STATUTORY INSTRUMENTS

2024 No. 545

CUSTOMS
TRADE

The Trade Remedies (Amendment) Regulations 2024

Made - - - -	*17th April 2024*
Laid before the House of Commons - - - -	*23rd April 2024*
Coming into force - -	*23rd May 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 13(5) and 32(7) and (8) of, paragraphs 10, 16, 17(8B), 19(6), 21, 22, 26, 30 and 31 of Schedule 4 to, and paragraphs 21, 24 and 29 of Schedule 5 to the Taxation (Cross-border Trade) Act 2018 ("the 2018 Act") (**1**), and paragraph 16(1) of Schedule 19 to the Finance (No. 2) Act 2023(**2**).

Further to section 28 of the 2018 Act, the Secretary of State, in exercising the function of making these Regulations, has had regard to international arrangements to which His Majesty's government in the United Kingdom is a party that are relevant to the exercise of that function.

In accordance with section 32(12) of the 2018 Act, the Secretary of State has consulted the Trade Remedies Authority(**3**).

Part 1

Introductory

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Trade Remedies (Amendment) Regulations 2024.

(2) These Regulations come into force on 23rd May 2024.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(4) In these Regulations, "the Dumping and Subsidisation Regulations" means the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019(**4**).

(**1**) 2018 c.22. Section 13 and Schedules 4 and 5 were amended by Schedules 19 and 20 to the Finance (No. 2) Act 2023 (c. 30).
(**2**) 2023 c. 30.
(**3**) The Trade Remedies Authority was established by section 6 of the Trade Act 2021 (c. 10).
(**4**) S.I. 2019/450, relevant amending instruments are S.I. 2019/1076, 1346, 2020/99, 730, 2021/942, 2022/113, 414, 2023/955.

Application

2.—(1) Part 2 of these Regulations applies in relation to—

(a) dumping investigations and subsidisation investigations(**5**) initiated by the TRA after the commencement of these Regulations,

(b) reviews under Part 7 or Part 12 of the Dumping and Subsidisation Regulations initiated by the TRA after the commencement of these Regulations,

(c) a recommendation made by the TRA under Part 9 of the Dumping and Subsidisation Regulations and a suspension application made under regulation 86(1) of the Dumping and Subsidisation Regulations after the commencement of these Regulations,

(d) investigations under Part 9A of the Dumping and Subsidisation Regulations initiated by the TRA after the commencement of these Regulations, and

(e) transition reviews under Part 12 of the Dumping and Subsidisation Regulations initiated by the TRA before the commencement of these Regulations, if a statement of essential facts has not been published before the commencement of these Regulations, and for the purposes of this sub-paragraph—

"transition review" has the meaning given in regulation 94(1) of the Dumping and Subsidisation Regulations, and

"statement of essential facts" has the meaning given in regulation 62 of the Dumping and Subsidisation Regulations.

(2) For the purposes of paragraph (1), "initiated by the TRA" means—

(a) in the case of a dumping investigation or a subsidisation investigation, that the TRA has published a notice of its decision to initiate the investigation;

(b) in the case of a review under Part 7 or Part 12 of the Dumping and Subsidisation Regulations, that the TRA has published a notice of initiation of a review under that Part;

(c) in the case of an investigation under Part 9A of the Dumping and Subsidisation Regulations, that the TRA has published a notice of its initiation of an international dispute investigation under regulation 88C of those Regulations.

Part 2

Amendment of the Dumping and Subsidisation Regulations

Chapter 1

General

Amendment of the Dumping and Subsidisation Regulations

3. The Dumping and Subsidisation Regulations are amended in accordance with this Part.

Chapter 2

Amendment of Part 1 (introductory)

Amendment of regulation 2 (interpretation)

4. In regulation 2—

(**5**) See paragraph 8 of Schedule 4 to the Taxation (Cross-border Trade) Act 2018 for the meanings of "dumping investigation" and "subsidisation investigation".

(a) at the appropriate place, insert—

""early review" has the meaning given by regulation 68A;";

(b) in the definition of "review application", at the end insert ", but does not include a request by the Secretary of State under regulation 67(A1) that the TRA undertakes an early review".

Chapter 3

Amendment of Part 6 (initiation and conduct of an investigation)

Amendment of regulation 54 (registration of interest and the issuing of questionnaires)

5. Omit regulation 54(7).

Insertion of regulation 61A

6. After regulation 61, insert—

"**Alternative options for final affirmative determination**

61A. The TRA must consider giving two or more options as part of its recommendation to the Secretary of State under paragraph 17(3) or (4) of Schedule 4 to the Act in the following circumstances—

(a) where the TRA considers that applying an anti-dumping amount or a countervailing amount in accordance with its proposed recommendation would not meet the economic interest test;

(b) where the TRA otherwise considers that it is appropriate.".

Amendment of regulation 65 (content of notices)

7. In regulation 65—

(a) in paragraph (4), for "15(4)(a)" substitute "15(3D), (4)(a)";

(b) omit paragraph (5);

(c) in paragraph (6)—

(i) omit "of Schedule 4";

(ii) after "or a countervailing amount)", insert "and paragraph 20A(4) (Secretary of State's decision to apply an alternative remedy) of Schedule 4 to the Act";

(d) in paragraph (9), omit "(5),".

Chapter 4

Amendment of Part 7 (initiation and conduct of a review)

Amendment of regulation 67 (initiation of a review)

8. In regulation 67—

(a) before paragraph (1), insert—

"(A1) The Secretary of State may, within 60 days of the application, variation, extension or suspension of an anti-dumping amount or a countervailing amount pursuant to Part 4 of Schedule 4 to the Act, or Part 7, Part 9, Part 9A or Part 12 of these Regulations, request that the TRA undertakes an early review.

(B1) Paragraph (A1) does not apply in relation to an anti-dumping amount or a countervailing amount which is maintained or varied as a result of an early review.

(C1) The Secretary of State may request an early review where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation or review that is relevant to the anti-dumping amount or countervailing amount;

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

(c) exceptional circumstances make the request appropriate.

(D1) Before making a request under paragraph (A1), the Secretary of State must consult the TRA.

(E1) Where the Secretary of State makes a request under paragraph (A1), the TRA must comply with the request.";

(b) after paragraph (6), insert—

"(6A) Where the TRA initiates an early review, it must take then the following steps in the order in which they are set out—

(a) publish a notice (a notice of initiation of a review); and

(b) notify the Secretary of State and interested parties.";

(c) in paragraph (7)—

(i) for the opening words substitute—

"Where the TRA has made a determination to initiate a review other than an early review, the TRA must notify the Secretary of State that it intends to initiate the review and, after the relevant interval, must take the following steps in the order in which they are set out—";

(ii) before sub-paragraph (a), insert—

"(za) initiate the review;";

(d) after paragraph (7), insert—

"(7A) In paragraph (7), 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 review.";

(e) in paragraph (9), omit "and the Secretary of State".

Amendment of regulation 68 (the conduct of a review)

9. In regulation 68—

(a) after paragraph (6), insert—

"(6A) The TRA must terminate an early review on the request of the Secretary of State.";

(b) in paragraph (11), after the opening words, insert—

"(za) an early review where the TRA considers varying the level of an anti-dumping amount or a countervailing amount;".

Insertion of regulation 68A

10. After regulation 68, insert—.

"**Early review**

68A.—(1) The TRA may conduct a review (an "early review") to consider whether—

(a) to vary the application of an anti-dumping amount or a countervailing amount;

(b) to vary the suspension of the application of such an amount; or

(c) to revoke the application of such an amount.

(2) When conducting the early review, the TRA must have regard to any particular considerations which the Secretary of State may specify in the request made under regulation 67(A1).

(3) Where the TRA——

(a) receives a request from the Secretary of State under regulation 67(A1) to undertake an early review; and

(b) accepts an application under Chapter 2 of Part 2 of the Reconsideration and Appeals Regulations 2019 for reconsideration of an original decision to which the request under sub-paragraph (a) relates,

the TRA must take into account any notice published or public notice issued under regulation 14 of the Reconsideration and Appeals Regulations 2019 in relation to that reconsideration in any determination under this regulation.

(4) For the purposes of paragraph (3)—

"the Reconsideration and Appeals Regulations 2019" means the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019(**6**);

"original decision" has the meaning given in regulation 9(1) of the Reconsideration and Appeals Regulations 2019.

(5) Following the conclusion of an early review, the TRA may determine that the application or suspension of an anti-dumping amount or a countervailing amount should be—

(a) maintained in accordance with the relevant public notice made under section 13 of the Act;

(b) varied; or

(c) revoked.".

Amendment of regulation 69 (interim review)

11. In regulation 69—

(a) after paragraph (6), insert—

"(6A) Where the TRA proposes to make a determination under paragraph (6)(a) the TRA must notify the Secretary of State of its proposed determination.

(6B) Where the Secretary of State has been notified in accordance with paragraph (6A), the Secretary of State may, within the relevant period (and subject to paragraph (6C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(6C) The Secretary of State may only make a request under paragraph (6B) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;

(**6**) S.I. 2019/910, amended by section 74(11) of the Finance Act 2022 (c.3) and S.I. 2020/99, 730, 2022/113, 414, 2024/519.

(b) the TRA has made an error in relation to its proposed determination; or

(c) exceptional circumstances make the request appropriate.

(6D) The TRA must comply with a request under paragraph (6B).

(6E) The TRA may not make its proposed determination until—

(a) the relevant period has ended; or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (6B), the time when the TRA receives that information.

(6F) For the purposes of paragraphs (6B) and (6E), the "relevant period" is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.";

(b) in paragraph (10), for the words from "may make" to the end substitute "must conduct the economic interest test (see paragraph 25 of Schedule 4 to the Act)".

Amendment of regulation 70 (expiry review)

12. In regulation 70—

(a) in paragraph (9), for the words after "regulation 76" to the end, substitute "(powers of the Secretary of State in relation to the TRA's recommendation) or made a decision under regulation 76A (Secretary of State's power to apply an alternative remedy)";

(b) after paragraph (11), insert—

"(11A) Where the TRA proposes to make a determination under paragraph (11)(a) the TRA must notify the Secretary of State of its proposed determination.

(11B) Where the Secretary of State has been notified in accordance with paragraph (11A), the Secretary of State may, within the relevant period (and subject to paragraph (11C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(11C) The Secretary of State may only make a request under paragraph (11B) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;

(b) the TRA has made an error in relation to its proposed determination; or

(c) exceptional circumstances make the request appropriate.

(11D) The TRA must comply with a request under paragraph (11B).

(11E) The TRA may not make its proposed determination until—

(a) the relevant period has ended; or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (11B), the time when the TRA receives that information.

(11F) For the purposes of paragraphs (11B) and (11E), the "relevant period" is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.

(11G) Where the TRA makes a determination under paragraph (11)(a) after the date on which the application of the relevant anti-dumping amount or countervailing amount would, but for paragraph (9), have ended as set out in the original public notice under section 13 relating to the amount (the "original expiry date")—

(a) the Secretary of State must provide by public notice for the application of the relevant anti-dumping amount or countervailing amount to be treated as having ended on the original expiry date; and

(b) a public notice under sub-paragraph (a) must contain the information set out in paragraph 1A of Schedule 3.";

(c) in paragraph (12), for the words from "may make" to "meets" substitute "must conduct".

Amendment of regulation 71 (new exporter review)

13. In regulation 71, after paragraph (6), insert—

"(6A) Where the TRA proposes to make a determination under paragraph (6)(a) the TRA must notify the Secretary of State of its proposed determination.

(6B) Where the Secretary of State has been notified in accordance with paragraph (6A), the Secretary of State may, within the relevant period (and subject to paragraph (6C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(6C) The Secretary of State may only make a request under paragraph (6B) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;

(b) the TRA has made an error in relation to its proposed determination; or

(c) exceptional circumstances make the request appropriate.

(6D) The TRA must comply with a request under paragraph (6B).

(6E) The TRA may not make its proposed determination until—

(a) the relevant period has ended; or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (6B), the time when the TRA receives that information.

(6F) For the purposes of paragraphs (6B) and (6E), the "relevant period" is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.".

Amendment of regulation 72 (absorption review)

14. In regulation 72, after paragraph (7), insert—

"(8) Where the TRA proposes to make a determination under paragraph (7)(a) the TRA must notify the Secretary of State of its proposed determination.

(9) Where the Secretary of State has been notified in accordance with paragraph (8), the Secretary of State may, within the relevant period (and subject to paragraph (10)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(10) The Secretary of State may only make a request under paragraph (9) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;

(b) the TRA has made an error in relation to its proposed determination; or

(c) exceptional circumstances make the request appropriate.

(11) The TRA must comply with a request under paragraph (9).

(12) The TRA may not make its proposed determination until—

(a) the relevant period has ended; or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (9), the time when the TRA receives that information.

(13) For the purposes of paragraphs (9) and (12), the "relevant period" is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.".

Amendment of regulation 73 (circumvention review)

15. In regulation 73, after paragraph (7), insert—

"(7A) Where the TRA proposes to make a determination under paragraph (7)(a) the TRA must notify the Secretary of State of its proposed determination.

(7B) Where the Secretary of State has been notified in accordance with paragraph (7A), the Secretary of State may, within the relevant period (and subject to paragraph (7C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(7C) The Secretary of State may only make a request under paragraph (7B) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;

(b) the TRA has made an error in relation to its proposed determination; or

(c) exceptional circumstances make the request appropriate.

(7D) The TRA must comply with a request under paragraph (7B).

(7E) The TRA may not make its proposed determination until—

(a) the relevant period has ended; or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (7B), the time when the TRA receives that information.

(7F) For the purposes of paragraphs (7B) and (7E), the "relevant period" is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.".

Amendment of regulation 74 (scope review)

16. In regulation 74, after paragraph (5), insert—

"(6) Where the TRA proposes to make a determination under paragraph (5)(a) the TRA must notify the Secretary of State of its proposed determination.

(7) Where the Secretary of State has been notified in accordance with paragraph (6), the Secretary of State may, within the relevant period (and subject to paragraph (8)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(8) The Secretary of State may only make a request under paragraph (7) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;

(b) the TRA has made an error in relation to its proposed determination; or

(c) exceptional circumstances make the request appropriate.

(9) The TRA must comply with a request under paragraph (7).

(10) The TRA may not make its proposed determination until—

(a) the relevant period has ended; or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (7), the time when the TRA receives that information.

(11) For the purposes of paragraphs (7) and (10), the "relevant period" is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.".

Amendment of regulation 75 (TRA recommendation to the Secretary of State)

17. In regulation 75—

(a) in paragraph (1), omit "(where applicable) the economic interest test is met and that";

(b) after paragraph (2), insert—

"(2A) Where, in relation to an early review, an interim review or an expiry review, the TRA considers that there are two or more options which it could recommend under paragraph (1), it may give the Secretary of State each of those options as part of its recommendation.

(2B) The TRA must consider whether it could give the Secretary of State two or more options as part of its recommendation under paragraph (1)—

(a) in the case of an interim review or an expiry review, where the TRA considers that applying an anti-dumping amount or a countervailing amount in accordance with its proposed recommendation would not meet the economic interest test; or

(b) where the TRA otherwise considers that it is appropriate.

(2C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation in accordance with paragraph (2A), the TRA considers that there is only one option which it could reasonably recommend under paragraph (1), it must give the Secretary of State its reasons for reaching that conclusion.

(2D) 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.

(2E) Where, in the case of an interim review or an expiry review, the TRA makes a recommendation under paragraph (1) to extend the application of an anti-dumping amount or a countervailing amount, it must advise the Secretary of State whether and why it considers that the extension of the application of that amount in accordance with its recommendation, or in accordance with each option, as the case may be, would meet the economic interest test.".

Amendment of regulation 76 (acceptance or rejection of the TRA's recommendation by the Secretary of State)

18. In regulation 76—

(a) for the heading substitute "**Powers of the Secretary of State in relation to the TRA's recommendation**";

(b) In paragraph (1), for "accept or reject the recommendation" substitute—

"—

(a) accept or reject the recommendation; or

(b) except in the case of a recommendation made in relation to an early review under regulation 68A, 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.";

(c) after paragraph (1), insert—

"(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 75(2A), the Secretary of State must decide which of those options to adopt.";

(d) In paragraph (3), for the words from "following an" to the end, substitute "following an interim or expiry review, the Secretary of State must have regard to the TRA's advice on whether the application of an anti-dumping amount or a countervailing amount to goods in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test";

(e) in paragraph (4), after "rejects the TRA's recommendation", insert "and does not make a decision under regulation 76A";

(f) after paragraph (5), insert—

"(6) Where the Secretary of State accepts the TRA's recommendation, the Secretary of State may decide that the date from which any variation has effect is a date before the date of the recommendation by the TRA.

(7) The Secretary of State may only make a request under paragraph (1)(b) where the Secretary of State considers that—

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

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

(c) exceptional circumstances make the request appropriate.

(8) Before making a request under paragraph (1)(b), the Secretary of State must consult the TRA.

(9) Where the Secretary of State makes a request under 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.".

Insertion of regulations 76A and 76B

19. After regulation 76 and before Part 8, insert—

"**Secretary of State's power to apply an alternative remedy**

76A.—(1) This regulation applies where—

(a) the TRA makes a recommendation under regulation 75(1)(a), (c) or (d); and

(b) the Secretary of State rejects the recommendation.

(2) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that the application of the anti-dumping amount or countervailing amount should be—

(a) varied or applied, or the period of application of that amount extended, other than in accordance with the recommendation, subject to paragraph (3) where applicable; or

(b) revoked.

(3) Where the Secretary of State makes a decision under paragraph (2)(a) in respect of—

(a) a recommendation made by the TRA following a determination by the TRA under regulation 69(11), the restriction in regulation 69(12) applies to the Secretary of State's decision;

(b) a recommendation made by the TRA following a determination by the TRA under regulation 72(7), the restriction in regulation 72(6) applies to the Secretary of State's decision.

(4) Where the Secretary of State makes a decision under paragraph (2), the Secretary of State may decide that the date from which any revocation or variation has effect is a date before the date of the decision by the Secretary of State.

(5) Where the Secretary of State makes a decision under paragraph (2)—

(a) the notice published by the Secretary of State under paragraph 21(7)(a) of Schedule 4 to the Act must contain the information set out in paragraph 3 of Schedule 3; and

(b) the Secretary of State must lay a statement before the House of Commons setting out the reasons for the decision.

Power to request assistance etc. from TRA

76B.—(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 regulation 76A(2).

(2) The Secretary of State may include in a request under 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 paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under paragraph (1).".

Chapter 5

Amendment of Part 9 (suspension)

Amendment of regulation 85 (suspension of an anti-dumping amount or a countervailing amount)

20. In regulation 85—

(a) in paragraph (9), for "accept or reject it" substitute—

"—

(a) accept or reject the recommendation; 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.";

(b) after paragraph (11), insert—

"(11A) Paragraph (11B) applies if the recommendation is rejected.

(11B) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide to vary the period of suspension specified by the TRA, subject to regulation 87(1).

(11C) Where the Secretary of State makes a decision under paragraph (11B)—

(a) the notice published by the Secretary of State under paragraph 26(6)(a) of Schedule 4 to the Act must contain the information set out in paragraph 1 of Schedule 5; and

(b) the Secretary of State must lay a statement before the House of Commons setting out the reasons for the decision.";

(c) in paragraph (12), after "rejects a suspension recommendation", insert "and does not make a decision under paragraph (11B)";

(d) after paragraph (13), insert—

"(14) The Secretary of State may only make a request under paragraph (9)(b) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its consideration of whether the circumstances in paragraph (4) exist that is relevant to that consideration;

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

(c) exceptional circumstances make the request appropriate.

(15) Before making a request under paragraph (9)(b), the Secretary of State must consult the TRA.

(16) Where the Secretary of State makes a request under paragraph (9)(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.".

Amendment of regulation 86 (application for suspension)

21. In regulation 86, after paragraph (2), insert—

"(2A) Where an application is made under paragraph (1) the TRA must notify the Secretary of State of that application before the end of the second working day after the day on which it receives the application.".

Amendment of regulation 87 (period of suspension)

22. In regulation 87—

(a) in paragraph (7), for "accept or reject it" substitute—

"__

(a) accept or reject the recommendation; 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";

(b) after paragraph (9), insert—

"(9A) Paragraph (9B) applies if the recommendation is rejected.

(9B) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide to vary the extended period of suspension, subject to paragraph (9C).

(9C) Where the Secretary of State decides to vary the extended period of suspension—

(a) the overall duration of the extended period of suspension must not exceed 21 months; and

(b) the extended period of suspension must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the decision.

(9D) Where the Secretary of State makes a decision under paragraph (9B)—

(a) the notice published by the Secretary of State under paragraph 26(6)(a) of Schedule 4 to the Act must contain the information set out in paragraph 3 of Schedule 5; and

(b) the Secretary of State must lay a statement before the House of Commons setting out the reasons for the decision.";

(c) in paragraph (10), after "rejects a recommendation", insert "and does not make a decision under paragraph (9B)";

(d) after paragraph (10), insert—

"(11) The Secretary of State may only make a request under paragraph (7)(b) where the Secretary of State considers that—

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

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

(c) exceptional circumstances make the request appropriate.

(12) Before making a request under paragraph (7)(b), the Secretary of State must consult the TRA.

(13) Where the Secretary of State makes a request under paragraph (7)(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.".

Insertion of regulation 88ZA

23. After regulation 88 and before Part 9A, insert—

"**Power to request assistance etc. from TRA**

88ZA.—(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 regulation 85(11B) or 87(9B).

(2) The Secretary of State may include in a request under 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 paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under paragraph (1).".

Chapter 6

Amendment of Part 9A (investigation in light of an international dispute decision)

Amendment of regulation 88B (suspension of an anti-dumping amount or a countervailing amount)

24. Omit regulation 88B(3)(a)(ii).

Amendment of regulation 88F (determination to maintain)

25. In regulation 88F—

(a) in paragraph (1), for "determines" substitute "proposes to determine that";

(b) after paragraph (1), insert—

"(1A) The TRA must notify the Secretary of State of its proposed determination.

(1B) Where the Secretary of State has been notified in accordance with paragraph (1A), the Secretary of State may, within the relevant period (and subject to paragraph (1C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(1C) The Secretary of State may only make a request under paragraph (1B) 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 proposed determination;

(b) the TRA has made an error in relation to its proposed determination; or

(c) exceptional circumstances make the request appropriate.

(1D) The TRA must comply with a request under paragraph (1B).

(1E) The TRA may not make its proposed determination until—

(a) the relevant period has ended; or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (1B), the time when the TRA receives that information.

(1F) For the purposes of paragraphs (1B) and (1E), the "relevant period" is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.".

Amendment of regulation 88G (determination to vary)

26. In regulation 88G—

(a) for paragraph (1) substitute—

"(1) If the TRA determines the application to goods of an anti-dumping amount or a countervailing amount should be varied, the TRA must make a recommendation to the Secretary of State to that effect.";

(b) omit paragraph (2);

(c) after paragraph (3), insert—

"(3A) Where, in relation to a recommendation under paragraph (1), the TRA considers that there are two or more options which it could recommend, it may give the Secretary of State each of those options as part of its recommendation.

(3B) The TRA must consider whether it could give the Secretary of State two or more options as part of its recommendation under paragraph (1)—

(a) where the TRA considers that varying an anti-dumping amount or a countervailing amount in accordance with its proposed recommendation would not meet the economic interest test;

(b) where the TRA otherwise considers that it is appropriate.

(3C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation in accordance with paragraph (1), the TRA considers that there is only one option which it could reasonably recommend under paragraph (3A), it must give the Secretary of State its reasons for reaching that conclusion.

(3D) 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.

(3E) Where the TRA makes a recommendation under paragraph (1), it must advise the Secretary of State whether and why it considers that varying the application of an anti-dumping amount or a countervailing amount, as the case may be, in accordance with its recommendation, or in accordance with each option, as the case may be, would meet the economic interest test (see paragraph 25 of Schedule 4 to the Act).";

(d) omit paragraphs (4) and (5).

Amendment of regulation 88I (acceptance or rejection of a recommendation)

27. In regulation 88I—

(a) for the heading substitute "**Powers of the Secretary of State in relation to the TRA's recommendation**";

(b) in paragraph (1), for the words from "accept or reject" to the end substitute—

"—

(a) accept or reject a recommendation made under regulation 88G(1) or 88H(2); 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";

(c) after paragraph (1), insert—

"(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 88G(3A), the Secretary of State must decide which of those options to adopt.";

(d) for paragraph (2), substitute—

"(2) The Secretary of State may reject a recommendation under regulation 88G(1) only if the Secretary of State is satisfied it is not in the public interest to accept it.";

(e) for paragraph (3), substitute—

"(3) The Secretary of State may reject a recommendation under regulation 88H(2) only if the Secretary of State is satisfied it is not in the public interest to accept it.";

(f) after paragraph (3), insert—

"(3A) In considering the public interest under paragraph (2), the Secretary of State must have regard to the TRA's advice on whether the variation of the application of an anti-dumping amount or a countervailing amount, as the case may be, in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test (see paragraph 25 of Schedule 4 to the Act).";

(g) in paragraph (4)—

(i) after "rejects a recommendation", insert "and does not make a decision under regulation 88J(2)";

(ii) for sub-paragraph (a) substitute—

"(a) publish a notice containing the information referred to in paragraph 3 of Schedule 5A;";

(h) after paragraph (4), insert—

"(5) Where the Secretary of State accepts the TRA's recommendation, the notice published by the Secretary of State under paragraph 22(4)(a) of Schedule 4 to the Act must contain the information set out in paragraph 3 of Schedule 5A.

(6) The Secretary of State may only make a request under 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 made an error in relation to its recommendation; or

(c) exceptional circumstances make the request appropriate.

(7) Before making a request under paragraph (1)(b), the Secretary of State must consult the TRA.

(8) Where the Secretary of State makes a request under 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.".

Insertion of regulations 88J and 88K

28. After regulation 88I and before Part 10, insert—

"**Secretary of State's power to apply an alternative remedy**

88J.—(1) This regulation applies where the Secretary of State rejects a recommendation under regulation 88I(2).

(2) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that the application of the anti-dumping amount or countervailing amount should be varied other than in accordance with the recommendation, or revoked.

(3) Where the Secretary of State makes a decision under paragraph (2)—

(a) the notice published by the Secretary of State under paragraph 22(4)(a) of Schedule 4 to the Act must contain the information set out in paragraph 3 of Schedule 5A; and

(b) the Secretary of State must lay a statement before the House of Commons setting out the reasons for the decision.

Power to request assistance etc. from TRA

88K.—(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 regulation 88J(2).

(2) The Secretary of State may include in a request under 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 paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under paragraph (1).".

Chapter 7

Amendment of Part 11 (miscellaneous)

Amendment of regulation 90 (extension of the period of a provisional remedy in a dumping investigation)

29. In regulation 90—

(a) omit paragraph (2)(b) and the "and" preceding it;

(b) after paragraph (2), insert—

"(2A) Where the TRA makes an extension recommendation in accordance with paragraph (1), it must advise the Secretary of State whether and why it considers that the extension of the application of the provisional remedy in accordance with its recommendation would meet the economic interest test (see paragraph 25 of Schedule 4 to the Act).";

(c) in paragraph (8), for the words from "the Secretary of State must" to the end, substitute "the Secretary of State must have regard to the TRA's advice on whether the extension recommendation would meet the economic interest test";

(d) in paragraph (10), after "rejects an extension recommendation", insert "and does not make a decision under regulation 90A";

Insertion of regulation 90A

30. After regulation 90, insert—

"**Secretary of State's power to apply an alternative remedy**

90A.—(1) This regulation applies where—

(a) the TRA makes an extension recommendation under regulation 90(1); and

(b) the Secretary of State rejects the recommendation.

(2) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that the period of a provisional remedy, which has been applied in respect of goods in the case of a dumping investigation, should, subject to paragraph (3), be extended other than in accordance with the recommendation.

(3) The period of extension must not exceed the period referred to in paragraph 16(2) of Schedule 4 to the Act, and must begin on the day on which the provisional remedy would have otherwise expired.

(4) Where the Secretary of State makes a decision under paragraph (2), the Secretary of State must—

(a) publish a notice containing the information set out in paragraph 1 of Schedule 6;

(b) notify interested parties; and

(c) lay a statement before the House of Commons setting out the reasons for making the decision.”.

Chapter 8

Amendment of Part 12 (transitional provisions)

Amendment of regulation 100 (recommendation following transition review)

31. In regulation 100—

(a) after paragraph (1), insert—

“(1A) Where the TRA makes a recommendation to vary under paragraph (1) and considers that there are two or more options which it could recommend, it may give the Secretary of State each of those options as part of its recommendation.

(1B) The TRA must consider whether it could give the Secretary of State two or more options as part of its recommendation to vary under paragraph (1)—

(a) where the TRA considers that applying an anti-dumping amount or a countervailing amount in accordance with its proposed recommendation would not meet the economic interest test;

(b) where the TRA otherwise considers that it is appropriate.

(1C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation to vary in accordance with paragraph (1), the TRA considers that there is only one option which it could reasonably recommend under paragraph (1), it must give the Secretary of State its reasons for reaching that conclusion.

(1D) 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.

(1E) Where the TRA makes a recommendation to vary under paragraph (1), it must advise the Secretary of State whether and why it considers that the variation of an anti-dumping amount or a countervailing amount (as the case may be) in accordance with its recommendation, or in accordance with each option, as the case may be, would meet the economic interest test.”;

(b) omit paragraph (3).

Amendment of regulation 100A (recommendation of variation)

32. In regulation 100A, omit paragraph (2)(a).

Amendment of regulation 101 (decision on recommendation following transition review)

33. In regulation 101—

(a) for the heading substitute “**Powers of the Secretary of State in relation to the TRA’s recommendation**“;

(b) for paragraph (1) substitute—

“(1) The Secretary of State must—

(a) accept or reject the recommendation made under regulation 100(1); 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.";

(c) after paragraph (1), insert—

"(1A) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that it is not in the public interest to accept it.

(1B) Where the Secretary of State accepts a recommendation which contains options given in reliance on regulation 100(1A), the Secretary of State must decide which of those options to adopt.";

(d) for paragraph (2), substitute—

"(2) In considering what action to take under paragraph (1), the Secretary of State must have regard to the TRA's advice on whether the application of an anti-dumping amount or a countervailing amount to goods in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test.";

(e) after paragraph 2, insert—

"(2A) The Secretary of State may only make a request under paragraph (1)(b) where the Secretary of State considers that—

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

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

(c) exceptional circumstances make the request appropriate.

(2B) Before making a request under paragraph (1)(b), the Secretary of State must consult the TRA.

(2C) Where the Secretary of State makes a request under 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.";

(f) omit paragraph (3).

Amendment of regulation 101A (rejection of recommendation)

34. In regulation 101A(1), at the end, insert "and does not make a decision under regulation 101D".

Insertion of regulations 101D and 101E

35. After regulation 101C and before Part 13, insert—

"**Secretary of State's power to apply an alternative remedy**

101D.—(1) This regulation applies where—

(a) the TRA makes a recommendation under regulation 100(1) to vary the application of the anti-dumping amount or the countervailing amount; and

(b) the Secretary of State rejects the recommendation.

(2) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that the application of the anti-dumping amount or countervailing amount should be varied other than in accordance with the recommendation, or revoked.

(3) Where the Secretary of State makes a decision under paragraph (2), the Secretary of State must—

(a) publish notice of the decision;

(b) notify interested parties accordingly; and

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

(4) A notice made under paragraph (3)(a) must—

(a) contain the information set out in regulation 101A(2)(a)(i) to (iii);

(b) where applicable, specify—

(i) the reason for rejecting the recommendation and for applying the alternative anti-dumping or countervailing amount;

(ii) the alternative anti-dumping or countervailing amount;

(iii) the period beginning on the appropriate date for which the anti-dumping or countervailing amount is to apply to those goods.

Power to request assistance etc. from TRA

101E.—(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 regulation 101D(2).

(2) The Secretary of State may include in a request under 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 paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under paragraph (1).”.

Chapter 9

Amendment of the Schedules

Amendment of the Schedules

36.—(1) The Schedules are amended as follows.

(2) In Schedule 2—

(a) in paragraph 4, for sub-paragraph (h) substitute—

“(h) where the Secretary of State rejects the TRA’s recommendation—

(i) and makes a decision under paragraph 15(3B) of Schedule 4 to the Act—

(aa) that such notice is a public notice made under section 13 of the Act;

(bb) the date the notice comes into effect;

(cc) the reasons for the Secretary of State’s rejection and for requiring importers to give a guarantee other than in accordance with the recommendation;

(ii) and does not make a decision under paragraph 15(3B) of Schedule 4 to the Act, the reasons for the Secretary of State’s rejection.”;

(b) omit paragraph 5;

(c) in paragraph 6, for sub-paragraph (f) substitute—

"(f) where the Secretary of State rejects the TRA's recommendation—

(i) and makes a decision under paragraph 20A(2) of Schedule 4 to the Act—

(aa) that such notice is a public notice made under section 13 of the Act;

(bb) the reasons for the Secretary of State's rejection and for applying a measure other than in accordance with the recommendation;

(cc) a specified period for which the anti-dumping amount or countervailing amount is applicable;

(dd) where applicable, the relevant date and the relevant period;

(ii) and does not make a decision under paragraph 20A(2) of Schedule 4 to the Act—

(aa) the reasons for the Secretary of State's rejection;

(bb) the date the notice comes into effect;".

(3) In Schedule 3—

(a) in paragraph 1, at the end of the opening words, insert "as follows, except in the case of an early review, in which case only sub-paragraphs (a) to (g) and (j) to (m) apply";

(b) after paragraph 1, insert—

"**Notice of expiry of anti-dumping amount or countervailing amount**

1A. The information to be contained in a notice referred to in regulation 70(11G)(a) is—

(a) a description of the goods to which the notice relates;

(b) a summary of the review;

(c) the TRA's determination;

(d) the reasons for the TRA's determination;

(e) that the notice is a public notice made under section 13 of the Act;

(f) the date on which the anti-dumping amount or countervailing amount is treated as having expired.";

(c) in paragraph 3—

(i) in the opening words, after "or (5)", insert "or regulation 76A(5)(a)";

(ii) for sub-paragraph (f) substitute—

"(f) where the Secretary of State rejects the TRA's recommendation—

(i) and makes a decision under regulation 76A(2)—

(aa) that such notice is a public notice made under section 13 of the Act;

(bb) the reasons for the Secretary of State's rejection and for applying a measure other than in accordance with the recommendation, or revoking it;

(cc) where applicable, the varied anti-dumping amount or countervailing amount;

(dd) where applicable, a specified period during which the varied anti-dumping amount or countervailing amount is applicable;

(ee) where applicable, details of any exemptions from the application of the anti-dumping amount or countervailing amount;

(ii) and does not make a decision under paragraph 76A(2), the reasons for the Secretary of State's rejection.".

(4) In Schedule 5—

(a) in paragraph 1—

(i) in the opening words, after "85(10)", insert ", (11C)";

(ii) for sub-paragraph (f) substitute—

"(f) where the Secretary of State rejects the TRA's recommendation and makes a decision under regulation 85(11B)—

(i) that such notice is a public notice made under section 13 of the Act;

(ii) the reasons for suspending the measure other than in accordance with the recommendation;

(iii) the period of suspension.";

(b) in paragraph 3—

(i) in the opening words, after "87(8)", insert ", (9D)";

(ii) for sub-paragraph (f) substitute—

"(f) where the Secretary of State rejects the TRA's recommendation and makes a decision under regulation 87(9B)—

(i) that such notice is a public notice made under section 13 of the Act;

(ii) the reasons for extending a period of suspension other than in accordance with the recommendation;

(iii) the period of suspension.".

(5) In Schedule 5A—

(a) in paragraph 2—

(i) in the heading, at the end insert "to maintain the application of an anti-dumping amount or a countervailing amount";

(ii) in the opening words, omit "and 88G(5)";

(b) after paragraph 2, insert—

"**Notice of the Secretary of State accepting or rejecting a recommendation by the TRA relating to an international dispute investigation**

3. The information to be contained in a notice referred to in paragraph 22(4)(a) of Schedule 4 to the Act or regulation 88I(4) is—

(a) the name of the exporting country or territory;

(b) a description of the goods to which the notice relates;

(c) a description of the anti-dumping amount or the countervailing amount to which the notice relates;

(d) a summary of the investigation;

(e) a summary of the international dispute decision;

(f) the TRA's determination made in the light of the international dispute decision;

(g) the reasons for the TRA's recommendation;

(h) where the Secretary of State accepts the TRA's recommendation to vary the application of the anti-dumping amount or the countervailing amount—

(i) that such notice is a public notice made under section 13 of the Act;

(ii) a specified period during which the varied anti-dumping amount or countervailing amount is applicable;

(iii) details of any exemptions from the application of the anti-dumping or countervailing amount;

(i) where the Secretary of State accepts the TRA's recommendation to revoke the application of the anti-dumping amount or the countervailing amount—

(i) that such notice is a public notice made under section 13 of the Act;

(ii) the date that the notice takes effect, which must be the day after the date of publication of the notice; and

(j) where the Secretary of State rejects the TRA's recommendation—

(i) and makes a decision under regulation 88J(2)—

(aa) that such notice is a public notice made under section 13 of the Act;

(bb) the reasons for the Secretary of State's rejection and for varying the application of a measure other than in accordance with the recommendation or revoking it;

(cc) a specified period during which the varied anti-dumping amount or countervailing amount is applicable;

(dd) details of any exemptions from the application of the anti-dumping or countervailing amount;

(ii) and does not make a decision under paragraph 88J(2), the reasons for the Secretary of State's rejection.".

(6) In Schedule 6, for paragraph 1(f) substitute—

"(f) where the Secretary of State rejects the TRA's recommendation—

(i) and makes a decision under regulation 90A(2)—

(aa) that such notice is a revised notice under paragraph 15(5)(b) of Schedule 4 to the Act;

(bb) the revised period of the provisional remedy;

(cc) the date the notice comes into effect;

(dd) the reasons for extending the period of a provisional remedy other than in accordance with the extension recommendation;

(ii) and does not make a decision under paragraph 90A(2), the reasons for the Secretary of State's rejection.".

Part 3

Amendment of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019

Amendment of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019

37.—(1) The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019(**7**) are amended as follows.

(2) In regulation 33A (early review)—

(a) after paragraph (5), insert—

"(5A) Where—

(a) the TRA receives a request from the Secretary of State under paragraph (1) to undertake an early review; and

(b) accepts an application under Chapter 2 of Part 2 of the Reconsideration and Appeals Regulations 2019 for reconsideration of an original decision to which the request under sub-paragraph (a) relates,

the TRA must take into account any notice published or public notice issued under regulation 14 of the Reconsideration and Appeals Regulations 2019 in relation to that reconsideration in any determination under this regulation.

(5B) For the purposes of paragraph (5A)—

"the Reconsideration and Appeals Regulations 2019" means the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019(**8**);

"original decision" has the meaning given in regulation 9(1) of the Reconsideration and Appeals Regulations 2019.";

(b) in paragraph (7), after "the application" insert "or suspension".

(3) In regulation 36 (the conduct of reviews), after paragraph (3), insert—

"(3A) The TRA must terminate an early review on the request of the Secretary of State.".

(4) In regulation 38 (powers of the Secretary of State in relation to the TRA's recommendation)—

(a) in paragraph (2D)—

(i) for "decides to vary" substitute "makes a decision under paragraph (2C)(a) in relation to";

(ii) omit the words "under paragraph (2C)(a)" at the end of the paragraph;

(b) after paragraph (2D), insert—

"(2E) Where the Secretary of State makes a decision under paragraph (2C), the Secretary of State must lay a statement before the House of Commons setting out the reasons for making the decision.".

(5) In regulation 39 (suspension of a definitive safeguarding remedy), in paragraph (10B), for "the recommended period of suspension", substitute "the period of suspension specified by the TRA".

(6) In regulation 41 (period of suspension), in paragraph (8B), omit "recommended".

(7) In regulation 42F (determination to maintain)—

(a) in paragraph (1), for "determines" substitute "proposes to determine that";

(**7**) S.I. 2019/449, relevant amending instruments are S.I. 2020/99 and 2023/954.
(**8**) S.I. 2019/910, amended by section 74(11) of the Finance Act 2022 (c.3) and S.I. 2020/99, 730, 2022/113, 414, 2024/519.

(b) in paragraph (1A), for "Where the TRA proposes to make a determination under paragraph (1), the" substitute "The".

(8) In regulation 42I (powers of the Secretary of State in relation to TRA's recommendation), after paragraph (3C), insert—

"(3D) Where the Secretary of State makes a decision under paragraph (3C), the Secretary of State must lay a statement before the House of Commons setting out the reasons for the decision.".

(9) In the Schedule—

(a) in paragraph 4 (notice of the Secretary of State accepting or rejecting a recommendation by the TRA regarding a provisional safeguarding remedy), in sub-paragraph (f)(i)—

(i) omit the "and" after paragraph (aa);

(ii) after paragraph (bb), insert "and" and—

"(cc) where applicable, the varied provisional safeguarding remedy;";

(b) in paragraph 6 (notice of the Secretary of State accepting or rejecting a recommendation by the TRA on a definitive safeguarding remedy)—

(i) in sub-paragraph (f)(i)—

(aa) omit the "and" after paragraph (aa);

(bb) after paragraph (bb), insert "and" and—

"(cc) where applicable, the varied definitive safeguarding remedy;";

(ii) in sub-paragraph (g)(i)—

(aa) omit the "and" after paragraph (aa);

(bb) after paragraph (bb), insert "and" and—

"(cc) where applicable, the varied definitive safeguarding remedy;";

(c) in paragraph 10 (notice of the Secretary of State accepting or rejecting a recommendation by the TRA on the variation of a definitive safeguarding remedy), in sub-paragraph (f)(i)—

(i) omit the "and" after paragraph (aa);

(ii) after paragraph (bb), insert "and" and—

"(cc) where applicable, the varied definitive safeguarding remedy;";

(d) in paragraph 18 (notice of the Secretary of State accepting or rejecting a recommendation by the TRA relating to an international dispute investigation), in sub-paragraph (i)(i)—

(i) omit the "and" after paragraph (aa);

(ii) after paragraph (bb), insert "and" and—

"(cc) where applicable, the varied definitive safeguarding remedy;".

Part 4

Amendment of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019

Amendment of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019

38. The Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019(**9**) are amended in accordance with this Part.

Amendment of regulation 2 (interpretation)

39. In regulation 2, at the appropriate place, insert—

""early review" has the meaning given in regulation 2 of the Dumping and Subsidisation Regulations or regulation 2 of the Safeguards Regulations, as the case may be.".

Amendment of regulation 13 (reconsideration by the TRA)

40. In regulation 13, after paragraph (7), insert—

"(7A) In reconsidering an original decision, where paragraph (7B) applies, the TRA must take into account any notice published or public notice issued following the early review referred to in paragraph (7B).

(7B) This paragraph applies where the TRA—

(a) receives a request from the Secretary of State under regulation 67 of the Dumping and Subsidisation Regulations or regulation 33A of the Safeguards Regulations to undertake an early review of an original decision to which the reconsideration under this Chapter relates; and

(b) a public notice is issued following the early review referred to in sub-paragraph (a) before the outcome of the reconsideration under this Chapter.

(7C) Where the TRA is reconsidering an original decision that included two or more options as part of the TRA's recommendation to the Secretary of State, the TRA is not required to reconsider any option not selected by the Secretary of State. ".

Amendment of regulation 14 (outcome of reconsideration)

41. In regulation 14—

(a) after paragraph (5A), insert—

"(5B) Except where paragraph (5A) applies, the TRA must notify the Secretary of State of its intention to uphold the original decision at least two working days before taking the steps in paragraph (5).";

(b) in paragraph (6)(a), after "Secretary of State", insert "at least two working days before publishing a notice under sub-paragraph (b)";

(c) in paragraph (9)(b), at the end, insert "in accordance with paragraph (9A)";

(d) after paragraph (9), insert—

(**9**) S.I. 2019/910, amended by section 74(11) of the Finance Act 2022 (c.3), S.I. 2020/99, 730, 2022/113, 414, 2024/519.

"(9A) Save as provided in paragraph (9B), the Secretary of State has the same powers and duties, subject to the same conditions, in accepting or rejecting the reconsidered decision, including where applicable—

(a) where the Secretary of State accepts a recommendation which contains options, the duty to decide which of those options to adopt;

(b) the power to apply an alternative remedy;

(c) the power to request assistance from the TRA; and

(d) the power to decide that the date from which any revocation or variation has effect is a date before the date of the decision by the Secretary of State,

as the Secretary of State had in respect of the original decision, or would have had, were the original decision a recommendation.

(9B) The Secretary of State may not request that the TRA reassess its reconsidered decision."

(e) in paragraph (11), after "paragraph (9)(b)" insert "and does not make a decision to apply an alternative remedy in accordance with paragraph (9A)(b)";

(f) after paragraph (11), insert—

"(11A) Where the Secretary of State rejects a reconsidered decision under paragraph 9(b) and makes a decision to apply an alternative remedy in accordance with paragraph (9A)(b), the Secretary of State must—

(a) publish a notice of the TRA's reconsidered decision and the Secretary of State's decision made in accordance with paragraph (9A)(b);

(b) lay a statement before the House of Commons setting out the reasons for rejecting the TRA's reconsidered decision and making the Secretary of State's decision; and

(c) by public notice make provision giving effect to the Secretary of State's decision.";

(g) in paragraph 13, in the opening words, after "(10)(b)", insert ", (11A)".

Amendment of regulation 15 (the effect of an original decision, withdrawal and termination of a reconsideration)

42. In regulation 15(3)(b), after "(11)", insert ", (11A)".

Amendment of regulation 16 (appeals to the Upper Tribunal in relation to a decision made by the TRA)

43. In regulation 16, in paragraph (1A), after "listed in Part", insert "4A,".

Amendment of regulation 17 (appeals to the Upper Tribunal in relation to a determination made by the Secretary of State

44. In regulation 17—

(a) in the heading, after "determination" insert "or decision";

(b) in paragraph (2), after—

(i) "determinations", in each place it occurs, insert "and decisions";

(ii) "determination" in sub-paragraph (d), insert "and a decision".

Amendment of regulation 18 (conduct and outcome of appeal)

45. In regulation 18(1), after "in relation to a determination", insert "or decision".

Amendment of Schedule 1 (original decisions and appealable decisions of the TRA)

46. In Schedule 1—

(a) omit paragraph 5;

(b) in paragraph 20, after "regulation 75(1)", insert "(other than a recommendation in relation to an early review)";

(c) in paragraph 27A, omit "or 88H(4)";

(d) in paragraph 27B, for "88G(2)" substitute "88G(1)";

(e) in paragraph 35, after "following a review", insert "(other than a recommendation in relation to an early review)";

(f) in paragraph 38A, omit "or 42G(3)";

(g) in paragraph 38B, for "42G(2)" substitute "42G(1)";

(h) after Part 4 and before Part 5, insert—

"Part 4A

Determinations or recommendations under the Dumping and Subsidisation Regulations or the Safeguards Regulations: appealable decisions

40A. A determination under regulation 68A(5)(a) of the Dumping and Subsidisation Regulations following an early review.

40B. A determination under regulation 33A(7)(a) of the Safeguards Regulations following an early review.

40C. A recommendation under regulation 75(1) of the Dumping and Subsidisation Regulations following an early review.

40D. A recommendation under regulation 37(1) of the Safeguards Regulations following an early review.".

Amendment of Schedule 2 (determinations of the Secretary of State that are subject to appeal)

47. In Schedule 2—

(a) in the title, and in the headings to Parts 1 to 4, in each case, after "determinations" insert "and decisions";

(b) after paragraph 1, insert—

"**1A.** The decision by the Secretary of State under paragraph 20A(2) of Schedule 4 to apply an anti-dumping amount or a countervailing amount other than in accordance with the TRA's recommendation.

1B. The decision under paragraph 22A(1) of Schedule 4 to revoke the application of an anti-dumping amount or a countervailing amount.";

(c) after paragraph 2, insert—

"**2ZA.** The decision by the Secretary of State under paragraph 19(2C) of Schedule 5 that—

(a) a definitive safeguarding amount should be applied other than in accordance with the TRA's recommendation, or

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

2ZB. The decision by the Secretary of State under paragraph 20(2C) of Schedule 5 that—

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

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

2ZC. The decision under paragraph 22A(1) of Schedule 5 to revoke the application of a definitive safeguarding amount or the continuation of a tariff rate quota.";

(d) after paragraph 3, insert—

"**3A.** The decision under regulation 76A(2) to vary the application of the anti-dumping amount or countervailing amount, or to extend the period of application of that amount, other than in accordance with the TRA's recommendation, or to revoke it.";

(e) after paragraph 4, insert—

"**4A.** The decision under regulation 85(11B) to vary the period of suspension specified by the TRA.";

(f) after paragraph 5, insert—

"**5A.** The decision under regulation 87(9B) to vary the extended period of suspension.";

(g) after paragraph 6A, insert—

"**6B.** The decision under regulation 88J(2) to vary an anti-dumping amount or countervailing amount other than in accordance with the recommendation of the TRA, or to revoke it.";

(h) after paragraph 7, insert—

"**7AA.** The decision under regulation 101D(2) to vary an anti-dumping amount or countervailing amount other than in accordance with the TRA's recommendation, or to revoke it.";

(i) after paragraph 8, insert—

"**8A.** The decision under regulation 38(2C) to vary or replace the application of a definitive safeguarding remedy other than in accordance with the TRA's recommendation, or to revoke it.";

(j) after paragraph 9, insert—

"**9A.** The decision under regulation 39(10B) to vary the period of suspension specified by the TRA.";

(k) after paragraph 10, insert—

"**10A.** The decision under regulation 41(8B) to vary the extended period of suspension.";

(l) after paragraph 11A, insert—

"**11B.** The decision under regulation 42I(3C) to vary the application of a definitive safeguarding remedy other than in accordance with the TRA's recommendation, or to revoke it.";

(m) after paragraph 13, insert—

"**13A.** A decision to apply an alternative remedy in accordance with regulation 14(9A)(b).".

Greg Hands
Minister of State
Department for Business and Trade

17th April 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450) (the "Dumping and Subsidisation Regulations"), the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (S.I. 2019/449) (the "Safeguards Regulations") and the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (S.I. 2019/910) (the "Reconsideration and Appeals Regulations").

Part 2 amends the Dumping and Subsidisation Regulations to make changes in relation to dumping investigations and subsidisation investigations, and reviews of dumping and subsidisation investigations, including transition reviews.

In particular, the amendments—

- prescribe the circumstances in which the TRA must consider giving options to the Secretary of State as part of its recommendation in a dumping and subsidisation investigation;
- in relation to reviews under Part 7 of the Dumping and Subsidisation Regulations, provide for—
  - a new type of review that the Secretary of State may request within 60 days of the application, variation, extension or suspension of a measure (an "early review");
  - the TRA to give alternative options in its recommendations to the Secretary of State in certain circumstances;
  - the Secretary of State to ask the TRA to reassess its recommendation in certain circumstances;
  - the Secretary of State to apply a different remedy to the TRA recommendation;
  - the Secretary of State to seek advice and assistance from the TRA;
- make corresponding amendments to Part 9 (suspension), Part 9A (investigation in light of an international dispute decision), Part 11 (miscellaneous) and Part 12 (transitional arrangements) of the Dumping and Subsidisation Regulations.

Part 3 makes minor amendments to the Safeguards Regulations.

Part 4 makes consequential amendments to the Reconsideration and Appeals Regulations to extend the statutory regime for reconsideration and appeals to decisions of the TRA and of the Secretary of State made under—

- amendments to Schedules 4 and 5 of the Taxation (Cross-border Trade) Act 2018 (c. 22) made by the Finance (No. 2) Act 2023 (c. 30);
- amendments to the Safeguards Regulations made by the Trade Remedies (Increase in Imports) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/954);
- amendments to the Dumping and Subsidisation Regulations made by Part 2 of these Regulations; and
- an amendment to the Reconsideration and Appeals Regulations made by Part 4 of these Regulations.

A notice referred to in these Regulations which is published by the Secretary of State will be available to view online at https://www.gov.uk/business-and-industry/importing. A hard copy may be obtained

from the Department for Business and Trade, Admiralty Place, Old Admiralty Building, London SW1A 2DY.

A notice referred to in these Regulations which is published by the Trade Remedies Authority will be available to view online at https://www.trade-remedies.service.gov.uk/public/cases. A hard copy may be obtained from the Trade Remedies Authority, 60 Caversham Road, Reading RG1 7EB.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

A copy of the Explanatory Memorandum is published alongside this instrument at http://www.legislation.gov.uk.