



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

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**VIEWS OF THE GOVERNMENT OF TÜRKİYE ON THE EXTENSION REVIEW  
REGARDING THE SAFEGUARD MEASURES AGAINST IMPORTS OF CERTAIN  
STEEL PRODUCTS**

**A. Introduction**

This document includes the views of the Government of Türkiye (GOT) in accordance with Articles 3.1 and 7.2 of World Trade Organization (WTO) Agreement on Safeguards (hereinafter referred to as “AoS”) 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.

Before proceeding with the GOT’s remarks on this review, we would like to remind the conclusion of the Panel proceeding of the dispute numbered DS595 between the European Union (EU) and Türkiye.

The UK’s original safeguard measure was taken by the EU which also included the UK at that time by the EU Regulation 2019/159. The European Commission investigated whether there is an unforeseen development resulting in increase of imports, absolute or relative to the domestic production, which caused serious injury to the domestic industry. Following the Brexit, Department for International Trade initiated a transition review of safeguard measure on 1 October 2020 to review EU tariff rate quotas by only analyzing imports of specified categories of steel products and basically adopted the European Commission’s initial findings on the presence of necessary requirements to apply a safeguard measure. Thus, the abovementioned Panel proceeding is directly relevant to the UK’s current application and the Panel concluded that:

*“Türkiye has established that definitive safeguard is inconsistent with:*

*i. Article XIX:1(a) of the GATT 1994, because the European Commission did not ascertain that the increase in imports took place as a result of the unforeseen*

*developments it had identified, and did not identify in its published reports the obligations whose effect resulted in the increase in imports; and*

*ii. Article 4.1(b) of the Agreement on Safeguards, because two central elements of the European Commission's determination of a threat of serious injury were not "based on facts" as required by that provision"<sup>1</sup>*

In this context, pursuant to Article 19.1 of the DSU, the Panel recommended that the European Union bring its measure into conformity with the AoS and the GATT 1994.<sup>2</sup> As the Panel confirmed, the measure is taken without a consistent determination on the two of the most important prerequisites of a safeguard measures namely, increase in imports as a result of unforeseen developments and threat of serious injury. With this regard, the only way to bring the measure into conformity is termination of the measure. Since the UK measure is derived from EU steel safeguard with minor modifications by different reviews, the same deficiencies of the EU safeguard measure are also valid for the UK measure as well.

Since February 2, 2019, the UK imposed safeguard measures against imports of steel products as a member country of the European Union and notified the WTO on the continuation of the measures even after December 31, 2020. However, the UK, while singled out certain categories that has not domestic production, did not carry out a separate examination for the rest 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 following prerequisites of a safeguard measure:

- Examination of the increase in imports caused by unforeseen developments,
- Examination of the serious injury or threat of injury,
- Examination of the causal link,
- Procedural obligations,
- Notification obligations.

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<sup>1</sup> Para 8.1 of the Report of the Panel on European Union – Safeguard Measures on Certain Steel Products (DS595, adopted on 31 May 2022)

<sup>2</sup> Para 8.3 of the Report of the Panel on European Union – Safeguard Measures on Certain Steel Products (DS595)

With this regard, Türkiye strongly believes that the steel safeguard measures should have been terminated after December 31, 2020. At previous stages, the UK tried to cover its noncompliant application of the measures with the transition review by examining abovementioned criteria.

In addition, even with the Transition Review, the UK itself concluded that these criteria were not met for certain product categories. For instance, the TRA recommended revocation of the measures for the categories 6, 12, 14, 16, 17 and 27 due to lack of absolute or relative increase whatsoever in these categories between 2013 and 2017. Similarly, it was confirmed that categories 4B, 19 and 28 were not produced in the UK. Further, TRA concluded that imports of category 25A do not cause serious injury to the domestic producers. Despite the TRA's findings that there had been no increase in long steel products (including rebar) imports or that the removal of the measure was not likely to cause serious harm, the UK opted for the continuation of the measure in these categories, which is also considered as not compliant with the WTO Safeguards Agreement.

With this regard, it is clear that requirements of a safeguard measure did not exist for the UK both before and after the Transition Review and these measures had therefore violated AoS and were not legitimately imposed since 1 January 2021.

Within this context, Türkiye 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.

Following this general outline with regard to the background of the application, we would like to introduce our views about the current review as follows.

## **B. General Remarks**

The UK is an important trade partner for Turkish economy in many different sectors and the Turkish steel industry has always been an important supplier for the UK and has been a significant importer of scrap metals from the UK.

As conventionally reliable trading partners, Türkiye and the UK signed a Free Trade Agreement (FTA) just after the Brexit. The FTA between Türkiye and the UK was signed on 29 December 2020 which started to be implemented as of 1 January 2021 in terms of preferential treatment in trade and entered into force on 20 April 2021.

Turkish suppliers provide many environmental, logistical and financial advantages for their British counterparts. Steel production in Türkiye is mainly from electric arc furnaces and this type of production is significantly advantageous in terms of carbon emissions compared to other methods. Products of the many Turkish producers comply with the LEEDS certificate, and the majority of our exporters are certified by UK Cares in terms of sustainability and environmental impacts.

Turkish steel prices are determined by the global steel market conditions. For this reason, it is clear that imports from Türkiye will not cause any harm or threat to the UK domestic industry. On the contrary, the inability of Turkish steel producers to take part in the UK market forces UK steel users to have to work with limited number of suppliers.

Additionally, Türkiye's logistics advantage, allow faster shipments compared to other countries. The short supply terms of Turkish producers, on the other hand, eliminate the risks of financial burden and price fluctuations faced by UK firms.

### **C. Remarks on Volume of Imports**

According to Article 2.1 of the AoS, *“A Member may apply a safeguard measure to a product only if that Member has determined, pursuant to the provisions set out below, that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.”*

Furthermore, in Argentina – Footwear (EC) case, the Appellate Body stated that *“... And this language in both Article 2.1 of the Agreement on Safeguards and Article XIX:1(a) of the GATT 1994, we believe, requires that the increase in imports must have been recent enough,*

*sudden enough, sharp enough, and significant enough, both quantitatively and qualitatively, to cause or threaten to cause 'serious injury'.*<sup>3</sup>

The safeguard measures are emergency actions put in place against the recent, sudden, sharp and significant increase in imports causing serious injury to the domestic industry. In other words, this kind of measures aim to block the import surge, in order to allow the domestic industry to keep up with the competition from imports.

With regard to UK imports from Türkiye, on the other hand, there is no absolute increase in terms of product categories subject to measure. On the contrary, there has been a steady decrease in finished steel products every year since 2017.

Moreover, individual analysis shows that many categories showed significant decline in absolute terms during the period of investigation. According to Trade Map Data, for instance, imports of category 1 of UK decreased to its historically lowest level in 2020. Similarly, in 2022 imports of product categories 2, 4, 12B, 19 and 25B also decreased in absolute terms compared to their 2018 values.

The International Steel Statistics Bureau data indicates that the annual decrease rates of UK imports of the product categories of 1, 2, 4 and 7 in 2022 compared to the previous year are 5, 22, 29 and 3 percent respectively.

#### **D. Low usage of TRQs**

Based on UK's current measures against steel products Türkiye believes that it is not likely to observe any import surge. By examining the quota usage rates of both Türkiye and global scale, we see that usage rates of quotas did not exceed its traditional levels for almost all of the categories and this indicator also confirms there is no import pressure over UK steel market.

For instance, regarding the TRQ of category 1, 64 and 68 percent of the quota is used in first quarter of 2023 by the EU and Türkiye respectively, which have the biggest allocation in

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<sup>3</sup> Appellate Body Report, Argentina – Footwear (EC), para. 131

this category. Türkiye's usage of the TRQ did not reach to the allocated volumes in any TRQ period in the last 5 quarters.

Similarly, in category 4, TRQ usage rates of the EU and Taiwan, as the biggest beneficiaries of the category, are 38 and 50 percent respectively as of first quarter of 2023. Türkiye used only 0.05 percent of its country specific TRQ in the same period. For the period between 1 January 2023 and 30 June 2023, a quota of 49.097 tonnes is allocated for imports of category 4 from Türkiye. As of 30 June 2023, unused quota amount is 49.086 tonnes which shows that Türkiye practically did not even use the existing TRQ. Therefore, there is no indication that shows any attractiveness of the UK market for Turkish imports for category 4 and other major actors as well.

As another example, category 13 also constitutes a major proportion of total TRQ amount. The EU, Türkiye and the residual countries did not reach to the levels of allocated TRQ in the period of 01 July-30 September 2023. For the period between 1 January 2023 and 30 June 2023, a quota of 52.011 tonnes is allocated for imports of category 13 from Türkiye. As of 30 June 2023, unused quota amount is 51.634 tonnes which shows that Türkiye again did not even use the existing TRQ.

Similar examples can be extended for many other TRQs both in terms of global and country specific utilization of Türkiye. The bottom line, however, does not change and Türkiye did not reach to the allocated levels in any categories it has country specific TRQ in last 5 quarters.

## **E. Conclusion**

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

- There was no increase or likelihood of increase in imports caused by unforeseen developments,
- Developments considered by the investigating authority were not unforeseen,
- There was no serious injury or threat of serious injury or likelihood of serious injury,

- There was 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.

Türkiye also reserves its rights to request consultations under Article 12.3 once the UK makes its WTO notification under Article 12.1(c).