American Metal Market

CIT allows challenge of 232 tariff vs Turkey

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The United States Court of International Trade (CIT) has denied the US government's motion to dismiss a case challenging President Donald Trump's move to double the tariff imposed on imports from Turkey, indicating that there is a limit to Trump's use of the tariffs.

"The president's expansive view of his power under Section 232 [trading regulations] is mistaken... Section 232 requires that the president not merely address a threat to national security; [he] must do all that, in his judgment, will eliminate it," CIT judges Claire Kelly and Jane Restani said in a ruling dated Friday November 15.

"Although the statute grants the president great discretion in deciding what action to take, it [restricts] the president's power both substantively, by requiring the action to eliminate threats to national security caused by imports, and procedurally, by setting the time in which to act," according to the CIT ruling.

Transpacific Steel, a steel importer based in the US state of Texas, filed a complaint against the US government over President Trump's move to double the Section 232 duties on steel and aluminium products from Turkey, seeking a refund of the difference between the former 25% tariff and the new 50% tariff on certain steel products from the country, the determination said.

The US government then requested that the CIT dismiss the case, arguing that the president proclaimed the increase in tariffs lawful and "a general need." But on Friday, the CIT denied the government's motion and the case will continue to move forward at the court.

"A general need to increase tariffs... does not explain the singular imposition of a 50% tariff on Turkish steel articles," the CIT determination said.

The court also said that the government failed to back up its claim about "the relatively high import volumes" of steel from Turkey, citing five other countries with higher steel import volumes.

From the plaintiff's side, Transpacific Steel claimed, among other arguments, that President Trump's move to raise the duty did not follow the mandatory procedures.

The president's move to double the tariff on Turkish steel products on August 13, 2018, went far beyond "the 90 days permitted to decide to act and the further 15 days allowed for implementation," the CIT said in support of the steel importer's claim.

Transpacific Steel has not been the only entity to challenge the Section 232 tariffs.

"With [Trump], you know, that's the thing – you don't know what to expect," one trader source told Fastmarkets on Tuesday. "I know some traders have been suing the government and I think there was a positive determination from the judge."

The Coalition of American Metal Manufactures and Users urged lawmakers to challenge Section 232 by including a sunset provision for the tariffs on steel and aluminum in any Section 232-related reform legislation, it said in a letter dated November 19 and sent to US Senator Charles Grassley's office and members of the Senate Finance Committee.

"While compromise is vital to come to agreement on comprehensive reform legislation, it is the current [Section] 232 steel and aluminium tariffs that are causing actual economic harm today to steel and aluminium users and producers," the coalition said.

A sunset provision on Section 232 reform legislation would set a specific lifespan for the tariffs to be in effect, unless the government reinstated the legislation or extended the sunset provision before its expiration date.

Turkey had been a major supplier of steel products to the US - including hot-rolled coil, cold-rolled coil and rebar - before uncertainties over the increased tariffs emerged and made offers from the country's suppliers uncompetitive.

Fastmarkets' daily steel hot-rolled coil index, fob mill US was calculated at $26.60 per hundredweight ($532 per short ton) on November 19, down by 0.2% from $26.64 per cwt the previous day.

Michael Cowden in Chicago contributed to this report.