as changes in world trade patterns and EU trade strategies, technological advances, and the growing centrality of ecological concerns in the economic conduct, has come to make the CU modernisation an urgent necessity. All these are included in the agenda of a probable CU modernisation, which is also expected to entail an upgrade of the trade relations between Turkey and EU, including the expansion of the relationship to agricultural goods, services and public procurement. As with the existing decision of the Association Council regarding the liberalisation of agricultural trade (Decision 1/98), the liberalisation of services, public procurement markets or agricultural trade may be agreed between Turkey and EU by way of additional Association Council decisions or additional trade agreements.

What will it take to modernise the CU?

The CU modernisation process will be, at least in its initial phases, an exercise of communication, a seemingly most natural course of action that has atrophied significantly as far as the two parties are involved. With this rationale, the parties should start by opening up communication channels and initiating in good faith a discussion on the methods and the instruments to be adopted. The brief blueprint of the May 2015 Senior Officials Working Group Report (SOWG) touches upon the very basics of the methodology and tools of such an endeavour, which demonstrates a very basic understanding and agreement of the parties.

In order to have a genuine grasp of the potentials and alternatives, the parties need to first develop a common language. The terminology, such as *upgrading*, *updating* or *modernisation* should be analysed and construed in mutual understanding. A good starting point would be to agree on whether such *upgrading* implies the inclusion of services, public procurement, and agriculture into the current trade framework, as stipulated in the Ankara Agreement on the grounds of preparing Turkey for prospective membership to the “common market.” A similar exercise should also be undertaken in Turkey, in order to fully comprehend and therefore prepare for the requirements brought on by such a huge transformation of its economic governance, to maximise the benefits and minimise the costs by the transfer of norms and rules from EU.

In addition to devising a common language, the parties will be bound to find the common ground in terms of values as well. The exercise will include a reassessment of the values shared by Turkey and EU, if there is any at all, and a commitment in good faith to the values that they vocally express. The social, environmental and economic dimensions of EU’s

¹⁸ Several studies by TEPAV demonstrate that the additional customs tariffs and quotas lead to higher end-consumer prices on import items and not necessarily trade diversion, but do create a significant source of income for the Turkish Treasury : See [https://www.tepav.org.tr/upload/files/1590552193-2.Yeni Ilave Gumruk Vergileri Turkiye icin Ne Ifade Ediyor.pdf](https://www.tepav.org.tr/upload/files/1590552193-2.Yeni%20ilave%20Gumruk%20Vergileri%20Turkiye%20icin%20Ne%20ifade%20Ediyor.pdf); [https://www.tepav.org.tr/upload/files/1610255255-1.Turkiye de bir politika araci olarak ilave gumruk vergileri 2020 incelemesi.pdf](https://www.tepav.org.tr/upload/files/1610255255-1.Turkiye%20de%20bir%20politika%20araci%20olarak%20ilave%20gumruk%20vergileri%202020%20incelemesi.pdf); [https://www.tepav.org.tr/upload/mce/2021/haberler/customs union position paper prepared by ahk turkey and tepav with the support of tobb and bilateral european chambers.pdf](https://www.tepav.org.tr/upload/mce/2021/haberler/customs%20union%20position%20paper%20prepared%20by%20ahk%20turkey%20and%20tepav%20with%20the%20support%20of%20tobb%20and%20bilateral%20european%20chambers.pdf)

stipulated values will be subject to test within the framework of the CU modernisation plans. Would a transactional approach, based on traditional international cooperation, work in Turkey-EU relations with all the loaded history and the bunch of expectations on both sides? If not, what would be the proper functional, institutional and legal framework that would project EU's values and enhance its security through a stabilised and improved Turkey? The seemingly only viable option to achieve mutual progress is to construct a relationship model that would to some extent entail political conditionality, so as to keep the door open to Turkey's further integration, and potentially pave the way for eventual membership if and when both sides are willing and ready.

Finally, the parties will need to find their common interests to mobilize and operate with. The motives behind CU modernisation today go well beyond economic and commercial interests. Turkey and EU need to cooperate on a number of issue areas in an ever turbulent world order: migration and security being the most evident, albeit not the only challenges. Recent experience demonstrates that spillovers and externalities of economic, ecological or political crises in terms of the nature and humans cannot be stopped at any national border, despite any measures. This has been, over the past decade, one of the most pressing issues of contention and cooperation between Turkey and EU, and will continue to be so in the decades to come.

Furthermore, EU's resolution to transform the continent towards a digital, green and circular economy through the European Green Deal, which sets out to make Europe the first climate neutral continent by mid-century, will have to take Turkey, as a sizeable economy, an entrenched part of European value chains, and a major supplier for the European market, into account and on board to record sizeable achievements.

As of 2015, Turkey's carbon emissions were around 12% of EU-wide emissions, and the country has committed to lowering its emissions by 21% by 2030. Should the EU live up to its commitment of lowering carbon emissions by 55% compared to 1990, Turkey's carbon emissions will amount to 40% of EU-wide emissions in 2030. Considering the fact that Turkey is one of Europe's main polluters in electricity generation and there appears to be no inherent political will in Turkey to legislate towards decarbonization, the modernized CU with the Green Deal component may in fact be the incentive that Turkey needs to rise up to the climate change challenge. In the view of the mutual dependency of Turkey and EU markets, especially in CBAM-prioritized goods such as cement, steel and aluminium, where Turkey ranks among the EU's biggest trading partners, it is clear that strategizing a common decarbonization process would benefit both parties.

This has wider ramifications as well: Turkey's adaptation to the twin transformation in Europe and its intermediary agency in setting the trend in the wider region will be essential for EU's success to boost the desired outcome and thwart undesired impacts, given the high level of integration, the mere proximity, and shared neighbourhood of the two parties.

To position CU modernisation for a stepping stone or a focal point for the re-initiation of dialogue and cooperation with a wider and more strategic joint vision will prove hard to achieve, but much more fruitful than any piecemeal or transactional approach. Sector- or issue-based cooperation attempts, such as the Refugee Deal of 2016 or the visa liberalisation dialogue, provides only limited benefits for parties. Other cooperation areas like energy, migration, security and counter-terrorism, while crucial, may still be maintained through a relatively transactional approach, as evidence demonstrates. This, however, is not likely to be the case for the new CU with the Green Deal perspective, which embodies EU's

transformative impact guided by a rule-based framework. On a further note, its approach to these issues, initiatives in its relations with Turkey and compliance with its own professed set of norms will also be a test of values for EU, one that the top-ranking value-based entity of the modern world itself appears to be failing over the past decade.

The common ground in terms of interests will loop back into the first requisite about finding a common language and open channels of communication. The numerous mutual interests of the parties require a positive atmosphere where problems can be raised and discussed, in order to pave the way for the much-needed rebuilding of trust and finding mutually beneficial solutions. The institutional framework and joint objectives brought forth by the association and the CU relationship provide, and should continue to provide, a forum for debate and mutual understanding. Without rebuilding mutual trust and good faith, which will likely materialise most rapidly and successfully in the economic field (as attested by the success story of the European integration itself), it may prove to be even more difficult to achieve political and security gains.

With this backdrop in mind, the parties need to ascertain what would be the proper functional, institutional and legal framework of cooperation or external differentiated integration that would also be instrumental for the projection of EU's values and enhancing its security through a more stable Turkey. Would there be a way to construct a relationship model that lacks the accession anchor, yet still entails political conditionality and regulatory rule transfer? In our opinion, any model that will satisfy the need for security, prosperity and normativity on both sides will be rendered impossible by backpedalling from the long-standing relations and already-made achievements, in particular in terms of economic integration; and can only be achieved by furthering relations through engagement and good faith.

Following the conclusion of the Brexit debacle, EU has laudably set off once again on the trajectory to demonstrate global leadership with a progressive and innovative agenda. The proclaimed objectives, however, obliges EU to project its economic, political and social values, as well as its rules and standards, to its near neighbourhood and beyond. This will help EU to position itself as a norm and rule setter in trade, social standards, environmental protection and climate neutrality, technological innovation and regulation, economic governance etc.

The process of modernising Customs Union can strike a desired but delicate balance given the dormant accession negotiations, and even prevent political dissonance from slipping into outright conflict. This delicate balance stems from the nature of the Customs Union, i.e:

- a functional relationship where the interests of the parties seem to overlap to a certain extent, and
- a rule-based framework with the potential to improve (economic) governance and rule of law in Turkey.

Turkey can benefit from and thrive in the regulatory and normative framework brought on by a modernised CU both in its economic and political external relations, as well as its domestic economic and social welfare, political stability and state capacity. A reformed CU can transform Turkey's political economy in key sectors such as services, procurement, state aid and trade dispute settlement, and to bring transparency, competitiveness and respect for universal law. Improvements in the rule of law would initially be observed in Turkey's economic sphere, and hopefully crossing over into the political domain. Enhanced and well-

intentioned engagement and mutual commitment will boost both EU and Turkey's potential to rise up to their respective challenges. In this regard, paving the way for further steps towards economic and legal alignment (or better yet, integration) in the area of the mobility of persons, services or capital should be considered essential. Yet, this will need to be justified by current political, economic and security requirements and an openly communicated mutual will in order to translate into political reality.

Withdrawal by either party from EU-Turkey engagement and integration will only exacerbate the impact of shared or exchanged problems, with far-reaching and long-lasting consequences. The *Zeitgeist* might not look conducive to deepening relations on the accession front, or even allowing deeper integration. But rolling back a successful track record and failing to further economic integration through CU modernisation goes against not only common sense but also the letter and spirit of the Ankara Agreement, which requires a progressive relationship and the mutual commitment. Even though the parties are free to abrogate the CU and even the Ankara Agreement, any such decision should be based on a thorough cost and benefit analysis; not only in economic sphere but also considering political and legal aspects as well as stability and security repercussions. Decision makers on both sides should remember that such a move would not only cost the EU any remaining leverage and transformative power on Turkey, but also create economic, political and social instability in Turkey, which in turn is bound to hamper the security and stability of EU as well. EU should start thinking outside the box, albeit within the limits of its own legal and institutional structure, to accommodate Turkey's reasonable and fair expectations in CU modernisation, and focus on the multifaceted benefits to emanate from such deeply entrenched economic interdependency.

While it may be difficult to ignore the present political problems in Turkey-EU relations, it would also be quite erroneous to argue that all hopes for a revitalisation of the Turkey-EU relationship are lost. Although Turkey's accession process has come to a standstill, the membership perspective has not been officially renounced by either party. The CU modernisation emerges as a feasible and sensible point of departure to rekindle the mutual desire for rapprochement and potential re-integration.

The initial steps are already in place: Following the *de facto* suspension of accession negotiations, the parties are still able to invoke the provisions of the Ankara Agreement in order to revitalize the relationship by modernising the CU. The Positive Agenda, proposed by the European Council in October 2020 and elaborated in June 2021 as a mechanism to revitalise Turkey-EU relations, encompasses the goals of modernising the CU and resolving the glitches in its operationalization. The other aspects of the Positive Agenda foreseen by the European Council are restarting high level dialogues, people to people contacts and refugee cooperation, which were not included in the Association relationship but are necessary add-ons in line with current developments. Restarting the dialogue and reigniting the spirit in just one field bears the potential to evolve into a more profound and fruitful cooperation, unless sabotaged by some member states, a risk that EU institutions should try to avoid and thwart to make the most out of the relative revival of EU-Turkey relations.

Conclusion

At the risk of stating the obvious, we would like to underline once again that Turkey's EU accession process is stagnant and the Association relationship requires an overhaul with

new approaches and perspectives. The process is now so comatose that European observers have stopped raising the question “Who lost Turkey?” as they been asking periodically since the end of the Cold War; and Turkish and European counterparts have stopped talking to each other except for a few sporadic, if critical, issues.

CU modernisation appears as a logical point to restart the dialogue and hopefully achieve new levels and forms of collaboration. Although the initial motive for CU modernisation was technical and economic, the initiative is now regarded as a panacea that will deliver the Turkey-EU relations out of their current impasse. Therefore, the process will not only need to debug trade relations, improve the process and expand the scope, but in fact entail a wider vision that takes into account the twin transformation itself, as well as the geo- and eco-strategic rationale that prompted the EU to develop this notion. The aspiration should therefore not be just an updated, but an enriched CU.

With respect to ongoing tectonic shifts in the Middle East and Eurasia, Turkey has in numerous instances demonstrated its significant weight in moulding or steering the political economy in its wider neighbourhood, for better or for worse. It has also proven economic potential to be one of the stars of the mid-21st century if equipped with the right policy tools and mind-set. To channel Turkey’s political influence and economic potential into mutually beneficial outcomes requires open-minded, innovative and imaginative thinking and decision making on the part of the EU. By re-establishing a rule-based functional relationship, EU might re-gain some of its leverage and/or transformative power on Turkey, and perhaps even redeem some prestige in the eyes of Turkish and European social segments that have been attributing it a normative role.

The Green Deal and the twin transformation scheme it envisages have also brought on new dimensions to the CU modernization agenda, which have rendered even the CU modernization plans of 2014 obsolete. As the Green Deal agenda and the global decarbonization imperative transform the wider region, Turkey and Europe will need to cooperate to develop commensurate decarbonization plans, create compatible emission trading systems and manage of the economic and social transformations dictated by migration. A greener and stronger Turkish economy, supported morally and materially by a reinvigorated EU integration, is vital to underpin sounder migration and job creation policies, as well as to manage the economic and social transformations to come.

It seems evident to us that such an ambitious agenda and expansive set of overlapping interests and concerns require deeper, not shallower, forms of cooperation and integration. The speculated shift from a CU to an FTA would be a very near-sighted and ill-advised move that would forego all the positive transformative aspects of Turkey-EU relations for some marginal, and frankly very dubious, change in commercial profitability. The complexity and the multitude of challenges posed by the decarbonization agenda and the EU Green Deal require the joint mobilization of efforts, which can only be tackled through collective and innovative action. The European integration trajectory is a story of economic collaboration translating over time into a unification for peace, prosperity and democracy. With the mutual will of the parties, Turkey should remain, and in fact advance, in the originally intended direction via an improved and enriched CU, rather than retreating into more feeble forms of cooperation.

Irrespective of the type of solution to be generated and materialized by the parties, the proof of the pudding will be in the eating. The proper implementation of any new design will require mutual trust and good faith from both parties. Needless to say, launching CU modernisation

negotiations without further ado will be instrumental in rebuilding such mutual trust and good faith based on common interests and mutually compatible expectations.