SCHEDULES

SCHEDULE 5

INCREASE IN IMPORTS CAUSING SERIOUS INJURY TO UK PRODUCERS

PART 4

DEFINITIVE REMEDIES: DEFINITIVE SAFEGUARDING AMOUNT & TARIFF RATE QUOTAS

TRA's duty to recommend a definitive safeguarding amount or tariff rate quota

16 (1) This paragraph applies where the TRA makes a final affirmative determination in relation to goods which are the subject of a safeguarding investigation.

(2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.

(3) The TRA may recommend to the Secretary of State—

(a) that an additional amount of import duty (referred to in this Schedule as a "definitive safeguarding amount") should be applicable for a specified period to all the relevant goods or to specified relevant goods;

(b) that all the relevant goods, or specified relevant goods, should be subject to a quota for a specified period during which a lower rate of import duty should be applicable to imports of goods within the amount of the quota than is applicable to imports of goods outside the amount of the quota (referred to in this Schedule as a "tariff rate quota").

(4) Where the TRA makes a recommendation under sub-paragraph (3)(a) in relation to relevant goods it must, as part of the recommendation, recommend to the Secretary of State how a definitive safeguarding amount applicable to those goods should be determined.

(5) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that—

[F1](a) . . . . . .

(b) there is in place an adjustment plan setting out how UK producers of the relevant goods intend to adjust to the importation of the goods in increased quantities.

(6) But sub-paragraph (5) is to be read as if paragraph (b) were omitted if the TRA waived the requirement for the application to initiate a safeguarding investigation in relation to the relevant goods to be accompanied by a preliminary adjustment plan.

(7) Regulations may make provision about the form and content of an adjustment plan.

(8) The TRA may only make a recommendation under one or other of paragraphs (a) and (b) of sub-paragraph (3) in relation to any particular relevant good.

(9) The TRA may make a recommendation under paragraph (a) or (b) of sub-paragraph (3) in relation to specified relevant goods (rather than all the relevant goods) only if the recommendations which it makes under that sub-paragraph, when taken together, cover all the relevant goods.

(10) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) in relation to all the relevant goods, or that there are one or more recommendations which it could make under sub-paragraph (3) in relation to specified relevant goods, it must make that recommendation or one of those recommendations (subject to sub-paragraphs (8) and (9)).

[[F2](10A) Where the TRA considers that there are two or more options which it could recommend under sub-paragraph (3)(a) or (b), in relation to relevant goods or descriptions of relevant goods, it may give the Secretary of State each of those options as part of its recommendation.

(10B) The Secretary of State may by regulations make provision requiring the TRA, in specified circumstances, to consider whether it could give the Secretary of State two or more options as part of its recommendation under sub-paragraph (3)(a) or (b) in relation to relevant goods or descriptions of relevant goods.

(10C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation in accordance with regulations under sub-paragraph (10B), the TRA considers that there is only one option which it could reasonably recommend under sub-paragraph (3)(a) or (b) in relation to relevant goods or descriptions of relevant goods, it must give the Secretary of State its reasons for reaching that conclusion.

(10D) Where the TRA gives the Secretary of State options, it must—

(a) give the Secretary of State its reasons for including each option, and

(b) inform the Secretary of State which option it prefers and why.

(10E) Where the TRA makes a recommendation under sub-paragraph (3) it must advise the Secretary of State whether and why it considers that applying a definitive safeguarding amount or making relevant goods subject to a quota in accordance with—

(a) its recommendation, or

(b) where the recommendation contains options given under sub-paragraph (10A), each option,

would meet the economic interest test (see paragraph 23).**]**

(11) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3) it must—

(a) publish notice of its final affirmative determination in relation to the goods,

(b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and

(c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.

Textual Amendments

F1 Sch. 5 para. 16(5)(a) omitted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by virtue of Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(1)(a)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F2 Sch. 5 para. 16(10A)-(10E) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(1)(b)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

Modifications etc. (not altering text)

C1 Sch. 5 para. 16(3) applied (2.3.2022) by The Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022 (S.I. 2022/113), regs. 1(1), **17(b)** (with reg. 3)

Commencement Information

I1 Sch. 5 para. 16 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

TRA's recommendations about a definitive safeguarding amount

17 (1) This paragraph applies to a recommendation by the TRA under paragraph 16(3)(a) in relation to goods.

(2) The specified period referred to in paragraph 16(3)(a)—

(a) must be such period as the TRA is satisfied is necessary—

(i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, and

(ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities,

(b) must not exceed 4 years (but see paragraph 21 regarding the possibility of extensions or other variations to that period following a review), and

(c) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.

(3) A recommendation under paragraph 16(3)(a) as to how a definitive safeguarding amount applicable to goods should be determined (see paragraph 16(4)) may be by reference to either or both of the following—

(a) the value of the goods, and

(b) the weight or volume of the goods or any other measure of their quantity or size.

(4) But that recommendation must be such that—

(a) a definitive safeguarding amount applicable to goods does not exceed the amount which the TRA is satisfied is necessary—

(i) to remove serious injury to UK producers of the goods, and

(ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities, and

(b) where the specified period referred to in paragraph 16(3)(a) exceeds 1 year, a definitive safeguarding amount applicable to goods becomes progressively smaller as the period progresses.

(5) Regulations may make provision for the purposes of sub-paragraph (4)(a) about how the amount which the TRA is satisfied is necessary for the purposes mentioned is to be determined.

(6) A recommendation under paragraph 16(3)(a) must include such other content as regulations may require.

(7) If a provisional safeguarding remedy has been applied to some or all of the goods as part of the same safeguarding investigation, sub-paragraph (8) applies for the purposes of sub-paragraphs (2)(b) and (4)(b).

(8) The length of the specified period referred to in paragraph 16(3)(a), so far as relating to goods to which a provisional safeguarding remedy has been applied, is to be treated as extended by the length of the specified period for which the TRA recommended that a provisional safeguarding remedy should be applied to them **[**[F3]or, where the TRA's recommendation contained options proposing different lengths, the length adopted by the Secretary of State**]**.

(9) Where the application of sub-paragraph (8) results in the length of the specified period referred to in paragraph 16(3)(a), so far as relating to goods to which a provisional safeguarding remedy has been applied, exceeding 1 year, sub-paragraph (4)(b) is to be read as if references to goods were references to the goods to which the provisional safeguarding remedy has been applied.

(10) In this paragraph, references to the application of a provisional safeguarding remedy are to—

(a) applying a provisional safeguarding amount to goods, or

(b) making goods subject to a provisional tariff rate quota.

[[F4](11) This paragraph has effect in relation to an option given by the TRA under paragraph 16(10A) as it has effect in relation to a recommendation by the TRA under paragraph 16(3)(a).**]**

Textual Amendments

F3 Words in Sch. 5 para. 17(8) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(2)(a)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F4 Sch. 5 para. 17(11) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(2)(b)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

Commencement Information

I2 Sch. 5 para. 17 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

TRA's recommendations regarding tariff rate quotas

18 (1) This paragraph applies to a recommendation by the TRA under paragraph 16(3)(b) in relation to goods.

(2) The specified period referred to in paragraph 16(3)(b)—

(a) must be such period as the TRA is satisfied is necessary—

(i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, and

(ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities,

(b) must not exceed 4 years (but see paragraph 21 regarding the possibility of extensions or other variations to that period following a review), and

(c) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.

(3) The recommendation must (in addition to the specified period) include—

(a) the TRA's recommendation regarding—

(i) the amount of the quota,

(ii) how the quota should be allocated, and

(iii) the rates of import duty that should be applied to goods subject to the quota, and

(b) such other content as regulations may require.

(4) The TRA must consult the Secretary of State before making a recommendation regarding the allocation of the quota.

(5) The things recommended by the TRA by virtue of sub-paragraph (3)(a)—

(a) must be such as the TRA is satisfied are necessary—

(i) to remove serious injury to UK producers of the goods, and

(ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities, and

(b) where the specified period referred to in paragraph 16(3)(b) exceeds 1 year, must be such that the amount of import duty applicable to goods subject to the quota becomes progressively smaller as the period progresses (whether by increases in the amount of the quota, decreases in the rates of import duty, or both).

(6) Regulations may make provision for the purposes of sub-paragraph (5)(a) about how the things which the TRA is satisfied are necessary for the purposes mentioned are to be determined.

(7) If a provisional safeguarding remedy has been applied to some or all of the goods as part of the same safeguarding investigation, sub-paragraph (8) applies for the purposes of sub-paragraphs (2)(b) and (5)(b).

(8) The length of the specified period referred to in paragraph 16(3)(b), so far as relating to goods to which a provisional safeguarding remedy has been applied, is to be treated as extended by the length of the specified period for which the TRA recommended that a provisional safeguarding remedy should be applied to them.

(9) Where the application of sub-paragraph (8) results in the length of the specified period referred to in paragraph 16(3)(b), so far as relating to goods to which a provisional safeguarding remedy has been applied, exceeding 1 year, sub-paragraph (5)(b) is to be read as if references to goods were references to the goods to which the provisional safeguarding remedy has been applied.

(10) In this paragraph, references to the application of a provisional safeguarding remedy are to—

(a) applying a provisional safeguarding amount to goods, or

(b) making goods subject to a provisional tariff rate quota.

[[F5](11) This paragraph has effect in relation to an option given by the TRA under paragraph 16(10A) as it has effect in relation to a recommendation by the TRA under paragraph 16(3)(b).**]**

Textual Amendments

F5 Sch. 5 para. 18(11) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(3)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

Commencement Information

I3 Sch. 5 para. 18 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

*Secretary of State's **[**[F6]powers in relation to a recommendation**]** to apply a definitive safeguarding amount*

Textual Amendments

F6 Words in Sch. 5 para. 19 cross-heading substituted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(4)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

19 (1) If the TRA makes a recommendation under paragraph 16(3)(a) that a definitive safeguarding amount should be applicable to goods, the Secretary of State must decide whether to accept or reject the recommendation.

[[F7](a)**]** decide whether to accept or reject the recommendation **[**[F8], or

(b) request that the TRA reassess its recommendation, by reference to any matters specified in the request, with a view to amending or replacing the recommendation.**]**

[[F9](1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 16(10A), the Secretary of State must decide which of those options to adopt.**]**

(2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that **[**[F10]it is not in the public interest to accept it**]**.

[[F11](2A) In considering that, the Secretary of State must have regard to the TRA's advice on whether applying a definitive safeguarding amount in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test (see paragraph 23).

(2B) Sub-paragraph (2C) applies if the recommendation is rejected.

(2C) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that—

(a) a definitive safeguarding amount should be applied to all the relevant goods, or to specified relevant goods, other than in accordance with the recommendation, or

(b) all the relevant goods, or specified relevant goods, should be subject to a tariff rate quota for a specified period.

(2D) But the Secretary of State may make a decision under sub-paragraph (2C) only if a recommendation under paragraph 16 to the same effect as the decision (ignoring any restrictions in paragraph 16 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 17 or 18, as the case may be.

(2E) Where the Secretary of State makes a decision under sub-paragraph (2C), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.**]**

(3) If the recommendation is rejected **[**[F12]and the Secretary of State does not make a decision under sub-paragraph (2C)**]**, the Secretary of State must—

(a) publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,

(b) notify interested parties (see paragraph 31(3)) accordingly, and

(c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

(4) If the recommendation is accepted, the Secretary of State—

(a) must publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation **[**[F13], including any particular option adopted by the Secretary of State,**]** and of the acceptance of it,

(b) must notify interested parties accordingly, and

(c) is required under section 13 to make provision by public notice to give effect to the recommendation.

[[F14](4A) The Secretary of State may only make a request under sub-paragraph (1)(b) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation that is relevant to the recommendation,

(b) the TRA has made an error in relation to its recommendation, or

(c) exceptional circumstances make the request appropriate.

(4B) Before making a request under sub-paragraph (1)(b), the Secretary of State must consult the TRA.

(4C) Where the Secretary of State makes a request under sub-paragraph (1)(b), the TRA must—

(a) comply with the request, and

(b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request.**]**

(5) See paragraphs 21 and 22 for variation or revocation of the application of a definitive safeguarding amount.

Textual Amendments

F7 Words in Sch. 5 para. 19(1) renumbered as Sch. 5 para. 19(1)(a) (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), Sch. 19 paras. 11(5)(a)(i), **17(1)**; S.I. 2023/918, **reg. 2** (with reg. 3)

F8 Sch. 5 para. 19(1)(b) and word inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(5)(a)(ii)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F9 Sch. 5 para. 19(1A) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(5)(b)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F10 Words in Sch. 5 para. 19(2) substituted for Sch. 5 para. 19(2)(a)(b) (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(5)(c)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F11 Sch. 5 para. 19(2A)-(2E) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(5)(d)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F12 Words in Sch. 5 para. 19(3) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(5)(e)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F13 Words in Sch. 5 para. 19(4)(a) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(5)(f)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F14 Sch. 5 para. 19(4A)-(4C) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(5)(g)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

Commencement Information

I4 Sch. 5 para. 19 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

*Secretary of State's **[**[F15]powers in relation to a recommendation**]** to subject goods to a tariff rate quota*

Textual Amendments

F15 Words in Sch. 5 para. 20 cross-heading substituted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(6)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

20 (1) If the TRA makes a recommendation under paragraph 16(3)(b) that goods should be subject to a tariff rate quota, the Secretary of State must .

[[F16](a)**]** decide whether to accept or reject the recommendation **[**[F17], or

(b) request that the TRA reassess its recommendation with a view to amending or replacing the recommendation.**]**

[[F18](1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 16(10A), the Secretary of State must decide which of those options to adopt.**]**

(2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that **[**[F19]it is not in the public interest to accept it**]**.

[[F20](2A) In considering that, the Secretary of State must have regard to the TRA's advice on whether applying a tariff rate quota in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test (see paragraph 23).

(2B) Sub-paragraph (2C) applies if the recommendation is rejected.

(2C) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that—

(a) all the relevant goods, or specified relevant goods, should be subject to a tariff rate quota, other than in accordance with the recommendation, or

(b) a definitive safeguarding amount should be applied for a specified period to all the relevant goods, or to specified relevant goods.

(2D) But the Secretary of State may make a decision under sub-paragraph (2C) only if a recommendation under paragraph 16 to the same effect as the decision (ignoring any restrictions in paragraph 16 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 17 or 18, as the case may be.

(2E) Where the Secretary of State makes a decision under sub-paragraph (2C), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.**]**

(3) If the recommendation is rejected **[**[F21]and the Secretary of State does not make a decision under sub-paragraph (2C)**]**, the Secretary of State must—

(a) publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,

(b) notify interested parties (see paragraph 31(3)) accordingly, and

(c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

(4) If the recommendation is accepted, the Secretary of State—

(a) must publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation **[**[F22], including any particular option adopted by the Secretary of State,**]** and of the acceptance of it,

(b) must notify interested parties accordingly, and

(c) is required under section 13 to make provision by public notice to give effect to the recommendation.

[[F23](4A) The Secretary of State may only make a request under sub-paragraph (1)(b) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation that is relevant to the recommendation,

(b) the TRA has made an error in relation to its recommendation, or

(c) exceptional circumstances make the request appropriate.

(4B) Before making a request under sub-paragraph (1)(b), the Secretary of State must consult the TRA.

(4C) Where the Secretary of State makes a request under sub-paragraph (1)(b), the TRA must—

(a) comply with the request, and

(b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request.**]**

(5) See paragraphs 21 and 22 for variation or revocation of a tariff rate quota.

Textual Amendments

F16 Words in Sch. 5 para. 20(1) renumbered as Sch. 5 para. 20(1)(a) (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), Sch. 19 paras. 11(7)(a)(i), **17(1)**; S.I. 2023/918, **reg. 2** (with reg. 3)

F17 Sch. 5 para. 20(1)(b) and word inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(7)(a)(ii)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F18 Sch. 5 para. 20(1A) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(7)(b)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F19 Words in Sch. 5 para. 20(2) substituted for Sch. 5 para. 20(2)(a)(b) (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(7)(c)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F20 Sch. 5 para. 20(2A)-(2E) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(7)(d)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F21 Words in Sch. 5 para. 20(3) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(7)(e)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F22 Words in Sch. 5 para. 20(4)(a) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(7)(f)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

F23 Sch. 5 para. 20(4A)-(4C) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(7)(g)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

Commencement Information

I5 Sch. 5 para. 20 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

Reviews

21 (1) Regulations may make provision for, or in connection with, reviews by the TRA of the continuing application of a definitive safeguarding amount or the continuation of a tariff rate quota.

(2) References in this paragraph to "a review" are to a review by virtue of provision made under sub-paragraph (1).

(3) Regulations under sub-paragraph (1) may, among other things, provide for a review to consider—

(a) whether the continuing application of a definitive safeguarding amount, or the continuation of a tariff rate quota, is necessary—

(i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, or

(ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities;

(b) whether serious injury to UK producers of the goods would be likely to continue or recur if the application of a definitive safeguarding amount were to expire or be varied or revoked or if a tariff rate quota were to expire or be varied or revoked;

(c) whether replacing the application of a definitive safeguarding amount with a tariff rate quota, or replacing a tariff rate quota with the application of a definitive safeguarding amount, would better meet the aim of—

(i) removing serious injury to UK producers of the goods, or

(ii) facilitating the adjustment of those UK producers to the importation of the goods in increased quantities;

(d) whether an adjustment plan as referred to in paragraph 16(5)(b) is being complied with.

(4) Regulations under sub-paragraph (1) may, among other things, make—

(a) provision for the TRA to investigate certain matters;

(b) provision for the period for which a definitive safeguarding amount applies to goods by public notice under section 13, or for which goods are subject to a tariff rate quota by public notice under that section, to be treated as continuing (where it would otherwise cease to do so) while a review is ongoing;

[[F24](ba) provision corresponding or similar to any provision made by or under this Schedule in relation to a safeguarding investigation, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(bb) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA;**]**

(c) other provision about the conduct of a review.

(5) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of sub-paragraph (4)(c) in relation to a review as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

(6) Regulations may make provision for or in connection with—

(a) the TRA recommending to the Secretary of State that—

(i) the application of a definitive safeguarding amount to goods should be varied, revoked or replaced with a tariff rate quota, or

(ii) a tariff rate quota to which goods are subject should be varied, revoked or replaced with the application of a definitive safeguarding amount, [F25]...

[[F26](aa) the TRA giving the Secretary of State options as part of a recommendation, and**]**

(b) **[**[F27]the Secretary of State's powers in relation to**]** such a recommendation.

(7) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State **[**[F28]decides**]** that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked, the Secretary of State—

(a) must publish notice of the **[**[F29]decision**]**,

(b) must notify interested parties (see paragraph 31(3)) accordingly, and

(c) is required under section 13 to make provision by public notice to give effect to the **[**[F30]decision**]**.

(8) The variation of the application of a definitive safeguarding amount to goods which the TRA may recommend to the Secretary of State **[**[F31], or which the Secretary of State may decide to make other than in accordance with a recommendation,**]** by virtue of regulations under sub-paragraph (6) may take the form of one or both of the following—

(a) varying the period for which a definitive safeguarding amount is applicable (including extending it beyond the period referred to in paragraph 17(2)(b));

(b) varying how a definitive safeguarding amount should be determined such that a lower amount of import duty is applicable.

(9) The variation of a tariff rate quota which the TRA may recommend to the Secretary of State **[**[F32], or which the Secretary of State may decide to make other than in accordance with a recommendation,**]** by virtue of regulations under sub-paragraph (6) may take the form of one or more of the following—

(a) increasing the amount of the quota;

(b) varying the allocation of the quota;

(c) reducing the rates of import duty that apply to goods subject to the quota;

(d) reducing the part of the period for which the amount of the quota is lower or for which import duty at a higher rate applies (so that the amount of the quota is increased, or import duty applies at a lower rate, more quickly);

(e) varying the period for which goods are subject to the quota (including extending it beyond the period referred to in paragraph 18(2)(b)).

(10) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State **[**[F33]decides**]** that, for the first time, a definitive safeguarding amount should be applicable to goods or goods should be subject to a tariff rate quota, the Secretary of State—

(a) must publish notice of the **[**[F34]decision**]**,

(b) must notify interested parties accordingly, and

(c) is required under section 13 to make provision by public notice to give effect to the **[**[F35]decision**]**.

Textual Amendments

F24 Sch. 5 para. 21(4)(ba)(bb) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(a)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F25 Word in Sch. 5 para. 21(6)(a) omitted (25.8.2023) by virtue of Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(b)(i)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F26 Sch. 5 para. 21(6)(aa) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(b)(ii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F27 Words in Sch. 5 para. 21(6)(b) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(b)(iii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F28 Word in Sch. 5 para. 21(7) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(c)(i)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F29 Word in Sch. 5 para. 21(7)(a) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(c)(ii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F30 Word in Sch. 5 para. 21(7)(c) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(c)(iii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F31 Words in Sch. 5 para. 21(8) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(d)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F32 Words in Sch. 5 para. 21(9) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(e)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F33 Word in Sch. 5 para. 21(10) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(f)(i)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F34 Word in Sch. 5 para. 21(10)(a) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(f)(ii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F35 Word in Sch. 5 para. 21(10)(c) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(1)(f)(iii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

Commencement Information

I6 Sch. 5 para. 21 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

Variation or revocation following an international dispute decision

22 (1) Regulations may make provision for or in connection with—

(a) the TRA recommending to the Secretary of State that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked in light of an international dispute decision, and

(b) **[**[F36]the Secretary of State's powers in relation to**]** such a recommendation.

(2) The regulations may, among other things—

(a) provide for the TRA to investigate certain matters for the purposes of determining whether to make a recommendation to the Secretary of State and what to recommend;

(b) make provision about the conduct of such an investigation;

(c) provide for the suspension, by public notice given by the Secretary of State, of the application of a definitive safeguarding amount or the making of goods subject to a tariff rate quota.

[[F37](d) make provision corresponding or similar to any provision made by or under this Schedule in relation to safeguarding investigations, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(e) make provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA.**]**

(3) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of sub-paragraph (2)(b) in relation to such an investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

(4) Where, by virtue of provision made under the regulations, the Secretary of State **[**[F38]decides**]** that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked, the Secretary of State—

(a) must publish notice of the **[**[F39]decision**]**,

(b) must notify interested parties (see paragraph 31(3)) accordingly, and

(c) is required under section 13 to make provision by public notice to give effect to the **[**[F40]decision**]**.

(5) Paragraph 21(8) and (9) apply for the purposes of regulations under this paragraph as they apply for the purposes of regulations under paragraph 21(6).

(6) An "international dispute decision" means—

(a) a report of a panel or Appellate Body that is adopted by the Dispute Settlement Body of the WTO, or

(b) if not within paragraph (a), a decision under the dispute settlement procedures of an arrangement relating to trade to which Her Majesty's government in the United Kingdom is a party with the government of a foreign country or territory.

Textual Amendments

F36 Words in Sch. 5 para. 22(1)(b) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(2)(a)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F37 Sch. 5 para. 22(2)(d)(e) inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(2)(b)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F38 Word in Sch. 5 para. 22(4) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(2)(c)(i)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F39 Word in Sch. 5 para. 22(4)(a) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(2)(c)(ii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

F40 Word in Sch. 5 para. 22(4)(c) substituted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 12(2)(c)(iii)**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

Commencement Information

I7 Sch. 5 para. 22 in force at 30.1.2020 by S.I. 2020/97, **reg. 3** (with Sch. para. 2)

[[F41]*Revocation in the public interest*

Textual Amendments

F41 Sch. 5 para. 22A and cross-heading inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 13**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

22A (1) The Secretary of State may decide that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, is to be revoked in the absence of a recommendation from the TRA where the Secretary of State considers that revocation is in the public interest.

(2) Before making a decision under sub-paragraph (1) the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(3) Where the Secretary of State makes a decision under sub-paragraph (1), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.**]**

[F42 Power to request assistance etc

Textual Amendments

F42 Sch. 5 para. 22B and cross-heading inserted (25.8.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 14**, 17(2); S.I. 2023/918, reg. 2 (with reg. 3)

22B (1) The Secretary of State may request that the TRA give advice, information or other support to the Secretary of State for the purpose of allowing the Secretary of State to decide whether to make a decision under any of the following—

(a) paragraphs 14(2C) and 15(2C) (decisions to adopt a provisional remedy other than in accordance with a recommendation);

(b) paragraphs 19(2C) and 20(2C) (decisions to adopt a final remedy other than in accordance with a recommendation);

(c) paragraph 22A(1) (decision to revoke a final remedy in the absence of a recommendation).

(2) The Secretary of State may include in a request under sub-paragraph (1) a requirement that the TRA investigate and provide a report on any matter specified in the request.

(3) Before making a request under sub-paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under sub-paragraph (1).**]**

Changes to legislation:
There are currently no known outstanding effects for the Taxation (Cross-border Trade) Act 2018, PART 4.