



**REPUBLIC OF TÜRKİYE  
MINISTRY OF TRADE  
DIRECTORATE GENERAL FOR IMPORTS**

*12 March 2024*

**VIEWS OF THE GOVERNMENT OF TÜRKİYE ON THE STATEMENT OF  
INTENDED FINAL DETERMINATION REGARDING THE SAFEGUARD  
MEASURES AGAINST IMPORTS OF CERTAIN STEEL PRODUCTS**

**A. Introduction**

This document includes the views of the Government of Türkiye (GOT) on Statement of Intended Final Determination (Case SE0041) regarding the extension of safeguard measures against imports of “certain steel products” by the Trade Remedies Authority (the TRA) of United Kingdom (the UK) which was initiated on 4 September 2023.

First and foremost, Türkiye would like reemphasize the fact that safeguard measures are emergency actions to cope with urgent situations and therefore subject to stringent prerequisites in very exceptional circumstances with the existence of “unforeseen developments”. In this regard, three basic requirements should be settled for applying safeguard measures which can be classified as “unforeseen developments”, “increased imports” and “serious injury”. According to Article XIX of GATT 1994 and the pertinent WTO jurisprudence, the competent authorities are required to demonstrate that “unforeseen developments” have resulted in increased imports, which should be recent enough, sudden enough, sharp enough and significant enough. In addition, safeguard measures can only be imposed on the basis of objective evidence following the demonstration of the existence of the causal link between increased imports of the product concerned and serious injury or threat thereof. Thereby, Agreement on Safeguards (AoS) stipulates that any injury caused by factors other than the increased imports must not be attributed to such imports.

The second point worth noticing here is that contrary to the remedial purposes of anti - dumping and countervailing duty measures against trade distorting practices, safeguard actions affect fairly imported products irrespective of their resource. For this reason, WTO jurisdiction differentiates the concept of “serious injury” in the AoS and the concept of “material injury” contained in Anti - Dumping Agreement (ADA) and the Subsidies and Countervailing

Measures Agreement (SCMA). In this sense, the Appellate Body in US — Lamb case specified that ‘serious injury’ in the AoS for the application of a safeguard measure has a much higher standard of injury compared to the concept of “material injury” for levying anti – dumping measures or countervailing duties under ADA and SCMA. From this perspective, when construing the prerequisites for implementing safeguard actions, the investigating authorities should demonstrate that the injurious conditions prevalent over the period of investigation are extraordinary.

Regarding the term "threat of serious injury", the Appellate Body in US – Lamb also noted that in order to constitute a "threat", the serious injury must be "clearly imminent" and the anticipated "serious injury" must be on the very verge of occurring. In other words, the investigating authorities must use a very high standard of injury for the definition of "threat of serious injury", as well. Obviously, that is why a safeguard action is deemed as having peculiar characteristics.

Since February 2, 2019, the UK has been imposing safeguard measures against imports of steel products as a member country of the European Union (EU) and notified the WTO on the continuation of the measures even after December 31, 2020 when the UK left the EU (Brexit). However, the UK, while singled out certain categories that has not domestic production, did not carry out a separate examination for the rest of the categories whether the criteria to impose safeguard measures are met.

Türkiye believes that the continuation of the measures after Brexit is a violation of the provisions of GATT 1994, AoS and relevant WTO jurisprudence due to the lack of the abovementioned prerequisites of a safeguard measure.

With this regard, Türkiye strongly believes that the steel safeguard measures should have been terminated after December 31, 2020 and requested from the UK just from the very beginning of the process to act in line with its obligations stated in GATT 1994 and AoS and terminate these measures without further violation.

Also, the difference between the scope of goods subject to an investigation and the scope of the application of a safeguard measure had caused lack of parallelism between the TRA’s analyses and the measures taken before and violated the Articles 2.1 and 4.2 of AoS. It is

incontrovertible that the perpetuation of a measure stemming from an illegitimate source will also lack legitimacy. Thus, the explanation of the TRA in paragraph 19 of the SIFD regarding the review investigation being a forward-looking assessment has proven to be elusive.

Following this general outline regarding the background of the application, we would like to introduce our views about the basic subjects in the SIFD as follows.

## **B. Changes in the US Section 232 Measures**

The Section 232 measures of the US, which occupies extensive coverage in the SIFD, have undergone significant changes since 2018. The US granted exemptions to several countries, including Argentina, Australia, Brazil, Canada, Japan, Mexico, South Korea, and the UK.

As of 2024, the United States has exempted Canada, Mexico, South Africa, and Australia from Section 232 measures. Additionally, the US has agreed on a Tariff Rate Quota (TRQ) system with the European Union, South Korea, Brazil, Argentina, Japan, and the UK. Furthermore, India has been partially exempted from Section 232 under the exclusion process. In 2023, the majority of Section 232 products' imports were sourced from countries with which the US has established alternative schemes through different agreements.

In March 2022, the US and the UK announced that beginning June 1, the US will replace its Section 232 tariffs on steel and aluminum from the UK with tariff-rate quotas allowing up to certain amounts to enter the US duty-free each year where those amounts may be adjusted annually.

Similarly, with its announcement on December 31, 2021, the US decided to remove the Section 232 tariffs on steel and aluminum imports from the EU. In response, the EU temporarily suspended, effective from January 1, 2022, the additional duties it had imposed on US goods in response to the Section 232 actions.

Initiating this review investigation, the UK appears to be disregarding the fact that over 85% of US imports in 2023, including those from the UK, are exempt from the Section 232 measures and Section 232 measures were the primary factor behind the EU's and the UK's own

measures. Furthermore, it is worth noting that the Panel report regarding the dispute initiated by Türkiye (and initially by the EU, which was later withdrawn) against the US Section 232 measures (DS564) was circulated on December 9, 2022. In this report, the Panel found that the US measures are inconsistent with several articles of the GATT 1994, including Article II:1(b), II:1(a), Article I:1, Article XI:1, and Article XXI. Therefore, the Section 232 measures, which were among the primary reasons for the safeguard investigation initiated by the UK, have been confirmed by a WTO Panel to be inconsistent.

### **C. Remarks on Global Excess Capacity and Low Usage of TRQs**

Global crude steel production reached to 1,89 billion tons in 2023 according to the World Steel Association. The data reveals that China's crude steel production rose to 1,02 billion tons from 995,42 million tons in 2019, while Türkiye's production declined to 33,71 million tons in 2023 from 33,74 million tons in 2019.

India, one of the world's top 10 steel producers, experienced the largest annual increase, rising by 11% to 140.2 million tons in 2023. India's share of world production also increased to 7,43% in 2023, up from 5,93% in 2019. Additionally, Vietnam and Egypt are among the countries that have steadily increased their production since 2019.

Türkiye has traditionally been a net importer of steel products, supported by a strong domestic market. In fact, Türkiye ranked as the 5<sup>th</sup> largest steel importer in the world in 2023 and imported half of its domestic consumption, representing one of the highest ratios among major steel importers.

Upon examining the data, it is evident that the safeguard measure is an inappropriate tool for addressing production increases in selected countries and regions. It is evident that country-specific measures, such as anti-dumping measures, should be implemented instead of a non-selective tool like a safeguard measure.

By implementing such selective policies, the challenges that key sectors such as -the automotive and home appliances face in sourcing inputs from domestic producers may be alleviated. Unless this measure is discontinued, the UK risks adversely impacting numerous sectors while attempting to address the demand of the steel sector.

Türkiye believes that, based on the UK's current measures against steel products, it is unlikely to observe any significant increase in imports if these measures were abolished. Through an analysis of both Türkiye's and global quota usage rates, it is evident that the rates did not surpass traditional levels for nearly all categories. This observation indicates that there is no significant import pressure on the UK steel market.

#### **D. Remarks on the Injury Data for the UK Industry**

Firstly, Türkiye would also like to express its dissatisfaction about the quality of data provided by the TRA regarding the injury factors. These factors are aggregated without a consistent, transparent, and well-defined methodology, which renders them prone to biases. The utilization of basic indexes rather than absolute values restricts defendants' capacity to acquire a comprehensive understanding of the situation.

Even with the aggregated data provided, it is still sufficient to demonstrate how far the concept of serious injury, as mentioned in the AoS, is from the economic conditions prevailing in the industry. Moreover, the data provided still indicate that the domestic industry is experiencing economic difficulties due to internal issues such as productivity problems, the inability to meet the product requirements of domestic demand rather than import pressure.

The SIFD extensively cites statements from domestic producers indicating that increases in energy prices and contraction in domestic demand for their products have significant impact on their profitability. However, the TRA directly attributes the negative changes in their economic situation to imports without providing any kind of explanation for the rationale behind this assertion.

Again, as explicitly stated in the SIFD, most of the quotas provided, except for certain categories, are not fully utilized. Thus, in an environment where there is no import pressure, the productivity indices provided in Table 2 indicate an inherent operational issue within the industry rather than the pressure of imports.

Similarly, following the implementation of protective measures, there has been almost no import pressure in any category; however, import prices have increased in all of the

categories. This indicates that domestic production is not meeting the qualitative needs of domestic consumption, independent of price.

The expected conduct from the UK, which inhibits the development of its domestic industry by shielding it from competition, is not to impede fair and free trade. The cost structure and management skills of the domestic industry be elevated to global standards and thereby addressing productivity deficiencies can only be possible through supporting free and fair trade.

## **E. Conclusion**

In the light of the abovementioned comments, Türkiye believes that the following conditions had not been met in the previous investigations:

- There is no increase or likelihood of increase in imports caused by unforeseen developments,
- Developments considered by the TRA are not unforeseen,
- There is no serious injury or threat of serious injury or likelihood of serious injury,
- There is no causal link between imports and economic parameters of domestic industry,
- TRA failed to distinguish and eliminate the effects of other factors which may have been caused injury to domestic industry,

Therefore, Türkiye invites the investigating authority to terminate this proceeding without extending the measure and hence bringing the UK's application into conformity with the AoS and the GATT 1994 without further hindering the spirit of the free and fair trade. We certainly believe that the TRA will take these points and related provisions of AoS and WTO jurisprudence into consideration while taking a decision regarding this review.

Türkiye would like to underline that it closely follows this review as an interested party and reserves all its rights stemming from the related WTO Agreements with regard to this proceeding.