

Information and Liaison Protocols for Trade Remedies

Introduction

1. This document is designed to be implemented within the corporate governance framework established by the Trade Act 2021. It sets out how the Department for International Trade (DIT) and the Trade Remedies Authority (TRA) should collaborate to ensure best working practice.
2. All protocols will be reviewed on a regular basis by both DIT and the TRA via the Delivery Oversight Board to ensure collaboration continues to meet best practice and for any amendments to be implemented in a timely manner.

Objectives for protocols

3. These protocols provide a structure for the sharing of information between DIT and the TRA. The protocols support both organisations in their respective roles in the wider trade remedies framework. This includes both the TRA's operational independence in conducting trade remedy investigations and DIT's responsibility for trade remedies policy across government.
4. These protocols apply throughout the investigatory process, including before an investigation is launched through to the publication of the public notice (and beyond if necessary) to support timely and effective implementation of a measure, decision making and any relevant queries.
5. The protocols set out below are primarily for all trade remedy investigations and reviews conducted by the TRA. Additionally, there may be specific requirements for the provision of information in the transition reviews or reconsideration of transition reviews in the Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022 which are not covered in these protocols.
6. These protocols are also to be used alongside existing processes and legislative requirements and as such should be used in a proportionate way to avoid adding delay to the investigation process.
7. The objectives for these protocols are:
 - to ensure that information flows between DIT and the TRA such that:
 - a) both organisations are aware of the progress of each other's work on cases and are equipped to play their respective roles; and,
 - b) both organisations can collaborate on cases efficiently and effectively to ensure that recommendations and measures are clear, precise and can be implemented within the existing system.
 - to give the Secretary of State a sense of likely direction of travel of investigations;
 - to ensure that DIT and HMRC are able and prepared to implement the TRA's recommendations;

- to provide an opportunity for DIT to highlight information that that the TRA may determine to be relevant; and,
- to ensure that information shared between the two organisations supports the needs of each without compromising sensitive or confidential information.

Protocol for information sharing throughout a TRA investigation

8. In addition to the routine updates provided by case teams to DIT there will be regular SCS level meetings between TRA and DIT to go through case pipeline, portfolio risks and issues with trade remedy policies and any risks associated with the implementation of proposed recommendations.
9. A regular official-level Implementation Group should be maintained that comprises of the TRA, DIT and HMRC to consider how to best implement TRA recommendations and to discuss any associated risks.
10. Regular TRA Chair and TRA CEO meetings with DIT Ministers and officials (at the Minister's discretion) should be maintained. The meetings are to inform Ministers of the investigation's portfolio including timings, risks and emerging issues and to allow Ministers the opportunity to ask questions.
11. The TRA must ensure briefing sessions are offered, and if required by DIT are subsequently provided, for DIT Ministers or DIT officials at key stages in an investigation including, but not limited to, at initiation of an investigation, before the Statement of Essential Facts (or equivalent) is published and before the final determination is sent to DIT Ministers.
12. During an investigation:
 - The TRA will ensure DIT officials understand how the TRA has arrived at key judgements in the Statement of Essential Facts and what the applications of the Economic Interest Test and the Lesser Duty Rule may mean when considered against measures that other jurisdictions do or do not have in place (e.g., whether a corresponding EU measure is higher/lower, implications for the Northern Ireland Protocol, or whether a measure has been removed, etc.). This is to assist in DIT officials accurately answering questions from DIT Ministers and other government departments – no additional analysis by the TRA is expected to be undertaken;
 - The TRA will provide early sight of findings of:
 - a) low/no dumping/subsidy/injury/surge of imports; and,
 - b) a TRA decision to terminate an investigation as per the obligations under the WTO agreements or domestic legislation, to allow Ministers to be briefed.

- The TRA will ensure DIT officials are aware of the publication dates of any recommendations, decisions or determinations that the TRA intends to publish or is obliged by legislation to provide to the Secretary of State and be provided with drafts of such publications with the understanding that these may change at short notice;
- Where DIT identify factors that may be relevant, that these are shared with the TRA to consider whether they should be taken into account for the purposes of the Economic Interest Test analysis;
- The TRA will allow DIT officials early sight of the recommendation so that they can complete their public interest analysis as part of Secretary of State's decision-making process; and,
- DIT will share with the TRA any issues with timings of Secretary of State decisions.

Protocol for Ministerial submissions relating to investigations, recommendations or advice

13. The TRA will ensure that recommendation or advice relating to an investigation is shared with the DIT sponsorship team and the Trade Remedies Policy team prior to it being sent to Ministers. This is to ensure that, where necessary, Ministers also receive accompanying advice from DIT officials. A reasonable period must be provided to enable DIT officials to prepare their advice, prior to Ministers receiving the TRA's submission. To assist this happening in a timely manner the TRA will ensure that the DIT sponsorship team and Trade Remedies Policy team are notified when submissions will be sent to the Secretary of State as soon as is feasible.
14. DIT will share public notices with the TRA in advance to ensure that TRA recommendations have been accurately interpreted and represented. DIT will also share relevant summaries of the TRA's recommendation with the TRA before sending to Ministers to ensure they accurately reflect the TRA's recommendation.

Protocol for ensuring security of information on Trade Remedies between the Department for International Trade and the Trade Remedies Authority

15. If sensitive and/or confidential information is inadvertently exchanged between the two organisations this information will initially be declared to:
 - the Deputy Director Trade Remedies policy within DIT
 - the Head of Planning, Performance and Risk in the TRA.

Sensitive and/or confidential information could include, but is not limited to, information which, if disclosed, would have a significant adverse effect on the TRA's investigation.

16. These two individuals will be responsible for ensuring that any inadvertent exchange of sensitive and/or confidential information is noted on record before considering whether any further action would need to be taken and following through accordingly.