

Our position

Business concerns vis-à-vis the additional customs duties implemented by Turkey during the COVID-19 pandemic

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3 trillion in 2019, directly supports more than 4.8 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

The American Chamber of Commerce to the European Union (AmCham EU) wishes to highlight our concerns to the European Council and European Commission *vis-à-vis* the additional customs duties (ACDs) implemented by Turkey during the COVID-19 pandemic.

Turkey has been adopting and enforcing ACDs on imports of various product categories from different origins since at least 2011. These ACDs, gradually introduced via numerous individual decisions, cover a broad set of goods. Products originating in the EU or FTA partners of Turkey are not subject to these additional duties. However, goods originating in third countries are subject to additional duties when imported into Turkey even if they were in free circulation in the EU. Accordingly, the duties on imports from the third countries are effectively set by Turkey above the Common Customs Tariff under the EU-Turkey Customs Union (CU).

Recently, ACDs have been imposed and increased in April and May 2020 through several Presidential Decrees in response to the COVID-19 pandemic. The ACDs have been extended to cover a wide range of products, such as steel, household appliances, jewellery, musical instruments, sanitary products, blades and razors for shaving. Current additional customs duties on footwear with uppers of textiles or synthetic material, as well as apparel products, have increased, too.

Turkey is violating its international obligations in two instances:

- 1) By applying ACDs on third-country origin goods that have been released for free circulation in the EU and which are subsequently moved to Turkey, Turkey acts in violation of its obligations under the EU-Turkey CU. There is a clear divergence between the EU's Common Customs Tariff and Turkey's effective external tariff. While the CU provides certain conditions for such derogations, Turkey has not notified the Association Council of the existence of such serious disturbances.
- 2) The Turkish authorities have, in case a new ACD-based tariff rate is higher than the corresponding WTO bound tariff rate, applied and collected the new rate. In the context of Turkey's most recent Trade Policy Review (2016), the WTO Secretariat has determined in this regard that 'it appears that for 47 tariff lines, the applied rates exceed bound rates.' Similarly, the ACDs recently imposed by the Decrees result in Turkey's bound rates to be exceeded on numerous occasions. Based on WTO jurisprudence in respect of Article II of the GATT 1994, an increase in customs duties that leads to the exceeding of the bound rates as laid down in a WTO Member's schedule gives rise to a violation of that provision.

We fully support free trade and trade liberalisation measures as a matter of principle. In these challenging times, trade must remain free to help usher in economic recovery and restore broad-based prosperity. We believe that Turkey and the EU should work on a plan towards eliminating the recently imposed ACDs and thereby send a clear signal that international trade remains an engine of economic growth and job creation. We therefore call on the Commission to continue its engagement with the Turkish Government to address the issue.

Finally, we urge both sides to refrain from imposing unilateral sanctions as this would serve only to escalate tensions further. Both parties should use tools available to them under the provisions of the EU-Turkey CU or other agreements, including dispute settlement facilities, and engage in bilateral talks to resolve any differences. Now is the time for de-escalation so that both sides can focus on a positive agenda and much-needed reset of the EU-Turkey relationship.