

Trade remedies if there's no Brexit deal

1. Department for International Trade

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A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a 'no deal' scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an [overarching framing notice](#) explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and

orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

The purpose of this notice is to alert UK businesses to the government's intention to establish an independent trade remedies system by the time the UK exits the EU which will be operated by the UK Trade Remedies Authority (TRA), a new arm's length body to investigate complaints of unfair trading practices and unforeseen surges in imports, which cause injury to UK industry.

Before March 2019

Trade remedies allow World Trade Organisation (WTO) members to operate a safety net and protect domestic industry from injury caused by unfair trading practices, such as dumped or subsidised imports, or from injury caused by unforeseen surges in imports. These usually take the form of additional duties on those imports.

As members of the EU, we have supported UK industries to secure necessary protections through the EU trade remedies system. Currently, complaints of unfair trade practices or unforeseen surges in imports are investigated by the European Commission (DG Trade), and any trade remedy measures are applied at an EU-wide level, rather than just in the UK.

Producers currently submit applications for investigations to the European Commission. Investigations are only undertaken if there is sufficient evidence of injury to EU producers. Specifically, applications need to show sufficient evidence that:

- there are dumped or subsidised goods or an unforeseen surge in imports that is causing injury to a domestic industry

- the WTO standing requirements in relation to import volumes and injury are satisfied
- the complaint is made on behalf of EU industry, that is producers representing at least 25 per cent of total EU production of the particular goods are being affected.

After March 2019

As we prepare to operate an independent trade policy outside the EU, we are creating a trade remedies system which meets the needs of the UK. We are also prioritising certainty and continuity for business by maintaining EU measures which matter to the UK. In a 'no deal' scenario, the TRA will be operational by the time the UK leaves the EU and UK business will need to approach the TRA instead of the European Commission, with complaints relating to trade remedies.

We recognise the crucial role which UK manufacturers and producers play in our economy. We are committed to ensuring that UK industry has the protections it needs against unfair trading practices and unforeseen surges in imports which cause injury, but we will also ensure that the impact on consumers and end users is taken into account by applying proportionate measures.

We are legislating for the full suite of tools permitted under the WTO in order to tackle injury to UK industry caused by these practices. The Trade Bill will establish the TRA as a new non-departmental public body, while the Taxation (Cross-border Trade) Bill sets out the trade remedies framework that the TRA will be responsible for delivering.

Implications

Transition of existing EU measures

It is important that we provide certainty to UK businesses and avoid exposing them to injury from known cases of dumping or subsidy. In

2017, the government launched a call for evidence, asking UK industry which existing EU measures matter to the UK. Measures which meet specific criteria detailed in the call for evidence will be maintained once the UK is operating an independent trade remedies framework, and the remaining measures will be terminated. All maintained measures will be reviewed by the TRA and adjusted if necessary, to ensure they are suitable for the UK market.

The government published the provisional findings of the call for evidence at the end of July. The government has invited any party with an interest to [review the provisional findings](#) and provide any further relevant evidence which may affect the decisions.

New complaints prior to EU exit

The government will announce when the TRA is operational. At this point, UK industry should approach it in parallel to the EU Commission with all information and data it believes is relevant for either body to consider when opening a new investigation.

New investigations

Once the UK leaves the EU and is operating an independent trade remedies framework, UK businesses will be able to apply to the TRA directly if they believe they are being injured by the effects of unfair trade practices or surges in imports. Those making the application will need to demonstrate to the TRA that there is sufficient evidence of dumped goods, subsidised goods or an unforeseen surge of imports. They'll also need to demonstrate that the WTO standing requirements in relation to import volumes and injury are satisfied, that they have the required level of support from domestic producers collectively, and that they have the required share of the market of like goods for consumption in the UK.

Once the TRA is satisfied that there is sufficient evidence, it will initiate an investigation. The purpose of the investigation is to gather information, verify whether the legal conditions to apply measures are fulfilled and establish the level of the measures it will recommend

should be applied.

To decide whether it should recommend putting measures in place, the TRA will check if:

- there is dumping or use of specific subsidies by the producers in the country/countries concerned, or an unforeseen surge in imports
- the UK industry concerned is suffering injury as a result
- measures are in the wider economic interests of the UK – there is a presumption in favour of anti-dumping and anti-subsidy measures, where the onus will be on the TRA to demonstrate that measures will have disproportionate impacts on the wider UK economy.

These checks will be made through performing detailed analysis of data from a range of sources including UK producers, importers, downstream users of the product and exporting producers of the product in other countries.

If the TRA reaches a determination that measures should be applied, it will submit a recommendation to the Secretary of State for the Department for International Trade (DIT) who will have the final decision (having consulted with ministerial colleagues) on accepting or rejecting that recommendation. A recommendation from the TRA to apply measures can only be rejected by the Secretary of State on limited grounds. If the TRA concludes that measures should not be applied, this decision cannot be overruled by the Secretary of State.

Further information

DIT is working closely with stakeholders to develop secondary legislation that will set out more detail on the UK trade remedies framework and the processes of the TRA. This will be laid in Parliament following Royal Assent of the Trade Bill and Taxation (Cross-border Trade) Bill.

DIT is currently recruiting the staff for the future TRA and the

organisation will be based in Reading.

For general guidance on trade remedies, please contact:

Email: enquiries@trade.gov.uk

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.