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STATUTORY INSTRUMENTS

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**2019 No. 450**

**The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019**

**PART 13**

Transitional provisions relating to the TRA

CHAPTER 2

Further modifications

**Modification to Part 1**

**103.** Regulation 2 (interpretation) has effect as if, in the definition of “application”, for “paragraph 9(1)(a) of Schedule 4 to the Act”, there were substituted “ paragraph 9(1)(a)(i) of Schedule 4 to the Act ”.

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**Commencement Information**

**I1** Reg. 103 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Part 6**

**104.** Regulation 40 (general provisions) has effect as if, in paragraphs (1) and (2)(c) and (d), for “its” there were substituted “the Secretary of State's”.

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**Commencement Information**

**I2** Reg. 104 in force at 6.3.2019, see [reg. 1\(2\)](#)

**105.** Regulation 41 (revision of scope of an investigation) has effect as if—

- (a) in paragraph (1), for “its determination”, there were substituted “ the Secretary of State's decision ”; and
- (b) at the end of paragraph (5)(a), there were inserted “(or been otherwise available to the Secretary of State, where no application was made)”.

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**Commencement Information**

**I3** Reg. 105 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 106.** Regulation 45 (confidential information) has effect as if—
- (a) in paragraph (1)(a), for “its”, there were substituted “the Secretary of State’s”; and
  - (b) paragraph (5) were omitted.

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**Commencement Information**

**I4** Reg. 106 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 107.** Regulation 46 (permitted disclosure) has effect as if—
- (a) in paragraphs (1) and (3), “the TRA or”, in each place where this occurs, were omitted; and
  - (b) paragraph (2) were omitted.

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**Commencement Information**

**I5** Reg. 107 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 108.** Regulation 52 (assessment of an application) has effect as if—
- (a) for the heading of that regulation, there were substituted— “ Assessment of information to determine whether to initiate an investigation ”; and
  - (b) for paragraph (1), there were substituted—
    - “(1) The Secretary of State must examine the accuracy and adequacy of the information—
    - (a) contained in, or supplied with, an application; or
    - (b) obtained or held by the Secretary of State, for the purposes of the initiation of an investigation, where there is no application,
 to determine whether it is sufficient to justify the initiation of an investigation under paragraph 9 of Schedule 4 to the Act.”.

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**Commencement Information**

**I6** Reg. 108 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 109.** Regulation 53 (publicising an application) has effect as if—
- (a) for the heading of that regulation, there were substituted— “ Publicity ”;
  - (b) in paragraph (1), after “application”, there were inserted “ or that the Secretary of State is considering whether to make a decision under paragraph 9(1)(a)(ii) of Schedule 4 to the Act ”; and
  - (c) in paragraph (3), after “regulation 50 (application)”, there were inserted “ , where applicable, ”.

**Commencement Information**

**17** Reg. 109 in force at 6.3.2019, see [reg. 1\(2\)](#)

**110.** Regulation 54 (registration of interest and the issuing of questionnaires) has effect as if, for paragraphs (2)(b) and (3)(b), there were substituted—

- “(b) all UK producers, importers and overseas exporters (or associations thereof) which—
- (i) the applicant UK industry has identified in their application; or
  - (ii) where no application has been made, the Secretary of State has identified as being relevant to the investigation;”.

**Commencement Information**

**18** Reg. 110 in force at 6.3.2019, see [reg. 1\(2\)](#)

**111.** Regulation 61 (hearing) has effect as if, in paragraph (1)(b), for “its” there were substituted “the Secretary of State’s”.

**Commencement Information**

**19** Reg. 111 in force at 6.3.2019, see [reg. 1\(2\)](#)

**112.** Regulation 65 (content of notices) has effect as if—

- (a) in paragraph (3), for “recommendation regarding requiring”, there were substituted “ preliminary decision to require ”;
- (b) in paragraph (4)—
  - (i) for “paragraph 15(4)(a) and (5)(a)”, there were substituted “ paragraph 15(3)(a) and (4)(a) ”;
  - (ii) for “acceptance or rejection of a recommendation requiring a guarantee”, there were substituted “ decision to give effect, or not to give effect, to a preliminary decision to require a guarantee ”;
- (c) in paragraph (5), for “recommendation”, there were substituted “ preliminary decision ”;
- (d) in paragraph (6)—
  - (i) for “paragraph 20(4)(a) and 20(5)(a)”, there were substituted “ paragraph 20(3)(a) and 20(4)(a) ”;
  - (ii) for “acceptance or rejection of the TRA’s recommendation” there were substituted “ decision to give effect, or not to give effect, to a preliminary decision ”;
- (e) paragraph (9) were omitted; and
- (f) in paragraph (10), “paragraph (4) or (6) of” were omitted.

**Commencement Information**

**I10** Reg. 112 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Part 7**

**113.** Regulation 67 (initiation of a review) has effect as if—

- (a) in paragraphs (1)(b) and (2)(b), for “its”, there were substituted “the Secretary of State’s”;
- (b) in paragraph (7)(b), “the Secretary of State and” were omitted; and
- (c) in paragraph (9), “and the Secretary of State” were omitted.

**Commencement Information**

**I11** Reg. 113 in force at 6.3.2019, see [reg. 1\(2\)](#)

[<sup>F1</sup>**113A.** Regulation 68(4A) has effect as if, for “accepted a recommendation”, there were substituted “decided to give effect to a preliminary decision.”]

**F1** Reg. 113A inserted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), [regs. 1, 32](#)

**114.** Regulation 69 (interim review) has effect as if—

- (a) in paragraph (2), for “its”, there were substituted “the Secretary of State’s”;
- (b) in paragraphs (6) and (11), for “determine”, there were substituted “ make a preliminary decision ”;
- (c) in paragraphs (7) and (9), for “determination”, there were substituted “ preliminary decision ”;
- (d) for paragraph (10), there were substituted—

“(10) The Secretary of State may only make a preliminary decision that the application of an anti-dumping amount or a countervailing amount be extended in accordance with this regulation, if the Secretary of State is satisfied that the application of an anti-dumping amount or a countervailing amount meets the economic interest test (see paragraph 25 of Schedule 4 to the Act) and, where the Secretary of State is not so satisfied, the Secretary of State must instead make a preliminary decision that the application of the anti-dumping amount or the countervailing amount to those goods should be revoked.”; and

- (e) in paragraph (12), for “determines”, there were substituted “makes a preliminary decision.

**Commencement Information**

**I12** Reg. 114 in force at 6.3.2019, see [reg. 1\(2\)](#)

**115.** Regulation 70 (expiry review) has effect as if—

- (a) in paragraphs (2) and (7) to (9), for “determination”, there were substituted “ preliminary decision ”;

- (b) in paragraph (9), for “accepted or rejected the TRA's recommendation in accordance with regulation 76 (acceptance or rejection of the TRA's recommendation by the Secretary of State)”, there were substituted “decided to give effect to the preliminary decision (or not, as the case may be) in accordance with regulation 76 (Secretary of State's decision whether to give effect to a preliminary decision following the conclusion of a review)”;
- (c) in paragraph (11), for “determine”, there were substituted “make a preliminary decision”; and
- (d) for paragraph (12), there were substituted—

“(12) The Secretary of State may only make a preliminary decision that the application of an anti-dumping amount or a countervailing amount be extended in accordance with this regulation, if the Secretary of State is satisfied that the application of an anti-dumping amount or a countervailing amount meets the economic interest test (see paragraph 25 of Schedule 4 to the Act).”.

**Commencement Information**

**I13** Reg. 115 in force at 6.3.2019, see [reg. 1\(2\)](#)

**116.** Regulation 71 (new exporter review) has effect as if—

- (a) in paragraph (5), sub-paragraph (a) (and the “and” after it) were omitted;
- (b) in paragraph (6), for “determine”, there were substituted “make a preliminary decision”;
- (c) in paragraph (7), for “determination”, there were substituted “preliminary decision”; and
- (d) for paragraph (8), there were substituted —

“(8) If the Secretary of State makes a preliminary decision under paragraph (6)(b) or (c) in respect of an anti-dumping amount (and the Secretary of State has decided to give effect to that decision in accordance with regulation 76 (Secretary of State's decision whether to give effect to a preliminary decision following the conclusion of a review)), the Secretary of State may, by a public notice made under section 13 of the Act, apply the rate specified in the preliminary decision in respect of that new exporter from the date of the initiation of the review.”.

**Commencement Information**

**I14** Reg. 116 in force at 6.3.2019, see [reg. 1\(2\)](#)

**117.** Regulation 72 (absorption review) has effect as if—

- (a) in paragraph (4), for “determination”, in the first place it occurs, there were substituted “preliminary decision”;
- (b) in paragraph (6), for “recommend the application of”, there were substituted “make a preliminary decision to apply”; and
- (c) in paragraph (7), for “determine”, there were substituted “make a preliminary decision”.

**Commencement Information**

**I15** Reg. 117 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 118.** Regulation 73 (circumvention review) has effect as if—
- (a) in paragraph (7), for “determine”, there were substituted “ make a preliminary decision ”; and
  - (b) in paragraph (8), for “determination”, there were substituted “ preliminary decision ”.

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**Commencement Information**

**I16** Reg. 118 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 119.** Regulation 74 (scope review) has effect as if—
- (a) in paragraph (2), for “its”, there were substituted “the Secretary of State's”; and
  - (b) in paragraph (5), for “determine”, there were substituted “ make a preliminary decision ”.

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**Commencement Information**

**I17** Reg. 119 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 120.** Chapter 3 of Part 7 (TRA recommendation and decision of the Secretary of State) has effect as if, for the heading of that Chapter, there were substituted— “ Secretary of State's decision whether to give effect to a preliminary decision ”.

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**Commencement Information**

**I18** Reg. 120 in force at 6.3.2019, see [reg. 1\(2\)](#)

- 121.** Regulation 75 (TRA recommendation to the Secretary of State) has effect as if—
- (a) for the heading of that regulation, there were substituted— “ Secretary of State's preliminary decision following the conclusion of a review ”; and
  - (b) for that regulation, there were substituted—

“**75.**—(1) Following the conclusion of a review, where paragraph (2) applies, the preliminary decision made by the Secretary of State must include—

- (a) a description of the goods to which the preliminary decision relates;
- (b) the names of overseas exporters, or where impracticable, the exporting countries or territories;
- (c) where relevant, the period for which the anti-dumping amount or countervailing amount should be applicable, which must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the preliminary decision, unless the Secretary of State makes a determination in accordance with paragraph (3); and
- (d) the reasons for the Secretary of State's preliminary decision.

(2) This paragraph applies where the Secretary of State makes a preliminary decision that—

- (a) the application of an anti-dumping amount or a countervailing amount to some or all of the goods subject to review should be varied;
  - (b) the application of an anti-dumping amount or a countervailing amount to some or all of the goods subject to review should be revoked;
  - (c) the period of the application of an anti-dumping amount or a countervailing amount should be extended; or
  - (d) an anti-dumping amount or a countervailing amount should be applied to a new exporter at a particular level.
- (3) The Secretary of State may, as part of a preliminary decision, determine that the application of a varied anti-dumping amount or countervailing amount should be applicable to goods from a date before the date set out in the public notice made under section 13 of the Act giving effect to the preliminary decision where—
- (a) the preliminary decision is in respect of a review in accordance with regulation 73 (circumvention review); and
  - (b) the requirements set out in paragraph 21(10) of Schedule 4 to the Act are satisfied.
- (4) Where the Secretary of State makes a preliminary decision other than a preliminary decision referred to in paragraph (2), and decides to give effect to it, the Secretary of State must—
- (a) terminate the review;
  - (b) publish a notice containing the information set out in paragraph 2 of Schedule 3; and
  - (b) notify interested parties.”.

**Commencement Information**

**119** Reg. 121 in force at 6.3.2019, see [reg. 1\(2\)](#)

**122.** Regulation 76 (acceptance or rejection of the TRA's recommendation by the Secretary of State) has effect as if—

- (a) for the heading of that regulation, there were substituted— “ Secretary of State's decision whether to give effect to a preliminary decision following the conclusion of a review ”; and
- (b) for that regulation, there were substituted—

“**76.**—(1) Where the Secretary of State makes a preliminary decision referred to in regulation 75(2) (Secretary of State's preliminary decisions following the conclusion of a review), the Secretary of State must decide whether to give effect to the preliminary decision.

(2) The Secretary of State may decide not to give effect to the preliminary decision only if the Secretary of State is satisfied that it is not in the public interest to give effect to it.

(3) Where the Secretary of State decides not to give effect to the preliminary decision, the Secretary of State must—

- (a) publish a notice containing the information set out in paragraph 3 or 4 of Schedule 3;
- (b) notify interested parties; and

(c) lay a statement before the House of Commons setting out the reasons for deciding not to give effect to the preliminary decision.

(4) Where the Secretary of State decides to give effect to the preliminary decision, 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 or 4 of Schedule 3.”

**Commencement Information**

**I20** Reg. 122 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Part 8**

**123.** Regulation 77 (requests and offers of undertakings) has effect as if paragraph (1)(a) were omitted.

**Commencement Information**

**I21** Reg. 123 in force at 6.3.2019, see [reg. 1\(2\)](#)

**124.** Regulation 78 (TRA's power to recommend acceptance of undertakings) has effect as if—

- (a) for the heading of that regulation, there were substituted— “ Secretary of State's decision whether to accept undertakings ”;
- (b) in paragraph (1)—
  - (i) for “The TRA may make a recommendation to the Secretary of State under paragraph 23(1) of Schedule 4 to the Act to accept an undertaking”, there were substituted “ The Secretary of State may accept an undertaking under paragraph 23(1) of Schedule 4 to the Act ”;
  - (ii) in sub-paragraph (d), for “requirements” there were substituted “ requirement ”;
- (c) in paragraph (2), for “recommend the acceptance of” there were substituted “ accept ”; and
- (d) in paragraph (4), for “recommendation”—
  - (i) in the first place where it occurs, there were substituted “ decision ”; and
  - (ii) in the second place where it occurs, there were substituted “ preliminary decision ”.

**Commencement Information**

**I22** Reg. 124 in force at 6.3.2019, see [reg. 1\(2\)](#)

**125.** Regulation 79 (Secretary of State's power to accept undertakings) has effect as if—

- (a) paragraph (1) were omitted; and
- (b) in paragraphs (2) and (3) for “the TRA's recommendation” there were substituted “ an undertaking ”.



**Commencement Information**

**I23** Reg. 125 in force at 6.3.2019, see [reg. 1\(2\)](#)

**126.** Regulation 81 (the acceptance of a new undertaking in place of an existing undertaking) has effect as if, for “TRA's power to recommend acceptance of undertakings”, there were substituted “Secretary of State's decision whether to accept undertakings”.

**Commencement Information**

**I24** Reg. 126 in force at 6.3.2019, see [reg. 1\(2\)](#)

**127.** Regulation 82 (undertakings ceasing to apply) has effect as if, in paragraph (1)(d), “the TRA notifies the Secretary of State that” were omitted.

**Commencement Information**

**I25** Reg. 127 in force at 6.3.2019, see [reg. 1\(2\)](#)

**128.** Regulation 83 (breach of an undertaking) has effect as if—

- (a) in paragraph (1)(a), “or the Secretary of State” were omitted; and
- (b) in paragraphs (1)(b), for “its” there were substituted “the Secretary of State's”.

**Commencement Information**

**I26** Reg. 128 in force at 6.3.2019, see [reg. 1\(2\)](#)

**129.** Regulation 84 (reviews by the TRA of the continuing application of an undertaking) has effect as if—

- (a) in paragraph (2)(b), for “its”, there were substituted “the Secretary of State's”;
- (b) paragraphs (6) and (7), were omitted;
- (c) in paragraph (8), for “accepts the TRA's recommendation”, there were substituted “ makes a determination in accordance with paragraph (5)(b) to (e) ”; and
- (d) in paragraph (9), for “rejects the TRA's recommendation”, there were substituted “ decides not to make a determination in accordance with paragraph (5)(b) to (e) ”.

**Commencement Information**

**I27** Reg. 129 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Part 9**

**130.** Part 9 of these Regulations has effect as if, for that Part, there were substituted—

## “PART 9

### Suspension

#### **Suspension of an anti-dumping amount or a countervailing amount**

**85.**—(1) The Secretary of State may make a preliminary decision (a “preliminary suspension decision”) that the application of an anti-dumping amount or a countervailing amount be suspended for a specified period (the “period of suspension”) in relation to some or all of the goods specified in a public notice made by the Secretary of State under section 13 of the Act.

(2) The Secretary of State may make a preliminary suspension decision where—

- (a) paragraph (3) applies;
- (b) the Secretary of State is satisfied that a suspension is appropriate; and
- (c) the applicant UK industry has been given the opportunity to comment on the suspension proposed in the application for suspension (see regulation 86).

(3) This paragraph applies where the Secretary of State, whether or not as a consequence of considering an application in accordance with regulation 86 (application for suspension), considers that the circumstances in paragraph (4) exist.

(4) Those circumstances are that—

- (a) market conditions have changed temporarily; and
- (b) as a consequence of the change in market conditions, the injury caused to a UK industry is unlikely to recur if the application of an anti-dumping amount or a countervailing amount were to be suspended.

(5) In considering whether to make a preliminary suspension decision, the Secretary of State may take such steps as the Secretary of State considers appropriate.

(6) Where the Secretary of State rejects an application for suspension, the Secretary of State must notify the applicant.

(7) Where the Secretary of State decides that it is not appropriate to make a preliminary suspension decision, the Secretary of State must—

- (a) publish a notice of the reasons for this decision; and
- (b) notify interested parties.

(8) Where the Secretary of State decides that it is appropriate to make a preliminary suspension decision, the preliminary suspension decision must include—

- (a) the reasons for the decision;
- (b) the period of suspension, which must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the preliminary suspension decision; and
- (c) any other information the Secretary of State considers relevant.

(9) If the Secretary of State makes a preliminary suspension decision, the Secretary of State must decide whether to give effect to the decision.

(10) Where the Secretary of State decides to give effect to the preliminary suspension decision, 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.

(11) The Secretary of State may only decide not to give effect to a preliminary suspension decision where the Secretary of State considers that it is not in the public interest to give effect to it.

(12) Where the Secretary of State decides not to give effect to a preliminary suspension decision, the Secretary of State must—

- (a) publish a notice containing the information set out in paragraph 1 of Schedule 5;
- (b) notify interested parties; and
- (c) lay a statement before the House of Commons setting out the reasons for deciding not to give effect to the preliminary suspension decision.

(13) Where an anti-dumping amount or a countervailing amount is suspended under this Part, the period of suspension counts towards the specified period of the anti-dumping amount or countervailing amount as stated in the relevant public notice.

### **Application for suspension**

**86.**—(1) An application for suspension of an anti-dumping amount or a countervailing amount in accordance with regulation 85 (suspension of an anti-dumping amount or a countervailing amount) (a “suspension application”) may be made to the Secretary of State by or on behalf of an interested party.

(2) A suspension application to the Secretary of State must include as far as possible information regarding—

- (a) the change in the market conditions;
- (b) the temporary nature of that change; and
- (c) the effect of the change on UK industry.

(3) Where a suspension application is withdrawn by the applicant, the Secretary of State may still consider whether it is appropriate to make a preliminary suspension decision (see regulation 85).

### **Period of suspension**

**87.**—(1) The period of suspension referred to in regulation 85(1) must not exceed nine months commencing on the day after the publication of the public notice under section 13 of the Act giving effect to the suspension.

(2) Following an application by an interested party or where the Secretary of State otherwise considers that it is appropriate, the Secretary of State may make a preliminary decision that the period of nine months in paragraph (1) be extended to a maximum of 21 months (“extended period of suspension”).

(3) Where the Secretary of State makes a preliminary decision in accordance with paragraph (2), but the duration of the extended period of suspension in accordance with that decision is less than 21 months, the Secretary of State may make a further preliminary decision to increase the duration of the extended period of suspension where the Secretary of State considers it is appropriate to do so and provided that the overall duration of the extended period of suspension does not exceed 21 months.

(4) Where the Secretary of State rejects an application for an extension of the period of suspension, the Secretary of State must notify the applicant.

(5) Where the Secretary of State decides that it is not appropriate to make a preliminary decision to extend the period of suspension, the Secretary of State must—

- (a) publish a notice of the decision and the reasons for it; and

(b) notify interested parties.

(6) Where the Secretary of State decides that it is appropriate to make a preliminary decision to extend the period of suspension, the preliminary decision must include—

- (a) the reasons for the preliminary decision;
- (b) the extended period of suspension, which must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the preliminary decision; and
- (c) any other information the Secretary of State considers relevant.

(7) If the Secretary of State makes a preliminary decision in accordance with this regulation, the Secretary of State must decide whether to give effect to the preliminary decision.

(8) Where the Secretary of State decides to give effect to a preliminary decision, 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.

(9) The Secretary of State may only decide not to give effect to a preliminary decision where the Secretary of State considers that it is not in the public interest to give effect to it.

(10) Where the Secretary of State decides not to give effect to the preliminary decision, the Secretary of State must—

- (a) publish a notice containing the information set out in paragraph 3 of Schedule 5;
- (b) notify interested parties; and
- (c) lay a statement before the House of Commons setting out the reasons for deciding not to give effect to the preliminary decision.

### **Reinstatement of an anti-dumping amount or a countervailing amount**

**88.**—(1) The Secretary of State may make a preliminary decision to reinstate an anti-dumping amount or a countervailing amount where the Secretary of State determines that the circumstances in regulation 85(4) no longer exist.

(2) Where the Secretary of State makes a preliminary decision in accordance with this regulation, the preliminary decision must include—

- (a) the reasons for the preliminary decision; and
- (b) any other information the Secretary of State considers relevant.

(3) If the Secretary of State makes a preliminary decision in accordance with this regulation, the Secretary of State must decide whether to give effect to the preliminary decision.

(4) Where the Secretary of State decides to give effect to a preliminary decision, the Secretary of State must—

- (a) publish a public notice under section 13 of the Act containing the information set out in paragraph 4 of Schedule 5; and
- (b) notify interested parties.

(5) The Secretary of State may only decide not to give effect to a preliminary decision where the Secretary of State considers that it is not in the public interest to give effect to it.

(6) Where the Secretary of State decides not to give effect to a preliminary decision, the Secretary of State must—

- (a) publish a notice containing the information set out in paragraph 4 of Schedule 5;
- (b) notify interested parties; and

- (c) lay a statement before the House of Commons setting out the reasons for deciding not to make the preliminary decision.”

**Commencement Information**

**I28** Reg. 130 in force at 6.3.2019, see [reg. 1\(2\)](#)

**[<sup>F2</sup>Modifications to Part 9A**

- 130A.** Part 9A (investigation in light of an international dispute decision) has effect as if—
- (a) for “recommendation”, in each place it occurs, there were substituted “preliminary decision”;
  - (b) in regulation 88A—
    - (i) in paragraph (1), the words “direct the TRA to” were omitted;
    - (ii) in paragraph (2), for “required” there were substituted “initiated”;
  - (c) in regulation [<sup>F3</sup>88B(3)(b)(ii)], after “regulation” there were inserted “88I(3)(a) or”;
  - (e) in regulations 88G(2) and 88H(2), for “recommend to the Secretary of State”, there were substituted “make a preliminary decision”;
  - (e) for the section heading after regulation 88I and for regulation 88I, there were substituted—

*“Decision*

**Decision to give effect to a preliminary decision**

**88I.—**(1) The Secretary of State must decide whether or not to give effect to a preliminary decision made under regulation 88G(2) or 88H(2).

(2) The Secretary of State must decide to give effect to the preliminary decision unless the Secretary of State is satisfied it is not in the public interest to give effect to the preliminary decision.

(3) If the Secretary of State decides not to give effect to the preliminary decision, the Secretary of State must—

- (a) publish notice of the preliminary decision and of the decision to give effect to it;
- (b) notify interested parties;
- (c) make provision by public notice under section 13 of the Act to give effect to the preliminary decision.

(4) If the Secretary of State decides not to give effect to the preliminary decision, the Secretary of State must—

- (a) publish notice of the preliminary decision and of the decision not to give effect to it;
- (b) notify interested parties;
- (c) lay a statement before the House of Commons setting out the reasons for which the Secretary of State is satisfied it is not in the public interest to give effect to the preliminary decision.”.]

**F2** Reg. 130A inserted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), [regs. 1, 33](#)

**F3** Word in reg. 130A(c) substituted (5.8.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/730\)](#), regs. 1, 19

## Modifications to Part 11

**131.** Regulation 90 (extension of the period of a provisional remedy in a dumping investigation) has effect as if, for that regulation, there were substituted—

“**90.**—(1) The Secretary of State may make a preliminary decision that the period of a provisional remedy, which has been applied in respect of goods in the case of a dumping investigation, be extended (a “preliminary extension decision”).

(2) The Secretary of State may only make a preliminary extension decision where—

- (a) paragraph (3) or (4) applies; and
- (b) the Secretary of State is satisfied that the extension meets the economic interest test (see paragraph 25 of Schedule 4 to the Act).

(3) This paragraph applies where the Secretary of State receives a request to extend the period of the provisional remedy from or on behalf of overseas exporters representing a significant volume of the dumped goods.

(4) This paragraph applies where—

- (a) the Secretary of State considers that extending the period of the provisional remedy is appropriate in the circumstances;
- (b) the Secretary of State issues a notification to overseas exporters notifying them that the Secretary of State considers it appropriate to extend the period of the provisional remedy (“proposed extension”); and
- (c) overseas exporters representing a significant volume of the dumped goods do not object to the proposed extension.

(5) A preliminary extension decision must include—

- (a) a description of the goods to which the decision relates;
- (b) the overseas exporters that support or do not object to the extension;
- (c) the period of extension, which must not exceed the period referred to in paragraph 16(2) of Schedule 4 to the Act and which must begin on the day on which the provisional remedy would otherwise have expired; and
- (d) the reasons for the decision.

(6) If the Secretary of State makes a preliminary extension decision, the Secretary of State must decide whether to give effect to the preliminary extension decision.

(7) The Secretary of State may only decide not to give effect to a preliminary extension decision, where the Secretary of State is satisfied that it is not in the public interest to give effect to it.

(8) Where the Secretary of State decides to give effect to a preliminary extension decision, the Secretary of State must—

- (a) publish a notice containing the information set out in paragraph 1 of Schedule 6; and
- (b) notify interested parties.

(9) Where the Secretary of State decides not to give effect to a preliminary extension decision, 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 deciding not to give effect to the preliminary extension decision.”.

**Commencement Information**

**I29** Reg. 131 in force at 6.3.2019, see [reg. 1\(2\)](#)

**132.** Regulation 91 (relevant period in a dumping investigation) has effect as if—

- (a) in paragraph (1), for “recommend”, there were substituted “ determine, as part of making a preliminary decision, ”; and
- (b) in paragraph (3), for “recommendation”, there were substituted “ determination ”.

**Commencement Information**

**I30** Reg. 132 in force at 6.3.2019, see [reg. 1\(2\)](#)

**133.** Regulation 92 (relevant period in a subsidisation investigation) has effect as if, in paragraphs (1) and (2)(c), for “recommend”, there were substituted “ determine, as part of making a preliminary decision, ”.

**Commencement Information**

**I31** Reg. 133 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Part 12**

[<sup>F4</sup>**134.** Part 12 has effect as if for “recommendation”, in each place where it occurs, there were substituted “preliminary decision”.

**F4** Regs. 134-137B substituted for regs. 134-137 (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**

**135.** Regulation 98A(2) has effect as if sub-paragraph (b) were omitted.

**F4** Regs. 134-137B substituted for regs. 134-137 (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**

**136.** Regulation 100(1) has effect as if the words “to the Secretary of State” were omitted.

**F4** Regs. 134-137B substituted for regs. 134-137 (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**

**137.** Regulation 101 has effect as if—

- (a) for “accept”, there were substituted “give effect to”;
- (b) paragraph (2) were omitted.

**F4** Regs. 134-137B substituted for regs. 134-137 (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**

**137A.** Regulation 101A has effect as if—

- (a) in the heading, for “Rejection of”, there were substituted “Decision not to give effect to”;
- (b) in paragraph (1), for “rejects”, there were substituted “decides not to give effect to”;
- (c) in paragraph (2), for “rejecting”, there were substituted “deciding not to give effect to”.

**F4** Regs. 134-137B substituted for regs. 134-137 (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**

**137B.** Regulations 101B and 101C have effect as if—

- (a) in the headings, for “Acceptance of”, there were substituted “Decision to give effect to”;
- (b) in paragraphs (1), for “accepts”, there were substituted “decides to give effect to”.]

**F4** Regs. 134-137B substituted for regs. 134-137 (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**

## Modifications to Schedule 2

**138.** Schedule 2 (content of notices) has effect as if—

- (a) in paragraph 1(g), “in the application” were omitted;
- (b) in paragraph 3—
  - (i) in the heading before that paragraph, for “recommendation regarding requiring”, there were substituted “ preliminary decision to require ”;
  - (ii) in sub-paragraph (d), for “determined that there is no recommendation”, there were substituted “ decided that there is no preliminary decision ”;
- (c) in paragraph 4—
  - (i) in the heading before that paragraph, for “accepting or rejecting a recommendation by the TRA regarding requiring”, there were substituted “ deciding to give effect, or not to give effect, to a preliminary decision to require ”;
  - (ii) in sub-paragraph (f), for “recommendation regarding requiring”, there were substituted “ preliminary decision to require ”;
  - (iii) in sub-paragraph (g), for “accepts the TRA's recommendation”, there were substituted “ decides to give effect to the preliminary decision ”;
  - (iv) in sub-paragraph (h)—
    - (aa) for “rejects the TRA's recommendation”, there were substituted “ decides not to give effect to the preliminary decision ”;
    - (bb) for “rejection”, there were substituted “ decision ”;
- (d) in paragraph 5—



- (i) in the heading before that paragraph, for “recommendation”, there were substituted “ preliminary decision ”;
  - (ii) in sub-paragraph (e), for “determined that there is no recommendation”, there were substituted “ decided that there is no preliminary decision ”; and
- (e) in paragraph 6—
- (i) in the heading before that paragraph, for the words “accepting or rejecting a recommendation by the TRA”, there were substituted “ deciding to give effect, or not to give effect, to a preliminary decision ”;
  - (ii) in sub-paragraph (d), for “recommendation”, there were substituted “ preliminary decision ”;
  - (iii) in sub-paragraph (e), for “accepts the TRA's recommendation”, there were substituted “ decides to give effect to the preliminary decision ”;
  - (iv) in sub-paragraph (f)—
    - (aa) for the words “rejects the TRA's recommendation”, there were substituted “ decides not to give effect to the preliminary decision ”;
    - (bb) in paragraph (i), for “rejection”, there were substituted “ decision ”;
  - (v) in sub-paragraph (g)—
    - (aa) “the TRA's recommendation on accepting” were omitted; and
    - (bb) in paragraph (i), for “recommendation”, there were substituted “ undertaking ”; and
  - (vi) in sub-paragraph (h)—
    - (aa) “the TRA's recommendation on accepting” were omitted; and
    - (bb) in paragraph (ii), for “recommendation”, there were substituted “ undertaking ”.

#### **Commencement Information**

**I32** Reg. 138 in force at 6.3.2019, see [reg. 1\(2\)](#)

### **Modifications to Schedule 3**

- 139.** Schedule 3 (content of reviews notices) has effect as if, in paragraphs 3 and 4—
- (a) in the headings before those paragraphs, in each case, for “accepting or rejecting a recommendation by the TRA”, there were substituted “ deciding to give effect, or not to give effect, to a preliminary decision ”;
  - (b) for “regulation 76(4)(a) or (5)”, in each case, there were substituted “ regulation 76(3)(a) or (4) ”;
  - (c) in sub-paragraphs (c) and (d), in each case, for “recommendation”, there were substituted “ preliminary decision ”;
  - (d) in sub-paragraph (e), in each case, for “accepts the TRA's recommendation”, there were substituted “ decides to give effect to the preliminary decision ”; and
  - (e) in sub-paragraph (f), in each case—
    - (i) for “rejects the TRA's recommendation”, there were substituted “ decides not to give effect to the preliminary decision ”; and
    - (ii) for “rejection”, there were substituted “ decision ”.

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**Commencement Information**

**I33** Reg. 139 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Schedule 4**

**140.** Schedule 4 (content of undertakings notices) has effect as if —

- (a) in paragraph 1—
  - (i) in the heading before that paragraph, “accepting a recommendation by the TRA” were omitted;
  - (ii) in sub-paragraph (b), for “acceptance of the TRA's recommendation”, there were substituted “ decision to give effect to a determination ”;
  - (iii) sub-paragraph (e) were omitted; and
  - (iv) in sub-paragraph (f), for “TRA's recommendation” there were substituted “ undertaking ”; and
- (b) in paragraph 4—
  - (i) in the heading before that paragraph, “accepting a recommendation by the TRA” were omitted;
  - (ii) sub-paragraph (e) were omitted;
  - (iii) in sub-paragraph (f), for “decision to accept the TRA's recommendation”, there were substituted “ determination ”; and
  - (iv) in sub-paragraph (g), for “decision”, there were substituted “ determination ”.

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**Commencement Information**

**I34** Reg. 140 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Schedule 5**

**141.** Schedule 5 (content of suspension notices) has effect as if—

- (a) in paragraphs 1, 3 and 4—
  - (i) in the headings of those paragraphs for “accepting or rejecting a recommendation by the TRA”, there were substituted “ deciding to give effect, or not to give effect, to a preliminary decision ”;
  - (ii) in sub-paragraphs (b) and (c) of each paragraph, for “recommendation”, there were substituted “ preliminary decision ”;
  - (iii) in sub-paragraph (d) of each paragraph, for “accept or reject the recommendation”, there were substituted “ give effect, or not to give effect, to the preliminary decision ”;
  - (iv) in sub-paragraph (e) of each paragraph, for “accepts the TRA's recommendation”, there were substituted “ decides to give effect to the preliminary decision ”; and
  - (v) in sub-paragraph (f) of each paragraph—
    - (aa) for “rejects the TRA's recommendation”, there were substituted “ decides not to give effect to the preliminary decision ”; and
    - (bb) for “rejection”, there were substituted “ decision ”; and

(b) in paragraph 4(e)(ii), for “recommendation”, there were substituted “ preliminary decision ”

**Commencement Information**

**I35** Reg. 141 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Modifications to Schedule 5A**

<sup>F5</sup>**141A.** . . . . .

**F5** [Reg. 141A](#) omitted (5.8.2020) by virtue of [The Trade Remedies \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/730\)](#), regs. 1, **20**

**Modifications to Schedule 6**

**142.** Schedule 6 (content of notices concerning extensions of provisional remedies) has effect as if, in paragraph 1—

- (a) for “regulation 90(9)(a) or (10)(a)”, there were substituted “ regulation 90(8)(a) or (9)(a) ”;
- (b) in the heading, for “accepting or rejecting a recommendation by the TRA”, there were substituted “ deciding to give effect, or not to give effect, to a preliminary decision ”;
- (c) in sub-paragraphs (b) and (c), for “recommendation”, there were substituted “ preliminary decision ”;
- (d) in sub-paragraph (d), for “accept or reject the recommendation”, there were substituted “ give effect, or not to give effect, to the preliminary decision ”;
- (e) in sub-paragraph (e), for “accepts the TRA's recommendation”, there were substituted “ decides to give effect to the preliminary decision ”; and
- (f) in sub-paragraph (f)—
  - (i) for “rejects the TRA's recommendation”, there were substituted “ decides not to give effect to the preliminary decision ”;
  - (ii) for “rejection”, there were substituted “ decision ”.

**Commencement Information**

**I36** Reg. 142 in force at 6.3.2019, see [reg. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, CHAPTER 2.