

The background features a complex, abstract pattern of overlapping, semi-transparent lines in various colors including red, blue, green, yellow, and purple. These lines are arranged in a way that creates a sense of depth and movement, resembling a stylized architectural structure or a network of connections. The overall color palette is dark, with the lines providing a vibrant contrast.

**Baker
McKenzie.**

WTO and Trade Remedies

Wednesday 27 January, 3.30 – 4.30 pm GMT



Speakers



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Agenda

1 Overview of WTO and its role for UK businesses

2 The UK's new framework for trade remedies

3 Using trade remedies in practice

4 Key takeaways and questions

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01 | Overview of the WTO

Covered agreements

	AGREEMENT ESTABLISHING WTO				ADDITIONAL
	Goods	Services	Intellectual property	Dispute Settlement	Plurilateral Agreements
Basic principles	GATT	GATS	TRIPS	DSU	Civil Aircraft Government Procurement
Additional details	Other goods agreements and annexes	Services annexes			
Market access commitments	Schedules of Concessions (Tariff Bindings)	Schedules of Concession (Market Access Limitations and NT)			
Transparency	TRADE POLICY REVIEWS				

Basic principles



Principle of Non-Discrimination

- Most Favoured Nation Treatment
- National Treatment



Free Trade Principles

- Tariff Concessions (Bindings)
- Prohibition of Quantitative Restrictions and Import and Export Restrictions



Exceptions to MFN:

- Regional Trade Agreements
- Trade Remedies
- Articles XX and XXI of the GATT 1994



Trade remedies



Trade remedies are instruments that allow governments to take remedial action against imports which are causing injury (or threat thereof) to domestic industry:

- **Anti-Dumping Duty Measures (AD):** levying a tariff on goods that are “dumped” on the importing market (“price discrimination”)
- **Countervailing Duty Measures (CVD):** levying a tariff on subsidized imports which are causing injuring the domestic industry to “offset” subsidization.
- **Safeguard Measures:** temporary restrictions on imports to allow a domestic industry to adapt to a sudden surge in imports.



A **trade remedy** may be applicable if:

- ✓ The IA determines that **dumped/subsidized** imports are causing or threatening to cause **material injury** to the domestic industry
- ✓ The IA determines that an **unforeseen surge** in imports is causing or threatening to cause **serious injury** to the domestic industry.



WTO relevance for UK business

Post-Brexit

- ▶ UK's **goods schedule** (Schedule XIX) entered into effect. This establishes maximum import duties that can be applied by the UK
- ▶ The UK has not completed its **services commitments** due to ongoing negotiations. In any case, the UK committed to maintaining the conditions in the draft from the 1 January 2021
- ▶ UK now trades on an MFN basis in respect of all countries with which it does not have an **Regional Trade Agreement**
- ▶ The UK notified the WTO of **32** new **Regional Trade Agreements**
- ▶ The UK established a domestic **trade remedies system** and the domestic industry may petition for import relief
- ▶ The UK may file its own WTO disputes to address any violations under the covered agreements.

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02 | The UK's new framework

Key themes and context



Implications of Brexit for UK trade remedies



Tariffs are not static: this is both an opportunity and a threat



Implications for industry in practice – trade remedies are a key focus for companies looking to:

- Protect domestic UK market share from competing foreign imports
- Expand imports/exports to UK from overseas producers
- Expand exports from the UK to overseas through reducing foreign tariff barriers



Why is this an important time

- New UK process and policy – London priorities will be different to Brussels
- Recent shifts in global trends – opportunity to shape UK approach



Legal framework



WTO Framework



UK Trade Bill

- Sets out role of Trade Remedies Authority (TRA) in conducting investigations, consulting interested parties and making recommendations to government ministers
- TRA to take over from Trade Remedies Investigation Directorate (TRID)



UK Taxation (Cross-border Trade) Act 2018 (TCTBA2018)

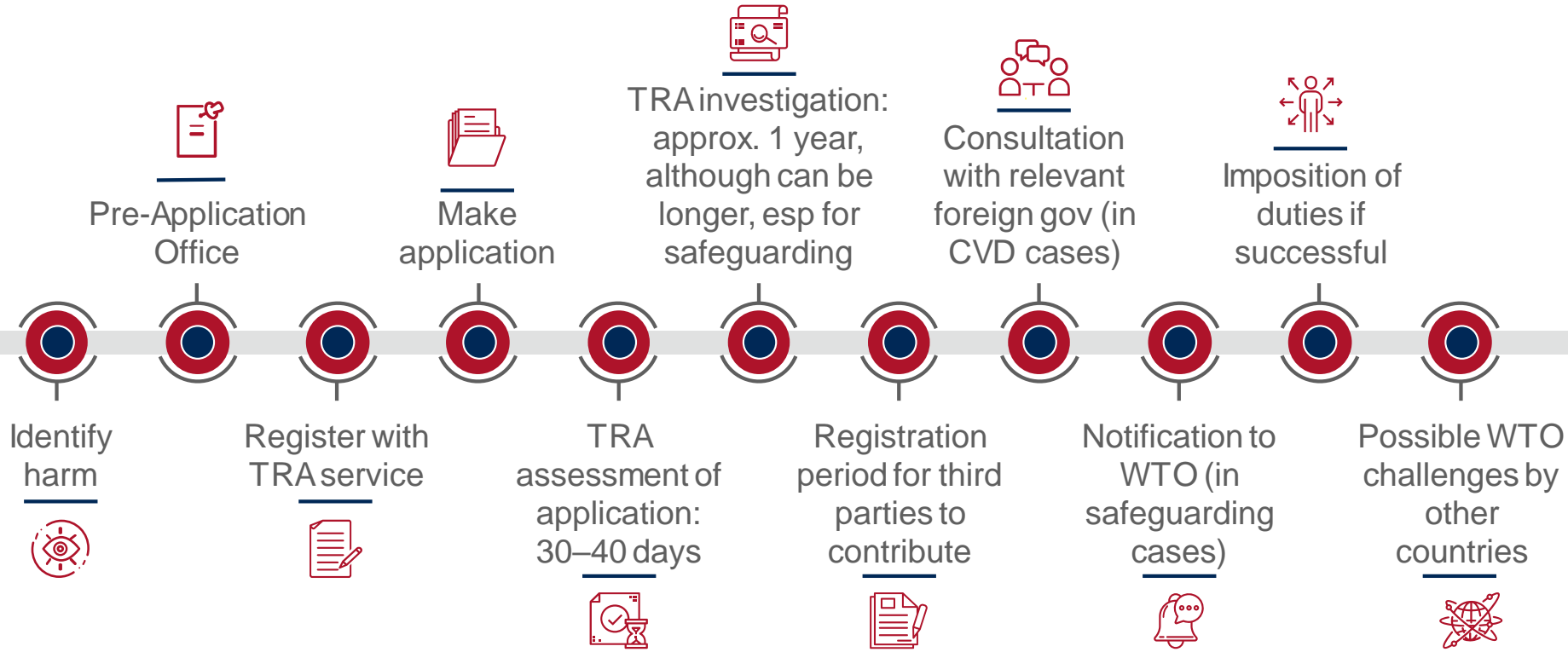
- Brings WTO measures into UK law
- Key measures in Schedule 4, addressing AD, CVD and safeguarding
- Sets out criteria for relevant offending measures, injury to UK business and definition of appropriate comparator (“like goods”)
- Sets out basis and scope for investigations by TRA



UK secondary legislation addressing further detail on what is required for investigation and scope / process for investigation



Trade remedies process: cradle to grave



Making an application



Qualifying criteria

- UK business
- Specific market share tests applicable







Advocating Your Claim

- Identify offending dumping or subsidy (or identify cause for safeguarding)
- Demonstrate trade in “like goods”
- Show injury to UK business
- Identify remedy

Need to provide data to justify claims in each case



Mapping across of EU trade measures into UK global tariff

-  DIT assessment of EU AD, CVD and safeguarding measures to determine which should be terminated and maintained
-  Import safeguards system for steel products (quotas)
 - safeguard transition review process
-  Retaliatory measures against the US steel and aluminium tariffs
 - consultation to take place
-  UK decided not to impose tariffs against the US further to the Boeing/Airbus dispute



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03 | Using trade remedies in practice

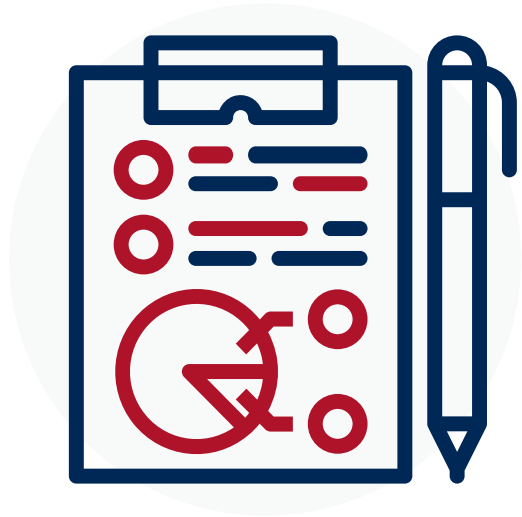
Case Study 1: Importing From Overseas into UK

UK Bakerco is seeking to import steel products which have recently been subjected to safeguard duties by the EU in response to US steel tariffs and which the UK has mapped across into the UK Global Tariff. Bakerco is concerned that the quota allocated by the UK government is too low to cover its imports into the UK and that therefore some of its imports will be subject to 25% additional duties which would make its manufacturing operations in the UK unsustainable. How does Bakerco best engage with the UK government to advocate its position on this?

Case Study 2: Multi-prong Approach to Challenge Trade Remedies - Learnings from US

- *UK producer of steel bars used to manufacture automobile parts in the United States. An antidumping petition is filed against these imports. Currently, two sets of “special duties” would apply upon US import: Section 232 duties on steel (25%) plus antidumping margin (average of 60+% for steel products)*
- Action items:
 - **Agency level (two options)**
 - **Domestic dispute (US federal court)**
 - **WTO challenge**

Case Study 3: Solar Panel Safeguard Injunction – Learnings from US



- “Section 201” (safeguard measures) impose duties on solar panels as of 2018 by Presidential Proclamation.
- US agency granted exclusion for certain bifacial panels, then withdrew it 4 months later.
- US court enjoined the agency action.

Case Study 4: Protecting Domestic UK Market Share

Londonco is a large manufacturer of chemicals in the UK. Its prices have recently started to be substantially undercut by Chinese imports and its sales have consequently suffered. What trade remedies may Londonco seek for the UK to apply?

Case Study 5: UK Exporter Challenging Tariffs Overseas

McKenzie Ltd is a UK producer of electrical machinery. Its sales to the Americas have suffered owing to a number recent tariffs imposed by the US, Canada and Mexico on these goods. McKenzie Ltd wishes to challenge these measures. What approach should it take?

Case Study 5 (Cont): Lobbying UK to Bring WTO Claim

The WTO has one of the most active international dispute settlement mechanisms in the world. Since 1995, 600 disputes have been brought to the WTO.

- The WTO enables Member States to raise issue regarding violations of WTO Agreements. This encompasses all areas of international trade.
- The United Kingdom is now able to launch and defend WTO disputes in its own right.

The Process:

1. Approach the UK Department of International Trade,
2. Develop a claim in coordination with the UK Government,
3. Request consultations with the opposing Government via the WTO (Article 4 DSU),
4. If consultations are unsuccessful, request the establishment of a Panel by the WTO Dispute Settlement Body (Article 6 DSU),
5. Panel composition, proceedings and ruling,
6. If necessary, appeal to the Appellate Body for review (Article 16.4 DSU).
7. Adoption of the Panel/ Appellate Body Report by the Dispute Settlement Body.
8. Implementation requirement by the losing party or otherwise compensation or retaliation pending full implementation.



04 | Wrap-Up

Key Takeaways

- Importance of holistic global strategy – this now needs a key UK element to be complete
- Shift from Brussels to London may result in key policy changes that could affect your business
- Be alive to opportunities and threats
- Trade remedies are not as complicated as they look
- Look for precedents from other countries when approaching what appear to novel issues in UK



Questions



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Annex

Key Resources

Legislation:

- [Trade Bill 2019-21](#)
- [Taxation \(Cross-border Trade\) Act 2018](#)
- [The Trade Remedies \(Dumping and Subsidisation\) \(EU Exit\) Regulations 2019](#)
- [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) Regulations 2019](#)
- [The Trade Remedies \(Reconsideration and Appeals\) \(EU Exit\) Regulations 2019](#)

Guidance:

- [Government Guidance on the Trade Remedies Investigation Process](#)
- [Trade Remedies Investigation Directorate Guidance on Trade Remedies Investigations](#)
- [Our Brexit Hub and Blog](#)

EU remedies terminated by UK

Product	Case code	Producer Country
Acesulfame potassium	AD611	China
Aluminium foil	AD610 and AD534	Russia and China
Aluminium radiators	AD578	China
Aspartame (sweetener)	AD621	China
Barium carbonate	AD475	China
Citric acid	AD522	China (extended to Malaysia)
Citrus fruits	AD524	China
Coated fine paper	AD552 and AS557	China
Ferro silicon	AD516 and AD516	China and Russia
Glass fibre fabrics	AD653 and AD653	China and Egypt
Grain orientated electrical steel	AD608	China, Japan, Korea, Russia, USA
Graphite electrode systems	AD469 and AS470	India
Hand pallet trucks	AD474	China, Thailand and Vietnam
High tenacity polyester yams	AD547	China
Lever arch mechanisms	AD491	China
Lightweight thermal paper	AD629	Korea
Melamine	AD554	China
Okoume plywood	AD471	China
Open mesh glass fibre fabrics	AD558	China, India, Indonesia, Taiwan, Thailand
Molybdenum wires	AD540	China, Malaysia
Monosodium glutamate	AD521 and AD602	China, Indonesia
Oxalic acid	AD568	India

EU remedies terminated by UK

Product	Case code	Producer Country
Peroxosulphates	AD511	China
Polyvinyl alcohol (certain) (PVA)	AD654	China
Rebar	AD633	Belarus
Ring binder mechanisms	AD350	China (extended to Laos and Vietnam)
Seamless pipes and tubes	AD632	China
Seamless pipes of iron or steel	AD533, AD490, AD490, AD565	China, Russia, Ukraine
Silicon metal	AD245	China, Korea, Taiwan)
Sodium cyclamate	AD467, AD467, AD626, AD467	China, Indonesia
Sodium gluconate	AD544, AD544	China
Solar glass	AD598, AS599	China
Stainless steel cold and hot rolled	AD607, AD607, AD658, AD658, AD658	China, Taiwan, Indonesia
Stainless steel hot-rolled		China, Indonesia, Taiwan
Stainless steel butt welding fittings	AD622, AD622	China, Taiwan
Steel road wheels	AD652	China
Sulphanilic acid	AD444	China
Sweetcom	AD507	Thailand
Tartaric acid	AD488	China
Thermal paper (certain heavyweight)	AD659	Korea
Threaded tube iron fittings	AD585	China
Threaded tube and pipe cast fittings of malleable cast iron	AD585	Thailand
Trichloroisocyanuric acid	AD480	China
Tube and pipe fittings of iron or steel	AD323, AD442, AD442, AD579, AD579	China, Indonesia, Sri Lanka, Korea, Philippines, Malaysia, Russia, Turkey

EU remedies maintained by UK

Name of measure	Case code (AD – Anti dumping, AS – Anti subsidy)	Countries against which measures are applied
Aluminium foil in small rolls	AD582	China
Aluminium road wheels	AD541	China
Ammonium nitrate	AD330	Russia
Bicycles	AD287	China, Cambodia, Indonesia, Malaysia, Pakistan, Philippines, Sri Lanka and Tunisia
Biodiesel	AS644, AD531, AS532, AS650	Argentina, USA, Canada, Indonesia
Cast iron articles	AD637	China
Ceramic tableware / Kitchenware	AD586	China
Ceramic tiles	AD560	China
Chamois leather	AD496	China
Cold rolled flat steel products	AD620, AD620	China, Russia
Corrosion resistant steel	AD639	China
Electric bicycles	AD643, AS646	China
Glass fibre products (certain continuous filament)	AD549	China
Glass fibre products (certain filament) (GFP)	AS603	China
Glass fibre reinforcements (glass fibres products)	AS657	Egypt
Heavy (quarto) plate	AD631	China
Hot-rolled flat products of iron, non-alloy or other alloy steel	AD630, AD634, AD635	Brazil, China, Iran, Russia and Ukraine
Ironing boards	AD548	China

EU remedies maintained by UK

Name of measure	Case code (AD – Anti dumping, AS – Anti subsidy)	Countries against which measures are applied
Organic coated steel	AD584, AS587	China
Polyethylene terephthalate	AS426	India
PSC wires and strands	AD529	China
Rainbow trout	AS606	Turkey
Rebar (high fatigue performance steel reinforcing bars)	AD619	China
Stainless steel bars and rods	AS556	India
Steel (wire) ropes and cables	AD384	China (extended to Korea and Morocco)
Tyres	AD640 and AS641	China
Welded tubes and pipes of iron or non-alloy steel	AD523	Belarus, China and Russia
Wire rod	AD530	China

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