



House of Commons
International Trade Committee

UK trade remedies policy

Third Report of Session 2019–21



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*Report, together with formal minutes relating
to the report*

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The International Trade Committee

The International Trade Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for International Trade and its associated public bodies.

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Summary

During the period of its EU membership, the UK's trade defence regime was formulated at the EU level. Over the last several years, the Government has been developing the UK's own trade defence regime and preparing to establish the new Trade Remedies Authority (TRA) to investigate trade remedies cases and make recommendations on the imposition of measures. The establishment of the TRA is provided for in the Trade Bill; the TRA's functions are currently being carried out by the Trade Remedies Investigations Directorate (TRID) within the Department for International Trade (DIT).

We note the significant progress made by the Government and that the policy and legal framework for the UK trade defence regime is now largely in place. Further clarification is required to set out the position of businesses in Northern Ireland in respect of trade remedies and the extent to which they fall within the remit of the TRA, and the Government should publish guidance on this matter.

Operating its own trade defence regime is a new challenge for the UK. This process of recruiting and training staff has been made more difficult because of uncertainty over when the TRA would become operational, and because of the changes to normal working practices brought about by the covid-19 pandemic. We commend DIT for the progress it has made in creating the new authority.

We note that there has already been a very high staff turnover within TRID. We acknowledge that there have been difficult circumstances, but it is disappointing there are still far fewer staff in post than projected. We also note concerns expressed by witnesses that the lack of experience of TRA staff will place them at a disadvantage when dealing with other more experienced stakeholders. There was a very significant initial spend on staff training, and we are concerned that some of the benefits of this training may have been lost because of the high initial staff turnover rate. We welcome the recent appointment of a new Chief Executive of the TRA with trade policy experience.

The evidence we have received indicates that the recruitment, retention and training of TRA staff remains a critical factor in establishing the UK's new trade defence regime and presents one of the most significant areas of risk for the future success and credibility of the regime. We are not convinced that TRID has taken sufficient action to deal with its high staff turnover rate and it still does not have in place the number of staff that it needs. These issues must be resolved quickly to ensure the effective and successful operation of the UK trade remedies system. We ask that the TRA write to us within three months of its establishment setting out initial steps it has taken to address these issues.

We are encouraged that the TRA Chair Designate, Simon Walker, stressed to us the importance of the independence of the TRA from Government. It is unfortunate that the TRA had to begin its operations in 2021 whilst still operating as a Directorate within the DIT. The TRA's independence will be necessary in order to provide confidence to UK domestic producers and consumers that the UK trade defence regime is fair and accessible.

TRID has been undertaking “transition reviews” of those EU trade defence measures that the UK has maintained. It is not clear whether there are specific reasons why a forward timetable of such reviews cannot be published to help businesses plan. We recommend that as a minimum, the TRA provides as much advance notice as possible to industries participating in transition reviews.

TRID is currently conducting a review of steel safeguard measures, in order to determine whether they should be extended for a further three to five years after the current measures expire in the middle of 2021. We heard that these measures are of critical importance to the UK steel industry. During this inquiry, we did not hear evidence from steel importers, but we are aware that imported steel is critical for many major UK industries. The balancing of different interests in this area will be complex and politically sensitive and will be an early test of the capacity, expertise and effectiveness of the TRA.

Our evidence suggests that there remains a risk that the UK’s approach to transitioning EU measures could be subject to legal challenge. The need to conduct transition reviews as well as new investigations places an additional pressure on the TRA and further underlines the importance of making rapid progress in recruiting and training staff so that the TRA is fully resourced for its role.

TRID has published comprehensive guidance on its processes for initiating and conducting new investigations and was ready to accept new applications from the start of this year. We commend DIT for its work to achieve this. Some witnesses told us that it was too soon to judge how the UK trade remedies regime will be applied in practice and whether the UK will adopt a different approach to that of the EU. We also, however, heard concerns from manufacturers and trade unions that under the UK system, it will be more difficult to secure trade remedies and remedies will be lower.

We heard concerns that the Government chose to define unions as contributors in the UK trade remedies regime rather than interested parties as in the EU regime. We ask the Government to explain, in its response to this report, why it chose to reduce the role of unions in the UK trade defence regime.

The UK trade defence regime includes both an economic interest test and public interest test. We heard evidence that the economic interest test would require not just economic assessment, but also an element of political judgement, and some witnesses questioned whether this was an appropriate function to be carried out by an independent TRA. We have some sympathy with these concerns and believe that it will be difficult in practice to separate the objective factors set out in legislation from more subjective judgements such as the assessment of relative harm on different stakeholders. It remains to be seen how these tests will operate in practice, how transparent the processes will be and how contentious the outcomes of these tests will be.

The operation of the UK trade remedies regime will be of continuing interest to this Committee, and we welcome the Minister’s comments that that the regime will remain under review to ensure it provides the right protection for UK industries.

Introduction

1. In October 2017, the then Government published its Trade White Paper, setting out its emerging approach to establishing the UK's independent trade policy.¹ The Paper made clear that the UK would introduce its own trade remedies framework to protect domestic industry against unfair and injurious trade practices, or unexpected surges in imports, by allowing for measures to be placed on imports of specific products.

2. Trade remedy or trade defence measures (“trade remedies”) usually take the form of a temporary imposition of an increased tariff. The World Trade Organization (WTO) sets out comprehensive rules that members must follow when imposing trade remedies. Three types of trade remedies are set out in WTO agreements:

- Anti-dumping is the most common measure and can be imposed in response to a country dumping a product by exporting it at less than its domestic price or cost of production.
- Anti-subsidy or countervailing measures can be imposed if imported goods benefit from prohibited subsidies which enable them to undercut domestic producers. The WTO prohibits subsidies that are conditioned on export performance, or on the use of domestic goods instead of imported goods. This is because they are specifically designed to distort international trade and are therefore presumed to hurt other countries' trade.
- Safeguard measures are the least common. If imports of a certain product suddenly and unexpectedly increase, a country can take safeguarding measures to dampen the impact and give its own producers time to adjust. The only safeguard measures currently applicable in the UK relate to the steel industry.²

3. During the period of its EU membership, the UK's trade defence regime was formulated at the EU level. The Government's proposal in the Trade White Paper was to create an independent UK trade remedies authority as a new arm's length body that would investigate trade remedies cases and make recommendations on the imposition of trade remedies based on clear economic criteria. This UK trade remedies investigating function would need to be operational by the time the UK left the EU.

4. In 2018, our predecessor Committee carried out an inquiry into the progress made by the Government in developing a UK trade defence regime and in establishing the new Trade Remedies Authority (TRA). It published its report in May 2018. At that time, the expectation was that the UK would leave the EU on 29 March 2019 and that the TRA would need to be operational by this date. The Committee identified a number of issues of concern and asked the Government to provide it with “urgent assurance that the TRA will be operational when the UK leaves the EU”.³ The Committee also held a follow-up oral evidence session with Claire Bassett, the then Chief Executive Designate of the TRA in January 2019.⁴

1 [Trade White Paper: Our future UK trade policy](#), 9 October 2017

2 The WTO trade remedy agreements are: Agreement on Implementation of Article VI of GATT 1994 (“the Anti-Dumping Agreement”), the Agreement on Subsidies and Countervailing Measures and the Safeguards Agreement. WTO agreement texts can be found on the [WTO's website](#).

3 [UK Trade Remedies Authority](#), Third Report of Session 2017–19, 2 May 2018, HC 743

4 [Oral evidence: UK Trade Remedies Authority](#): follow-up, 16 January 2019, HC 1897

5. We decided to follow-up on the work of our predecessor Committee and examine what progress has been made in establishing the new UK trade remedies policy and in ensuring the readiness of the TRA to manage the UK's independent trade defence regime. We invited written submissions from any interested parties and we asked the National Audit Office (NAO) to carry out a review of information and data about the new UK trade remedies service.⁵ We also heard oral evidence from legal and policy experts; representatives from the UK ceramics and steel industries; a representative from the TUC; the Chair Designate and Interim Chief Executive Designate of the Trade Remedies Authority; and from Mr Ranil Jayawardena MP, Minister of State for International Trade, and Claire Vince, Director, Global Trade and Delivery, Department for International Trade (DIT).

6. In this report we consider the structure of the UK trade remedies policy (Chapter 1), the readiness of the Trade Remedies Authority (Chapter 2), arrangements to transition trade remedies from the EU to the UK (Chapter 3) and the process for conducting new trade defence investigations (Chapter 4).

1 The UK trade remedies policy

The role of trade remedies

7. DIT told the International Trade Committee that trade remedies “are key to ensuring an effective rules-based system for international trade” and that “they can level the playing field and restore the competitive balance between foreign exporters and domestic industry”.⁶ However, imposing a trade remedy can have costs and benefits for different stakeholders, as the Government explained in its Trade White Paper:

The overall economic case for trade remedies needs to be considered objectively on a case-by-case basis. Trade remedy measures can increase the cost of affected products for user industries, and consumers, as well as the competitiveness of both user and producer industries. Therefore, it is important that measures are used judiciously and proportionately to tackle unfair trade, ensuring fair competition and addressing the injury caused to domestic producers, whilst also taking appropriate account of impacts on users and consumers and the wider trade agenda.⁷

8. Some of our witnesses described the importance of trade remedies for their industry. Richard Warren, UK Steel, told us that trade remedies were “probably the most important element of trade policy for the steel industry”.⁸ In his oral evidence in October 2020, he explained that:

The majority of steel products, particularly at the current time with the steel safeguard measure in place, are under some form of trade remedy measure at this point. Therefore, the functioning of the UK system, our ability to ensure the level of protection we currently have as members of the EU customs union and being able to ensure continuity with that is extremely important, and it is extremely important to the sustainability and future of the steel sector in this country.⁹

9. The British Ceramics Confederation told us in September 2020 that there were two EU anti-dumping measures in place on Chinese tableware and Chinese manufactured ceramic tiles.¹⁰ Dr Laura Cohen, Chief Executive, British Ceramics Confederation, said that around 7,000 of the 20,000 jobs in the ceramics sector were protected by those measures and that they had “given the UK industry some breathing space to operate and, at least prior to the pandemic, grow”.¹¹

Legislation and the role of the Trade Remedies Authority

10. The Trade Bill was introduced in the House of Commons on 19 March 2020 and provides for the creation of the TRA as a non-departmental public body, with members appointed by the Secretary of State, and with responsibility for conducting trade remedies

6 Department for International Trade ([TRP0006](#))

7 [Trade White Paper: Our future UK trade policy](#), 9 October 2017

8 [Q33](#)

9 [Q34](#)

10 British Ceramic Confederation ([TRP0004](#))

11 [Q34](#)

investigations.¹² The TRA will also make impartial recommendations to the Secretary of State for International Trade and provide advice, support and assistance to the Secretary of State in relation to the conduct of international disputes.¹³ The TRA will operate under the statutory framework provided by the Taxation (Cross-border Trade) Act 2018 and the secondary legislation made under it.¹⁴

11. The TRA will determine whether the legal conditions for the application of trade remedies are met, calculate the amount of duty that may be imposed and carry out an economic interest test to determine whether the implementation of a proposed trade remedies measure is in the wider economic interest of the UK. The criteria which the TRA must use to assess the economic interests of different stakeholders are set out in the legislation. In assessing the UK's economic interest, the TRA must take account of a list of considerations (to the extent that they are relevant), and any other matters that they consider relevant. The TRA may then recommend to the Secretary of State that a trade remedy be imposed, and the level of duty necessary to prevent injury. The Secretary of State may reject the recommendation if he or she considers that the remedy is against the public interest. If the measure in consideration is anti-dumping or anti-subsidy, the Secretary of State must accept the TRA's determination meets the economic interest test, unless he or she is satisfied that the determination is not one that the TRA could reasonably have made. For safeguard measures, the Secretary of State can reject the recommendation if he or she considers that it does not meet the economic interest test.¹⁵ The Secretary of State cannot make amendments to the recommendation. If the Secretary of State rejects a recommendation to impose a measure, he or she must lay a statement before the House of Commons setting out the reasons for the decision. We discuss the economic interest and public interest tests in more detail in Chapter 4.

12. The Trade Remedies Investigations Directorate (TRID) was established on 29 March 2019 within DIT, with interim responsibility for the trade defence regime until the Trade Bill receives Royal Assent and the TRA is legally established. In its written evidence, DIT explained that:

As you will be aware following the Department's letter to the Committee on 6th March 2019, DIT has put in place contingency arrangements via secondary legislation temporarily conferring trade remedy functions on the Secretary of State. This allows the Department to operate the trade remedies function "in-house" as part of the Trade Remedies Investigations Directorate (TRID) until the TRA is established. Once the Bill is enacted, it is our intention that the TRA will be established at the earliest opportunity. At that point, staff currently within TRID will move to the TRA and the modifications conferring trade remedy functions on the Secretary of State will cease to apply.¹⁶

12 A Trade Bill was introduced by Theresa May's Government in the 2017–19 parliament but this fell when Parliament was dissolved for the 2019 general election. The [Trade Bill 2019–21](#) was very similar but not identical to the [Trade Bill 2017–19](#).

13 [Trade Bill Explanatory Notes](#), p 4

14 [Trade Remedies \(Dumping and Subsidisation\) \(EU Exit\) Regulations 2019](#); [Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) Regulations 2019](#)

15 [Taxation \(Cross-border Trade\) Act 2018](#), Schedule 4 and Schedule 5

16 [Department for International Trade \(TRP0006\)](#)

13. The Department for International Trade has published extensive guidance about the trade remedies investigations process on the gov.uk website.¹⁷

14. We note the significant progress made by the Government since our predecessor Committee’s inquiry, and that the policy and legal framework for the UK trade defence regime is now largely in place.

Northern Ireland

15. We heard evidence that further clarification is required in terms of how trade remedies will operate in Northern Ireland. James Kane, Associate, Institute for Government (IfG), explained that a situation could arise where the TRA would not be able to recommend an anti-dumping duty to protect a business in Northern Ireland because the customs duties for Northern Ireland would be those applied by the EU. However, the Northern Ireland business would not be able to complain to the European Commission about dumping because it was not a European Union industry.¹⁸

16. Dr Lorand Bartels, Senior Counsel, Linklaters LLP and Reader in International Law at University of Cambridge, said that the issue of how trade defence would apply in Northern Ireland was “a particularly fiddly area”. Under Article 4 of the Northern Ireland Protocol, Northern Ireland was within the UK’s customs territory for ordinary customs duties. However, products that were at risk of ending up in the EU were subject to the EU customs duty regime. Dr Bartels told us that how trade remedies sat within this was an issue to be negotiated, bearing in mind that trade remedies regimes are implementations of WTO rights, which only allow for the protection of the WTO member’s own industry.¹⁹

17. The Government did not see any barriers to the TRA operating in Northern Ireland. DIT told us that “Northern Ireland is part of the United Kingdom’s customs territory and, as such, trade remedies investigations will be conducted by TRID (or the TRA when established) on a nationwide basis”.²⁰ The Minister said that Northern Ireland industry will form part of the same trade remedies investigations as the rest of the United Kingdom:

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.²¹

... 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

17 Department for International Trade, Guidance: [The UK trade remedies investigations process](#), updated 20 January 2021

18 [Q31](#)

19 [Q31](#)

20 Department for International Trade ([TRP0006](#))

21 [Q153](#)

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.²²

18. At the beginning of January 2021, there were press reports that “dozens of factories” in Northern Ireland risked closure because of the imposition of a 25% tariff on steel imports from Britain.²³ It was reported that this situation had arisen because the Northern Ireland Protocol of the Withdrawal agreement required Northern Ireland to be treated as if it were part of the EU's single market, and so subject to the EU's trade defence measures. At the same time, the EU's steel safeguard measures now applied to the UK as a third country. The EU trade defence measure in question applied a tariff of 25% on steel imports once the relevant zero-tariff quota was exceeded. In addition, EU legislation on EU quotas prevents imports to Northern Ireland from benefitting from the relevant zero-tariff rate quotas (TRQs), meaning that tariffs of 25% would be due on steel imports to Northern Ireland, whether from the rest of the UK or the rest of the world.²⁴ According to guidance from UK Steel, on 21 January, HMRC put in place guidance and an “interim” solution that exporters of UK produced steel could use to avoid this situation and the imposition of tariffs. UK Steel also noted that HMT advice is that “any products subject to a trade remedies measure (including safeguards) will be considered at risk [of moving to the EU] and therefore treated as a UK to EU export”.²⁵

19. In correspondence with European Commission Vice-President Maroš Šefčovič, the Chancellor of the Duchy of Lancaster raised the issue of the impact of the EU legislation on EU quotas on movements of steel into Northern Ireland from Great Britain and the rest of the world.²⁶ In his response, Vice-President Maroš Šefčovič indicated that the Commission was examining amendments that would make it possible movements from Great Britain to Northern Ireland to count against EU tariff rate quotas (and so for steel, subject to the TRQ limits, to have a route to avoid 25% tariffs).²⁷ This letter did not suggest such amendments were being considered for movements into Northern Ireland from beyond Great Britain or the EU.

20. Further clarification is required to set out the position of businesses in Northern Ireland in respect of trade remedies and the extent to which they fall within the remit of the TRA. We therefore ask the Government to confirm whether for the movement of goods into Northern Ireland from Great Britain, where EU trade remedies exist, the goods will be considered “at risk” and EU trade remedies will apply; and for the movement of goods into Northern Ireland from the rest of the world, where EU trade remedies exist, unless the EU duty is less than or equal to the UK duty, EU trade remedies will apply. We further ask the Government to confirm whether, when EU trade remedies apply to the movement of goods into Northern Ireland, they will apply with the same terms as they do to imports to the EU. We recommend that the Government publishes guidance on this matter for businesses operating in Northern Ireland.

22 [Q154](#)

23 Eg “[Factory closure warning over NI steel import tariffs](#)”, RTÉ, 15 January 2021

24 [Regulation \(EU\) 2020/2170 of the European Parliament and of the council of 16 December 2020 on the application of Union tariff rate quotas and other import quotas](#)

25 MakeUK, [Exporting into EU Steel Safeguards](#), accessed 27 January 2021

26 [Correspondence](#) from the Chancellor of the Duchy of Lancaster to Vice President Maroš Šefčovič, 2 February 2021

27 [Correspondence](#) from Vice President Maroš Šefčovič to the Chancellor of the Duchy of Lancaster, 10 February 2021

2 The Trade Remedies Authority

21. The Trade Bill provides for the creation of the TRA as a new UK-wide non-departmental public body. The TRA will be responsible for investigating claims of harmful and unfair trading practices and, if such practices are found to exist, calculating the recommended amount of duty on relevant products and conducting an economic interest test. The TRA will then make a recommendation to the Secretary of State as to whether a trade remedy should or should not be imposed.

22. Our predecessor Committee carried out an inquiry in 2018 into the readiness of the TRA to begin operations when the UK left the EU. At that time, the expectation was that it would need to be operational by March 2019. The predecessor Committee noted in 2018 that the Trade Bill had not yet passed the Commons; no executive TRA members had been appointed; and the TRA had no staff in place or trained. It concluded that it was “difficult to see how, on any view, the TRA can be fully operational by March 2019”.²⁸

23. The Trade Remedies Investigations Directorate (TRID) was created in March 2019 to carry out the work of the proposed TRA as an interim measure until the necessary legislation was in place to establish the TRA. In its evidence to this inquiry (submitted in September 2020), DIT told us that TRID was working on transition reviews of existing EU measures and making preparations to accept applications for new investigations. It confirmed that the TRA would be “fully operational and able to accept applications from businesses in the United Kingdom for any new cases from 1st January 2021”.²⁹

Staffing

24. Establishing the UK trade remedies body has required the recruitment and training of a team of officials with sufficient technical expertise to operate the new regime. Many of the skills required are expensive and in short supply. Dr Lorand Bartels described the range of skills required within the TRA, based on his experience of comparable trade remedies authorities in other countries:

It is a broad mix of skills. You need forensic IT specialists who are able to dig into the records of a company to work out what the prices are. You need business statistics analysts. You need auditing skills, accountants, investigators. You need people prepared to go to other countries, in an ideal world, to conduct the investigations. You need the occasional lawyer to make sure that the right standards are being applied and so on.³⁰

25. At our request, the NAO carried out in October 2020 a short review of the progress made in establishing the TRA.³¹ The NAO told us that DIT had begun appointing staff from October 2018, and as at September 2020, TRID had 96 staff in post against an anticipated full complement of 144. In the period April 2019 to March 2020, 23 staff joined TRID and 24 staff left the directorate. The turnover rate over the 12-month period was 24.2%. The NAO also advised that since that there was no existing UK competence in trade remedies investigations, TRID had invested heavily in technical training for its staff, and that DIT

28 [UK Trade Remedies Authority](#), Third Report of Session 2017–19, 2 May 2018, HC 743, para 29

29 Department for International Trade ([TRP0006](#))

30 [Q26](#)

31 Department for International Trade ([TRP0006](#))

had awarded a contract to the value of £2.64 million to Deloitte LLP for the design and delivery of trade remedies technical training for the staff of the new body, including large numbers of new recruits.³² Satjit Singh, interim Chief Executive Designate, TRA, said that this had been used to train around 60 staff, and to train the trainers so that future training could be brought in-house.³³

26. James Kane, IfG, told us in October that it would be challenging for the TRA to have the necessary skills in place for January 2021, given that the number of staff in post was still lower than required, and any new staff would need to be trained. He suggested that pay would be a serious difficulty, and said that the TRA would be “intensely vulnerable” to a high staff turnover, “given the salary levels they are paying in comparison with those that are paid by the private sector people they will be interacting with”.³⁴

27. James Kane also questioned whether there had been sufficient focus on the technical expertise of the leadership team,³⁵ and suggested that a lack of sufficient trade defence experience would place TRA staff at a disadvantage:

I would worry they will have the wool pulled over their eyes quite easily because you will have firms preparing things for them to look at who have an enormous amount of experience of dealing with the EU trade remedies regime and with other trade remedies regimes around the world. They will be preparing the files for them, and I am not entirely convinced that the people the Trade Remedies Authority has in place will be in a position to clear all that up.³⁶

28. Satjit Singh confirmed when he appeared before us in November that staff recruitment had been very challenging. He told us that since trade defence had not been carried out in the UK for over four decades, it had been necessary to start “without any access to skills”. Despite those difficulties, staff had been recruited and trained, ready for 29 March 2019. However, many became frustrated when the date for leaving the EU was delayed and they were unable to do the jobs for which they were recruited, and some staff had left at this point. In addition, he explained that the covid-19 pandemic had affected TRID’s ability to carry out investigations; industry’s ability to provide TRID with the information it needed; and had made it more difficult to recruit new staff and integrate them into the organisation.³⁷

29. Satjit Singh told us that despite these challenges, TRID had 98 staff, against a target of 143, and the expectation was that this would reach around 120 by the end of the year. The high staff churn had not only occurred because of pay levels, but also because of a number of other factors, including the uncertainty over when the TRA would become operational. Mr Singh said that once the TRA became an independent organisation, it would have more discretion on setting salaries and would work to offer attractive packages, including training and career progression, to prospective employees.³⁸

32 National Audit Office ([TRP0009](#))

33 [Q69](#)

34 [Q27](#)

35 [Q28](#)

36 [Q29](#)

37 [Q63](#)

38 [Q67](#)

30. Simon Walker, Chair-Designate, Trade Remedies Authority, confirmed that uncertainty over the EU exit date had been a major challenge for staff recruitment, but said that the organisation was now ready to fulfil its role:

In a way, it is unsurprising that an organisation that is set up for an urgent professional purpose and is then stood down repeatedly over a near two-year period loses some of its people. There is now a cadre of internal expertise—legal, economic, analytical, investigatory—and a new chief executive coming in for a permanent appointment. Satjit has done a magnificent job of holding the fort, but a permanent CEO has now been appointed. I think we are absolutely fit for the beginning of the year, which is when we hope the organisation will formally come into being as an independent authority.³⁹

31. On 30 November 2020, the Government announced the appointment of Oliver Griffiths as the new permanent Chief Executive of the Trade Remedies Authority. The press notice referred to Mr Griffiths’ “deep understanding of trade policy and business drawn from his extensive time working in government and the private sector”.⁴⁰

32. Claire Vince, Director, Global Trade and Delivery, DIT, agreed that staffing was “definitely an ongoing challenge” which had not yet been solved, but said that “the TRID is now working and doing investigations”, and that this should help improve staff retention.⁴¹ The Minister also accepted that there had been an issue with staff turnover, but said that “good progress” was now being made. He said that at the end of December, around 107 people were in post, with a further six at the offer stage, against a profile of 143 roles in total.⁴²

33. Operating its own trade defence regime is a new challenge for the UK. In order to prepare for the establishment of the TRA, the Government has had to recruit around 100 officials, many in areas where the relevant expertise is expensive and scarce, and provide training so that this new organisation can carry out its complex functions in a professional and effective manner. This process has been made more difficult because of uncertainty over when the TRA would become operational, and because of the changes to normal working practices brought about by the covid-19 pandemic. We commend the DIT for the progress it has made in creating the new authority.

34. **We note that there has already been a very high staff turnover within TRID. We acknowledge that there have been difficult circumstances, but it is disappointing there are still far fewer staff in post than projected. The Minister told us in January that TRID had 107 staff in post against a projected total of 143 which means that TRID’s current staffing level is around 25% lower than that required.**

35. **We also note concerns expressed by witnesses that the lack of experience of TRA staff will place them at a disadvantage when dealing with other more experienced stakeholders. There was a very significant initial spend on staff training, and we are concerned that some of the benefits of this training may have been lost because of the high initial staff turnover rate. We welcome the recent appointment of a new Chief**

39 [Q74](#)

40 Department for International Trade, [“New appointments to forge UK’s independent trade agenda”](#), 30 November 2020

41 [Q121](#)

42 [Q118](#)

Executive with trade policy experience.

36. The evidence we have received in this inquiry indicates that the recruitment, retention and training of TRA staff remains a critical factor in establishing the UK's new trade defence regime and presents one of the most significant areas of risk for the future success and credibility of the regime. We are not convinced that TRID has taken sufficient action to deal with its high staff turnover rate and it still does not have in place the number of staff that it needs. These issues must be resolved quickly to ensure the effective and successful operation of the UK trade remedies system. *We ask that the TRA write to us within three months of its establishment setting out initial steps it has taken to address these issues.*

Governance

37. The Trade Bill sets out governance arrangements for the TRA. The TRA Board consists of a Chair appointed by the Secretary of State, other non-executive members appointed by the Secretary of State, a Chief Executive appointed by the Chair with the approval of the Secretary of State, and other executive members appointed by the Chair. The total number of members must not exceed nine.

38. Chair Designate Sir David Wright and Chief Executive Designate Claire Bassett were appointed in October 2018 and resigned from their posts in March 2019 and April 2020 respectively. Simon Walker was appointed as the new Chair Designate in February 2020. Satjit Singh was then appointed as interim Chief Executive Designate, until Oliver Griffiths, previously a senior official in the Department for International Trade, became the new Chief Executive Designate of the TRA in January 2021.⁴³ The NAO advised that recruitment for the remaining non-executive posts took place during autumn 2020, and that:

The intention is that the Board will be in place in advance of the formal establishment of the TRA and in the intervening period it will function as a shadow Board.⁴⁴

39. The TRA has not yet been formally established, and its internal decision-making processes have not been established. The NAO explained that the structure of the TRA's governance processes, including terms of references for committees reporting to the Board and risk management processes, were provisional and would be determined once the TRA had been formally established.⁴⁵

40. Our predecessor Committee agreed with the view of some witnesses that non-executive TRA members should represent different stakeholder interests, but this recommendation was rejected by the Government.⁴⁶ We heard from witnesses who continued to express concerns about how different interests would be represented within the TRA. Rosa Crawford, TUC, said that the lack of a guarantee in the legislation for trade

43 Department for International Trade, ["New appointments to forge UK's independent trade agenda"](#), 30 November 2020

44 National Audit Office ([TRP0009](#))

45 National Audit Office ([TRP0009](#))

46 International Trade Committee, [UK Trade Remedies Authority: Government Response to the Committee's Third Report of Session 2017–19](#), 17 July 2018, HC 1424

union representation on the TRA board was “extremely problematic”.⁴⁷ The Manufacturing Trade Remedies Alliance told us that:

It is critical that there is equal representation of expert manufacturing employers and manufacturing trade unions on the TRA to prevent an unbalanced board disproportionately made up only of members from an ideological liberal trade persuasion.⁴⁸

41. Simon Walker confirmed to us in November 2020 that recruitment of Board members was underway. He said that he had welcomed applications from a variety of backgrounds, but the focus had been on people with the ability to interrogate staff on their decisions, and ensure that their reasoning was robust, rather than seeking to recruit people to represent specific geographical or business interests.⁴⁹ Simon Walker said that it would be up to the Secretary of State how many board members were appointed, but that it could be useful if recruitment were staggered so that their terms did not all expire at once. He confirmed that there would be various committees, including an audit and risk committee, and said that the intention was to set up expert opinion groups for the TRA to talk to and get advice from.⁵⁰

42. Simon Walker explained that the role of the Board would not be to “make decisions or second-guess professional expertise within the organisation”, saying that:

If an investigation comes to a result and the legal team, the economic analysts and the investigators have a recommendation, the board will look at that, will assess that the decision has been made rigorously and confidently, and we will pass that on to the Secretary of State.⁵¹

43. Claire Vince, Director, Global Trade and Delivery, DIT said that three non-executive board members had recently been recruited. The chairman of the NatWest Group, Howard Davies would attend as a guest speaker.⁵² The Minister for International Trade wrote to us on 4 February to confirm that the TRA Board would consist of both Non-Executive and Executive Members and that the recruitment process for the Non-Executive Members of the Board was in its final stages.⁵³

44. The Minister explained that the Board would be a panel of experts rather than a panel of interests:

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.⁵⁴

45. We note that the initial recruitment for members of the TRA Board is now complete. We recommend that an initial priority of the Board is to prepare and publish

47 [Q38](#)

48 Manufacturing Trade Remedies Alliance ([TRP0003](#))

49 [Q78](#)

50 [Q80](#)

51 [Q64](#)

52 [Q123 and Q142](#)

53 [Correspondence](#) from the Minister for International Trade to the Chair of the International Trade Committee, 4 February 2021

54 [Q122](#)

a clear statement of detailed governance arrangements to provide clarity on the TRA's decision-making processes and its arrangements for interfacing with stakeholder groups.

Independence

46. The trade remedies function is still being carried out by TRID, a Directorate within the DIT, until the necessary legislation is in place to establish the TRA as a non-departmental public body. Simon Walker described the independence of the TRA as “pretty fundamental” and told us that “preserving the independence of the TRA is absolutely vital, including from the Department, from the Government and from all sectional interests”.⁵⁵

47. Dr Lorand Bartels told us that whilst there would be some difficult issues to balance with regard to the economic interest test, the legislation and the regulations were largely clear in terms of distinguishing between the Secretary of State's role and the role of the TRA:

Looking at this in structural terms, I have to say it does not look wrong. It does not look bad. The difficulty is that we are dealing with very difficult issues of how to manage a market. That is always going to be a difficult balance between technocratic, economic, econometric, accounting and auditing type questions on the one hand and hardcore policy on the other.... At the moment, it does not seem immediately obvious that it is badly designed.⁵⁶

48. James Kane, IfG, pointed out that in practice, there could be difficulties in ensuring the independence of the TRA from government, given that the governance structure of the TRA was quite strongly influenced by the core Department (in this case, DIT) in comparison with some other bodies:

The chair of the Trade Remedies Authority is appointed solely by the Secretary of State. Unlike quite a lot of similar public bodies, there are no pre-appointment scrutiny hearings for the chair. There is certainly no requirement for any parliamentary Committee to consent as there is, for instance, for the Budget Responsibility Committee over the Office for Budget Responsibility. There is a very strong influence of the Secretary of State on the selection of the chair and the members of the board, which could potentially have implications for its independence. It is set up as a statutorily independent body, as a non-departmental public body, but there are lots of such bodies in government whose independence is, to say the least, questionable.⁵⁷

49. The Minister confirmed to us that the independence of the TRA was “without question” of importance.⁵⁸

55 [Q64](#)

56 [Q22](#)

57 [Q18](#)

58 [Q126](#)

50. We are encouraged that the TRA Chair Designate, Simon Walker, stressed to us the importance of the independence of the TRA from Government. It is unfortunate that the TRA had to begin its operations in 2021 whilst still operating as a Directorate within the DIT. The TRA's independence will be necessary in order to provide confidence to UK domestic producers and consumers that the UK trade defence regime is fair and accessible.

Transparency

51. Dr Lorand Bartels told us that the UK's new trade defence regime included measures to ensure transparency and said that "the system looks reasonably accountable". He explained that the requirement for the Secretary of State to lay a statement before the House of Commons explaining the reasons for rejecting a recommendation from the TRA to impose a defence remedy, was "obviously transparent and leads to debate and publicity and so on".⁵⁹

52. James Kane, IfG, pointed out that full transparency about the processes involved in reaching a decision would not always be possible, particularly for example in terms of the conduct of the economic interest test:

Transparency in the factors to be considered is possible, and the factors to be considered are there in the regulations. As to how the decision is made, no, I do not think total transparency is possible because people have different views about some of the questions that the TRA is required to consider. That is, after all, why the Committee's predecessor said in its last report on the Trade Remedies Authority that the economic interest test was not perhaps an appropriate one for an apolitical technocratic body to be carrying out.⁶⁰

53. Rosa Crawford, TUC, said that more detailed information was required about the reporting that the TRA will produce, and called for annual reporting on the measures that the UK was taking versus the measures that the EU, the US and other major developed economies were taking, in order to compare the UK's approach with that of others.⁶¹ Simon Walker said that this would be "the sort of area where we will comment from time to time" but that he would not wish the TRA to be compelled to do so "because these economies are extremely different and the approaches to trade remedies are also very different".⁶²

54. DIT told us that the TRA was required to prepare both an annual report on the performance of its functions and an annual statement of accounts, and that these documents would be laid before the House of Commons by the Secretary of State, and open to scrutiny by MPs. In addition, the Secretary of State was ultimately responsible for the TRA's performance and so could be held to account by Parliament. The Minister told us that he was unwilling to set out detailed reporting requirements for the TRA but said that the TRA's annual report would follow best practice set out by the Cabinet Office for all similar bodies.⁶³ He added that:

59 [Q25](#)

60 [Q13](#)

61 [Q62](#)

62 [Q82](#)

63 [Q127](#)

As a new organisation, I think it is important that it has the flexibility to develop and adapt its KPIs [Key Performance Indicators] 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.⁶⁴

55. Transparency will be critical if the TRA is to gain the confidence of UK domestic producers and consumers, and to demonstrate compliance with WTO rules. *It should be a priority for the Board when it is establishing its processes and planning its first annual report.*

3 Transition of EU measures

56. All EU trade remedies measures ceased to apply to the UK at the end of EU Exit transition period.⁶⁵ DIT committed to maintaining EU measures where there was a UK interest in doing so. Each anti-dumping, anti-subsidy and safeguard measure that the UK has maintained will undergo a UK-wide transition review led by the TRID (or by the TRA when it becomes operational).⁶⁶ TRID plans to complete each review before the expiry date of the measure.

DIT consultation

57. In 2017, DIT began a consultation process to assess which of the existing EU anti-dumping and anti-subsidy measures applied to UK industry. It received 89 responses to its call for evidence: 52 from producers, and 37 from other parties. DIT published its final findings in May 2019 and reported that 44 of the existing EU measures met its criteria to be maintained and 63 did not.⁶⁷ The EU subsequently changed some of the original measures and the Minister told us in January that TRID will review “42 anti-dumping and anti-subsidies measures”.⁶⁸ DIT has published a table which lists each existing definitive EU anti-dumping or anti-subsidy trade remedy measure and shows which of these measures the UK will maintain or terminate as part of its independent trade policy.⁶⁹

58. DIT applied three criteria to make an initial determination on whether a trade remedy should be maintained or terminated. These criteria were:

- DIT had received an application to maintain measures from UK businesses which produce, in the UK, products subject to trade remedies;
- the application was supported by UK businesses which produce a sufficient proportion of those products; and
- the UK market share of UK-based producers of those products was above 1%.

DIT advised that measures which did not meet these criteria would be discontinued at the end of the transition period.⁷⁰ We asked witnesses about press reports that some UK bicycle manufacturers risked being undercut when the existing EU tariffs were discontinued, because the UK industry had not met the DIT market share requirement to transition the tariffs.⁷¹ Satjit Singh told us that the criteria had been set by DIT, and that the bicycle manufacturers had not “made the cut”.⁷² The Minister confirmed to us that whilst the UK bicycle manufacturers had originally not met DIT’s criteria, further evidence from the manufacturers had led to a reassessment by DIT, and a revised decision that the relevant measures would now be maintained, “as on the basis of that new evidence they met the criteria”.⁷³

65 Schedule 7 para 1 of the [Taxation \(Cross-border Trade\) Act 2018](#)

66 Department for International Trade ([TRP0006](#))

67 Department for International Trade, [Consultation outcome: Final findings of the call for evidence into UK interest in existing EU trade remedy measures](#), 2 May 2019

68 [Q110](#)

69 Department for International Trade, [Guidance: Trade remedies transition policy](#), updated 16 December 2020

70 Department for International Trade, [Consultation outcome: Final findings of the call for evidence into UK interest in existing EU trade remedy measures](#), 2 May 2019

71 [Q84](#)

72 [Q84](#)

73 [Q141](#)

59. DIT also assessed which of the EU safeguard measures were appropriate to the UK market. It identified 19 product categories covered by the existing EU steel safeguard measure which would be transitioned in order to provide continuity to UK producers. The remaining associated product categories, where there was no UK production, were not transitioned.⁷⁴ As with the anti-dumping and anti-subsidy measures, TRID will conduct a UK-wide transition review to assess whether the steel safeguard measure is appropriate for the UK market, and as such whether it should be varied or terminated. The review is due to conclude by the end of June, when the current measure expires.⁷⁵

Transition reviews

60. The purpose of a transition review is to assess for each measure whether it is appropriate for the UK market and whether it should be varied or terminated.⁷⁶ TRID has published guidance on the process it will use to conduct transition reviews and began its first review in February 2020. For each transition review, TRID will consider whether there is still dumping or subsidisation, whether the duty is required to prevent injury to UK industry, and the economic interest test. It will then recommend to the Secretary of State whether to retain, vary or remove the measure. The Secretary of State must accept this recommendation unless she is satisfied that it is not in the public interest to do so. The TRID guidance indicates that final determinations in relation to dumping and subsidy investigations will be made within eleven to thirteen months after initiation, and within eight to ten months for safeguards.⁷⁷ The list of active trade remedies reviews is publicly available on the Trade Remedies Service Public File.⁷⁸

Timetable for transition reviews

61. The Secretary of State has issued guidance to TRID on the order in which the transition reviews should be undertaken. TRID is instructed to initiate transition reviews in the order that the measures are due to expire. If a review is not initiated before the expiry date for a measure, then it will expire.⁷⁹ DIT explains that TRID may, at its discretion, initiate a transition review earlier if it believes there is a good reason to do so and that doing so does not affect its ability to conduct all reviews in a timely way.⁸⁰

62. The NAO advised us that as at 14 October 2020 TRID had initiated five anti-dumping and anti-subsidy reviews covering seven trade remedies. It explained that:

TRID currently plans to initiate and carry out transition reviews of a further 36 measures over the next three years. It has planned a programme of reviews by which it aims to initiate a review of each measure, before the measure's expiry date. Full details of the reviews it plans to carry out in 2021 and 2022 are market sensitive and subject to change.⁸¹

74 Department for International Trade, [Guidance: Trade remedies transition policy](#), updated 16 December 2020

75 [Q132](#)

76 Department for International Trade ([TRP0006](#))

77 Department for International Trade, [Trade Remedies Investigations Directorate \(TRID\) dumping, subsidisation and safeguarding investigations guidance](#), 28 October 2019

78 <https://www.trade-remedies.service.gov.uk/public/cases/>, accessed 17 March 2021

79 National Audit Office ([TRP0009](#))

80 Department for International Trade ([TRP0006](#))

81 National Audit Office ([TRP0009](#))

63. Richard Warren, UK Steel told us that the steel industry was currently working with TRID on both anti-dumping and safeguard transition reviews. He said that working relations with TRID had so far been positive, but that it would be helpful if TRID were to publish a timetable so that industry could plan their resources accordingly. He explained that:

An improvement would be a publication of a timetable. At the minute we have three reviews going at once. The earlier we know when the reviews are coming, how long they are going to take, when the request for information is going to be and what those requests will look like, the better we can plan because it is very difficult at the minute.⁸²

64. Simon Walker, Chair Designate, TRA told us that it was “public knowledge which particular reviews are coming up in which particular year” and that “people can easily draw conclusions about when they are expected to submit the information”.⁸³

65. We heard from industry witnesses that working relationships with TRID had so far been positive and constructive. The transition to a UK trade defence regime requires UK producers covered by transitioned measures to provide information to inform the reviews of those measures. It is not clear whether there are specific reasons why a forward timetable cannot be published to help businesses plan for the reviews. We recommend that as a minimum, the TRA provides as much advance notice as possible to industries participating in transition reviews.

Safeguard reviews

66. The WTO defines safeguard measures as emergency actions with respect to increased imports of particular products, where such imports have caused or threaten to cause serious injury to the importing member’s domestic industry. WTO members may take such action to protect a specific domestic industry from an increase in imports of any product which is causing, or which is threatening to cause, serious injury to the industry. Safeguard measures typically take the form of quantitative import restrictions or duty increases.⁸⁴ Richard Warren of UK Steel told us that under the EU regime, steel safeguards covered “nearly all steel products”.⁸⁵

67. Ranil Jayawardena MP, Minister for International Trade, wrote to us on 1 October 2020, saying that the Government had published the safeguard tariff rate quotas that would apply from January 2021 until the conclusion of the review of the steel safeguard measures.⁸⁶ In order to implement the safeguard measures from 1 January, DIT recalculated UK-specific tariff rate quotas for the 19 product categories that have been transitioned, based on trade-flow data from 2015 to 2017.⁸⁷ Under the transitioned arrangements, importers of steel products into the UK receive specific tariff rate quota volumes. Quota volumes are managed quarterly, with any unused tonnages automatically transferred to the next quarter. Any remaining balance at the end of the year is lost. Once a quota is exhausted, an

82 [Q62](#)

83 [Q92](#)

84 WTO, [Agreement on Safeguards](#), accessed 27 January 2021

85 [Q 34–35](#)

86 [Correspondence](#) from the Minister for International Trade to the Chair of the Committee, 1 October 2020

87 Department for International Trade, [Guidance: Trade remedies transition policy](#), updated 16 December 2020

additional tariff of 25% is to be applied to any subsequent imports within these categories.⁸⁸

68. Richard Warren explained that the steel safeguard reviews would be “complex” and “unprecedented” given that the European Commission had never previously done an extension of safeguard measures. The reviews would need to establish both whether safeguard measures were justified for the UK and whether there was sufficient justification to extend them. However, the transition reviews were likely to be politically sensitive, because of the scope for retaliatory measures from countries subject to the measures, and there could be tensions between the objective decision of the TRA and the Secretary of State’s consideration of the UK’s public interest. He said that, to-date, there had been little detail provided about how the safeguard transition reviews would be conducted:

... we have not been able to get any information in advance from the Trade Remedies Authority about precisely the scope of what it is looking at, the kind of analysis it will conduct, or even draft questionnaires.⁸⁹

69. The Minister confirmed to us that the Government had transitioned the steel safeguard measures and recalculated the tariff-rate quotas based on UK specific trade flow data, and said that a full transition review was currently underway which would assess “some of the implications of the measures that we have in place”.⁹⁰

70. TRID is currently conducting a review of steel safeguard measures, in order to determine whether they should be extended for a further three to five years after the current measures expire in the middle of 2021. We heard that these measures are of critical importance to the UK steel industry. During this inquiry, we did not hear evidence from steel importers, but we are aware that imported steel is critical for many major UK industries. The balancing of different interests in this area will be complex and politically sensitive and will be an early test of the TRA’s capacity, expertise and effectiveness.

Legality of transition arrangements

71. Our predecessor Committee heard evidence questioning whether the UK adoption of existing EU trade remedies was compliant with WTO rules and asked the Government to write and explain its position on whether it could legally ‘grandfather’ the EU’s existing trade remedies.⁹¹ The Government response stated that:

The WTO framework does not expressly address how to transition trade remedy measures when a member of a customs union leaves that union. The UK is therefore committed to developing a pragmatic approach that minimises trade disruption to our trade partners and UK businesses.⁹²

72. George Peretz QC has pointed out that DIT’s transition arrangements mean that the UK will be applying some EU trade remedies on a legacy basis without there having been

88 Department for International Trade, [Notice of determination 2020/06: safeguard measures on certain steel products – application of tariff rate quotas](#), updated 1 March 2021

89 [Qq 38–39](#)

90 [Q132](#)

91 [UK Trade Remedies Authority](#), Third Report of Session 2017–19, 2 May 2018, HC 743, paras 24–30

92 International Trade Committee, [UK Trade Remedies Authority: Government Response to the Committee’s Third Report of Session 2017–19](#), 17 July 2018, HC 1424

any rigorous investigation into whether the subsidies or dumping concerned injure UK, as opposed to EU, industry, and that it could be argued that this was not consistent with the relevant WTO regulations.⁹³

73. James Kane, IfG, told us that it was difficult to see what other alternative had been available to the UK Government, other than the removal of all the trade remedies.⁹⁴ Dr Lorand Bartels suggested that the transition process was open to different interpretations, saying that:

I know that China takes the view that this is not legal because, among other things, the industry that you are now looking to protect is no longer the EU industry ... The UK takes the position that, if you look at it, it has already gone through a system where it filtered out trade remedies that did not relate to the UK and what is left is simply being continued in the manner of a normal expiry or sunset review.⁹⁵

When asked about whether it was realistic that China might take action against the UK at the WTO, Dr Bartels said it would not surprise him to see “some sort of challenge”.⁹⁶

74. The Minister told us that he was confident that the Government’s approach was “perfectly in line with all our international obligations”.⁹⁷

75. The Government took steps to transition only those EU trade remedies which apply to UK industry and is now carrying out full transition reviews to recalculate and reassess those measures. Our evidence suggests that there remains a risk that the UK’s approach to transitioning EU measures could be subject to legal challenge. The need to conduct transition reviews as well as new investigations places an additional pressure on the newly established TRA and further underlines the importance of making rapid progress in recruiting and training TRA staff so that the TRA is fully resourced for its role.

93 Trade remedies: the new UK regime, www.taxjournal.com 11 September 2020

94 [Q10](#)

95 [Q8](#)

96 [Q11](#)

97 [Q138](#)

4 New trade defence investigations

76. The WTO rules set out the circumstances in which trade remedies may be introduced, but WTO members may choose not to impose them. Developing its own UK policy enabled the Government to decide whether it wished to adopt a different approach from that which the UK had experienced as part of the EU.

77. James Kane, IfG, told us that the UK system looked “quite similar” to the EU system, but that it was too soon to tell exactly how it would operate because “a lot of the provisions, both in the statute and in the regulations ... could be implemented with quite different consequences in individual cases” and that “The devil is always in the detail, and that is probably true of trade remedies more than anything else”.⁹⁸ Dr Lorand Bartels agreed, saying that it would be necessary to see how all of the rules in legislation and guidance were actually applied in practice, particularly in relation to the economic and public interest tests.⁹⁹

78. The Manufacturing Trade Remedies Alliance however has said that it:

has concerns that the UK has created a high hurdle for UK trade remedies to be adopted and believes that HMG has created a system that potentially makes it harder to adopt measures than any other global trade remedy regime.¹⁰⁰

79. The Minister told us that in designing the UK system, the Government had “looked at international best practice and legislated for the full suite of tools that are permitted under the WTO’s rules”.¹⁰¹ When asked whether the UK regime would differ from that of the EU, he said that:

... [The UK regime] 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 ... to be protectionist rather than focused on defending the British national interest.¹⁰²

Process for new investigations

80. The Taxation (Cross-border Trade) Act 2018 and the secondary legislation made under it sets out the legislative structure for the new UK trade defence regime. Further detailed guidance has been published by the Secretary of State.¹⁰³ The TRA may initiate a new investigation when a UK industry applies to it to do so or, in exceptional circumstances, when asked to do so by the Secretary of State. Industry must submit an application to the TRA setting out why an investigation is necessary and providing evidence of dumping or subsidy, or unforeseen surges in imports, and injury.

81. The Government has introduced a UK-specific condition requiring industry to meet

98 [Q4](#)

99 [Q7](#)

100 Manufacturing Trade Remedies Alliance ([TRP0003](#))

101 [Q110](#)

102 [Q114](#)

103 Department for International Trade, [Guidance: The UK trade remedies investigations process](#), updated 20 January 2021

a 1% market share threshold to launch a new investigation.¹⁰⁴ If the appropriate conditions are met, the TRA will then conduct an investigation to decide whether the criteria for the imposition of a trade remedy are met. It will also calculate the amount of duty that may be imposed and carry out an economic interest test. The TRA may then recommend to the Secretary of State that a measure is imposed.

82. Following a recommendation from the TRA, the Secretary of State can then impose a trade remedy but need not do so if he or she considers that the remedy is against the public interest. If the measure in consideration is anti-dumping or anti-subsidy, the Secretary of State must accept the TRA's determination meets the economic interest test, unless he or she is satisfied that the determination is not one that the TRA could reasonably have made. For safeguard measures, the Secretary of State can reject the recommendation if he or she considers that it does not meet the economic interest test. If the Secretary of State accepts the recommendation to impose a measure, he or she will publish a public notice imposing an additional duty, and if they reject it, they must explain their reasons to Parliament for doing so. In some circumstances, those affected by a trade remedy, or by a refusal to impose a remedy may challenge the decision of the TRA or the Secretary of State via an application to the Upper Tribunal.¹⁰⁵

83. DIT has explained that the TRA's data gathering process may involve holding oral hearings where parties can comment on the investigation, and that during an investigation, in certain circumstances, the TRA can recommend the application of provisional measures in order to prevent injury being caused to domestic industry. At the end of an investigation, the TRA will publish a Statement of Essential Facts, setting out the detailed reasoning for its decision. Interested parties will have the opportunity to provide comments and submissions on this Statement. The TRA will then publish a final determination setting out its final recommendation of measures to the Secretary of State.

84. Richard Warren, UK Steel said that experience to date from working on transition reviews, indicated that the TRA was "very much keeping itself objective and arm's length". He explained that:

It gives absolutely nothing away in terms of its thinking and what analysis it is doing. There are no informal discussions that you may find perhaps with other authorities. In some ways that is very good. In other ways, perhaps if you are used to more informal discussions with the EU Commission, it can be frustrating. What it definitely says is that we probably will not know for a year how this will practically function and whether we find it more or less difficult to have measures implemented or maintained.¹⁰⁶

85. The British Ceramic Confederation said that new investigations would be "challenging and expensive" because UK industry will incur consultant or lawyer costs which were previously shared by the whole of EU industry.¹⁰⁷ Simon Walker agreed that this would be "a real problem" for UK industries that had previously been members of a Europe-wide association and had been able to share the legal and advisory costs among 28 member organisations. However, he said that WTO rules required the same level of evidence in each case and "there is not a great deal we can do about it."¹⁰⁸

104 [Q146](#)

105 Schedules 1 and 2 of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019

106 [Q36](#)

107 British Ceramic Confederation ([TRP0004](#))

108 [Q102](#)

86. Satjit Singh explained that TRID was offering support to small and medium-sized enterprises to help them understand what was involved in the trade remedies process. He said that TRID had opened a pre-application office, which gave advice to small and large businesses about new applications and was educating and working with industry to explain what sort of information would be required at different stages of the process.¹⁰⁹

Contributors and interested parties

87. The regulations and guidance define the respective roles and rights of interested parties and contributors to an investigation. Guidance published by DIT explains that:

When we initiate an investigation, we will set a period for interested parties and contributors to contact us to register their interest. Parties will be able to register through our Trade Remedies Service. Interested parties are those who are directly involved in our investigation, such as exporters or importers of the goods concerned in the investigation or trade associations representing UK producers. Contributors are those other than interested parties who have contacted us to participate in the investigation or review.¹¹⁰

88. Dr Lorand Bartels suggested that this distinction between interested parties and contributors was not unusual, and that it “counteracts a little bit the fear that trade remedies will not be applied as often as across the Channel”.¹¹¹ However, Rosa Crawford, TUC said that the UK legislation was “significantly weaker than the EU’s legislation” because it defined trade unions as contributors rather than interested parties. This meant that they did not have the power to trigger investigations and would have access to less information during the investigation.¹¹² As contributors, unions also did not have the power to appeal decisions.¹¹³ Rosa Crawford said that it was crucial that unions were involved in the TRA’s discussions and judgments to ensure that the TRA took account of broader factors relating to a sustainable long-term economy, but that there were no guarantees that this would happen.¹¹⁴

89. The Minister told us that the primary contributors would be domestic producers and exporters whose goods were under investigation, because they held the evidence to determine whether dumping or subsidisation was causing injury to their industry. However, once an investigation was underway the TRA would have a duty to consider all relevant evidence, including contributions from trade unions.¹¹⁵

Calculation of tariffs

90. The British Ceramic Confederation said that the level a trade remedy is set at was likely to be lower in the UK than the EU and expressed particular concern about “the compulsory lesser duty rule, lack of taking account of regulatory costs and ILO standards”.¹¹⁶

109 [Qq93–94](#)

110 Department for International Trade, [Guidance: The UK trade remedies investigations process](#), updated 20 January 2021

111 [Q15](#)

112 [Q43](#)

113 [Q44](#)

114 [Q55](#)

115 [Q150](#)

116 British Ceramic Confederation ([TRP0004](#))

91. The UK has adopted a lesser duty rule where the amount of anti-dumping duty on imports is either the margin of dumping or margin of injury, whichever is less.¹¹⁷ This means that the duty must be no more than is necessary to prevent injury, even if that amount is less than the dumping margin or subsidy. James Kane, IfG, explained that until a couple of years ago, the EU had universally used the lesser duty rule. However, recent reforms of EU trade defence legislation, meant that it would no longer apply the lesser duty rule in anti-subsidy cases and would reserve the right not to apply it in anti-dumping cases. He said that in effect, the UK was “sticking with the previous EU system of always applying the lesser duty rule”.¹¹⁸ Satjit Singh, interim Chief Executive Designate, TRA, acknowledged that the EU in certain circumstances no longer had to apply the lesser duty rule, but said that the Government’s evidence base showed that there was no indication that lower tariffs resulted in an unfair increase in imported goods, and that the mere fact of having a trade remedy in place acted as a deterrent.¹¹⁹

92. The British Ceramic Confederation told us that a number of regulatory costs and obligations in relation to energy, climate and environmental issues will not necessarily be taken into account in calculating the injury margin, and that this would place overseas manufacturers at a significant commercial advantage. It also said that EU system allowed for a minimum of 6% profit when calculating injury margins, which the UK system did not. In addition, the UK had not stated a preference for benchmarking data to come from a country abiding by International Labour Organization rules. For a relatively labour-intensive industry like ceramics, benchmarking against a country which used bonded labour would result in a lower anti-dumping duty for UK manufactured products.¹²⁰ Satjit Singh told us that “this is a Government decision, and we have a remit that we have to carry out”.¹²¹

93. The Minister disagreed with the suggestion that the lesser duty rule might result in less effective measures. He told us that measures that had been applied using the lesser duty rule were often high and had been extremely effective and sufficient to stop exporters from injuring industry by dumping goods. He explained that:

We believe this provides the right protection for Britain. Others make their own judgment as to which systems they might 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.¹²²

Economic Interest Test

94. Before reaching its decision on whether to recommend a trade remedy, the TRA has to decide whether it is in the economic interest of the UK to impose the remedy.

117 [Taxation \(Cross Border Trade\) Act 2018](#), Schedule 4 para 18(6)

118 [Q5](#)

119 [Q98](#)

120 British Ceramic Confederation ([TRP0004](#))

121 [Q99](#)

122 [Q152](#)

This additional test is not required by WTO law, but is part of the UK regime, as set out in Schedule 4, paragraph 25 and Schedule 5, paragraph 23, of the Taxation (Cross-border Trade) Act 2018. The UK legislation includes a list of factors which must be taken into account, so far as they are relevant, when conducting the assessment. These factors include both the impact of the injury on the affected industry and also the likely impact on particular geographic areas, or particular groups in the UK of imposing or not imposing the remedy, and the impact on consumers of doing so. DIT guidance states that if the TRA decides that the costs of a measure outweigh the benefits, it will provide a reasonable explanation to demonstrate that this is the case and that if it concludes that the economic test is not met, it will explain why it reached that conclusion.¹²³

95. Some witnesses expressed concern about how the economic test would operate. Rosa Crawford said that the economic interest test was “extremely subjective” and dependent on “the judgment of whoever is making the assessment”.¹²⁴ The Manufacturing Trade Remedies Alliance expressed concerns about the “systematic over-complex economic analysis” required by the economic interest test.¹²⁵

96. Dr Lorand Bartels said that the economic interest test was “equivalent in some ways” to the EU’s Union interest test.¹²⁶ He suggested that the assessment of the factors “clearly involve political judgment” and that it was too soon to tell how the different factors would be weighed up. However, given that the presumption was that the economic interest test was met, he suggested that “the likelihood is that this is not going to be a reason for trade remedies in the UK being tougher than elsewhere.”¹²⁷

97. James Kane said that there would always be a need for judgment in applying the factors required to assess economic interests. He explained that, for example, some economists would judge that trade remedies were never in the economic interest of any country.¹²⁸ He added that it would be difficult to demonstrate full transparency of decision-making, “because people have different views about some of the questions that the TRA is required to consider”.¹²⁹ He told us that in his view, “the economic interest test is a tremendously difficult task for any unelected person to carry out” and said that:

... the economic interest test is going to be a tremendous challenge for a body like the TRA to carry out without becoming politicised because it is a very political question. The officials in the TRA are going to have to be very, very careful to, in effect, show their working and perform this task, which in some ways is quite impossible, as best they can.¹³⁰

98. Simon Walker, Chair Designate, TRA, explained that the economic interest test was carefully defined in the legislation and was something that the TRA would “try to apply absolutely fairly and without any kind of bias at all and with complete transparency on our reasoning” and that it was “something that will have to be weighed up very carefully”.¹³¹

123 Department for International Trade, [Guidance: How we apply the Economic Interest Test](#), updated 20 January 2021

124 [Q38](#)

125 Manufacturing Trade Remedies Alliance ([TRP0003](#))

126 [Q7](#)

127 [Qq13–14](#)

128 [Q12](#)

129 [Q13](#)

130 [Q18](#)

131 [Q80](#)

He agreed that the economic interest test would involve an element of political judgement:

... Of course, you are right, there are political dimensions to it, and that is why the Secretary of State has the right to overrule, ultimately, our recommendation. If we recommend a measure and if she applies a public interest test or feels that it is not in the public's interest, she can overrule it. She has to lay down her reasons to Parliament, but that is her absolute right.¹³²

99. The Minister agreed that there was potential for there to be politics in the trade remedies process but said that this would be in the public interest test and not in the economic interest test. He explained that the factors to be considered in the economic interest test related to the economic significance of the affected industries. He said that the economic interest test was “a balancing act on economic grounds that will be undertaken by the TRA” and that it was right that the TRA did that “in order to take the politics out of it and to focus on the economics”. In summary, he said that “right now we are clear that the TRA is independent and should be doing this on economic grounds”.¹³³

Public Interest Test

100. The Secretary of State may reject a recommendation from the TRA to impose a trade remedy if they are satisfied that it is not in the public interest to accept it. If the TRA's recommendation is rejected, the Secretary of State must lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.¹³⁴

101. Dr Lorand Bartels explained that the fact that the Secretary of State's consideration did not take place “behind closed doors” suggested that the UK system might offer greater transparency than the EU and other systems, and that “the drafters of the regulatory system should be commended for this”.¹³⁵ He explained that:

There is always a political dimension in the EU. The EU member states have a say, usually via the anti-dumping committee. In other countries this is all done behind the scenes, so to have this out there might be greater for transparency. It might dissuade the use of hidden public interest tests finding their way through the system. Again, the basic point is that it could be, but we just do not know yet.¹³⁶

... Yes, if one looks at it from the point of view of an industry that just wants instant protection, okay, maybe you do not want all these hoops to jump through but, if you look at this from the point of view of the country as a whole, I think the system looks reasonably accountable.¹³⁷

102. TRID has published comprehensive guidance on its processes for initiating and conducting new investigations and was ready to accept new applications from the start of this year. We commend the DIT for its work to achieve this.

132 [Q104](#)

133 [Q135](#)

134 Schedule 4, para 20

135 [Q25](#)

136 [Q7](#)

137 [Q25](#)

103. Some witnesses told us that it was too soon to judge how the UK trade remedies regime will be applied in practice and whether the UK will adopt a different approach to that of the EU. We also, however, heard concerns from manufacturers and trade unions that under the UK system, it will be more difficult to secure trade remedies and remedies will be lower.

104. The operation of the UK trade remedies regime will be of continuing interest to this Committee, and we welcome the Minister's comments that that the regime will remain under review to ensure it provides the right protection for UK industries.

105. We heard concerns that the Government chose to define unions as contributors in the UK regime rather than interested parties as in the EU regime. The TUC told us that this means they cannot trigger new investigations, they have access to less information during an investigation and they cannot initiate an appeal against a decision. *We ask the Government to explain, in its Response to this report, why it chose to reduce the role of unions in the UK trade defence regime.*

106. The UK trade defence regime includes both an economic interest test and public interest test. We heard evidence that the economic interest test would require not just economic assessment, but also an element of political judgement, and some witnesses questioned whether this was an appropriate function to be carried out by an independent TRA. We have some sympathy with these concerns and believe that it will be difficult in practice to separate the objective factors set out in legislation from more subjective judgements such as the assessment of relative harm on different stakeholders. It remains to be seen how these tests will operate in practice, how transparent the processes will be and how contentious the outcomes of these tests will be.

107. If the TRA recommends an anti-dumping or anti-subsidy measure, the Secretary of State must accept the TRA's determination meets the economic interest test, unless he or she is satisfied that the determination is not one that the TRA could reasonably have made. For safeguard measures, the Secretary of State can reject the recommendation if he or she considers that it does not meet the economic interest test. *The Government should set out, in response to this report, the rationale for the Secretary of State having a greater role in the economic interest test in respect of safeguarding measures.*

108. UK businesses will no longer be able to collaborate with European partners in order to share the considerable expertise and costs required to launch and participate in trade defence investigations. We are encouraged that TRID has established a support service to help businesses understand the application process.

Enforcement

109. Her Majesty's Revenue and Customs (HMRC) will be responsible for the enforcement of trade remedies at the UK borders. DIT explained that:

Goods subject to trade remedies are included within the controlled goods list which will require full customs declarations from January 2021. The 'UK Global Tariff' (including trade remedy duties) will apply to all goods imported into the United Kingdom from 1 January 2021, unless an exception applies. Exceptions may include a preferential arrangement, such as a free trade agreement.¹³⁸

138 Department for International Trade ([TRP0006](#))

110. Laura Cohen, CEO, British Ceramics Confederation, suggested that the TRA would need to establish a good relationship with HMRC and be proactive on measures to avoid circumvention of tariffs. She said that it would also be necessary to monitor trade flow patterns and communicate with the industries affected in order to detect and address circumvention.¹³⁹ The British Ceramic Confederation pointed out that the European Commission had “self-initiated an investigation into Chinese ceramic tableware and kitchenware after finding strong evidence from other EU national customs authorities that the anti-dumping tariffs were being circumvented” and that following the investigation, the Chinese companies involved had been subject to increased tariffs.¹⁴⁰

111. Lorand Bartels told us that it was not uncommon for trade remedies authorities to need to amend trade remedies because the existing measures were being circumvented by exporters, and agreed that detecting and resolving such issues would require good communications between the TRA and HMRC:

Usually, the customs authority, or HMRC in our case, will come up with the data to show that something is a bit fishy and, therefore, it should have a direct line to the Trade Remedies Authority alerting it that something might need tweaking or, for instance, just the very prosaic communication that is needed when it comes to applying customs duties of a trade remedy sort. Do you come up with a new customs code? How do you figure that all out? This is red tape-type stuff. I am sure they will be able to figure this out.¹⁴¹

112. Satjit Singh told us that the TRA’s job was “to carry out an investigation and recommend trade remedies where appropriate” and that it was then “for HMRC to administer and enforce those trade remedies”. He added that the TRA was not resourced to actively monitor the impact of remedies, and that in any event the industry affected was more likely to have the information to show that trade remedies were not working. He said that “If they bring that evidence to us, we shall certainly look at it to undertake what is known as a circumvention review”.¹⁴² Simon Walker added that:

Fundamentally, it is for HMRC to enforce these matters at our borders. Obviously, we will pass on any information we receive. But if a product is being dumped, there is a measure against it, and if that is being circumvented via a peculiar route, it is very likely that it is the competitors of that product that will find out first.¹⁴³

113. Claire Vince, DIT, explained that DIT was working very closely with all Departments with an interest in trade remedies, and that the primary focus at present was “embedding the new structures and making sure that everything is absolutely correct on the systems”. She added that one or two issues had been identified, but that this was “almost inevitable with the volume of data that was put on to the HMRC” and that this process was “pretty much there”.¹⁴⁴

139 [Q44](#)

140 British Ceramic Confederation ([TRP0004](#))

141 [Q21](#)

142 [Qq 95–97](#)

143 [Q97](#)

144 [Q142](#)

114. The Minister confirmed that the Government wanted to make sure that there were 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.¹⁴⁵

115. Good working relationships between the TRA and HMRC will be important to the effective functioning of the UK trade remedies regime. *We ask that the TRA write to us, within three months of its formal establishment, to explain how the two bodies are working together to support the operation of the regime.*

Conclusions and recommendations

The UK trade remedies policy

1. We note the significant progress made by the Government since our predecessor Committee's inquiry, and that the policy and legal framework for the UK trade defence regime is now largely in place. (Paragraph 14)
2. Further clarification is required to set out the position of businesses in Northern Ireland in respect of trade remedies and the extent to which they fall within the remit of the TRA. *We therefore ask the Government to confirm whether for the movement of goods into Northern Ireland from Great Britain, where EU trade remedies exist, the goods will be considered "at risk" and EU trade remedies will apply; and for the movement of goods into Northern Ireland from the rest of the world, where EU trade remedies exist, unless the EU duty is less than or equal to the UK duty, EU trade remedies will apply. We further ask the Government to confirm whether, when EU trade remedies apply to the movement of goods into Northern Ireland, they will apply with the same terms as they do to imports to the EU. We recommend that the Government publishes guidance on this matter for businesses operating in Northern Ireland.* (Paragraph 20)

The Trade Remedies Authority

3. Operating its own trade defence regime is a new challenge for the UK. In order to prepare for the establishment of the TRA, the Government has had to recruit around 100 officials, many in areas where the relevant expertise is expensive and scarce, and provide training so that this new organisation can carry out its complex functions in a professional and effective manner. This process has been made more difficult because of uncertainty over when the TRA would become operational, and because of the changes to normal working practices brought about by the covid-19 pandemic. We commend the Department for International Trade for the progress it has made in creating the new authority. (Paragraph 33)
4. We note that there has already been a very high staff turnover within TRID. We acknowledge that there have been difficult circumstances, but it is disappointing there are still far fewer staff in post than projected. The Minister told us in January that TRID had 107 staff in post against a projected total of 143 which means that TRID's current staffing level is around 25% lower than that required. (Paragraph 34)
5. We also note concerns expressed by witnesses that the lack of experience of TRA staff will place them at a disadvantage when dealing with other more experienced stakeholders. There was a very significant initial spend on staff training, and we are concerned that some of the benefits of this training may have been lost because of the high initial staff turnover rate. We welcome the recent appointment of a new Chief Executive with trade policy experience. (Paragraph 35)
6. The evidence we have received in this inquiry indicates that the recruitment, retention and training of TRA staff remains a critical factor in establishing the UK's new trade defence regime and presents one of the most significant areas of risk for

the future success and credibility of the regime. We are not convinced that TRID has taken sufficient action to deal with its high staff turnover rate and it still does not have in place the number of staff that it needs. These issues must be resolved quickly to ensure the effective and successful operation of the UK trade remedies system. We ask that the TRA write to us within three months of its establishment setting out initial steps it has taken to address these issues. (Paragraph 36)

7. We note that the initial recruitment for members of the TRA Board is now complete. *We recommend that an initial priority of the Board is to prepare and publish a clear statement of detailed governance arrangements to provide clarity on the TRA's decision-making processes and its arrangements for interfacing with stakeholder groups.* (Paragraph 45)
8. We are encouraged that the TRA Chair Designate, Simon Walker, stressed to us the importance of the independence of the TRA from Government. It is unfortunate that the TRA had to begin its operations in 2021 whilst still operating as a Directorate within the Department for International Trade. The TRA's independence will be necessary in order to provide confidence to UK domestic producers and consumers that the UK trade defence regime is fair and accessible. (Paragraph 50)
9. Transparency will be critical if the TRA is to gain the confidence of UK domestic producers and consumers, and to demonstrate compliance with WTO rules. *It should be a priority for the Board when it is establishing its processes and planning its first annual report.* (Paragraph 55)

Transition of EU measures

10. We heard from industry witnesses that working relationships with TRID had so far been positive and constructive. The transition to a UK trade defence regime requires UK producers covered by transitioned measures to provide information to inform the reviews of those measures. It is not clear whether there are specific reasons why a forward timetable cannot be published to help businesses plan for the reviews. *We recommend that as a minimum, the TRA provides as much advance notice as possible to industries participating in transition reviews.* (Paragraph 65)
11. TRID is currently conducting a review of steel safeguard measures, in order to determine whether they should be extended for a further three to five years after the current measures expire in the middle of 2021. We heard that these measures are of critical importance to the UK steel industry. During this inquiry, we did not hear evidence from steel importers, but we are aware that imported steel is critical for many major UK industries. The balancing of different interests in this area will be complex and politically sensitive and will be an early test of the TRA's capacity, expertise and effectiveness. (Paragraph 70)
12. The Government took steps to transition only those EU trade remedies which apply to UK industry and is now carrying out full transition reviews to recalculate and reassess those measures. Our evidence suggests that there remains a risk that the UK's approach to transitioning EU measures could be subject to legal challenge. The need to conduct transition reviews as well as new investigations places an additional pressure on the newly established TRA and further underlines the importance of making rapid progress in recruiting and training TRA staff so that the TRA is fully resourced for its role. (Paragraph 75)

New trade defence investigations

13. TRID has published comprehensive guidance on its processes for initiating and conducting new investigations and was ready to accept new applications from the start of this year. We commend the Department for International Trade for its work to achieve this. (Paragraph 102)
14. Some witnesses told us that it was too soon to judge how the UK trade remedies regime will be applied in practice and whether the UK will adopt a different approach to that of the EU. We also, however, heard concerns from manufacturers and trade unions that under the UK system, it will be more difficult to secure trade remedies and remedies will be lower. (Paragraph 103)
15. The operation of the UK trade remedies regime will be of continuing interest to this Committee, and we welcome the Minister's comments that that the regime will remain under review to ensure it provides the right protection for UK industries. (Paragraph 104)
16. We heard concerns that the Government chose to define unions as contributors in the UK regime rather than interested parties as in the EU regime. The TUC told us that this means they cannot trigger new investigations, they have access to less information during an investigation and they cannot initiate an appeal against a decision. *We ask the Government to explain, in its Response to this report, why it chose to reduce the role of unions in the UK trade defence regime.* (Paragraph 105)
17. The UK trade defence regime includes both an economic interest test and public interest test. We heard evidence that the economic interest test would require not just economic assessment, but also an element of political judgement, and some witnesses questioned whether this was an appropriate function to be carried out by an independent TRA. We have some sympathy with these concerns and believe that it will be difficult in practice to separate the objective factors set out in legislation from more subjective judgements such as the assessment of relative harm on different stakeholders. It remains to be seen how these tests will operate in practice, how transparent the processes will be and how contentious the outcomes of these tests will be. (Paragraph 106)
18. If the TRA recommends an anti-dumping or anti-subsidy measure, the Secretary of State must accept the TRA's determination meets the economic interest test, unless he or she is satisfied that the determination is not one that the TRA could reasonably have made. For safeguard measures, the Secretary of State can reject the recommendation if he or she considers that it does not meet the economic interest test. *The Government should set out, in response to this report, the rationale for the Secretary of State having a greater role in the economic interest test in respect of safeguarding measures.* (Paragraph 107)
19. UK businesses will no longer be able to collaborate with European partners in order to share the considerable expertise and costs required to launch and participate in trade defence investigations. We are encouraged that TRID has established a support service to help businesses understand the application process. (Paragraph 108)

20. Good working relationships between the TRA and HMRC will be important to the effective functioning of the UK trade remedies regime. *We ask that the TRA write to us, within three months of its formal establishment, to explain how the two bodies are working together to support the operation of the regime.* (Paragraph 115)

Formal minutes

Wednesday 17 March 2021

Members present

Angus Brendan MacNeil, in the Chair

Mark Garnier	Lloyd Russell-Moyle
Sir Mark Hendrick	Martin Vickers
Anthony Mangnall	Mick Whitley
Mark Menzies	Craig Williams

Draft Report (UK trade remedies policy) proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 115 agreed to.

Resolved, That the Summary of the Report be agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Thursday 25 March at 9.30 a.m.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 14 October 2020

Dr Lorand Bartels, Senior Counsel, Linklaters LLP and Reader in International Law, University of Cambridge; **James Kane**, Associate, Institute for Government [Q1–32](#)

Rosa Crawford, Policy Officer, Rights, International, Social and Economics Department, Trades Union Congress (TUC); **Dr Laura Cohen MBE**, Chair, The Manufacturing Trade Remedies Alliance, Chief Executive, British Ceramic Confederation; **Richard Warren**, Head of Policy and External Affairs, UK Steel [Q33–62](#)

Wednesday 25 November 2020

Simon Walker CBE, Chair-Designate, Trade Remedies Authority; **Satjit Singh**, Interim Chief Executive Designate, Trade Remedies Authority [Q63–109](#)

Wednesday 13 January 2021

Mr Ranil Jayawardena MP, Minister of State for International Trade, Department for International Trade; **Claire Vince**, Director, Global Trade and Delivery, Department for International Trade [Q110–155](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

TRP numbers are generated by the evidence processing system and so may not be complete.

- 1 Anonymous ([TRP0005](#))
- 2 British Ceramic Confederation ([TRP0010](#))
- 3 British Ceramic Confederation ([TRP0004](#))
- 4 Castle Knight Services Ltd ([TRP0001](#))
- 5 Department of International Trade ([TRP0006](#))
- 6 National Audit Office ([TRP0009](#))
- 7 The Manufacturing Trade Remedies Alliance; and British Ceramic Confederation ([TRP0003](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2019–21

Number	Title	Reference
1st	The COVID-19 pandemic and international trade	HC 286
2nd	UK-Japan Comprehensive Economic Partnership Agreement	HC 914
1st Special	The COVID-19 pandemic and international trade: Government Response to the Committee's First Report of Session 2019–21	HC 815
2nd Special	UK-Japan Comprehensive Economic Partnership Agreement: Government Response to the Committee's Second Report of Session 2019–21	HC 1163