

## The European Union Initiates Dispute Resolution Procedure Against Turkey Before the World Trade Organization

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On 2 April 2019, the European Union ("**EU**") has filed a request for consultations against Turkey's measures on production, importation, and marketing of the pharmaceutical products to the World Trade Organisation ("**WTO**").

The EU's main argument is that such measures as explained in detail below nullify or impair the benefits accruing to the EU directly or indirectly under several agreements including General Agreement on Tariffs and Trade ("**GATT**"), Agreement on Trade-Related Investment Measures ("**TRIMs**"), Agreement on Trade-Related Aspects of Intellectual Property Rights ("**TRIPs**") and Agreement on Subsidies and Countervailing Measures ("**ASCM**") ("**Related Agreements**").

The measures at issue are as follows:

1. The Localization Requirements: In order to achieve localization in Turkey, Turkish authorities require foreign producers to commit localizing their substantial part of the production of certain pharmaceutical products. If such commitment is not made, are not accepted by the Turkish authorities, or not fulfilled, the subject pharmaceutical will not be reimbursed by the government. Since the government is the largest scaled buyer in terms of amount, not being reimbursed seriously harms the competition among pharmaceutical companies. The EU criticized the lack of transparency in the specific commitments' implementations set by each foreign producer.
2. The Technology Transfer Requirements: The EU argued that foreign producers might oblige to sign a technology transfer agreement (including patents) with a local producer established in Turkey, and such practice may vary among producers.
3. The Import Ban on Localized Products: If a product is localized in its manufacturing processes, the import of such pharmaceutical is no longer permitted.
4. The Prioritization Measure: The EU argued that Turkey prioritizes the domestic pharmaceuticals during the pre-launch period

After setting forth and citing the relevant provisions of the Related Agreements, the EU argued that such measures might:

- Disrupt the equality and transparency, and harm the competition between the foreign and local investments
- Impose considerably strict restrictions and bans on the import
- Be detrimental to the equality between the foreign and local intellectual property rights holders

As a result, the EU concludes that the measures taken by Turkey seriously harm the benefits granted to EU citizens by the Related Agreements.

As to the next steps, Turkey needs to:

- response to this request within 10 (ten) days as of receipt,
- enter into consultations in good faith within 30 days of receipt, with a view to reaching a mutually satisfactory solution,

according to the Understanding on Rules and Procedures Governing the Settlement of Disputes.

The consultations should be settled within 60 days after the date of receipt of the request. If the consultations are not settled during this period, or consultations request is not responded, EU may proceed directly to request WTO to establish a panel.

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## Related Attorneys

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