U.S.-TURKEY BUSINESS RECOMMENDATIONS REPORT

Business and policy recommendations from the U.S. private sector to increase U.S.-Turkey trade and investment in pursuit of the $75 billion and $100 billion goals set by U.S. President Donald J. Trump and Turkish President Recep Tayyip Erdoğan. This report focuses on overarching policies and strategic sectors to grow U.S. and Turkish jobs and exports.

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- **Restructure High-Level Bilateral Commercial Government Dialogues to Link Policy Reforms to Jobs, Exports and Investments**

Issue/Opportunity: High-level U.S.-Turkey commercial dialogues have been launched with limited success and momentum. The most recent meeting between Secretary of Commerce Wilbur Ross and Turkish Minister of Trade Ruhsar Pekcan in April 2019 was the first trade/commerce meeting held at the Cabinet level since 2016. The last U.S.-Turkey Trade & Investment Framework Agreement (TIFA) meetings occurred in September 2017 in Ankara. These meetings produced comprehensive dialogue that can be translated into results through high-level government engagement, supported by the private sector, with a concrete focus of policy reforms that support the $75 billion and $100 billion bilateral trade goal set by both presidents, while boosting jobs, exports, and investments in both countries.

Recommendation: To build confidence and encourage regular meetings focused on commercial and economic relations, the U.S. and Turkish governments could launch an annual cabinet-level dialogue focused on sectors with high-growth potential that support jobs and exports, such as the digital economy, healthcare, energy, aviation and agriculture. Improving intellectual property protections and removing non-tariff barriers can be discussed as a pathway to a future U.S.-Turkey free trade agreement. Senior executives from the business community will participate and underline the importance of meaningful reforms. This report outlines specific suggestions from the U.S. private sector in this regard.

Impact: As the U.S. and Turkish private sectors embark on a plan of action to realize the $75 billion and $100 billion trade goals, a robust high-level dialogue with sectoral working groups will best position the U.S. and Turkish governments to support the needs of businesses.

- **Understand the Negative Impacts of Potential CAATSA Sanctions on U.S. Companies Operating in Turkey**

Issue: Potential Countering American Adversaries through Sanctions Act (CAATSA) sanctions due to Turkey's purchase of Russian air defense systems pose a significant business risk for U.S. companies. Many U.S. firms, particularly in the defense and aviation sectors, rely on Turkish manufacturers in their global supply chains. The private sector is concerned that sanctions may endanger business continuity established via offset agreements that require U.S.-Turkish joint ventures. These joint ventures are integrated with local operators for technology, manufacturing, and logistical support in Turkey. U.S. companies are concerned that CAATSA sanctions could disrupt business agreements that are unrelated to the Russian air defense system, jeopardizing third-country collaboration, licensing agreements, and pending defense contracts in military aviation.

Recommendation: The U.S. Chamber U.S.-Turkey Business Council encourages U.S. administration officials to convey to pertinent stakeholders within the U.S. government and Congress the importance of Turkey to U.S. business interests. We urge all policymakers to carefully consider the risks and opportunity costs of ceding market share due to sanctions in Turkey and in 3rd countries, exported through Turkey or together with Turkish partners.

Impact: Turkey's FDI inflows in 2017 were 19 percent lower year-on-year, as its share of direct investments among advanced economies declined from 1.9 percent to 1.6 percent from 2016 to 2017. In 2017, U.S. investments corresponded to about 2 percent of the total FDI Turkey attracted, well below many European countries including the Netherlands, Spain and Germany, as well as Azerbaijan, and Japan.

As U.S. FDI into Turkey decreases and the share of Middle Eastern and Asian investments increase, U.S. companies face steeper competition threatening U.S. market shares that is challenging to regain once lost. We encourage policy makers to consider the negative impact of CAATSA sanctions on U.S. companies already active in or looking to enter the Turkish market.

- **Facilitate Export License Authorization for U.S.-Turkish Partnerships**

Issue: Delays or cancellations in export license authorization procedures jeopardize the market share of U.S. companies internationally by interrupting global supply chains, thereby damaging the reputation and reliability of U.S. companies abroad. Prolonged export license authorization periods cause U.S. companies to lose market share to global competitors in Turkey and diminish third-country collaboration opportunities. U.S. manufacturing jobs supporting these sales would be negatively impacted.

Recommendation: We recommend an expedited export license authorization track for highly competitive products to prevent U.S. companies from losing market share and to position U.S. firms and their brands as reliable, sustainable and integral suppliers.

Impact: Export license delays or authorization revocation can have unintended consequences for U.S. companies by making them appear as unreliable suppliers. Such delays can discourage traditional business partners from buying U.S. products; and also lead to steep market share losses if licensing procedures are seen as an added layer of unpredictability. A fast-track export license authorization system can help boost U.S. manufacturing jobs and exports, while growing partnerships with Turkish companies to satisfy the domestic market and 3rd country exports.

- **Address Regulatory Unpredictability by Establishing a Consultative Mechanism and U.S.-Turkey FDI Platform**

Issue: Predictable and transparent government policies are critical to short-medium, and long-term investment decisions. In Turkey, unforeseen regulations have increased in frequency and are implemented with little or no private sector consultation. Companies are left scrambling to adapt and understand new legislation, while engaging the Turkish government on the negative impacts. These regulations pose financial challenges to investors, raise concerns regarding the rule of law, and the overall investment environment. Arbitrary import restrictions and tariffs jeopardize company supply chains and have direct and indirect multiplier effects on commercial operations in Turkey.

Recommendation: We recommend the Turkish government establish a clear and transparent consultation mechanism with the private sector, with a standard comment and review period.

We also urge the U.S. and Turkish governments to come together with the private sector and establish a U.S.-Turkey Foreign Direct Investment (FDI) Platform to maintain focus on resolving commercial and economic issues. Such a platform would contribute to a sustained consultation process to facilitate alignment of investment-friendly policies. This platform could feed into Turkey's existing YOIK mechanism.

Impact: Open and sustained dialogue will help address obstacles delaying investments and create opportunities for public authorities to reach mutually acceptable solutions. A U.S.-Turkey FDI Platform will also help companies to bridge the gap between local and global operations to eliminate misconceptions that routinely impede investment decisions.

- **Encourage Turkey to Improve Free Market Conditions**

Issue: The Turkish lira's rapid devaluation and the increase in inflation prompted the government to introduce price controls, compulsory debt structuring and restrict imports. Taken together, these actions deteriorate the long-standing free market conditions in Turkey. Decisions to curb inflation and prop up the lira, while limiting private sector input, create adverse impact on the business climate, reduce predictability and sustainability, and consequently hinder new investments.

With surging Producer Price Index (PPI) and depreciating lira, production and operation costs have become unsustainable. Pressure on prices to suppress the Consumer Price Index (CPI)—including price tag inspections, investigations into retail chains by the Competition Authority and raids on warehouses and stores to ensure artificially suppressed pricing—has further deteriorated company profitability.

Unorthodox policy measures pursued in the financial sector to encourage debt restructuring place an undue burden on public banks. Regulatory measures are often canvassed to curb demand for imported intermediate goods to reduce the current account deficit. However, these measures often disrupt supply chains and hurt company bottom-lines.

Recommendation: We encourage the U.S. government to dialogue with the Turkish government about restoring free market conditions to assure business sustainability of current investments and attract new investments to Turkey. Meaningful structural reforms, in consultation with the private sector, will enhance transparency and facilitate the next wave of FDI into Turkey. Draft regulations should be evaluated with economic and commercial impact analyses, and an inclusive public consultation processes.

Impact: A sustainable business environment and reassuring policies that support investors would elevate Turkey's attractiveness for foreign investors. Improvements via structural reforms would ease the external financing of the economy and support sustainable growth and unemployment providing a win-win solution for both the public and private sectors.

- **Remove Section 232 Tariffs Affecting U.S. Importers and U.S. Consumers, and the Overall Trade Relationship.**

Issue: Turkey is one of the leading sources of U.S. steel imports. According to U.S. Department of Commerce data, in 2018, Turkey's steel imports decreased by 23 percent from 2017, following the application of Section 232 tariffs on imported steel and aluminum. Turkey responded with retaliatory tariffs on U.S. goods ranging from U.S. automobiles, manufacturing, alcohol, chemicals and agricultural products. U.S. companies have had to re-route supply chains, and U.S. consumer prices have increased as an overall

There is much uncertainty and concern from both the U.S. and Turkish business communities about the negative impacts of future section 232 tariffs on automotives.

Recommendation: We urge the U.S. government to remove Section 232 tariffs on steel and aluminum, abstain from further unilateral application of tariffs, sanctions and boycotts that have alienated allies and triggered a tit-for-tat trade war. Additionally, we encourage Turkey to be included as an observer of any U.S.-EU trade agreement talks pertaining to the auto industry.

Impact: As U.S. auto manufacturers seek a new competitive edge, and the steel and automotive industry remains one of the engines of Turkey's economy, the U.S. and Turkish private sectors have much to gain through bilateral trade and investment. Repealing Section 232 tariffs on steel and aluminum, discarding potential Section 232 tariffs on automotives, and keeping Turkey apprised of U.S.-EU dialogue on automotive trade will help unleash this sector's potential. Additionally, these actions will pave the way for 3rd-country collaboration for the U.S. automotive industry seeking to increase its market share in Turkey, the Middle East and Africa.

Removing Section 232 tariffs on Turkish steel as part of reciprocal negotiations may secure necessary policy changes to improve market access for U.S. manufacturers.

- **Support Greater Participation of Women in Turkey's Labor Force**

Opportunity: Turkey's labor force is a global talent pool of human resources for multinationals. Despite low overall rates in Turkey's workforce, the quality of the female labor force in Turkey is high, with many women serving as CEOs and general managers of the leading U.S. companies in Turkey. According to World Bank data, female labor participation in Turkey for 2018 was 32 percent. Recent labor reforms allowing for temporary and seasonal work add flexibility to the labor force and are expected to increase the number of women working in the country. Increasing opportunities for women will help boost Turkey's GDP and labor force productivity. Turkey's First Lady and Minister of Family and Social Policy have expressed interest in working more with the U.S. business community in this regard.

Recommendation: Support a U.S.-Turkey Women's in the Workforce Council comprised of U.S. and Turkish business leaders that aims to increase women's economic participation, entrepreneurship, employment and education. The Council can be modeled after successful bilateral women's councils, such as the State Department's U.S.-Pakistan Women's Council to strengthen Turkey's economy through hiring and supply chain diversity initiatives, internships and other activities. This Council will identify gender gaps and work with the Turkish government on policies to facilitate employment opportunities for women, such as childcare programs.

Impact: With more Turkish women contributing to the economy, the entire country benefits. There will be noticeable increases in Turkey's GDP, exports, income levels, pool of qualified labor and educational attainment.

- **Enhance Ongoing U.S.-Turkey Digital Dialogue for Broader Exchange of Digital Goods and Services**

  - **Ensure the Free Flow of Data across Borders**

Issue: The Government of Turkey maintains data localization requirements across multiple sectors, including financial services and healthcare. Turkey has recently taken new measures to protect the security of its national data (and Turkish companies' data) that restrict innovative companies' ability to operate and/or fully scale their businesses in the country. Turkish companies are subsequently disadvantaged by not having access to the most advanced, high-technology and cost-effective data services.

In July 2019, President Erdoğan issued *Presidential Circular 2019/12* requiring "critical information and data" such as civil registries, communication and health records, and "generic and biometric" data to be stored inside Turkey. The *Circular* broadens the existing data localization regime within the country, negatively affecting the market access of U.S. firms, including cloud-computing providers, financial services firms, and small and medium sized enterprises, and the overall cybersecurity of the Turkish economy.

Global companies increasingly rely on modern communication networks and data flows to deliver services to customers, run internal operations, optimize manufacturing, and manage global supply chains. Restrictions on the ability of companies to move data across borders, including through data and server localization requirements, will deter investment by U.S. firms, undermining Turkey's economic growth and impeding its ambition to develop an advanced digital economy, export high value-added services, and become a regional financial center.

In addition to government institutions, Turkey's financial sector is also subject to stringent localization measures that hinder banks from accessing the latest cloud technologies, making service delivery less efficient and less innovative.

Recommendation: We recommend the U.S. and the Government of Turkey engage in sustained government-to-government dialogue on digital issues, building on the recently established Digital Dialogue held between both governments in July 2019. This would enable U.S. agencies such as the National Institute for Standards & Technology (NIST) and the Federal Trade Commission to transfer best practices with regard to cybersecurity risk management and data privacy enforcement.

Through this dialogue, we encourage the U.S. and Turkish governments to work toward mutual understanding of both country's approach to data privacy. Continued integration of an enabling regulatory environment that keeps Turkey at the forefront of global trends and emerging technologies, while consulting with the private sector in designing a realistic and fair tax regime that avoids double taxation of global companies, will also be key to attracting new investments.

We further recommend that the Government of Turkey adopt policies that encourage the free flow of data across borders free of server localization requirements from all sectors of the Turkish economy.

Turkey's favorable legislative framework for public-private partnerships offers various partnership models for data sharing such as build-operate; build-operate-transfer or transfer of operational rights. We encourage the adoption of complementary taxation and data flow policies to facilitate digital transformation and knowledge transfer opportunities via partnerships with global companies.

Impact: Greater collaboration between pertinent organizations within the U.S. and Turkish governments can help spur more robust commercial and trade relations between the two countries, especially as Turkey considers international partners to develop its 5G network. The digital space also offers opportunities for third country collaboration between U.S. and Turkish private sectors across multiple sectors that increasingly rely on technological developments.

A sustained government-to-government dialogue integrating all levels (from Secretary/Ministerial level to Desk Officer/Expert) can help strengthen collaboration on third-country collaboration supporting Turkish and U.S. SMEs to become vital players in global value chains and facilitate their exposure to international markets. SMEs play an increasingly prominent role in global sourcing and supply chains in both countries. In Turkey, SMEs contribute to 56 percent of total export and 39 percent of total import volumes. U.S. companies can play a unique role in transforming Turkish SMEs into increasingly competitive players via greater digitization.

As the capacity of local know-how in Turkey increases, so will opportunities for U.S. technology companies to partner with local affiliates.

- **Highlight the Importance of Digital Economies in Turkey's New Economic Reform Package and Upcoming Tax Regime**

Issue: Turkey has one of the most complex taxation systems in the world. Turkish law stipulates that any "backward credit" must be collected by way of an invoice generated by the customer, and the system does not allow for credit notes. This causes adaptation issues for U.S.-based companies due to internal accounting systems.

Furthermore, recent moves to tax the digital economy run contrary Turkey's efforts to incentivize investments. For example, a recent announcement by Turkish Minister of Trade Ruhsar Pekcan regarding plans to set up free-trade zones that specialize in R&D, with high-tech, high value-added activities aligned with Turkey's digitization priorities, but taxing digital economy would counteract the benefits garnered by this initiative.

Recommendation: Turkey's Minister of Treasury and Finance recently announced that the government's priority is to build an economy that generates high-value added, high-tech goods with a robust export footprint. Building the infrastructure for credit notes or similar applications can help digital service providers and technology companies comply with Turkish laws without having to go through burdensome accounting procedures, while accelerating market entry and local investment efforts by leading technology companies.

Impact: We encourage the U.S. government to urge Turkish government officials to adopt a credit note regime as the government works on a comprehensive tax reform plan. Investment decisions by digital service providers involve both capital expenditures on the data centers, equipment, and other capital assets, and operating expenditures, including the wages and salaries paid to employees. All these expenditures have a significant impact on the regional economy, bringing numerous direct, indirect, and induced economic benefits over the course of the investment.

➢ Encourage Turkey's Adoption of a Cloud-First Policy that Supports Turkey's Digital Transformation Goals as Outlined in the 11th Development Plan

Issue/Opportunity: Turkey's 11th Development Plan, which functions as a roadmap for its economic programs through 2023, prioritizes digital transformation by way of encouraging cloud platforms, incentivizing digital product development and establishing digital transformation centers to prepare the private sector for the changing economy. Turkey attaches tremendous emphasis to digitization (for example, its Central Bank is currently working on a blockchain-powered digital currency).

Several data localization policies in Turkey, however, run contrary to Ankara's digitization priorities and goals of establishing a robust cloud ecosystem. For example, the July 2019 *Presidential Circular 2019/12* requires 'data relating to public institutions and organizations […] not be retained within cloud storing services, other than institutions' own systems or systems which are controlled by such and local service providers."

The Personal Data Protection Law numbered 6698 provides the main regulatory framework for cloud legislation in Turkey, and there are sector-specific regulations that generally require entities to refrain from making use of public cloud systems (more accurately, those that are hosted outside of Turkey) in the interest of localizing information systems and allowing supervisory authorities to conduct on-site audits.

Recommendation: With its growing digital economy, Turkey has a remarkable opportunity to benefit from cloud technologies (Turkey already boasts a robust gaming industry empowered by cloud technologies that is poised to reach a billion-dollar export volume). The right legal and regulatory framework and adopting a Cloud-First policy can help unleash new opportunities for U.S.-Turkey trade and investment partnerships.

In today's technological reality, Cloud is increasingly becoming the foundation for enabling growth and efficiency in all sectors of the economy. Cloud empowers any entity—be it government or private sector of all sizes—to optimize cutting-edge technology, computing power and data storage. Cloud is the infrastructure that enables easy adoption of machine learning and artificial intelligence to solve problems cost-effectively, at scale.

Impact: Benefits of adopting cloud technologies are manifold. Adopting cloud means that less energy, time, money have to be dedicated to IT infrastructure and maintenance, with a higher degree of security. A survey by Frost & Sullivan showed that companies investing in collaboration technologies increased productivity by as much as 400%.

Given Turkey's security concerns, it is also worth noting that according to Gartner, a leading research and advisory company, "through 2020, workloads that exploit public cloud IaaS capabilities to improve security protection will suffer at least 60% fewer security incidents than those in traditional data centers."

Cloud services also help level the playing field for SMEs by boosting competitiveness and leveraging additional computing power and flexibility through cloud technologies. Access to low-cost cloud computing infrastructure helps new businesses grow and increase the numbers of tech exports in countries. According to a Harvard Business School study, access to cloud computing lowers the cost of starting new businesses by 15-27%, encourages innovation, and attracts more funding for young businesses and start-ups from venture capitalists.

- **Establish U.S.-Turkey Emerging Technologies Working Group with Public and Private Sector Participation**

Opportunity: With Turkey's strong demographics (the third-largest country in Europe and the Middle East with 82 million people, a median age of 32, and >100% mobile penetration), it has a high digital technology adoption rate. Turkey is primed to be a key testing ground for emerging technologies such as cloud, IoT, blockchain, 5G, and AI.

Technologies like cloud computing have been key to encouraging digital innovation and new technology development thanks to benefits like lowering IT costs for companies and governments. However, Turkey's restrictive policies on cloud services and data-related topics cause market entry and scalability problems in the country.

Restrictive regulations affect key sectors of growth, such as the financial services industry and capital markets, with negative spillover effects in insurance, healthcare, energy and telecommunications.

It is imperative for Turkish authorities to understand that technologies like cloud computing are integral to digital transformation and the enabling feature for more advanced emerging technologies to develop.

Recommendation: We encourage the U.S. government to organize roundtables, workshops and trainings in coordination with the Turkish Presidency's Digital Transformation Office, Minister of Transport and Infrastructure's Information Technologies and Communications Authority (BTK in Turkish), and Minister of Industry and Technology to inform Turkish officials on best practices in could services adopted by U.S. counterparts.

Establishing a Cloud working groups with U.S.-based cloud service providers and Turkish technology partners will address companies' concerns from a foreign direct investor perspective and maintain robust dialogue with key stakeholders within the Turkish government.

Impact: Robust dialogue and discussion of joint projects between U.S. and Turkish companies in the digital economy will help policymakers understand the policy infrastructure needed for Turkey to become a hub for emerging technologies such as cloud, IoT, blockchain, 5G and AI.

- **Encourage Greater Cooperation in Energy Sector**

  - **Support Turkey's Efforts to Diversify Energy Resources with U.S. LNG**

Opportunity: Natural gas trade between the United States and Turkey offers tremendous opportunities to deepen the commercial relationship as the United States continues to be a net LNG exporter at a time when Turkish demand for natural gas increases steadily and its long-term gas contracts are set to expire in 2021. Moreover, as diversification of sources of gas supply has been a key feature of Turkish energy policy, U.S. LNG is poised to play an increasingly significant role in Turkey's energy market while Ankara is looking to reconfigure its suppliers.

Recommendation: We encourage the U.S. administration to praise Turkey's ongoing energy market reforms, while urging for transparent market mechanisms and a more competitive overall natural gas market that is currently dominated by the state-run Petroleum Pipeline Corporation (BOTAŞ). Moreover, we suggest the U.S. administration take into account Ankara's two key messages to international suppliers: (a) Turkey is looking to negotiate flexible terms for long-term gas contracts beyond 2021, when nearly 30 percent of its contracts corresponding to some 16 billion cubic meters will be up for renegotiation. (b) Turkey repeatedly underlines its intention to work with partners that understand Ankara's concerns and sensitivities in the Eastern Mediterranean.

Impact: Establishing LNG contracts between U.S. companies and Turkey will significantly increase the trade volume, while increasing U.S. energy companies' investments in Turkey. Geopolitically, Turkey will have more energy options that build upon its strong collaboration with regional partners, such as Azerbaijan and Iraq.

➢ Encourage Cooperation in Renewables and Energy Efficiency

Opportunity: While U.S. market share in Turkey's renewable energy projects remains low, there are ample opportunities for government-to-government engagement to support U.S. companies operating in Turkey. A recent cooperation agreement the Turkish government signed with Denmark in offshore wind facilities can offer a model for engagement between U.S. and Turkish governments in this area.

Additionally, energy efficiency remains an important agenda item for the Turkish Ministry of Energy. Department of Environment and Energy Efficiency was recently inaugurated within the Ministry and can offer a point of engagement for the U.S. government for greater digitization of power plants for increased efficiency

Recommendation: We encourage the U.S. government to support companies in keeping and increasing their market share in renewables through joint battery storage or hybrid feasibility projects through U.S. Trade and Development Agency (USTDA) grants.

We also urge the U.S. government to engage their counterparts in Turkey on digitizing power plants for increased efficiency, an area where U.S. company knowhow and capabilities can lead to new business opportunities.

Impact: Energy remains a consistent and vital pillar of the U.S.-Turkey commercial and security relationship. U.S. energy companies are poised to support Turkey's multifaceted energy priorities including diversification of sources (including renewables), greater integration into transit routes, greater efficiency and positioning itself as a natural gas hub.

- **Improve Investment Environment for Pharmaceuticals:**

  - **Address Forced Localization Measures**

Issue: A major non-trade barrier concerns "forced localization" practices in the pharmaceutical sector. The Health Industry's Localization Committee has taken a number of decisions on 'localization' pursuant to Action 46 of the 64th Government Action Plan-2016, which aims to, "take new measures to promote local pharmaceutical manufacturing and exporting of drugs which are compatible with international regulatory standards." Delisting of specified imported medicines from the reimbursement scheme on the grounds that the importer company chooses not to produce it locally discriminates against imported products and considered a violation of international agreements to which Turkey is a party.

This industrial policy aims to transfer technology to Turkish industries, but fails to do so since many of the chemical inputs are imported to Turkey from China and India, with low-value packaging, and in some cases formulation, localized in Turkey.

Recommendation: We urge the U.S. government to stress the violation of international agreements and work with the EU to strengthen a recent case against Turkey at the World Trade Organization (WTO). Additionally, we encourage sustained dialogue via roundtables and briefings on how localization policies hamper the local innovative industry, reduce FDI, and restrict market access for SMEs, since they are often unable to comply with localization requirements.

Impact: Turkish patients will have greater access to the most innovative medicines. Both U.S. and Turkish pharmaceutical companies will be able to focus more on high-value clinical research & drug development in Turkey's biotech and biopharmaceutical fields.

- **Address GMP Delays**

Issue: Although the Turkish Drug and Medical Devices Agency (TITCK, in Turkish) allows parallel submission for prioritized applications, Good Manufacturing Practices (GMP) inspection requirements set by the Ministry of Health still occur for most products prior to product registration application in Turkey. This results in significant delays for biopharmaceutical companies. The Ministry allows for GMP certificates from other competent authorities, conditioned upon reciprocity.

Recommendation: With Turkey's recent accession to the Pharmaceutical Inspection Convention and Cooperation Scheme, (PIC/S) which establishes international GMP standards, Turkey should begin to recognize GMP certificates issued by any of the current 52 PIC/S members. We recommend that the U.S. government continue to engage TITCK and the Ministry of Health to adopt these measures.

Impact: Turkish patients will have greater access to the most innovative medicines. U.S. companies will be able to introduce more lifesaving medicines and treatments to Turkey. As engagement between TITCK and the U.S. FDA grows, there may be increasing opportunities for Turkish pharmaceutical companies to business in the United States.

- **Address Pricing and Reimbursement Obstacles**

Issue: Pricing remains a challenge for biopharmaceutical companies despite recent improvements. The reimbursement decision criteria are not well defined and require a large amount of time to complete. A newly implemented, yet poorly defined and nontransparent alternative reimbursement process increases the uncertainty on top of existing challenges. Most significantly, the U.S. business community is concerned with Turkey's requirement to provide pricing information to be able to get prioritization for regulatory approval. These two processes should not be linked, with TITCK focusing solely on safety and efficacy.

Recommendation: We encourage the U.S. government to ask that Turkey delink regulatory approval and pricing and clarify decision criteria.

Impact: A more transparent pricing model will allow more U.S. companies to business in Turkey and establish a physical presence in the country. These companies will contribute to the innovative healthcare R&D ecosystem that Turkey aspires to grow.

➢ Address IPR Challenges

Issue: Turkey's Industrial Property Law 6769, published in January 2017, is a significant step towards harmonizing the national patent law with the European Patent Convention (EPC). However the following areas need further review:

Patentability - Defining and ruling biotechnological inventions and further medical use claims are not addressed explicitly in the law. Furthermore, Turkey's enforcement practice remains unclear.

Compulsory Licenses - Article 130(2), which is vague, subjective, and open to abuse by third parties, creates uncertainty for companies. Article 5A(4) of the Paris Convention provides grounds for this provision; however, the Convention does not refer to, "satisfaction of domestic market demand," rather to, "insufficient use of the invention." We believe the former directly refers to a specific amount of provision of patented product to the market and if this amount is not met, it will be possible to deem it as a ground for compulsory license.

Data Regulation - Data protection approval times exceed 850 days and are expected to reach four years with the implementation of GMP standards in Turkey. Moreover, six years of data protection is guaranteed when Marketing Authorization is first granted in any Customs Union member state, including the EU. This clause causes delays and reduces the 6-year data protection significantly.

Recommendation: The U.S. business community encourages the U.S. government to continue to engage Turkish counterparts, through the Turkish Patent Institute TITCK, and broader Ministry of Health to resolve these pharmaceutical IPR areas. If improvements are not made, the U.S. pharmaceutical industry recommends the U.S. government consider place Turkey on the Priority Watch List on the next Special 301 Report.

Impact: Significant market access challenges in the pharmaceutical sector aggravate Turkey's investment climate, hamper competitiveness, while failing to achieve the goals outlined in the healthcare transformation plan. Contrary to expectations, current policies stifle investments particularly in innovative medicines, as evidenced by the market share of locally manufactured products increasing only by 2.5 percent in TL value.

- **Improve Investment Environment for Medical Devices and Medical Technologies**

Issue: U.S. medical devices companies in Turkey face existential threats due to a number of payment issues stemming from delays in government payment terms stretching up to 8-9 months in hospitals run by the Ministry of Health and over two years in university hospitals. Moreover, terms of tender contracts are often not respected in the 80 percent government-reimbursed market where high rates of annual currency devaluation and reimbursement prices that have been in effect since 2008 all pose serious threats to company bottom lines. Difficult market conditions have forced some U.S. medical device companies to shut down or significantly reduce their operations in Turkey over the years.

Recommendation: We suggest you urge the Turkish government to update its pricing and reimbursement policies for medical devices and medical technologies to create a win-win for both the budget-conscious government and the private sector. Any sustainable initiative taken by the government to improve the pricing and reimbursement conditions will help improve perceptions and pave the way for better investment environment for U.S. companies. We encourage the Turkish government to see U.S. medical manufacturers as an asset to supporting its health tourism and export goals.

Impact: Turkey's strategic location provides tremendous opportunities for U.S. companies to expand their logistics and manufacturing bases out of the country under more favorable investment conditions. Contrary to the Turkish government's view, U.S. companies do not see Turkey only as an export market, but as a potential base for regional operations. By improving the investment climate for medical devices manufacturers, Turkey can attract greater investment from U.S. companies and explore 3rd-country collaboration opportunities in pursuit of boosting the bilateral trade volume.

- **Address Market Access Challenges across Sectors:**

  - **Improve Market Access Conditions for New and Remanufactured Construction Machinery.**

<u>Issue:</u> Regulations regarding Model Year Enforcement for construction machinery and restrictions of importation of remanufactured products greatly inhibit the export of U.S. products to Turkey. The Model Year Enforcement bars the importation of construction machinery into Turkey except during the year in which the equipment is manufactured, causing challenges to manufacturers during the first quarter of any given year who are shut out of the Turkish market. Similarly, Turkish laws prohibiting the importation of remanufactured products severely limit the Turkish construction and mining sectors' access to reliable, sustainable and cost effective options.

<u>Recommendation:</u> We suggest the Turkish government address market access challenges for new and remanufactured construction and mining equipment in support of Turkey's construction and mining industries by providing them access to a complete portfolio of both high-end and reliable, sustainable service options via new and remanufactured equipment. These changes would support greater exports of high-value and high-tech machinery from the United States to Turkey.

<u>Impact:</u> Improving market access conditions for new and remanufactured construction machinery is poised to benefit Turkey's corresponding industries, increase two-way trade with the United States and help support Turkey's locomotive industries. Turkey's own history of economic development makes a strong case for the country's greater integration into global markets. For instance, Turkey's automotive industry made tremendous gains following Turkey's integration with the EU Customs Union by exposing Turkish automakers to global competition and thereby lifting the quality of its products and increasing innovation in the sector.

➢ Improve Market Access Conditions by Addressing Tariff and Non-Tariff Barriers Facing the U.S. Retail Sector

<u>Issue:</u> In an attempt to protect local shoemakers, Turkey imposed additional duties in August 2014 on footwear that have deteriorated U.S. brands' contributions to Turkey's footwear and textile industry. While there are no immediate local alternatives to high-technology and/or athletic specialty footwear in the market, U.S. products along with other footwear products face 30-50% additional duties, depending on the materials used in the product.

<u>Recommendation:</u> Current conditions make it impossible for U.S. footwear companies to achieve sustainable levels of growth in Turkey. We suggest the U.S. government encourage Turkish authorities to reduce additional duties by half immediately, followed by a gradual reduction over three years down to zero.

<u>Impact:</u> U.S. companies active in Turkey's advanced apparel/footwear industry contribute tremendously to the society in general and the sporting community in particular via numerous sponsorships of sports clubs and professional athletes both in national and international organizations. These companies source many textile products directly from in-country partners, thereby contributing to Turkey's rise in exports. The deteriorating business environment for such companies who face increasingly protectionist measures will inhibit future investments and result in partial capacity utilization of domestic textile sourcing partners.

- **Remove Market Access Barriers Arbitrarily Imposed on Transportation Service Providers that Use Digital Platforms**

Issue: Transportation service providers via digital platforms face tremendous challenges in Turkey despite holding all necessary licenses issued by national and municipal authorities. Restricting access to such services via arbitrary impoundments and fines serves no legitimate public interest beyond those of the traditional yellow taxi industry. These actions limit competition, consumer choice and prevent new technology and digital service providers from accessing the Turkish market. Turkey, like other overseas markets, is a critical source of growth that allows U.S. digital services exporters to invest heavily in their U.S.-based workforce.

Recommendation: We recommend that the U.S. government encourage Turkish officials remove this barrier to secure an easy and highly visible. Ride-hailing service companies are eager to collaborate and reach a regulatory solution that is acceptable to all key stakeholders in Turkey.

Impact: Removing barriers for digital service providers in general will allow companies to invest heavily into their U.S.-based workforce and advanced technologies that promise spillover benefits both for U.S. and Turkish industries. Companies in this sector can contribute to smart transit, traffic management, and development of Turkey's national car project.

As Turkey sets ambitious tourism targets each year, safe, accountable and familiar transportation opportunities offered to tourists traveling to Turkey can support tourism targets in pursuit of higher growth and greater productivity across transportation and logistics sectors.

- **Restore Market Conditions in Turkey's Sugar Industry to Help Lower Inflation; Boost Exports & Employment**

Issue: Production of sugar in Turkey has been subject to an increasingly stringent annual quota. Sugar market in Turkey has been regulated by Sugar Law (Law No. 4634) since 2001. Until 2017, production of starch-based sweeteners (SBS) had been limited to 10 percent of the beet sugar production whereas the estimated demand for SBS was around 850 thousand mt. In 2017, the Sugar Board – the main governing body of the Law - was dissolved, multiplying uncertainties for the future of the industry and its customers.

In March 2018, SBS production quota was reduced from 10 percent down to 5 percent. Then, in January 2019, President Erdoğan announced that the SBS quota would once again be halved from 5 percent to 2.5 percent.

These quota reductions significantly decrease the total SBS output of the market and reduce capacity utilization significantly, while failing to address high demand that calls for greater economic activity. Additionally, uncertainty increases due to overnight changes in operations for the sector, such as supply chain planning, leading to further economic losses.

As it stands, the SBS industry is unable to meet existing demand (projected to be 1 million mt versus 67 thousand mt allowed under the quota) and is under-utilized due to imposed restrictions.

Some of the unmet demand is currently being filled by imports, while restricted production runs the risk of triggering black market activity that leads to rising food inflation, loss of tax revenue, and increasing unemployment.

Recommendation: We urge the U.S. government encourage Turkey to restore SBS quotes to levels that help sustain the industry and facilitate capacity utilization. We recommend that the Turkish government representatives consult with industry and relevant stakeholders to develop a strategic roadmap towards the liberalization of the SBS industry, which has made significant contributions to Turkey's economy, including job creation, tax revenue generation and physical investments.

Impact: Addressing the SBS issue and liberalizing the market would not only help reduce the cost of sweeteners, but would also contribute to government targets in inflation, job creation and exports. Lower sugar prices will help reduce food inflation and make Turkey's exports more competitive in the region.

Liberalizing market conditions and establishing mechanisms for consultations with the private sector would also help restore investor confidence that can boost additional investments in subsidiary industries such as biodegradable plastics, renewable energy and animal feed sectors.