

UK Steel Safeguards Fact Sheet

What are safeguards?

Safeguards are a type of trade remedies measure intended to address unexpected surges in imports that are damaging or threatening to damage domestic producers. Safeguards can take various forms but the most common is a tariff-free quota – this allows the continuation of tariff-free imports at the same level or higher as the period before the safeguard was introduced. Only if imports go above this level is a tariff applied to further imports. Quotas are calculated based on historical imports. Safeguards must be applied equally to all imports rather than target specific countries, with the exception of developing countries with a low import share. WTO rules specify that safeguards can be applied for a maximum of eight years and cannot be reapplied for a period equivalent to however long they have been in place for.

Why were the UK's steel safeguards introduced?

The UK inherited its steel safeguards from the EU which introduced its own equivalent measure in 2018 principally to guard against import diversion from the US after the introduction of Section 232 tariffs by President Trump. The US measures, still in place today, introduced a 25% tariff on all steel imports with an aim to significantly reduce the 30 million tonnes of steel that were imported into the US each year. This raised the risk that much of this steel would be diverted to other markets, with the EU being a prime candidate as the largest tariff-free market for steel in the world. The EU Commission, with the support of the UK Government, introduced steel safeguards to guard against this risk as well as to address long-standing concerns about global overcapacity of steel production, state intervention and market distortions in many countries.

The UK transitioned the steel safeguards into UK law in January 2021 followed by an investigation by the Trade Remedies Authority (TRA) to determine whether the measure should remain in place. Of the 19 products reviewed, the TRA recommended maintaining the measure for 10. Following intervention by the Secretary of State, an additional 5 products were also included.

What has changed since the first review?

The UK's trade remedies framework has been reformed since the first safeguards review and now provides greater discretion to the Secretary of State to determine its outcome. The original legislation had been set in a way that made it far more difficult to introduce and maintain trade remedies measures than is required by WTO rules and was more stringent than the EU's rules as well. The steel safeguards review was one of the first to test the UK's new trade remedies regime and it became apparent that it was not fit for purpose. Emergency legislation was required to get the first review over the line and subsequently wider reform of the system has created a more balanced framework. Previously, the Secretary of State could only accept or reject a TRA recommendation. In effect, they could only intervene in one direction, that is to block a measure from being introduced, while having no recourse to intervene in favour of a measure.

Why is there currently a safeguard review?

The current safeguard measures are due to expire in June 2024, with the option of being extended for a maximum of another two years. The TRA is undertaking a review to assess whether this final extension is justified. Unlike the transition review which sought to assess whether safeguards inherited from the EU were applicable in a UK context, the purpose of the current extension review is to assess whether injury to the UK industry would occur should the measures be left to expire in June 2024. The scope of this review is therefore much narrower, as it doesn't seek to establish whether they should have been transitioned in the first place. Following a TRA preliminary recommendation, the Secretary of State will then have to make a final decision ahead of the current expiry date of 30 June 2024.

Separately to the wider review and in parallel, there are also additional reviews taking place for one of the 15 product categories covered by safeguards, namely hot-rolled coil: a suspension review and a quota review, in response to changes in the domestic supply for this particular product. Since quotas are calculated based on historical imports and these correspond to certain levels of domestic supply, any changes in domestic production will mean that quota sizes are potentially not appropriate and may need to be adjusted.

Do we still need steel safeguards in the UK?

All the reasons why safeguards were first introduced are not only still in place, but conditions have in fact deteriorated. Steel safeguards remain necessary to shield the UK from rising global excess capacity and the

inevitable trade diversion resulting from US Section 232 tariffs and the EU's own safeguards. The OECD reported global steelmaking overcapacity at 630 million tonnes in 2022 – this corresponds to 33% of global steel production and is over 60 times the size of the UK market. Much of this is fuelled by state subsidies, for example in China, India and the Middle East. Even a small proportion of this surplus material ending up in the UK would completely overwhelm the UK market. Most of these imports will be of high-emission steel, particularly as the UK's CBAM will not be implemented before 2027. These imports will be directly undermining the UK's decarbonisation efforts and the UK steelmakers' investments in Net Zero steelmaking.

Do safeguards cause shortages and increase costs for steel consumers?

No. The UK can import the equivalent of 122% of historic levels without any tariffs being applied, while quotas are further liberalised every year for the duration of the measure being in effect as per WTO rules. The vast majority of steel enters the UK without paying any tariffs. A 25% tariff is only imposed on steel imports once the tariff-free quotas are filled up. Quotas have been largely underutilised over the last three years and in most quarters less than 30% of the total quotas have been utilised, although demand has also been at lower levels and there are variations at product level and specific origins. Overall, imports have scope to increase significantly without tariffs being applied. The purpose of safeguards is not to limit or reduce imports, but to act as a cap to significant increases in imports.

What are the expectations around the EU's steel safeguards?

The European Commission recently initiated the review for extending its own safeguards. While the outcome of this review will not be confirmed ahead of a TRA recommendation, it is expected that the EU will extend its own measure until June 2026. The Commission carried out an interim review of its current measure and last June confirmed that safeguards are still essential given that all the reasons why they were first introduced are still in place. It would be enormously surprising if it reached a different conclusion just a year later as none of the circumstances have changed. Furthermore, the EU's CBAM will be fully implemented by 2026 and the EU will therefore likely want to maintain its safeguards until then, rather than leave its industry completely exposed for two years. With the EU maintaining its safeguards, it is additionally important that the UK does the same, as the UK would be exposed to double the amount of trade diversion – both from the US and the EU. The UK is also a much smaller market so that the impact of even a small amount of diverted trade would be more acutely felt and damaging to the UK industry.

Are the UK's steel safeguards WTO compliant?

All 15 product categories currently covered by the UK's safeguards meet the WTO criteria for having a safeguard in place – namely that there was a significant increase in imports of steel into the UK before the safeguards were introduced and such imports were causing injury or threatening to cause injury to domestic steel producers. When the Secretary of State intervened back in 2021 to expand the coverage of the measure to 15 product categories instead of 10, it was stated that this was in contravention of WTO rules but was deemed in the national interest to do so. The point is nuanced – the potential questions around WTO law do not relate to the substance of the measure (i.e. meeting the criteria for having a safeguard), but rather relate to procedural points as the UK changed its legislation and process mid-review. However, the UK legislation which provided for an appeals process, did not account for the fact that once a safeguard has lapsed, WTO rules prevent it from being reintroduced for a period equivalent to the time the safeguard has been in place for – on this occasion this would have been three years. This rendered the appeals process meaningless and therefore the Secretary of State intervened to temporarily extend the safeguard for the five additional categories to give the opportunity to industry to appeal.

Ultimately, there is nothing in WTO rules that specifies whether an independent body or a Minister makes the decision on whether to introduce a trade remedies measure. The issues in extending the safeguards for some products were instead caused by domestic policy and processes. The UK has received no formal legal challenge to its safeguards so it's unlikely that a further extension to 2026 would result in one. The EU was challenged by Turkey on its safeguards, but in May 2022 a WTO panel ruled in favour of the EU's approach and confirmed the UK's right to mirror this.

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