

International Trade Committee

Oral evidence: UK trade remedies policy, HC 701

Wednesday 13 January 2021

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Members present: Angus Brendan MacNeil (Chair); Mark Garnier; Anthony Mangnall; Mark Menzies; Lloyd Russell-Moyle; Martin Vickers.

Questions 110 - 155

Witnesses

I: Mr Ranil Jayawardena MP, Minister of State for International Trade, Department for International Trade; and Claire Vince, Director, Global Trade and Delivery, Department for International Trade.



Examination of witnesses

Witnesses: Mr Ranil Jayawardena MP and Claire Vince.

Q110 **Chair:** Welcome to the International Trade Committee's first meeting of 2021 on this old New Year's Day by the Julian calendar. We are very privileged to have the Minister from the Department for International Trade with us today on our last session on the UK trade remedies regime. Welcome, Minister Jayawardena. Are there any particular introductions you would like to make?

Mr Jayawardena: Thank you, Chairman. It is a great pleasure, as I was saying, to be back with you all today, though in a different seat. I welcome the opportunity to provide the Committee with this update on the trade remedies system now that we are fully independent. For context, which might be helpful to the Committee, this is part of our work over the last two years, and the Government have made great strides towards having Britain's independent trade policy ready for the first time in nearly 50 years.

We have agreed trade deals with an unprecedented 63 countries, plus the EU, with further negotiations with the US, Australia and New Zealand under way. We have set out the scrutiny arrangements for international trade deals, and we have been committed to make sure that our global prosperity and development agenda is at the heart of our trade policy. You would expect us to have been using our voice to actively support the rules-based trade and World Trade Organisation systems. We have been working very hard to protect the British national interest when trading partners fail to meet their international obligations. That is why we have put in place this tailored trade remedies system to provide the real and robust protections to industries across the United Kingdom as we continue to champion free and fair global trade.

Trade remedies are just part of our well-rounded trade policy, and our aim will be to use them proportionately to redress imbalances caused by unfair trading practices, such as dumping and subsidies, or unforeseen surges in imports. The application of a trade remedies system and a trade remedy specifically will result, as you know, in additional amounts of import duty being applied to specific goods at the border when our industries suffer injury caused by such practices. That will make sure that we operate a safety net for our producers against unfair and injurious trade and enable them to compete on a level playing field.

In designing our system, we looked at international best practice and legislated for the full suite of tools that are permitted under the WTO's rules. We considered what is truly appropriate for and benefits the United Kingdom. I am pleased to say that the framework, that is the necessary legislation and guidance, has been in place for some time in preparation for the end of the transition period, at which point it came fully into operation. Those remedies comprise 42 anti-dumping and anti-subsidies measures as well as the safeguard on steel.



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Chair: I am sure we will get into the detail of that. I had forgotten quite how brilliantly verbose you can be, Minister, from your time with the Committee.

Mr Jayawardena: I simply follow your lead, Mr Chairman.

Chair: Also I think you have another witness alongside you virtually, so to speak. Claire Vince.

Claire Vince: Thank you, Chair, and happy new year to everyone and to the members of the Committee. My name is Claire Vince. I am a director in the Department for International Trade. My portfolio obviously covers trade remedies, but also disputes, the WTO and the rules-based international system, as well as some horizontal support and finance mechanisms, in summary.

Q111 **Chair:** Thank you very much. Before we kick off, Minister, that was not my only memory of you on the Committee. I remember what I would term a very enthusiastic Brexiteer indeed. Just briefly, do you have any concerns, before we get going? If it is going well, that is fine, but if you have any concerns, you are free to flag them up.

Mr Jayawardena: The Government are, of course, working hard to make sure that we continue to deliver for British businesses and British consumers. The 63 trade deals plus the EU is, of course, unprecedented in terms of trade. No other country has ever had so many simultaneous trade deals negotiated and completed with this scale or ambition, so it is going very well.

Q112 **Chair:** Brexit is going swimmingly. I will come back to the 63 trade deals later, according to the Minister. How would you summarise the Government's approach to trade remedies? Are the Government aiming for a stricter approach or a more liberal approach to trade defence compared with what people have been more used to with the European Union?

Mr Jayawardena: Ultimately, we in Britain are always going to play with a straight bat. We are committed to tackling unfair trade in all sectors, wherever that might arise. That is why we have prepared an effective, I believe, trade remedies framework as it stands today. It is already protecting domestic manufacturers against unfair practices, and we have taken this opportunity to make sure it is best suited to the needs of our market. We are not going to say that our system simply needs to copy everything from anywhere. We have taken all international examples into account and indeed, in doing so, we have been able to create a system that focuses on the complaints from industries within the United Kingdom only, so that will be good for British business.

Q113 **Chair:** It sounds as if you are aiming to hit the same sort of note and tone as the European Union's trade defence. Would that be fair? It is neither stricter nor more liberal, so I am assuming that you have gone for the EU note.



Mr Jayawardena: We have gone for a British system that works in the British national interest.

Q114 **Chair:** How does that compare with the EU note?

Mr Jayawardena: Our industry will no longer be subject to EU-wide measures, where there is no—

Chair: We know this, but how does the regime compare?

Mr Jayawardena: —production, so it is going to be focused on the actual trade remedies that are necessary to combat unfair trade practices and will not have unnecessary barriers in place that might be deemed by some—the Committee will take its own view—to be protectionist rather than focused on defending the British national interest.

Q115 **Chair:** The Manufacturing Trade Remedies Alliance says the UK has “created a system that potentially makes it harder to adopt measures than any other global trade remedy regime.” Do you agree with the Manufacturing Trade Remedies Alliance?

Mr Jayawardena: No. I think our system works very well for British businesses. It is already delivering in a number of sectors, including steel and ceramics, and I contend that, when we hear from industry, we are able to act very quickly. The example of that would of course be bicycles, where people were raising the fact that they felt there was new data that meant we should treat bicycles differently from what the original position was in the United Kingdom. We acted very quickly indeed. I believe that agility is already being demonstrated. That was, in fact, before the end of the transition period.

Q116 **Chair:** Finally from me at the moment, on the 73 new deals that you mentioned a couple of times—

Mr Jayawardena: Sixty-three.

Chair: Sorry, 63. It is still an impressive number. Goodness, don't hide your light under a bushel. How many of those are brand new to industry? How many of those have they never worked with before?

Mr Jayawardena: As you know, Mr Chairman—and I am grateful to you for giving me the opportunity to set this out—

Chair: Briefly.

Mr Jayawardena: —these are in large part continuity trade agreements.

Chair: They have already been negotiated by the European Union therefore.

Mr Jayawardena: Though we have gone further and faster than the EU was able to with Japan, and we look forward to securing—

Chair: We are aware of what you did.



Mr Jayawardena: —other negotiated deals in the future with a number of countries, so there is work still to do to make sure that British businesses can benefit from our independent trade policy.

Q117 **Chair:** So we have made trade more difficult with 27 states in Europe but have not eased trade with anybody else, but just kept it the same?

Mr Jayawardena: Not at all. We have a good trade deal with the European Union and, therefore, I would contend that we have delivered on our manifesto commitment to get Brexit done to make sure we have taken back control of our trade policy. In doing that, we have unlocked the ability for us to go further and faster than the EU, to use that agility for the purposes of British business. An example, in Japan we have enabled new provisions on data and digital, which hitherto was not possible and was not seen to be a priority for the European Union. I think we have already demonstrated what we can do. There will be much more of that in the years ahead. This is just the beginning.

Chair: I will ask the shellfish merchants of the west coast of Scotland, who can't send their scallops and prawns digitally to the European Union, given that everything is going swimmingly. If it were not, I am sure compensation would be forthcoming from Her Majesty's Government. We have had the assurance it is going fine, but I am sure there will be shellfish merchants and sellers watching this at the moment. Anthony Mangnall.

Anthony Mangnall: Thank you, Chairman. If I may, I suspect you have used your prerogative, so I shall use mine as a member of this Committee.

Chair: Plough on.

Anthony Mangnall: We have secured continuity agreements so that we can develop those deals that we have signed. I am sure the Minister might agree with that.

Chair: Your promotion will not be far off, Mr Mangnall.

Anthony Mangnall: As for the shellfish, as I represent the most valuable fishing port in England, I can assure you that a seamless process is surely not far away and we are working hard, as representatives of those communities, to get it right.

Chair: We look forward to it.

Q118 **Anthony Mangnall:** Minister, thank you very much for joining us. I just want to focus my questions on the TRA and the actual body of it. You are aiming for a complement of 144 staff, yet there has been a very high turnover of staff since its creation or since the intent to set it up. Can you perhaps inform the Committee as to why there has been what I believe is a 25% staff churn since the TRA was set up?

Mr Jayawardena: Yes, thank you. Look, you are absolutely right, first of all, that the trade deals that we have secured are a great springboard



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from this position for us to go further in the years ahead. We have already demonstrated that, as I say, with Japan, but there are other countries with whom we believe there is much more potential, and we look forward to seizing that. You are quite right and I am most grateful to you for putting that on the record.

In respect of the TRA's staffing and so on, I will be totally honest with you. There are, of course, challenges in setting up any new organisation, and particularly an organisation that isn't legally in operation at this moment in time because, as Committee members will know, the TRA requires the Trade Bill to have completed its passage, so it is currently running as TRID within the Department for International Trade. There has been absolutely, I accept, a turnover of some staff. At the end of December we had something in the order of 107 people in post, with a further six at the offer stage. That is against a profile of 143 roles in total, so we are making good progress. You are right to probe this.

I would also reference the role of the chief executive, which I know has been addressed to members and others. This fits into the overall process for the board, which members may have questions about as well. We have now appointed the new chief executive, Oliver Griffiths, and that was of course announced to the Committee at the November hearing on trade remedies when he came in front of you. I hope that is a helpful sign that this is moving in the right direction.

Q119 Anthony Mangnall: I am going to come on to the question about board members and that operation, and some of those questions I posed to him at the time, so it will be interesting to hear your answers in comparison with his.

The Institute for Government has made a pretty bold report in stating that it is worried about where skills are going to be coming from in terms of those who you are hiring to the TRA. Again, I am just interested as to what we are looking at, what we are trying to do to incentivise people to come and work for the TRA, because, ultimately, from whatever political angle we come at this, we want to see the best of British being supported both at home and abroad. I am sure that is something the Chairman doubly agrees with. Can you illuminate us on where skills are coming from and what you are doing to incentivise people to join?

Mr Jayawardena: Absolutely. Thank you for that question. The TRA, or TRID, initially worked with Deloitte on developing some formal technical training because, you are right, we have not had independent trade policy control for almost 50 years and so we have had to upskill. It is absolutely without question, and we should be open and honest about that. This is a break from the past.

That training consisted of a six-week programme, which comprised key skills and knowledge that would be required to undertake these investigations, from an introduction to the WTO—which I know will be familiar to all members of this Committee—and how that operates,



through to how to calculate dumping and the types of reviews, anti-subsidies and safeguards. Essentially that drew on Deloitte's expertise, particularly in tax, and also of course—and this comes back to the Chairman's opening questions—it draws on some of the expertise that it has had at Deloitte in working with the EU, which has to date, or to the recent past, been operating trade remedies on the United Kingdom's behalf.

We have also, as we go forward, created internal learning champions, as it were, to specialise in specific technical areas, so that training is now managed in-house.

Q120 **Anthony Mangnall:** Can I push you a little further on that? Deloitte was given £2.6 million to help those training exercises happen. What further steps are being taken to increase the amount of funding available to help the training and to be able to ensure that staff are keeping up with that? I think I am also right in saying that £8.9 million was awarded for you to create the TRA in the first place. What further funding formulas are going to be made available for the TRA to make sure that we are covering all ground?

Mr Jayawardena: I might invite Claire Vince to come in in a moment on some of the specifics around staff training and the budgets involved here, but what I would say is that clearly was at the outset. By embedding learning operation in the organisation, we believe it is more robust and more cost-effective in the long run. To your point at the start, it will also help incentivise staff retention and make sure there is the right culture that we want to create for all the people who work at the TRA. All the investigators who are currently in post have now completed this comprehensive training, and they are already undertaking transition reviews and are ready to begin new investigations. I hope that that is helpful assurance that the process is now properly embedded. We do recognise, of course, the need for further specialist investigatory and accountancy skills.

I am happy to invite Claire in a moment to come in on that as well, but of course those are skills, in large part, that we do have in Britain and it is about hiring people with the right qualifications—people who have completed the ACCA diploma in accountancy and business—or, indeed, building the skills of those who have joined the organisation who need to get to that level. Those sorts of skills will be very helpful, but we have a clear two-year journey within the TRA for all new investigators and analysts to make sure that they are able to upskill. I hope that is also a useful retention tool.

Claire Vince: I will keep it brief but, just to add to what the Minister is saying, the Government's view at the time was that they wanted to create a world-class Trade Remedies Authority, and therefore we needed to invest in order to make that happen. We wanted to use the expertise that was available in the field, particularly taxation and investigation expertise, which is where Deloitte came in. The contract was, of course,



awarded subject to tender, so everything was done in a transparent manner.

In terms of that investment, two things to say. First, we have not, of course, had trade remedies investigations go on in the UK, but we have had investigations, so to some extent we are able to draw on a pool of people who know what an investigation is, or know what casework is, and upskill them in the area that we need them to understand and be expert in. That is one thing. The other thing is that the investment up front was all about making sure that Deloitte set up the TRA for the future, so the training is now embedded within the organisation itself. Now that Oliver Griffiths is in place, the next phase will be to ensure that it continues to be up to speed.

In terms of budgets, the figure of 143 members of staff is subject to confirmation of our SR outcomes. The indicative indications have been signed off, but they have not yet been delegated—I do not have mine either. The 143 would be an uplift from the current planning of 129, just to be clear for the record. Yes, the Government are certainly committed to continuing to invest in the TRA. We have to if we are going to be able to ensure that businesses, industry and consumers are protected, as the Minister has already said, from unfair trading practices, dumping, subsidies and surges.

Q121 **Anthony Mangnall:** While I have you on this, part of retaining that staff is also going to be about competitiveness of salary. You are training people up with Deloitte. You have a 25% turnover of staff in these inception years. Can I ask about your pay bands, where you are and how you are retaining the staff on the basis that we need that expertise to help get through future problems?

Claire Vince: Yes, of course. There is a slight friction here, because the TRA is independent and it takes care of all of that itself, so the sponsorship side and the policy side, where I am, is just kind of the interface. We help and advise, but we do not do. In terms of your question, I believe 44 staff did roll off in the first year or so from the TRA, that first batch of recruitment. As the Minister said, we are now up to 107, so that has been redressed, but we are very conscious that, every time someone goes, it is a loss of the investment that we have already made. I think that is the point you are making, because this is public money.

What the TRA has been doing is putting in place a structured programme of career progression for people. For example, people who joined at a lower investigative level have already been promoted within the organisation to full investigators. It is about having that clear communication and pathway match. It is not going to solve everything, because the Civil Service as a whole has a reasonable level of turnover. It is not just people leaving the TRA and leaving the Civil Service; we have seen people move on within the Department and to other Departments. This is definitely an ongoing challenge and I cannot pretend that we have



it solved, but the TRID is now working and doing investigations. That should, I think, retain people better because there was this hiatus where nothing was happening particularly and we did not know when it was going to happen; we did not even know the point that the UK would finally exit the EU at that time. Also many of the people who did leave early on are of a younger age group, and we know that is a challenge across Government as a whole. There is quick turnover up to about 35.

Q122 Anthony Mangnall: Thank you very much. Listen, I am conscious of time and the other questions that are coming, so I am going to move on to the board. If I can correct myself, I misspoke earlier. I did not put any questions to Oliver Griffiths, I put them to Mr Singh regarding the composition of the board, so just to clarify that.

If I may, Minister, I will ask the three questions I have on the board. When do you expect to have full completion of nine people on the board? Why have you stopped at nine members? There have been some suggestions that the concept of the board should represent certain interests of different political groups. Do you agree or disagree? If so, why?

Mr Jayawardena: First of all, I can provide the Committee with an update on the recruitment of board members. A number of TRA board members are being brought on board as of today, and these names will be made public as soon as we are able, once the i's are dotted and the t's are crossed, so to speak, but I wanted to provide the Committee with that update ahead of that happening. Some recruitment has now completed. I would observe that the TRA board, of course, will not be involved directly in investigations, but it is crucial for safeguarding the TRA's impartiality.

As Claire has just referenced, the basis of the TRA is to operate separate from Government, and the board will make sure it acts in the interests of the whole of our United Kingdom. We are committed to making sure that the board has a wide range of backgrounds and experience, but we want the board to be a panel of experts rather than a panel of interests. That is the guiding principle that DIT has followed as the sponsoring Department.

We have been keen to make sure that members are appointed on merit, to make sure that the board has the right blend of experience and skills, rather than affiliations with any specific interest group. That work has now, in large part, been completed and the Committee will, I am sure, receive an update in due course as to how we take this forward.

Q123 Anthony Mangnall: As a very quick follow-up, is that confirmation that the board is now at nine members, its full complement?

Mr Jayawardena: Claire might want to come in here.

Claire Vince: There is a slight difference between the board and the non-executive directors. When the Minister spoke initially about the three we are onboarding, those are the three non-executive directors that we



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have been waiting for. Of the board itself, we obviously have the chair, the chief executive and the general counsel. The director of corporate services will be with the TRA in March, I think. We know who that is going to be. The chief economist is there, and the two joint chief investigators have also been appointed. We also have the chairman of the NatWest Group, Howard Davies, as a member of the board. Adding that up, is that nine?

Anthony Mangnall: Eight.

Claire Vince: Eight. Yes, thank you for doing the addition.

Mr Jayawardena: Perhaps, Claire, just so that we are clear with the members of the Committee, some of those sit on the ex-co of the organisation rather than on the governance board, if I recall correctly.

Claire Vince: Yes, that is correct. We need to add in, of course, the three non-executive members who are being onboarded as of today. That is the complete senior team.

Mr Jayawardena: That is right, yes, so the chief—*[Inaudible]*—sit separately.

Q124 **Chair:** Just before I move on, you have said that you are looking for experts and people on merit rather than interests and affiliations. Are many of the board members from outside the UK, or are they all from within the UK?

Mr Jayawardena: I will allow the proper processes to complete, Mr Chairman. As I have said, once we have the full okay to go public, all will be revealed to you.

Q125 **Chair:** Fair enough. I just thought that, with the UK being less than 1% of the world's population, you might be casting the net for experts and merit everywhere.

Simon Walker, the chair-designate of the Trade Remedies Authority, told us that preserving the independence of the TRA is absolutely vital. I assume you agree with him. How is that going to be operating when the TRA is TRID within the DIT? How can it be mitigated, and how can the sanitary walls or the appropriate distances be kept?

Mr Jayawardena: As in most organisations that have similar issues—I know banking often has these sorts of matters to wrestle with—it is possible to ensure impartiality in investigations through the processes of, in effect, Chinese walls and so on. I would observe that the TRA is, of course, going to be in existence very soon. The TRA chairman is, of course, appointed already and has been taking a close look at all of the work of TRID, including the work to date, even though the TRA is not formally in existence, and whether it is—

Q126 **Chair:** Just for clarity, you do agree with the independence point, I assume? That is an easy yes or no.



Mr Jayawardena: Without question, yes.

Chair: Yes, thank you.

Q127 **Lloyd Russell-Moyle:** Hello, Minister. The TUC has recommended that the TRA—slightly too many acronyms here—should publish information about trade remedies measures that the UK is taking versus the measures of the EU, US and other major developed countries so we can compare and contrast, and so can the industry and workers. Do you agree that would be helpful?

Mr Jayawardena: If I may revert to what I was just discussing with the Chairman, in order that there is impartiality, it is not for me to set out what the TRA should or should not do, but I would observe that the TRA will be producing an annual report. That will follow, of course, the best practice set out by the Cabinet Office for all similar bodies.

Q128 **Lloyd Russell-Moyle:** Come, come, Minister. Look, it is very common for an Education Minister to say to Ofsted, "I would like you to be reporting how schools are doing. Give us a dashboard so we know how well our local schools are doing." They don't tell the Ofsted inspector exactly what to inspect, but they do say, "Give the information so that parents can make a choice of what school they want." Why are you not pushing for businesses and workers in the same way an Education Minister would for parents and pupils?

Chair: That is a very good question, a very well put question indeed.

Lloyd Russell-Moyle: Minister, let's answer it.

Mr Jayawardena: We believe that there should be independence for the TRA. You have had your chance to question the TRA in that you have had the chance to have Simon Walker in front of you already. As a new organisation, I think it is important that it has the flexibility to develop and adapt its KPIs accordingly as it settles into its functions. Of course that will involve engagement with all sorts of external and interested parties, but among other things, I think it probably will include the numbers and the types of investigations that have begun and the timeliness of those investigations so that you can compare as you wish with anyone, whether that be the EU or others, and indeed the outcomes of those concluded cases.

Q129 **Lloyd Russell-Moyle:** Surely you have to agree, Minister, that it is very different from publishing a list of actions that have happened and putting them in a format where people can see how that compares against other actions. Surely you have an opinion on not the work of the TRA, but how the TRA should be communicating its work to you as the oversight Department.

Mr Jayawardena: I await its first annual report, and let's see what it comes up with. I am sure you will read it as closely as I will to make sure that it has the KPIs to provide us with the information that we need.



Q130 **Lloyd Russell-Moyle:** You don't mind if it does not contain any comparisons against other major economies? That is not a relevant issue for you?

Mr Jayawardena: I am sure that, whatever the TRA produces, it is not beyond the abilities of this great Committee to provide that comparison itself.

Lloyd Russell-Moyle: We can do the work for the Government. It is just a shame that the Government or the TRA will not do it.

Chair: Thank you very much, Mr Russell-Moyle. I think that not only was the first question key, but also the supplementaries and the wind up—"wind up" perhaps being literal.

Q131 **Mark Garnier:** Minister, turning to the transition reviews and the wider issues about what is going on, DIT has conducted analysis of the existing EU trade defence measures and is carrying over some 43, I think it is. One of the selection criteria is that the UK industry accounted for at least 1% of domestic market share. How did you come up with that 1% target or limit?

Mr Jayawardena: I invite Claire to come in, because some of these matters came before my time as a Minister, but DIT of course has been involved in this for a number of years. I would perhaps remark that we do not want our trade remedies system to be unnecessarily protectionist, as I set out, but in doing so we have to create the right balance to protect our industry, as you will appreciate. For context, some of those tests that we applied in creating this British system—you referred to the 1% threshold as one of them—meant that we transitioned 42 out of 118 anti-dumping and anti-subsidy measures. I hope that is helpful context for this question. I think Claire has frozen, as I cannot see her moving.

Q132 **Mark Garnier:** I will give Claire the opportunity to loosen up. What I might do while we are waiting for Claire is turn to one particular sector, the steel sector. Obviously this is quite a big hot potato. In the West Midlands we have a lot of steel stockists, steel suppliers and, of course, steel users in the auto industry. I have been contacted by some people in this area who are quite upset about the way these tariff quotas are being operated. On things like hot rolled coil prices, you find that you have a huge amount arriving through quarter 4 that does not pass through customs because we hit the tariff quota, so therefore you are going to have 25% tariffs. Now you have a whole load of steel sitting in bonded warehouses, I guess, that are going to start coming out in the first quarter of this year, 2021.

You then have a problem with more supply coming through, so now what you have is stockists and freight handlers managing the supply through the docks in order to try to get around the tariff quotas. The net result for stockists in the West Midlands is you get an amplification of price movements rather than a suppressing of price movements, an increase in volatility. This makes it phenomenally complicated for those people who



are using steel in, as I say, auto manufacturing and, indeed, for the wholesalers of it.

The evidence that people are seeing, and that they are suggesting to me, is that it is a cock-up that is not going very well at all. What role does the Government have to play in trying to manage the actual market imperfections and market failures that are happening as a result of quotas and trade remedies?

Mr Jayawardena: Thank you for that question. I totally understand where you are coming from. We transitioned the safeguard measure to try to make sure that we were operating appropriately, recognising that the EU's original TRQs would be the imports that are wholly the EU customs territory and so they would be too large for our market. We had to make a calculation for the TRQs for the retained measure, and we used the same methodology as we used in the initial calculation of the measure based on our portion of the historical trade flow data from the original period of the investigation. That is why things are the way they are, but we have now launched a review that was initiated in October last year to make sure that we are fully understanding some of the implications of the measures that we have in place.

We expect that to conclude by the end of June, when this measure is due to expire. That would of course allow this review to come up with a solution to the problem that you describe, but of course I do not wish to pre-empt what will be in the review. It is of course right that that review is independent and the TRA, by that point, will provide an impartial and evidence-based recommendation to the Secretary of State. I would just urge you and all members to participate in that review and to send the necessary information in so that it can be taken into account.

Q133 Mark Garnier: It is very well evidenced. As I say, all I am referring to is a whole load of trade press that has been sent to me. What is very interesting about it is that this little selection of trade press that has been sent to me illustrates what a fantastically complicated problem this is. Not only do you have a market failure in terms of the increased volatility in commodity prices as a result of these trade remedies, but on top of that you have differing points of view.

On the one hand I can see a whole load of references to British-based stockists, who are worried about the volatility. Meanwhile, in Germany you see people who are incredibly worried about the fact they want to export steel to Britain, but are worried about the slump in the wholesale prices as a result of the Chinese New Year and potential exports coming from China. Again, there is a lot of market failure, it seems, as a result of the trade remedies.

If I were to go back to some of these stockists and wholesalers and say, "Don't worry, we are reviewing it. We will let you know in the second half of the year," they will come back and say, "We have an industry to run. We have cars to manufacture. We have trade deals to take advantage of, Minister. We are out there trying to flog this stuff around the world but



we can't because of the wholesale prices.”

This comes, of course, to the whole question of the economic interest test. We have heard evidence from all sorts of people—particularly James Kane at the Institute for Government—that this economic interest test is phenomenally complicated and phenomenally difficult to look at.

While you can have a broad idea that the intervention must not be more expensive than the cost to the economy, and that is a broad-based thing, just this illustration of what is going on at the moment with the wholesale steel crisis illustrates that economic interests are entirely politically driven decisions because it depends on what part of the economy you are trying to keep happy and what economic interest you are trying to look after. Discuss.

Mr Jayawardena: Look, on the economic interest test, I think it is important to make sure that measures are not imposed when they are not in the overall economic interests of the United Kingdom, so it is important that there is something that can stop that. That economic interest test, coming back to the Chairman's question earlier, is broadly similar to the current EU regime in this part of our work, which does have a Union interest test. Now—

Q134 **Mark Garnier:** Minister, I am going to stop you there. Before you carry on about the EU, one of the most important things that is coming as a result of your getting your way and beating me in the referendum is that you cannot now blame the EU for anything that happens. It is 100% down to you.

Mr Jayawardena: Absolutely right, but I observe that the system is broadly similar to the EU's at the outset. I would say that it doesn't make—[Inaudible]—partly because the TRA is independent of Government, which we have discussed already in some length. It considers the economic impacts, not political impacts, of applying or not applying measures. It does not look at those political considerations and it will involve an objective, qualitative assessment by the TRA, not by Ministers, over a longer time period.

Q135 **Mark Garnier:** It is still a political point. And at the end of the day, they can be objective, but the issue being raised by James Kane at the Institute for Government is that the economic interest test is a political one. Ultimately, the steel industry, as it manufactures in the UK, is subsidised, whereas you can clearly get cheaper steel. It will be cheaper for car building, for housebuilding or just for building in general with reinforcing bar. Ultimately, the economy could benefit quite substantially from allowing dumping of steel into the UK, as I say, because we are subsidising our steel industry anyway. I am not advocating that, because obviously we would lose a lot of jobs in the steel industry, but we could generate a huge amount more jobs in the auto industry or the housebuilding industry.

It comes to the public interest test as well. We could potentially, by



allowing steel dumping, encourage greater productivity in this country. We could encourage greater employment, albeit at the expense of the steel industry. I am not advocating that at all but, again, this is why it is such a political point.

Mr Jayawardena: I hear what you say, but I would respectfully disagree. I believe that, in designing this test, we have listened to all sorts of interested parties. Some people say that it is too consumer-focused, whereas you are saying it is too producer-focused. Perhaps on that basis it is probably just in the middle, where it needs to be. The factors considered in the economic interest test do look at the injury to domestic industry, as you say. It does look at the economic significance—I impress “economic” on the Committee—of the affected industries. You might say there are political judgments for Ministers or others to make there, but this will be done on an economic basis. Importantly, it does also consider the likely consequences for the competitive environment and market structure. This is a balancing act on economic grounds that will be undertaken by the TRA in its work to go through this test.

I think it is right that the TRA do that in order to take the politics out of it and to focus on the economics. Given that it will be doing this, it will not be interfered with by Ministers. Indeed, the TRA can then provide a recommendation to Ministers that either we follow or we have to report why we have not followed it. Therefore it will be very clear if there are political decisions that are being made. They may be made for all sorts of reasons under any future Government, who knows, but right now we are clear that the TRA is independent and should be doing this on economic grounds.

If I may, Mr Garnier and Mr Chairman, I invite Claire to come in, as she is back on the line, to talk about the 1% issue that Mr Garnier raised earlier in relation to the market share.

Claire Vince: Thank you, but apologies, because everything froze for me a couple of minutes ago and I had to come back in, so could you repeat the question?

Q136 **Mark Garnier:** Yes, sorry. When looking at which trade defence measures to analyse and maintain in the UK, one of the selection criteria was that the UK industry accounts for at least 1% of domestic market share, so how was that 1% derived?

Claire Vince: The economic interest test is pretty tightly defined in legislation. As the TRA is independent, it is obviously able to focus on the economic impacts of imposing the measures. The important thing to say here is that it is not just looking at it from one dimension; it will look at it from the point of geographical and regional impact, and impact on consumers. It is not just a producer undertaking. The TRA will need to consider in the round why it has made these decisions. We have defined it in a way that means the TRA takes an independent, objective view that is based on evidence. That has been the overall push here. Again, we



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come back to the independence of the TRA and the Chinese walls between the two. That is where all this has come from.

Q137 **Mark Garnier:** Your rationale is absolutely fine, but my experience, having been in this game for 10 years now and having been on other Select Committees, is that you can have an organisation like the TRA that is as independent as you like, but ultimately the Minister will have to stand up in the House of Commons and justify exactly what it is doing. That may well mean that he has to justify why loads of people have lost their jobs under an economic interest test.

This is why these things ultimately come down to being political judgments rather than economic judgments, because the TRA, I am sure, will operate perfectly independently, and I have no doubt whatsoever that those people will maintain that independence. But, Minister, it is you who has to justify it, and that is where it becomes political stuff. When you are doing your round to justify it to Nick Robinson and *Good Morning Britain*, and all the rest of it, you cannot hide behind this. You have to justify it, and that is a difficult job for a politician.

Mr Jayawardena: You are right. Of course, it would be very difficult to set out where there had been injury to the United Kingdom's economy as a result of imposing the decision of the TRA, where perhaps politicians might take a different view. I would say that there are conceivable circumstances where an imposition of duties would not be in the public interest, and there is an opportunity for Ministers, who, as you say, are accountable to you in Parliament, to intervene in cases that are not in the United Kingdom's interest. In those cases, the Secretary of State could reject a recommendation from the TRA.

You are right that a political decision could be taken, but it would be at that stage, rather than in the TRA's investigation, to impose a remedy if she considers it not to be in the public interest or that the economic interest test could not have been met, but she must lay down those reasons and, of course, they would then be open to scrutiny from Parliament. Yes, of course you are right that there is potential for there to be politics in this process, but not in the economic interest test; it would be in the public interest test that Ministers arrive at themselves after the TRA has completed its own independent investigation.

Claire Vince: An important point to add here, very briefly, is that the Secretary of State cannot amend a recommendation. She can only accept or reject the full recommendation. There is no tweaking of them.

Mark Garnier: I think we are going to find that this will be a hot potato in the future but, Chairman, I am conscious of time and I will hand back to you.

Chair: I am very grateful indeed. Maybe not as grateful as Martin Vickers, who is standing by.

Q138 **Martin Vickers:** Thanks, Chair. I was fascinated by that last exchange,



particularly when we were talking about the car industry and steel, because I have Scunthorpe Steelworks in my neighbouring constituency, where a good few hundred of my constituents work and rely on. We would all take different judgments at different times, and I think as politicians we need to recognise that political judgment should, in many cases, be the overriding factor.

But anyway, I move on to my own question. The TRID is currently reviewing those EU defence measures that the UK is maintaining. Are you confident that, in maintaining these measures ahead of the reviews, we are in line with WTO rules?

Mr Jayawardena: Yes, I am confident that the work the TRID, soon to be the TRA, is doing is perfectly in line with all our international obligations. As I said at the outset, we want to stand up for rules-based trade and we believe that to be in Britain's national interest.

Q139 **Martin Vickers:** Given that I think we have begun only seven reviews and none has yet been completed, are you confident that TRID has the capacity to review 43 anti-dumping, anti-subsidy measures over the next two or three years?

Mr Jayawardena: Yes. I am sure that the TRA will rise to that challenge as and when it is set up. It will, of course, be in line with that independence for the TRA to manage its own workload and then report on its progress through its annual report. We have set out the legislation and guidance that the TRA needs to do this work, so we believe from our perspective that we have enabled the TRA to crack on. We have also explored with colleagues at—*[Inaudible]*—to the current situation that we find ourselves in so that they can move forward, even though there are challenges in the wider economy.

On the reviews themselves, clearly they depend on the complexity of the reviews. On average, it is my understanding that such individual transition reviews would take between 12 and 15 months to complete, so it gives you a bit of a feel for the scale of the work to be done. In that context, given the scale of the work to be done, it is right that the TRA prioritises the order of the transition reviews, so that is a question for them. But what we have said in seeking to be open with you, Mr Vickers, is that the reviews should be taken in the order of expiry dates, so that gives you a bit of a feel for what might come first.

Q140 **Martin Vickers:** Very good, thanks. Just as a rider to the previous exchange, I would say, as someone who was on the winning side in the referendum, we should reserve the right to criticise the EU when it does something that is not in the UK's interest.

Mr Jayawardena: You are right, as ever. I would observe that we have left the European Union. We are taking back control of our trade policy, but it does not mean that we want to break every tie possible with the EU. Where there are good things, we should be big enough to say, "Yes, excellent. We will keep working with the EU in that regard," or, indeed,



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we will roll over certain things from our time in the EU into British law. As you say, Mr Vickers, we are big enough to do that.

Chair: Indeed. Brexit is the status quo and Brexiteers are the status quo backing vocals, so moving on a little bit.

Mr Jayawardena: I am delighted that you are a Brexiteer now as well, then.

Chair: As I nearly choke. Far, far from it. To move on quickly, Mark Menzies is waiting patiently in Fylde.

Q141 **Mark Menzies:** Thank you, Chair. Sticking to the same theme, have there been any issues so far with the implementation of transitioned trade remedy measures?

Mr Jayawardena: One example, Mr Menzies, is on bicycles, if I may reference some of the issues with bicycles. I will be totally open on that. In the 2018 call for evidence, based on the evidence at the time, the EU measures on bicycles and electric bicycles did not meet the criteria, so the Department at that time determined that the measures should be terminated at the end of the transition period. But since 2018 we have continued to assess relevant EU remedies, even though we were in the transition period, to determine if there was a British producer interest and whether that interest was for maintaining those measures after the end of the transition period.

We had British producers of bicycles contacting me and contacting the Department with new evidence showing that there had *been*—*[Inaudible]*—to production here in Britain and to the market share of the products covered by those measures so, using the agility that we now have, we reassessed those measures. We worked very closely with industry and we determined that the measures should now be maintained, as on the basis of that new evidence they met the criteria.

I hope that openness is helpful in setting out that we do not believe that simply because we say X, it should be fixed forever. We are always willing to listen to industry and to look at new evidence where it comes to light.

Q142 **Mark Menzies:** Thanks, that is very useful. TRID told us that enforcement of trade remedies is the responsibility of HMRC, so to what extent do you consider that good co-operation between both authorities will be necessary for trade remedies to be effective?

Mr Jayawardena: I will happily give an answer from my perspective in DIT. Certainly, yes, we do want to make sure that there are good relationships across the whole of Government. DIT's work involves interaction with HMRC, not just in this area, but in a number of other areas, including tariffs more generally in respect of trade deals, and indeed with other parts of Government in perhaps other areas of policy like DEFRA on agriculture. Absolutely making sure there are good working



relationships, joined-up Government—if we can still use that oft-used phrase—is absolutely crucial to the effective conduct of these matters. Claire might have a view specifically from an official’s perspective on the interactions between DIT and HMRC.

Claire Vince: Thank you, Minister. Yes, I think it is important to say that the enforcement of trade remedies largely happens at the border. It is based on the systems that have the remedies up and loaded on them, and then, of course, HMRC would put those into practice. For the record, it is important to say that we transitioned 42 of the 118 definitive anti-dumping and anti-subsidy measures and, as the Minister said earlier, that was about creating a UK-based remedies system.

We work very closely with all Departments with an interest in trade remedies, and we will certainly continue to do so, because we are obviously going through a period of embedding the new structures and making sure that everything is absolutely correct on the systems. That is our primary focus at the moment, just making sure the information on the systems is correct. It is pretty much there. There were of course one or two blips. It is almost inevitable with the volume of data that was put on to the HMRC system, but very little in relation to the overall impact.

If I could just use this moment to correct a point that I made earlier, because I would prefer it not to be on the record as wrong. In terms of the board, just to be absolutely clear in relation to the earlier question, there are seven board members. Three NEDs have been approved and there are three executives. The role of Howard Davies, the chairman of the NatWest Group, is as guest speaker. Apologies for hijacking that, but I think it is important that I make that correction now. Thank you.

Q143 **Mark Menzies:** Thanks very much. I am sure the Chair will be glad of the clarification. Just to conclude, do you think TRID has sufficient resources, but also the right level of expertise and the right people, to play an active part in the process? Because it is not just HMRC; you have referenced other Government Departments. If not, how long do you need or what do you need to get you there?

Mr Jayawardena: I am confident that the TRA—and TRID, as it is today—has the necessary expertise to conduct its work. Indeed, it is already working on a number of reviews, as we have already discussed today. The skills, as we discussed with Mr Mangnall earlier, have been at the fore of the TRA and TRID’s work to make sure that there is continual upskilling and that we create the right culture in a new organisation that will be very important to British industry in the years ahead. We will continue, as sponsoring Department, to make sure that, in line with the independence of the TRA, there is appropriate oversight and governance of the TRA, so that will include looking very closely at the TRA’s performance.

It is, of course, true that in any new organisation there will be a moment in time where there are people who are new, people who need to build



experience. Let's be open about that, but it is not to say that they are unable to do the role for which they have been recruited. I am confident that that will progress swimmingly.

Claire Vince: It is important to add there that there will be reviews. The TRA, from the moment it is operational, is an official non-departmental public body. We will set the terms, but it is under the Cabinet Office framework review in about 18 months' time from the time it becomes operational. Then we have said ourselves that, within about a two to five-year window or a three to five-year window, we would also review the wider operation of the TRA. It is not just going to be left; it is going to be a collaborative process going forward.

Mark Menzies: That has answered my question beautifully, so that is great. Thank you very much, both.

Q144 **Chair:** Minister, turning to new investigations, what is the market share threshold for domestic industry in respect of the initiation of new trade remedies investigations? How does that compare with the approach that has been taken or is being taken by the EU?

Mr Jayawardena: I am very happy for Claire to come in here. We have already discussed some of the thresholds that we are using but, Claire, do come in.

Claire Vince: In order for a review to be undertaken, the market share would need to be more than 1%. It was set at that level because anything smaller would mean that any measures we took, in terms of anti-dumping measures et cetera, would have very little impact or effect behind them.

Q145 **Chair:** That compares to what in the European Union, which companies and sectors would have been used to?

Claire Vince: Mr Chairman, I am afraid that I genuinely don't have the answer to that question. We would need to follow up on that one.

Q146 **Chair:** That is fine. Do that in writing, because we have heard concerns from some in industry, particularly the ceramic industry, that it will be more expensive and time-consuming for them to seek trade defence measures, as they can no longer share the cost and expertise across the EU as they used to with their larger sector. Might trade remedies therefore become less accessible for companies and smaller businesses in the UK, and those with a smaller domestic share, than they would have been in the European Union? This is a real, genuine concern that many have. Will they or won't they get the protection that they once enjoyed in the European Union?

Mr Jayawardena: I think you are talking about the 1% point and comparing it to the EU. The EU does not have a market share threshold in my understanding, but we will confirm that to you, as I think Claire said. Our legislation does enable the TRA to waive the 1% market share



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requirement to account for certain cases that do not meet the threshold, but that might be in Britain's national interest, such as where a producer's market share could be rapidly contracting due to those allegedly injurious trading practices, but that would be a decision for the TRA.

The filtering process, which is a normal practice in trade remedies regimes around the world, makes sure the time and resources of the relevant body—in our case, TRID, the TRA—is focused in the best way possible because, as I said earlier, this is not about creating protectionist measures on a whim. This is about targeting our resources and our legislation to really focus in on where there has been proven harm. That is what the filtering mechanism is there to do. The purpose of having a—*[Inaudible]*—is to filter out those cases that are basically unlikely to result in measures being imposed, because it is unlikely that the economic interest test that we have discussed already would be satisfied. I hope that is a quick canter through the different areas that all link together.

Q147 Chair: The brevity at this time in the afternoon is appreciated. Thank you, Minister. UK citizens or UK subjects would seem to be at a disadvantage compared with their counterparts in the European Union, particularly those in trade unions. The TUC told us that the UK legislation is significantly weaker than the EU's legislation because it defines trade unions as contributors rather than interested parties. This means that unions do not have the power to trigger investigations, have access to less information during the investigation and cannot initiate appeals. What is the Government's rationale for making people in the UK weaker than their counterparts in the European Union as regards to trade investigations?

Mr Jayawardena: On the point on trade unions specifically, we have adopted the definition of interested parties as set out by the WTO. Our policy is that other contributors will have the same opportunity to provide evidence in an investigation or review as interested parties.

Q148 Chair: Clearly the European Union one has been working. Why have you made people weaker than their counterparts in Europe? That would seem to be a retrograde step, surely.

Mr Jayawardena: I do not agree with that premise. As I say, it is—

Q149 Chair: Are the trade unions wrong in what they are telling us?

Mr Jayawardena: If you refer to the record of what I have just said, we have adopted the definition of interested parties as set out—

Q150 Chair: Yes, I know that. We know there is something else working in the European Union. The question is about why have you made people in the UK weaker than their counterparts in the European Union as regards the triggering of new investigations.



Mr Jayawardena: We have, as I say, focused in on the definition of interested parties, as set out in the WTO, but other contributors, such as trade unions, will have an opportunity to provide evidence in an investigation or review on the same basis as those interested parties. I would contend that our system is the right system for Britain. Domestic producers themselves and exporters whose goods are under investigation will be the primary contributors, as I believe makes perfect sense, because they hold the evidence to determine whether dumping or subsidisation is causing injury to their industry. That is something that they would hold; that is information that they would have. Once an investigation is under way, of course, the TRA will have a duty to consider all relevant evidence that is submitted, and trade unions and others can contribute at that point.

Q151 **Martin Vickers:** The British Ceramic Confederation has said that the UK trade defence regime is likely to result in lower duties being applied than under the EU system. In particular, it refers to the lesser duty rule and argues that insufficient account is being taken of regulatory costs when calculating injury margins, and also not requiring benchmarking data to be based only on countries abiding by the ILO rules. What would your defence of that be?

Mr Jayawardena: I do not believe the evidence suggests that that is the case. Measures that have been applied using the lesser duty rule are often high, and they have been extremely effective. Since 2011 the average duty applied in the EU, for context, using the lesser duty rule was more than 30%. We have seen duties that are much higher than that. Heavy plate steel duties, for example, were 70%, and in one case I believe stainless steel duties exceeded 100%. This rule has proven itself in the past. I do not believe that the lesser duty rule threatens manufacturing jobs in all sectors, frankly, because higher than necessary duties could in fact threaten the jobs in downstream sectors with no additional benefits for the producers.

An example there might be the automotive industry, which employs over 150,000 people. It would face higher costs on a number of its imports without the lesser duty rule, so it is important for the whole process to be thought through. I believe on the basis of what we were discussing a moment ago, Mr Vickers, that where there are rules and EU principles that we believe are perfectly sensible, we should be big enough to say so. The lesser duty rule has been used by the EU for many years and, from experience, we have seen that the imposition of duties under this rule has been enough to stop exporters from injuring industry by dumping goods.

Q152 **Martin Vickers:** You would argue that the assessment of the British Ceramic Confederation, that the EU system provides it with better protection, is simply not the case?

Mr Jayawardena: We believe this provides the right protection for Britain. Others make their own judgment as to which systems they might



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prefer, but we believe this provides the right protection for British industry, including ceramics, in the United Kingdom. As far as I am concerned, this is always under review and we will always make sure that where there are things that need to change, as we were discussing earlier in terms of the TRA as a whole or in respect of particular measures that we have introduced or not introduced, we will always review things as time moves on. But we believe that, right now, this rule is perfectly sensible and does not mean weaker protection for industry.

Chair: Thank you very much, and moving on now to Mark Menzies, who is going to bring our afternoon almost to a close.

Q153 **Mark Menzies:** Absolutely. Minister, with regards to Northern Ireland, how will the UK trade remedies regime interact with the Northern Ireland protocol or the EU withdrawal agreement? Will Northern Ireland businesses be covered by the EU trade defence regime, the UK regime, both or neither?

Mr Jayawardena: Northern Ireland, unequivocally, is part of the United Kingdom's customs territory and, as such, trade remedies investigations will be conducted on a nationwide basis. Northern Ireland industry will form part of the same trade remedies investigations as the rest of our United Kingdom, so it is envisaged that the system will protect all domestic businesses together from injury that would be caused together across our United Kingdom, such as dumping, subsidies and unforeseen surges.

Northern Irish businesses, in common with businesses based in Great Britain, will be able to submit applications to the TRA directly for investigation. Although the protocol required a United Kingdom-EU Joint Committee decision on the application of tariffs for at-risk goods moving into Northern Ireland, we do not believe that provides any barrier to the TRA conducting its investigations for the whole of the United Kingdom. That decision simply informs the regime that applies.

Q154 **Mark Menzies:** Just to be clear, will the EU have any involvement in terms of a trade defence regime for Northern Ireland?

Mr Jayawardena: Goods that are subject to EU trade remedies entering Northern Ireland from Great Britain, because they are at risk of entering the EU, mean that the EU tariff would apply in those instances, so that is where this Joint Committee decision has an implication for Northern Ireland. That at-risk test would, of course, also apply to all of the rest of the world's goods travelling into Northern Ireland because of the at-risk test. To be clear, Northern Ireland remains part of the United Kingdom's customs territory, so it would be for the TRA to undertake any investigations that might result in trade defences in the future.

Mark Menzies: That is great. That is very useful. Thanks very much.

Q155 **Chair:** Thank you. Just a small follow-up point, Minister. Given that I introduced you at the beginning as a devout Brexiteer, is it in any way of



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pain to you that the Brexiteer trade bloc has ended up being smaller than the UK itself and we do not have Northern Ireland? Or was Brexit not a UK exit but Britain's exit because, as we know, Northern Ireland is in a different situation?

Mr Jaywardena: No, Mr Chairman, we do not know. That is not correct. The United Kingdom remains one, and Northern Ireland is firmly in the United Kingdom. Britain, as a whole, has left the EU.

Chair: That is right, but clearly the United Kingdom has not, though. Britain has.

Mr Jaywardena: We have 63 trade deals with the rest of the world, and we now have an EU trade deal. We knew a good deal was possible, and the Prime Minister has done it.

Chair: Fair enough. The same confusion remains at the heart of HM Government between Britain and the United Kingdom. On that ever-present note, we shall leave it there. Minister, can I thank you very much, and also Claire Vince, for coming along this afternoon to conclude our investigations into trade remedies? Greatly welcome indeed, and it is always a great pleasure to see you, Minister. I am sure this will not be the last time that you are in front of us, and I look forward to that next time, whenever it comes. Thank you very much, and thank you all. Feasgar math.