

## EU Challenges Turkey with WTO Pharma Dispute

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June 2019

Governments often try to protect their domestic industries. However, such “protectionist” measures can be unlawful, especially when they discriminate against foreign companies or importers. International trade rules, most notably the laws of the World Trade Organization (WTO), have often been used successfully to restore the competitive balance and to ensure that domestic and foreign companies can operate on an equal footing.

On April 2, 2019, the European Union (EU) “requested consultations” with Turkey over measures the latter took that seemingly discriminate against imported pharmaceutical products in favor of local ones. The consultations, which are the first step in WTO dispute settlement, will last up to 60 days. If a solution is not reached during this time period, the EU can then request the WTO to set up a panel to rule on the issue.

The EU challenged four types of measures adopted by the Turkish government:<sup>1</sup>

1. *the localization requirement*, – which forces foreign producers of pharmaceuticals to move their production to Turkey, if they want their medicines to be eligible for reimbursement under the Turkish healthcare system
2. *the technology transfer requirement*, – which forces foreign producers to transfer technology, including patent rights, to a producer established in Turkey
3. *the import ban on localized products*, – which prohibits importation of certain pharmaceuticals once their production has been moved to Turkey
4. *the prioritization measure*, – where priority is given to domestic pharmaceutical products when reviewing applications for inclusion in Turkey’s medicines reimbursement scheme

The EU maintains that these measures are “a clear violation of Turkey’s WTO obligations to treat foreign companies on equal footing with domestic ones, and to protect intellectual property of foreign companies, such as patents and business information, on its territory.”<sup>2</sup>

Interestingly, the Turkish measures in question are ones that other countries have also adopted. The subject matter, and the fact that several countries have similar measures, will probably make this WTO case quite high profile.

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<sup>1</sup> The EU’s “Request for Consultations,” the first step in WTO dispute settlement, is available [here](#).

<sup>2</sup> [European Commission press release, “European Union launches WTO cases on ICT and pharmaceuticals,” April 2, 2019](#)