PROGRESS REPORTS ON TURKEY

Competiton Policy is an important policy field in Turkey's membership to the EU. The European Commission regularly assesses Turkey's progress in all the relevant policy fields including Competiton Policy in the Progress Reports. The relevant parts of the Progress Reports since 1998 are provided in the following:

TURKEY 1998 PROGRESS REPORT 2
TURKEY 1999 PROGRESS REPORT 4
TURKEY 2000 PROGRESS REPORT 6
TURKEY 2001 PROGRESS REPORT 9
TURKEY 2002 PROGRESS REPORT 12
TURKEY 2003 PROGRESS REPORT 17
TURKEY 2004 PROGRESS REPORT 21
TURKEY 2005 PROGRESS REPORT 26
TURKEY 2006 PROGRESS REPORT 30
TURKEY 2007 PROGRESS REPORT 33
TURKEY 2008 PROGRESS REPORT 36
TURKEY 2009 PROGRESS REPORT 38
TURKEY 2010 PROGRESS REPORT 40

Competition

Current situation

In the context of the implementation of the customs union, Turkey has already complied with some of its obligations as regards ensuring the compliance of its competition rules with Community law. In December 1994, it adopted a Competition Act that complied with Community legislation and incorporated the EU's anti-trust provisions. In March 1997, it set up a competition authority to be responsible for enforcing the Competition Act. Since the authority started work in November 1997, it has published four communiqués on mergers and acquisitions, notifying agreements and block exemptions for exclusive distribution agreements and exclusive purchasing agreements.

On the question of state aids, the Customs Union Decision required Turkey to adapt all its aid schemes for the textile and clothing sector to the relevant Community legislation before the customs union entered into force. Turkey has complied with this obligation by notifying the Commission at the end of 1995 that there were no longer any aid schemes in the sector. Turkey was allowed a period of two years from the entry into force of the customs union to adapt sectors other than textiles and clothing. To date the Commission has not been notified of any action in this respect.

Much still remains to be done in relation to block exemptions, public undertakings, commercial monopolies and, above all, the effective implementation of competition law. The implementing rules which had to be decided by the Association Council have also not yet been adopted.

Evaluation

Turkey has made great efforts to align with Community competition law. It is vital that this work is completed. This will require a major restructuring effort, in particular as regards ensuring that commercial monopolies comply with the Community legislation. The regular discussions between the Commission and the Turkish authorities on adjusting the TEKEL tobacco, alcohol

and salt monopoly have demonstrated the difficulty of the task. The question of state aids merits immediate attention.

TURKEY 1999 PROGRESS REPORT

2.3. Assessment in terms of the Copenhagen criteria

… In 1998, this newly established, independent Competition Authority started to deal with competition infringements, considered applications for mergers and acquisitions and gave its opinion on possible incompatibilities between various government institutions. …

3. Ability to assume the obligations of membership

3.1. Sectors of the acquis covered by the customs union

Competition

Current situation

There has been no significant change since the last regular report.

As far as the implementation of anti-trust rules is concerned, the situation remains satisfactory.

However, progress still remains to be made in order to finalise the approximation on the acquis as foreseen in the customs union Decision. Regarding state aid, information on Turkey's state aid schemes have already been submitted to the Commission. Their conformity with EC rules stil needs to be discussed between the Commission and the Turkish authorities.

As far as adjustment of monopolies and enterprises with exclusive rights is concerned, the Commission is still particularly concerned with regard to the privileged position enjoyed by TEKEL, the Turkish State alcohol, tobacco and salt conglomerate.

Evaluation

The great efforts that Turkey undertook in the preparation of the entry into force of the customs union should be continued.

3.4. General evaluation

…

In competition there has been progress in the area of anti-trust although the Commission remains concerned about the operation of the TEKEL monopoly. Turkey has notified its state aid schemes to the Commission and these are under examination. Agriculture is stil characterised by high levels of support and protection and there has been no progress in legislative alignment since the last Report.

4. Administrative capacity to apply the *acquis.*

…

Competition: The Competition Authority, operative since November 1997, is the governmental Agency (staff of 307 persons), in charge of the enforcement of competition rules. The Competition Board is the decision-making body of the institution. State aid matters are dealt with in the Directorate-General for Incentives in the Undersecretariat for Treasury by a staff of 133 persons.

Even if administrative structures seem to function in a satisfactory manner, it is at this stage difficult to further assess their capacity to investigate anti-competitive practices and their power to order the termination of such practices. The situation concerning state aids still needs to be assessed.

C. Conclusion

…

In competition there has been progress in the area of anti-trust although the Commission remains concerned about the operation of the TEKEL monopoly. Turkey has notified its state aid schemes to the Commission and these are under examination. Agriculture is stil characterised by high levels of support and protection and there has been no progress in legislative alignment since the last Report.

TURKEY 2000 PROGRESS REPORT

Chapter 6: Competition policy

Since the previous Regular Report, Turkey has further aligned its legislative framework in the area of antitrust policy in order to conform with the Community acquis and the obligations of the Customs Union agreement. Turkey has adopted to a considerable degree secondary legislation, in particular in the area of block exemption regulations. Further alignment however is still necessary in view of the Community's new policies on block exemptions for vertical restraints and on block exemptions for horizontal cooperation agreements.

The Act on the Protection of Competition was passed in 1994. It was modified in 1999 with respect to increases in penalties for offenders. It is largely modelled on the main principles of Community antitrust rules.

Progress in state aid control appears to be limited. The precondition for future progress is the establishment of a control authority to ensure an effective application and enforcement of the State aid rules under the Customs Union agreement.

Considerable difficulties have been experienced in relation to monopoly adjustment. In particular, it is regrettable that no progress was made this year with reference to the adjustment of the State monopoly on alcohol and tobacco (TEKEL). The transitional period for adjustment foreseen by the Customs Union agreement expired on 1 January 1998, without any improvement, despite numerous attempts by the Community to resolve this issue. The proposals for adjustments received from the Turkish side fall short of resolving the issue and have not been justified in legitimate terms.

The Turkish Competition Authority started operation in 1997. Since the beginning of its activities, the Turkish Competition Authority has adopted and published a number of legislative acts. These are the most important:

- Communiqué on mergers and acquisitions calling for the authorisation of the Competition Board;

- Communiqué on the procedures and principles for notification of agreements, concerted practices, and decisions of associations and undertakings pursuant to Art. 10 of the Competition Act;
- Communiqué on block exemption of exclusive distribution agreements;
- Communiqué on block exemption of exclusive purchasing agreements;
- Communiqué on block exemption regarding distribution and servicing agreements in relation to motor vehicles;
- Communiqué on block exemption regarding franchising agreements.

Overall assessment

The application of anti-trust provisions appears satisfactory, with a considerable number of cases having been dealt with from the start of the operation of the Competition Authority.

Concerning State aids, Turkey has communicated to the Commission provisional findings of a study on the definition of a regional aid map of Turkey. Further work is needed to ensure that Community criteria and methodology is followed when finalising the map to enable a differentiation of maximum aid intensities in the country.

Turkey has also provided information on parts of the policies for granting state aid. Together with the Commission, the relevant Turkish Ministries are in the process of establishing a list of the relevant existing laws. On this basis, a substantive review with respect to compatibility with the Community acquis can begin.

There is no single authority responsible for carrying out state aid control by systematically assessing the compatibility of aid awards with the Community acquis. These controls are under the responsibility of different public bodies, such as the Undersecretariat of Treasury and Undersecretariat of Foreign Trade. Therefore, in the absence of a body responsible for state aid control, no enforcement record has yet been established in this policy area. Special attention needs to be given to the overall state aid system and the increase of transparency through the establishment of an inventory of existing state aid and regular annual reporting following the methodology and the presentation of the Community's survey on state aid.

In preparation of the analytical examination of the Turkish situation with the Community acquis, an inventory of remaining state monopolies of commercial character and companies with exclusive rights will have to be taken.

With the Competition Authority, Turkey has created a functionally independent body with the necessary administrative structures to allow for the effective implementation of rules for undertakings, but it has no competence relating to State aids. The Competition authority has a staff of 309.

It has to be checked whether the Competition Authority is sufficiently involved in this process of monopoly adjustment, and whether it enjoys the appropriate powers with respect to public undertakings, state monopolies and companies having special rights.

Chapter 6: Competition policy

Since the last Regular Report, Turkey has made substantial progress in the field of anti-trust policy. No progress can be recorded concerning the alignment with State aid regulation and enforcement.

Turkey has further aligned its legislative framework in the area of anti-trust with the acquis and the obligations of the Customs Union. Turkey has adopted a considerable amount of secondary legislation, in particular in the area of block exemption regulations.

In the area of state aid, in June 2001 the establishment of a functionally independent body responsible for the enforcement and monitoring of State aid granted in Turkey was agreed, to be effective as of 1 January 2003. An ad-hoc committee has been set up within the Turkish Government with a view to preparing the setting up of this independent body. Concerning state aid for regional development purposes, no progress can be recorded.

Turkey has prepared a list of its remaining State monopolies of commercial character and companies with exclusive rights. This list was presented to the Commission in April 2001. Turkish liberalisation efforts have in the period under review continued to be insufficient as regards dismantling the special rights of TEKEL. The transition period for adjustment foreseen by the Customs Union agreement expired already in the beginning of 1998. Difficulties in relation to monopoly adjustment on alcohol and tobacco therefore remain.

The preparation of the procedure for implementing rules in the field of competition under the Customs Union was finalised and the process of their final adoption by the EC – Turkey Association Council has been launched.

Overall assessment

The application of anti-trust provisions remains satisfactory. Further alignment to the acquis, however, remains necessary in this field. The Competition authority has handled a considerable

number of cases, but the administrative capacity of the authority should be strengthened to ensure that the handling of all cases is of a high standard.

No effective state aid control, based on EC principles and criteria, exists in Turkey. It needs to align its legislation with the acquis in this area. It should speed up preparation for the establishment of an independent State aid control body. In addition, Turkey does not have an inventory of existing state aid, nor is there a regular annual reporting following the methodology and the presentation of the Community's survey on state aid. However, Turkey has agreed to establish an inventory of state aid and regular annual reporting following the methodology and the presentation of the Community's survey on state aid after the creation of the State Aid Monitoring Authority. At present, control of State aids remain under the responsibility of a number of different public bodies, such as the Undersecretary of State Treasury and the Undersecretary of Foreign Trade.

Turkey should accelerate its work on the definition of a State aid map for regional development purposes. Further work is needed to ensure that Community criteria and methodology, as well as geographical and statistical data collected according to Eurostat standards, are followed when finalising the map to enable a differentiation of maximum aid intensities in the country.

The independent Turkish Competition Authority became operational in 1997. It has adopted and published a number of legislative acts and has continued to follow closely the developments of the EU legislative framework on antitrust and merger policies. However, doubts remain as to whether this Authority enjoys the appropriate powers to effectively apply competition law to public undertakings, state monopolies and companies having special rights. The exact competence of that authority therefore needs to be clarified.

The situation with respect to monopoly adjustment on alcohol and tobacco (TEKEL) remains a matter of concern. Under the Customs Union decision, the necessary adjustment should have taken place by 1998. A new law, adopted in January 2001, is in contradiction with Turkey's obligations under the Customs Union. As a result, TEKEL effectively retains a monopoly on trade in alcoholic beverages and tobacco products, although its character has changed from a public body to a commercial enterprise. Privatisation of TEKEL is under preparation.

General evaluation

…

In the field of competition policy, the application of anti-trust provisions remains satisfactory. Turkey's state aid policy is not compatible with the acquis. Despite a new law, the situation with respect to monopoly adjustment on alcohol and tobacco remains a matter of concern.

3. Ability to assume the obligations of membership

3.1. The chapters of the *acquis*

Chapter 6: Competition

Progress since the last Regular Report

Since the last Regular Report, Turkey has made progress, notably concerning the enforcement of anti-trust rules. No progress can be registered concerning state aids.

Concerning anti-trust, no new legislation has been adopted. The Competition Authority concluded a total number of 121 cases and opened 178 new cases in 2001. Five cases out of a total number of 60 concerning restrictive agreements were concluded as prohibitions with fines. In four out of 18 cases concerning abuse of dominant position, fines were imposed and the actions of the enterprises concerned were prohibited. The Competition Authority imposed conditions for the approval of four mergers and acquisitions in 2001.

No progress has been made on the adoption of state aid legislation, or on the establishment of a state aid monitoring authority. This is leading to delay in the adoption of the Association Council Decision on the implementation of competition rules.

A welcome development has been the completion of the work on the definition of a provisional map for regional development purposes according to the NUTS 2 classification. This will provide for a differentiation of maximum aid intensities, thus serving as a more targeted approach to alleviate regional disparities.

The difficulties concerning the position of the TEKEL monopoly reported in the previous Regular Report persist. The legislation adopted in 2001 can not be considered a progress and its entry into force is delayed by the lack of practical arrangements.

Overall assessment

Turkey has aligned substantial parts of its legislative framework in the anti-trust area with the acquis and the obligations deriving from the Association Council Decision establishing the Customs Union. Further alignment concerning block exemptions remains necessary.

The Turkish Competition Authority has adopted a considerable amount of implementing legislation, in particular in the area of block exemption regulations. However, the Turkish block exemption system on vertical restraints follows the old EC system that was changed in 1999. There is separate implementing legislation in place that regulates the system of block exemption for vertical restraints, namely exclusive distribution, exclusive purchasing, motor vehicle distribution and franchising agreements.

In Turkey, there is no implementing legislation on rules for agreements of minor importance, which do not appreciably restrict competition. Furthermore, no implementing legislation exists concerning horizontal restraints, in particular Technology Transfer and Research and Development Agreements. Further efforts are needed to align the Turkish competition legislation with the EC acquis in this field.

The independent Competition Authority consists of an 11-member Board and has a total staff of 319 (7 managers, 90 experts and 222 auxiliary staff). The income of the Competition Authority is mainly composed of an appropriation within the total budget of the Ministry of Trade and Industry and a 25% share of the fines that the Competition Authority imposes.

Due to incomplete legal alignment, the Competition Authority does not enjoy the appropriate powers and competence to effectively apply competition law to public enterprises, state monopolies and companies having special rights. There is a need to empower the Competition Authority to intervene effectively against competition infringements by public enterprises, state monopolies and companies having special rights.

Furthermore, a large number of specific sectoral laws, in particular on services, contradict the Turkish Competition Act, and de facto prevent the Competition Authority from enforcing the Competition Act. The Competition Authority should interpret the definition of “undertakings” in a broader way in cases involving public entities, and more frequently use its ex officio

competence to apply the competition provisions to the publicly controlled sectors. Legislative amendments to sectoral regulations, which contradict the Competition Act (in particular legislation granting special and exclusive rights) are needed in order to ensure the efficient enforcement of competition rules.

Moreover, the Competition Authority should engage more actively in promoting greater competition both in the privatisation process and in the regulated infrastructure sectors. In this respect, closer co-ordination between the Competition Authority and special regulatory authorities such as the Energy Markets Regulatory Authority (BRSA) and the Telecommunications Authority should be ensured.

The Competition Authority has imposed substantial fines in cases concerning violations of anti-trust rules. But slow processing of appeals against the decisions of the Competition Authority by the Supreme Administrative Court (Danişţay) delays effective implementation of the competition rules. Administrative fines to ensure compliance with competition rules and procedures do not act as a deterrent due to the high inflation. Up to now, no final decision has been taken by the Council of State on appeal cases. In the event of an appeal, the Competition Act does not allow fines to be collected before the Council of State takes a final decision.

In the area of state aid, despite Turkey's obligation under the Customs Union to align its legislation and set up the necessary administrative body for state aid monitoring, the legislation concerning state aid control based on EC principles and criteria is still not adopted. Turkey has to align its legislative framework with the acquis and the obligations of the Customs Union, and to establish a state aid monitoring authority.

The Report of 1998 recognised that Turkey had made great efforts to align with Community competition law. It is vital that this work is completed. This will require a major restructuring effort, in particular as regards ensuring that commercial monopolies comply with Community legislation. The Report of 1999 repeated largely the same conclusions noting additional progress in the area of undertakings. In 2000 the need to establish a state aid authority was raised. In 2001 the same conclusions were drawn again.

Since 1998, Turkey has continued making good progress in the field of anti-trust policy, but very limited progress in the areas of state aids control and adaptation of state monopolies. No progress

has been made on adjusting the TEKEL tobacco, alcohol and salt monopoly. TEKEL has been transformed into a State Economic Enterprise (SEE) while maintaining exclusive rights. Besides, TEKEL is not subject to the Competition authority. Overall Turkey is partially in line with the EC requirements as regards legislative alignment, administrative capacity and enforcement, with the exception of alignment and implementation as regards state aid and public monopolies, where alignment is limited.

Turkey should sign, as a matter of priority, the draft Decision of the Association Council on implementing competition rules. Turkey should focus further efforts on setting up an independent authority in charge of monitoring state aids.

3.2. General evaluation

…

In the field of competition policy, the application of anti-trust provisions remains satisfactory. There has been no progress in aligning Turkey's state aid policy with the acquis and an independent State aid authority should be established as a matter of priority.

D. Accession Partnership and National Programme for the Adoption of the *Acquis*: Global assessment

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Short-term priorities

…

Ability to assume the obligations of membership

…

Chapter 6: Competition

As regards competition, no legislation has been adopted to ensure an effective state aid control policy based on EC principles and criteria. A national control authority has not been established. Other priorities include a further strengthening of the enforcement record in the antitrust field, increased awareness raising among market participants, as well as training of the judiciary in competition matters. The Accession Partnership priority related to competition has not been met.

Medium-term Priorities

Chapter 6: Competition

The alignment of state aid legislation with the acquis is only beginning. The same applies to the area of monopolies and companies benefiting from special rights. This priority has not been met.

3. Ability to assume the obligations of membership

3.1. The chapters of the *acquis*

Chapter 6: Competition Policy

Progress since the last Regular Report

Concerning anti-trust rules, the Competition Authority adopted implementing legislation concerning block exemption on R&D agreements. This communiqué aims at clarifying the application of competition rules for undertakings carrying out joint R&D activities and encouraging co-operation between undertakings in this field.

The Competition Authority also published the "Guidelines on the application of block exemption on the vertical agreements" in August 2003. Issues such as selective distribution, agreements between competitors, agreements involving intellectual property rights and agency agreements are also addressed in the Guidelines.

In 2002, the Competition Authority imposed fines amounting to €13.2 million in 16 cases out of 128 cases concluded. The Competition Authority imposed conditions on 6 mergers and acquisitions out of a total of 60 merger cases approved in 2002. Furthermore, the Authority imposed fines amounting to € 18,2 Million in 4 cases out of a total number of 52 cases concluded as of June 2003. In May 2003 the Competition Authority imposed a record fine on the mobile telecom operators Turkcell and Telsim, amounting to €17.8 million, on grounds of abuse of dominant position due to their refusal to provide national roaming.

Concerning administrative capacity, the inspection powers of the Competition Authority have been reinforced. The Authority can now perform on-the-spot inspections with a court order in order to obtain information and documents from companies which are being investigated. In addition, Parliament adopted a law amending the Competition Act, which allows fines imposed by the Competition Authority to be collected immediately, without waiting for the Supreme

Court to rule on appeals. This provision allows more effective implementation of the decisions of the Competition Authority. Moreover, the Authority may no longer retain 25% of the fines imposed. All the fines collected are paid to the Treasury. This provision removes the risks of conflict of interest.

In 2003, in the judicial review process, only 17 cases out of 116 were concluded by the Supreme Court.

No progress has been made on the adoption of state aid legislation, or on the establishment of a state aid monitoring authority.

Concerning adjustment of state monopolies, positive steps can be recorded. These consist of the transfer of the regulatory powers in the alcoholic beverages sector, from TEKEL to the Tobacco and Alcoholic Beverages Board and with their publication of the implementing decree for the 2001 Alcohol Act, although the law is not yet fully aligned.

Overall assessment

New implementing legislation, modernised rules on vertical restraints and simplified procedures in conformity with the principles laid down by the acquis have been adopted. Pursuant to this legislation, the Competition Authority annulled the implementation of separate block exemption regulations on exclusive distribution, exclusive purchasing, motor vehicle and franchising agreements. Furthermore, the adoption of block exemption regulation on R&D agreements is a positive step.

Even though a substantial part of implementing legislation concerning block exemptions is aligned with the acquis, there is still no implementing legislation on rules for agreements of minor importance and horizontal restraints.

The independent Competition Authority consists of an eleven-member board and has a total staff of 317 (24 managers, 84 experts, 15 lawyers and 194 auxiliary staff).

Competition rules are still not effectively enforced with regard to public enterprises, state monopolies and companies having special rights. Public authorities responsible for sectoral

legislation should complete alignment with the acquis as a matter of priority. The Competition Authority should be fully associated with this alignment process.

Moreover, promotion of competition should be taken into account during the privatisation process. Although some improvements have been recorded concerning the enforcement of competition rules in the regulated sectors, in particular telecommunications, the Competition Authority should be more active in promoting greater competition in the regulated infrastructure sectors as well as in the privatisation process. In this respect, the adoption of a protocol between the Competition Authority and the Telecommunication Authority is a positive step. This practice should be continued in order to ensure co-ordination between the Competition Authority and other sectoral regulatory authorities.

In the area of state aid, the legislation on state aid monitoring is not in conformity with the acquis, and a state aid monitoring authority needs to be established. This is the major factor delaying the adoption of an Association Council decision on the implementation of competition rules, despite the fact that Turkey is committed under the Customs Union to align and set up a state aid monitoring authority.

This is hindering the proper implementation of competition rules, resulting in potential competition infringements in markets via the allocation of public resources. Besides, the absence of reporting of state aids based on the EC standards reduces the transparency of financial transactions between the state and undertakings.

As regards undertakings with special or exclusive rights, the publication of the implementing decree contributes to improving the competition conditions in the alcoholic beverages sector. However, the primary legislation of 2001 does not provide a basis for an even playing field. Therefore, amendments to the primary legislation are necessary.

Conclusion

Since the last Regular Report, some progress has been achieved in the area of anti-trust.

Overall, harmonisation in the field of anti-trust rules with the acquis and the obligations deriving from the Association Council Decision establishing the Customs Union is high. However, further

efforts concerning alignment in block exemptions, adjustment of state monopolies and companies having exclusive and special rights is needed. Turkey should urgently adopt legislation concerning state-aid monitoring and establish a state-aid monitoring authority.

Chapter 19: Telecommunications and information technology

Progress since the last Regular Report

… National roaming agreements have not yet been concluded between the GSM operators. This issue is subject of a long running dispute between the operators and international arbitration is pending. In June, the Competition Authority fined Turkcell € 12.8 million and another operator €5 million on the grounds of abuse of dominant position in the GSM market relating to national roaming facilities.

Overall assessment

The continued dispute regarding implementation of the Turkish authorities' policy on national roaming could undermine the conditions for current and potential investments in the Turkish market. The main requirement for secure investment is regulatory stability and predictability coupled, where appropriate, with effective enforcement of competition rules.

As concerns the enforcement of the competition rules in the telecommunication sector, the conclusion of a co-operation protocol between the Competition Authority and the Telecommunication Authority is a positive development. …

TURKEY 2004 PROGRESS REPORT

A. INTRODUCTION

...

2. Relations between the EU and Turkey

…

The Association Council Decision concerning the implementation of competition rules could not be signed because the Turkish State Aids Monitoring Authority is not established.

3. Ability to assume the obligations of membership

3.1. The chapters of the *acquis*

Chapter 6: Competition Policy

The competition acquis covers both anti-trust and State aid control policies. It includes rules and procedures to combat anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), and to prevent governments from granting state aid which distorts competition in the Internal Market. Generally, the competition rules are directly applicable in the whole Union, and Member States must cooperate fully with the Commission in enforcing these rules.

Progress since the last Regular Report

Since the last Regular Report, some progress has been achieved in the field of competition.

Concerning anti-trust, only limited legislative alignment can be recorded. The Competition Board adopted a communiqué, effective from 31 December 2004, increasing the administrative fines provided for in the law on the Protection of Competition.

Some progress has been achieved in the enforcement of anti-trust rules. In 2003, the Competition Authority imposed fines in 13 cases out of 303 cases concluded. The Competition Board

imposed conditions on 9 mergers and acquisitions out of a total of 69 merger cases approved in 2003.

In 2004, in the judicial review process, only 21 cases out of 196 were concluded by the Supreme Court which acts as a first instance court. A large number of cases are stil pending after appeals.

Concerning administrative capacity, the Turkish competition authority is quite well staffed and puts efforts on the training of its staff.

No progress has been made on the adoption of state aid legislation, or on the establishment of a state aid monitoring authority.

Regarding steel, Turkey requested the prolongation of the period in which restructuring aid may be granted to the steel industry under specific conditions defined in the 1996 ECSC Turkey Trade Agreement. The Turkish authorities have to submit an acceptable national restructuring programme for the steel sector providing appropriately detailed information and individual business plans for all companies involved in the restructuring process.

Overall assessment

Generally, Turkey's anti-trust legislation appears to be largely modelled on the main principles of Community anti-trust rules. As regards secondary legislation, Turkey has introduced many of the block exemption regulations. Further alignment is necessary, in particular in view of the Community's evolving policies on vertical restraints and horizontal cooperation agreements.

The Turkish Competition Authority started operating in 1997. It consists of an eleven member board and has a total staff of 316, of whom 84 have university degrees, responsible for competition investigations, assessment of mergers and acquisitions, exemptions and negative clearance. Apart from these, there are six examination experts mainly responsible for decisions of the Turkish Competition Board who assist with their reasoning, four lawyers mainly responsible for dealing with cases before the Council of State and four assistant experts on research. The Competition Authority is an independent authority, but recent governmental efforts to establish a uniform organisational structure for all independent regulatory authorities by

adopting framework legislation raise concerns about potential political intervention in the operations of the Competition Authority.

The delays encountered in the handling of appealed cases in the Supreme Administrative Court are a matter for concern. The amendments made in the Competition Act last year are expected to increase the enforcement effectiveness of the competition rules. However, only €500,000 out of €60 million which the Competition Authority imposed as fine has been collected since 1998. This reveals the urgent need to strengthen the administrative capacity of the Supreme Administrative Court in order to improve the quality and speed of the appeal process.

The Competition Authority is the sole body responsible for the enforcement of anti-trust rules. However, all public authorities, including Parliament, should ensure that competition is not distorted through the adoption of legislation or administrative decisions. The existing legal barriers stemming from both primary and secondary legislation cause serious distortions of competition. Remarks by the Competition Authority should be taken into consideration in the drafting of all types of legislation that may have an impact on competition.

As a matter of urgency, public authorities should prepare amendments to sectoral legislation, which currently includes anti-competitive provisions, and should associate the Competition Authority fully in this process.

During the privatisation process, competition aspects should play an important role, in particular where dominant positions exist. Privatisation models that ensure a high level of competition in the respective sector in the post-privatisation period should be designed.

Effective coordination between the Competition Authority and sectoral regulatory authorities such as the Energy Markets Regulatory Authority, and the Banking Regulatory and Supervisory Agency, should be ensured.

No progress has been made on the adoption of state aid legislation or on the establishment of an operationally independent state aid monitoring authority. The lack of progress on this key question is hindering the implementation of a state aid control regime, resulting in potential distortions of competition in markets via the allocation of public aid. It is also a major factor delaying the adoption of an Association Council decision on the implementation of competition

rules, despite the fact that Turkey is committed under the Customs Union and the ECSC Turkey Trade Agreement to align with the EU acquis in the state aid sector.

Competition conditions in the alcoholic beverages sector are still not satisfactory. Problems stem from the primary legislation of 2001, which contains a number of provisions in contradiction with the Customs Union and WTO obligations of Turkey. This legislation should be amended urgently in order to ensure a level playing field for all market actors.

Major efforts concerning alignment in the adjustment of state monopolies and companies having exclusive and special rights are needed.

Conclusion

In the field of anti-trust rules, harmonisation with the acquis appears reasonably well advanced. However, the state aid framework Law has not been adopted, and therefore, there is no alignment with the EC Treaty rules on state aid control.

Major efforts concerning alignment in the adjustment of state monopolies and companies having exclusive and special rights are needed. An efficient enforcement of all competition rules must be ensured and the role of the Competition Authority in the economic policy-making process needs to be strengthened considerably. Turkey should urgently adopt legislation concerning state aid monitoring, which is in compliance with EC state aid rules, and establish an operationally independent state aid monitoring authority.

3.2 General evaluation

…

Concerning competition policy, the alignment with the acquis on anti-trust legislation is significant and progress continues in a satisfactory manner. On the contrary, alignment with state aid acquis is very limited, in spite of its inclusion in the Customs Union. The adoption of the state aid Law and the establishment of the state aid monitoring authority are crucial issues. Further efforts are also necessary to prepare an acceptable restructuring programme for the steel sector.

C. CONCLUSION

… Concerning competition policy, the alignment with the acquis on anti-trust legislation is significant and progress continues in a satisfactory manner. On the contrary, alignment with state aid acquis is very limited, in spite of its inclusion in the Customs Union. The adoption of the state aid Law and the establishment of the state aid monitoring authority are crucial issues. Further efforts are also necessary to prepare an acceptable restructuring programme for the steel sector.

2.2 Assessment in terms of the Copenhagen criteria

…

Progress in the area of competition policy has been limited. The lack of regulations and monitoring concerning state aid is affecting transparency and the overall competitive environment negatively. Monopoly concessions and anticompetitive privileges for state-owned enterprises still distort competition in some sectors although some improvements have been made in the context of preparations for privatisations and new regulatory institutions. The Competition Authority continues to work for fair competition in an efficient manner but its overall power is limited by slow judicial processes and legislation with distorting effects which it can not influence.

3. Ability to assume the obligations of membership

3.1. The chapters of the *acquis*

Chapter 8: Competition Policy

The competition acquis covers both anti-trust and state aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), to scrutinise mergers between undertakings, and to prevent governments from granting state aid which distorts competition in the internal market. Generally, the competition rules are directly applicable in the whole Union, and Member States must co-operate fully with the Commission in enforcing them.

Limited progress can be reported in the field of competition policy, since last year's report.

In the field of anti-trust including merger control, amendments made to the Competition Act in September 2004 extended the one month limit for the collection of imposed fines to 3 months after the finalisation of the Competition Authority's decision. Decisions of the Competition Authority become effective now after publication on the Authority's website, whereas the Competition Authority was previously required to issue its decisions in the Official Gazette. In

addition, the Competition Authority increased in March 2005 the level of administrative fines provided for in the Competition Act. In July 2005, an amendment to the Competition Act eliminated the requirement of mandatory notification of agreements between undertakings. There are no sector-specific block exemption regulations on motor vehicle distribution, insurance, telecommunications and postal services. Furthermore, the Community rules on horizontal cooperation agreements and de minimis still need to be incorporated into competition rules. Major efforts concerning alignment in the adjustment of state monopolies and companies having exclusive and special rights are also needed.

The Competition Authority has administrative and operational independence and appears to have a sufficient administrative capacity to ensure antitrust enforcement and merger control. It places high emphasis on continuous training of its staff. Although this Authority has exclusive competence to enforce anti-trust rules, it has not been able to intervene in distortions of competition which arise from other legislation containing anti-competitive provisions. The Competition Authority's competence over undertakings is therefore seriously restricted by such legislation, and a comprehensive review of this state of play should be initiated urgently. The Authority's remarks concerning drafts of all types of legislation which may have an impact on competition are often not taken into account. The commitment by all public and legislative authorities to remove and avoid legal barriers to competition should be ensured.

The sector regulatory authorities such as the Energy Market Regulatory Authority, the Telecommunication Authority, the Banking Regulatory and Supervision Authority, do not ensure efficient cooperation and use of consultation mechanisms with the Competition Authority in order to prevent any competition distortions in their respective regulated markets yet.

As regards the enforcement record, in 2004, the amount of fines imposed by the Competition Authority in the 91 cases where it found an infringement of competition rules is 46,055,762 YTL (around 26 MEUR). Up to May 2005, the Authority imposed fines amounting to 15,668,674 YTL (around 9,2 MEUR) in 40 decisions on competition infringements. Furthermore, during 2004, the Authority rejected 15 out of 62 applications for negative clearance or exemption.. In 2004, the Competition Authority imposed conditions on 3 mergers and acquisitions out of a total of 122 merger cases approved, and by May 2005 it had handled 45 merger cases and imposed conditions in 3 cases. In the context of merger control, the Competition Authority has played an active role in the privatisation process. Through its advisory opinions delivered to the

Privatisation Authority, the Competition Authority has continued to advice on how to design privatisation tenders before they are launched, to ensure competition in the post-privatisation period. The Competition Authority issued opinions, for example, on the privatisation tenders of tobacco factories, ports, and the Turkish Telecommunication Company.

The delays encountered in the handling of appealed competition cases by the Supreme Administrative Court continue to be a matter of concern. The Supreme Administrative Court has concluded only 88 cases out of 329 appeals lodged since 1999. However, this concern is alleviated by the fact that since 2003 the Authority is entitled to collect imposed fines without waiting for the finalisation of judicial review process.

No new developments can be reported with regard to the adoption of state aid legislation or the establishment of an operationally independent state aid monitoring authority. Turkey has not yet fulfilled its obligation under the Customs Union Decision 1/95 and the 1996 ECSC-Turkey Free Trade Agreement, to establish a state aid monitoring authority and to align and ensure full transparency of its existing and new state aid schemes. This hinders the implementation of a state aid control regime and results in distortions of competition in markets via the allocation of public aid, and decreases the transparency of financial transactions made between the state and undertakings.

Regarding the steel sector, the Turkish authorities have not ensured a satisfactory level of transparency on state aid granted to the sector as envisaged in the 1996 ECSC-Turkey Free Trade Agreement. Only one law, related to investment allowance, has been notified, in April 2005. Limited progress has been achieved as regards the draw up of the National Steel Restructuring Programme (NRP) supporting the Turkish request for derogation to allow state aid for the steel industry. The technical work of the NRP has been concluded in June 2005 but the programme has not yet been adopted at political level. Progress in this area is very urgent, not only to address the overall situation of the steel sector but also to clarify the framework on which the privatisation of Erdemir should take place.

Conclusion

Since the last report, Turkey has made limited progress in the field of competition. Harmonisation with the anti-trust acquis appears well advanced. The level of enforcement of

anti-trust rules and merger control by the Competition Authority has continued to be satisfactory, although serious delays in the handling of appeal cases have occurred in the judiciary. Concerning the privatisation process, the Competition Authority has been more active than during the previous reporting period through the issuing of a number of advisory opinions prior to tender launchings.

The adjustment of state monopolies and companies having exclusive rights should receive more attention.

As regards State aid, Turkey has made no progress since the last report, in particular as regards the implementation of the transparency commitments included in existing bilateral agreements. Legislation concerning state aid monitoring, which is in line with the EC state aid rules, is not in place. There is no operationally independent state aid monitoring authority. Their absence is the major delaying factor for the adoption of implementing rules for competition under the Customs Union Decision 1/95. As regards the steel sector a National Restructuring Programme for the Steel sector remains to be adopted.

3.2 General evaluation

… In the area of competition policy, provisions concerning undertakings (anti trust, and merger control) are satisfactorily aligned and implemented by the competition authority. On the other hand, on state aids, no progress can be reported as regards alignment or enforcement. Therefore alignment remains very limited, despite specific bilateral commitments. Particular attention should be devoted to state aids control in the steel sector.

3.2. Assessment in terms of the Copenhagen criteria

3.2.2. The capacity to cope with competitive pressure and market forces within the Union

State influence on competitiveness

The work of the Competition Authority continued to be satisfactory and its role in the market was further supported by the privatisation process. Transparency in the corporate sector improved and accounting standards were upgraded although not yet fully implemented. No improvements were made concerning monitoring of state aids. The absence of transparent monitoring and policies to decrease distortions negatively affects the competitive climate.

Public procurement policies continued to be undermined by further exceptions made to the regulatory framework. To conclude, some improvements in competition policy took place, but in certain areas deficiencies remained or worsened.

4. Ability to assume the obligations of membership

Chapter 8: Competition Policy

Progress in the field of competition policy since last year's report presents a mixed picture.

In the field of anti-trust, including mergers, progress can be reported with regard to legislative alignment. The Competition Authority aligned its block exemption legislation on motor vehicle distribution with the acquis. The Competition Authority also revised its communiqué on administrative fines to increase their levels as from end 2006. However, legislative alignment is needed on sector specific block exemption rules in insurance, telecommunications and postal services, as well as the incorporation of rules on horizontal cooperation agreements and de minimis. As regards enforcement activities, the Competition Authority continued to impose fines for the infringement of competition rules, e.g. in the steel sector. The level of alignment in the field of anti-trust is high.

The Competition Authority continued to play an active role in merger control; especially important were privatisation cases which made its presence more visible among market actors. With regard to legislative alignment, the Competition Authority amended the merger control regulation in order to allow for fines regarding mergers not notified to the Competition Authority. Furthermore, if it is detected that merger approval is based on misinformation by applicants, the Competition Authority may re-launch merger investigation and prohibit the merger.

The Competition Authority has administrative and operational independence. It has a sufficient administrative capacity to ensure antitrust enforcement and merger control. The authority places high emphasis on continuous training of its staff. The commitment by all public and legislative authorities to remove and avoid legal barriers to competition will be better ensured if the Authority's opinions concerning drafts of all types of legislation, which may have an impact on competition, are taken into account in a consistent way.

The administrative capacity of the Supreme Administrative Court continued to be a matter of concern. Handling of appealed competition cases is slow.

No development can be recorded with regard to the alignment of rules concerning public undertakings and undertakings having exclusive and special rights. Turkey needs to ensure transparency of financial relations between public authorities and public undertakings.

As regards the enforcement record, in 2005 the Competition Authority adopted a total of 317 decisions, including competition infringements (97), negative clearances (50) and decisions on mergers and acquisitions (170). The Competition Authority imposed fines in 12 cases amounting to a total of 25,040,479 Turkish Lira (around 12.5 million Euros).

No developments can be reported with regard to the adoption of state aid legislation or the establishment of an operationally independent state aid monitoring authority. Their absence delays the adoption of implementing rules for competition under the Customs Union Decision 1/95, and results in serious distortions of competition.

Legislation was modified to suspend the possibility of giving new investment encouragement certificates to the steel industry. However, companies continued to benefit from the effects of old certificates. Turkey has not ensured a satisfactory level of transparency on state aid granted to the sector which it committed to in the 1996 ECSC-Turkey Free Trade Agreement. On 31 August 2006, Turkey sent to the Commission a National Restructuring Programme for the Turkish steel industry. The Programme is being analysed by the Commission services.

Conclusion

Harmonisation with the anti-trust acquis is well advanced. The Law on Protection of Competition and the regulation on mergers and acquisitions reflect the main principles of Community rules. The level of enforcement by the Competition Authority continued to be satisfactory. As regards State aid, there has been no progress since the last report. Turkey has not set up the necessary legislative framework and administrative structures to ensure transparency and implement Community state aid rules.

3. ECONOMIC CRITERIA

3.2. The capacity to cope with competitive pressure and market forces within the Union

State influence on competitiveness

Overall, the role of the state as an active player in the markets has been further reduced. The work of the Competition Authority continued. It is widely appreciated by economic agents and its role was further strengthened by the privatisation process. Transparency in the corporate sector improved and accounting standards were upgraded although the new legislation has not yet fully implemented. The absence of a transparent monitoring of state aid and of supporting policies to decrease distortions adversely affects competition and competitiveness in the economy. Public procurement policies continued to be undermined by the exceptions made to the regulatory framework.

4. Ability to assume the obligations of membership

Chapter 8: Competition Policy

Turkey made further progress in the field of anti-trust. No progress can be reported on state aid.

In the field of anti-trust, including mergers, further progress can be reported. Regarding legislation to implement the acquis, the Competition Authority adopted a block exemption on vertical agreements in the motor vehicle sector. The Authority also adjusted the general block exemption on vertical agreements to make it clear that exclusive distribution agreements of companies with a market share of 40% or above may not benefit from the exemption. In addition, it defined the methods for calculating market shares. The Competition Authority adjusted the level of fines that can be imposed for infringements of competition rules. Turkey adopted the guidelines for regulatory impact analysis, placing an obligation on all public authorities to analyse -in consultation with the Competition Authority- the impact which any draft laws would have on competition. Transposition is not completed with regard to the rules on

horizontal cooperation agreements, the de minimis rules and the sector-specific block exemption rules on insurance, technology transfer, telecommunications and postal services. The level of alignment in this field is high.

The continuing strong emphasis on staff training contributes to the Competition Authority's high administrative capacity, which is at a good level to ensure effective enforcement of the competition rules. The level of independence of the Authority is sufficient.

As regards the enforcement record, in 2006 the Competition Authority took decisions on 108 cases of anti-competitive agreements or abuse of a dominant position and on 33 cases of negative clearances and individual exemptions. It dealt with 186 merger and acquisition cases. The Competition Authority imposed fines totalling 26.9 million Turkish Lira (around 14.5 million Euros), among them fines adding up to 9.4 million Turkish Lira (around 5.2 million Euros) on a cartel of 10 cement companies. This level of activity continued during the first half of 2007, where the Competition Authority took 75 decisions on anticompetitive behaviour and assessed 92 merger notifications. However, there is no improvement concerning the limited administrative capacity of the Supreme Administrative Court for handling appealed competition cases. No progress has been made in aligning the rules concerning public undertakings and undertakings having exclusive and special rights.

No progress was made on adopting state aid legislation or establishing an operationally independent state aid monitoring authority. Furthermore, Turkey has no rules ensuring the transparency of financial relations between public authorities and public undertakings. Turkey has neither established a state aid inventory nor reported any state aid schemes to the European Commission, although it did adopt new aid schemes during the reporting period.

Regarding aid to the steel sector, progress has been limited. Turkey sent to the Commission a proposal for National Restructuring Programme (NRP). This draft NRP, and subsequent discussions, clarified the structure of the steel industry and most of the past state aid. Moreover, the new investment aid scheme eliminated the possibility of additional aid certificates for manufacturing steel products. However, important gaps remain. The main elements missing include the industrial restructuring strategy, capacity evolution and state aid, especially the purpose and beneficiaries of future aid. In addition, Turkey has not sent individual business plans from any of the steel companies concerned by the NRP.

Conclusion

Some progress has been achieved on this chapter. The level of alignment in the field of antitrust, including mergers, is high. However, there has been no progress in the field of state aid. Finalising the National Restructuring Programme for the steel industry remains a priority. Turkey has not fulfilled its obligation to report state aid schemes to the Community. Alignment with the acquis in this chapter is underway.

Chapter 8: Competition Policy

In the field of anti-trust, including mergers, there has been further progress on legislative alignment.

The Competition Law was amended to provide further clarity and legal certainty in the provisions regulating fines imposed for competition infringements. The competition authority adopted a block exemption communiqué covering the insurance sector, in line with the acquis. The authority issued another block exemption communiqué on technology transfer agreements. There are a few divergences between this communiqué and the relevant Commission rules, in the form of hardcore restrictions due to the Turkish legislation on intellectual property rights. The authority published two guidelines on market definition and subcontracting agreements between non-competing undertakings. The rules on horizontal cooperation agreements, de minimis and sector-specific block exemptions for telecommunications and postal services still need to be transposed. The Banking Law exempts mergers and acquisitions leading to a market share below 20% in the banking sector from the competition authority's control. This exemption limits enforcement of the merger control rules in the banking sector. The authority's efforts to promote competition might be limited in the upcoming privatisation of public banks due to this exemption.

The competition authority enjoys a sufficient level of administrative and operational independence. The authority's emphasis on training for its staff is a determining factor for effective enforcement of the competition rules. All public authorities, including the Ministry of Industry and Trade to which the competition authority is linked administratively, need to respect the administrative and operational independence of the authority.

As regards the enforcement record, in 2007, 238 merger and acquisition cases were handled and 232 cases were concluded (up from 199 and 186 in 2006). The authority opened 131 cases on anti-competitive behaviour and finalised 148 cases (up from 108 in 2006). The Board opened 34 negative clearance and individual exemption cases and concluded 39 in 2007 (36 and 33 in 2006). The fines imposed by the authority decreased by 50%, from TRY 27,002,139 in 2006 to

TRY 13,641,633 in 2007. The authority has also been active during the first half of 2008. It took decisions on 65 cases of anti-competitive behaviour and on 109 merger notifications. The administrative capacity of the Council of State (high administrative court) for handling appealed competition cases still needs to be improved. However, the establishment of a special chamber in the Council of State in 2007 is expected to speed up the review of competition decisions.

There has been no progress on alignment of the rules concerning public undertakings and undertakings having exclusive and special rights.

In the field of state aid, no progress has been made. Turkey has not adopted the state aid legislation nor set up an operationally independent state aid monitoring authority. Furthermore, Turkey has not prepared the state aid inventory and has not reported on state schemes, as required by the transparency commitments. There are no rules ensuring transparency of financial relations between public authorities and public undertakings.

Some progress has been achieved as regards state aid in the steel sector. Following the transmission of new information in 2008, the Commission has an improved understanding of the state aid granted from 2001 until now. Furthermore, Turkey has reviewed the national restructuring programme concerning both the state aid aspects and the market analysis and forecast for the Turkish steel industry. However, information is still needed on several capacity developments and some state aids of the last years as well as on a clear position of the Turkish authorities concerning future state aid to the steel sector.

Conclusion

In the field of anti-trust, including mergers, a high level of alignment has been achieved. The administrative capacity and operational independence of the competition authority are satisfactory. The authority enforces the competition rules effectively. There has been no alignment in the field of state aid. Turkey needs to implement the EU state aid discipline in the steel sector, in line with the long-standing commitment given in the ECSC Free Trade Agreement. Alignment in this chapter is not complete.

4. Ability to assume the obligations of membership

Chapter 8: Competition Policy

Turkey made further progress in the field of anti-trust. In the case of State aid little progress can be reported.

In February 2009 the Competition Authority adopted legislation on fines for cartels and on immunity from and reduction of fines in cartel cases where undertakings cooperate with the Competition Authority. A special unit was established within the authority to implement the leniency regulation and respond to requests for information from those wishing to benefit from it. Transposition of the acquis on horizontal cooperation agreements and the de minimis rules is still pending.

The Competition Authority's satisfactory level of administrative and operational independence, backed by its strong emphasis on staff training, contributes to its high administrative capacity. The authority has a clear track record on implementation of the competition rules.

Regarding the enforcement record of the Competition Authority, in 2008 fines were imposed in 3 cases involving anti-competitive agreements or abuse of a dominant position. The total amount of fines imposed by the authority increased by 57% in 2008 compared with the previous year. The authority concluded 57 negative clearance and individual exemption cases (i.e. notified cases that were accepted) while 65 cases were opened. In the first half of 2009 the authority has been active mainly in the sectors of chemicals and medicine, as well as in iron and steel and imposed fines in 2 cases. Establishment of a special chamber in the Council of State accelerated reviews of competition decisions. The number of appeals introduced decreased by 13.5%.

No progress can be reported on alignment of the rules concerning public undertakings and undertakings holding exclusive and special rights.

No State aid legislation was adopted nor was an operationally independent authority established to monitor State aid. Progress was made as regards State aid to the steel industry when Turkey submitted a revised "National Restructuring Plan" for the steel sector in June 2009.

Conclusion

Overall, Turkey shows a high level of alignment in the field of anti-trust, including its merger control rules. Turkey continued to enforce the competition rules effectively. The Competition Authority has a satisfactory level of administrative and operational independence. No further legal alignment in the area of State aid can be reported and the long-awaited state aid law is stil pending. There is still a need to implement the EU discipline on State aid in the steel sector, as part of Turkey's commitment under the ECSC Free Trade Agreement. Alignment in this chapter is not complete.

Chapter 10: Information society and media

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A number of issues remain to be tackled to unlock competition on the fixed telephony and internet broadband markets. Licensing conditions for local telephony are now operational but problems remain as regards numbering plans and interconnection rates. It is critical to improve interconnection conditions in voice and broadband markets and to stimulate competition in these strategic markets. Clarification of the distribution of tasks between the Telecommunications Authority and the Competition Authority is needed. The principles of cost-accounting and accounting separation are not fully applied by dominant operators on the mobile market. High taxation on communication services unrelated to administrative costs for regulating the sector remains a problem.

Chapter 8: Competition Policy

Turkey made some progress in the field of **antitrust**. The Competition Authority adopted two sets of implementing legislation. These rules introduce defendants' right to oral hearings, the rights of access to case files and rules on protection of business secrets. The Competition Authority and the Public Procurement Authority signed a protocol facilitating exchanges of information and cooperation for handling competition infringements in public tenders. However, Turkey needs to transpose the *acquis* on horizontal cooperation agreements and the *de minimis* rules. Moreover, the Turkish Competition Act does not apply to banking mergers and acquisitions of market shares below 20%.

The Competition Authority's overall administrative capacity is high. It has a satisfactory level of administrative and operational independence and is committed to providing a high level of training for its staff. The authority has a solid track record on implementing the competition rules.

There has been no progress towards alignment of the rules concerning public undertakings and undertakings holding exclusive and special rights.

Good progress can be reported in the area of **State aid**. The law on monitoring and supervision of State aids has been adopted. It also establishes a competent authority for this task, which is supported by an institutional structure within the Undersecretariat of Treasury, has been adopted. These bodies now need to become operational as soon as possible. The law provides provisions on notification and monitoring of aid schemes in line with Turkey's Customs Union obligations. The services sector is excluded from its scope.

In 2009, Turkey adopted a stimulus package targeting the least developed regions of the country. Some parts of this package have yet to be adjusted to Customs Union rules.

Little progress was made on State aid to the steel sector. State practices in support of this sector between 2001 and 2006 need to be finally assessed. No progress has been made in establishing institutions or a legal framework to regulate state aid in the transport or energy sector.

Conclusion

In the field of antitrust and merger control, Turkey has a high level of alignment. It is enforcing the competition rules effectively. The Competition Authority continues to enjoy a satisfactory level of administrative and operational independence. Good progress has been made in the area of State aid. A State aid law establishing a monitoring authority has been adopted It is now expected that Turkey adjusts its State aids to the requirements of the Customs Union and of the ECSC Free Trade Agreement.