

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Taxation (Cross-border Trade) Act 2018. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 4

DUMPING OF GOODS OR FOREIGN SUBSIDIES CAUSING INJURY TO UK INDUSTRY

Modifications etc. (not altering text)

- C1** Sch. 4 applied (6.3.2019) by [The Trade Remedies \(Dumping and Subsidisation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/450\)](#), regs. 1(2), **97(1)** (with Pt. 13) (as amended (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**)

PART 2

DUMPING AND SUBSIDISATION INVESTIGATIONS

Initiation of a dumping or a subsidisation investigation

- 9 (1) The TRA may initiate a dumping or a subsidisation investigation in relation to goods only if—
- (a) it is requested to initiate an investigation in an application made—
 - (i) by or on behalf of a UK industry in the goods (“the applicant UK industry”), or
 - (ii) in exceptional circumstances, by the Secretary of State,
 - (b) it is satisfied that the application contains sufficient evidence that—
 - (i) the goods have been or are being dumped in the United Kingdom and the dumping has caused or is causing injury to a UK industry in those goods, or
 - (ii) as the case may be, the goods have been or are being imported into the United Kingdom and are subsidised, and the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods,
 - (c) it is satisfied that it appears from that evidence that—
 - (i) the volume of dumped goods (whether actual or potential), and the injury, is more than negligible, and the margin of dumping in relation to those goods is more than minimal, or
 - (ii) as the case may be, the volume of subsidised goods (whether actual or potential), and the injury, is more than negligible, and the amount of the subsidy in relation to those goods is more than minimal, and
 - (d) the market share requirement is met or the TRA waives the requirement in relation to the application.
- (2) The market share requirement is met if—

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- (a) in the case of an application under sub-paragraph (1)(a)(i), the TRA is satisfied that the applicant UK industry has a share of the market for like goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation;
- (b) in the case of an application under sub-paragraph (1)(a)(ii), the TRA is satisfied that a UK industry in the goods has a share of the market for like goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation.

(3) Regulations may make provision about—

- (a) what constitutes or does not constitute an application made by or on behalf of a UK industry for the purposes of sub-paragraph (1)(a)(i);
- (b) when an application is made for the purposes of sub-paragraph (1)(a);
- (c) the information to be contained in such an application;
- (d) the time limit for determining such an application;
- (e) what constitutes or does not constitute “negligible” and “minimal” for the purposes of sub-paragraph (1)(c)(i) or (ii);
- (f) how it is to be determined for those purposes whether those thresholds have been exceeded;
- (g) what constitutes or does not constitute “the market for like goods for consumption in the United Kingdom” and a UK industry’s “share” of that market for the purposes of sub-paragraphs (1)(d) and (2);
- (h) how any of those matters are to be determined for the purposes of sub-paragraphs (1)(d) and (2).

[^{F1}(3A) Where the TRA receives an application under sub-paragraph (1)(a)(i), the TRA must notify the Secretary of State of the application before the end of the second working day after the day on which it receives the application.]

- (4) If any of the requirements of sub-paragraph (1)(a) to (d) in respect of a dumping or a subsidisation investigation (as the case may be) are not met, the TRA must reject the application and notify the applicant accordingly (unless it is the requirement in sub-paragraph (1)(a) that is not met because the application has been withdrawn).
- (5) If the requirements of sub-paragraph (1)(a) to (d) in respect of a dumping investigation are met, the TRA must [^{F2}notify the Secretary of State that it intends to initiate a dumping investigation and, after the relevant interval, must take the following steps in the order in which they are set out]—
 - (a) accept the application,
 - (b) notify the governments of the relevant foreign countries or territories,
 - (c) initiate the investigation,
 - (d) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and
 - (e) notify the Secretary of State and interested parties (see paragraph 32(3)) accordingly.
- (6) If the requirements of sub-paragraph (1)(a) to (d) in respect of a subsidisation investigation are met, the TRA must [^{F3}notify the Secretary of State that it intends to initiate a subsidisation investigation and, after the relevant interval, must take the following steps in the order in which they are set out]—
 - (a) accept the application,

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- [^{F4}(aa) invite the governments of the relevant foreign countries or territories to participate in consultations,]
- (b) ^{F5}... initiate the investigation,
- (c) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and
- (d) notify the Secretary of State and interested parties accordingly.
- [^{F6}(6A) In sub-paragraphs (5) and (6), the “relevant interval” is the period of two working days beginning with the first working day after the day on which the TRA notifies the Secretary of State of its intention to initiate the investigation.]
- (7) “Relevant foreign country or territory” means—
- (a) in the case of an application for a dumping investigation, the exporting foreign country or territory (within the meaning of paragraph 1(2)) of the alleged dumped goods;
- (b) in the case of an application for a subsidisation investigation, a foreign country or territory within whose territory is located a foreign authority which is alleged to have granted one or more of the subsidies in question.
- (8) Notices under sub-paragraphs (5)(d) and (e) and (6)(c) and (d) must specify the date of the initiation of the investigation.
- (9) Nothing in this paragraph prevents the TRA initiating both a dumping investigation and a subsidisation investigation in relation to the same goods if the requirements of sub-paragraph (1)(a) to (d) are met in the case of each investigation.
- [^{F7}(10) In this paragraph, “working day” means any day other than a Saturday, a Sunday or a day that is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.]

Textual Amendments

- F1** Sch. 4 para. 9(3A) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 2(1)(a), 17(2)**; S.I. 2023/918, reg. 2 (with reg. 3)
- F2** Words in Sch. 4 para. 9(5) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 2(1)(b), 17(2)**; S.I. 2023/918, reg. 2 (with reg. 3)
- F3** Words in Sch. 4 para. 9(6) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 2(1)(c)(i), 17(2)**; S.I. 2023/918, reg. 2 (with reg. 3)
- F4** Sch. 4 para. 9(6)(aa) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 2(1)(c)(ii), 17(2)**; S.I. 2023/918, reg. 2 (with reg. 3)
- F5** Words in Sch. 4 para. 9(6)(b) omitted (25.8.2023) by virtue of Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 2(1)(c)(iii), 17(2)**; S.I. 2023/918, reg. 2 (with reg. 3)
- F6** Sch. 4 para. 9(6A) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 2(1)(d), 17(2)**; S.I. 2023/918, reg. 2 (with reg. 3)
- F7** Sch. 4 para. 9(10) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 2(1)(e), 17(2)**; S.I. 2023/918, reg. 2 (with reg. 3)

Commencement Information

- I1** Sch. 4 para. 9 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(1)(c) and word inserted by [2023 c. 30 Sch. 20 para. 1\(2\)\(b\)](#)
- Sch. 7 para. 158(2)(e)(f) inserted by [S.I. 2022/109 reg. 5\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)