

ALLEN & OVERY

# Our trade remedies experience

2021



# Our trade remedies expertise

## Trade remedies law

Trade remedies are a key part of the tool kit of measures used by States to protect their domestic industries against disruptive trade flows. They are provided for under the law of the World Trade Organisation (**WTO**) as an exception to the most-favoured-nation principle which means that, in general, States cannot discriminate between their trading partners. Trade remedies measures, also known as trade defences, typically constitute additional tariffs levied on the import of particular products from third countries, potentially restricting companies' profitability and sale volumes.

Our team assists our clients in navigating the complex issues raised by trade remedies law, ensuring that their actions are tailored and targeted.

We offer a fully integrated international service and provide technical and strategic advice to major multinational companies and WTO Member States on trade remedies related matters.

Our expert team of trade remedies lawyers are primarily based in London, Brussels and Hong Kong. We are able to provide our clients with market leading insights developed from working closely with governments, trade bodies and regulators across the globe. In addition, a number of our expert lawyers have worked on trade-related issues for the European Commission, the UK's Department of International Trade, the Confederation of British Industry and other trade bodies in various places in the world, and have an in-depth understanding of how trade organisations work. Our trade remedies experts are also able to leverage the firm's expertise in more general international trade law and WTO matters, investment treaties, tax and customs law, as well as international sanctions, export and import controls.

As a truly global firm, we have an extensive network and have also developed strong relationships with local law firms in over 100 countries where we do not have a presence. We draw on the experience of this vast global network to ensure that our clients are provided with market leading local expertise wherever in the world trade remedies issues arise.

## Anti-dumping

Anti-dumping measures address instances where the products of one WTO Member State are introduced into the domestic market of another WTO Member State at less than the "normal value" of the product, where this causes material injury, threatens to cause material injury, or materially retards the establishment of a domestic industry. We advise on the full range of anti-dumping matters.

## Anti-subsidy

Anti-subsidy duties, also known as "countervailing duties", are duties imposed according to WTO-based principles to neutralise the negative effects of subsidies granted by exporting countries to their industry. They may be imposed on imports into a State's domestic market in an amount equal or below to the subsidy in question granted in the country of origin or export. As with dumping, no countervailing duties may be imposed unless there is a determination that the subsidisation has caused or threatens to cause material injury. We work closely with clients on, and provide expert support, on anti-subsidy matters.

## Safeguarding

Safeguarding measures may be imposed to protect a specific domestic industry from an unforeseen increase of imports of any product which is causing, or which is likely to cause, serious injury to the industry.

These proceedings are rarer than anti-dumping and anti-subsidy proceedings, but we have advised clients on safeguarding measures includes advising a coalition of Middle Eastern producers on safeguarding proceedings launched by the Egyptian government against imports of a base chemical and, recently, advising an investor on the European Commission's safeguard investigation concerning certain steel products.

## UK trade remedies regime

Whilst the UK was an EU Member State, the UK had no legal capacity to independently impose trade remedies. Instead, the European Commission was responsible for any investigations and decisions on trade remedies affecting the UK.

However, following the end of the Brexit-related transitional period between the EU and UK, the UK has brought into force an independent trade remedies regime, and the UK has established the Trade Remedies Authority, a new independent body with powers to protect UK business from injury caused by unfair trading practices such as dumping and subsidies.

Ensuring that the UK's new trade remedies regime works to protect domestic producers will be critical for producers that are exposed to the risk of unfair trading practices. Equally, businesses outside of the UK that may be adversely affected by the UK trade remedies will need to rigorously protect their interests. Our leading trade remedies team is ideally placed to assist clients in the UK and internationally on their trade remedies matters concerning the UK.

Since the UK's decision to leave the European Union, we have been advising a large number of clients with their Brexit trade related planning, including the potential impact of an independent UK trade remedies regime.

## Our recent experience

Highlights of our recent experience working on trade remedies include advising:

- **An international engineering company** on allegations of avoidance of anti-dumping tariffs to products imported into CEE countries from China (and a related BTI appeal).
- **A WTO Member** on the legality of a specific anti-dumping measure adopted but eventually immediately suspended by China.
- **A major EU importer** (a subsidiary of one of the largest Chinese conglomerates) in an anti-dumping proceeding initiated in the EU against imports of cold-rolled stainless-steel products from a number of countries, including China. The case was terminated with 0% duty.
- **Indonesia** in its challenge to anti-dumping duties imposed by South Korea on imports of paper. In a subsequent compliance arbitration, Indonesia successfully demonstrated that South Korea had failed to bring its measures into conformity with its WTO obligations.
- **A major Ukrainian exporting producer** in an anti-dumping proceeding initiated in the EU against imports of silico-manganese from a number of countries, including Ukraine. Eventually Ukraine was awarded a 0% duty.
- **A European trade association** in EU anti-dumping and anti-subsidy proceedings concerning imports of solar glass from China.
- **A European chemical producer** in relation to submitting an expiry review request and assisting the company throughout the EU proceedings.

**“They are incredibly responsive and their instincts as lawyers are so spot-on. Nothing is too much trouble and everything is done immediately to a very high level of quality. They are excellent and a joy to work with.”**

- A European paper producer in anti-dumping investigation brought by the Gulf Cooperation Council's Technical Secretariat for anti-injurious practices in international trade.
- A major international user in an EU anti-dumping proceeding against imports of fatty alcohol from various Asian countries.
- European based multinational producers of consumer goods in connection with the lodging of a combined anti-dumping complaint and expiring review concerning imports from eight exporting countries, including China.
- A leading international battery producer in relation to their defence against an EU anti dumping investigation concerning imports of manganese dioxide from South Africa.
- A Middle Eastern petrochemical company with trade compliance matters, including establishing internal controls to minimise the risk of anti-dumping proceedings on exports.
- A EU/U.S. based group in relation to their defence against a EU anti dumping investigation concerning imports of mixtures of uria and ammonium nitrate originating in Russia, Trinidad and Tobago and the United States.
- A New Zealand exporter in relation to their defence against a PRC anti dumping investigation concerning imports of methanol methanol from Saudi Arabia, Indonesia, Malaysia and New Zealand.
- A EU/U.S. based group in relation to their defence against a PRC anti dumping investigation concerning imports of optical fibres from France, the Netherlands, and the United States.
- A Thai exporter in relation to their defence against a PRC anti dumping investigation concerning imports of Bis-Phenol A from Thailand.
- An exporter in relation to their defence against a PRC anti dumping investigation concerning imports of ethanolamine from the U.S., Malaysia, Saudi Arabia and Thailand.
- A client on whether tax exemptions and duty exemptions granted to the textile sector of a major emerging economy are compatible with the WTO Agreements on Subsidies and Countervailing Measures.
- A large number of corporates on trade barriers for the movement and sale of products and services into the UK and EU post-Brexit, including trade defence related issues.

“One client stresses that  
**‘the quality of the work is  
always high, clear and to  
the point.’”**

Chambers Europe 2020

**“It is our go-to law firm when  
it comes to complex tasks and  
transactions, in particular in  
an international arena.”**

Chambers Global 2020

# Core contacts



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“The key differentiator is their flexibility and adaptability to support our complex and ever-changing needs and issues. The team react and meet any challenge we throw at them, which is no mean feat.”

Chambers UK 2019

“Their service is exemplary. It’s a very good, high-quality law firm and their entire team is very good to work with.”

Chambers UK 2019

“Great strategic advice and leading transactions very well.”

Chambers UK 2021

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## GLOBAL PRESENCE

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