

The ‘Norway Model’ for a Privileged Partnership Between the EU and Turkey*

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ABSTRACT

Even though no one has officially declared the halt of Turkey's EU accession process, Ankara's membership negotiations have effectively been stalled over the past few years. Neither Brussels nor Ankara wants a complete collapse of bilateral ties which are strong, multifaceted, and complex as well as beneficial for both Turkey and the EU. As argued by some analysts, the EU and Turkey do not have to stick with full membership as the only alternative going forward. The two sides can modify the relationship toward building a privileged partnership based upon one of the external differentiated integration models. The "Norway model" of integration with the EU might be a feasible option for Turkey and the EU because the two sides have already agreed to upgrade their Customs Union (CU). This paper analyses the Norway option for an alternative path to the Turkish-EU ties comparing the model with the status quo as well as with two proposed scenarios by the European Commission, which are negotiating a CU plus a sector-specific Free Trade Agreement, and replacing the CU with a Deep and Comprehensive Trade Agreement.

Keywords: Norway model, European Economic Area, Customs Union, privileged partnership, Turkey-EU relations, external differentiated integration.

1. Introduction

Turkish-EU relations have developed in multiple dimensions over the past several decades. The parties signed an Association Agreement in 1963 which envisaged a progressive approach to integrating Turkey with the European economy. In consequence, a Customs Union Decision was put into force in 1996. Turkey's rapprochement with the European Union has continued following the European Council's decision to accept Turkey's candidacy for full membership in 1999. Turkey's reforms and endeavors paved the way for the initiation of the accession negotiations in 2005. Nevertheless, over the past 14 years, Ankara has not made substantial progress in its EU accession because of a plethora of political challenges. On the European side, significant reservations have persisted against Turkey's EU membership based on geographical factors, cultural, religious, and identity-based differences as well as the EU's digestion capacity (Beyazıt, 2014, pp. 286-292). Even though there has been a consensus in the continent about Turkey's strategic importance for

Europe, several right-wing political leaders including German Chancellor Angela Merkel have proposed an alternative form of cooperation with Turkey calling it a privileged partnership (Altay, 2018b, pp. 184-6). Bilateral relations have further been strained after the 15 July 2016 *coup* attempt in Turkey, and extraordinary measures the Turkish government took as part of the state of emergency afterward. EU member states and institutions issued strong statements as well as reports criticizing Ankara's backpedaling from reforms (e.g. EC, 2018). Turkey's full EU membership has turned to an unlikely scenario considering ongoing challenges including the UK's move to leave the EU, emerging populism in European countries, and stronger criticisms against Turkey's accession as well as the loss of popular and political support to the EU membership within Turkey (Saatçioğlu, 2020, pp. 2-5; Müftüler-Baç, 2018, p. 120).

Even though no one has officially declared the halt of the accession process, the negotiations have effectively been stalled over the past few years. Neither Brussels

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nor Ankara wants a complete collapse of bilateral ties which are strong, multifaceted, and complex as well as beneficial for both sides. The parties have well-established functional ties from trade, to justice and home affairs (Müftüler-Baç, 2017, pp. 6-9). Since October 2015 Turkey and the EU have been actively cooperating to address the Syrian refugee crisis. Furthermore, Ankara and Brussels reached an understanding to modernize and upgrade the CU in May 2015 (EC, 2015, p.1). They agreed to fix some frustrating institutional problems of this commercial deal and to expand its sector coverage to agriculture, services, and government procurement. Both European and Turkish advocates of building a privileged partnership between Ankara and Brussels put a central place to the CU and its extension and upgrade processes. Altay suggests that the "CU 2.0 project" constitutes a significant miles-stone toward the realization of the idea of a privileged partnership (Altay, 2018b, p. 181).

Parallel to the proposals for a privileged partnership the proposals from the European Commission for a CU 2.0 released in December 2016 do envision negotiating a comprehensive regional accord between Ankara and Brussels that would cover areas well beyond agriculture and services. The new commercial framework that will shape the bilateral negotiations has the potential to put Turkish-EU ties on a new path different from the membership track. There may be several different models that would define the new path. As suggested by Meltem Müftüler-Baç Turkey and EU do not have to stick with the accession goal as the sole target in partnership and the parties can indeed modify the relationship based upon one of "external differentiated integration" models (Müftüler-Baç 2017, pp. 9-18). External differentiated integration defines alternative models of integration for the countries which are not a member of but closely tied with the Union on functional and territorial grounds (Rittberger et.al. 2012, pp.1-26; Schimmelfennig, 2014, pp. 681-2). These models have been hotly debated in the context of Brexit. There are multiple ways that European countries are integrated with the EU at different integration levels without membership such as the models of Norway, Iceland, Switzerland, and Ukraine. Each model constitutes an alternative structure that may work well for governing the ties of the UK or Turkey with the EU in the coming future. This paper intends to contribute to the literature on EU-Turkey relations by analyzing the 'Norway model' as a framework for remolding the Turkey-EU relationship toward a privileged partnership

in a comparative manner, which is missing from the earlier academic debate.

Norway has several similarities with Turkey as a NATO member and owing to close ties and strong cooperation with the EU in domains including energy, trade, home affairs and justice, transportation, security and foreign policy. The Norway model of integration with the EU deserves closer attention as it provides better access to the EU markets than Turkey's existing CU and CU 2.0 scenarios as proposed by the EC. Norway is tied with the EU through two key organizations: the European Free Trade Association (EFTA) and the European Economic Area (EEA). The EEA is the umbrella pact bringing together 28 current EU members, Norway, Liechtenstein, and Iceland within the same single market of goods, capital, services, and people (Emerson, 2017, p.170). The Norway model has a list of advantages as well as disadvantages for Turkey compared to CU 1.0 and CU 2.0 proposals by the European Commission (EC). This paper analyses the Norway model in a comparative manner with the status quo (CU 1.0) and EC-sponsored scenarios for a CU 2.0 together with an assessment of its political feasibility for Ankara. The paper follows with a section that lays out CU 1.0 and proposals for CU 2.0 as well as the idea of the privileged partnership. The following sections compare and contrast the advantages and disadvantages of the Norway model for Turkey from multiple angles.

2. The EU-Turkey Customs Union

Turkey applied for associate membership in the European Economic Community (EEC) in 1959. The parties signed an Association Agreement (Ankara Agreement) in 1963. The association envisioned Turkey's economic integration with the Community to be implemented in three stages to build up a Customs Union. The Additional Protocol to the Ankara Agreement which was signed in 1970 further detailed the stages toward lifting the customs barriers of the two parties to materialize the CU. The biggest difference of the customs union model from a free trade agreement (FTA) is that the parties to the former adopt common external tariffs against the third parties and eliminate rules of origin obligations in bilateral commerce to ensure the free circulation of goods. Ankara and Brussels took the Customs Union Decision in 1995 which became effective in 1996. The deal has eliminated all tariffs on trade in manufacturing products and processed agricultural goods and bound Turkey by the Common Customs Code and regulations of the EU as well as the Common Commercial Policy (Togan, 1997, pp. 157-179; 2015, pp. 37-48). As part of

the CU, Turkey has also committed to adopting the EU's technical regulations, intellectual property rights (IPRs), state aid, and competition regimes. In addition to the CU, the parties also negotiated a sector-specific Free Trade Agreement on steel products and coal in 1996 and exchanged preferential concessions in agricultural and fisheries products two years later (EC, 2016a, p.5). As Turkey earned candidate status for full membership to the EU it has committed to gradually align its national regulations with the *acquis communautaire*. Until and after the launch of the accession negotiations in 2005, Ankara continued to approximate Turkish domestic laws in the EU's rules and regulations in several components of the *acquis* (EC, 2018, pp. 3-8). The accession negotiations have *de facto* been stalled over the last few years. Yet the CU continues to be operative despite several challenges created mostly because of the design problems of the bilateral deal (World Bank, 2014, pp.19-30).

2.1. The Customs Union's Design Problems and the Upgrade Debate

The CU had limited market access and rules scope mostly because it was intended to be an interim accord until Turkey has been granted full EU membership, which was then envisaged by the Turkish side to occur soon. The deal has not liberalized agricultural and services trade, and it did not address the barriers to investment and government procurement. The European Commission suggests that there exists a significant "unfulfilled economic potential" because of the limited sectoral focus of the CU (EC, 2016a, pp. 9-11). From Ankara's point of view, other design defects relate to remaining trade frictions impeding Turkish exporters' access to the EU's markets of goods. Although the pact has entailed free movement of goods between EU and Turkish markets, the CU did not eliminate all technical barriers to goods trade (World Bank, 2014, pp. 31-39; MoE, 2015, pp. 13-16; Hakura, 2018, pp. 3-5). For instance, the EU refuses to recognize Turkey's conformity assessments – the documents certified by the producer or an authorized agency to evidence the compliance of a product with EU regulations. Unnecessary customs inspections for technical requirements create delays and turn to costly barriers in cross-border trade between Turkey and its European neighbors (i.e., Bulgaria and Greece) (World Bank, 2014, pp. 47-9). A particular sub-sectoral area pertains to the specific certification needed for chemical and pharma products. The CU does not stipulate reciprocal acknowledgment of 'good manufacturing practice' (GMP) documents for the registration and sale

of in the EU and Turkish markets (World Bank, 2014, p. 36).

For agricultural products, Turkish exporters face non-tariff barriers (NTBs) as regards goods' adherence to the EU's Sanitary and Phytosanitary (SPS) measures (World Bank, 2014, p. 61; MoE, 2015, p.16). Overall, the most significant impediment to free mobility of goods from Turkey to the EU has been the transport restrictions faced by Turkish exporters in entering Greek, Bulgarian and other EU territories. In particular, road quotas including transit permits have become critical impediments to the operation of the CU (World Bank, 2014, pp. 50-55). Since the services sector has not been included in the CU, several regulatory barriers to services exports have remained to prevent effective market access for both parties. Especially visa restrictions faced by Turkish citizens distort the free circulation of goods and services (World Bank, 2014, pp. 77-81).

The second set of challenges for Turkey concerns policy independence in trade and "FTA asymmetry." The CU has obligated Ankara to adopt the EU's external trade policy, which encapsulates European preferential trade policies and common external tariffs for industrial goods. Hence, Ankara lost its trade policy independence and this obligation has significantly weakened Turkey's bargaining power in FTA negotiations with the third parties (Altay, 2018b, pp. 187-8). To minimize losses of a potential trade deflection from third parties with which Brussels strikes a free trade agreement (FTA), Turkey has been supposed to negotiate and sign a timely flanking FTA with those parties. Yet, various countries such as South Africa and Algeria which concluded a free trade deal with the Union and gain free access to the Turkish market were unwilling to strike a parallel FTA with Ankara (Altay, 2018b, p. 188). This was the cause of the infamous "FTAs asymmetry" problem often brought up in bilateral platforms by Turkish stakeholders (World Bank, 2014, pp. 24-30; EC, 2016a, p. 15). Turkey can neither take part in the making of decisions in Brussels in determining the future FTA partners nor can it participate in the FTA talks between the EU and the third parties that set preferences for privileged market access of the third countries to the EU and indirectly to Turkey via the CU. Decisions as regards CCP and CU-related regulations are carved out by the European institutions without getting inputs from Turkey (EC, 2016a, p. 15; SOWG, p.2).

The asymmetry problem has been a source of greater disappointment from the mid-2000s, with the EU's strategic decision to engage in deeper FTAs

with developed nations such as the United States, and Canada. Ankara reacted severely to the EU's decision in 2013 to start negotiations for a mega-regional deal with the U.S., i.e., the Transatlantic Trade and Investment Partnership (TTIP). Turkey wanted to take part in the TTIP talks to prevent potential damages from being left out (Altay, 2018a, pp. 308-9). The Turkish government has eventually accepted the EU's offer to modernize and update the CU deal as a prerequisite for Turkey to join the TTIP after the negotiations with the U.S. have been concluded. In tandem, the European Commission (EC) commissioned an evaluation report from the World Bank on the functioning of the CU which would set bilateral deliberations on how to fix the problems caused by the CU. In 2014, the World Bank published its report on the CU including the assessment and recommendations of experts (World Bank, 2014, pp.1-132). This report drew a framework for bilateral deliberations carried out in a Senior Officials Working Group (SOWG) composed of Turkish and European trade bureaucrats. The SOWG worked between February 2014 and April 2015 and released its recommendations for Turkey and the EU on how to address both sides' concerns as to the CU (SOWG, 2015, pp. 1-4). Eventually, based upon the SOWG recommendations the Commission and the Turkish government agreed on a mutual understanding in May 2015 to modernize the CU and expand its scope to services, agriculture, and government procurement (EC, 2015, p.1).

The first objective of the European Commission out of the upgrade of the CU 1.0 to a CU 2.0 is to realize the "unfulfilled economic potential" of the partnership by liberalizing Turkey's agriculture, services, and public procurement markets (EC, 2016a, pp. 9-11). The second set of European concerns are about Turkey's "non-compliance problem." The EC contends that Ankara could not fully fulfill its CU commitments as to the trade rules, the utilization of tariffs and other border measures such as trade remedies (safeguard and anti-dumping measures), and application of different types of non-tariff barriers (NTBs) (EC, 2016a, pp. 12-3). Even though Turkey was required to approximate its national laws to relevant chapters of the EU's *acquis*, Ankara dragged its feet to embrace all legislation pertinent to motor vehicles, failed to enforce IPRs and to materialize full approximation to the EU's competition regime especially concerning the state aids (EC, 2016a, p. 13; Hakura, 2018, p.5). According to the EC, there is no certainty in the Turkish market for European exporters and investors owing to Turkey's unpredictable policies contradicting with the CU and the *acquis* (EC, 2016a, p. 20, 24, 54).

The problem also arguably partly rests in ineffective dispute settlement and notification rules of the CU. Trade disputes between the EU and Turkey have grown partly due to the nonexistence of a functioning dispute resolution mechanism under the Ankara Agreement or the CU (EC, 2016a, p. 6; World Bank, 2014, p. iii, 86).

2.2. CU 2.0 Scenarios and the privileged partnership

Following the mutual understanding in May 2015, the European Commission has released a document for the European Council encompassing an impact study in December 2016 and asked from the EU Council a negotiation mandate that could kick off the talks with Turkey (EC, 2016a, pp. 1-99). The Council has not yet given a green light for the upgrade negotiations owing to the reservations of some EU member states including Germany which tie the process to political disagreements with Turkey. The EC's assessment encompasses three options to upgrade the CU 1.0. These are the baseline scenario (i.e., doing nothing), a "CU-plus" option, and a "Deep and Comprehensive Free Trade Area (DCFTA)" alternative (EC, 2016a, pp.21-4).

Option A (i.e., the Baseline Scenario) implies maintaining the *status quo*. The EC suggests that doing nothing would result in further non-compliance of Turkey with its obligations and lead to new unresolved trade disputes in the absence of a working dispute settlement mechanism (DSM). Option B suggests a "CU-plus" engagement by modernizing existing CU in industrial goods and negotiating additional sectorial FTAs for services and agricultural products. In other words, the CU-plus scenario would upgrade CU 1.0 by negotiating bilateral FTAs and crafting new chapters on next-generation trade rules including public procurement. The Option C alternative is to negotiate a Deep and Comprehensive Free Trade Area (DCFTA) that would displace the CU. DCFTA would similarly cover industrial goods, agriculture, services, and government procurement as well as trade rules and DSM yet under a single broad FTA umbrella rather than a CU. The Commission suggests negotiating a deal in line with the EU's new comprehensive agreements with developed countries, such as Canada (EC, 2016a, p.24).

Both options A and C for a CU 2.0 would imply a deep and comprehensive regional deal between Turkey and the EU that would make Turkey open its markets and abide by a large list of regulations in the EU's *acquis*. The Commission suggests that such a comprehensive package would ensure not only a more predictable business climate but also improve human

rights conditions in Turkey (EC, 2016a, p.21). Put bluntly, alternatives proposed for a CU 2.0 are not a trade pact in the traditional sense but a giant step toward realizing a privileged partnership between Ankara and Brussels (Altay, 2018b, p. 192).

Vanguards of the privileged partnership suggest that Turkey and the EU should build a cooperation path as an alternative to full membership through creating a special institutional setting between the two parties (Beyazit, 2014, pp. 297-329; Altay, 2018b, pp. 184-6). The privileged partnership would aim to assure Ankara's backing to European stability with a strong attachment of Turkey to Europe. It would stabilize relations through continued reforms in Turkey that align Turkish laws and regulations with the EU's *acquis* and ensure democratization and support minority and human rights in Turkey. Such an alternative path would not only maximize gains from Turkey for Europe by boosting mutually beneficial cooperation in different areas but also minimize Turkey's potential costs for the EU which allegedly becomes overwhelming if Turkey is granted full membership. Instead of a costly full accession scenario, a privileged partnership would come with minimum burdens on the EU's budget for cohesion and agricultural supports. This alternative would also avoid potential economic and social costs that would stem from the free circulation of natural persons in the common market (Altay, 2018b, p.185). Proponents share these overarching goals for a privileged partnership whereas they propose alternative modes of integration between the parties.

Specific proposals usually give a central place to a modernized CU while they differ in the extent of the partnership concerning the engagement of Turkey with the EU's single market and specific policies. To exemplify, a report presented to the French Senate argued for a framework that would ensure three freedoms of the Union (i.e., for goods, services, capital) but free movement of persons/labor (Del Picchia and Haenel, 2004). Similarly, according to a Robert Schumann Foundation pamphlet called "Brochure no: 38," the privileged partnership can be constructed upon different models including the EEA model or modified version of it. In this context, they suggest that Turkey should be given the option to be part of the Eurozone and it might even participate in the Common Agriculture Policy (CAP) (Altomonte et al, 2006, pp. 60-74). While some advocates suggest a Ukraine model for the basis of the privileged partnership, others have argued for an institutional setting alike to the Norway model. For example, the former minister for defense and economic affairs of

Germany Karl-Theodor zu Guttenberg put forward that Turkey and the EU could replicate the EEA structure and bodies (Guttenberg, 2004, p.1). The next section analyses the Norway model in comparison with the CU.

3. The Norway Model

Norway's integration with the EU is inspiring for the future of Turkish-EU ties as Norway has several similarities with Turkey, namely in its engagement with the Union. Norway's ties with the EU are as strong and multidimensional as Turkish-EU relations. It is not only integrated into the EU economically through the EEA but also politically through strong cooperation in justice and home affairs and on foreign and security policies thanks to its membership in NATO. Norway participates in key dimensions of EU policies in home and justice affairs, the most important of which is the Schengen cooperation membership which makes Norway part of a common internal free-travel zone with a shared external border. Similarly, on security and foreign policies, Norway follows the EU's common policies closely and coordinates and cooperates with those policies in areas where this better off Norwegian interests (EC, 2016a, p.1).

Norway's economic incorporation with the EU has been realized through the EFTA and EEA (Emerson, 2017, p.170). The EFTA is a free trade area founded in 1960 as an alternative to the EEC. Its current membership includes Iceland, Liechtenstein, Norway, and Switzerland. EFTA states have adopted some basic common standards on a wide area of commercial issues. Each member state can negotiate an FTA with a third country while most of the time EFTA does engage in negotiations as a bloc. On the other hand, the EEA is the cornerstone of relations between three EFTA countries including Norway and the EU. The EEA was established in 1992 as an umbrella pact that extends the EU's common market to non-EU territories. Currently, it brings together 28 EU states with three of the EFTA states, i.e., Iceland, Norway, and Liechtenstein. Thanks to the EFTA Norway has improved its ties with non-EU European economies and through EEA it benefits from access to the EU's single market. This structure helped Norway to become the EU's 7th biggest trade partner with a trade surplus on its side. The EU is the biggest import and export partner of Norway whose economy depends largely on petroleum products, shipping -with the fourth-largest fleet globally, fisheries, and Ferro-allays such as aluminum in which is the primary supplier to the EU (EC, 2021a, p.1).

Table 1: Comparing the Norway Model with the CU and CU 2.0

		Status quo (CU)	EC's CU 2.0 Options		Norway Model
			CU plus	DCFTA	
4 freedoms	Industrial Goods	Yes	Yes		Yes
		No rules of origin	No rules of origin	Rules of origin	Rules of origin
	Agricultural Goods	No	Yes		No
	Services	No	Yes *Cross-border services, *Sector-based partial coverage		Yes Substantial coverage
	Capital/establishment	No	*Capital movements *Establishment provisions		Yes
	Free movement of labor	No	No	No	Yes
Full access to single market?		No	No	No	Yes
Alignment with acquis	Rules coverage/acquis	Limited coverage: Customs, technical regulations, competition and state aid, IPRs	Extensive coverage: Customs, technical regulations, competition and state aid, IPRs, SPS measures, environment, labor, energy and raw materials, geographical indications, public procurement, SMEs.		Substantial coverage (~75% of acquis)
	Legal Enforcement	No legal enforcement: consultations-based dispute settlement	Legal enforcement: Dispute Settlement Mechanism		Legal enforcement: EFTA Court
Other issues	FTA Assymetry Resolved?	No	No clear commitments	Yes	Yes
	Financial Contribution to EU	No	No	No	Yes
	Independence in foreign trade	No	No	Yes	Yes
	Ability to influence policies	No	Decision-shaping	No	Decision-shaping

Sources: Author's compilation from legal texts and resources including EC, 2016, 8-26; Togan, 1997, pp. 157–179; 2015, pp. 37-48; Pérez Crespo, 2017, 94–122.

3.1. Single Market Access and Four Freedoms

In comparison with Turkey's current CU, the EEA provides Norway with much extensive access to the markets of the EU. The EEA Agreement enables all four freedoms of movement between Norway and the EU. All EEA members benefit from substantial access to the European common market in goods, services, capital, and labor. For Norway, the only exception is in the domain of goods as the agreement excludes agriculture and fisheries, which are sensitive to Norway (EFTA, 2021a, p.1). Still, Article 19 of the EEA pact underscores the parties' commitment to progressive liberalization in farming trade, which is accomplished through stri-

king separate agreements (EFTA, 2021b, p.1). Finally, in the domain of free movement of labor, the EEA Agreement's Article 112 allows for non-EU member countries to opt-out from the four freedoms in case they face serious emergencies of economic, societal, or ecological nature. This is the famous "emergency brake", which permits unilateral measures yet it stipulates consultation with other EEA countries and is subject to fines in case of misuse (Pérez Crespo, 2017, p.102; Bobowiec, 2017, p. 118).

When compared to the two CU 2.0 proposals of the European Commission (i.e., CU-plus and DCFTA options), the EEA model or a model to be created in

inspiration from the EEA as argued by Gutenberg, would provide Turkey with broader access to the EU's single market including its goods, services, and labor markets. The European Economic Area model might be disadvantageous only because it does not envisage common customs arrangements and hence it does not eliminate the rules of origins between the parties (Pérez Crespo, 2017, p.100). In case Turkey switches from its CU to a model similar to Norway's EEA model this would create some costs because of a reinstatement of the rules of origins. The EC's DCFTA option would bring about the same costs since it envisages a switch from a CU model to an FTA model similar to EEA (EC, 2016a, pp. 24-25). Yet the EEA model is more comprehensive than the DCFTA laid out by the Commission since the EEA allows substantial access to the EU's common market. Besides, as it provides a full approximation of Norway's domestic laws to the *acquis* in several issue areas, the EEA model also erodes potential trade frictions that might come out of NTBs such as those described above in the context of the CU. In this regard, one can safely argue that the EEA model would provide Turkish goods, services, and people with more NTB-free access to the EU markets than the current CU and two CU 2.0 options set by the EC.

The elimination of NTBs is particularly critical for Turkey's better market access in services, which is currently not included in the Turkish-EU CU. The EC's two options for a CU 2.0 (CU-plus and DCFTA options) are unlikely to allow a similar level of access in European markets that EEA provides Norway with. Those options suggest a Turkish-EU FTA on services similar to the rules of the Canada-EU Comprehensive Economic and Trade Agreement (CETA) (EC, 2016a, p. 73). The CETA's services chapter provides Canada with preferential access to cross-border services and dedicated chapters in significant services such as financial and telecommunication services, electronic commerce, international maritime and transport services, and for temporary entry of natural persons (EC, 2021b, p.1). This is more limited access than enjoyed by Norway through a serious alignment of domestic laws with the *acquis* in the domain of services (BBC, 2016, p.1). In sum, as regards the access to the EU's common market, the EEA-based Norway model is better than the models offered to Turkey and other FTA partners of the EU such as Canada through the CETA, which offers tariff-free access to goods markets but moderate access to European services markets and allows for no freedom of movement of labor (see for example EC, 2021b, p.1).

3.2. Compliance with EU Rules

Such smooth access to the EU's common market is naturally ensured by Norway's substantial accordance with the EU's rules and regulations, i.e. *acquis communautaire*. As noted earlier Turkey's CU has required Turkey's adoption of part of the *acquis*, namely the EU's CCP, customs regime, technical standards, competition and state aid policies, and IPRs. The EEA has a far more comprehensive coverage than the CU as well as the legal coverage proposed by the Commission for CU 2.0 (both options). The EC sets a long list of issues to be covered in options proposed for CU 2.0 including:

- Public procurement,
- Energy and raw materials,
- Capital mobility,
- Sanitary and Phytosanitary Standards (SPS) for agricultural products,
- Trade and sustainable development chapter that would cover environmental and labor norms,
- Geographical indicators (GIs),
- Transparency, and
- Small and Medium-Sized Enterprises (SMEs) (EC, 2016a, pp. 11-12).

Turkey has unilaterally adopted several laws and regulations as part of its alignment with the *acquis* as an acceding country (EC, 2018, pp. 3-101). Yet, these rules can unilaterally be changed by the Turkish authorities with no legal sanctions. On the other hand, the above-listed rules to be committed by Ankara as part of the CU 2.0 will be binding thanks to novel enforcement mechanisms including a legal DSM. It is argued that this list of issues will oblige Turkey's compliance with more than 20 chapters of the *acquis* (Altay, 2018b, p.191). As shown later below Turkey's embracement of those new rules through a binding international accord (CU 2.0) will have significant repercussions including adjustment costs (Altay, 2018b, p.194).

Compared to the list of issues to be covered under the CU 2.0, the EEA provides Norway with an obligation to abide by a larger set of EU rules. Even though Norway is not an EU member, it is strongly integrated into the continent. When the treaty came into force in 1994 the EEA Agreement was composed of 1,875 EU legal acts. Today the number of acts incorporated by the decisions of the EEA Joint Committee is around 9,700 acts (EFTA, 2021c, p.1). Even though Norway does not take part in the decision-making mechanisms of the EU it has full

access to the EU's single market thanks to EEA provisions (EEA Review Committee, 2012). Consequently, Norway implements entirely the whole *acquis* pertinent to the four freedoms plus it applies all flanking policies including competition, transport, environment, statistics, social policy, company law, and consumer protection. This is why the EEA pact provides Norway and other members with higher economic penetration with the EU. Nevertheless, since farming and fisheries rules are not part of the EEA deal, Norway is exempt from the EU's Common Agricultural Policy (CAP) and Common Fisheries Policy and it does not partake in the Union's justice and home affairs rules (EFTA, 2021a, p.1).

A Norway model for Turkey would, therefore, mean a dynamic adoption of a larger set of EU rules on people and capital, goods and services, as well as competition and other connected domains or flanking policies. Even though the adoption of such a model may incur some adjustment costs for Turkey this is the key to avoiding numerous non-tariff barriers that exist under the CU or which will continue to exist under a CU 2.0, considering the options proposed by the EC. Yet the Norway model may not be able to address the NTBs that Turkey faces in the domain of agricultural trade with the EU since this sector is not included in the EEA (EFTA, 2021a, p.1; 2021b, p.1).

3.3. Legal Enforcement

In the case of the current CU there is only an ineffective consultation mechanism between Turkey and the EU but no formal legal dispute settlement and enforcement mechanisms that would be binding for Turkey to ensure its adherence to the CU rules and more broadly to the *acquis*. The lack of such a system, according to the EC, is the main reason for Turkey's "non-compliance" problem. With a CU 2.0, the European Commission proposes to address this challenge by creating an effective and binding DSM that would include an arbitration panel, operational sanctions, and a mediation system to address the compliance challenges (EC, 2016a, pp. 49-50). Furthermore, the EU proposed to monitor Turkey's adherence to the *acquis*, its implementation of all CU commitments, and legislative processes of Turkey in approximating national laws to the *acquis* through new mechanisms for exchange of information and notification (EC, 2016a, pp. 23-4, 49-50).

Similarly, the Norway model also encapsulates multiple mechanisms for ensuring non-EU parties'

adoption of the EU rules. The EEA framework might even be stronger than the institutional structure tabled by the EC for renewed CU. Under the EEA, a Standing Committee of the EFTA States brings members together to consult and bridge their positions on specific issues. There are also the EFTA Surveillance Authority, which supervises members' adherence to the EEA pact, and the EFTA Court which resolves disputes between EEA-EFTA states.² This two-pillar system allows for the European Commission and the Court of Justice of the EU to ensure the accordance of EU members with the *acquis* whereas non-EU members are subject to the jurisdiction of the EFTA Court and the EFTA Surveillance Authority (Pérez Crespo, 2017, pp. 103-4). The evidence suggests that both in CU 2.0 scenarios and in case Turkey adopts a model similar to Norway's there will be strong enforcement measures to ensure Turkey's accordance with the EU rules potentially with sanctions and compensation mechanisms in cases of non-compliance (e.g. EFTA Court, 2021, p.1).

3.4. Influence and Participation in Decision-Making

One reason Turkey wants to upgrade the CU is that Turkey wants to take part in the policy-making processes in Brussels regarding the Common Commercial Policy (CCP) and CU-related rules and regulations. In the current structure, Turkey does not assume any roles in the making of the EU's CCP through attending the Trade Policy Committee or in FTA negotiations with the third parties (EC, 2016a, p.23; World Bank, 2014, p. 28). Ankara and Brussels are supposed to consult and share information through a Customs Union Joint Committee as well as through broader consultation frameworks including the Association Council and Association Committee (World Bank, 2014, p.2). Nevertheless, these structures have proven to be entirely ineffective. In option B (CU-plus option) the Commission recognizes the need to consider Turkey's engagement in Brussels' trade policy-making. It notes that the parties need to examine ways to improve notification and consultation mechanisms under the CU and consider Ankara's participation in various EU committees pertinent to the CU (EC, 2016a, p.23). The objective of the EC is clearly to "facilitate Turkey's alignment" with the *acquis* rather than to enhance Ankara's influence in decision-making by entitling Turkey with a veto power probably through entitling Turkey with some decision "shaping" power (EC, 2016a, p. 17, 87). In the alternative DCFTA option

²General information on the institutional aspects of the EEA can be found at EFTA (2021d), and ESA (2021), and EFTA Court (2021).

for CU 2.0 (option C), the EC suggests that Turkey will not have to be bound by CCP and FTA policies of the EU so the EU will not need to engage Turkey with its decision-making processes (EC, 2016a, pp. 24-25).

In terms of Turkey's better engagement with Brussels' decision-making procedures, the Norway model does not offer a better alternative than the two options of the EC for CU 2.0. While the Norway model is similar to the DCFTA alternative as it removes the need for Turkey to follow the EU's CCP and FTA policies, it requires the non-EU partner to effectively comply with the EU rules with minimum effect on decisions. The Norway model similarly entails decision-shaping powers (Norwegian Ministry of Foreign Affairs, 2014, p.9). Oslo has to accept the EU *acquis* and regulations dynamically, with no say on how those rules will be shaped in the future. Neither Norway nor other EFTA countries have a direct say over how the single market rules are made. The epicenter of rule-making remains to be the European Commission, and the EEA status provides Norway with no voting rights (Pérez Crespo, 2017, p.105; Fossum, 2016, pp. 343-7). Nevertheless, as Yarrow suggests in practice "voting settles very little" (Yarrow, 2019, p.1). Furthermore, Articles 99 and 100 of the EEA Agreement allow for EEA-EFTA countries, as a group, to engage in the early phase of the drafting of 'EEA relevant' EU measures through joint committees and expert groups (Pérez Crespo, 2017, p.105; Norwegian Ministry of Foreign Affairs, 2014, p. 9).

In other words, the EEA status provides the non-EU members with structures to negotiate and exchange views with the EU at an early phase of legislation, i.e. during the drafting of proposals by the Commission and preliminary debates in European institutions. It allows non-EU members with some space of maneuver that is not available even for EU members. Theoretically, non-EU EEA members are allowed to examine new rules made by Brussels and declare that these rules are not EEA-relevant, they can even call for adjustments or amendments (Yarrow, 2019, p.1). Nonetheless, it is hard to assert that EEA members have a meaningful bargaining capability vis-à-vis the EU for making amendments to rules negotiated by 28 EU members within the EU institutions (Pérez Crespo, 2017, p. 106).

3.5. FTA Asymmetry and Trade Policy Independence

Turkey's FTA asymmetry problem is an intricate and hard one to be resolved. Ankara expects to better engage in the negotiation and decision-making processes of

EU concerning FTAs with the third countries to ensure that either Turkey automatically becomes a party to those agreements or to assure that the third parties negotiate a flanking FTA with Turkey simultaneously (World Bank, 2014, pp.24-30; Altay, 2018a, pp.308-309). CU 2.0 options offered by the EC do not sufficiently address the problem. In its CU-plus option, the Commission asserts that the European Union will need to "consider" existing procedures about FTA negotiations and implementation in order to address Turkey's demands (EC, 2016a, p. 23). In other words, the EC does not offer any solution to take Turkey to the negotiation table with the third countries but instead suggests the Union to consider exploring "what level of consultation/involvement could be envisaged between the EU and Turkey as regards the various phases of EU FTA negotiations" (EC, 2016a, p.23). The Commission does not table any applicable solutions concerning the operational problems of the CU that could be resolvable during future negotiations with Turkey.

The Commission proposes the DCFTA option as a backup plan in case Ankara and Brussels fail to produce satisfactory solutions to fix the asymmetry challenges of the CU (EC, 2016a, p. 24). It is also noted that the DCFTA option eliminates the necessity to resolve the asymmetry challenge. This is because Turkey will be free to engage in third parties to negotiate and sign its trade agreements with no need of asking consent of Brussels. Similar to the second option of the EC (the DCFTA option), the Norway model provides full trade policy autonomy in carrying out FTA negotiations with third parties. With an FTA-based alternative (DCFTA option) for CU 2.0, Turkey may re-gain its trade policy independence and start negotiating PTAs as it wishes to pursue strategic goals in its region and beyond. In fact, the Norway model provides such policy autonomy yet with more market access benefits than the DCFTA model outlined above. EFTA members are capable of negotiating their trade accords either individually or as a bloc. The bloc has free trade pacts with numerous non-EU countries including Turkey and Canada (EFTA, 2021e, p.1). Still, the Norway model has been criticized by some stakeholders who highlight concerns about the loss of sovereignty or "democratic deficit" because of the inability of Norway to participate in Brussels-centered decisions on trade rules and accepting supranational oversight (Schwok, 2013, p.1; Fossum, 2016, pp. 343-7). A Norwegian panel of experts suggested that "it has become more difficult to ensure that Norwegian interests are safeguarded when new legislation is being developed in the EU" (NMFA, 2014, p. 9). The same

concerns will apply to Turkey if Ankara adopts a model similar to the EEA's.

4. Costs versus Benefits of the Norway Model for Turkey

CU 2.0 proposals by the European Commission will bring about significant welfare benefits for Turkey particularly owing to enhanced consumer welfare thanks largely to the growth of European imports into the Turkish market. The magnitude of bilateral trade and investment is expected to grow even though the Commission's proposal will not substantially increase Turkish exports to the Union in proportion to the rise of imports from European countries (see Table 2). Besides, Turkey will also benefit from enhanced competition and economic efficiency as well as higher transparency in domestic markets and regulations (Altay, 2018b, p.193). When compared with CU 2.0 proposals, a Norway model would provide Turkey with benefits such as better access to the EU's services and goods markets, and permit Turkish nationals to move around, stay and work freely within the EU countries and vice versa.

Besides, the Norway model or a model to be created for Turkey on similar grounds during the CU update negotiations might work better for Turkey than the proposals of the EC considering Turkish sensitivities on farming. The Norway model largely excludes sensitive agriculture and fisheries from substantial market liberalization. Agricultural trade is to be included in CU 2.0 scenarios and will lead to a bigger trade deficit for Turkey (see Table 2, also EC, 2016a, pp. 31-32). Turkey is likely to observe rising imports of several agricultural products including cereals, oilseeds, dairy, and meat.

The simulations also show that Turkey is unlikely to ensure export gains in similar magnitude if the two sides agree on a new deal including agriculture (EC, 2016a, pp. 78-81).

Secondly, CU 2.0 will also come with a series of adjustments and high implementation costs because of an ambitious market opening and Turkey's adoption of higher standards with enforcement mechanisms. The EC offers the same rules package to Turkey that the EU has recently negotiated with developed nations such as Canada (EC, 2016a, p. 37). In CU 2.0 scenarios, Turkey will likely see companies' exit from the domestic market in industries that are currently sheltered by high tariffs, complex localization rules, incentives, trade defense measures, and lower standards for state aid and IPR (Altay, 2018b, p.194). Under CU 2.0 scenarios an ambitious liberalization in agriculture is also likely to result in high rural unemployment in some regions (World Bank, 2014, pp. 64-65). To adhere to its commitments under CU 2.0, Ankara will need to carry out costly investments and reforms in regulations toward raising domestic standards for food safety (World Bank, 2010; Altay, 2018a, pp. 329-332; Altay 2018b, p.194). Even though the Norway model might impose a bigger rules package on Turkey and requires similar reforms and investments, in turn, it would bring forth far-reaching economic benefits. As shown above, in addition to trade policy independence, the Norway model might work better for Turkey as it excludes sensitive farm and fisheries sectors from opening and provides Turkey with further access to the services and labor markets in Europe.

Table 2: Expected Impact of CU 2.0 Scenarios of the European Commission

Economic Impact on EU and Turkey:	CU 2.0 Option B "CU plus"	CU 2.0 Option C "DCFTA"
Percent Change in Real GDP for EU	0.007%	0.005%
Percent Change in Real GDP for Turkey	1.44%	0.26%
Change of EU Exports to Turkey (EUR)	27,062	7,978
Change of Turkish Exports to EU (EUR mm.)	4,960	-4,342
Change in Turkey's Bilateral Trade Deficit	22,102	12,320

Source: EC, 2016a: pp. 31-32; 74-75.

Nonetheless, the Norway model has one additional line of the cost that needs to be taken into account by Turkish policy-makers and negotiators: That is the monetary contribution to the EU's budget. Oslo is required to contribute to the cohesion funds and pay a fee that allows for joining the programs of the EU in exchange for smooth market access to the EU. Aside from other programs such as Horizon 2020, Schengen, and European Territorial Cooperation INTERREG, from 2014 through 2021 annual Norwegian contribution to the beneficiaries of cohesion funds through the EEA and Norway Grants have been set as 391 million Euro (NMFA, 2017b, p.1). Whether the EU asks for a similar contribution from Turkey and the magnitude of funding to be required are to be determined in bilateral negotiations and bargaining.

4.1. Political Feasibility of the Model

Adoption of a Norway-style model or the creation of a unique model for Turkey on similar terms will require further debate and analysis. Guttenberg proposes a separate structure for Turkey by replicating the EEA deal. Further to strengthening collaboration within bodies like the Association Council, he suggests forming new joint structures such as a "joint EU-Turkey committee" which could monitor approximation of EU *acquis* by Turkey, an "EU-Turkey Council of foreign ministers" which provides broader guideline for the parties, and a committee of parliamentarians from both sides (Guttenberg, 2004, p.1).

In case Ankara and Brussels consider taking Turkey within the existing EEA model they will need to consult with EU and EFTA governments. Currently, the EEA membership is only for EU or EFTA member states. Turkey has an FTA with the EFTA but is not a member. So, direct adoption of the Norway model by Ankara will require Turkey to join the EFTA as the 31st member of the EEA. If Turkey and the EU decide on moving toward that direction instead of creating a similar Turkey-specific structure, then such an arrangement will require the consent of the EFTA members. A similar debate on extending the Norway model to Britain in the context of Brexit has received both positive and negative reactions. While some officials and policy-makers from EFTA nations welcomed a potential British entry that would strengthen the EFTA bloc, others hesitated considering sensitive relations with the EU. Some Norwegian officials noted concerns about a potential politicization of the EEA agreement considering ongoing concerns in Britain about abiding by the EU rules and trade policy

independence and cautioned against possible domination of the EFTA bloc by the UK (Wintour, 2018, p.1).

On the other hand, for EU members the most problematic domain will be extending the freedom of people to Turkey. As it will redesign Turkey's contractual ties with the EU the Norway model will need to be ratified by all EU members in addition to EU institutions. As laid out before some advocates of the privileged partnership have concerns to open the EU market to the Turkish labor force. During CU upgrade negotiations Turkey may offer a long phase-out period to be part of the common labor market that would satisfy concerned parties or even suggest a permanent opt-out from the free movement of labor yet in turn for better concessions in goods and services domains. All in all, it is our view that the bottom line for Turkish policy-makers and negotiators should be to assess the Norway model as an alternative to the EC's two options and offer such an alternative during the upgrade talks to secure a better outcome for Turkey.

For the EU, the Norway model is a plausible option that needs consideration. It would resolve Turkey's non-compliance problem not only concerning a limited set of CU obligations but for a long list of domains covered by the *acquis*. Thanks to a large rules' coverage and binding enforcement measures Turkey would abide by the EU norms and standards that would contribute to domestic political stability, governance quality, and the rule of law in Turkey. In addition, the EU should take account of the EEA model as this model would address Ankara's FTA asymmetry problem which is unlikely to be resolved by the EU during the forthcoming negotiations at least without some significant changes to decision-making and negotiation procedures of the EU. It is our view that tailoring a Norway model for Turkey might cause fewer political challenges than those that would be created by an unresolved FTA asymmetries problem or by its resolution through radical and potentially painful changes within the EU mechanism as proposed by the EC's current negotiation scenarios.

5. Conclusion

The Norway model or a special arrangement for Turkey based upon the Norway model has several advantages as well as a few downsides for Turkey when compared with the CU and the Commission's two options for CU 2.0. On the downsides, the Norway model is likely to create some costs for Turkey owing to a radical market opening and adoption of higher EU standards on a wide set of issues. In this respect, the

Norway model will bring about adjustment and high implementation costs as in the CU 2.0 options because of market-opening in goods, services, and government procurement, and owing to Turkey's adoption of comprehensive rules with enforcement mechanisms. Likewise, in all scenarios, Turkey will have to adopt the EU rules pertinent to the content of the deal and will have to enforce those rules under a legal enforcement mechanism. The analysis in this paper shows that these disadvantages and associated costs are unavoidable in all scenarios since Turkey will have to undertake new obligations whose magnitude will be determined in bilateral negotiations.

Having said that, any potential costs will come with better market access benefits in the case of the Norway model when compared with the status quo and the two potential paths offered by the EC for CU 2.0, namely CU-plus and DCFTA options. Current CU has limited coverage of goods and does not address all NTBs. CU 2.0 options of the Commission will extend the sectoral coverage to agriculture, services, and government procurement. For Turkey, both CU 2.0 options and the Norway model are likely to create significant welfare gains by boosting trade between Turkey and Europe after the abolition of remaining barriers to goods and services. For Turkey in comparison to the CU and CU 2.0 alternatives, the Norway model is likely to provide for better access to the EU's single market for services, goods, and capital but also by ensuring

free circulation of labor. This is mainly because the model stipulates timely compliance of the non-EU partner with three-quarters of the *acquis*. The Norway model's legal scope is similar to but larger than the set of rules suggested to be covered by CU 2.0. One clear advantage of the Norway model is that it exempts agriculture from a radical market opening and this may keep Turkish producers and employers less affected by liberalization when contrasted to CU 2.0 options. It is evident that if the EU and Turkey move forward with the EC's CU 2.0 scenarios, Turkey is likely to observe a flux of imports of several agricultural products from Europe. Turkey's adoption of the Norway model would also erode the free trade asymmetry problem of Turkey by granting Ankara full independence in FTAs with the third parties.

The Norway model is a plausible option also for the EU. It would resolve Turkey's non-compliance problem not only concerning a limited set of obligations under the CU but for a long list of domains covered by the *acquis*. Thanks to a large rules' coverage and binding enforcement measures Turkey would abide by the EU norms and standards that would promote the rule of law, political stability, and Turkey's quality of governance. In addition, as discussed above the model could fix the FTA asymmetry challenge for Turkey which is unlikely to be addressed by the EU without some significant changes to decision-making and negotiation procedures in case of a CU-plus option.

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