

SCHEDULES

SCHEDULE 19

Section 316

DUMPING, SUBSIDISATION AND SAFEGUARDING REMEDIES

PART 1

DUMPING AND SUBSIDISATION REMEDIES

Introduction

- 1 Schedule 4 to TCTA 2018 (dumping of goods or foreign subsidies causing injury to UK industry) is amended as follows.

Notification etc

- 2 (1) In paragraph 9 (initiation of a dumping or subsidisation investigation)—
- (a) after sub-paragraph (3) insert—
 - “(3A) Where the TRA receives an application under sub-paragraph (1) (a)(i), the TRA must notify the Secretary of State of the application before the end of the second working day after the day on which it receives the application.”;
 - (b) in sub-paragraph (5), in the words before paragraph (a), after “must” insert “notify the Secretary of State that it intends to initiate a dumping investigation and, after the relevant interval, must take the following steps in the order in which they are set out”;
 - (c) in sub-paragraph (6)—
 - (i) in the words before paragraph (a), after “must” insert “notify the Secretary of State that it intends to initiate a subsidisation investigation and, after the relevant interval, must take the following steps in the order in which they are set out”;
 - (ii) after paragraph (a) insert—
 - “(aa) invite the governments of the relevant foreign countries or territories to participate in consultations.”;
 - (iii) in paragraph (b) omit the words from “after” to “consultations.”;
 - (d) after sub-paragraph (6) insert—
 - “(6A) In sub-paragraphs (5) and (6), the “relevant interval” is the period of two working days beginning with the first working day after the day on which the TRA notifies the Secretary of State of its intention to initiate the investigation.”;
 - (e) after sub-paragraph (9) insert—

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“(10) In this paragraph, “working day” means any day other than a Saturday, a Sunday or a day that is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”

- (2) In paragraph 10 (regulations about the conduct of a dumping or subsidisation investigation), in sub-paragraph (2)—
 - (a) in paragraph (i), at the end insert “or the Secretary of State”;
 - (b) at the end insert—
 - “(k) the Secretary of State requiring the TRA to reassess a proposal to terminate an investigation.”
- (3) In paragraph 11 (provisional affirmative determinations and final affirmative or negative determinations), in sub-paragraph (5), at the end insert “(but see paragraph 12A for a requirement to give notice to the Secretary of State in certain cases)”.
- (4) In paragraph 12 (termination of a dumping or a subsidisation investigation)—
 - (a) omit paragraph (b);
 - (b) in paragraph (c), after “20(4)(a)” insert “or the Secretary of State publishes notice of a decision under paragraph 20A(2)”.
- (5) After paragraph 12 insert—

“Requirement to give notice to the Secretary of State in certain cases

- 12A (1) This paragraph applies where the TRA proposes to make a final negative determination.
- (2) The TRA must notify the Secretary of State of its proposed determination.
- (3) Where the Secretary of State has been notified in accordance with sub-paragraph (2), the Secretary of State may, within the relevant period (and subject to sub-paragraph (4)), request that the TRA reassess its proposed determination by reference to any matters specified in the request.
- (4) The Secretary of State may only make a request under sub-paragraph (3) 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.
- (5) The TRA must comply with a request under sub-paragraph (3).
- (6) 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 sub-paragraph (3), the time when the TRA receives that information.

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- (7) For the purposes of this paragraph, 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.”

Provisional remedies

- 3 (1) In paragraph 13 (TRA’s duty to recommend requiring guarantees)—
- (a) in sub-paragraph (4) omit paragraph (b) (and the “and” at the end of paragraph (a));
 - (b) after sub-paragraph (8) insert—
 - “(8A) Where the TRA makes a recommendation under sub-paragraph (3), it must advise the Secretary of State whether and why it considers that requiring importers to give a guarantee in accordance with the recommendation would meet the economic interest test (see paragraph 25).”
- (2) In paragraph 15 (Secretary of State’s power to require a guarantee)—
- (a) in sub-paragraph (3), for the words from “accept” to the end substitute “have regard to the TRA’s advice on whether requiring a guarantee in accordance with the recommendation would meet the economic interest test (see paragraph 25).”;
 - (b) after sub-paragraph (3) insert—
 - “(3A) Sub-paragraph (3B) applies if the recommendation is rejected.
 - (3B) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that importers of relevant goods should be required to give a guarantee other than in accordance with the recommendation.
 - (3C) But the Secretary of State may make a decision under sub-paragraph (3B) only if a recommendation under paragraph 13(3) to the same effect as the decision (ignoring any restrictions in paragraph 13 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 14.
 - (3D) Where the Secretary of State makes a decision under sub-paragraph (3B), the Secretary of State—
 - (a) must publish notice of the decision,
 - (b) must notify interested parties (see paragraph 32(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.”;
 - (c) in sub-paragraph (4), after “rejected” insert “and the Secretary of State does not make a decision under sub-paragraph (3B)“.

Status: This is the original version (as it was originally enacted).

Definitive remedies

- 4 (1) In paragraph 17 (TRA’s duty to recommend an anti-dumping amount or countervailing amount)—
- (a) in sub-paragraph (3), in the words before paragraph (a), for “may” substitute “must”;
 - (b) in sub-paragraph (4), in the words before paragraph (a), for “may” substitute “must”;
 - (c) omit sub-paragraph (5);
 - (d) in sub-paragraph (7)—
 - (i) omit “But”;
 - (ii) at the end insert “(but a recommendation may include two or more options in accordance with sub-paragraph (8A))”;
 - (e) after sub-paragraph (8) insert—
 - “(8A) Where the TRA considers that there are two or more options which it could recommend under sub-paragraph (3) or (4), as the case may be, 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.
 - (8B) 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) or (4) in relation to relevant goods or descriptions of relevant goods.
 - (8C) 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 (8B), the TRA considers that there is only one option which it could recommend under sub-paragraph (3) or (4), as the case maybe, in relation to relevant goods or descriptions of relevant goods, it must give the Secretary of State its reasons for reaching that conclusion.
 - (8D) 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.
 - (8E) Where the TRA makes a recommendation under sub-paragraph (3) or (4) it must advise the Secretary of State whether and why it considers that applying an anti-dumping amount or a countervailing amount, as the case may be, in accordance with—
 - (a) the recommendation, or
 - (b) where the recommendation contains options given under sub-paragraph (8A), each option,
 would meet the economic interest test (see paragraph 25).”;
 - (f) omit sub-paragraph (9);
 - (g) omit sub-paragraph (10).

Status: This is the original version (as it was originally enacted).

- (2) In paragraph 18 (TRA’s recommendations about an anti-dumping amount or a countervailing amount), after sub-paragraph (8) insert—

“(9) This paragraph has effect in relation to an option given by the TRA under paragraph 17(8A) as it has effect in relation to a recommendation by the TRA under paragraph 17(3) or (4).”

- (3) In paragraph 19 (regulations about TRA’s recommendations), after sub-paragraph (5) insert—

“(6) Regulations under this paragraph may make any provision in relation to an option given by the TRA under paragraph 17(8A) that they may make in relation to a recommendation by the TRA under paragraph 17(3) or (4).”

- (4) In the italic heading before paragraph 20 (Secretary of State’s power to accept or reject a recommendation), for “power to accept or reject” substitute “powers in relation to”.

- (5) In paragraph 20—

- (a) in sub-paragraph (1)—

(i) the words from “decide” to the end become paragraph (a);

(ii) at the end of that paragraph insert “, or

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

- (b) after sub-paragraph (1) insert—

“(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 17(8A), the Secretary of State must decide which of those options to adopt.”;

- (c) in sub-paragraph (3), for the words from “accept” to the end substitute “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 (see paragraph 25)”;

- (d) in sub-paragraph (4), after “rejected” insert “and the Secretary of State does not make a decision under paragraph 20A(2)”;

- (e) in sub-paragraph (5), in paragraph (a), after “recommendation” insert “, including any particular option adopted by the Secretary of State,”;

- (f) after sub-paragraph (5) insert—

“(5A) 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.

(5B) Before making a request under sub-paragraph (1)(b), the Secretary of State must consult the TRA.

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(5C) 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.”

(6) After paragraph 20 insert—

“Secretary of State’s power to apply an alternative remedy

20A (1) This paragraph applies where the Secretary of State rejects a recommendation under paragraph 20.

(2) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide to apply an anti-dumping amount or a countervailing amount in relation to relevant goods or descriptions of relevant goods to which the TRA’s recommendation related, other than in accordance with the recommendation.

(3) But the Secretary of State may make a decision under sub-paragraph (2) only if a recommendation under paragraph 17(3) or (4) to the same effect as the decision (ignoring any restrictions in paragraph 17 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 18.

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

- (a) must publish notice of the decision,
- (b) must notify interested parties (see paragraph 32(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.”

Reviews etc

5 (1) In paragraph 21 (reviews of continuing application of an anti-dumping amount or a countervailing amount)—

(a) in sub-paragraph (4)—

(i) after sub-paragraph (c) insert—

“(ca) provision corresponding or similar to any provision made by or under this Schedule in relation to dumping or subsidisation 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;

(cb) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA;”;

(ii) at the end insert—

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- “(e) provision for the Secretary of State to provide by public notice, in a case where a review in relation to the application of an anti-dumping amount or a countervailing amount has been completed, for—
 - (i) the application of the amount to be treated as having expired at the end of the specified period (see paragraph 17(3) and (4)) set out in the public notice under section 13 relating to the amount;
 - (ii) where the application of the amount was not suspended in connection with a review, a person to be entitled to a repayment of the amount that they paid after applying for the review;
 - (iii) where the application of the amount was suspended in connection with a review, a person to be liable for the amount that they would have been liable to pay if the review had not taken place.”;
 - (b) in sub-paragraph (6)—
 - (i) omit the “and” at the end of paragraph (a);
 - (ii) after that paragraph insert—
 - “(aa) the TRA giving the Secretary of State options as part of a recommendation.”;
 - (iii) for paragraph (b) substitute—
 - “(b) the Secretary of State’s powers in relation to such a recommendation, and
 - (c) the date from which any variation or revocation may have effect, which may be a date before the date of the recommendation by the TRA or decision by the Secretary of State.”;
 - (c) in sub-paragraph (7)—
 - (i) in the words before paragraph (a), for “accepts a recommendation” substitute “decides”;
 - (ii) in paragraph (a), for “recommendation and of the acceptance of it” substitute “decision”;
 - (iii) in paragraph (c), for “recommendation” substitute “decision”;
 - (d) in sub-paragraph (8), after “State” insert “, or which the Secretary of State may decide to make other than in accordance with a recommendation.”;
 - (e) in sub-paragraph (9)—
 - (i) for “the TRA may recommend” substitute “the Secretary of State may decide, whether or not in response to a recommendation of the TRA.”;
 - (ii) for “the recommendation” substitute “the decision”;
 - (f) in sub-paragraph (10) for “recommendation” substitute “decision”.
- (2) In paragraph 22 (variation or revocation following an international dispute decision)
 - (a) in sub-paragraph (1)(b), for “the Secretary of State accepting or rejecting” substitute “the Secretary of State’s powers in relation to”;

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- (b) in sub-paragraph (2), at the end insert—
 - “(d) make provision corresponding or similar to any provision made by or under this Schedule in relation to dumping or subsidisation 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.”;
- (c) in sub-paragraph (4)—
 - (i) in the words before paragraph (a), for “accepts a recommendation” substitute “decides”;
 - (ii) in paragraph (a), for “recommendation and acceptance of it” substitute “decision”;
 - (iii) in paragraph (c), for “recommendation” substitute “decision”.
- (3) In paragraph 26 (suspension of anti-dumping or anti-subsidy remedies)—
 - (a) in sub-paragraph (1)(b), for “the Secretary of State accepting or rejecting” substitute “the Secretary of State’s powers in relation to”;
 - (b) in sub-paragraph (4), at the end insert—
 - “(e) provision corresponding or similar to any provision made by or under this Schedule in relation to dumping or subsidisation 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;
 - (f) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA.”;
 - (c) in sub-paragraph (6)—
 - (i) in the words before paragraph (a), for “accepts a recommendation” substitute “decides”;
 - (ii) in paragraph (a), for “recommendation and of the acceptance of it” substitute “decision”;
 - (iii) in paragraph (c), for “recommendation” substitute “decision”.

Revocation in the public interest

6 After paragraph 22 insert—

“Revocation in the public interest

- 22A (1) The Secretary of State may decide to revoke the application of an anti-dumping amount or a countervailing amount to goods in the absence of a recommendation from the TRA where the Secretary of State considers that it is in the public interest to do so.
- (2) Before making a decision under sub-paragraph (1) the Secretary of State must consult such persons as the Secretary of State considers appropriate.

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- (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 32(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.”

Power to request assistance etc

7 After paragraph 22A (as inserted by paragraph 6) insert—

“Power to request assistance etc

- 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) paragraph 15(3B) (decision to require a guarantee other than in accordance with a recommendation);
 - (b) paragraph 20A(2) (decision to apply 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).”

PART 2

SAFEGUARDING REMEDIES

Introduction

8 Schedule 5 to TCTA 2018 (increase in imports causing serious injury to UK producers) is amended as follows.

Notification etc

9 (1) In paragraph 7 (initiation of a safeguarding investigation)—

- (a) after sub-paragraph (4) insert—

“(4A) Where the TRA receives an application under sub-paragraph (1) (a)(i), the TRA must notify the Secretary of State of the

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- application before the end of the second working day after the day on which it receives the application”;
- (b) in sub-paragraph (6), in the words before paragraph (a), after “must” insert “notify the Secretary of State that it intends to initiate a safeguarding investigation and, after the relevant interval, must take the following steps in the order in which they are set out”;
- (c) after sub-paragraph (6) insert—
- “(6A) In sub-paragraph (6), the “relevant interval” is the period of two working days beginning with the first working day after the day on which the TRA notifies the Secretary of State of its intention to initiate the safeguarding investigation.”;
- (d) after sub-paragraph (7) insert—
- “(8) In this paragraph, “working day” means any day other than a Saturday, a Sunday or a day that is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”
- (2) In paragraph 9 (provisional affirmative determinations and final affirmative or negative determinations), in sub-paragraph (5), at the end insert “(but see paragraph 10A for a requirement to give notice to the Secretary of State in certain cases)”.
- (3) In paragraph 10 (termination of a safeguarding investigation)—
- (a) in paragraph (b), at the end insert “(and see paragraph 10A for a requirement to give notice to the Secretary of State before making the determination)”;
- (b) in paragraph (c), after “20(3)(a)” insert “or the Secretary of State publishes notice of a decision under paragraph 19(2C) or 20(2C)”;
- (4) After paragraph 10 insert—

“Requirement to give notice to the Secretary of State in certain cases

- 10A (1) This paragraph applies where the TRA—
- (a) proposes to make a final negative determination, or
- (b) proposes to make a final affirmative determination in relation to goods and to determine that there is not a recommendation which it could make under paragraph 16(3) in relation to them.
- (2) The TRA must notify the Secretary of State of its proposed determination.
- (3) Where the Secretary of State has been notified in accordance with sub-paragraph (2), the Secretary of State may, within the relevant period (and subject to sub-paragraph (4)), request that the TRA reassess its proposed determination by reference to any matters specified in the request.
- (4) The Secretary of State may only make a request under sub-paragraph (3) 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.

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- (5) The TRA must comply with a request under sub-paragraph (3).
- (6) 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 sub-paragraph (3), the time when the TRA receives that information.
- (7) For the purposes of this paragraph, 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.”

Provisional remedies

- 10 (1) In paragraph 11 (TRA’s duty to recommend a provisional safeguarding amount or a provisional tariff rate quota)—
- (a) in sub-paragraph (5) omit paragraph (b) (and the “and” at the end of paragraph (a));
 - (b) after sub-paragraph (8) insert—
 - “(8A) 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 provisional safeguarding amount to relevant goods, or making relevant goods subject to a provisional tariff rate quota, in accordance with the recommendation, would meet the economic interest test (see paragraph 23).”
- (2) In paragraph 14 (Secretary of State’s power to apply a provisional safeguarding amount)—
- (a) in sub-paragraph (2), for paragraphs (a) and (b) (and the “—” before paragraph (a)) substitute “it is not in the public interest to accept it.”;
 - (b) after sub-paragraph (2) insert—
 - “(2A) In considering that, the Secretary of State must have regard to the TRA’s advice on whether applying a provisional safeguard amount to relevant goods in accordance with the recommendation 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 provisional 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 provisional 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 11(3)

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to the same effect as the decision (ignoring any restrictions in paragraph 11 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 12 or 13, 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.”;
- (c) in sub-paragraph (3), after “rejected” insert “and the Secretary of State does not make a decision under sub-paragraph (2C)”.

(3) In paragraph 15 (Secretary of State’s power to subject goods to a provisional tariff rate quota)—

- (a) in sub-paragraph (2), for paragraphs (a) and (b) (and the “—” before paragraph (a)) substitute “it is not in the public interest to accept it”;
- (b) after sub-paragraph (2) insert—

“(2A) In considering that, the Secretary of State must have regard to the TRA’s advice on whether applying a provisional tariff rate quota to relevant goods in accordance with the recommendation 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 provisional tariff rate quota, other than in accordance with the recommendation, or
- (b) a provisional 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 11(3) to the same effect as the decision (ignoring any restrictions in paragraph 11 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 12 or 13, 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

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- (d) is required under section 13 to make provision by public notice to give effect to the decision.”;
- (c) in sub-paragraph (3), after “rejected” insert “and the Secretary of State does not make a decision under sub-paragraph (2C)”.

Definitive remedies

- 11 (1) In paragraph 16 (TRA’s duty to recommend a definitive safeguarding amount or tariff rate quota)—
- (a) omit sub-paragraph (5)(a) (and the “and” at the end of that sub-paragraph);
 - (b) after sub-paragraph (10) insert—
 - “(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).”
- (2) In paragraph 17 (TRA’s recommendations about a definitive safeguarding amount)—
- (a) in sub-paragraph (8), at the end insert “or, where the TRA’s recommendation contained options proposing different lengths, the length adopted by the Secretary of State”;
 - (b) after sub-paragraph (10) insert—

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“(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).”

- (3) In paragraph 18 (TRA’s recommendations regarding tariff rate quotas), after sub-paragraph (11) insert—

“(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).”

- (4) In the italic heading before paragraph 19 (Secretary of State’s power to apply a definitive safeguarding amount), for “power” substitute “powers in relation to a recommendation”.

- (5) In paragraph 19—

- (a) in sub-paragraph (1)—

(i) the words from “decide” to the end become paragraph (a);

(ii) at the end of that paragraph insert “, 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 sub-paragraph (1) insert—

“(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.”;

- (c) in sub-paragraph (2), for paragraphs (a) and (b) (and the “—” before them) substitute “it is not in the public interest to accept it”;

- (d) after sub-paragraph (2) insert—

“(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.

Status: This is the original version (as it was originally enacted).

- (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.”;
- (e) in sub-paragraph (3), after “rejected” insert “and the Secretary of State does not make a decision under sub-paragraph (2C)”;
- (f) in sub-paragraph (4), in paragraph (a), after “recommendation” insert “, including any particular option adopted by the Secretary of State,”;
- (g) after sub-paragraph (4) insert—
- “(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.”

(6) In the italic heading before paragraph 20 (Secretary of State’s power to subject goods to a tariff rate quota), for “power” substitute “powers in relation to a recommendation”.

(7) In paragraph 20—

 - (a) in sub-paragraph (1)—
 - (i) the words from “decide” to the end become paragraph (a);
 - (ii) at the end of that paragraph insert “, or
 - (b) request that the TRA reassess its recommendation with a view to amending or replacing the recommendation.”;
 - (b) after sub-paragraph (1) insert—

“(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.”;

Status: This is the original version (as it was originally enacted).

- (c) in sub-paragraph (2), for paragraphs (a) and (b) (and the “—” before them) substitute “it is not in the public interest to accept it”;
- (d) after sub-paragraph (2) insert—
 - “(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.”;
- (e) in sub-paragraph (3), after “rejected” insert “ and the Secretary of State does not make a decision under sub-paragraph (2C)”;
- (f) in sub-paragraph (4), in paragraph (a), after “recommendation” insert “, including any particular option adopted by the Secretary of State,”;
- (g) after sub-paragraph (4) insert—
 - “(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.

Status: This is the original version (as it was originally enacted).

(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.”

Reviews etc

12 (1) In paragraph 21 (reviews)—

- (a) in sub-paragraph (4), after paragraph (b) insert—
 - “(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;”;
- (b) in sub-paragraph (6)—
 - (i) omit the “and” at the end of paragraph (a);
 - (ii) after that paragraph insert—
 - “(aa) the TRA giving the Secretary of State options as part of a recommendation, and”;
 - (iii) in paragraph (b), for “the Secretary of State accepting or rejecting” substitute “the Secretary of State’s powers in relation to”.
- (c) in sub-paragraph (7)—
 - (i) in the words before paragraph (a), for “accepts a recommendation” substitute “decides”;
 - (ii) in paragraph (a), for “recommendation and of the acceptance of it” substitute “decision”;
 - (iii) in paragraph (c), for “recommendation” substitute “decision”.
- (d) in sub-paragraph (8), after “State” insert “, or which the Secretary of State may decide to make other than in accordance with a recommendation,”;
- (e) in sub-paragraph (9), after “State” insert “, or which the Secretary of State may decide to make other than in accordance with a recommendation,”;
- (f) in sub-paragraph (10)—
 - (i) in the words before paragraph (a), for “accepts a recommendation” substitute “decides”;
 - (ii) in paragraph (a), for “recommendation and of the acceptance of it” substitute “decision”;
 - (iii) in paragraph (c), for “recommendation” substitute “decision”.

(2) In paragraph 22 (variation or revocation following an international dispute decision)

Status: This is the original version (as it was originally enacted).

- (a) in sub-paragraph (1)(b), for “the Secretary of State accepting or rejecting” substitute “the Secretary of State’s powers in relation to”;
 - (b) in sub-paragraph (2), at the end insert—
 - “(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.”;
 - (c) in sub-paragraph (4)—
 - (i) in the words before paragraph (a), for “accepts a recommendation” substitute “decides”;
 - (ii) in paragraph (a), for “recommendation and of the acceptance of it” substitute “decision”;
 - (iii) in paragraph (c), for “recommendation” substitute “decision”.
- (3) In paragraph 24 (suspension of safeguarding remedies)—
- (a) in sub-paragraph (1), in paragraph (b), for “the Secretary of State accepting or rejecting” substitute “the Secretary of State’s powers in relation to”;
 - (b) in sub-paragraph (4), at the end insert—
 - “(e) 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;
 - (f) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA.”;
 - (c) in sub-paragraph (6)—
 - (i) in the words before paragraph (a), for “accepts a recommendation” substitute “decides”;
 - (ii) in paragraph (a), for “recommendation and of the acceptance of it” substitute “decision”;
 - (iii) in paragraph (c), for “recommendation” substitute “decision”.

Revocation in the public interest

13 After paragraph 22 insert—

“Revocation in the public interest

- 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.

Status: This is the original version (as it was originally enacted).

- (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.”

Power to request assistance etc

14 After paragraph 22A (as inserted by paragraph 13) insert—

“Power to request assistance etc

- 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).”

PART 3

CONSEQUENTIAL AND RELATED PROVISION

- 15 In section 13 of TCTA 2018 (dumping of goods, foreign subsidies and increases in imports)—
- (a) in subsection (2)—
 - (i) for “accepts a recommendation by the TRA” substitute “decides”;
 - (ii) for “the recommendation” substitute “the decision”.
 - (b) in subsection (3)—
 - (i) for “accepts a recommendation by the TRA” substitute “decides”;
 - (ii) for “the recommendation” substitute “the decision”.

Status: This is the original version (as it was originally enacted).

- (c) in subsection (4)—
- (i) for “accepts a recommendation by the TRA” substitute “decides”;
 - (ii) for “the recommendation” substitute “the decision”.
- 16 (1) The Treasury or the Secretary of State may by regulations made by statutory instrument make such provision as the Treasury or the Secretary of State, as the case may be, considers appropriate in relation to trade remedies measures transitioned under Part 12 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450), including provision—
- (a) in relation to exemptions that has effect from IP completion day (or any later day);
 - (b) conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the Trade Remedies Authority.
- (2) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment in pursuance of a resolution of the House of Commons.

PART 4

COMMENCEMENT

- 17 (1) Any power to make regulations under or by virtue of this Schedule comes into force on the day on which this Act is passed.
- (2) The remaining provisions of this Schedule come into force on such day as the Secretary of State may by regulations appoint.
- (3) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Schedule.
- (4) The power to make regulations under sub-paragraph (3) includes power to make different provision for different purposes.
- (5) Regulations under this paragraph are to be made by statutory instrument.