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The Rt. Hon. the Lord Whitty
Chair of the EU Internal Market Sub-Committee
House of Lords
London
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Dear Lord Whitty

**HOUSE OF LORDS EU INTERNAL MARKET SUB-COMMITTEE INQUIRY ON
THE IMPACT OF BREXIT ON UK COMPETITION POLICY**

Thank you for inviting me to give evidence to your Committee on the impact of EU exit on competition and state aid policy. I welcome the fact that you have been giving this important topic the attention it deserves. Thank you also for providing me with the written transcript of the evidence session and for giving me the opportunity to provide further clarifications on your questions.

Baroness McGregor-Smith asked me about the increased workload the CMA is likely to experience after we leave the EU. Based on an analysis of the European Commission's current case load, the CMA has estimated it could see an increase of between 30 and 50 merger cases per year, and an additional five or seven large anti-trust cases at any one time. These numbers are estimates only and assume a similar case load at the point of exit.

Following Lord Rees' question about the recently published proposals on public interest criteria for intervention in merger cases, you asked me for an estimate of the number of additional merger cases involved. These proposals would allow the Government to examine mergers that currently fall outside the threshold in the dual use and military use sector and in parts of the advanced technology sector for national security-related purposes. Under these proposals, we do not expect a large number of cases to be scrutinised. There have been 12 public interest interventions

since the Enterprise Act 2002 was enacted. Seven of these have been on national security grounds. The Government's consultation on the proposals closed on 14 November. We are analysing the responses and will bring forward our proposals, including an impact assessment, in due course.

During the session, you also asked questions relating to the UK Trade Remedies Authority (TRA). This body will be the responsibility of the Department for International Trade (DIT). However, I would like to take the opportunity to provide your Committee with further detail. I understand that the Secretary of State for International Trade has also written to you.

You may be aware that the Trade Bill was introduced in the House of Commons on Tuesday 7 November. The Bill includes measures to establish the TRA as a new arm's-length body. The documents accompanying the Bill provide additional details about the Government's intentions with regard to this new body.

The remit of the TRA is based on World Trade Organisation (WTO) rules.¹ These rules enable members to create a safety net to protect domestic industry against unfair and injurious trade practices – specifically dumped and subsidised imports. Provision is also made for unforeseen and injurious surges in imports. They allow members to impose measures (usually a duty) on imports of specific products following an investigation. Currently the European Commission undertakes trade remedies investigations and imposes any remedies on behalf of Member States, including the UK. Once we leave the EU, we will no longer be part of this process. However, it is crucial that the UK can continue to provide a safety net to domestic industries, particularly against unfair and injurious trading practices.

The Government's intention is that the TRA will be set up as an executive non-departmental public body of the Department for International Trade. It will have its own Chair and Accounting Officer and be governed by the Department according to the Cabinet Office's public body governance principles.

It is appropriate that the new body is set up as an arm's length body in order to demonstrate and preserve its impartiality, as decisions on trade remedies cases can have significant effects on markets. Our analysis of other countries' trade remedies authorities showed that many have elements of the process delivered by authorities independent of the executive. The TRA's arm's-length status will help ensure that it has the appropriate degree of separation from the Department for International Trade in order to create an impartial and objective investigation process in which businesses can have full confidence. The Government has now tabled resolutions for the forthcoming Taxation (Cross-border Trade) Bill. This legislation will include

¹ Agreement on the Implementation of Article VI [i.e. 6] of the General Agreement on Tariffs and Trade 1994; The Agreement on Subsidies and Countervailing Measures; and the Agreement on Safeguards

further details on the processes through which trade remedies will be investigated and applied, including the role of Ministers in this process.

The TRA will be provided with the required resources to ensure it has the capability and capacity to deliver effective investigations and evidence-based conclusions. The estimated cost of funding the TRA is between £15-20 million annually, paid out of the Consolidated Fund. The final amount and timing of any financial implications depends on the outcome of negotiations with the EU and on policy decisions yet to be taken.

By the time the UK leaves the EU, the TRA will be required to investigate and propose trade remedies measures, operating within a framework that is consistent with our WTO obligations. The Government's intention is to ensure that UK companies have continuous access to a trade remedies service as the UK leaves the EU. Officials in the Department for International Trade are taking the necessary steps to ensure the TRA is operational in time to meet this commitment.

*Best wishes
Margot*

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