



**TRANSITION REVIEW TF0006**  
**SAFEGUARD MEASURES ON CERTAIN STEEL PRODUCTS**  
**SUBMISSION**  
**OF THE MINISTRY OF THE ECONOMY OF THE UNITED ARAB EMIRATES**

**A. INTRODUCTION**

- a. The Ministry of Economy of the United Arab Emirates (“the Ministry”) is the competent authority in the United Arab Emirates (“UAE”) that is responsible for monitoring trade defence measures initiated against UAE exports.
- b. The Ministry has registered as a “contributor” to Transition Review TF0006 – Safeguard Measures on Certain Steel Products.
- c. The Ministry has considered the Statement of Intended Final Determination, published by the Trade Investigations Directorate (“TRID”), on 19 May 2021, and makes the following submission in response.

**B. STANDING TO MAKE A SUBMISSION**

- a. The UK Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (“Safeguarding Regulations”) defines “contributor” as: “a person other than an interested party who has made themselves known to the TRA for the purpose of participating in an investigation or a review”.
- b. Regulation 18(2) of the Safeguarding Regulations stipulates that: “The TRA must have regard to information supplied to it by an applicant UK producer, an interested party, a contributor or any other person from whom it has requested information, provided that the information—
  - i. is verifiable;
  - ii. has been appropriately submitted such that the TRA may use the information without undue difficulty;
  - iii. has been supplied to it within any applicable time limit; and
  - iv. where relevant, has been supplied to it in a form that it has requested.



- c. Regulation 29(2) of the Safeguarding Regulations stipulates that: “The TRA must specify in the statement of intended final determination a period during which it will consider comments on that statement from interested parties, contributors or any other person who has supplied information to it.”
- d. Paragraph 306 of the Statement of Intended Final Determination (“the Statement”) states: “[TRID] invite all interested parties, contributors or any other person who has supplied information to us to provide both confidential and non-confidential comments on this preliminary decision and intended preliminary decision, within seven days of publication of this Statement of Intended Final Determination – i.e. before 5pm BST on 26 May 2021.”.
- e. As such, it follows that the Ministry, as a registered contributor, is permitted to provide a response on the Statement, but must do so by 5pm on 26 May.

### C. SCOPE OF SUBMISSION

- a. The Ministry’s submission focusses solely on imports of category 20 and 21 steel products from the UAE, respectively gas pipes and hollow sections.
- b. The submission challenges two draft conclusions in the Statement:
  - i. That there was a significant increase in imports of category 20 and 21 products during the period of investigation (“POI”).
    - 1. “Based on the analysis undertaken, it is concluded that for product categories 1, 2, 4, 5, 7, 13, 15, 19, 20, 21, 25A, 25B, and 26, the evidence shows that there is a significant increase in imports within the POI.” (Paragraph 50.)
  - ii. That relevant imports of category 20 and 21 products from the UAE were above the 3% developing country threshold.

### D. CHALLENGE 1: SIGNIFICANT INCREASE IN IMPORTS OF CATEGORY 20 AND 21 PRODUCTS DURING THE POI

- a. In concluding that there was a significant increase in imports of category 20 and 21 products during the POI, TRID did not apply the correct tests set out in World Trade Organisation (“WTO”) jurisprudence on the WTO Safeguard Agreement.
- b. **Article 4(2) of the WTO Safeguard Agreement**
  - i. The UK Safeguard Regulation does not provide a precise definition of what constitutes a “significant” increase in the imports of goods, beyond that TRID should pay regard to the rates and volume of the imports and foreseeability



- ii. Accordingly, in undertaking this analysis TRID should be guided by the wording of Article 4.2 of the WTO Safeguards Agreement, which states in relevant part: “the competent authorities shall evaluate all relevant factors of an objective and quantifiable nature (...) in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports ...”
  - iii. TRID should also be guided by the jurisprudence concerning the interpretation of the terms “rate and amount of increase in imports”. In particular, the panel in *Argentina – Footwear* stated that:
  - iv. “[W]e recall Article 4.2(a)'s requirement that 'the rate and amount of the increase in imports' be evaluated. In our view this constitutes a requirement that the intervening trends of imports over the period of investigation be analysed. We note that the term 'rate' connotes both speed and direction, and thus intervening trends (up or down) must be fully taken into consideration. Where these trends are mixed over a period of investigation, this may be decisive in determining whether an increase in imports in the sense of Article 2.1 has occurred. In practical terms, we consider that the best way to assess the significance of any such mixed trends in imports is by evaluating whether any downturn in imports is simply temporary, or instead reflects a longer-term change.”<sup>1</sup> (emphases added).
  - v. The view of the panel was upheld by the Appellate Body. It stated notably, that , “we do not dispute the Panel's view and ultimate conclusion that the competent authorities are required to consider the trends in imports over the period of investigation (rather than just comparing the end points) under Article 4.2(a).”<sup>2</sup> (emphasis added).
- b. **There was no sustained increase or upwards trend in imports of category 20 products during the POI**
- i. Category 20 products include HS codes 73063041, 73063049, 73063072, and 73063077. Eurostat data from the POI does not show that the increased quantities were part of a sustained trend in increased imports, as required.
  - ii. While the quantity of category 20 products imported into the UK increased in 2014 relative to 2013 and in 2016 relative to 2015, imports of these products declined again after these brief increases. Consistent with the jurisprudence on the interpretation of the expression “increased quantities”, a transient one-year increase in imports is not sufficient to conclude that imports have increased over the period in question.

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<sup>1</sup> Panel Report, *Argentina – Footwear* (EC), para. 8.159

<sup>2</sup> Appellate Body Report, *Argentina – Footwear* (EC), para. 129.



- iii. An increase in imports in one year in the data is not compelling evidence that imports have increased in general, particularly where the imports then immediately decline in the subsequent year. In the language of the panel in *Argentina – Footwear*, the upturn in imports appears to be temporary, and not reflective of a longer-term trend.
  - iv. Moreover, the general trend in imports over the period is flat. Overall non-excluded imports into the UK of category 20 products averaged 98.4 million kg per year over the POI, with annual levels of imports varying slightly around this average. While import volumes for category 20 are marginally higher at the end of the investigation period than at the start (85.1 million kg in 2017, compared to 80.8 million kg in 2013), in line with the Appellate Body’s statement that it is the trend that should be considered, and not the end points (i.e. not “an absolute increase”), the data do not suggest a discernible increasing trend over the period but rather that products are imported at consistent volumes that may be subject to idiosyncratic fluctuations.
  - v. Taken as a whole, the available data does not suggest a material, sustained or significant increase in imports in the period 2013-17. An accurate characterisation of imports of category 20 products over the POI was that there was no discernible change in the trend in imports, and that there is no evidence that imports increased over the POI.
  - vi. We therefore submit that, applying the correct tests under WTO law, there was not a sustained increase or upwards trend in imports of category 20 products during the POI.
  - vii. Should TRID maintain in the final Determination that there was a relevant increase, we would be grateful if it could explain how this increase is consistent with the threshold test set out in *Argentina – Footwear*.
- c. **There was no sustained increase or upwards trend in imports of category 21 products during the POI**
- i. Category 21 products include HS codes 73066110, 73066192, and 73066199. As was the case with category 20 products, Eurostat data from the POI does not show that the increased quantities were part of a sustained trend in increased imports, as required. The overall trend in imports was flat over this period, and small increases relative to previous years in 2014 and 2017 likely reflects idiosyncratic variation and is not sufficient to conclude that imports of category 21 products have increased over the POI. In the language of the panel in *Argentina – Footwear*, the upturn in imports appears to be temporary, and not reflective of a longer-term trend.
  - ii. Imports of category 21 products from non-excluded countries averaged 170.2 million per year over the POI, with small fluctuations around this average from year to year. A minor increase in imports in 2014 relative to 2013 was immediately



followed by an equivalent drop in 2015. Similarly, a slight increase in imports in 2017 relative to 2016 appears to be a random and temporary variation based on the trend over the period. Overall, there is no upwards trend in imports of category 21 products over the POI, with imports instead varying slightly up and down around a central average..

- iii. While import volumes for category 21 are marginally higher at the end of the investigation period than at the start, again it is the trend that should be considered and not just the end points.
- iv. We therefore submit that, applying the correct tests under WTO law, there was not a sustained increase or upwards trend in imports of category 21 products during the POI
- v. Should TRID maintain in the final Determination that there was a relevant increase, we would be grateful if it could explain how this increase is consistent with the threshold test set out in *Argentina – Footwear*.

**E. CHALLENGE 2: IMPORTS FROM OF CATEGORY 20 AND 21 PRODUCTS FROM THE UAE WERE ABOVE THE 3% DEVELOPING COUNTRY THRESHOLD**

**a. Legal framework**

- i. In respect of developing countries, the UK cannot impose a safeguard measure on products originating from a developing country member of the WTO whose imports account for 3% or less of the total imports of those goods into the UK (“low volume exporters”). This exception applies providing that the collective volume of all the low volume exporters of the goods concerned is no more than 9% of the total imports into the UK (the “developing country exception”).
- ii. The developing country exception is set out in Article 9(1) of the WTO Safeguard Agreement, and given effect in UK law by the Safeguards Regulations. UK legislation provides that, where TRID was making the initial determination to transition EU steel safeguards, the determination must exclude:
  - i. “goods originating from a developing country member of the WTO that is a low volume exporter provided the imports, during such periods as the TRA [TRID] determines appropriate, from all such members who are low volume exporters collectively account for no more than 9 per cent. of the total imports of such goods into the United Kingdom.” (Emphasis added)

**b. The appropriate period for determining the developing country exception**

- i. TRID has used data from 2017-2019 to consider whether the UAE should be granted a developing country exception. As such, imports from the UAE of



category 20 and 21 products were assessed to have been higher than 3% (see page 99 of the Statement):

- ii. We consider that it was not appropriate for TRID to use import data from 2017-2019 as the relevant period for the developing country exception when the POI was from 2013-17.
- iii. The UAE Government is particularly concerned by this decision, because imports of both category 20 and 21 products from the UAE during the POI were under the
- iv. It follows that the safeguards against UAE imports of category 20 and 21 products would have been revoked if the POI had been used as the relevant period for the developing country exception.
- v. We submit that the use of 2017- 2019 data to determine the developing country exception is not coherent with the rest of the investigation given that:
  - i. The POI covered the period 2013-2017;
  - ii. The entire economic logic of safeguard action is based on detecting a causal link between imports and damage caused during the POI, the aim of the safeguard being to remedy the damage.
  - iii. Using a different period from the POI for assessing the developing country exception leads to anomalous results, as in this instance.
- vi. We therefore submit that the appropriate period for considering the developing country exception was the POI.
- vii. Should TRID maintain that 2017-2019 is an appropriate period to use, we would be grateful for a clear explanation in TRID's final Determination as to why this period, rather than the POI, is appropriate.

**Abdullah Sultan Al fan Al Shamsi**

**Assistant undersecretary for follow up and monitoring**

UNITED ARAB EMIRATES  
MINISTRY OF ECONOMY



الإمارات العربية المتحدة  
وزارة الاقتصاد

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