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Nuancing Conventional Wisdom on State-Business Relations in Turkey: The Case of Technical Product Regulations

Frédéric Misrahi

Introduction¹

- ¹ The impact of European integration on domestic interest groups and modes of intermediation in European Union (EU) member states has given rise to a number of studies, often under the banner of Europeanisation; there is a lack of such research on candidate countries, however (Eising 2007: 181).² While not always explicitly referring to the Europeanisation label, students of Turkey have nevertheless sought to assess and explain the impact of the EU and the EU accession process on domestic interest groups, with special reference to the private sector. Some have focused on the EU's effect on voluntary business associations' approach to democratisation (Öniş 2002). Others have examined the activities of domestic business interests in lobbying for EU membership (Karaca 2004), or the dynamic of business support for accession (Ülgen 2006). Others still have assessed business's institutional adaptations as a result of the intensification of Turkey's relations with the EU (Atan 2004). The modalities of Turkish interest groups' integration into the EU's *espace politique* in Brussels have also been scrutinised (Polo & Visier 2005). In most of these contributions, the analysis is situated at the level of national, or peak, associations, even though sector-level variations are sometimes acknowledged.
- ² This study seeks to cross-fertilise this research agenda with the literature on Turkish state-business relations. It first presents the conventional wisdom on Turkish state-business relations (SBR), as generated by studies mostly pitched at national, peak level. According to this mainstream view, such relations lack institutionalisation. More

specifically, the absence of an institutionalised incorporation of business into mechanisms of consultation with the state would be due to a lack of cohesiveness on both sides of the relationship (II.). The study then contrasts this with the existence of a high degree of institutionalisation in a particular policy area: the technical regulation of industrial products. I find that this state of affairs can only be explained by the strong influence of an 'EU effect': the Europeanisation of that policy field results in the institutionalisation of actors' relations. The contribution shows how this effect, in the policy field at hand, conforms to the predictions of the policy networks literature and of recent theorising on state-business relations in regulatory trade matters. It assesses the implications of this phenomenon for the future of state-business relations in the country (III.). Finally, after a brief conclusion, it makes suggestions for future research (IV.).

I. State-business relations in Turkey: lack of institutionalisation

The paradox of state-business relations in Turkey

- 3 Those seeking to understand state-business relations (SBR) in Turkey are confronted with a paradox.
- 4 On the one hand, some studies lay the stress on the pervasiveness of particularism in these relations: sectional interests are presented as routinely influencing state economic decision-making *via* more or less legal mechanisms –from patronage and *rent-seeking* to outright corruption. This led some to speak of a 'double-faced state' (Heper & Keyman 1998), both strong in the political realm and weak, or soft, in the economic realm. This diagnosis has been corroborated and refined by well-documented studies of the impact of such particularism on Turkey-EU relations. Mehmet Uğur, for instance, identifies the pervasive influence of business interests on the state as a reason for Turkey's unsatisfactory implementation of its obligations towards the EU under the 1963 Association Agreement and the 1995 Customs Union (Uğur 1999; Uğur 2000). In another piece, the same author argued that abundant discretionary state practices have been matched by rent-seeking strategies of private economic actors, and that these have been entrenched during liberalisation in the 1980s. This not only paved the way for macroeconomic instability in the 1990s, but ultimately resulted in Turkey's divergence from EU macroeconomic policy trends (Uğur 2004). Mine Eder, for her part, has recently shown the extent to which the development of clientelism, and more generally economic populism, has accompanied liberal reforms in the 1980s and 1990s, thus erecting a 'barrier to integration with the EU' (Eder 2004).
- 5 On the other hand, different studies depict the state as often failing to consult with the private sector on important reforms, and as displaying a tendency to behave toward business in an arbitrary, if not hostile, manner. For instance, while Ayşe Buğra acknowledges the existence of particularism, she also stresses the existence in Turkey of a culture of hostility toward profit-making, as well as the well-established tendency of the state to behave unpredictably and sometimes very harshly towards private firms – some of which may be driven out of business by mere political or administrative *fiat* (Buğra 1994). Along the same lines, the Organisation for Economic Cooperation and Development more recently spoke of a context in which legal changes affecting

business often come by surprise, with little consultation, and of state officials' 'frequent suspicion' toward the private sector (OECD 2002).

- 6 How can the picture of a soft state structurally pervaded by particularistic interests be reconciled with that of a state defiant of such interests, and inclined to 'act tough' on business?

Lack of institutionalisation

- 7 This paradox is best addressed by a number of studies that explain the two phenomena by the lack of institutionalisation of state-business relations in Turkey. In a study of state-business relations in Mexico and Turkey between 1980 and 2000, Işık Özel shows that, for economic reform to take hold in such late-industrialising countries, consultative mechanisms must be institutionalized. This is because such mechanisms are a *conditio sine qua non* for commitments made on both sides to be credible in the long run. This credibility renders state-business alliances sustainable, which, in turn, enhances reform performance. However, the incorporation of business by the state into consultative mechanisms, to be durable, requires that both business and the state be cohesive enough. Here, Turkey is deemed to fail the test. The fragmented nature of the business community has long been identified as one of the reasons why politicians and bureaucrats do not enter into structured dialogue with it (Öniş & Webb 1992). Özel documents this, but also contends that, in Turkey, the state was not cohesive enough, during the period under consideration, for SBR to be durably institutionalised. Fragile coalition governments, frequent changes of political portfolios and consequent modifications of the competences of administrative agencies, as well as of bureaucratic positions, together with an unclear definition of attributions and a lack of coordination between agencies, illustrate this (Özel forthcoming; Özler & İnaç 2007). This fragmentation of state and business actors rendered their preferences unstable and unpredictable, thus generating a lack of credibility and of mutual confidence that, in turn, weakened those institutionalised consultation mechanisms that existed, making alliances unstable and undermining reforms (Özel forthcoming). Similarly, Hayrettin Özler and Hüsamettin İnaç argue that the fragmentation of the state and societal interests (particularly business) generates collective action problems for both types of actors. These result in a particularistic SBR pattern (patronage, clientelism, corruption) that structurally prevents collective goods from being produced (Özler & İnaç 2007).
- 8 The implications of this account are clear: given state and business fragmentation and the weak institutionalisation of consultation mechanisms, these actors may only have short-term horizons, hence their mutual credibility is low. Such a situation is more conducive to their mutual instrumentalisation in the pursuit of particularistic ends than to a shared and sustained commitment to long-term reform. The private sector will seek to influence the decisions of the most receptive segments of the state apparatus. As to the state, it will not hesitate to make arbitrary use of its powers, including 'acting tough' on some firms, when it comes to favouring its own clients, including other specific firms. The corollary is that, at national (or peak) level, harmony in state-business relations is at best transient, dependent as it is on the conjuncture. So, not only is the continuity and coherence of reforms far from assured, but mutual recriminations are likely to be a recurrent characteristic of SBR.

- 9 Such a focus on institutionalisation, and on reasons for its presence or absence, allows for greater analytical depth. Indeed, it displaces attention from the symptoms or effects of the problem of particularism (such as neo-liberal populism, economic mismanagement, barriers to EU integration, etc.) to its root causes. However, much remains to be explored. In particular, one may gain insights by focusing on relations between the state and specific peak associations or (groups of) firms. Also, SBR in specific sectors and policy areas remain largely unknown – a situation that the present study partially remedies.

II. State-business relations in the field of technical product regulations

- 10 In any given jurisdiction, the primary aim of technical product regulations is to make sure that goods may only be placed on a domestic market if they do not present health or safety risks for the consumer. At the same time, where a jurisdiction A adopts product regulations differing from those of jurisdiction B for a given product, this will give rise to technical barriers to trade (TBT) between the two. One way of eliminating such barriers is to harmonise the product regulations between these jurisdictions. This is what Community acts (directives and regulations) do with respect to the EU member states' product safety requirements. However, the EU has not only sought to eliminate TBT internally; it has also been careful to eliminate TBT between itself and some of its trading partners, notably Turkey. Under the EC-Turkey Customs Union, which entered into force in 1996, Turkey undertook to harmonise its product regulations with those of the EU. Such harmonisation, which requires many adaptations to Turkey's product safety law (hence also to manufacturing industry's management systems and production processes and methods), is also necessary in the framework of accession negotiations.³
- 11 This harmonisation of product regulations is part of a wider surge of regulatory activity in Turkey, which started with the country's obligation under the Customs Union to adopt EU disciplines in the fields of technical product legislation, competition and intellectual property rights. This was prolonged by the establishment of a number of regulatory agencies as a result of the conditionality set by the Bretton Woods institutions in the second half of the 1990s.⁴ The last wave of that development consisted in the re-regulation drive that followed the 2000-01 financial crisis, and consisted in major regulatory reforms such as the strengthening of the Bank Regulatory and Supervisory Agency and the granting of independence of the Central Bank, prompting two authoritative scholars to state that 'Turkey is on the way to establishing a regulatory state' (Öniş & Bakır 2007).⁵
- 12 From a SBR perspective, the said growth of regulation is important in that the development of rule-based economic management in line with EU and IMF norms limits the scope for policy discretion, hence also makes particularism more difficult. In the case of technical regulations, for instance, the adoption of harmonised technical regulations *ipso facto* rules out business pressures for the adoption by government of tailor-made product safety rules protecting the domestic market.

A high degree of institutionalisation

- 13 While the development of harmonised rules on the safety of industrial products has largely been the result of top-down government initiatives prompted by the Customs Union and by the accession process, as well as by the incentive of seeing exports to the EU facilitated, this surge of regulatory activity has also been accompanied by the structuring of SBR in a number of individual sectors. This was made via the creation of technical committees, mostly by the agency in charge of the alignment with Community *acquis* of the vast majority of product regulations: the Ministry of Industry and Trade. Below is a table listing these technical committees.

	Name of Technical committee	Date of establishment	Ministry creating the committee
1.	Motor Vehicles (MARTEK)	1997	Ministry of Industry and Trade
2.	Machinery (MAKTEK)	2003	Ministry of Industry and Trade
3.	Weighing Instruments (TARTEK)	2003	Ministry of Industry and Trade
4.	Lifts (ASTEK)	2004	Ministry of Industry and Trade
5.	Construction products (YAMTEK)	2004	Ministry of Public Works and Settlement
6.	Electrical Industry (ELTEK)	2005	Ministry of Industry and Trade
7.	Pre-packaging (HAZTEK)	2005 (revised 2008)	Ministry of Industry and Trade
8.	Construction products ('Eurocodes')	2007	Ministry of Public Works and Settlement
9.	Footwear (AY-TEK)	2008	Ministry of Industry and Trade
10.	Textiles (TEKS-TEK)	2008	Ministry of Industry and Trade
11.	Chemistry (KİMTEK)	2008	Ministry of Industry and Trade
12.	Forestry, paper and furniture (ORKAMO-TEK)	2008	Ministry of Industry and Trade

13.	Metal Industry (METAL-TEK)	2008	Ministry of Industry and Trade
14.	Soil products (TOPRAK-TEK)	2008	Ministry of Industry and Trade
15.	Pressure equipment (BASTEK)	2009	Ministry of Industry and Trade
16.	Gas appliances (GAZTEK)	2009	Ministry of Industry and Trade

Sources: Ministry of Industry and Trade; Official Gazette⁶

- 14 All these technical committees were established on the initiative of the government, *via* ministerial communiqués [*tebliğ*]. All committees were created by the Ministry of Industry and Trade, apart from the construction products-related committees, which were established by the Ministry of Public Works and Settlement. The communiqués specify that the committees are to meet on a regular basis, and that the ministry may convene them whenever it deems it necessary.
- 15 It is clear that these committees attest to a high degree of institutionalisation of state-business relations in this policy area, for the industry sectors concerned. On the state side, the participation is strikingly wide, indicating a desire to coordinate public action in the area. The regulations creating the committees systematically provide for the participation of the Under-Secretariat for Foreign Trade in their meetings; this can only be explained by its legal mandate to act as coordinator of issues related to the alignment of Turkey's technical legislation with the EU's. The Ministry of Industry and Trade regulations, where relevant, also associate other ministries such as the Ministry of Public Works and Settlement, or the Ministry of Labour and Social Security. Those committees that were set up by Ministry of Industry and Trade from 2008 onwards systematically provide for the participation of ministry's Directorate General for EU coordination, whose mandate is broadly to ensure the *acquis*-compatibility of the ministry's initiatives. Where relevant, other bodies are involved, such as the National Metrology Institute UME [*Ulusal Metroloji Enstitüsü*] in the case of weighing instruments.
- 16 On the business side, the coverage is also comprehensive, as it includes business associations with voluntary and compulsory membership. A number of communiqués prescribe the participation of the Turkish Union of Chambers and Commodity Exchanges - TOBB [*Türkiye Odalar ve Borsalar Birliği*], the peak-level business association whose membership is compulsory for all firms, or of representatives of its sector-level assemblies [*meclis*].⁷ The participation of the competent chambers of engineers, as well as of the main exporter associations active in the sectors concerned, is also provided for. The participation of voluntary sector-level industry associations is called for either by direct reference to their names, thus conferring on them *de jure* representative status, or indirectly ('three representatives of the sector's industry associations'), as in the case of ASTEK and ORKAMO-TEK. The participation of the country's private standardisation body, the Turkish Standards Institute TSE [*Türk Standartları Enstitüsü*], is systematically provided for.

Institutionalisation as a form of Europeanisation

- 17 This institutionalisation is a form of Europeanisation in that, it is to a considerable extent the result of a strong 'EU effect'. Indeed, it is clear to anyone familiar with EU technical legislation that these committees are the direct result of alignment with EU legislation.
- 18 First, the names of these committees indicate that they correspond to the thematic classification of Community legislation established by the EU itself: the numerous directives and regulations on motor vehicles, the directive on machinery (98/37/EC, soon to be replaced by 2006/42/EC), the directives on weighing instruments and the recent measuring instruments directive (2004/22/EC), the lifts directive (95/16/EC), the directives on low voltage (ex-73/23/EEC, now 2006/95/EC) and electro-magnetic compatibility (ex-89/336/EEC, now 2004/108/EC), etc.⁸ In fact, most of these committees were set up after the initial adoption by Turkey of basic relevant *acquis*-conform legislation. Note however that, once established, technical committees discuss the adoption of new EU-conform legislation affecting their sector.⁹
- 19 Second, while the committees' mission includes general tasks, such as diagnosing the sectors' economic situation, the typical description of their specific assignments makes it clear how closely linked their mandate is to the harmonisation of Turkey's technical regulations with those of the EU. For instance, they make proposals to the ministry in anticipation of meetings with the European Commission. They inform the ministry of their positions regarding the revision and implementation of aligned technical legislation. They identify the sector's implementation problems and potential solutions. For instance, in the case of legislation corresponding to 'new approach directives',¹⁰ in which the bodies specialising in the certification of products' conformity to the directive are mostly private, the committees are entrusted with the task to identify the need for such 'notified' bodies.¹¹ In the case of the two committees established in 2009 (gas appliances, pressure equipment), the regulations provide for the participation of notified body representatives in committee meetings.
- 20 Most of the sectors incorporated in committees also presented a degree of sensitivity in terms of their exposure to EU competition at the time of their establishment. This may be because they are composed of a high proportion of small or medium-sized enterprises typically sensitive to adjustment costs. It may also be because they were in need of notified bodies so as to reduce conformity assessment costs, hence making exports more competitive (lifts, machinery, some construction products). It may also have been because they are otherwise in a delicate trading position (consider price competition in the shoes industry), or, in the case of chemicals, because they might be adversely affected in the short term by harmonisation.
- 21 Note that some of the sectors concerned were not previously known to be strongly cohesive and organised, which contrasts with previous explanations that business is not incorporated in consultation mechanisms when it is seen by the state to be too fragmented (Öniş & Webb 1992). Such was probably the case of the automotive sector at the time of the creation of MARTEK (Biddle & Milor 1997).¹² The case of the construction products sector is also in point, with the sector-level association, the Association of Turkish Building Material Producers İMSAD [*İnşaat Malzemesi Sanayicileri Derneği*], representing as many as 23 producers associations active in the sub-sectors. At the time YAMTEK was founded, İMSAD's capacity was still in need of strengthening,

which was done later with the help of the EU funds, solicited with the ministry's support.¹³ Another case of fragmentation would be that of the machinery industry, which is composed of many small and medium-sized enterprises, divided into many sub-sectors, and correspondingly represented in MAKTEK by no less than three producers associations, and two exporters' unions. Last but not least, the committee on pre-packaging comprises 13 industry associations.

- 22 It is also worth noting that the initiative of creating technical committees arguably contributes to the structuring of private action in the area of technical legislation. On the model of MARTEK, technical committees are sub-divided in specialised sub-committees. Next to civil servants, the sub-committees involve technical experts from various firms or from universities, who routinely cooperate. In the case of the automotive sector, a similar working group structure internal to the sector-level, voluntary membership business association (Automotive Industry Association, OSD [*Otomotiv Sanayi Derneği*]), gathers about 200 engineers from member firms. These meet monthly to prepare items on the agenda of MARTEK.¹⁴
- 23 Judging from the intensity of Turkish regulatory activities aiming to effect alignment with EU *acquis* in the motor vehicles sector,¹⁵ it is clear that the activities of the MARTEK committee have been intensive. Committees have also been busy preparing the adoption of new legislation in other sectors. KİMTEK's establishment follows the adoption of much legislation meant to transpose EU *acquis*, but the sector felt the need to make an inventory of applicable EU legislation together with the ministry, and incidentally also to discuss the trade issues arising from the EU's new chemicals regulation.¹⁶ One may also mention the case of TARTEK, whose establishment in 2003 follows the adoption of a number of purportedly EU-conform regulations, but which, since the adoption by the EU of the measuring instruments directive in March 2004, has been preparing its transposition.¹⁷ There are also clear indications that the industry has actively provided input, within ASTEK, into the development of legislation, as in the case of the recent regulation on the operation and maintenance of lifts (TMMOB 2008).¹⁸
- 24 In new approach sectors, clearly the Turkish authorities have not waited for the creation of technical committees to identify the need for notified bodies. However, the industry uses these committees to convey their needs to the authorities, and help them address these needs. There is evidence that the designation of notified bodies was on the agenda of the very first meeting of ASTEK, for instance (*Elektrik Mühendisleri Odası* 2004), indicating the importance of the designation of notified bodies for the lifts industry, which was initially lukewarm towards alignment. Similarly, TARTEK provides an avenue for the industry to accelerate the much-expected designation of notified bodies covering the measuring instruments directive. BASTEK and GAZTEK, both set up in 2009, explicitly serve similar purposes.¹⁹
- 25 Thus, while it may be too early to assess the work of a number of committees (particularly those set up in the last two years), it is clear that they are far from being empty shells. In the pragmatic universe of product regulation, time is money. Discussions frequently concern highly technical subjects, and decisions may have onerous consequences for firms, for instance because they are susceptible to affect their production processes. Committees address real public policy and market needs. Under such circumstances, the actors concerned display little inclination to posture in talking shops.

- 26 While the committees' establishment results from public initiative, the industry generally welcomes them as they provide it with a *locus* for discussing policy development and implementation, in which all relevant actors are present: regulator, regulated firms (represented by business associations), the standardisation body and, in the case of committees established in 2009, conformity assessment players.²⁰ In most cases, many of these actors will already know one another, for instance *via* the participation in TSE working groups. However, the committees provide them with the opportunity to meet regularly, all together, and to have structured discussions on the hot topics of the day in regulatory affairs. This puts the private sector in a position to receive and exchange information on upcoming changes in regulation and standardisation, and to raise the other actors' awareness of manufacturers' needs. These needs may relate to transitional periods before the entry into force of new legislation, or to the position the Turkish authorities will adopt in European or international fora. They may also relate to issues such as the elimination of obstacles faced in cross-border trade, the recognition of conformity assessment certificates in EU member states, or the need for domestic notified bodies.

Theoretical explanations

- 27 This institutionalisation conforms to the predictions of recent theorising on state-business relations, as well as the mainstream literature on policy networks. New theorising relating to SBR on trade issues asserts that, in those cases where regulatory trade matters are at stake, it is no longer correct to present these relations as essentially consisting of business lobbying for or against the liberalisation of markets. Such a binary presentation undoubtedly had explanatory power in the case of traditional, tariff-related, trade matters. However, as the agenda of trade negotiations widened in the 1990s to include non-tariff-related issues, including the harmonisation of regulatory frameworks, new forms of SBR have appeared which may no longer be explained in binary terms.
- 28 Where trade matters of a regulatory nature are concerned, typically involving a degree of uncertainty as to the consequences of the effects of new regulation, simple unilateral business pressures for protection or liberalisation are rare. One is more likely to observe a cooperative and interactive type of lobbying, with governments actively soliciting firm participation. This is because governments depend on the expertise and information that business can provide on market characteristics and other technical matters. Firms in turn have strong incentives to participate, since they will be directly affected by the regulatory measures to be taken. Crucially, the mutual dependence between business and government means that stable working relationships will emerge between government and business, which then come to resemble business-government interactions on domestic regulatory issues (Woll and Artigas 2007).
- 29 Our case fits remarkably with the above description. Indeed, the incorporation of Community instruments relating to product safety requirements is a trade matter. The resulting transposing acts are clearly regulatory in nature. And the state took the initiative of institutionalising consultations, which is remarkable in a country where the state is known to often act first, and consult afterwards. The main *caveat* is that, in our case, consultations do not concern trade negotiations, but are merely restricted to the *implementation* of 'transposing' legislation. Indeed, the negotiations on the Customs

Union itself were conducted by the state with little consultations (Eder 1999), and the initial decision to adopt individual pieces of transposing legislation was usually announced as an inevitable outcome by the competent ministries, with negotiations with business only concerning the exact timing and contents of the transposition.²¹ The adoption of each individual transposing act had the concrete effect of triggering further liberalisation of trade in the product category concerned, normally resulting in a reduction of border checks to routine documentary controls. Nevertheless, the fact remains that, in my study, the pattern of stable, institutionalised consultation results from the government's need for expertise and information, which is exacerbated in Turkey by real problems of administrative capacity. Hence the pattern observed in the study well illustrates the general phenomenon described by Woll and Artigas.

- 30 A word of caution is in order at this stage. The claim here is simply that the pattern of institutionalisation observed in this study corresponds to the predictions of recent theorising on SBR in regulatory trade matters. Hence, a key reason why Europeanisation takes the form of institutionalisation is because it takes place in a policy area where regulatory trade matters are mainly at issue, which triggers a need for expertise and information on the part of the government. The intention is not to claim that the main factor causing alignment is the regulatory nature of the measures at hand. Clearly, the conviction of successive ministers and high-level administrative staff, that alignment with EU legislation was beneficial for the country's industry, and also ultimately for the safety of consumers, must have played an essential part in stimulating implementation efforts. Neither does this study claim that the sole factor prompting the institutionalisation of SBR in the area of product safety requirements was the regulatory nature of the measures. State preferences vis-à-vis alignment must have played a role in facilitating the establishment of the technical committees. Furthermore, the concentration of power in the hands of the Ministry of Industry and Trade (particularly its Directorate General for Industry) certainly helped the state eschew collective action problems.
- 31 In broader terms, the institutionalisation of state-business relations in the area of product regulations may also be viewed as the development by the state of a policy network spanning state ministries, business, as well as bodies involved in such horizontal matters as standardisation or metrology. According to the literature, state actors typically create policy networks in situations where 'they do not have policy preferences as obvious as those of interest groups, and/or (...) they want to reduce the transaction costs and risk involved in policy implementation by guaranteeing the compliance and cooperation of affected groups' (Özler & Inaç 2007: 366; Marsh 1998).
- 32 The creation of such institutionalised networks is also at play in fields other than technical legislation, in which the complexities of regulatory policy also generates a need for business input. Three examples spring to mind, which would deserve empirical investigation.²² The first one is the organisation, since 2005, of regular consultations between the Turkish authorities and various business associations prior to the meetings of the Customs Union Joint Committee (CUJC). This is the forum in which Turkey and the European Commission exchange information on, and discuss, the implementation of the Customs Union.²³ Since the parties have generally eliminated tariffs amongst themselves, these meetings concern regulatory trade matters. Prior to defining the Turkish side's official position in the CUJC, the Under-Secretariat for Foreign Trade and a number of line ministries hold a meeting with TOBB, the Turkish

Industrialists and Businessmen's Association TÜSİAD [*Türk Sanayicileri ve İşadamları Derneği*], the Turkish Exporters' Assembly TİM [*Türkiye İhracatçılar Meclisi*] and the Economic Development Foundation İKV [*İktisadi Kalkınma Vakfı*]. These meetings help the authorities gather these organisations' views and adopt more informed trade positions.

- 33 A second example is that of the development of industrial strategies, within the very technical committees that are the subject of this study, in an attempt to effect alignment with EU *acquis* on industrial policy in such sectors as motor vehicles, machinery, the metal industry and the electrical industry. A third example, less directly related with EU affairs, is the area of investment promotion, where relations between business and government are not only cooperative (Schmid & Atan 2006) but also became recently institutionalised. Evidence of this is the existence and active work of institutions such as the Investment Advisory Council YDK [*Yatırım Danışma Konseyi*] and the Coordination Council for the Improvement of Investment Environment in Turkey YOİKK [*Yatırım Ortamını İyileştirme Koordinasyon Kurulu*]. One also thinks of the establishment of an Investment Support and Promotion Agency (ISPAT) in the summer of 2006.
- 34 Similar forms of business-government cooperation may further emerge in future. For instance, should Turkey and the EU decide, in the framework of accession talks, to open negotiations on Turkey's alignment in the area of services, a gradual liberalisation might be expected. This would certainly require much coordination between public agencies, be it only to identify the obstacles to the free provision of services in the first place. But it would also demand extensive and continuous consultations with the many sectors concerned. Indeed, the area of services is so broad and economically important (about 60% of GDP) that a proper sequencing of liberalisation on the basis of detailed economic data would be indispensable. Such an exercise would be very difficult without sustained, in-depth sector-level consultations.

Towards more cooperative state-business relations?

- 35 Do these trends toward institutionalisation herald a wider change towards more cooperative SBR in Turkey, including at peak level? In their study of investment promotion, Dorothee Schmid and Serap Atan suggested that these relations might indeed be getting more cooperative. In their view, such a diagnosis was warranted because the balance of forces between state and business had been altered in favour of the latter as a result of two factors. The first factor they identified was the restriction of the state's room for manoeuvre in the context of its heightened dependency on the EU (as a result of the accession process) and the Bretton Woods institutions. The second factor was the Europeanisation of Turkish business associations. These associations, by developing bonds with EU institutions and with EU umbrella business organisations (UNICE – now Business Europe, Usines Europe, Eurochambres, UEAPME),²⁴ would have strengthened their hand vis-à-vis the government (Schmid & Atan 2006).
- 36 This hypothesis would tend to be supported by the evidence found by Schmid and Atan in the area of investment promotion, or by the cooperation that takes place before CUJC meetings. However, soon after Schmid and Atan's study, the idea that SBR had or would become more cooperative was dealt a blow by the eruption of a major dispute between the Islamist-rooted government and the secularist TÜSİAD, the country's main

voluntary business association and a member of YOİKK, as TÜSİAD latter called for extensive judicial reform in January 2006 (TÜSİAD 2006). The tension took no less than six months to defuse (Sabah 2006; Milliyet 2006). More recently, while the government intensified consultations with business (including YOİKK hence also TÜSİAD) on the country's new industrial policy strategy, tensions flared up again between the government and TÜSİAD, with rows over the ruling party's (AK Parti) presidential candidate (TÜSİAD 2008).²⁵ This was followed by tensions with TÜSİAD on the draft new constitution (Today's Zaman 2008), then on the government's alleged failure to take measures necessary to tackle the 2008 financial crisis.²⁶

- 37 Thus, while SBR are indeed being institutionalised in a number of policy areas, both at peak level and in specific industry sectors, this only translates into a more cooperative atmosphere into the policy areas and sectors concerned. Overall, peak-level relations continue to be characterised by tension, particularly between the government and TÜSİAD. These tensions illustrate diverging views on general economic policy, but they must also be seen within the wider *Kulturkampf* that arguably opposes the secularist segments of society to the government (Hermann 2008). Hence the picture that emerges at peak level is that of a *modus vivendi*, where dissensions on fundamental issues do not prevent functional cooperation in areas of common interest, particularly where technical subjects are concerned.
- 38 Neither does the institutionalisation of SBR mean that the government has adopted a bottom-up approach to policy. In the specific case of technical legislation, the general scenario was that the relevant ministry first decided in principle to align basic legislation, and discussed with the sector about transitional periods and other modalities. Only later did the authorities create the technical committees, so as to receive the input without which developing and implementing policy was becoming difficult. The committees are purely consultative: they typically send recommendations to the ministry as regards the modalities of alignment or other regulatory changes. They do not prevent ministries from mandating adjustments, which are then sometimes communicated to the sector via the committees.²⁷
- 39 This being said, sustained cooperation in technical committees may play a role in intensifying cooperation between the ministry and the sector concerned. The automotive sector, whose early enthusiasm for alignment with EU motor vehicles legislation explains that its technical committee was the first to be established by the Ministry of Industry and Trade, would be a case in point. The notoriously close relationship between OSD and the ministry, together with the sector's sheer importance in the economy, may partly explain why it benefited from the only financially significant single-sector EU-funded project²⁸ of that ministry in the area of technical legislation.²⁹ Other like projects may be in the offing in the sector. Similarly, the sector association enjoyed the rare privilege of accompanying the official Turkish delegation in the meetings organised in the headquarters of the European Commission in Brussels in late 2005 to 'screen' Turkey's compliance with the *acquis*.³⁰ Note that a micro-level study would be necessary to identify the specific causal mechanisms at play, as well as their direction, in the automotive sector. As to most of the other technical committees, they may have been established too recently for effects of comparable intensity to be observed. What the example of the automotive sector shows is that, in the long term, there may be a relationship between the presence of technical

committees in a sector and the cooperative climate prevailing between the sector concerned and the relevant authorities.

Conclusion

- 40 This contribution's focus on state-business relations (SBR) in the area of technical legislation highlighted the high degree of state-induced institutionalisation of SBR in that policy field, taking the form of technical committees. This nuances findings resulting from peak-level, economy-wide studies of Turkish SBR, which generally present these relations as suffering from a lack of institutionalisation.
- 41 The institutionalisation I observe in the field of technical legislation results from alignment with EU legislation, hence is a form of Europeanisation. A key reason why Europeanisation takes this specific form is because it takes place in a trade-related policy area with a heavy regulatory content, where the state depends on business's expertise for policy implementation. In broader terms, these committees may be viewed as policy networks initiated by the state to help it form its preferences and reduce transaction costs and risks involved in policy implementation. The fact that some sectors were not strongly cohesive at the time of their technical committee's establishment is also important. Indeed, it tends to run counter to accounts according to which, at peak-level, Turkish business was not incorporated in consultation mechanisms because it was seen by the state to be too fragmented.
- 42 Similar forms of business-government cooperation take place in the areas of trade policy (in relation to the EU-Turkey Customs Union), industrial policy and investment promotion, and may take place in other sectors, particularly where the government aims to liberalise complex regulatory areas (as may be the case in certain services sectors in future).
- 43 However, one should not infer from such developments that the overall climate of peak-level Turkish SBR (including the peak level) is *ipso facto* becoming more relaxed. At peak level, the picture that emerges is that of a *modus vivendi*, where dissensions on fundamental issues subsist, but do not prevent functional cooperation in areas of common interest, particularly where technical subjects are concerned. At sector level, there are signs that the government retains a top-down approach to policy, even in the case of technical legislation where SBR are institutionalised. This notwithstanding, over the long haul, in that policy area there may be a relationship between the presence of technical committees in a given sector and the degree of cooperation prevailing between that sector and the relevant authorities.
- 44 Future research might identify and inquire into possible additional cases of SBR institutionalisation in other policy areas in Turkey, whether resulting from Europeanisation or from other factors. Of course, the same kind of studies may also be worthwhile in other countries having close relations with the EU, whether as candidates or as partners in the framework of the European Neighbourhood Policy. Further, while the 'no-incorporation-because-fragmentation' thesis probably constitutes the most encompassing account of peak-level SBR in Turkey to date, this study points to some limits of this account. Indeed, it shows cases where the state has compelling reasons to *prefer* to institutionalise business's incorporation into consultation mechanisms, in spite of its fragmentation. Hence, next to the fragmented or cohesive character of state and business, future research could more systematically

investigate the whole gamut of factors – interests, but also beliefs, values and identities – that inform actor’s preferences, in diachronic fashion. This may take us closer to a holistic picture of SBR in Turkey.

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NOTES

1. Frédéric Misrahi is Internal market sector manager with the European Commission Delegation to Turkey, and D.Phil. student in Politics at St. Antony's College, University of Oxford. The views expressed in this article are personal and do not necessarily reflect those of the European Commission. The author is thankful to Claire Misrahi, Işık Özel, Anthony Skinner, Esra Uyanusta-Misrahi, Claire Visier, Ela Yazıcı İnan and two anonymous referees for their very helpful comments. He is solely responsible for the statements made in this paper.
2. There are notable exceptions to this, however. See for example the work of Nieves Pérez-Solórzano Borragán (e.g. Pérez-Solórzano Borragán 2002).
3. Note however that, while general membership talks are ongoing, specific negotiations on the corresponding chapter relating to free movement of goods have not been opened, as a result of an EU Council decision from December 2006. This decision was a reaction to Turkey's continued embargo on vessels and aircraft flying the Cyprus flag or whose last port of call is Cyprus.
4. Note however that regulatory agencies already existed before, such as the Capital Markets Board or the Competition Authority. The latter was created by the 1994 Competition Act, in anticipation of the entry into force of the Customs Union.
5. Interestingly, the said development of the regulatory state, in that it entails the development of rule-based economic management in line with EU and IMF norms (hence limited responsiveness to distributive pressures), as well as the proliferation of independent regulatory authorities, takes Turkey into the direction advocated by TÜSİAD in its earlier reports on the 'Optimal State' (1998) and on 'Independent Regulatory Authorities and the Turkish Case' (2003).
6. An (incomplete) list of the technical committees of the Ministry of Industry and Trade is available on the Ministry's website, www.sanayi.gov.tr. I am thankful to the Ministry of Industry and Trade for providing me with the exhaustive list. For some committees, communiqués amending the initial communiqués have been issued; they are not mentioned here. On the Eurocodes committee, see the 2007 issue of the European Commission's Progress Report.
7. These assemblies were set up in 2006 pursuant to a modification brought two years earlier to the law establishing TOBB, but they existed *de facto* since 1992 under the form of ad hoc sector-level boards, or committees. Their formalisation was part of a wider effort to build up the capacity of TOBB and local chambers since 2001. The assemblies include private sector representatives at firm and business association level, as well as ministry officials, up to a maximum of 40 members in total. Following the EU screening reports, these assemblies issue position papers on each *acquis* chapter, notably on the basis of input from public agencies such as the Under-Secretariat for Foreign Trade and the State Planning Organisation (interview with senior TOBB official, Ankara, 1 December 2008).
8. For more detail, see the Pink Book of the European Commission's Directorate General for Enterprise and Industry (http://ec.europa.eu/enterprise/newapproach/pdf/pink_book_2008.pdf).
9. Most of Turkey's efforts to adopt aligned regulations took place between 2000 and 2004, as is largely attested to by Progress reports of the European Commission. For more detail, see the Country reports of the EU-funded project Support to Quality Infrastructure in Turkey (www.quality-turkey.org).
10. As in the case of lifts, machinery, measuring instruments, gas appliances, and pressure equipment.
11. These bodies are called 'notified bodies' because, once designated by state authorities, they are notified to the European Commission and the member states.
12. The sector has very much evolved since Biddle and Milor's contribution, notably as a result of the challenge of the Customs Union. The sector-level association, OSD, has evolved into an indispensable hub of regulatory and technical expertise. MARTEK is an outlier in a number of

respects. To my knowledge, it is the first technical committee to have been created (1997), whereas the next committees only follow about 5 years later. It is also the only committee to have been set up as a result of the sector's eagerness to see legislation on motor vehicles aligned with the EU's for commercial reasons related to the need to secure export markets in, and foreign investments from, the EU, following the liberalisation of Turkey's imports from the EU as a result of the entry into force of the EC-Turkey Customs Union in 1996 (interview with OSD, the Turkish Automotive Industry Association [*Otomotiv Sanayi Derneği*], Istanbul, 3 March 2008).

13. See the website of the EU-funded 'EUBuild' project www.eubuild.com, accessed on 20 September 2009. Note that İMSAD is now a sound association, able to gather sound expertise and considerable support from the industry. It enjoys access to the Ministry of Public Works and Settlement, and has developed international links with bodies such as the Council of European Producers of Materials for Construction.

14. Interview with the Turkish Automotive Industry Association (OSD), Istanbul, 3 March 2008. Other committees follow the same pattern; for instance, on YAMTEK's sub-committee structure, see Top and Akyüz 2007: 91.

15. Alignment activities have targeted a good deal of the dozens of Community acts existing in the motor vehicles *acquis*. See the chapter on free movement of goods of recent European Commission Progress reports, and particularly the 2004 Progress report, referring to 'a fair degree of alignment for products covered by the *Old Approach*, in particular concerning motor vehicles' (p. 80).

16. Interview with the Turkish Chemical Manufacturers Association (TKSD [*Türkiye Kimya Sanayicileri Derneği*]), Istanbul, 4 March 2008. The EU instrument is the regulation on chemicals and their safe use (EC/1907/2006). It deals with the Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH). This new regulation entered into force in the EU on 1 June 2007. The sector does not want REACH to be incorporated in Turkish law before the second half of the decade. Irrespective of such incorporation, however, REACH posed a number of challenges to the export of Turkish chemicals to the EU (Euractiv 2007). Next to KİMTEK, TKSD also participates in the REACH Commission of the Ministry of Environment and Forestry.

17. The transposition finally took place in August 2008. Interview with senior civil servant from the Ministry of Industry and Trade, Ankara, 27 April 2007.

18. Regulation published on 18 November 2008, in Official Gazette no. 27058. TMMOB stands for *Türk Mühendis ve Mimar Odaları Birliği* [Turkish Union of Chambers of Engineers and Architects].

19. See the list of Turkish notified bodies: <http://ec.europa.eu/enterprise/newapproach/nando/index.cfm>

20. Note that the standardisation body, TSE, is also a key conformity assessment player in the country.

21. Interview with senior civil servant from the Ministry of Industry and Trade, Ankara, 27 April 2007.

22. The focus is here on institutionalised networks systematically involving voluntary organisations. Thus recently created consultation fora such as the Economic and Social Council, the Regular Ad-hoc Committee of Improvement of Industrial Competitiveness DÖİK [*Daimi Özel İhtisas Komisyonu*] or ESDK (roughly translated as Committee for the Assessment of Economic Issues – officially, *Ekonomik Sorunları Değerlendirme Kurulu*), which only involve business associations created by law such as TOBB and TİM, are not taken into account.

23. The CUJC is supposed to meet 'at least once a month' (article 53 [3] of the Customs Union decision) but, in practice, these meetings usually take place twice a year.

24. The French acronym 'UEAPME' stands for the European Association of Craft, Small and Medium-sized Enterprises.

25. This row was defused with a communiqué by TÜSİAD entitled 'The Presidency ought to reflect societal consensus and democratic legitimacy', published after Mr. Abdullah Gül was

nominated presidential candidate by the AK Parti. In it, TÜSİAD stated that, were he to be elected by Parliament, it believed that 'Mr. Abdullah Gül, a politician esteemed for his consensus building, will perform his duties in the framework that we have highlighted. We wish him success in this highly sensitive and responsible position' (TÜSİAD 2007). In Turkey, the President of the Republic is elected by the Grand National Assembly of Turkey.

26. Declaration of TÜSİAD's President, Ms. Arzuhan Doğan Yalçındağ, to reporters on CNN Türk, 9 October 2008. Prime Minister Erdoğan then accused TÜSİAD of making unnecessarily alarmist declarations on 12-13 October and, on 27 October, added that the government did not need businessmen's advice to know whether to broker a deal with the International Monetary Fund (*Radikal*).

27. Interview with senior civil servant from the Ministry of Industry and Trade, Ankara, 27 April 2007.

28. By financially significant, it is meant superior to €1 mn., so as to exclude smaller technical assistance projects, as well as workshops and study visits under TAIEX, Technical Assistance and Information Exchange Instrument of the Institution Building unit of Directorate-General Enlargement of the European Commission.

29. The title of this project, worth €3 mn., was Upgrading the Physical Infrastructure regarding Conformity Assessment and Market Surveillance in Turkey - Automotive Sector (TR 0203.04).

30. Interview with the Turkish Automotive Industry Association (OSD), Istanbul, 3 March 2008.

ABSTRACTS

A key finding of the literature on state-business relations in Turkey is that these relations suffer from a lack of institutionalisation. In particular, the absence of an institutionalised incorporation of business into mechanisms of consultation with the state would be due to a lack of cohesiveness on both sides of the relationship. This article, however, finds that relations between the state and a number of business sectors are highly institutionalised in the policy area of technical product regulations. Such institutionalisation takes the form of technical committees. This contribution also finds evidence that some of the sectors concerned were not particularly cohesive at the time of the committees' establishment, thus running counter to the 'no-institutionalisation-because-fragmentation' thesis. It explains institutionalised incorporation by the presence of a strong 'EU effect' (Europeanisation), and shows how this effect, in the policy at hand, conforms to the predictions of the literature on policy networks and of recent theorising on state-business relations in the context of regulatory trade matters. The article then assesses the implications of this phenomenon for the future of state-business relations in the country and, finally, makes suggestions for future research.

INDEX

Keywords: state-business relations, european union, europeanisation, technical product regulations, regulatory trade matters

Mots-clés: Union européenne, européanisation

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