



# **TURKEY EXPERIENCE SHARING PROGRAM**

**Undersecretariat of Treasury  
YOIKK Secretariat**



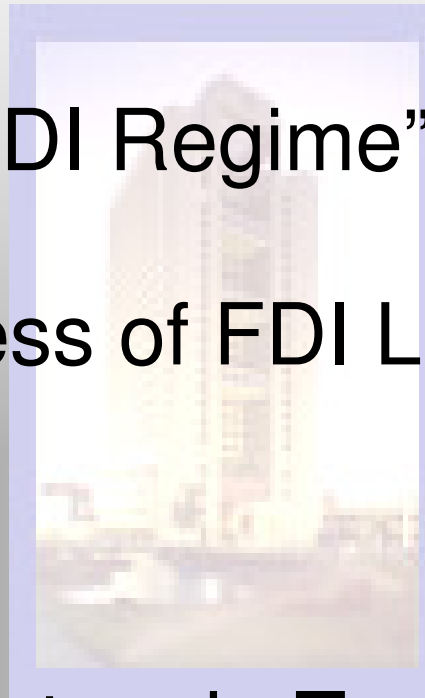
November 3, 2008  
ANKARA

# *Turkey Experience Sharing Program*



## ***Plan***

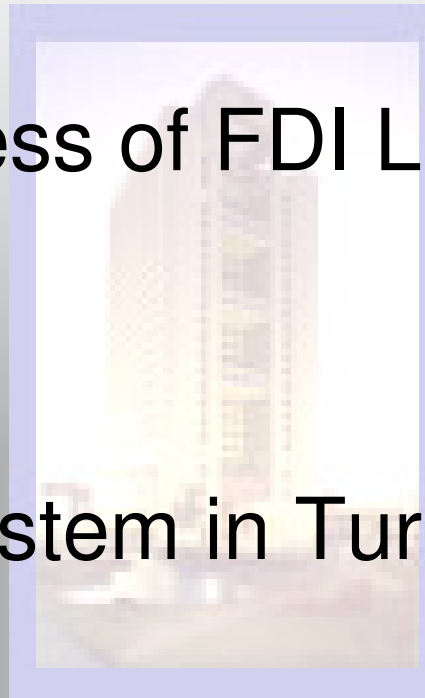
- Concept of “FDI Regime”
- Reform Process of FDI Legislation in Turkey
- New FDI Law
- State Aids System in Turkey



## *Turkey Experience Sharing Program*



- **Concept of “FDI Regime”**
- Reform Process of FDI Legislation in Turkey
- New FDI Law
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# Turkey Experience Sharing Program

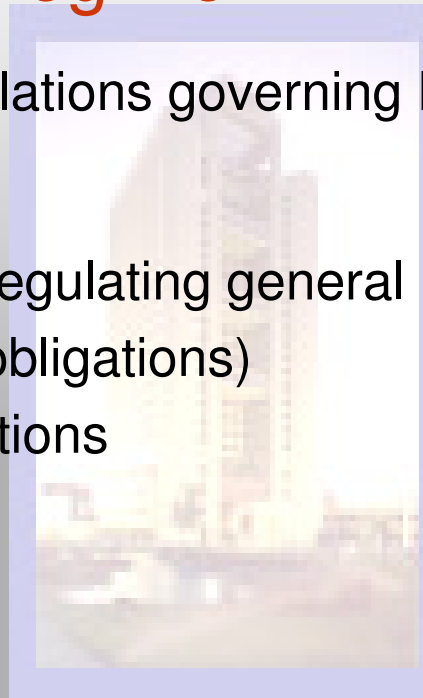


- **Concept of FDI Regime**

*Definition:* Regulations governing FDI

*Scope:*

- Main FDI Law (regulating general legal rights and obligations)
- Sectoral Regulations
- BITs



# Turkey Experience Sharing Program



- **Concept of FDI Regime**

*Impact of FDI Legislation on FDI Inflows:*

Burdensome FDI Regulations;

- Increase the cost of making investments
- Contribute informality
- Hinder new employment
- Slow down economic growth



# Turkey Experience Sharing Program

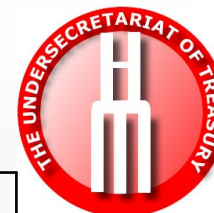


- **Concept of FDI Regime**

*Recent Trends in FDI Legislation:*

Concerns about FDI;

- Foreign takeovers of national enterprises
- National security
- Protection of technologies vital to national sovereignty and competitiveness
- Access to energy and scarce raw materials
- Emergence of a new group of investors from developing countries



## Turkey Experience Sharing Program

Country	Limited to certain sectors/activities?	Nature of screening	Criteria for granting/denying authorisation	Observations
Australia	No	General	National interest	A notification requirement and an amount threshold apply
China	Yes	General	National economic security	Includes screening rights in case of "major industry" or the risk of transfer of "famous trademarks or traditional brands"
France	Yes	Security	Public order, public security and the interest of national defence	A notification requirement applies. The extent of this requirement and the definition of sectors, varies in accordance with the EU or non-EU origin of investors
Germany	Yes	Security	War weapons	A notification requirement applies
Israel	No	Security	Essential public security	Government is authorised to intervene if other laws are insufficient
Japan	Yes	Security	National security, public order and public safety	An ex ante notification is required where issues of security, order or safety are likely to arise.
Korea	No	Security	Essential public interests	Government may intervene in case of "clear evidence" of a threat.
Mexico	Yes	General and Security		A notification requirement and an amount threshold apply.
New Zealand	No	General		A notification requirement and an amount threshold apply.
USA	No	Security	Credible threat to national security	The President may intervene if other laws do not provide adequate authority.
Canada	No	General	Economic benefits	An amount threshold applies.

Source: OECD-International Investment Perspectives 2007

# Turkey Experience Sharing Program

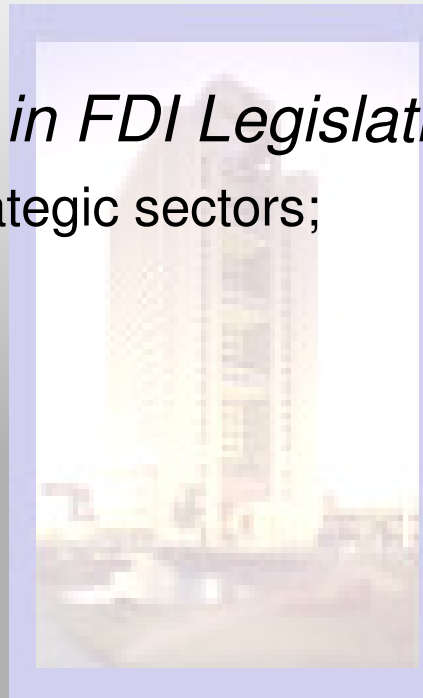


- **Concept of FDI Regime**

## *Recent Trends in FDI Legislation:*

Restrictions in strategic sectors;

- *Energy*
- *Telecommunications*
- *Broadcasting*
- *Transport*
- *Defence technologies*
- *Finance*
- *Real estate*
- *Agriculture*



## *Turkey Experience Sharing Program*



- Concept of “FDI Regime”
- Reform Process of FDI Legislation in Turkey
- New FDI Law
- State Aids System in Turkey



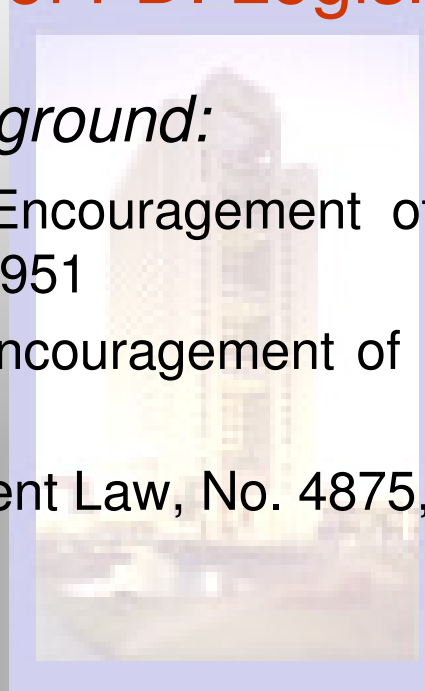
# Turkey Experience Sharing Program

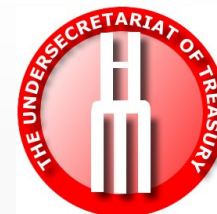


## • Reform Process of FDI Legislation in Turkey

### *Historical Background:*

- Law Concerning the Encouragement of Foreign Investment, No: 5821, dated 1 August 1951
- Law Concerning the Encouragement of Foreign Capital, No: 6224, dated 18 January 1954
- Foreign Direct Investment Law, No. 4875, dated 17 June 2003



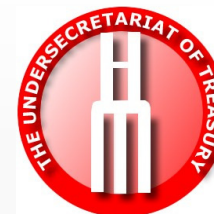


## *Turkey Experience Sharing Program*

- **Reform Process of FDI Legislation in Turkey**

*Dynamics of the Reform Process:*

- Change in the notions, definitions and applications in FDI
- EU Accession perspective
- Need to reflect Turkey's equal and liberal approach to international investments and to constitute a "legal guide" to international investors about their rights and obligations, with explicit messages.

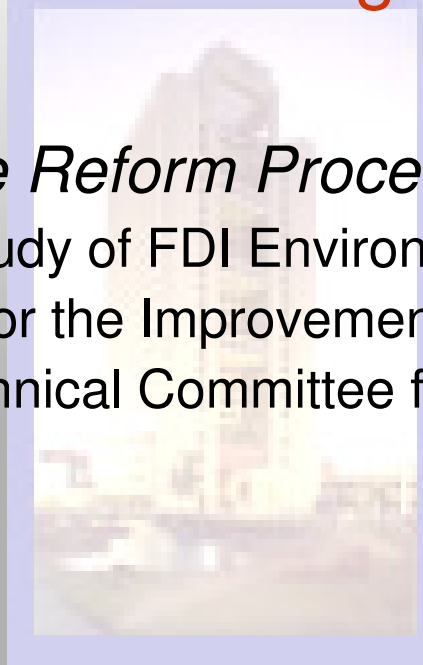


## *Turkey Experience Sharing Program*

- **Reform Process of FDI Legislation in Turkey**

*Milestones of the Reform Process:*

- Turkey-Diagnostic Study of FDI Environment (FIAS)
- Reform Programme for the Improvement of Investment Environment
- Formation of the Technical Committee for FDI Legislation



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- Reform Process of FDI Legislation

*Technical Committee for FDI Legislation:*

- Members of Technical Committee
  - Undersecretariat of Treasury
  - Ministry of Industry and Commerce
  - Secretariat General for EU Affairs
  - Central Bank of the Republic of Turkey
  - Turkish Competition Authority
  - Capital Markets Board
  - İstanbul Stock Exchange
  - Turkish Union of Chambers and Stock Exchanges
  - Turkish Industrialists' and Businessmen's Association
  - International Investors' Association
  - Small and Medium Industry Development Organization
  - Foreign Economic Relations Board
  - Private Law Offices

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- Reform Process of FDI Legislation

## *Technical Committee for FDI Legislation:*

- Working Method of Technical Committee

Ad Hoc Committee;

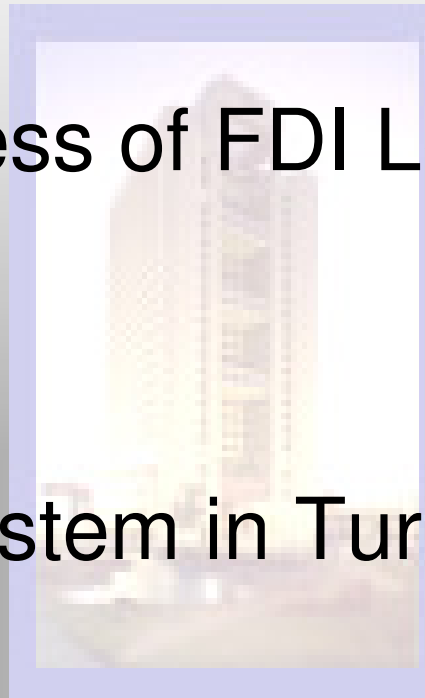
- FDI Law
- Land Registry Law (real estate acquisition of foreign direct investments)



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- Concept of “FDI Regime”
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- **New FDI Law**
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# Turkey Experience Sharing Program



- **New FDI Law**

*Main Reform Areas:*

- Accepted international standards for definitions of “foreign investor” and “foreign direct investment”
- Freedom to invest by dropping all former FDI-related screening, approval, share transfer and minimum capital requirements
- Reassurance of existing guarantees to foreign investors of their rights
- A policy shift from ex-ante control to a promotion and facilitation approach (New role of UT)



## Turkey Experience Sharing Program

- **New FDI Law**

*Broder Foreign Investor Definition:*



# Turkey Experience Sharing Program



- **New FDI Law**

*Internationally Accepted FDI Definition:*

*Law No: 6224*

- Foreign Currency
- Machinery and Equipment
- Industrial Property Rights
- Reinvested Profits

*Law No: 4875*

- All Kinds of Assets



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## • New FDI Law

*Unrestricted Entry:*

*Law No: 6224*

- Minimum Capital : \$ 50,000
- Establishment of a Joint Stock or Limited Liability Company
- Approval Process Prior to Establishment of Company

*Law No: 4875*

- No
- Requirements !



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- **New FDI Law**

## *Legal Guide for Investors:*

### *Law No:6224*

- Approval Requirements
- National Treatment
- Guarantee to Transfer Proceeds
- Key Expatriate Personnel

### *Law No:4875*

- Freedom to Invest and National Treatment
- Expropriation and Nationalisation
- Transfers
- Access to Real Estate
- Dispute Settlement

## *Turkey Experience Sharing Program*



- **New FDI Law**

*Principles Concerning FDI:*

- Freedom to Invest and National Treatment
- Expropriation and Nationalisation
- Transfers
- Access to Real Estate
- Dispute Settlement
- Valuation of Non-Cash Capital

# Turkey Experience Sharing Program



- **New FDI Law**

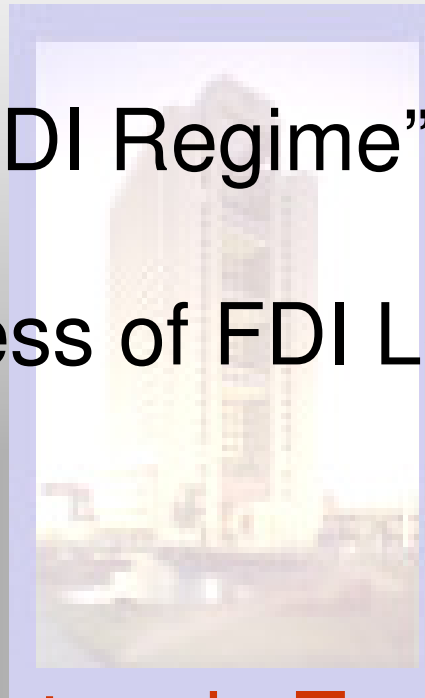
*Principles Concerning FDI:*

- Employment of Expatriates
- Liaison Offices
- Determination of FDI Policies and Data Collection: New Role of Undersecretariat of Treasury

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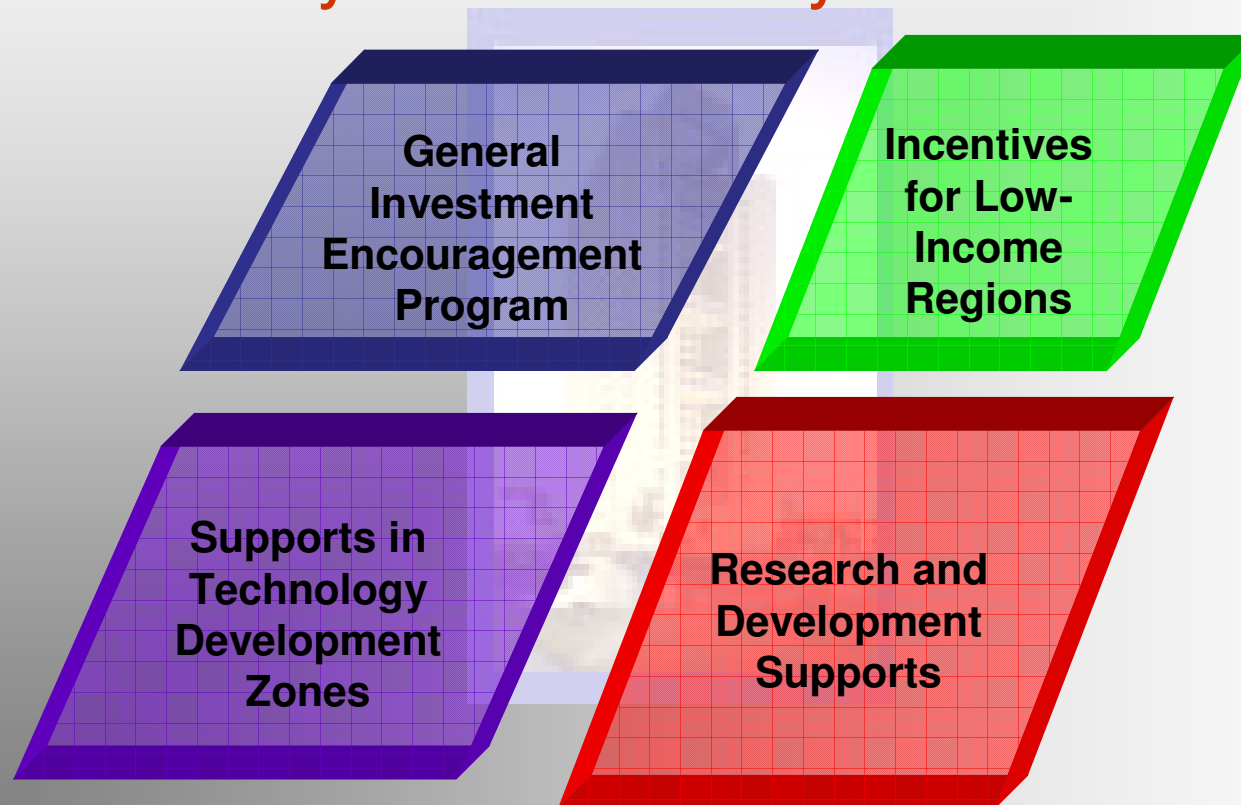
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- State Aids System in Turkey



# Turkey Experience Sharing Program



## • State Aids System in Turkey

### ➤ Exemption from Customs Duties

- Imports of machinery and equipment for investment are exempted from Customs Duty
- No customs duty on industrial goods imported from the EU Countries – Customs Union

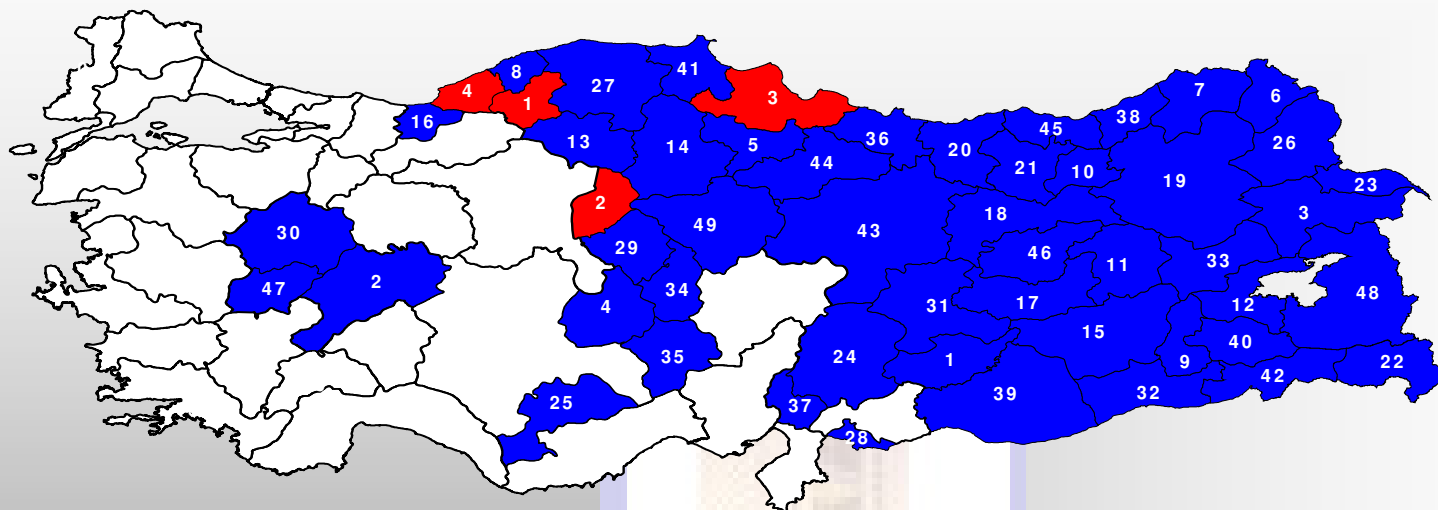
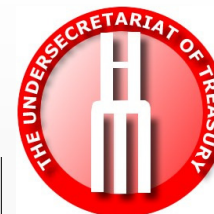
### ➤ Exemption from Value Added Tax

- Imported and locally purchased machinery and equipment for investment are exempted from VAT

### ➤ Support on Interest

- Investment loans used for investments to be realized in priority regions or by SMEs, research and development, environment

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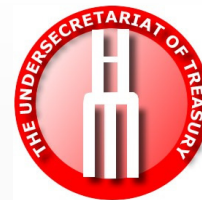


Provinces where Free Land lots are Provided in Organized Industrial Zones along with Tax, Insurance Premium and Energy Support

1	ADIYAMAN	18	ERZINCAN	35	NIGDE
2	AFYON	19	ERZURUM	36	ORDU
3	AGRI	20	GIRESUN	37	OSMANIYE
4	AKSARAY	21	GUMUSHANE	38	RIZE
5	AMASYA	22	HAKKARI	39	SANLIURFA
6	ARDAHAN	23	IGDIR	40	SIIRT
7	ARTVIN	24	KAHRAMANMARAS	41	SINOP
8	BARTIN	25	KARAMAN	42	SIRNAK
9	BATMAN	26	KARS	43	SIVAS
10	BAYBURT	27	KASTAMONU	44	TOKAT
11	BINGOL	28	KILIS	45	TRABZON
12	BITLIS	29	KIRSEHIR	46	TUNCELI
13	CANKIRI	30	KUTAHYA	47	USAK
14	CORUM	31	MALATYA	48	VAN
15	DIYARBAKIR	32	MARDIN	49	YOZGAT
16	DUZCE	33	MUS		
17	ELAZIG	34	NEVSEHIR		

Provinces where Free Land lots are Provided in Organized Industrial Zones

1	KARABUK
2	KIRIKKALE
3	SAMSUN
4	ZONGULDAK



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November 6-7, 2008  
ANKARA