
STATUTORY INSTRUMENTS

2019 No. 450

**The Trade Remedies (Dumping and
Subsidisation) (EU Exit) Regulations 2019**

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.

(2) These Regulations come into force on 6th March 2019.

(3) These Regulations have effect subject to the modifications in Part 13 until the TRA is established.

(4) Following the establishment of the TRA, any preliminary decision or determination made by the Secretary of State under Parts 7, 9, 11 and 12 of these Regulations as modified by Part 13, has effect as though it were a recommendation made by the TRA under the corresponding unmodified provision.

(5) Following the establishment of the TRA, anything done (or having effect as if done) by the Secretary of State in pursuance of a transitional function has effect as if done by the TRA, so far as that is required for continuing its effect.

(6) Following the establishment of the TRA, anything done (or having effect as if done) in relation to the Secretary of State in connection with a transitional function has effect as if done in relation to the TRA, so far as that is required for continuing its effect.

(7) If, on the establishment of the TRA, anything is in the process of being done by or in relation to the Secretary of State in connection with a transitional function, it may, following the establishment of the TRA, be continued by or in relation to the TRA.

(8) A “transitional function” is a function which—

- (a) is conferred on the Secretary of State by the Part 13 these Regulations,
- (b) corresponds to a function that will, following the establishment of the TRA, be exercisable by the TRA under Parts 2 to 12 of these Regulations, and
- (c) following the establishment of the TRA, will not be exercisable by the Secretary of State.

Interpretation

2. In these Regulations—

“absorption review” has the meaning given by regulation 72 (absorption review);

“the Act” means the Taxation (Cross-border) Trade Act 2018;

“applicant UK industry” has the meaning given by paragraph 9(1)(a)(i) of Schedule 4 to the Act;

“application” means an application referred to in paragraph 9(1)(a) of Schedule 4 to the Act;

“circumvention review” has the meaning given by regulation 73 (circumvention review);

“comparable price” in relation to goods means the price of the goods, in the ordinary course of trade, destined for consumption in the exporting country or territory;

“contributor” means 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;

“expiry review” has the meaning given by regulation 70 (expiry review);

“the export price” in relation to goods means the price determined by the TRA in accordance with regulation 15 (export price);

“exporting country or territory” has the meaning given by regulation 3 (exporting country or territory);

“facilitation visit” means a visit conducted by the TRA, other than a verification visit, for the purpose of facilitating the progress of an investigation;

“goods concerned” means the goods described in the relevant notice of initiation of a dumping investigation under regulation 65(1) or of a subsidisation investigation under regulation 65(2);

“goods identified” means the goods in relation to which the applicant UK industry is requesting the TRA to conduct an investigation;

“goods subject to review” means the goods described in the notice of initiation of a review under paragraph 1 of Schedule 3;

“interested party” means—

- (a) a government of the relevant foreign country or territory;
- (b) an overseas exporter or importer of the goods concerned or the goods subject to review;
- (c) a trade or business association of producers, overseas exporters or importers of the goods concerned or the goods subject to review;
- (d) a producer of the like goods in the United Kingdom; or
- (e) a trade or business association of UK producers of the like goods;

“interim review” has the meaning given by regulation 69 (interim review);

“investigation” means a dumping investigation or a subsidisation investigation;

“minimal” means—

- (a) in the case of dumping, a dumping margin of less than 2 per cent. expressed as a percentage of the export price;
- (b) subject to paragraph (c), in the case of subsidisation, an amount of subsidy of less than 1 per cent. ad valorem; or
- (c) where the exporting country or territory is a developing foreign country or territory in sub-paragraph (b), for 1 per cent. substitute 2 per cent.;

“new exporter” has the meaning given by regulation 71 (new exporter review);

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“non-confidential summary” has the meaning given by regulation 45(6)(a);

“period of investigation” means a period of at least one year ending as close as possible to the date of the initiation of the investigation or such other period as the TRA considers appropriate;

prices are “depressed” or there is a “depressing” effect on prices where prices in the United Kingdom of the like goods are reduced;

prices are “suppressed” or there is a “suppressing” effect on prices where price increases in the United Kingdom of the like goods, which would otherwise have occurred, are prevented;

“price undercutting” means the price of the goods concerned or the goods subject to review is lower than the price of the like goods in the United Kingdom;

“review applicant” means a person who applies to the TRA for the initiation of a review;

“review application” means an application for a review made in accordance with Part 7;

“scope review” has the meaning given by regulation 74 (scope review);

“statement of essential facts” has the meaning given by regulation 62(1)(a);

“statement of reasons” has the meaning given by regulation 45(6)(b);

“subsidised imports” means goods that benefit from a countervailable subsidy that are imported into the United Kingdom;

“UK producer” has the meaning given by regulation 29 (disregarding a producer for the purpose of the definition of a UK industry);

“verification visit” means a visit conducted by the TRA to any premises the principal purpose of which is to verify information supplied to it in or with a completed questionnaire referred to in regulation 54 (registration of interest and the issuing of questionnaires);

“working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(1).

Meaning of “exporting country or territory”

3.—(1) For the purpose of these Regulations, the exporting country or territory of goods means the foreign country or territory from which the goods are exported.

(2) But the TRA may in appropriate circumstances consider the foreign country or territory of origin of the goods as the exporting country or territory where the goods are not exported directly to the United Kingdom from that foreign country or territory.

(3) The circumstances referred to in paragraph (2) include circumstances where—

- (a) the goods are merely transhipped through the foreign country or territory from which they are directly exported;
- (b) the goods are not produced in the foreign country or territory from which they are directly exported;
- (c) there is no comparable price in the foreign country or territory from which the goods are directly exported.

Meaning of “negligible” in relation to dumped goods

4. For the purpose of these Regulations, the volume of dumped goods is negligible where the exporting country or territory accounts for less than 3 per cent. of imports of the like goods imported into the United Kingdom, except where the exporting countries or territories individually account for less than 3 per cent. of imports of the like goods imported into the United Kingdom but collectively account for more than 7 per cent. of imports of the like goods into the United Kingdom.

Meaning of “negligible” in relation to subsidised imports

5.—(1) For the purpose of these Regulations, whether or not the volume of subsidised imports is negligible, in respect of an exporting country or territory that is not a developing country or territory,

(1) 1971 c.80.

is determined in accordance with paragraph (2), and in respect of an exporting country or territory that is a developing country or territory, is determined in accordance with paragraph (3).

(2) The volume of subsidised imports is negligible where the exporting country or territory that is not a developing country or territory accounts for less than 3 per cent. of imports of the like goods imported into the United Kingdom, except where the exporting countries or territories individually account for less than 3 per cent. of imports of the like goods imported into the United Kingdom but collectively account for more than 7 per cent. of imports of the like goods imported into the United Kingdom.

(3) The volume of subsidised imports is negligible where the exporting country or territory is a developing country or territory and imports from such a country or territory account for less than 4 per cent. of imports of the like goods imported into the United Kingdom, except where the developing countries or territories individually accounts for less than 4 per cent. of imports of the like goods imported into the United Kingdom, but collectively account for more than 9 per cent. of imports of the like goods imported into the United Kingdom.