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(Acts whose publication is not obligatory)

COUNCIL

DECISION No 1/2006 OF THE EC-TURKEY ASSOCIATION COUNCIL

of 15 May 2006

on the implementation of Article 9 of Decision No 1/95 of the EC-Turkey Association Council on implementing the final phase of the Customs Union

(2006/654/EC)

THE EC-TURKEY ASSOCIATION COUNCIL,

Having regard to the Agreement of 12 September 1963 establishing an association between the European Economic Community and Turkey ⁽¹⁾ and in particular Article 22(3) thereof,

Whereas:

- (1) Article 9 of Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union ⁽²⁾ regulates the legal effects of the putting into force by Turkey of the provisions of the Community instrument or instruments necessary for the elimination of technical barriers to trade in a particular product, but does not establish the necessary procedures and modalities for the application of that Article.
- (2) Turkey and the Community (the Parties) agree that Article 9 of Decision No 1/95 requires the establishment of the administrative infrastructure necessary for the putting into force of the Community instrument or instruments in question and the continuous, fully effective functioning of that infrastructure to be guaranteed.
- (3) The Parties have agreed on the procedural rules for implementing Article 9 of Decision No 1/95.
- (4) For the proper functioning of the Customs Union, the principles set out in Decision No 2/97 of the EC-Turkey Association Council of 4 June 1997 establishing the list

of Community instruments relating to the removal of technical barriers to trade and the conditions and arrangements governing their implementation by Turkey ⁽³⁾ and in Articles 8, 54, 55 and 56 of Decision No 1/95 should be effectively implemented.

- (5) The close relations between the Community and the Contracting Parties to the Agreement on the European Economic Area make it appropriate to consider the conclusion of parallel European Conformity Assessment Agreements between Turkey and those countries equivalent to this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

Assessment of technical legislation

1. The Customs Union Joint Committee established by Article 52 of Decision No 1/95 shall be competent for ascertaining that Turkey has effectively put into force the provisions of the Community instrument or instruments necessary for the elimination of technical barriers to trade in a particular product. To this end, the Customs Union Joint Committee shall adopt a statement.

2. Without prejudice to the possibility of setting up sub-committees or working parties in accordance with Article 53(4) of Decision No 1/95, the Customs Union Joint Committee may make use of all available information concerning specific elements of the implementing infrastructure in Turkey, including assessments carried out by external contractors.

⁽¹⁾ OJ 217, 29.12.1964, p. 3687/64.

⁽²⁾ OJ L 35, 13.2.1996, p. 1.

⁽³⁾ OJ L 191, 21.7.1997, p. 1.

*Article 2***Notification of Turkish conformity assessment bodies**

1. Following the adoption of a statement as provided for in Article 1(1), Turkey shall notify the Commission and the Member States of the names and full details of any conformity assessment bodies that it has designated, specifying the subject matter and the conformity assessment procedure for which they have been designated.

2. The rules concerning the designation of conformity assessment bodies applicable to the Member States shall apply to Turkey. The Commission shall provide Turkey with detailed information on those rules and on the procedure for notifying those bodies to the Commission.

3. When the notification process has been completed, the results of the conformity assessment procedures carried out by Community bodies and by Turkish bodies shall be mutually recognised without repetition of these procedures or any additional requirements.

*Article 3***Obligation of Parties as regards their authorities and bodies**

1. The Parties shall ensure that authorities under their jurisdiction which are responsible for the effective implementation of Community and national law shall continuously apply it. They shall ensure that those authorities are empowered, where appropriate, to notify, suspend, remove the suspension of and withdraw the notification of the conformity assessment bodies, to ensure the conformity of industrial products with Community or national law and to require, when necessary, their withdrawal from the market.

2. The Parties shall ensure that bodies notified under their respective jurisdiction as competent to assess conformity in relation to requirements of Community or national law, continuously comply with the requirements of Community or national law. They shall take all necessary steps to ensure that those bodies maintain the necessary competence to carry out the tasks assigned to them.

3. If a Party decides to withdraw the notification of a body under its jurisdiction, it shall inform the other Party in writing. The body shall cease to assess conformity at the latest from the

date on which its notification is withdrawn. Conformity assessments carried out before that date shall remain valid, unless otherwise decided by the Customs Union Joint Committee.

*Article 4***Verification of notified bodies**

1. Either Party may request the other Party to verify the technical competence and compliance with relevant legal provisions of a notified body under the jurisdiction of the other Party or under the jurisdiction of a Member State of the Community. Reasons shall be given for such a request in order to allow the Party responsible for the notification to carry out the requested verification and report speedily to the other Party. The Parties may also jointly examine technical competence and compliance of the body. To this end, the Parties shall ensure the full cooperation of bodies under their jurisdiction. The Parties shall take all appropriate steps, and use all available means necessary, in order to resolve any problems which are detected.

2. If the problems cannot be resolved to the satisfaction of both Parties, they may notify the Customs Union Joint Committee of their dissent, giving their reasons. The Customs Union Joint Committee shall decide on appropriate action within a period of two months.

3. Unless decided otherwise by the Customs Union Joint Committee within the period laid down in paragraph 2, the notification of the body and the recognition of its competence to assess conformity in relation to the requirements of Community or national law shall be suspended in part or in full at the end of that period.

4. Without prejudice to paragraph 3, either Party may refer the matter to arbitration under the procedure for the settlement of disputes provided for in Section III of Chapter V of Decision No 1/95.

5. After the expiry of the period laid down in paragraph 2, if new elements emerge, a Party may request the Customs Union Joint Committee to decide that the suspension provided for in paragraph 3 be reviewed. In that case, experts from both Parties shall jointly examine the conformity assessment body concerned. The Party which decided on the suspension shall re-examine its decision in the light of the report of the experts. It may decide to continue the suspension, giving its reasons.

*Article 5***Exchange of information and cooperation**

In order to ensure a correct and uniform application and interpretation of this Decision, the Parties shall ensure that their authorities and their notified bodies:

1. exchange all relevant information concerning the putting into force of the provisions of the Community instruments necessary for the elimination of technical barriers to trade in a particular product referred to in Article 1, including, in particular, information on the procedure to ensure compliance by notified bodies;
2. take part, as appropriate, in the relevant mechanisms of information, coordination and other related activities of the Parties;
3. comply with the requirements of information and communication foreseen in the legal instruments relevant to each sector;
4. cooperate with a view to establishing mutual recognition arrangements in the voluntary sphere.

*Article 6***Management**

The Customs Union Joint Committee shall be responsible for ensuring the effective functioning of this Decision. In particular, it may take decisions regarding:

- (a) the appointment of a team of experts to verify the technical competence of a notified body and its compliance with the requirements;
- (b) the exchange of information on proposed and actual amendments to Community and national law, including agreements with third countries, in accordance with principles set out in Articles 54 and 55 of Decision No 1/95;

- (c) the adoption of measures, where appropriate, to implement this Decision, including detailed rules for the assessment procedure;
- (d) the extension of this Decision to procedures and certificates other than those referred to in Article 2 and the adoption, to that end, of the necessary rules with a view to improving the application of Article 9 of Decision No 1/95 if difficulties emerge;
- (e) any other question relating to the application of this Decision.

*Article 7***Agreements with other countries**

1. Agreements on conformity assessment concluded by either Party with a country which is not a Party to this Decision shall not result in an obligation upon the other Party to accept the results of conformity assessment procedures carried out in that third country, unless there is an explicit agreement between the Parties in the Association Council.
2. The Party holding conformity assessment agreements with third parties shall cooperate with the other Party in the event that the latter considers concluding parallel agreements with the same third parties and shall provide necessary technical and administrative assistance where appropriate.

*Article 8***Entry into force**

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 15 May 2006.

For the Association Council

President

A. GÜL