



Trade Remedies Authority

Guidance

Applying the economic interest test

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This publication is available at <https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/how-we-apply-the-economic-interest-test>

Legal framework

Primary legislation in the Taxation (Cross-border Trade) Act 2018 (the Taxation Act)

The parameters of the economic interest test are outlined in the Taxation Act. Paragraph 25 of Schedule 4 to the Taxation Act (<http://www.legislation.gov.uk/ukpga/2018/22/schedule/4/paragraph/25/enacted>) and Paragraph 23 of Schedule 5 to the Taxation Act (<http://www.legislation.gov.uk/ukpga/2018/22/schedule/5/paragraph/23/enacted>) identify the economic factors we must consider, where they are relevant.

Statutory guidance (<https://www.gov.uk/guidance/trade-remedies-investigations-directorate-trid-dumping-and-subsidisation-investigations-guidance/economic-interest-test>) published by the Department for Business and Trade provides detail on how the economic interest test should be conducted.

Introduction to the economic interest test

The economic interest test (EIT) forms part of our process for investigating trade practices which may be causing injury to UK industry. We are required to conduct the EIT in almost all investigations and reviews where we recommend imposing or extending a measure. We must advise the Secretary of State of our assessment whether a measure is in the economic interest of the UK. The Secretary of State must have regard to our advice when considering whether to accept or reject our recommendation.

Applying the EIT in new investigations

The EIT considers the expected impact on the UK of imposing a new measure, compared to the impact of not imposing that measure. The aim of the process is to determine whether the implementation of a proposed trade remedies measure is in the wider economic interest of the UK.

The test considers the following factors:

- injury caused to UK industry by the imports we are investigating and the benefits to that industry of removing the injury,
- the economic significance of affected UK industries and consumers,

- the likely impact on wider UK industries and on consumers,
- the likely impact on particular geographic areas or groups within the UK,
- the likely consequences for the competitive environment and the structure of UK markets for these goods, and
- other matters that we consider relevant.

In anti-dumping and countervailing investigations where the presence of dumped or subsidised imports which are causing injury has been established, the economic interest test is presumed to be met unless the TRA is satisfied that the application of the measures is not in the economic interest of the UK. In safeguard investigations there is no such presumption.

Applying the EIT in reviews of existing measures

We also conduct the EIT when we recommend extending a measure in:

- transition reviews,
- expiry reviews of existing anti-dumping and countervailing measures, and
- extension of existing safeguard measures.

When we apply the EIT to a review, we will look at the expected impact on the UK of continuing the measure (whether simply extended or modified in another way) compared to removing the measure.

The process we follow in a review is largely the same as in a new investigation. Where possible, we may also consider data and evidence that shows the actual impact the measure has had, if this is relevant to the assessment of the proposed reviewed measure.

Our test process

When we begin an investigation or review, we gather a wide range of information. We assess the economic interest alongside other elements of the investigation, depending on what data and evidence is available at different stages of the process.

The main stages of our EIT process are:

- Gathering evidence from submissions from affected groups, research and other data sources, verifying where appropriate.

- Assessing the evidence for the factors set out in legislation.
- Determining whether the test has been met and writing up our findings.

If we have found that goods concerned/subject to review are dumped or subsidised, and that these goods have caused or are causing injury to UK industry, we will include a definitive assessment of the EIT in statement of essential facts and in our final determination accounting for all the data and evidence presented to us. In safeguard investigations, we will do so if we have found a surge in imports of the goods concerned/subject to review which has caused or is causing serious injury to UK industry. We include our assessment regardless of whether the test is met or not. The EIT assessment will not be included in our final determination if we have not found that unfair trade practices or surges in imports are causing injury to UK industry.

Data sources we may use

In our investigation, we can make use of any data and evidence we consider relevant provided that we assess it critically and verify it using independent sources where practicable. Our primary sources will include:

- responses to the questionnaires we send to relevant groups such as domestic producers of the like goods
- responses to business and consumer surveys where we collect evidence from upstream businesses, downstream businesses and consumers
- written submissions from affected groups or businesses

The use of information and facts available is discussed in more detail in the [TRA's investigation process guidance](https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/the-tras-investigation-process#questionnaires-and-information-gathering)

(<https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/the-tras-investigation-process#questionnaires-and-information-gathering>).

Questionnaires

To help us carry out our investigation, we will issue questionnaires to domestic producers, importers, foreign exporters and (for subsidy and some dumping investigations) foreign governments.

Within these questionnaires, we will ask respondents to identify possible UK-based upstream and downstream contributors such as suppliers, distributors and end users of the relevant goods. This will help us understand the supply chain of the relevant goods and will be considered with the information received from the survey.

Business and consumer surveys

We may run business surveys for upstream businesses, downstream businesses, and consumers where appropriate. Responses to these will help us to understand the impacts of a potential measure on these groups.

All information collected from the survey will be kept securely and we will publish an anonymised summary of survey responses on the public file.

Submissions from interested parties and contributors

Interested parties and contributors may provide additional submissions which are relevant to the EIT. They can also present evidence at hearings, which we may organise on request from interested parties. If necessary, we may also hold meetings with parties during the investigation process, to clarify details of their submissions.

In investigations where a particular geographical area is likely to be affected by the measure due to the location of an industry or related industries, we may contact relevant local authorities and, where appropriate, the devolved administrations of Scotland, Wales and Northern Ireland. All information collected will be placed on the public file and made available to interested parties and contributors unless they request it be treated as confidential and demonstrate why it should be treated in this way.

We will assess the quality and relevance of any evidence provided to us on an individual basis. Evidence provided should be supported by independent sources where possible and provided in sufficient time to be considered. We cannot accept oral statements unless they are also reproduced in writing and put on the public file to allow interested parties and contributors to view them. Our reasons for either incorporating or dismissing information as part of the EIT will be explained in our Statement of Essential Facts (or the Statement of Intended Final Determination in safeguard cases), which we publish once we have completed our analysis.

Other available sources

We will also consider data and evidence from other publicly available sources, both UK-based and international. We will critically assess and verify this where practicable. Sources may include trade databases such as HM Revenue and Customs (HMRC) and the United Nations' Comtrade, industry publications and employment and industrial data from the Office for National Statistics (ONS).

Relevant factors of the EIT

This section explains how we assess the factors which we must consider, so far as relevant, in an EIT, in line with legislation.

Injury to UK industry caused by the dumped, subsidised or surge of imports under investigation

At an early stage of the investigation, we need to determine if there is injury to domestic industry and if it is caused by the imports of dumped or subsidised goods, or if there is serious injury from a surge in imports. When we are carrying out reviews, we need to establish whether injury is likely to or recur if the measure is removed.

When we are looking at the EIT, we will ask an additional question – how might a trade remedy measure affect the injury being caused to domestic industry? To do this, we will compare potential injury to domestic industry in scenarios where a measure has or has not been imposed. For example, we would look at the likely impact on common injury indicators for UK producers (such as market shares and profit margins) if a measure were or were not in place.

Economic significance of affected UK industries and consumers

We identify UK businesses and consumers who may be affected by the measure including producers of the like goods, importers, upstream businesses and downstream businesses. We consider the importance of the product to affected groups, their economic significance and their vulnerability to economic shocks. When looking at consumers, we will consider the entire UK market for this type of goods, including both those produced domestically and imported goods.

Some of the factors we may look at include:

- Value added – what do UK industries contribute to the value of the UK produced goods at different stage of the supply chain?
- Employment – how many people are employed within the industry on work that is directly related to the product in question at each UK location?
- Market share – what is the market share of UK producers, as a proportion of total sales of this type of goods in the UK?
- Market structure – what is the size distribution of UK producers and what proportion of the market is accounted for by small and medium-sized enterprises (SMEs)? What are the upstream and downstream industries within the UK and how are they related to the industry that applied to us to investigate the case for a new measure?
- Consumers – how is the final product used and by whom, and how sensitive are customers to price?

Likely impact of a new trade remedy on industries and consumers

For this factor, we will assess the likely impact that imposing or not imposing a measure will have on the affected groups we have identified.

When we do this, we will compare scenarios in which a measure is and is not applied, drawing on both qualitative and quantitative evidence. This assessment will be completed in two stages:

- We will estimate the likely effects on prices and quantities of goods throughout the supply chain. For example, how might the price of or demand for the downstream product change as a result of the measure?
- We will assess the possible impacts of these changes in price and demand on the relevant UK industries and consumers. For example, how might a change in the price of an input product affect a downstream industry and how would consumers react to a change in prices?

Effect on particular geographic areas and groups

Within our EIT assessment, we will assess if a measure will disproportionately affect particular geographic areas or groups. The evidence we draw on will typically include a combination of information from questionnaires, surveys, and publicly available information on socio-economic factors.

To help us understand if an industry is particularly significant to a geographic area and the potential implications of jobs being lost or gained, we will consider a variety of factors. These may include the proportion of jobs in the area that are accounted for by the industry in question, what alternative employment opportunities there are and data on regional socio-economic welfare, such as deprivation indices.

We may also assess these factors in relation to upstream, downstream or related industries, if we consider a trade remedy measure is likely to have a significant impact.

We will evaluate whether particular demographic groups are disproportionately affected, particularly groups with protected characteristics as outlined in the Equality Act 2010. This may cover both consumer and employee groups. Where appropriate, we may seek information from other government departments, local authorities and the devolved administrations of Scotland, Wales and Northern Ireland, to add to our understanding.

Effect on the competitive environment and market structure

We will assess the effect of a potential measure on the competitive environment within a market. Our assessment will be mainly qualitative and will look at both the existing market structure and the state of competition within the market. It will explore both short-term and long-term possible effects of imposing a measure.

We will draw on questionnaire and survey responses for our analysis, including topics such as market share and the number of suppliers within the market for the product in question. We will also consider additional

contextual factors such as whether there are barriers to entry for new producers and how easy it is for consumers to switch suppliers.

Other factors which we consider relevant

On a case-by-case basis, we will also assess other economic issues which may be relevant to our investigation. These may be highlighted through engagement with interested parties and contributors, and we will assess their relevance based on the likely implications on the UK's economic interests. If we decide a factor is relevant to our investigation, we will assess it alongside other components of the test.

Conclusion on the EIT

Once we have completed our analysis, we will conclude whether a trade remedy measure would be in the economic interest of the UK.

In dumping or subsidy investigations, the default presumption is that the EIT is met, so we only consider the test not to be met if the negative impacts of a recommendation on the UK economy are disproportionate to the need to remove the injury caused to UK industry. This presumption does not apply to safeguard investigations, where we must demonstrate that applying the measure is in the economic interest of the UK.

If we are satisfied that imposing the measure is in the UK's economic interest, then the test is met.

If we conclude that the test is not met when we are recommending final measures, we will assess whether an alternative option exists that is in the economic interest of the UK.

As well as assessing whether the measure is in the economic interest of the UK, we will also consider which form of measure would best minimise the negative impacts of the measure on some parties while retaining the overall benefits. There are three elements of the measure that we can vary:

- the duration— this can be up to five years
- the type of duty— for instance, we could recommend a minimum import price
- the goods for which the measure is imposed— for instance, we may not recommend the measure for all the goods in scope of the investigation/review if we determine that the test has only been met for some of the goods

Sharing our findings

Our provisional determinations, statement of essential facts (or statement of intended final determination) and our final determinations will include our assessment of the economic interest test. Within these reports, we will present the evidence we have considered for each component of the EIT and provide the reasoning for our conclusion.

We will advise the Secretary of State of the outcome of our EIT assessment, and the Secretary of State must have regard to that advice when deciding whether to accept or reject our recommendation.



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