



**Council for Trade in Goods
Committee on Safeguards**

**REQUEST UNDER ARTICLE 13.1(E) OF THE AGREEMENT ON SAFEGUARDS
(REQUEST FROM THAILAND)**

FACTUAL REPORT TO THE COUNCIL FOR TRADE IN GOODS BY
THE CHAIRPERSON OF THE COMMITTEE ON SAFEGUARDS

Addendum

This document contains the Annexes to the factual report circulated in document G/L/1276-G/SG/191.

ANNEX 1

(G/L/1213/Rev.1-G/SG/158/Rev.1, circulated on 16 March 2018)

**REQUEST UNDER ARTICLE 13.1(E) OF
THE AGREEMENT ON SAFEGUARDS**

**REQUEST FROM THAILAND CONCERNING
A SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS BY TURKEY**

THAILAND

Revision

The following communication, dated 15 March 2018, is being circulated at the request of the Delegation of Thailand.¹

Without prejudice to rights and obligations under the WTO Covered Agreements and pursuant to Article 13.1(e) of the Agreement on Safeguards, Thailand hereby requests the Committee on Safeguards to review whether the suspension of concessions or other obligations applied by Turkey is "substantially equivalent" as provided for in Article 8.2 of the Agreement on Safeguards and to report as appropriate to the Council for Trade in Goods.

The basis for this request is as follows:

1 FACTS

1. On 7 June 2014, in relation to increased imports and in order to remedy the serious injury suffered by the domestic industry, Thailand imposed a safeguard measure on non-alloy hot rolled steel flat products in coils and not in coils (hereinafter refer to as "the products concerned") for a duration of 3 years and progressively liberalized it at regular interval during the period of its application.
2. On 21 June 2017, the decision to extend a safeguard measure that is being applied against the products concerned was notified (WTO Document G/SG/N/8/THA/3/Suppl.2 and G/SG/N/10/THA/3/Suppl.2) according to which a public hearing was held on 24 April 2017 and the Ministry of Economy of Republic of Turkey requested a time slot for prior consultation. That consultation was held on 21 April 2017 during which there was no discussion on the issue relating to maintaining a substantially equivalent level of concessions and other obligations to that existing under GATT 1994 due to the fact that the Turkish import share of the subjected goods counted only for 5.14% of Thailand's total import.
3. On 3 August 2017, Turkey notified to the Council for Trade in Goods the proposed suspension of concessions and other obligations referred to in paragraph 2 of Article 8 of the WTO Agreement on Safeguards (WTO Document G/L/1183 and G/SG/N/12/TUR/5) consisting of an increase in import duty of air-conditioning machine (HSC: 8415.10) originating in Thailand effectuated from 5 September 2017 for 3 years.
4. On 22 November 2017, Turkey published in its Official Journal the increase in import duty of air-conditioning machine from Thailand by 9.27% based on the selected import value of non-alloy hot rolled steel flat products in coils and not in coils in 2013 where there was a maximum surge in imports before the initiation of Thailand's investigation.

¹ In the preparation for circulation of the original document (G/L/1213-G/SG/158), a reproduction error occurred in certain cells in the tables in the Annex. For ease of reference, this revised document reproduces the entire document with the reproduction error corrected.

2 SUBSTANTIALLY EQUIVALENT CONCESSIONS

5. Thailand considers that the suspension of concessions and other obligations applied by Turkey is not substantially equivalent as provided for in Article 8.2 of the Agreement on Safeguards considering that the substantially equivalent concessions should be calculated based on a 3-year average of import value preceding the original measure where the level of concessions is not affected and where relevant factors of injury indicate that the domestic industry suffered from the surge in imports.

6. In fact, the substantially equivalent concessions for Turkey should be at most at the amount of 5.70% additional duty instead of 9.27% on the products concerned, as indicated in the Annex.

3 REQUEST

7. Pursuant to the mandate established in Article 13.1(e) of the Agreement on Safeguards, Thailand requests that the Committee on Safeguards review whether the suspension of concessions or other obligations applied by Turkey is "substantially equivalent" as provided for in Article 8.2 of the Agreement on Safeguards. Thailand also requests that the Committee report its findings to the Council for Trade in Goods.

ANNEX

LEVEL OF SUBSTANTIALLY EQUIVALENT CONCESSIONS OR OTHER OBLIGATIONS

1. Based on Thai Customs Authority's statistics, application of a 3-year average safeguard duty of 20.87% on non-alloy hot rolled steel flat products in coils and not in coils should result in 3.2 million US dollars (\$) of duty collected by Thailand with regard to Turkish exports of the relevant product based on an average of the import value from June 2011 – May 2014.

Non-alloy hot rolled steel flat products in coils and not in coils

| Turkey's Exports \$ | | | Thailand's Increase in Duty | Duty Collected |
|----------------------------|----------------------------|----------------------------|-----------------------------|------------------|
| June 2011 – May 2012 | June 2012 – May 2013 | June 2013 – May 2014 | | |
| - | 6,621,224 | 39,563,944 | | |
| 3-year average | | 15,395,056 | 20.87% | 3,212,948 |

2. The substantially equivalent concessions and other obligations as regards air-conditioning machine originating in Thailand should be at the amount of 5.70% based on a 3-year average of export value during the same period of the said product to Turkey.

Air-conditioning Machine

| Thailand's Exports \$ | | | Turkey's Increase in Duty | Duty Collected |
|----------------------------|----------------------------|----------------------------|---------------------------|------------------|
| June 2011 – May 2012 | June 2012 – May 2013 | June 2013 – May 2014 | | |
| 44,585,697 | 73,529,548 | 50,935,734 | | |
| 3-year average | | 56,350,326 | 5.70% | 3,211,969 |

ANNEX 2

(G/L/1183-G/SG/N/12/TUR/5, circulated on 3 August 2017)

NOTIFICATION UNDER ARTICLE 12.5 OF THE AGREEMENT ON SAFEGUARDS TO THE COUNCIL FOR TRADE IN GOODS OF PROPOSED SUSPENSION OF CONCESSIONS AND OTHER OBLIGATIONS REFERRED TO IN PARAGRAPH 2 OF ARTICLE 8 OF THE AGREEMENT ON SAFEGUARDS

TURKEY

The following communication, dated 3 August 2017, is being circulated at the request of the Delegation of Turkey.

Pursuant to Article 12.5 of the Agreement on Safeguards, and in accordance with the agreed format for notifications (G/SG/1, 1 July 1996), the Government of Turkey provides the immediate notification to the Council for Trade in Goods of proposed suspension of concessions and other obligations referred to in paragraph 2 of Article 8.

1. Which Member is proposing suspension of concessions and other obligations referred to in Article 8.2?

Turkey.

2. Specify the measure, the product subject to the measure, the WTO document that notified the safeguard measure, and the Member imposing the measure in relation to which the Member is proposing suspension of concessions and other obligations referred to in Article 8.2

The extended measure imposed by Thailand in the form of a tariff increase on imports of non-alloy hot rolled steel flat products in coils and not in coils, for three years starting from 7 June 2017 until 6 June 2020.

The extended measure has been notified in G/SG/N/8/THA/3/Suppl.2-G/SG/N/10/THA/3/Suppl.2 (dated 21 June 2017).

3. Describe the proposed suspension of concessions and other obligations referred to in Article 8.2, and the proposed date from which it will come into effect

The proposed suspension of substantially equivalent concessions and other obligations under GATT 1994 to the trade of Thailand takes the form of an increase in duty on selected products originating in Thailand, as indicated in Annex I and calculated as indicated in Annex II.

Without prejudice to the effective exercise of its right to suspend substantially equivalent concessions or other obligations referred to in Article 8.2, the Government of Turkey reserves its right to effectuate the proposed suspension from 5 September 2017.

ANNEX I

The products covered are determined, within the Annex, by HS codes (6 digits) only.

HS codes and Description**Additional Duty**

8415.10 Air-conditioning machines (of a kind designed to be fixed to a window, wall, ceiling or floor, self-contained or "split-system")

9.27 %

ANNEX II

LEVEL OF SUBSTANTIALLY EQUIVALENT CONCESSIONS OR OTHER OBLIGATIONS

1. Application of the increased duty of 21% on non-alloy hot rolled steel flat products in coils and not in coils by Thailand safeguard measures would result in 6.5 million US dollars (\$) of duty collection by Thailand with regard to Turkish exports of the relevant products (based on the export value in 2013; 31 million US dollars \$).

| Affected Products | Turkish Exports \$ | Thailand's Increase in Duty | Duty Collected |
|--|---------------------------|------------------------------------|-----------------------|
| Non alloy hot rolled steel flat products in coils and not in coils | 30,992,000 | 21% | 6,508,320 |
| Total | 30,992,000 | | 6,508,320 |

2. To maintain the equivalent level of concessions and other obligation under GATT 1994, as regards selected products listed in Annex I, Turkey's proposed suspension of concession would affect 70.1 million US dollars (\$) (based on the import value in 2013) of Turkish imports originating in Thailand and would result in 6.5 million US dollars (\$) of duty collected.

ANNEX 3

(Excerpts from the minutes of the regular meeting held on 23 April 2018 (G/SG/M/53))

**5 REQUEST UNDER ARTICLE 13.1(E) OF THE AGREEMENT ON SAFEGUARDS
(G/L/1213/REV.1–G/SG/158/REV.1) (ITEM REQUESTED BY THAILAND)**

99. Thailand explained that this issue related to Turkey's suspension of concessions taken under Article 8.2 of the Agreement. The issue of substantially equivalent level of concessions did not come up in the prior consultation with Turkey. Turkey's exports of the subject product to Thailand accounted for only 5.14% of Thailand's total imports. Nevertheless, as suspension of concessions, Turkey increased the import duty of air-conditioning machines from Thailand by 9.27% for three years starting from 5 September 2017 until 4 September 2020. This calculation was based on the import value of non-alloy hot rolled steel flat products in 2013. In addition, the end time of this suspension, 4 September 2020, extended to after the planned duration of the measure, which was 6 June 2020. The amount suspended was not substantially equivalent as laid down in Article 8.2 of the Agreement. It should be calculated based on a 3-year average of import value preceding the original measure. By calculating the retaliation measure on the basis of the imports in 2013 alone, Turkey arbitrarily exceeded the feasible limit of retaliation which should be at most 5.70% rather than 9.27% additional duty. Therefore, Thailand requested the Committee to review whether the application of such suspension of concessions was substantially equivalent and to report to the CTG.

100. For the information of the Committee, the Chair recalled that Article 13.1(e) of the Agreement set out the functions of this Committee to "review, at the request of the Member taking a SG measure, whether proposals to suspend concessions or other obligations are 'substantially equivalent', and report as appropriate to the CTG".

101. Turkey pointed out that it requested for compensation on 21 April 2017. Since the compensation was not provided, Turkey notified its proposal of suspension of concessions in line with Article 8.2 of the Agreement. This proposal was not disapproved by the CTG, and so it came into effect on 5 September 2017. Immediately after the imposition of the retaliatory measure, Thailand requested to hold a bilateral meeting in order to find an amicable solution. While these discussions were ongoing, Thailand submitted a request to the Committee under Article 13.1(e) of the Agreement. Turkey's views were the following: First, Article 13.1(e) did not deal with measures already in force, but dealt with "proposals". Thus, Thailand's request was not appropriate. Second, there was no rule in the Agreement indicating which periods should be taken as a basis for the calculation of the substantially equivalent level of concessions. There were examples of other countries' past notifications where the same method as Turkey's was used. Third, Turkey disagreed with Thailand's statement that there was no discussion on maintaining substantially equivalent level of concessions during the consultations prior to the imposition of the measure.

102. The US recalled that there was a request under Article 13.1(b) of the Agreement in 2011 in which a Member requested the Committee to find whether the procedural requirements of the Agreement had been complied with. In that case, the Chair of the Committee provided her own factual report to the CTG when the Committee was unable to reach a consensus on the finding. The Committee discussed the Member's request during a regular Committee meeting and also met informally on subsequent occasions. For Thailand's request at hand, the Committee should consider proceeding in similar steps as taken in 2011–2012. That is, listen to the views of the Members and come up with a result consistent with Article 13.1(e) of the Agreement.

103. Australia supported having further discussions, including in the form of informal consultations. Like the US, it recalled a similar request made in 2011. The Chair of the Committee at that time submitted the report to the CTG on his/her own responsibility. Informal consultations as well as formal discussions in the Committee took place. Australia suggested that the Committee consider taking a similar approach.

104. The Chair stated that he would ask the incoming Chair to hold informal consultations on this issue as soon as possible.

105. The Committee took note of the statements made.

ANNEX 4

Past Article 12.5 Notifications of Proposed Suspension

| Member proposing suspension | Against whom? | Original measure imposed on ... | Proposed Suspension Notified in ... ¹ | Year when proposed suspension was notified | Period Used to Calculate |
|-----------------------------|---------------|----------------------------------|--|--|---|
| Turkey | US | Steel and aluminium ² | G/L/1242 | 2018 | Based on exports of the products concerned to the US in the year (2017) immediately preceding the year in which the safeguard measure was imposed (2018). |
| Russia | US | Steel and aluminium | G/L/1241 | 2018 | No indication of the year(s) used. |
| Japan | US | Steel and aluminium | G/L/1240 | 2018 | Based on exports of the products concerned to the US in the year (2017) immediately preceding the year in which the safeguard measure was imposed (2018). |
| India | US | Steel and aluminium | G/L/1239 | 2018 | Based on exports of the products concerned to the US in the year (2017) immediately preceding the year in which the safeguard measure was imposed (2018). |
| EU | US | Steel and aluminium | G/L/1237 | 2018 | Based on exports of the products concerned to the US in the year (2017) immediately preceding the year in which the safeguard measure was imposed (2018). |
| China | US | Steel and aluminium | G/L/1218 | 2018 | Based on exports of the products concerned to the US in 2014 while the safeguard measure was imposed in 2018. |
| Japan | US | Solar cells | G/L/1226 | 2018 | No details of the proposed suspension of concession and the calculation thereof in this notification. |
| Korea | US | Solar cells | G/L/1224 | 2018 | Based on exports of the products concerned to the US in the year (2017) immediately preceding the year in which the safeguard measure was imposed (2018). |
| Korea | US | Washers | G/L/1223 | 2018 | Based on exports of the products concerned to the US in the year (2017) immediately preceding the year in which the safeguard measure was imposed (2018). |
| China | US | Washers | G/L/1221 | 2018 | No details of the proposed suspension of concession and the calculation thereof in this notification. |

¹ For the sake of succinctness, only one symbol is indicated in this column even for multiple-symbolled documents.

² The US does not understand it measures, taken on the basis of Section 232 of the Trade Expansion Act of 1962, to be SG measures. See, for example, G/SG/168. Same for all entries in this table related to the US measures imposed in 2018 on steel and aluminium.

| Member proposing suspension | Against whom? | Original measure imposed on ... | Proposed Suspension Notified in ...¹ | Year when proposed suspension was notified | Period Used to Calculate |
|------------------------------------|----------------------|--|--|---|--|
| China | US | Solar cells | G/L/1220 | 2018 | No details of the proposed suspension of concession and the calculation thereof in this notification. |
| Turkey | Thailand | Non-alloy hot rolled steel | G/L/1183 | 2017 | Based on exports of the products concerned to Thailand in the year (2013) immediately preceding the year in which the safeguard measure was originally imposed (2014). |
| Indonesia | India | Saturated fatty alcohols | G/L/1117 | 2015 | No details of the proposed suspension of concession and the calculation thereof in this notification. |
| Chinese Taipei | Indonesia | Flat rolled products of iron/steel | G/L/1076 | 2014 | No details of the proposed suspension of concession and the calculation thereof in this notification. |
| Russia | Ukraine | Motor cars | G/L/1032 | 2013 | Based on exports of the products concerned to Ukraine in the year (2012) immediately preceding the year in which the safeguard measure was imposed (2013). |
| Turkey | Ukraine | Motor cars | G/L/1028 | 2013 | Based on exports of the product concerned to Ukraine in the year (2012) immediately preceding the year in which the safeguard measure was imposed (2013). |
| Norway | EC | Farmed salmon | G/L/738 | 2005 | Based on average exports of the product concerned to the EC during the last three years (2002-2004) preceding the year in which the safeguard measure was imposed (2005). |
| Turkey | Jordan | Pasta | G/L/626 | 2003 | No details of the proposed suspension of concession and the calculation thereof in this notification. |
| Turkey | Jordan | Sanitary ware products | G/L/625 | 2003 | No details of the proposed suspension of concession and the calculation thereof in this notification. |
| Turkey | EC | Certain steel products | G/SG/N/12/TUR/1 | 2002 | No details of the proposed suspension of concession and the calculation thereof in this notification. |
| Switzerland | US | Certain steel products | G/C/18 | 2002 | No indication of the year(s) used. |
| China | US | Certain steel products | G/C/17 | 2002 | Based on exports of the products concerned to the US in 2000 while the safeguard measure was imposed in 2002. |
| Norway | US | Certain steel products | G/C/16 | 2002 | Based on average exports of the products concerned to the US during the last three years (1999-2001) preceding the year in which the safeguard measure was imposed (2002). |
| Japan | US | Certain steel products | G/C/15 | 2002 | Based on exports of the products concerned to the US in the year (2001) immediately preceding the year in which the safeguard measure was imposed (2002). |

| Member proposing suspension | Against whom? | Original measure imposed on ... | Proposed Suspension Notified in ...¹ | Year when proposed suspension was notified | Period Used to Calculate |
|------------------------------------|----------------------|--|--|---|---|
| EC | US | Certain steel products | G/C/10 | 2002 | Based on average exports of the products concerned to the US during the last three years (1999-2001) preceding the year in which the safeguard measure was imposed (2002). |
| Poland | Slovak Republic | Sugar | G/L/453 | 2001 | Based on average exports of the product concerned to Slovakia during the last three years (1998-2000) preceding the year in which the safeguard measure was imposed (2001). |
| EC | US | Wheat gluten | G/L/251 | 1998 | Based on average exports of the product concerned to the US during the last three years (1995-1997) preceding the year in which the safeguard measure was imposed (1998). |