

<b>Title:</b> Taxation (Cross-border Trade) Bill - Trade Remedies <b>IA No:</b> <b>RPC Reference No:</b> N/A <b>Lead department or agency:</b> HM Treasury <b>Other departments or agencies:</b> HM Revenue and Customs, Department for International Trade	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 20/11/2017			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
<b>Contact for enquiries:</b> Customs.Legislation@hmtreasury.gsi.gov.uk				
<b>Summary: Intervention and Options</b>				<b>RPC Opinion:</b> Not Applicable

		Cost of Preferred (or more likely) Option		
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
Unknown	Unknown	£0m	In scope	Qualifying provision

**What is the problem under consideration? Why is government intervention necessary?**  
 Currently investigations into unfair trading practices and injurious surges of imports, and the imposition of trade remedy measures (primarily in the form of duties) to combat them, are handled on the UK's behalf by the European Commission. When the UK exits the European Union, it will therefore be necessary to put in place a regulatory framework to allow for unfair trade and surges of imports to be investigated and measures imposed, in accordance with the relevant World Trade Organisation (WTO) agreements.

**What are the policy objectives and the intended effects?**  
 To put in place a regulatory framework and investigatory body that will be able to investigate complaints of unfair trade and surges of imports, and impose proportionate measures (primarily duties) to remedy the injury being caused. This will enable the protection of UK producers from the harmful effects of dumped, subsidised or surges of imports, and avoid a cliff edge for UK business on exiting the EU.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
 Options are compared against a baseline of continuation of the existing EU framework

Option 0 - Do nothing: Do not have a regulatory framework in place to investigate complaints of injury due to unfair trade or surges of imports. This is not considered to be a viable option given the potentially damaging consequences to UK industry.

Option 1 - Preferred option: Implement a UK trade remedies framework

Option 2 - Implement a UK trade remedies framework without applying an injury based duty or economic interest test

<b>Will the policy be reviewed? No If applicable, set review date:</b> N/A				
Does implementation go beyond minimum EU requirements?			N/A	
Are any of these organisations in scope?			<b>Micro</b> Yes	<b>Small</b> Yes
			<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

**Signed by the responsible Minister:**

Mel Bird Date: 20.11.17



# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Preferred option: Implement a UK trade remedies framework

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: Unknown

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
	Optional	Optional		
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Unknown		Unknown	Unknown

### Description and scale of key monetised costs by 'main affected groups'

The only monetised cost is the cost to the government of setting up and running a body that can investigate complaints of unfair trade and surges of imports, which is estimated at £15-20m per year. This is not an entirely new cost as the UK currently makes a contribution to the EU trade remedies regime, but it has not been possible to separate this from wider budget contributions.

### Other key non-monetised costs by 'main affected groups'

The main costs will be to users of goods covered by measures (primarily duties), and to interested parties who will incur costs from involvement in investigations.  
There are not expected to be any additional costs as compared to a continuation of the current EU trade remedies framework.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
	Optional	Optional		
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Unknown		Unknown	Unknown

### Description and scale of key monetised benefits by 'main affected groups'

There are no monetised benefits. As none of the benefits have been monetised, an NPV has not been presented.

### Other key non-monetised benefits by 'main affected groups'

Putting a trade remedies framework in place will avoid a cliff edge for UK business as we leave the EU, and ensure they continue to be protected from injury as a result of unfair trade.  
Compared to a continuation of the EU framework there are expected to be benefits from having an independent trade remedies framework that can investigate and impose measures that reflect UK market conditions and interests.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate</b>	N/A
It is assumed that the investigatory body will be set up as a new arm's length body, employing around 130 staff.		

## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>Score for Business Impact Target (qualifying provisions only) £m:</b>
Costs: £0	Benefits: £0	Net: £0	
			£0 (only safeguards are within scope of BIT)

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Implement a UK trade remedies framework without applying an injury-based duty rule or economic interest test

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Unknown		Unknown	Unknown

### Description and scale of key monetised costs by 'main affected groups'

The only monetised cost is the cost to the government of setting up and running a body that can investigate complaints of unfair trade and surges of imports. This is not an entirely new cost as the UK currently makes a contribution to the EU trade remedies regime, but it has not been possible to separate this from wider budget contributions. This would be equal to that under option 1.

### Other key non-monetised costs by 'main affected groups'

There are not expected to be any additional costs, compared to a continuation of the current EU trade remedies framework.

Compared to option 1, the costs to users as a result of measures are likely to be higher, as not applying an injury

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Unknown		Unknown	Unknown

### Description and scale of key monetised benefits by 'main affected groups'

There are no monetised benefits. As none of the benefits have been monetised, an NPV has not been presented.

### Other key non-monetised benefits by 'main affected groups'

As under option 1, there are expected to be benefits from avoiding a cliff edge for UK business and from having an independent trade remedies framework that can investigate and impose measures that reflect UK market conditions and interests.

Compared to option 1, the benefits to domestic producers as a result of measures imposed may be greater, as not applying an injury based duty may lead to higher duties being imposed.

Key assumptions/sensitivities/risks

Discount rate

N/A

It is assumed that the investigatory body will be set up as a new arm's length body, employing around 130 staff.

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £0	Benefits: £0	Net: £0	
			£0 (only safeguards are within scope of BIT)

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# Background

## Description of the Taxation (Cross-border Trade) Bill

1. The UK's future customs, VAT and indirect tax regime will in part be determined by the outcomes of the negotiations with the European Union (EU). The Taxation (Cross-border Trade) Bill does not presuppose the outcomes of the negotiations and as is usual practice for indirect taxes, secondary legislation will be used to set out much of the rules on administration, collection and enforcement. The government is committed to ensuring that Parliament has due scrutiny of the secondary legislative programme and that businesses have as much notice as possible of the contents of secondary legislation to prepare for EU exit. The government will publish further details, including impact assessments where appropriate, when decisions have been taken on how the regimes will operate in practice.
2. There are connections between the content of the Taxation (Cross-border Trade) Bill and the Trade Bill. The Taxation (Cross-border Trade) Bill will make provisions relevant to a new UK tariff, including the power to set customs duty, set quotas and preferences, and set out additional tariff-related provisions and how they will be administered. This will include, for example, the tariff applicable to developing countries (unilateral preferences) and in connection with UK trade remedies and disputes post-EU exit. This will allow the UK to impose trade remedy measures including anti-dumping duties, anti-subsidy duties and safeguard measures, where deemed appropriate following an investigation. The Trade Bill provides key measures that are required to build a future trade policy for the UK once we leave the EU.
3. There are additional border activities undertaken as part of official controls which, while vital to the UK's trade, safety and security, are not directly related to the collection of customs duty. These include the regulation of cross-border movements of large sums of cash, tackling counterfeit goods, detecting firearms, explosives and narcotics, disclosure of information to other government departments for non-tax purposes and certain non-tax import and export controls, such as animal, public and plant health checks. The government will set out proposals in relation to these other areas in due course, working with devolved administrations as appropriate. These issues are not covered in the Taxation (Cross-border Trade) Bill and therefore not included in this impact assessment (although this legislation will contribute to the wider safety and security agenda, for example through providing powers for continued customs co-operation).
4. The Taxation (Cross-border Trade) Bill will provide a framework for UK's future customs, VAT and excise tax regimes which can accommodate most outcomes of the negotiations with the EU. The impacts of the new regime on businesses, consumers and the economy will be determined by the outcome of these negotiations and the detailed design of the new regime to be set out in secondary legislation as and when appropriate.
5. Parliament has voted as part of the debates on the notification of Article 50 to commence the withdrawal negotiations with the EU, not to disclose material that would put our negotiation position at risk. In assessing the impacts of the Taxation (Cross-border Trade) Bill the government is therefore taking a proportionate and pragmatic approach, providing more detail on impacts where the outcome is less dependent on the negotiations with the EU.
6. The Taxation (Cross-border Trade) Bill confers certain powers on the Secretary of State for International Trade. This is the case for decisions around setting reduced tariffs to developing countries via unilateral preferences and to set-up and run the UK's future trade remedies policy which includes the power to impose duties under certain circumstances where imports cause injury



to domestic industry. The Government has confirmed<sup>1</sup> that it will seek to continue offering unilateral preferences to developing countries and will require a trade remedies regime.

7. The impacts of the Taxation (Cross-border Trade) Bill are therefore assessed through three Impact Assessments:
- Firstly, this Impact Assessment looking at the UK's future trade remedies regime
  - Secondly a standalone Impact Assessment looking at the UK's unilateral preference regimes
  - And finally, a third standalone Impact Assessment looking at the UK's future customs, VAT and excise regime

## What are trade remedies?

8. World Trade Organisation (WTO) Agreements allow countries to impose import restrictions – primarily in the form of duties - to combat the effects of both “unfair” trade and unexpected surges of “fairly” traded imports which cause, or threaten to cause, injury to domestic industry. Collectively, these are known as Trade Remedy Measures. The three relevant agreements are: Agreement on Implementation of Article VI of GATT 1994 (“the Anti-dumping Agreement”)<sup>2</sup>, the Agreement on Subsidies and Countervailing<sup>3</sup> measures and the Safeguards Agreement.<sup>4</sup>

### Anti-Dumping Measures

An imported good is considered to be ‘dumped’ where it is exported at prices lower than prices of the same good in the domestic market, or less than full costs of production plus a reasonable profit. In order for action to be taken, as a minimum the importing country must establish that dumping has occurred, and that the dumping has caused identifiable injury to a domestic producer. Action is targeted against a specific product from a specific export market.

### Anti-Subsidy Measures

Anti-subsidy measures can be imposed on imports of goods which have benefitted from a financial contribution by a government or any public body, and where the subsidy is a) “specific” i.e. targeted on a particular company or group of companies, industry or region, rather than generally available to all enterprises, or b) where it is contingent on the good being exported or substituting for imports. In order for action to be taken, as a minimum the importing country has to establish that the goods are benefitting from a specific subsidy, and that the subsidised imports have caused identifiable injury to a domestic producer. Action is targeted against a specific product from a specific export market.

### Safeguard Measures

WTO agreements enable countries to impose widespread duties or quotas on products from all export markets in the event that an unforeseen surge of imports causes or threatens to cause identifiable injury to a domestic producer.

9. The WTO Agreements contain an overarching framework for trade remedies. However there are several areas of discretion which enable the design of a UK specific framework that supports the free trade agenda, by providing a safety net to industry in cases of unfair trade and promoting a domestic consensus in favour of a broad based and ambitious trade liberalisation agenda. We aim to design and implement a UK trade remedies framework that is impartial, proportionate, transparent and efficient.

<sup>1</sup> <https://www.gov.uk/government/news/government-pledges-to-help-improve-access-to-uk-markets-for-worlds-poorest-countries-post-brexit>

<sup>2</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/19-adp\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/19-adp_01_e.htm)

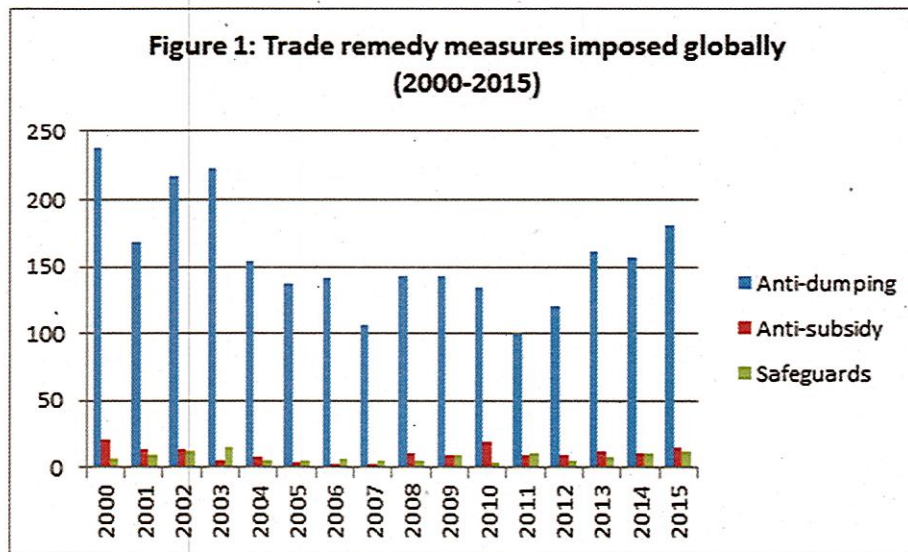
<sup>3</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/24-scm\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/24-scm_01_e.htm)

<sup>4</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/25-safeg\\_e.htm](https://www.wto.org/english/docs_e/legal_e/25-safeg_e.htm)



## Use of trade remedies

10. Globally, anti-dumping investigation initiations and measures are far more prevalent than anti-subsidy measures or safeguards (see Figure 1). From 2000-2015, there were over 10 times as many initiations/measures for anti-dumping as for anti-subsidy or safeguards. Anti-dumping and anti-subsidy measures account for over 95% of measures imposed globally over 2000-2015.



Source: Latest WTO figures, available at: [https://www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](https://www.wto.org/english/tratop_e/adp_e/adp_e.htm)

11. The biggest users of anti-dumping measures between 2010 and 2015 were India, Brazil and the USA. The country with the highest number of trade remedy measures applied to its products is China, with one third of anti-dumping measures between 2010 and 2015 being applied to imports from China. In terms of the sectors covered by anti-dumping measures over the same period globally, imports of base metals and articles, products of chemicals and allied industries, and resins, plastics, rubber and articles featured most prominently.
12. Similarly at the EU level, where there are around 110 measures in place<sup>5</sup>, most measures are anti-dumping, with a small number of anti-subsidy measures. There has not been a safeguard measure in the EU for over 10 years. EU trade remedies are common in sectors such as steel, chemicals and aluminium sector, and are applied to imports from countries including China, India and Russia.

## Problem under consideration

13. The UK is a strong supporter of free and open trade. However when domestic industries suffer harm as a result of unfair trading practices (dumped or subsidised imports), or unexpected surges of imports, countries are able to apply trade remedies to protect the domestic industry. When used effectively, trade remedies can support the free trade agenda by providing a safety valve, ensuring that where trade causes injury to the domestic industry, remedies can be applied.
14. Trade remedies are currently an EU competence. Investigations, decisions and monitoring of trade remedy measures are performed by the European Commission on behalf of all EU member states. Before the UK leaves the EU and operates its future trade policy, we will need to have put in place a UK trade remedy framework to be implemented by a new mechanism to investigate cases and propose measures (primarily in the form of duties). This trade remedies framework must continue to be compatible with the clear standards and requirements set out by the WTO and support our approach to trade liberalisation.

<sup>5</sup> This is subject to change as new measures are imposed and others expire



## Economic rationale

15. The economic rationale for trade remedies is that they can correct the injury suffered by domestic industry as a result of unfairly traded imports, by levelling the playing field and restoring the competitive balance. Trade remedy measures primarily consist of additional duties imposed on imports from the country or countries targeted, and as such their impacts will be similar to those of any duty. However as trade remedies are addressing unfair trade there can be benefits from addressing anti-competitive and harmful behaviour.
16. In the case of dumping, imposing a duty can address anti-competitive behaviour by the exporter such as predatory pricing designed to put domestic producers out of business. In these instances judicious use of anti-dumping measures may protect otherwise efficient domestic producers from this anti-competitive behaviour in the short term, providing long term benefits.
17. In the case of anti-subsidy measures, subsidies are in most cases considered to be distortive and welfare reducing (unless they are correcting for some market failure). Duties imposed to correct for this distortive effect can therefore be economically beneficial.
18. Safeguards are designed to give the domestic industry time to adapt to new market conditions. When applied in parallel with measures to improve the competitiveness of the domestic industry they can be economically beneficial.
19. The existence of a trade remedies framework can help to promote wider trade liberalisation in the long term by offering a safety net to domestic producers in the event of injury resulting from unfair trade or surges in imports. It can also provide a deterrent against dumping or subsidisation, as exporters can expect measures to be imposed against such practices.
20. While a trade remedies framework can prove valuable in addressing specific injury caused by unfair trading practices or surges of imports, it should be used judiciously given that the economic case for them is not always clear cut. 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.

## Approach taken in this Impact Assessment

21. For the purpose of this Impact Assessment (IA), the impacts of the regulatory framework for trade remedies have been assessed. This includes the costs of setting up and running the trade remedies investigatory body<sup>6</sup>.
22. The impact of the investigations and trade remedy measures that follow from this regulatory framework are not quantified, but a description of the expected impacts is provided. These investigations will only come about in a reactive manner as result of a valid complaint from domestic industry (in most cases) asking for an investigation into unfair trading practices. The investigation must then, as a minimum, find evidence of dumping (or subsidy or a surge in imports), injury and a causal link between the two, for measures to be imposed. Whilst it is expected that there will be investigations taking place and measures being imposed once the framework is in place, it is not possible to predict the nature of these. The investigations undertaken and measures applied will vary according to the circumstances of the particular industries involved, and therefore it is not possible to attempt to quantify the precise impacts of these here.
23. However for illustrative purposes, high level descriptions of what these impacts might be, and some examples of previous EU measures, have been included in this IA. When the new framework is in

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<sup>6</sup> The power to set up this investigatory body is in the Trade Bill, but is included in this IA to provide a full assessment of the policy



place the investigatory body will publish comprehensive reports on their investigations, including the evidence in support of the decision, an assessment of the expected impact of measures and whether they would be in the economic interest of the UK.

24. The impacts of the options considered in this IA have been compared against a baseline of continuation of the EU trade remedies framework. This is the most appropriate baseline for comparison because the policy involves the replacement of a regulatory framework that already exists at the EU level, although note that it is not a feasible option given that the UK will be leaving the EU. It therefore gives the most meaningful assessment of the impacts of the options available on those affected, mainly businesses. For completeness a “do nothing” option is also included to consider the expected impacts if the UK did not put in place a trade remedies framework on exiting the EU, and was therefore unable to impose trade remedies.
25. Given that safeguards have not been used frequently in recent years and it is expected that they would be rarely used as part of the UK framework, this IA primarily focusses on anti-dumping and anti-subsidy measures. However, any specific issues on safeguards (for instance in relation to the Better Regulation Framework), have been described separately where appropriate.

## Description of options considered

26. Three options have been considered in this IA:
  - Option 0 – Do Nothing: where the UK has no trade remedies framework
  - Option 1 – Implementation of a UK framework: the **preferred option**
  - Option 2 – Implementation of a UK framework without an injury-based duty rule or economic interest test
27. Each of these options is compared against a baseline of continuation of the existing EU framework.
28. The relevant WTO Agreements (listed in the ‘Background’ section) set out a number of requirements that a trade remedies framework must adhere to, for example, requiring that investigations determine whether there is dumping or subsidisation of imports, and whether this causes injury to domestic producers. There is, however, some discretion allowed in terms of detailed aspects of policy design, for instance, the dumping calculation, determining the extent of injury, establishing causation, setting the level of any duties imposed and the extent to which wider interests are taken into account.

### **Process of an investigation**

A trade remedies investigation into **dumping or subsidy** will broadly follow the following steps:

- Complaint – this must show prima facie evidence of injurious dumping or subsidy, and demonstrate that the complainants meet the WTO requirements on share of domestic production.
- Assessment of evidence provided – the investigatory body considers whether the complaint meets WTO requirements before deciding whether to open an investigation.
- Determination of dumping or subsidy – this involves the investigatory body collecting evidence from exporters to determine whether there is dumping or subsidisation of imports, and the amount by which this is happening (known as the dumping or subsidy margin).
- Determination of injury – this involves the investigatory body collecting evidence from the domestic industry (on a voluntary basis) to determine whether it has suffered injury.
- Determination of causation – the investigatory body determines whether there is a causal link between the dumped or subsidised imports, and the injury suffered by the domestic industry.



- Imposition of measures – if dumping or subsidisation, injury and a causal link are established a duty of up to the amount of the dumping or subsidy margin can be imposed on imports from the country targeted.

**Safeguards** investigations operate in a slightly different way. For measures to be applied it must be shown that an unforeseen surge in imports of a good has caused or threatened to cause serious injury to the domestic industry. If the investigation shows this, then wide ranging duties or quotas targeting imports from all countries can be imposed.

## EU framework

29. This is included as a baseline for comparison, but as explained earlier note that it is not a feasible option given that the UK will be leaving the EU.
30. Under the EU framework, a trade remedies function within the Directorate General for Trade (DG Trade) in the European Commission handles complaints of unfair trade. EU domestic industry can make complaints to the European Commission, which then determines whether the complaint meets the requirements set out in the WTO agreements for opening an investigation. The investigation that follows will determine whether there is dumping or subsidisation of imports, and whether this causes injury to domestic producers, as required by the WTO. The key elements of the EU's trade remedies framework, including aspects where the EU framework goes beyond the requirements set out by the WTO are described below.
31. The EU currently applies a 'lesser duty rule' in every investigation. During an investigation a dumping margin (or an analogous subsidy margin in an anti-subsidy investigation) and an injury margin are calculated. The dumping margin indicates by how much exporters are dumping i.e. the difference between their export price and normal value (domestic price). The injury margin is the amount by which export prices would need to rise, to remove the injury to the domestic industry. The lesser duty rule means that the applied duty is the lesser of the dumping margin and injury margin, and therefore may result in lower duties than would be the case if the dumping margin alone was used to determine the level of duty. In the EU over half of cases have a duty lower than the dumping margin as a result of the application of the lesser duty rule.<sup>7</sup>
32. Changes to the EU policy on the lesser duty rule are being considered, and it is possible that it may change in the future, such that it is no longer applied in anti-subsidy or anti-dumping cases where there are significant distortions in raw materials markets in the exporting country.
33. The EU also currently conducts a 'Union interest test' in every investigation where the WTO requirements for imposing measures are met. This test considers whether imposing measures is clearly against the interests of the EU. In particular it takes into account the interests of users and consumers of the goods under investigation who may be affected by a higher price if measures are imposed. If it is found that measures are clearly not in the interests of the EU, then they are not applied, however it is rare for measures not to be applied explicitly on Union interest grounds, with less than five instances of this in the last 20 years.
34. Note that both the lesser duty rule and the Union interest test are areas where the WTO Agreements allow for discretion and do not require that these aspects be included as part of the framework.
35. Following an investigation the European Commission makes a recommendation and there is a process to reach agreement amongst Member States on whether to impose measures or not.
36. After a measure has been in place for five years<sup>8</sup>, an expiry review investigation usually takes place, if requested by the domestic industry. If this determines that, in the absence of measures, dumping

<sup>7</sup> Evaluation of the European Union's Trade Defence Instruments, 2012, [http://trade.ec.europa.eu/doclib/docs/2012/august/tradoc\\_149882.pdf](http://trade.ec.europa.eu/doclib/docs/2012/august/tradoc_149882.pdf), the lesser duty rule was applied in 55% of the cases evaluated

<sup>8</sup> Measures may be reviewed earlier if an interim review is requested, which may result in measures being terminated early



or subsidising of imports would continue or return, then measures can be imposed for a further five years. If not, the measures are removed.

37. Interested parties are able to appeal decisions under European law.

### **Option 0 – Do Nothing**

38. Under this option the UK would not have a trade remedies framework in place on leaving the EU. It would therefore not be able to impose trade remedy measures in response to unfair trading practices or surges in imports. This is not considered to be a viable option for the reasons set out at paragraph 52.

### **Option 1 – Implementation of new UK framework (preferred option)**

39. Under the UK framework, a new arm's length body will be set up to handle complaints of unfair trade. UK domestic industry will be able to make complaints to this body, which will then determine whether the complaint meets the requirements set out in the WTO agreements for opening an investigation. There will be a further UK specific threshold which specifies the minimum market share for the domestic industry. This threshold would prevent cases that are ultimately unlikely to result in the application of trade remedy measures from undergoing a full investigation which is time consuming and costly for all parties. If this further threshold is not met, then a complaint might not proceed to investigation, even if the WTO requirements are met. Clarifying the threshold in this way aims to create clarity and predictability for business in what can be an opaque filtering process.
40. As is the case for the EU, an investigation into whether there is dumping or subsidisation of imports that causes injury to domestic producers, as defined by the WTO, will follow. Work is still on-going on how the UK framework will operate, especially in some of the complex areas around the dumping and injury calculations. This may also vary according to the specific case in question. It is therefore not possible to assess the impacts compared to the EU framework. There are however some key elements where the UK framework is expected to differ from the EU framework.
41. One proposed difference is that under a UK framework injury-based duties would be applied in every investigation. However as described in paragraph 32, the EU policy on this may change.
42. An "economic interest test", similar to the EU's "Union interest test", will be applied in every investigation before measures are imposed under a UK framework. This will operate in a similar way to the Union interest test in deciding whether imposing measures is in the UK's wider economic interests.
43. Note that the precise design elements of the UK trade remedies framework, including details on the UK specific market share threshold, dumping and injury calculations and the economic interest test are still to be determined and will be set out in secondary legislation or guidance. We will be conducting further work and engaging with stakeholders to seek their views on these aspects of the framework.
44. It is expected that DIT Ministers will receive a recommendation from the investigatory body, and will be able to reject a recommendation to apply measures. They will not be able to reject a recommendation not to apply measures. This will apply at the provisional and definitive measures stage, and where undertakings<sup>9</sup> are offered.
45. Relevant parties will be able to appeal decisions, first through reconsideration by the investigatory body, then by appeal through a tribunal process.

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<sup>9</sup> This is where a deal is reached with the exporters to increase their prices, rather than imposing duties.



46. Some existing EU measures are expected to be transitioned to apply to the UK following EU exit. The Government intends to take a power through the Taxation (Cross-border Trade) Bill, enabling the Secretary of State for International Trade and the new investigatory body to transition existing measures. The Government will issue a call for evidence to understand which existing EU trade remedy measures directly impact the UK's domestic industry, with the aim of providing as much continuity as possible for business.
47. Note that it is possible that some elements of policy design may change between the time of writing this IA and implementation.

### **Option 2 – Implementation of UK framework without injury-based duty rule or economic interest test**

48. This option would be similar to Option 1, but would differ in two respects: the framework would not require injury-based duties to be applied, and no economic interest test would be conducted.
49. By not requiring injury-based duties to apply, the duty applied in each case would be equal to the dumping margin, even if a lesser duty would be sufficient to remove injury.
50. Not conducting an economic interest test would mean that measures would be imposed in all cases where the investigation concluded that there was dumping or subsidisation of imports that was causing injury to the domestic industry, regardless of the expected wider economic impacts.

## **Impact of options considered**

51. Options 0, 1 and 2 have been compared against a baseline of continuation of the existing EU trade remedies regime, as described previously.

### **Option 0 – Do nothing**

52. Not having a trade remedies framework and therefore the ability to impose trade remedy measures would leave the UK exposed to unfair trading practices, with potentially damaging consequences for UK industry and the economy more widely. The UK would be unable to address injury to domestic industry caused by unfair trade, or surges of imports. As the only major developed country without a trade remedies framework in place, the UK could become a target for dumped or subsidised imports, as there would be no deterrent for foreign exporters engaging in unfair trade. It would also produce a cliff edge for UK businesses when the UK exits the EU, and EU trade remedy measures cease to apply. Option 0 is not preferred for these reasons.
53. It is not possible to quantify the impacts of the 'Do nothing' option because of the difficulty of predicting what complaints will be made and what measures will be imposed under the baseline, and what the precise impact of not continuing to have a trade remedies regime in place would be.

### **Option 1 – Implementation of new UK framework (preferred option)**

54. This option involves creating a UK trade remedies regulatory framework as described in the previous section, and setting up an investigatory body to investigate claims of unfair trade and surges in imports under this framework. The main impacts of this option in comparison to the EU framework will be the costs involved with setting up and running the investigatory body.

### **Cost of setting up and running the investigatory body**



55. Alongside the regulatory framework for trade remedies, a body will need to be set up to handle complaints of unfair trade and conduct investigations into dumped or subsidised imports. It is expected that this function will be performed by a new arms-length body, employing around 130 staff. There will be a cost to the government for setting up and running this new body, funded through general taxation. It is estimated that the cost of this will be £15-20 million per year.
56. This estimated number of staff required to work on investigations is primarily based on information from other countries' trade remedies systems, assumptions on the expected number of new investigations, the number of expiry reviews, the number of staff required per investigation, and the number of staff that will be required for appeals. In addition to this there are assumptions on the additional staff and costs that will be required for services such as estates, IT and legal services<sup>10</sup>.
57. This cost is likely to be small in comparison to the value of trade affected. Current EU measures where there is thought to be a UK producer interest covered imports with an estimated value of £450 million in 2016.<sup>11</sup>
58. This is not an entirely new cost as the UK already pays for the trade remedies function in DG Trade in the European Commission through its contributions to the EU budget. However it is not possible to identify this separately from wider budget contributions.
59. Since this is the only monetised impact and it is not possible to quantify any other costs or benefits, a Net Present Value solely based on these costs would not be meaningful and therefore has not been presented.

### **Impacts following from investigations and measures**

60. It is not possible to predict the number or type of complaints and measures that will occur under an independent UK trade remedies framework in future. This is because it is reliant on unfair trading practices or surges of imports taking place (or being thought to take place), domestic industry submitting a valid complaint, an investigation being undertaken and then measures being imposed. However, for sake of completeness and to provide further information the potential impacts of imposing trade remedy measures are described below.

#### *Benefits to domestic producers supporting the case*

61. When trade remedy measures are imposed, the main beneficiaries will be domestic producers of the goods covered by the measures. The investigation must have identified injury to the domestic industry, and that this injury was caused by the unfairly traded imports. The measures imposed would be expected to remove the injury. This is because, all else being equal, the additional duty will increase the price and reduce the volume of dumped imports. Domestic producers therefore might benefit from increased sales and profits in the short term. An evaluation of the EU's trade defence regime found that trade remedies allowed firms to increase mark-ups and reduced industry exit rates.<sup>12</sup>
62. The value of this benefit will vary case by case and will depend on a variety of factors including the level of duties applied, the precise degree of substitutability between imports and domestic production, the availability of non-dumped imports from third country exporters, as well as the state of the wider economy.
63. Compared to the current EU regime, we would expect the measures imposed by a UK trade remedies function to be broadly similar, although as only UK data will be used in investigations, the calculations of dumping and injury will better reflect the conditions in the UK market. In line with current EU practice, the injury-based duty rule will be applied to all measures under the UK

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<sup>10</sup> The risks and uncertainties around this estimate are described in the 'Risks and Assumptions' section

<sup>11</sup> Based on analysis of Eurostat trade data

<sup>12</sup> Evaluation of the European Union's Trade Defence Instruments, 2012, [http://trade.ec.europa.eu/doclib/docs/2012/august/tradoc\\_149882.pdf](http://trade.ec.europa.eu/doclib/docs/2012/august/tradoc_149882.pdf)



framework. However as described in paragraph 32, the EU policy on this may change. It is possible that in a situation where the UK imposes significantly lower duties than the EU to the same products at the same time, this may have an impact on trade flows. However the precise circumstances in which this may or may not occur would need to be considered further.

64. Both the UK and EU frameworks involve a test of whether imposing measures is in the wider economic interest (the Union interest test in the EU). The relative impacts on producers, users and the wider economy are weighed up and, if measures are found not to be in the interest of the UK/union, then measures would not be imposed. The UK's economic interest test will operate in a similar way to the Union interest test, however since it will only consider impacts on the UK, it should better reflect the balance of UK interests.

#### *Cost of involvement in investigations*

65. In the process of an investigation, interested parties including domestic producers and users of the goods under investigation can submit evidence to assist with the investigation. This involvement imposes costs as resources are required to gather and submit the evidence. Survey evidence<sup>13</sup> from businesses involved in recent investigations under the EU framework suggests that for most businesses (17 of the 23 surveyed) the time input was less than 30 days. Five businesses had a time input of one to six months, and one had a time input of more than six months. Of those that provided information on turnover, the estimated costs were less than 0.1% of turnover for most businesses (10 of 16), with only one having costs above 0.5% (at 0.7%). Whilst involvement in investigations is voluntary, many businesses will prefer to submit evidence to ensure that their interests are properly considered in the investigation.
66. The costs of being involved in a case are expected to be no more than those for the current EU system.<sup>14</sup> With an independent trade remedies function, the number of investigations initiated could decrease, as only UK producers will be able to make complaints of unfair trade, as opposed to producers from all EU countries. On the other hand it will be easier for UK producers to meet the standing requirements for a complaint as this will be based on just UK production as opposed to EU production, which could increase the number of complaints. Overall the number of investigations could therefore increase or decrease. There may be some initial familiarisation costs but these would be expected to be minimal relative to the overall cost of being involved in an investigation, as the information required will be very similar to the current system.

#### *Costs to users*

67. Users of goods (both end consumers and intermediate users) covered by measures will face costs. If they decide to import the good from the countries covered by measures then they will have to pay the additional duty. Even if they choose to import from countries not covered by the measures, or buy from a domestic producer, they are likely to still face higher costs as these producers will be able to increase their prices in response to the measures imposed on their competitors. These cost increases may be absorbed by the businesses in the form of reduced profits, or may be passed on to consumers in the form of higher prices.
68. As is the case for the benefits to producers, this cost will vary case by case and will depend on a variety of factors including the level of duties applied, the conditions of the specific market covered by measures, as well as the state of the wider economy.
69. As described above, an independent trade remedies regime could lead to an increase or decrease in the overall number of investigations and measures imposed. Again, compared to the current EU

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<sup>13</sup> Research project on the impact of Anti-Dumping investigations on UK business, Department for Business, Innovation and Skills, 2012, <https://www.gov.uk/government/publications/research-project-on-the-impact-of-anti-dumping-investigations-on-uk-business-final-report>

<sup>14</sup> Complainants will need to provide evidence that they meet the UK threshold on market share, but the additional cost of providing this is unlikely to be significant.



regime, we would expect the measures imposed by a UK trade remedies function to be broadly similar, although as only UK data will be used in investigations, the calculations of dumping and injury will better reflect the conditions in the UK market.

#### *Wider impacts*

70. Measures imposed may also have employment effects. The benefits to domestic producers may protect employment in that industry. However the increased costs faced by user industries may reduce employment in these industries. The overall impact will vary from case to case.
71. Similarly there may be impacts on investment. Domestic producers protected by measures may use the period of protection to make cost saving investments that will make it more competitive in the long term. On the other hand the protection provided by the measures may reduce incentives for them to invest. Again the overall impact will vary between cases.

#### **Impacts specific to safeguards**

72. The impacts of safeguard investigations and measures would be largely similar to those described above for anti-dumping and anti-subsidies. In some cases safeguard measures may take the form of quotas. A quota, by limiting the supply of imports, would broadly have a similar effect to an additional duty. Additionally safeguards will be accompanied by a plan for industry to set out how it would improve adjust to the increase in import volumes. Producing and implementing this adjustment plan may involve additional costs.
73. It is expected that safeguards will rarely, if ever, be used. The reasons for this are that, by applying to all imports rather than to imports from a specific country or countries, the costs imposed on users will be higher than for an anti-dumping or anti-subsidy measure. The standards for determining injury to the domestic industry, and a causal link, are also higher for safeguards, and they are often challenged at the WTO. It is therefore anticipated that the use of safeguards would be used even more judiciously under a UK trade remedies framework.
74. As the descriptive statistics and Figure 1 in the previous section show, globally safeguards are used very infrequently. Where they are used, it is most often by developing countries. In the EU there has not been a safeguard measure in over 10 years.

#### **Option 2 – Implementation of UK framework without injury-based duty rule or economic interest test**

75. The impacts of this option would be similar to Option 1. However by not applying an injury-based duty rule, the duties imposed could be higher than under Option 1, and above the level required to remove injury to the domestic industry. This is likely to increase the benefits to domestic producers beyond the removal of the injury caused by the unfair trade or surge in imports, but on the other hand impose higher costs on users and potentially also final consumers. The evaluation of the EU's trade defence regime found that, even with the lesser duty rule applied, the protection provided to producers was more than sufficient to offset injury. It concluded that the EU's policy of applying the lesser duty rule in all cases is preferable to that of comparator countries.<sup>15</sup>
76. By not conducting an economic interest test, measures would be applied in all cases where there is found to be injury caused by unfair trade or a surge in imports, regardless of the wider economic impact. This could result in situations where the measures applied, although beneficial to producers, are overall not beneficial to the UK economy as a whole, for example by protecting a very small domestic producer, whilst imposing substantial costs on a large number of users. The evaluation of the EU's trade defence regime stated that regular application of an economic interest test is

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<sup>15</sup> Evaluation of the European Union's Trade Defence Instruments, 2012, [http://trade.ec.europa.eu/doclib/docs/2012/august/tradoc\\_149882.pdf](http://trade.ec.europa.eu/doclib/docs/2012/august/tradoc_149882.pdf)

important as it allows for the flexibility to address emerging issues, for example impacts on global value chains.<sup>16</sup>

## Illustrative examples of recent measures

### Rebar anti-dumping duty

77. Rebar (steel reinforcing bar) is a steel product primarily used in the construction industry. An investigation into dumping by Chinese exporters was initiated on 30 April 2015. UK producers that were complainants in the case, and UK users who opposed measures, submitted evidence and lobbied during the investigation, incurring costs in the process.
78. Provisional anti-dumping duties were imposed on 29 January 2016, followed by definitive measures on 29 July 2016. The duties ranged from 18.4% to 22.5%, with an average of 21.3%.<sup>17</sup> Had an injury based duty not been applied, the range of duties would have been 48.1% to 62.1%, with an average of 54.1%.
79. Prior to the introduction of measures, imports of rebar from China had been increasing rapidly, from 4,600 tonnes in 2012 to 390,000 tonnes in 2015<sup>18</sup>. Following the imposition of measures imports from decreased to almost zero (see Figure 2). Whilst there was an increase in imports from other non-EU countries, overall imports decreased by 200,000 tonnes from 2015 to 2016. Assuming that demand remained reasonably similar, this decrease will have been made up for by increased domestic producer sales.
80. The UK producer Celsa was a complainant in the case, and employs over 500 people at its plant in South Wales.<sup>19</sup> The measures imposed will have increased the price of imports from China and therefore allowed Celsa to increase sales or prices, and protect these jobs, at a time when the steel industry was under substantial pressure. In the absence of extensive evidence gathering and research, it is not possible to provide any quantified estimates of such benefits.
81. Users on the other hand faced higher costs as a result of the measures. There will be a direct cost, equal to the duty paid on imports from China. Given that imports from China decreased to just 1,300 tonnes in 2016, this direct cost will be small. However there may also be an indirect cost as the price of imports from other countries, and domestically produced goods, can increase in response to the duties imposed on imports from China. The extent of this cost will depend on conditions in the market.

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<sup>16</sup> *ibid*

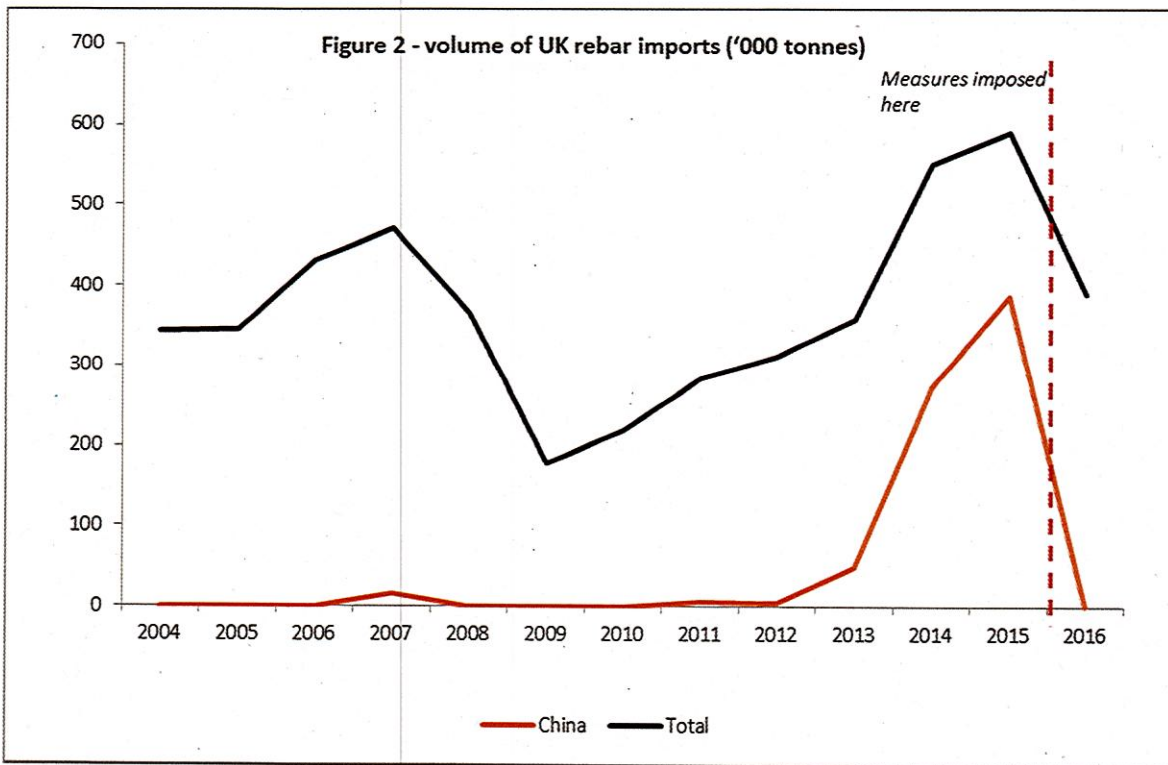
<sup>17</sup> EC case documents:

[http://trade.ec.europa.eu/tdi/case\\_history.cfm?ref=com&init=2120&sta=1&en=20&page=1&number=&prod=rebar&code=&scountry=all&proceed=all&status=all&measures=all&measure\\_type=all&search=ok&c\\_order=name&c\\_order\\_dir=Up](http://trade.ec.europa.eu/tdi/case_history.cfm?ref=com&init=2120&sta=1&en=20&page=1&number=&prod=rebar&code=&scountry=all&proceed=all&status=all&measures=all&measure_type=all&search=ok&c_order=name&c_order_dir=Up)

<sup>18</sup> Eurostat trade data

<sup>19</sup> Celsa Steel, <http://www.celsauk.com/Company.mvc/CelsaSteelUK>





Source: Eurostat trade data

### Ceramic tiles anti-dumping duty

82. Ceramic tiles are used in construction as well as directly by consumers. An investigation into dumping by Chinese exporters was initiated on 19 June 2010. UK producers that were complainants in the case, and UK users who opposed measures, submitted evidence and lobbied during the investigation, incurring costs in the process.
83. Provisional anti-dumping duties were imposed on 17 March 2011, followed by definitive measures on 15 September 2011. The duties ranged from 26.3% to 69.7%, with an average of 38.5%. The case is currently undergoing an expiry review.<sup>20</sup> In this case an injury based duty was not applied, as the calculated dumping margin was lower than the injury margin.
84. Prior to the introduction of measures, the volume of imports from China was 97,000 tonnes in 2010, representing around 18% of total import volumes<sup>21</sup>. Since measures were introduced in 2011 this volume has decreased by 52% to 47,000 tonnes in 2016, just 8.8% of total import volume (see Figure 3). Total imports have remained fairly steady over this period, with increases in imports from the EU and other non-EU countries offsetting the decrease in imports from China.
85. The two main UK producers of ceramic tiles are British Ceramic Tile, based in Newton Abbot; with over 400 employees<sup>22</sup>, and Johnson, based in Stoke-on-Trent. The duties imposed on imports from China will have benefitted these domestic producers by increasing the price of these imports, and therefore allowing domestic producers to increase their prices or sales. This will have protected jobs in the industry. Again, it would not possible to provide estimates of the resulting benefits without conducting extensive research.
86. Users on the other hand faced higher costs as a result of the measures. As in the previous example, there will be a direct cost, equal to the duty paid on imports from China. However there may also be

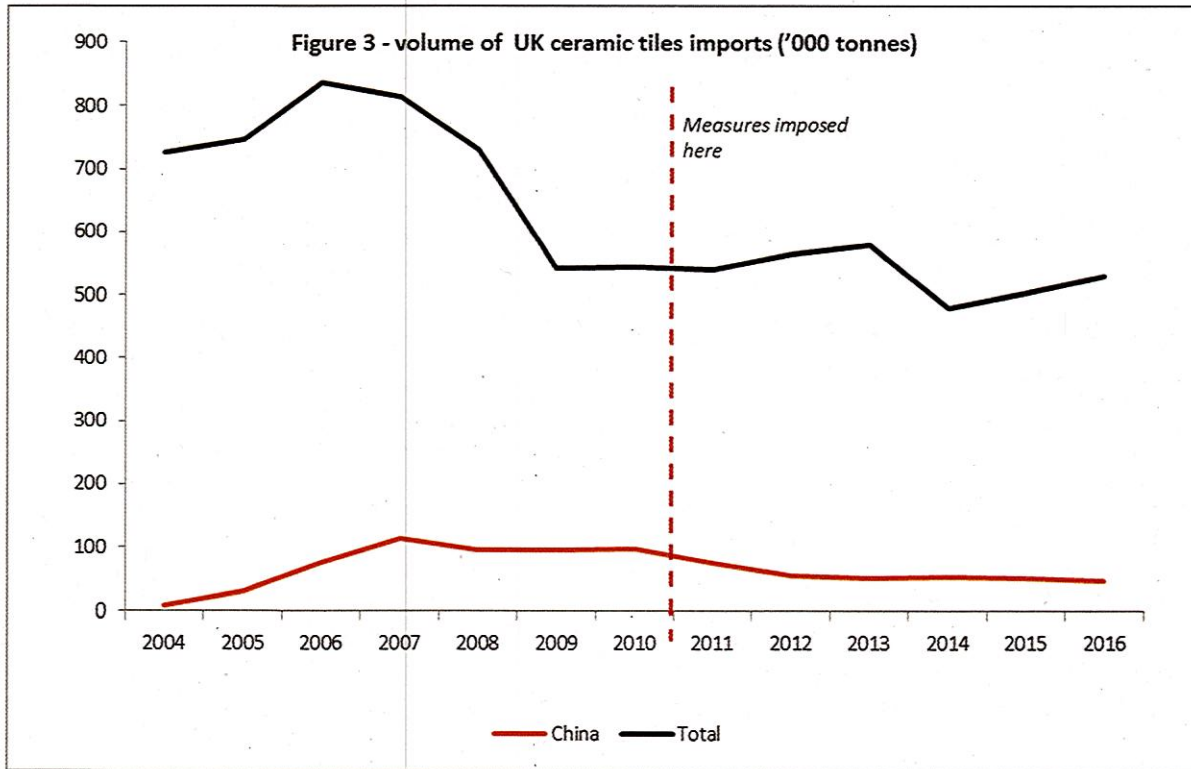
<sup>20</sup> EC case documents:

[http://trade.ec.europa.eu/tdi/case\\_history.cfm?ref=com&init=1634&sta=1&en=20&page=1&number=&prod=ceramic&code=&country=all&proced=all&status=all&measures=all&measure\\_type=all&search=ok&c\\_order=name&c\\_order\\_dir=Up](http://trade.ec.europa.eu/tdi/case_history.cfm?ref=com&init=1634&sta=1&en=20&page=1&number=&prod=ceramic&code=&country=all&proced=all&status=all&measures=all&measure_type=all&search=ok&c_order=name&c_order_dir=Up)

<sup>21</sup> Eurostat trade data

<sup>22</sup> British Ceramic Tile, <http://careers.britishceramictile.com/>

an indirect cost as the price of imports from other countries, and domestically produced goods, can increase in response to the duties imposed on imports from China. The extent of this cost will depend on conditions in the market.



Source: Eurostat trade data

## Risks and assumptions

87. As described previously, there is considerable uncertainty around the precise impacts of this policy, as a result of the reactive manner of the investigations and measures imposed. It is therefore not possible to predict the number or type of investigations that will occur. For this reason only qualitative descriptions for most of the expected impacts have been provided.
88. The estimated cost of setting up and running the investigatory body is based on assumptions about the expected number of investigations that will occur, and the number of staff required to complete these investigations. However the uncertainty described above means that the resulting cost estimate could be an over or underestimate. Note also that it depends on the outcome of negotiations with the European Union and on policy decisions yet to be taken and therefore may be subject to change.

## Direct costs and benefits to business (following BIT methodology)

89. There will not be any impacts on business from the regulatory framework itself, as this will just provide the framework to investigate and impose measures, with investigations and measures only following in the event of complaints. Further, although businesses will be impacted by the investigations and measures imposed as a result of this regulatory framework, the impacts under the preferred option are expected to be no greater than those under the current EU framework.
90. For the purposes of the Business Impact Target, note that the powers in the Taxation (Cross-border Trade) Bill relating to trade remedies would largely result in imposition of duties or undertakings by businesses to avoid a duty, which would fall under the exemption for tax measures under the Small



Business, Enterprise and Employment Act 2015. As such, these would not count as regulatory provisions and therefore out of scope of the Business Impact Target.

91. However, in instances where a safeguard measure is applied in the form of a tariff rate quota (rather than a duty) this could count as a regulatory provision. As described earlier, given that this is likely to arise only in very rare circumstances, and there are no reasons to expect any resulting direct impacts on businesses to be any different under the preferred option than under the EU framework, we would expect the net costs to business to be zero or minimal.

## Wider impacts

### Distributional impacts

92. Trade remedies generally provide benefits to domestic producers, whilst imposing costs on user industries and consumers. The broad distributional impact of trade remedies is therefore a transfer from consumers to producers.
93. Geographically, producers of goods covered by trade remedies may be concentrated in specific regions, and the benefits will therefore also be concentrated in these regions. Consumers on the other hand are generally more widely dispersed, meaning that the costs associated with measures will also normally be dispersed. However it is possible that an affected user industry could be geographically concentrated, leading to a geographical concentration of costs in some cases. However as described previously, it is not possible to predict the measures that will be imposed, therefore it is not possible to predict which industries and regions will be most impacted by trade remedies.
94. As described in the 'Background' section, globally and in the EU, trade remedies are most often applied in the base metals and chemicals sectors. It can therefore be expected that these sectors will benefit most from the implementation of a UK framework, whilst users of products in these sectors will incur costs.

### SME impacts

95. There will not be any impacts on Small and Medium Enterprises (SMEs) from the regulatory framework itself.
96. The impacts of involvement with investigations may be relatively greater for SMEs, which have fewer resources to devote specifically to compiling and submitting evidence. As the UK framework is expected to reduce the costs of this involvement through the design of a digital service, SMEs in particular may benefit.
97. The impact of unfair trading may also be greater for SME producers who may be more reliant on a limited number of products, and less able to withstand competition with unfairly traded imports for any length of time. The presence of a trade remedies framework may therefore be more important to SMEs.
98. Sectors with a large number of SMEs may have more difficulty in demonstrating that they meet the standing requirements set out by the WTO, which stipulate that complainants must make up at least 25% of domestic production of the good in question and that those in support of measures make up at least 50% of the production of those that express an opinion. This means that in industries where production is split amongst a large number of SME producers, some degree of coordination between producers, possibly through a trade body, will be required to submit a complaint. This may also be the case for the UK specific market share threshold.



## **Equality impacts**

99. The Department and Ministers have considered its duties under the Equality Act 2010, and in particular section 149 (the public sector equality duty). It is not expected that this policy will have an impact on groups with protected characteristics.

## **Competition impacts**

100. By imposing duties on foreign competitors, trade remedies temporarily reduce the level of competition faced by domestic producers. This may allow domestic producers to increase prices in the short term, and reduce incentives to cost minimise and innovate in the longer term.
101. However, given that trade remedies are addressing unfair trading behaviour from foreign producers, it can be argued that the imposition of duties is in fact simply levelling the playing field and restoring the competitive balance. Also as measures are time limited domestic producers will still have an incentive to cost minimise in the longer term, anticipating the removal of protective measures.