
Potential Trade Remedy Investigations In Turkey

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While the trade war triggered by the US and the corresponding conservative approaches adopted by almost all of most importing countries still continue, the Turkish Ministry of Trade ("**Ministry**") published on 19 January 2019 a communiqué reminding the relevant domestic industries that they can apply for the initiation of an expiry review investigation with regard to trade remedy measures whose expiry date is approaching.

The Turkish anti-dumping legislation, in line with the WTO anti-dumping rules, provides that a definitive measure shall expire five years from its imposition or five years from the date of the conclusion of the anti-dumping investigation or most recent review. In this regard, the Turkish anti-dumping legislation also entitles the exporters, importers or domestic producers (of the product whose import is subject to an anti-dumping measure) to request from the Ministry to initiate an expiry review investigation. The Ministry may also launch an *ex officio* expiry review investigation to re-examine the need for the continuation of the anti-dumping duty at the same rate or at a different rate.

The two conditions that have to be satisfied by the exporter, importer, or domestic producer in its request are the following: (i) the definitive measure shall be expiring and (ii) most importantly, the requests made shall contain sufficient evidence justifying the initiation of a review investigation. Accordingly, an expiry review shall be initiated where there is sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury.

It should also be highlighted that the relevant Turkish legislation grants discretion to the Ministry to conduct a new dumping margin analysis in the context of an expiry review investigation so that the Ministry is not obliged to conduct a new dumping margin calculation. In this respect, another issue that has to be emphasized is the discussion surrounding the non-market economy status of China. Unlike the EU's approach, the Turkish legislation regarding China's non-market economy status and dumping margin calculation methodology has not been amended in accordance with the Article 15 of China's WTO Accession Protocol and any company located in China still has the chance to argue that the market economy conditions are met with regard to its operations.

Besides, the injury analysis and arguments reflecting the real structure/functioning of the relevant industries as well as the latest developments play a critical role in guiding the Ministry on whether it should lower the measures on the basis of the lesser duty rule. Additionally, the product-based analysis may also lead the Ministry to reconsider its evaluations made in the original investigation or the latest review investigation.

Accordingly, the list of the measures to be expired within the year 2019 is as follows:

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- ***instantaneous gas water heaters*** (CN code 8419.11.00.00.00) originating in China
 - ***aluminium foil (of a thickness not exceeding 0,2 mm, not backed)*** (CN code 7607.11) originating in China
 - ***pencils with leads of graphite and pencils with leads of crayons encased in a rigid sheath*** (CN code 9609.10) originating in China
 - ***fully drawn yarn*** (CN code 5402.47) originating in China, India, and Malaysia
 - ***tarpaulin made of polyethylene/polypropilen*** (CN Code 3921.90.60.00.11, 3921.90.60.00.13, 3926.90.92.00.00, 3926.90.97.90.18, 5407.20.11.90.00, 5407.20.19.90.00, 5903.90.91.90.00, and 6306.12.00.00.00) originating in China and Vietnam
 - ***hook & loop*** (CN codes 5806.32.90.00.11 and 5806.32.90.00.19) originating in China and Taiwan
 - ***oriented strand board (OSB)*** (CN code 4410.12) originating in the US and Canada
 - ***polyester textured yarn*** (CN code 5402.33) originating in China, Indonesia, and Malaysia

Eventually, the Ministry also provided a list of the measures that expired under Article 3 of the concerned communiqué:

- ***uncoloured float glasses*** (CN code 7005.29) originating in Romania
- ***diesel engines*** (CN code 8408.90.41.90.00) originating in India and China

To sum up, taking into account (i) that certain domestic industries criticize the current economic situation in Turkey as their costs mostly depend on exchange rates and (ii) that most of the above described products concern sectors where the concerned domestic industries have a strong presence in both domestic and foreign markets, we believe that the domestic producers and the customers of the mentioned products as well as the exporters will fight for their own interest in case of an investigation.