

## **Turkish Anti-Dumping Investigation**

National Cotton Council

October 24, 2014

US cotton industry association representatives met by conference call Thursday, October 23, 2014, with US government officials from the Department of Commerce, State Department, USDA, USTR and the International Trade Commission to discuss the anti-dumping (AD) investigation against US cotton announced by Turkey's Ministry of Economy. Of note, this investigation is unusual in that it was self-initiated by the Turkish government, apparently without a request from the Turkish cotton industry.

There are key differences between this AD investigation and the countervailing duty (CVD) investigation conducted by Peru in 2012-13. In the CVD case, the US government was a primary respondent as it defended US cotton subsidies as non-distortive and non-injurious to the Peruvian cotton industry. This AD case is specific to exporting companies. The US government will observe the proceedings to ensure that Turkey abides by international commitments in its conduct of the investigation. However, the US government is not a party to the case, but is available as an information resource for the industry.

The investigation was announced on October 18, 2014, and the Turkish government has notified exporting companies of the investigation and sent them very detailed questionnaires that are to be completed as part of the investigation. The requested information is to be provided in hard copy format within 37 days, and the clock started the day of the announcement. Exporters can request an extension beyond the initial 37 days. Firms failing to respond to the questionnaires will be noted as non-cooperators and may be treated adversely.

Trade associations representing exporters are encouraged to register as interested parties with the government of Turkey. Failure to register will likely cause Turkey to ignore any representations or arguments submitted by the associations.

According to WTO guidelines for an AD investigation, Turkey must make three affirmative determinations in order to apply an AD duty on imports of US cotton. All three determinations must be met.

1. Determine that imports of US cotton from an exporting company have been dumped in Turkey. This could be established by determining that US sales of cotton to Turkey were at lower values than US sales to domestic mills or US sales to other countries. The determination of a dumping margin will be based on the company-specific responses provided in the questionnaires.
2. Determine that the Turkish cotton industry has been injured. Have Turkish cotton producers been economically damaged by US cotton exports to Turkey?
3. Determine that the injury was caused by the imports that were dumped. Turkey must demonstrate that any injury to the Turkish cotton industry was the direct result of US cotton imports. They must establish a causal link between injury and imports.

Failing any one of these determinations, the investigation is concluded with no anti-dumping finding. If there is an affirmative finding, then AD duties would be applied for a period of up to five years. The AD duties would be company-specific and based on calculations using data provided in the questionnaires. A review of the duties can be requested following 1 year from imposition, but Turkey is not obligated to grant the requested annual review.

Historically, Turkey has a track record of moving fairly quickly on these types of cases. Such investigations can be concluded in as little as six months. Some complicated cases have taken longer.

A number of questions were posed by association representatives to the US government officials.

- Q: Sales are currently being made to Turkey and shipments are continuing. When could anti-dumping duties be applied? A: In general, Turkey cannot impose duties without completing the investigation. However, if Turkey claims there were critical circumstances, then upon completion of the investigation and a finding of dumping, Turkey can look back at imports received 90 days prior to the finding if it so chooses.
- Q: Cotton is an agricultural commodity traded in an active futures market so prices can vary widely within a year. Will the investigation take into consideration that timing of sales can have a significant impact on reported prices? A: This characteristic of cotton prices will have to be fully explored and analyzed in submissions to Turkey. Hopefully, the trade data requested by Turkey in the exporter questionnaires will reveal such detail. The US government will examine the type of trade data requested by Turkey to determine if this aspect of trade will be established.
- Q: Much of the price data that will likely be used to rebut Turkey's investigation is US government data. Will the US government do any price analysis and submit any rebuttal arguments to Turkey? A: The US government made no commitment regarding submissions on substantive arguments or allegations in the investigation.
- Q: Turkey's questionnaires ask for a considerable amount of information that most firms consider proprietary and confidential. How will Turkey handle this information? A: By the WTO rules, Turkey is required to treat as confidential any documents or information designated as confidential by respondents. Turkey will provide a summary of confidential material in the final investigative report.
- Q: The National Cotton Council organized parts of the industry's response in the Peru case. Given the substantial difference between the CVD case and this AD investigation, should the Council seek any role? A: Industry associations should definitely consider filing as interested parties. The Council has the right to provide rebuttals to all parts of the investigation, but such information will likely be ignored if the submitting party is not a certified "interested party."
- Q: Why do you think the Turkish government took the unusual step of self-initiating an AD investigation? A: In some cases, a government may have heard complaints from the local industry, but determined that the local industry was too disorganized to fully develop the basis for an AD investigation. That type of situation could prompt a government to act in an "ex officio" manner. The reasons behind this investigation haven't been confirmed, but it was acknowledged that Turkish officials have threatened in recent weeks to initiate AD investigations of products from the US in retaliation for ongoing AD investigations that the US government is conducting on steel products from Turkey. Regardless of the motivation, US exporters should respond to the questionnaire.

#### **Expected Actions for Responding Exporters**

- Exporters receiving notices from the Turkish government regarding this action should immediately download the questionnaires and review the forms.

- After reviewing the information and documents sought by Turkey, exporters should determine if the material can be assembled and delivered to the appropriate authorities by November 24, 2014, 37 days since October 18, 2014. If the assembly and delivery is unlikely in this timeframe, exporters should seek an extension.
- Following the initial submission of responses to the questionnaires, there could be supplemental questionnaires issued, possible audits of the information provided by companies, a hearing on the case in Turkey, and then summary findings issued before there is a final determination.

#### **Expected Actions by Industry Associations**

- Translators are currently working to prepare an English translation of the Ministry of Economy's report that was used as the initial basis for launching the investigation. The translated document will be reviewed, and rebuttal arguments will be developed.
- Efforts are being made to identify firms in Turkey that are familiar with the AD process and can provide legal assistance.
- Contacts will be used to raise opposition to the investigation within Turkey's textile industry.
- There will be regular follow up with US government officials as the investigation moves forward.