

SCHEDULES

SCHEDULE 4

DUMPING OF GOODS OR FOREIGN SUBSIDIES CAUSING INJURY TO UK INDUSTRY

PART 6

SUPPLEMENTARY

The economic interest test

- 25 (1) This paragraph applies if the TRA or the Secretary of State is considering, for the purposes of this Schedule, whether the TRA or the Secretary of State is satisfied that the application of an anti-dumping remedy or anti-subsidy remedy meets or does not meet the economic interest test.
- (2) The economic interest test is met in relation to the application of an anti-dumping remedy or anti-subsidy remedy if the application of the remedy is in the economic interest of the United Kingdom.
- (3) That test is presumed to be met unless the TRA or, as the case may be, the Secretary of State is satisfied that the application of the remedy is not in the economic interest of the United Kingdom.
- (4) When considering whether the application of an anti-dumping remedy or anti-subsidy remedy is not in the economic interest of the United Kingdom, the TRA or the Secretary of State must—
- (a) take account of the following so far as relevant—
 - (i) the injury caused by the dumping of the goods, or the importation of the subsidised goods, to a UK industry in the goods and the benefits to that UK industry in removing that injury,
 - (ii) the economic significance of affected industries and consumers in the United Kingdom,
 - (iii) the likely impact on affected industries and consumers in the United Kingdom,
 - (iv) the likely impact on particular geographic areas, or particular groups, in the United Kingdom, and
 - (v) the likely consequences for the competitive environment, and for the structure of markets for goods, in the United Kingdom, and
 - (b) take account of such other matters as the TRA or, as the case may be, the Secretary of State considers relevant.
- (5) In this paragraph—
- (a) references to the application of an anti-dumping remedy are to—
 - (i) requiring the giving of a guarantee under paragraph 15,

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- (ii) applying an anti-dumping amount to goods, or
- (iii) accepting an undertaking under provision made by or under Part 5;
- (b) references to the application of an anti-subsidy remedy are to—
 - (i) requiring the giving of a guarantee under paragraph 15,
 - (ii) applying a countervailing amount to goods, or
 - (iii) accepting an undertaking under provision made by or under Part 5;
- (c) “affected industries and consumers” means industries and consumers that would be affected if the anti-dumping remedy or anti-subsidy remedy were, or were not, to be applied;
- (d) “industries” includes—
 - (i) the UK industry referred to in sub-paragraph (4)(a)(i) and other producers of goods,
 - (ii) suppliers of goods or services, and
 - (iii) importers, distributors and retailers of goods;
- (e) “consumers” includes users of goods or services.

Suspension of anti-dumping or anti-subsidy remedies

- 26 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of an anti-dumping remedy or anti-subsidy remedy should be suspended, and
 - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations must secure that the TRA may make such a recommendation to the Secretary of State only if the TRA is satisfied that market conditions have temporarily changed such that the injury caused to a UK industry in the goods would be unlikely to recur as a result of the suspension.
- (3) Regulations may make provision for the purposes of sub-paragraph (2) about what constitutes or does not constitute “market conditions” or a temporary change in such conditions.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;
 - (b) provision about the conduct of such an investigation;
 - (c) provision about the period for which a suspension may have effect;
 - (d) provision about whether that period counts towards the period for which the suspended remedy applies.
- (5) Paragraph 10(2) applies to regulations under sub-paragraph (4)(b) in relation to an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (6) Where, by virtue of provision made under sub-paragraph (1), the Secretary of State accepts a recommendation that the application of an anti-dumping remedy or anti-subsidy remedy should be suspended, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
 - (b) must notify interested parties (see paragraph 32(3)) accordingly, and
 - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.

- (7) References in this paragraph to the application of an anti-dumping remedy or anti-subsidy remedy have the same meaning as in paragraph 25.

Not subject to both application of an anti-dumping amount and a countervailing amount

- 27 (1) An anti-dumping amount is not applicable to goods if a countervailing amount is already applicable to the goods (and vice versa) for the purpose of dealing with the same situation arising from the dumping of goods or export subsidisation.
- (2) Regulations may make provision about what constitutes or does not constitute “export subsidisation” for those purposes.

Investigations regarding repayments and discharge of a guarantee

- 28 (1) Regulations may provide for the TRA to investigate specified matters for the purpose of determining whether—
- (a) a repayment of an anti-dumping amount or a countervailing amount, or interest paid in respect of any such amounts, should be made under regulations made under paragraph 10 of Schedule 6;
 - (b) the whole or a part of a guarantee given under paragraph 15 should be discharged under regulations made under paragraph 6 of Schedule 6.
- (2) The regulations may make provision about the conduct of any such investigation.
- (3) Paragraph 10(2) applies to those regulations in relation to such an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.

Registration

- 29 (1) The Secretary of State may publish a notice of goods—
- (a) which are the subject of an investigation or other proceedings under provision made by or under this Schedule, and
 - (b) to which an anti-dumping amount or a countervailing amount may be applied or the existing application of an anti-dumping amount or a countervailing amount to which may be varied.
- (2) HMRC must register goods in respect of which such a notice is published.
- (3) Regulations may make provision for, or in connection with, the registration by HMRC of goods—
- (a) to which an anti-dumping amount or a countervailing amount may be applied, or
 - (b) the existing application of an anti-dumping amount or a countervailing amount to which may be varied.

Reconsideration, reviews and appeals

- 30 Regulations may make provision for or in connection with—
- (a) the reconsideration by the TRA of decisions made by the TRA under provision made by or under this Schedule, and

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- (b) the review or appeal of decisions made by the TRA or the Secretary of State under provision made by or under this Schedule.

Notices

- 31 (1) Where a notice is required to be published or given by a provision made by or under this Schedule, regulations may make provision about—
- (a) the form of the notice;
 - (b) its content;
 - (c) the manner of publication;
 - (d) the means by which it is given;
 - (e) the time or date on which it is published or given or is to be treated as published or given.
- (2) Such regulations may, among other things, provide—
- (a) for some of the content of the notice to be contained in a separate report to which the notice refers, and
 - (b) for that report to be published or for it to be given, or otherwise made available to, the persons to whom the notice is required to be given.
- (3) The provision made by regulations under this paragraph about the content of a notice is in addition to any such provision made by or under any other provision of this Schedule.
- (4) Sub-paragraph (1)(c) does not apply to a public notice under provision made under paragraph 21(4)(c) or 22(2)(c) (see section 37(5)).

Interpretation

- 32 (1) In this Schedule—
- “anti-dumping amount” has the meaning given by paragraph 17(3);
 - “the amount of the subsidy”, in relation to goods, has the meaning given by paragraph 4;
 - “countervailable subsidy” has the meaning given by paragraph 3(2);
 - “countervailing amount” has the meaning given by paragraph 17(4);
 - “dumped” and “dumping” have the meaning given by paragraph 1(1);
 - “dumping investigation” has the meaning given by paragraph 8(2);
 - “final affirmative determination”, in relation to goods, has the meaning given by paragraph 11(6)(a);
 - “final negative determination”, in relation to goods, has the meaning given by paragraph 11(6)(b);
 - “foreign authority” has the meaning given by paragraph 3(4);
 - “foreign country or territory” means a country or territory outside the United Kingdom;
 - “importer” of goods means a person liable to pay import duty in respect of the goods;
 - “injury” to a UK industry in particular goods has the meaning given by paragraph 5;
 - “interested parties” has the meaning given by sub-paragraph (3);
 - “like goods”, in relation to goods, has the meaning given by paragraph 7;

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“the margin of dumping”, in relation to goods, has the meaning given by paragraph 2;

“overseas exporter” means a person outside the United Kingdom that exports goods to the United Kingdom;

“the period of a provisional remedy”, in respect of goods, has the meaning given by paragraph 15(7);

“provisional affirmative determination”, in relation to goods, has the meaning given by paragraph 11(3);

“regulations” means regulations made by the Secretary of State;

“subsidisation investigation” has the meaning given by paragraph 8(4);

“subsidised” and “subsidisation” have the meaning given by paragraph 3(1);

“subsidy” has the meaning given by paragraph 3(3);

“UK industry”, in particular goods, has the meaning given by paragraph 6;

“the WTO Agreement” means the agreement establishing the WTO signed at Marrakesh on 15 April 1994.

- (2) References in this Schedule to the economic interest test are to be construed in accordance with paragraph 25.
- (3) References in a provision of this Schedule to “interested parties” means the governments of such foreign countries or territories, or such other persons, as may be specified in regulations made under this sub-paragraph for the purposes of the provision in question.