

Esin
Avukatlık
Ortaklığı.

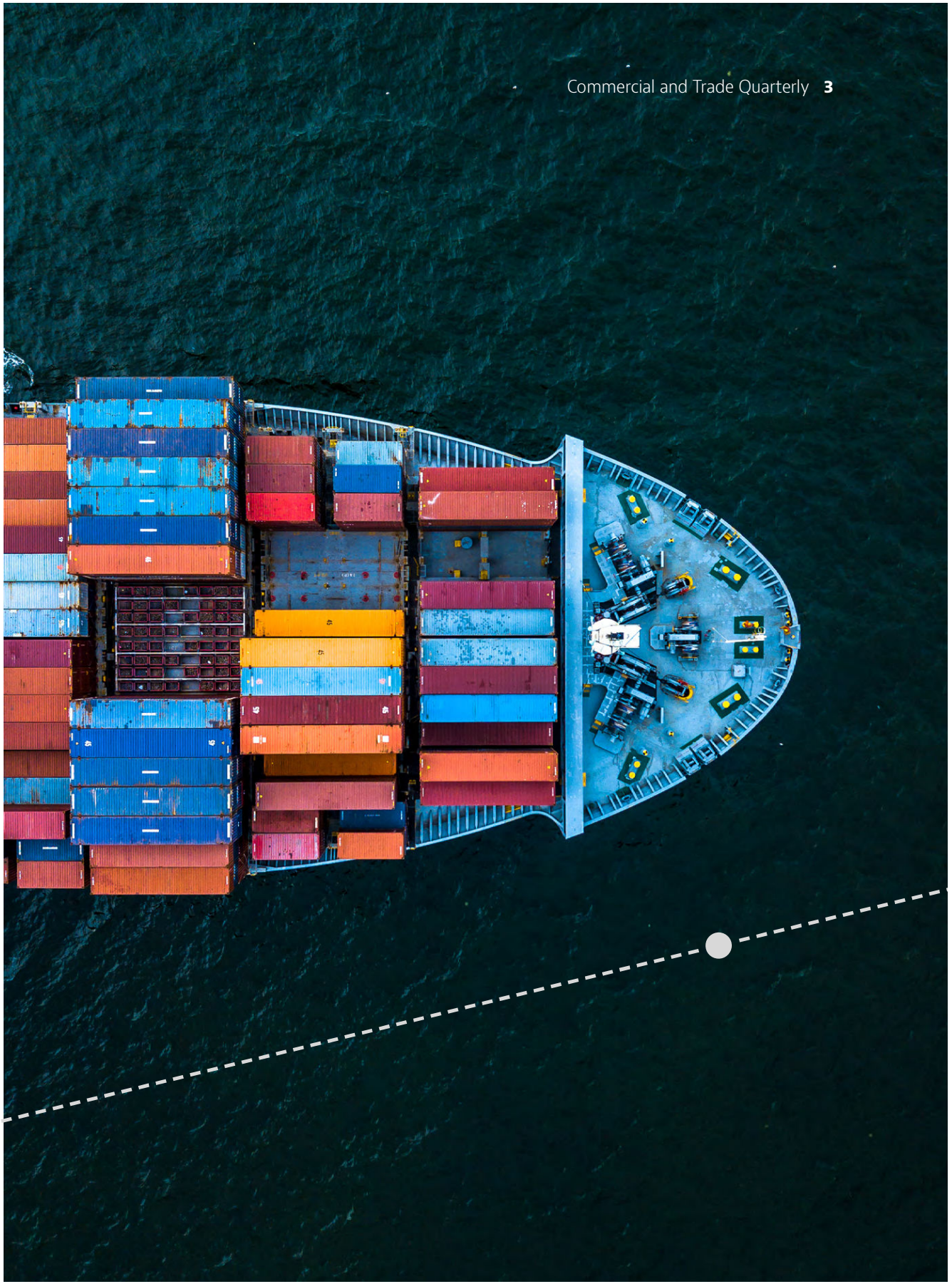
Commercial and Trade Quarterly





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In recent weeks, the EU Draft Directive on Packaging and Packaging Waste as well as communiqués on the inspection of compliance with relevant standards or technical regulations for certain imported and/or exported products have been published in the commercial and trade sector. In addition, various amendments were made to the Customs Regulation, the Regulation on the Principles and Rules to be Applied in Retail Trade, and the Law on the Regulation of Retail Trade.

EU Draft Directive on Packaging and Packaging Waste

On 30 November 2022, the European Commission published a draft legislation ("**Draft**") to reduce packaging waste and increase the recyclability and reusability of existing packaging as part of the Circular Economy Action Plan. The Draft amended Regulation 2019/1020 and Directive 2019/904 and repealed Directive 94/62/EC.

According to EU data, 40% of packaging materials is made of plastic and 50% is paper. In addition, packaging waste constitutes 36% of municipal waste. The Draft aims to reduce environmental pollution and resource use from packaging and targets to increase the recycling rate of packaging waste to 73% by 2030. In this regard, packaging materials that do not meet the sustainability and labeling criteria will not be allowed to be placed on the EU market. The Draft proposal is expected to be considered by the European Parliament and the European Council in accordance with the ordinary legislative procedure.

The Draft is available [here](#) (in English).

The main issues to be regulated under the Draft are as follows:

- Limitations on the proportions of substances that can be contained in packaging materials
- Implementations that determine the design rules for recycling

- Regulations on the biodegradability of lightweight plastic bags (e.g., bags used for fruit and vegetables in supermarkets)
- Regulations on package downsizing to limit the amount of vacant space in packaging to 40% at the maximum
- Regulations on labeling of and QR code or similar digital data provider placed on packaging
- Regulations on labeling of biodegradable plastics
- Regulations on the acceptable use and conditions of use of industrially compostable plastics



Communiqués

On 31 December 2022, the Ministry of Trade published the following communiqués on import procedures and inspection of compliance with relevant standards or technical regulations for imported and/or exported products:

- Communiqué on Inspection of Conformity to Standards in Imports (Product Safety and Inspection: 2023/1)
- Communiqué on Import Inspection of Wastes Under Control for the Protection of the Environment (Product Safety and Inspection: 2023/3)
- Communiqué on Import Inspection of Substances Subject to Special Authorization of the Ministry of Health (Product Safety and Inspection: 2023/4)
- Communiqué on Import Inspection of Products Subject to the Control of the Ministry of Agriculture and Forestry (Product Safety and Inspection: 2023/5)
- Communiqué on Import Inspection of Chemicals Under Control for the Protection of the Environment (Product Safety and Inspection: 2023/6)
- Communiqué on Import Inspection of Solid Fuels Under Control for Environmental Protection (Product Safety and Inspection: 2023/7)

- Communiqué on Import Inspection of Radio Equipment (Product Safety and Inspection: 2023/8)
- Communiqué on Import Inspection of Some Products Requiring "CE" Mark (Product Safety and Inspection: 2023/9)
- Communiqué on Import Inspection of Toys (Product Safety and Inspection: 2023/10)
- Communiqué on Import Inspection of Personal Protective Equipment (Product Safety and Inspection: 2023/11)
- Communiqué on Import Inspection of Consumer Products (Product Safety and Inspection: 2023/12)
- Communiqué on Import Inspection of Construction Materials (Product Safety and Inspection: 2023/14)
- Communiqué on Import Inspection of Batteries and Accumulators (Product Safety and Inspection: 2023/15)
- Communiqué on Import Inspection of Medical Devices (Product Safety and Inspection: 2023/16)
- Communiqué on the Inspection of Certain Textile, Apparel and Leather Products (Product Safety and Inspection: 2023/18)

- Communiqué on Import Inspection of Tobacco, Tobacco Products, Alcohol and Alcoholic Beverages (Product Safety and Inspection: 2023/19)
- Communiqué on Import Inspection of Certain Products Inspected by the Ministry of Health (Product Safety and Inspection: 2023/20)
- Communiqué on Commercial Quality Inspection in the Export and Import of Certain Agricultural Products (Product Safety and Inspection: 2023/21)
- Communiqué on Import Inspection of Metal Scraps under Control for Environmental Protection (Product Safety and Inspection: 2023/23)
- Communiqué on the Control of Cotton (Product Safety and Inspection: 2023/24)
- Communiqué on Import Inspection of Vehicle Parts (Product Safety and Inspection: 2023/25)

The above communiqués are available [here](#) (in Turkish).

- Communiqué on International Fairs Organized Domestically (Import: 2023/1)
- Communiqué on the Import of War Weapons and Their Parts and Components (Import: 2023/2)
- Communiqué on the Import of Radioactive Substances and the Devices Using Them (Import: 2023/3)
- Communiqué on Import of High Intensity Sweeteners (Import: 2023/4)
- Communiqué on the Import of Maps and Goods Containing Map Information (Import: 2023/5)
- Communiqué on Generalized System of Preferences (Imports: 2023/6)
- Communiqué on Import of Road Vehicles (Import: 2023/7)
- Communiqué on Import of Civil Air Vehicles (Import: 2023/8)
- Communiqué on Imports of Used or Refurbished Goods (Import: 2023/9)

- Communiqué on Import of Banknotes and Similar Valuable Papers (Import: 2023/10)
- Communiqué on the Import of Certain Explosive Substances, Firearms, Knives and Similar Instruments (Import: 2023/11)
- Communiqué on the Approval of Documents on Dual-Use Materials and Technologies (Import: 2023/12)
- Communiqué on Import of Certain Substances Affecting Occupational Health and Safety (Import: 2023/13)
- Communiqué on Import of Ozone Depleting Substances and Fluorinated Greenhouse Gases (Import: 2023/14)
- Communiqué on Permits to be Obtained for Imports by Public Institutions and Organizations (Import: 2023/15)
- Communiqué on Fertilizer Imports (Import: 2023/16)

- Communiqué on the Import of Chemical Substances in the Annex to the Chemical Weapons Convention (Import: 2023/17)
- Communiqué on Suspension System (Import: 2023/18)
- Communiqué on Import of Medical Diagnostic Kits (Import: 2023/19)
- Communiqué on the Import of Goods with Electronic Identity Information (Import: 2023/20)
- Communiqué on Authorization for Electronic Application in Import Transactions (Import: 2023/21)
- Communiqué on Import Quota and Tariff Quota Administration (No: 2023/1)
- Communiqué on Import Quota and Tariff Quota Administration (No: 2023/2)
- Communiqué on Import Quota and Tariff Quota Administration (No: 2023/3)

The above communiqués are available [here](#) (in Turkish).



Regulation on the Amendment of the Customs Regulation

On 3 January 2023, the Ministry of Trade published the Regulation on Amending the Customs Regulation ("**Customs Regulation**"). The amendments regarding the completion of customs procedures for goods in free zones and the minimum records to be kept in temporary storage will enter into force on 4 March 2023, whereas the other amendments will enter into force on the date of publication.

The Customs Regulation is available [here](#) (in Turkish).

The main amendments to the Customs Regulation are as follows:

- For the value added tax base elements in imports such as storage, loading-unloading and port expenses, which are declared based on the information and documents available as of the registration date of the customs declaration but whose amount cannot be determined with certainty, a declaration must be made until the evening of the twenty-sixth day of the month following the month in which the said base element is transferred to the accounting records. The relevant taxes must be paid within the same period.
- Regional Directorates of Customs and Foreign Trade can be authorized to issue comprehensive guarantee permits within the scope of simplification permits.
- A letter stating that the applicant is a taxpayer and has no tax debt is no longer required in the simplification application.
- In the inward processing regime where the conditional exemption system is used, the application for regime closure must be made to the customs administration within the period stipulated in the permit document or at the latest within three months from the expiry date of this period.
- For the goods in free zones, if a declaration is made regarding the assignment of a customs-approved process or use, customs procedures must be completed within thirty days from the date of registration of the declaration. Otherwise, the declarant will be imposed an irregularity penalty of TRY 523 for each exceeded day.
- If there is an economic need, a temporary storage place can be opened with a preliminary permit even if the conditions of the closed place are not fulfilled, provided that: (i) the applicant is a port operator; (ii) a guarantee of TRY 10,000,000 is given for the temporary storage place; and (iii) the temporary storage place is located 20 km at the maximum from the customs directorate where customs procedures are carried out by the port operator and where the port is affiliated.
- The records regarding the entry and exit of the goods to the temporary storage place must include at least: i) the number and date of the declaration or document regarding the entry of the goods; ii) the entry date; iii) the quantity of goods at the entry; iv) the number and date of the declaration or document regarding the exit of the goods; v) the exit date; vi) the quantity of goods at the exit; vii) information on the temporary removal of the goods; and viii) information on the handling of the goods. These records must be kept simultaneously with the entry and exit of the goods.
- The paid-in capital amounts required for joint stock and limited liability companies to obtain investment authorization have been updated. In this regard, according to the Decree on State Aids in Investments, the provinces within the scope of Regions 1 and 2 must have a paid-in capital of TRY 10,000,000; the provinces within the scope of Regions 3 and 4 must have a paid-in capital of TRY 5,000,000; and provinces within the scope of Regions 5 and 6 must have a paid-in capital of TRY 3,000,000.
- In order for the goods to be withdrawn before the objections are resolved in cases where an appraisal is made with the suspicion of low value declaration, the difference between the tax accruals made according to the declaration of the obligor and all taxes accrued by the customs administration must be guaranteed.

Regulation Amending the Regulation on Principles and Rules to be Applied in Retail Trade

On 11 January 2023, the Ministry of Trade has published the Regulation Amending the Regulation on Principles and Rules to be Applied in Retail Trade.

The Regulation is available [here](#) (in Turkish).

As per the amendment, the installment period cannot exceed three months for the sales of mobile phones with a price over TRY 10,000, except for the sales of mobile phones as refurbished products made by refurbishment centers or authorized dealers in accordance with the Regulation on the Sale of Refurbished Products.

Amendments to the Law on the Regulation of Retail Trade

On 1 February 2023, significant amendments were made to Law No. 6585 on the Regulation of Retail Trade ("**Law on the Regulation of Retail Trade**") with Law No. 7435 on the Amendment of the Law on the Union of Chambers and Commodity Exchanges of Türkiye and the Chambers and Commodity Exchanges and Certain Laws and the Decree Law No. 640 ("**Law**").

The Law is available [here](#) (in Turkish).

You can also click [here](#) to read our legal alert for further details.

▪ *Unfair commercial practices*

"Unfair commercial practices" is defined as activities in commercial relations between producers, suppliers and retail enterprises that significantly disrupt the commercial activities or reduce the ability of parties to make reasonable decisions or cause one of the parties to be a party to a commercial relationship that it would not otherwise. Unfair commercial practices in the supply chain are prohibited. The Law also sets forth examples of unfair commercial practices and related administrative penalties.

Regulations on unfair commercial practices will enter into force on 1 January 2024.

▪ *Payment terms*

The payment periods for agricultural and food products that can spoil within 30 days from the date of production shall not exceed 30 days if the creditor is smaller in scale than the debtor, and 45 days in other cases. For agricultural and food products that do not spoil within 30 days from the date of production, the payment periods shall not exceed 60 days if the creditor is smaller in scale than the debtor.

Regulations on payment terms will enter into force on 1 January 2024.

▪ *Common use areas*

Expenses that are not related to the property of the shopping center, such as electricity, water, natural gas, non-renewal maintenance, repair, security and cleaning expenses related to common use areas in the shopping centers, as well as expenses related to the duties of the payroll management employees working in the shopping center are regulated as common expenses. The retail enterprises in the shopping centers can only be charged a participation fee for these expenses. In this regard, it is prohibited to charge retail enterprises for expenses that are not common expenses, such as for advertising, marketing and consultancy, as well as expenses that are not documented.

All kinds of common use area income derived from rental, advertising, marketing, cultural and artistic activities can be used to finance common expenses, and shopping center owners or managers are obliged to prepare and send every year the common income and expense reports for the previous year to the retail enterprises in the shopping center.

Regulations on common use areas entered into force on 1 February 2023.

Conclusion

Significant legislative developments continue to be made in the commercial and trade sector. All stakeholders in the sector should carefully review the legislative developments and ensure compliance with the regulations.

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