

TRADE & CUSTOMS

Turkey



Trade & Customs

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights, including into major domestic legislation and international agreements; trade defence investigations; customs duties; trade barriers; export controls; financial and other sanctions, including trade embargoes; and recent trends and hot topics.

Generated 16 August 2023

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LEGAL FRAMEWORK

Domestic legislation

What is the main domestic legislation as regards trade remedies?

Turkey adopted its first legislation providing for trade remedies as early as 1989 to protect its domestic producers following the trade liberalisation (and the ensuing elimination of import restrictions) initiated in 1980. In this regard, Turkey's domestic legislation includes:

- Law No. 3577 on the Prevention of Unfair Competition in Imports;
- Regulation on the Prevention of Unfair Competition in Imports;
- Decree on the Prevention of Unfair Competition in Imports;
- Regulation on Safeguard Measures in Imports;
- Decree on Safeguard Measures in Imports;
- Communiqué No. 2008/6 on the Prevention of Unfair Competition in Imports; and
- Procedure and Principles of Implementation for Communiqué No. 2008/6 on Prevention of Unfair Competition in Imports.

Law stated - 06 July 2023

International agreements

In general terms what is your country's attitude to international trade? Has it raised tariffs in the last year?

From an international standpoint, being a party to the Agreement Establishing the World Trade Organization, Turkey is also bound by the annexed multilateral agreements, including:

- the General Agreement on Tariffs and Trade (GATT) 1994;
- the General Agreement on Trade in Services;
- the Agreement on Implementation of Article VI of GATT 1994;
- the Agreement on Subsidies and Countervailing Measures; and
- the Agreement on Safeguards.

Turkey is also a member of other international organisations such as the Organisation for Economic Co-operation and Development, the Group of Twenty, the World Customs Organization and the United Nations Conference on Trade and Development, and its policies regarding international trade are in line with the concerned organisations' rules and disciplines. Being a candidate for full EU membership, Turkey has been reforming its domestic legal order to progressively integrate the European Union's *acquis communautaire*, thereby closely following the legal developments taking place in the European Union. It formed a customs union with the European Union in 1995, placing an obligation on the country to adopt the European Union's common external tariff. More importantly, Turkey should also align its trade policy with the EU Common Trade Policy. It follows, among other things, from those obligations that Turkey must enter into a free trade agreement (FTA) with the countries with which the European Union has signed an agreement. However, Turkey is not under obligation to include as such the provisions contained in the FTAs concluded by the European Union and may consider its industrial and trade priorities when negotiating.

There are currently 22 FTAs in force to which Turkey is a party (Albania, Bosnia and Herzegovina, Chile, Egypt, European Free Trade Association (EFTA), Faroe Islands, Georgia, Israel, Kosovo, Malaysia, Mauritius, Moldova, Montenegro, Morocco, North Macedonia, Palestine, Serbia, Singapore, South Korea, Tunisia, the United Kingdom and Venezuela). The FTAs signed with Lebanon, Qatar, Sudan and Ukraine are undergoing the ratification process, whereas the FTA entered into with Syria was suspended in 2011 and the FTA signed with Jordan was repealed on 22 November 2018. The scope of the FTAs in force with Bosnia and Herzegovina, EFTA and Serbia have been revised and they have entered into force. Additionally, the ratification process of the revised FTA with Montenegro is ongoing, while it is expected that revisions of the FTAs with Georgia and Malaysia will be concluded soon and negotiations will commence for the revision of FTAs with Moldova and North Macedonia. Furthermore, the internal ratification process of the Comprehensive Economic Partnership Agreement between Turkey and the United Arab Emirates was completed in April 2023 and the entry into force process is ongoing.

The countries and organisations with which Turkey continues its talks with the aim of starting negotiations to sign FTAs are: the African Caribbean and Pacific Group of States, Algeria, Cameroon, Canada, Central America, Chad, Colombia, the Democratic Republic of Congo, Djibouti, Ecuador, the Gulf Cooperation Council, Indonesia, Japan, Libya, Mexico, Mercosur, Pakistan, Peru, Seychelles, South Africa, Thailand, the United States and Vietnam.

Turkey has also signed and ratified various bilateral investment treaties and trade and cooperation agreements with many countries. On 8 June 2019, Turkey and Canada entered into a memorandum of understanding regarding the Joint Economic and Trade Commission to strengthen the economic ties between the two countries. On 11 November 2020, a bilateral investment treaty between Turkey and China entered into force.

Turkey is a notable user of trade remedies and is expected to remain so during current global protectionist tendencies. Indeed, as of May 2023, 188 anti-dumping and anti-subsidy and nine safeguard measures have been applied by Turkey. Within the framework of the WTO dispute settlement procedure, Turkey has initiated six cases as a complainant, while 12 cases have been brought against it.

Law stated - 06 July 2023

TRADE DEFENCE INVESTIGATIONS (OUTSIDE THE WTO DISPUTE SETTLEMENT SYSTEM)

Government authorities

Which authority or authorities conduct trade defence investigations and impose trade remedies in your jurisdiction?

Under Turkish legislation regarding trade remedy investigations, the Directorate General of Imports of the Ministry of Trade (the Ministry) is authorised to conduct a preliminary examination ex-officio or upon domestic industry's application. The Dumping and Subsidy Department, the Safeguards Department and the Department for Monitoring and Assessment of Import Policies are the competent administrative units to conduct trade remedy investigations.

If the Directorate General of Imports is convinced that initiating an investigation is justified, it presents its recommendations to the Board of Evaluation of Unfair Competition in Imports or the Board of Evaluation of Safeguard Measures for Imports, and if the competent board resolves that an investigation should be initiated, it submits its resolution to the Minister of Trade for approval. Subsequently, the initiation notice is announced in the Turkish Official Gazette and any interested party may find the relevant questionnaire on the Ministry's website. The appointed case handlers analyse and examine the investigation during the proceedings and prepare a report based on the findings, against which any cooperating party may present their comments.

Different authorities are competent for the enactment of anti-dumping, anti-subsidy and safeguard measures. Having decided whether to impose an anti-dumping or anti-subsidy measure, the Board of Evaluation of Unfair Competition in Imports transfers the proposed decision to the Minister of Trade, whose approval is necessary for the entry into force

of the measure through the publication of a communiqué in the Official Gazette. Likewise, if the Board of Evaluation of Safeguard Measures for Imports decides that a safeguard measure should be taken, it publishes a communiqué along with the Ministry's evaluations in the Official Gazette. This decision recommends to the President that a safeguard measure should be imposed. If that recommendation is accepted, a presidential decree is published in the Official Gazette to announce the entry into force of the safeguard measure.

Law stated - 06 July 2023

Complaint filing procedure

What is the procedure for domestic industry to start a trade remedies case in your jurisdiction?
Can the regulator start an investigation ex officio?

A trade remedy investigation can be initiated upon application of domestic producers or ex officio by the Ministry if there is sufficient evidence that dumped or subsidised imports of a given product caused an injury to a domestic industry. The content of the application form varies depending on the requested trade remedy and can be accessed at the Ministry's website.

Application for the imposition of an anti-dumping or anti-subsidy measure

According to Law No. 3577, an application that includes a comprehensive list of questions may be made by or on behalf of the domestic industry in writing. The complaint will be considered to have been brought by, or on behalf of, the domestic industry if it is supported by the producers whose collective output constitutes more than 50 per cent of the total production of the like product manufactured by the portion of the domestic industry expressing either support for or opposition to the application, and the domestic producers expressly supporting the application must not account for less than 25 per cent of total production of the like product produced by the domestic industry in Turkey (the representativeness test). In the case of fragmented industries involving a large number of producers, the support and opposition of the domestic industry may be determined by using statistically valid sampling techniques.

Also, the applicant must provide a non-confidential version of the application. Upon the Ministry's first review of the application, potential deficiencies will be notified to the applicant and additional information may be requested.

An investigation will not be initiated where it is determined that the dumping or subsidy margin is de minimis or that the import volume is deemed negligible.

The criteria used in dumping investigations are:

- the margin of dumping expressed as a percentage of the export price is less than 2 per cent; or
- the volume of dumped imports from the concerned country is found to account for less than 3 per cent of imports of the like product and, where more than one country is involved, imports from countries accounting for less than 3 per cent individually do not account collectively for more than 7 per cent of imports of the like product.

The criteria used in subsidy investigations are:

- the amount of subsidy is less than 1 per cent of the value of the product concerned; or
- regarding imports from developing countries:
 - the amount of subsidy does not exceed 2 per cent of the value of the product concerned; or
 - the volume of subsidised imports from the concerned country is found to account for less than 4 per cent of

the total imports of the like product and, where more than one developing country is involved, imports from developing countries accounting for less than 4 per cent individually do not account collectively for more than 9 per cent of the total imports.

Within 45 days of the submission of a complete application, the Directorate General of Imports must conclude its examination and submit its recommendation (whether to initiate an investigation) to the Board of Evaluation of Unfair Competition in Imports. If the board resolves to launch an investigation, this will be presented to the Minister of Trade for their approval. Afterwards, the relevant country is notified about the initiation of an investigation and an initiation notice is published in the Official Gazette. On the other hand, if the Board of Evaluation of Unfair Competition in Imports decides not to investigate, only the applicants are notified.

As regards the initiation of an expiry review investigation, the Ministry announces through a communiqué the measures that will expire on a given date. Producers may require the extension of the applicable measures at the latest before three months prior to the expiry date. Such applications should be substantiated by documents demonstrating that dumping, subsidy and injury are likely to continue or recur. Moreover, once the measures have been in force for a year, an interim review investigation may be requested by an exporter, importer or domestic producer on the ground that a significant change took place regarding dumping, subsidy or injury.

Application for the imposition of a safeguard measure

The Regulation on Safeguard Measures in Imports (the Regulation on Safeguards) stipulates that the relevant natural or legal persons or the professional organisations or chambers with which they are affiliated may submit a written application for the imposition of a safeguard measure. The Directorate General of Imports will conduct a preliminary examination, during which additional information or documents may be requested. The outcome is presented to the Board of Evaluation of Safeguard Measures. The board could either decide that an investigation should be launched (in which case an initiation notice is published in the Official Gazette and is notified to the WTO) or that an investigation is unwarranted (in which case the applicant is notified of the board's decision).

Law stated - 06 July 2023

Contesting trade remedies

What is the procedure for foreign exporters to defend a trade remedies case in your jurisdiction?

The relevant country is notified that an investigation has been initiated and a communiqué is published in the Official Gazette. After the initiation of an investigation, questionnaires are sent to known importers and exporters of the subject product, and the embassies in Turkey of the countries subject to investigation. The questionnaires are also published on the Ministry's website. Parties willing to cooperate with the investigating authority must submit their responses to the questionnaire within 37 days in the case of anti-dumping or anti-subsidy investigations (which may be extended upon request) and at most 40 days (with the extension request) in case of safeguard investigations. The parties who introduce themselves as interested parties to the Ministry and are considered so by the Ministry may provide their comments at any time during the investigation. Additionally, interested parties may submit their comments (in writing) against the evaluations, findings of the case handler and allegations of the domestic industry. Parties may also present their comments during hearings orally.

An anti-dumping or subsidy investigation will be concluded within one year, except in special circumstances. The board may extend this period up to six months. This period is nine months in the safeguard investigations, which may also be extended for six months.

WTO rules**Are the WTO rules on trade remedies applied in national law?**

Turkey is a member of the WTO. Article 90(5) of the Turkish Constitution provides that international agreements duly put into effect have the force of law. Turkey has signed and ratified the Agreement Establishing the WTO, and all the multilateral agreements annexed thereto so that those agreements are binding legal instruments. The Ministry repeatedly evaluated China and Vietnam to be non-market economies.

Law stated - 06 July 2023

Appeal**What is the appeal procedure for an unfavourable trade remedies decision? Is appeal available for all decisions? How likely is an appeal to succeed?**

Decisions made in respect of trade remedies are administrative acts over which the Council of State exercises sole jurisdiction.

Turkish law confers on the investigating authority wide discretion and that approach is generally backed by the Council of State's case law. It is therefore important to be cautious of the likelihood of success of an appeal procedure against a decision of the Ministry. Judicial review success in trade remedy cases is thus dependent on the quality of supporting evidence and on the nature of the investigating authority's errors in making its determinations.

The Council of State had annulled Communiqué No. 2015/28 on the Prevention of Unfair Competition in Imports (the Decision dated 28 December 2017 and numbered 2015/6922 E, 2017/6614 K) because there was no concrete and sufficient evaluation regarding injury and causation. However, the concerned decision was overturned upon the Ministry's appeal by the majority of the members' votes of the Plenary Assembly of the Tax Law Division.

Law stated - 06 July 2023

Review of duties/quotas**How and when can an affected party seek a review of the duty or quota? What is the procedure and time frame for obtaining a refund of overcharged duties? Can interest be claimed?**

The Regulation on the Prevention of Unfair Competition in Imports allows interested parties to request the initiation of the following investigations:

- interim review investigation – exporters, importers and domestic producers may request the review of a definitive measure after one year of its entry into force. The request must be supported by sufficient evidence demonstrating that the review is warranted. Additionally, the request must be submitted in writing to the Directorate General of Imports;
- expiry review investigation – measures about to expire are announced in the Official Gazette in the last year of the five-year validity period of the concerned measures. Domestic producers of the subject product may request the initiation of an expiry review investigation at the latest three months before the end of the validity period. The request must be supported by sufficient evidence and submitted in writing to the Directorate General of Imports;
- new exporter or shipper review investigation – exporters and producers that have not exported the product

subject to Turkish measures during the period of investigation may request in writing the determination of individual dumping or subsidy margins from the Directorate General of Imports. To this end, the applicant must prove that it is not related to any of the exporters or producers subject to the measures in question and that it has exported the subject product to Turkey after the period of investigation or has concluded an irrevocable contractual obligation to export a significant quantity;

- anti-absorption re-investigation – the domestic industry may request this investigation in writing if the definitive measures have been neutralised due to a fall in export prices. The request must contain sufficient evidence of the measures being absorbed; and
- anti-circumvention investigation – domestic producers claiming that an applicable measure is being circumvented may submit a written request for the initiation of an anti-circumvention investigation to the Directorate General of Imports (along with the documents demonstrating that there is a change in the pattern of trade between a third country and Turkey, or the country subject to measures and Turkey, or individual companies in the country subject to measures and Turkey, stemming from practice, process or work for which there is an insufficient due cause or economic justification other than the imposition of the applicable measure, and the remedial effects of the duty are being undermined or nullified).

Furthermore, the Regulation on Safeguards sets out that a safeguard measure may be imposed in the form of customs duties, additional financial charges, quantity or value restrictions, tariff quotas or a combination of these measures. The duration of safeguard measures must not exceed four years, including the duration of any provisional measure unless it is extended. The duration of the measure may be extended by the results of a new investigation to be initiated, provided it is determined that the safeguard measure remains necessary to prevent or remedy serious injury and there is evidence that domestic producers are adjusting to the conditions of the market. An extended measure must not be more restrictive than it was at the end of the initial period and must continue to be liberalised. The total period of application of a safeguard measure with respect to WTO members does not exceed 10 years.

Finally, a refund application must be submitted within six months of the collection date of the measures. The application must be supported by evidence on:

- the dumping or subsidy margin for a representative period;
- the amount of refund of taxes claimed;
- customs documentation regarding the calculation of the measures; and
- the producer or exporter's normal value and export prices to Turkey for a representative period.

A refund application must be submitted in writing to the Directorate General of Imports. The Directorate General of Imports must make its decision within 12 months, but this time frame can be extended by six months. If the decision is positive, the relevant authorities must grant a refund within 90 days from the date of the refund decision.

Law stated - 06 July 2023

Compliance strategies

What are the practical strategies for complying with an anti-dumping/countervailing/safeguard duty or quota?

Depending on the commercial terms used by the parties, importers in Turkey are generally liable for the payment of customs duties on imports. Accordingly, importers will benefit from close cooperation with exporters to take all the appropriate precautions and minimise the risks associated with the implementation of trade remedies. Moreover, any

activity violating the customs legislation could potentially trigger the application of hefty administrative fines along with the retroactive collection of duties, and, in certain circumstances, the application of criminal sanctions.

Eventually, any strategy that will closely monitor the products, market structures (including upstream and downstream markets), competitiveness, cost-price analysis, pricing policy and Turkey's approach may be useful for potential review cases.

Law stated - 06 July 2023

CUSTOMS DUTIES

Normal rates and notification requirements

Where are normal customs duty rates for your jurisdiction listed? Is there an exemption for low-value shipments, if so, at what level? Is there a legally binding system of information for applied tariffs or similar in place? Are there prior notification requirements for imports?

The lists containing the applicable customs duty rates are available on the Directorate General for Imports of the Ministry of Trade's (the Ministry) website . Likewise, the Ministry's Tariff Search Engine provides general information on the customs duties as well as required documents on the imports of a given product. Additionally, binding tariff information or an advance ruling can be given by the Undersecretariat for Customs upon a taxpayer's written request. Importers may request binding tariff information concerning:

- the determination of import or export taxes – calculation of export tax refunds in the scope of the agricultural policy and all payments given to import or export; and
- usage of import, export or prior consent documents – binding tariff information is binding from the date the information is given and valid for six years.

Exemptions from customs duty and exceptions are listed under article 167 of the Customs Law, whose fourth paragraph regulates the exemption for low-value shipments. As a general practice, the President of Turkey determines exemptions, including the exemption for low-value shipments. Currently, article 45 of the Decree on the Implementation of Certain Articles of the Customs Law stipulates that books or printed publications sent by post or fast cargo for personal use whose value does not exceed €150 for each shipment are exempt from customs duty. Article 62 of the Decree sets out the following customs duty rates for goods, books or printed publications for personal use sent by post or fast cargo and for the goods referred to in article 59 of the Decree brought into Turkey by passengers provided that the value of such goods does not exceed €1,500:

- 18 per cent for those consigned from the European Union;
- 30 per cent for those consigned from other countries;
- zero per cent for books or similar printed publications; and
- 20 per cent additionally to the above-mentioned rates for the goods listed in Annex IV of the Special Consumption Tax Law No. 4760. These goods include caviar, perfume, hairspray, fur, crystal products, gold and silver tableware.

However, books or printed publications that are sent to or procured by public institutions and organisations, libraries and museums, as well as organisations engaging in educational or scientific research, are exempt from customs duty. Turkey's customs tariff system (the Customs Tariff Statistics Positions) is based on the Harmonized System of the World Customs Organization and is updated and approved every year by the President. The Customs Tariff Statistics Positions establishes 12-digit codes for the identification and classification of imported and exported products.

The Customs Guide portal, launched by the Ministry, provides basic and conceptual information concerning customs procedures for individual and commercial goods.

Law stated - 06 July 2023

Special rates and preferential treatment

Where are special tariff rates, such as under free trade agreements or preferential tariffs, and countries that are given preference listed?

Customs duty rates are published in the lists annexed to the Import Regime Decree and are provided for in the free trade agreements concluded by Turkey. Article 16 of Decision No. 1/95 of the EC–Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union obliges Turkey to harmonise its tariffs to align with the EU preferential customs regime.

The EU regime is now partly applied, meaning certain countries that are covered by the EU Generalised System of Preferences (GSP) regime are not included in Turkey's GSP regime. Those countries may be considered either as third countries or beneficiaries from special incentive arrangements. (See Annex 1 of the Import Regime Decree for the list of GSP beneficiary countries.) The lists of applicable customs duty rates depending on the concerned country's status (GSP or not) are provided in Turkish at the Ministry's website. In general, GSP beneficiaries are certain developing and least-developed countries.

Law stated - 06 July 2023

How can GSP treatment for a product be obtained or removed?

GSP treatment for a product can be obtained from, and removed by, the Directorate General of Imports within the Ministry.

According to the Import Regime Decree, Turkey takes any necessary measure for countries, establishments and companies that disturb the balance of commerce and payments in Turkey's commercial relations, breaching their obligations determined by international agreements or acting contrary to the principle of universality within the context of international agreements.

Law stated - 06 July 2023

Is there a duty suspension regime in place? How can duty suspension be obtained?

Turkey has a tariff suspension system. The products that are free of customs duties are listed in Appendix V of the Import Regime Decision. The suspension list is being arranged in cooperation with the European Union and such goods are indicated in List-V. This list shows either reduced or mostly suspended customs duties applied to imports of certain products predominately used as raw materials or intermediate inputs. Producers located in Turkey can request tariff suspension for raw materials, semi-finished goods or components to be used in their products that are not available either in the European Union or Turkey. Additionally, the amount of the import duty saved must be at least €15,000.

All requests are forwarded to the Economic Tariff Questions Group within the European Commission. Those requests are first evaluated by this group and the outcome is sent to the European Commission. After the final decision by the European Commission, suspension updates enter into force in the European Union and Turkey simultaneously.

Suspension decisions are valid for five years. Communication from the European Commission concerning autonomous tariff suspension and quotas, which is also applicable to Turkey, and its annexes regarding the documents required, are

available on the EU Official Journal website.

Law stated - 06 July 2023

Has your country applied tariffs for 'national security' reasons?

Turkey has not applied tariffs for national security reasons. However, the President of Turkey can apply additional customs duties with different grounds.

Law stated - 06 July 2023

Challenge

Where can customs decisions be challenged in your jurisdiction? What are the procedures?

Disputes between declarants and customs authorities that concern customs decisions may be resolved through two distinct procedures according to the Customs Law: administrative review and settlement.

An application can be made either before the competent settlement commission within 15 days after the notification or before the Head Directorate within 15 days from the date of notification.

The settlement procedure may be used, among other things, in cases where penalties have been imposed or where there are differences between the tax declaration and the determinations of the customs authorities. Following the amendment made on 24 November 2019 to the Customs Law, it is now possible to trigger both an administrative review and settlement procedures at the same time. Failing to resolve the disagreement with the settlement and administrative review, the decision of the customs authorities may be challenged before the administrative courts within 30 days from the date of notification.

Law stated - 06 July 2023

TRADE BARRIERS

Government authorities

What government office handles complaints from domestic exporters against foreign trade barriers at the WTO or under other agreements?

According to the Regulation on Trade Barriers, complaints from domestic exporters are handled through the Turkish Trade Barrier Notification Centre by the Market Access Barriers Working Group of the Ministry of Trade.

Law stated - 06 July 2023

Complaint filing procedure

What is the procedure for filing a complaint against a foreign trade barrier?

Relevant parties can file a complaint regarding a foreign trade barrier on the Directorate General for Exports of the Ministry of Trade's website. A working group on trade barriers reviews whether the notified issue constitutes an actual trade barrier. After sufficient data is gathered on the issue to provide a legal basis in light of international treaties, the matter will be submitted to the relevant units to take legal action. The complainant will be informed of any legal issues and actions concerning its complaint.

The relevant parties may also file a complaint against a foreign technical barrier on the Turkish Trade Barrier Notification Centre website.

Law stated - 06 July 2023

Grounds for investigation

What will the authority consider when deciding whether to begin an investigation?

The authority will consider whether the documents and information sent by applicants contain sufficient evidence to justify the initiation of an investigation.

Law stated - 06 July 2023

Measures against foreign trade barriers

What measures outside the WTO may the authority unilaterally take against a foreign trade barrier? Are any such measures currently in force?

Turkey has signed and ratified treaties with Bulgaria, China, the European Free Trade Association, the European Union, Iran, Israel, Lebanon and Russia. Some measures may be taken against foreign trade barriers under these treaties.

Law stated - 06 July 2023

Private-sector support

What support does the government expect from the private sector to bring a WTO case?

The government does not have any known expectations in this regard from the private sector.

Law stated - 06 July 2023

Notable non-tariff barriers

What notable trade barriers other than retaliatory measures does your country impose on imports?

Imports of the products listed in the annexes of Communiqué No. 2023/1 on Product Safety and Inspection are inspected by the inspectors for standardisation of foreign trade for commercial quality. A control certificate is given to the importers if the products meet the required standards.

Agricultural products are inspected by the Ministry of Agriculture and Forestry under the annexes of the Communiqué No. 2023/5 on Product Safety and Inspection published by the Directorate General of Product Safety and Inspection. Before importing these agricultural products, a control certificate is required from the Ministry of Trade. Upon inspection by the Ministry of Trade, a letter of conformity is issued to the importer provided that the products in question do not constitute any health risks.

A phytosanitary certificate issued by the country of origin is additionally required for plants and related products, and health certificates may be required for livestock and animal products, depending on the country of origin.

Law stated - 06 July 2023

EXPORT CONTROLS

General controls

What general controls are imposed on exports?

Products listed in Appendix 1 of the Regulation on Trade Barriers and Standardisation of Foreign Trade are subject to mandatory standards and quality controls. Exporters must apply to the relevant group presidency of inspectorates for the standardisation of foreign trade to export the listed products. A control certificate is issued by the latter if the products meet the required standards.

Law stated - 06 July 2023

Government authorities

Which authorities handle the controls?

In general, the inspectorates of standardisation for foreign trade are empowered to conduct conformity assessments of the exported products against required standards, technical regulations and quality. They are also competent to deliver the relevant documentation. Furthermore, the administrative authorities in charge of controlling or approving the exportation of the goods are mentioned in each of the relevant regulations. The main authorities administering export control are:

- the Ministry of National Defence (for military material and equipment);
- the Ministry of Agriculture and Forestry (for livestock and certain agricultural products);
- the Turkish Energy, Nuclear and Mineral Research Agency (for nuclear and nuclear dual-use material); and
- the Ministry of Trade (for other dual-use material).

Law stated - 06 July 2023

Special controls

Are separate controls imposed on specific products? Is a licence required to export such products? Give details.

Specific certificates and analysis may be required for plant and livestock exports:

- phytosanitary certificate – export of unprocessed agricultural products requires a phytosanitary certificate to attest that the consignment meets phytosanitary export requirements. The certificate is prepared in line with the 1951 Treaty of Rome; and
- health certificate – all agricultural products require a health certificate based on the requirements of the purchasing country. The evaluations of the inspection report and analysis results are based either on the requirements of the purchasing country or the Turkish Food Codex.

There are also additional procedures, such as the European Union's analytical report requirement and health certificate to show that aflatoxin levels are acceptable in the case of exportation of nuts and dried fruit, or the requirement of a radiation analysis to prove that radiation levels are below the limits for exportation of mushrooms.

Russia requires additional analysis when exporting fresh fruit and vegetables. Exports of livestock and animal products may also differ from country to country. Under the Regulation on the Protection of Export of Dual-Use and Sensitive Products and the Communiqué on the Export of Chemical Products that are listed in the appendix of the Chemical Weapons Agreements, the Directorate General of Imports of the Ministry of Trade controls the export of dual-use and chemical products. According to the legislation, the exporter must apply to the Secretary General of the Istanbul Mineral and Metals Exporters' Association to obtain a licence.

Additionally, Turkey is a party or member of the Wassenaar Arrangement, the Chemical Weapons Convention, the Missile Technology Control Regime, the Australia Group, the Zangger Committee and the Nuclear Suppliers Group.

Law stated - 06 July 2023

Supply chain security

Has your jurisdiction implemented the WCO's SAFE Framework of Standards? Does it have an AEO programme or similar?

Turkey is a party to the World Customs Organization's Framework of Standards to Secure and Facilitate Global Trade. According to article 5(A) of Customs Law No. 4458, the authorised economic operator status can be granted by the Undersecretariat for Customs to economically active residents who have the requisite qualifications, such as financial capability.

Law stated - 06 July 2023

Applicable countries

Where is information on countries subject to export controls listed?

The following communiqués establish lists of products subject export control:

- the Communiqué setting out the list regarding war tools and equipment, weapons, ammunitions and spare parts thereof, military explosive materials, and technologies thereof established based on Law No. 5201;
- Communiqué No. 96/31 on goods whose export is prohibited or subject to a pre-authorisation;
- Communiqué No. 2006/7 on goods whose export is subject to registration; and
- Communiqué No. 2007/1 on the warning list regarding nuclear transfer and the list of nuclear dual-use goods, which indicate the items of the goods falling under the regulation on the granting of the document that will serve as a basis for the approval of the use of nuclear and nuclear dual-use goods.

Law stated - 06 July 2023

Named persons and institutions

Does your jurisdiction have a scheme restricting or banning exports to named persons and institutions abroad? Give details.

No, there is no such scheme restricting or banning exports. Nevertheless, Turkey implements the lists of sanctioned individuals and entities established by the United Nations and the European Union.

Law stated - 06 July 2023

Penalties

What are the possible penalties for violation of export controls?

Violation of an export control rule can lead to the imposition of an administrative fine that is double the customs value of the goods whose exportation is prohibited by a general administrative act (article 235(2) of Customs Law No. 4458). Illegal exportation of goods subject to the granting of a licence, to the satisfaction of a condition or approval, may lead to an administrative fine worth a 10th of the customs value.

From a criminal viewpoint, article 3 of Anti-Smuggling Law No. 5607 provides that those who export goods whose exportation has been prohibited can be subject to imprisonment from one to three years and to a judicial fine equivalent to 5,000 days unless the behaviour concerned constitutes an offence requiring a heavier punishment. According to article 52(2) of the Turkish Penal Law, the amount of a fine equivalent to one day varies between 20 Turkish lira and 100 Turkish lira, and must be determined based on the economic situation and other personal characteristics of the individual concerned.

Law stated - 06 July 2023

FINANCIAL AND OTHER SANCTIONS AND TRADE EMBARGOES

Government authorities

What government offices impose sanctions and embargoes?

The Turkish President is authorised to impose embargoes. Any customs related sanctions are to be applied by customs authorities and deputies.

Law stated - 06 July 2023

Applicable countries

What countries are currently the subject of sanctions or embargoes by your country?

There are currently no official sanctions or embargoes applied by Turkey, although the country does apply the sanctions taken by the United Nations against certain countries.

Law stated - 06 July 2023

Specific individuals and companies

Are individuals or specific companies subject to financial sanctions?

There is currently no official list of individuals or specific companies subject to financial sanctions applied by Turkey. However, since Turkey is a party to international organisations such as the United Nations, financial sanctions implemented by these organisations are also imposed by Turkey.

Law stated - 06 July 2023

OTHER RELEVANT ISSUES

Other trade remedies and controls

Describe any trade remedy measures, import or export controls not covered above that are particular to your jurisdiction.

Not applicable.

Law stated - 06 July 2023

UPDATE AND TRENDS

Recent developments

Are there any emerging trends or hot topics in trade and customs law and policy in your jurisdiction? What effects are Brexit, the withdrawal of the US from TPP and TTIP, RCEP and negotiations of FTAs (such as the EU–Japan Free Trade Agreement, the Pacific-Alliance, etc) expected to have on your jurisdiction?

WTO Panel reports on Turkey's disputes with the European Union

The results on the disputes 'Turkey – Certain Measures concerning the Production, Importation and Marketing of Pharmaceutical Products' (DS583), and 'United States – Certain Measures on Steel and Aluminium Products' (DS564) were published by the WTO.

In the former dispute, which was initiated on 2 April 2019 upon a complaint from the European Union, the latter claimed that various Turkish measures concerning the production, importation and marketing of pharmaceutical products amounted to:

- localisation requirements;
- technology transfer requirements;
- an import ban on localised products; and
- prioritisation measures.

Accordingly, the European Union asserted that the concerned measures were inconsistent with various provisions of the General Agreement on Tariffs and Trade (GATT) 1994, the Agreement on Trade-Related Investment Measures (the TRIMs Agreement), the Agreement on Subsidies and Countervailing Measures and the Agreement on Trade-Related Aspects of Intellectual Property Rights. In its report, the Panel upheld the European Union's arguments and recommended Turkey to bring its measures into conformity with its obligations under GATT 1994.

On 28 April 2022, Turkey decided to appeal the Panel report before arbitrators in accordance with the Agreed Procedures for Arbitration reached between the European Union and Turkey. In arbitration, Turkey challenged the Panel's findings pertaining to the localisation requirement. Arbitrators upheld, albeit for different reasons, the Panel's finding that the localisation requirement is not covered by the government procurement derogation in article III:8(a) and is therefore subject to the national treatment obligation in article III:4 of the GATT 1994 and article 2.1 of the TRIMs Agreement. Arbitrators found that the Panel's finding that the localisation requirement is inconsistent with the national treatment obligation in article III:4 of the GATT 1994 remains undisturbed. Further, arbitrators upheld the Panel's finding that Turkey has not established that the localisation requirement is justified.

In the 'United States – Certain Measures on Steel and Aluminium Products' dispute, published on 25 January 2019, a

panel was composed at Turkey's request concerning the imposition of an additional import duty of 25 per cent on certain steel products and an additional import duty of 10 per cent on certain aluminium products from all countries, apart from Argentina, Australia, Brazil, Canada, the European Union, Mexico and South Korea. The main legal basis for the measures at issue was section 232 of the US Trade Expansion Act of 1962 and two investigations on steel and aluminium products, conducted by the US Department of Commerce (USDOC). USDOC determined that present quantities and circumstances of steel and aluminium imports were weakening the United States' internal economy and threatened to impair national security as defined in section 232. The Panel found that the duties on steel and aluminium were inconsistent with article II:1 of the GATT 1994, as they exceeded the bound tariff rates in the US WTO schedule of concessions. The Panel also found that exemptions from the duties granted to steel and aluminium products from certain countries were inconsistent with the requirement of MFN treatment under article I:1 of the GATT 1994. The Panel further found that quotas on steel and aluminium products from certain countries were inconsistent with the requirement to eliminate quantitative restrictions under article XI:1 of the GATT 1994.

Anti-dumping measure imposed by the European Commission

On 24 June 2021, the European Commission initiated an anti-dumping investigation concerning the imports of certain corrosion resistant steels (CRSs) originating in Russia and Turkey following a complaint lodged on 12 May 2021 by the European Steel Association (Eurofer) that claimed that the dumping by Turkish and Russian imports caused material injury within the EU market.

The complaint was brought by Eurofer on behalf of the complainant EU producers of certain corrosion CRS products, which represent more than 40 per cent of the EU CRS production. It was claimed that CRS imports from Turkey and Russia were sold in the European Union at significantly dumped prices, with average dumping margins of approximately 18 per cent for Turkey, and 23 per cent for Russia.

The Commission decided to abandon the sampling method in relation to the exporting producers in Russia and adopted the sampling method in relation to exporting producers or groups of exporting producers in Turkey accounting for 62.6 per cent of the total Turkish export volume of the product concerned to the European Union. To determine dumping margins for Russian and Turkish exporters, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned. Consequently, the Commission calculated dumping margins of between 12.7 per cent and 39.8 per cent for Russia, and between 2.4 per cent and 11 per cent for Turkey, taking into consideration the changes following final disclosure.

Regarding the causation and injury assessment, the Commission stated that the EU CRS industry is suffering from material injury considering the economic indicators of the domestic industry, which is due to the dumped imports originating in Turkey and Russia. Dumped CRS imports from Turkey and Russia surged onto the EU market over the past four years, exploited the covid-19 crisis by increasing their volumes during a period of stagnant demand, undercut EU producers consistently and thereby put continuous pressure on EU producers. As a result, EU producers lost market share in the period considered and their financial situation deteriorated significantly, reaching a low point in the investigation period. Considering the foregoing, the Commission found that there is a clear causal link between the industry's dire situation and CRS imports from Turkey and Russia, which grew substantially in volume and in market share at ever decreasing prices throughout the period considered.





The Commission rejected some parties' statements that a drop in demand was the cause of the decrease in European production, noting that whereas consumption declined by 467,000 megatons between 2017 and 2020, imports from the two countries concerned almost doubled. The Commission did not find evidence supporting the claim that ill-timed investments leading to a higher capacity than consumption in the European Union was reason for the injury suffered by EU producers, and that covid-mandated shutdowns affected the fixed costs and profits of European steelmakers.

As a result of the investigation, the Commission decided to impose individual dumping margins on the concerned

product originating in Turkey amounting to between 2.4 and 11 per cent, and originating in Russia amounting to between 10.3 and 37.4 per cent.

Law stated - 06 July 2023

Jurisdictions

	Chile	Porzio Ríos García
	China	Global Law Office
	Colombia	Araújo Ibarra International Trade Consultants SAS
	Eurasia	Dentons
	European Union	Fieldfisher
	India	Khaitan & Co
	Japan	Mori Hamada & Matsumoto
	Jordan	AL Armouti Lawyers & Consultants
	Malaysia	SKRINE
	Mexico	Galicia Abogados SC
	Turkey	ACTECON
	Ukraine	Sergii Koziakov & Partners
	United Kingdom	Clifford Chance
	USA	Cassidy Levy Kent LLP