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STATUTORY INSTRUMENTS

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**2019 No. 450**

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

**PART 6**

Initiation and conduct of an investigation

CHAPTER 3

Conduct of an investigation

**Registration of interest and the issuing of questionnaires**

**54.**—(1) Where the TRA has made a determination to initiate an investigation, it must set a period during which interested parties and any other person may make themselves known to the TRA (a “registration period”).

(2) In a dumping investigation, the TRA must, as far as practicable, issue a questionnaire (see regulation 55) to—

- (a) all interested parties, other than the government of the relevant foreign country or territory, who have made themselves known to the TRA during the registration period;
- (b) all UK producers, importers and overseas exporters (or associations thereof) which the applicant UK industry has identified in their application; and
- (c) all contributors who have made themselves known to the TRA during the registration period.

(3) In a subsidisation investigation, the TRA must, as far as practicable, issue a questionnaire to—

- (a) all interested parties who have made themselves known to the TRA during the registration period;
- (b) all UK producers, importers and overseas exporters (or associations thereof) which the applicant UK industry has identified in their application; and
- (c) all contributors who have made themselves known to the TRA during the registration period.

(4) However, where the TRA uses sampling in accordance with regulation 56 (the use of sampling in respect of Part 2 of these Regulations) or 57 (the use of sampling in respect of Parts 3, 4 and 5 of these Regulations), the TRA may limit the issuing of a questionnaire to those interested parties included in that sample.

(5) Where an interested party or a contributor makes themselves known to the TRA after the end of the registration period, the TRA may issue a questionnaire to that person.

(6) Where an interested party makes themselves known to the TRA after the end of the registration period, the TRA may include that party in a sample referred to in regulation 56 (the use of sampling in respect of Part 2 of these Regulations) or 57 (the use of sampling in respect of Parts 3, 4 and 5 of these Regulations).

(7) The TRA must not issue a questionnaire after the statement of essential facts is published (see regulation 62).

#### **Form of questionnaires and deficiency notice**

**55.**—(1) Subject to paragraph (2), the questionnaire referred to in regulation 54 (registration of interest and the issuing of questionnaires) may take such form and contain such questions and other material as the TRA considers appropriate for the purpose of the investigation.

(2) A questionnaire must set out the date by which it must be returned to the TRA.

(3) Where, following a review of the returned questionnaire, the TRA determines that it is incomplete or that the information supplied to it is inadequate, it may issue a notice to the relevant interested party or contributor requesting clarification or supplementary information (a “deficiency notice”).

(4) The deficiency notice must set out a time limit by which any missing, clarificatory or supplementary information is to be supplied.

#### **The use of sampling in respect of Part 2 of these Regulations**

**56.**—(1) The TRA may use sampling in relation to an investigation in accordance with this regulation to determine whether goods are dumped for the purpose of Part 2 of these Regulations.

(2) The TRA may, where it considers it appropriate, limit its examination to a sample of—

- (a) overseas exporters;
- (b) importers; or
- (c) categories of goods.

(3) The TRA must determine which overseas exporters, importers or categories of goods, as the case may be, to include in the sample based on either—

- (a) the largest volume of exports from the exporting country or territory to the United Kingdom that the TRA is reasonably able to investigate; or
- (b) a statistically valid method.

(4) Subject to paragraph (5), where the TRA considers it appropriate to limit its examination in accordance with this regulation to a sample, it must consult with overseas exporters and importers, as the case may be, about the proposed sample and, where possible, obtain their consent to the proposed sample.

(5) Paragraph (4) does not apply where the TRA considers that consultation or obtaining consent is impracticable.

(6) An overseas exporter who is not included in a sample in accordance with this regulation may request that the TRA calculate an individual margin of dumping provided that the overseas exporter has supplied the necessary information in time for that information to be considered during the course of the investigation.

(7) Where an overseas exporter makes a request in accordance with paragraph (6), the TRA must accept the request and calculate an individual margin of dumping unless the number of exporters is so large that individual examinations are unduly burdensome and would prevent the timely completion of the investigation.

#### **The use of sampling in respect of Parts 3, 4 and 5 of these Regulations**

**57.**—(1) The TRA may use sampling in relation to an investigation in accordance with this regulation to determine—

- (a) whether imports of the goods concerned into the United Kingdom are subsidised;
  - (b) whether the dumped goods or subsidised imports, as the case may be, have caused or are causing injury to a UK industry; or
  - (c) the amount necessary to remove the injury.
- (2) The TRA may, where it considers it appropriate to do so, limit its examination under Parts 3, 4 and 5 of these Regulations to a sample of—
- (a) importers;
  - (b) overseas exporters;
  - (c) categories of goods;
  - (d) UK producers;
  - (e) transactions for the purchase of the like goods in the United Kingdom; or
  - (f) anything else the TRA considers it appropriate to sample in order to make its determination.
- (3) Where the TRA limits its examination in accordance with this regulation it may use any reasonable method to determine the sample.
- (4) An overseas exporter who is not included in a sample in accordance with this regulation may request that the TRA calculate an individual anti-dumping amount or countervailing amount provided that the overseas exporter has supplied the necessary information in time for that information to be considered during the course of the investigation.
- (5) Where an overseas exporter makes a request in accordance with paragraph (4), the TRA must accept the request and calculate an individual anti-dumping amount or countervailing amount unless the number of exporters is so large that individual examinations are unduly burdensome and would prevent the timely completion of the investigation.

### **Verification visit**

- 58.**—(1) This regulation applies to a verification visit conducted by the TRA.
- (2) Subject to paragraph (8), the TRA may make such arrangements in connection with a verification visit in the United Kingdom as it considers appropriate.
- (3) Subject to paragraphs (4) to (8), the TRA may make such arrangements in connection with a verification visit in any foreign country or territory as it considers appropriate.
- (4) The TRA may carry out a verification visit in any foreign country or territory provided that all of the following are satisfied—
- (a) it has advised the person that it proposes to visit of the following—
    - (i) the date of the proposed visit;
    - (ii) the general nature of the information to be verified; and
    - (iii) any further information required from the person;
  - (b) it has obtained the prior agreement of the person in question;
  - (c) it has notified the government of the relevant foreign country or territory of the information set out in paragraph (5); and
  - (d) that government does not object.
- (5) The information referred to in paragraph (4)(c) is—
- (a) the name and address of the person to be visited by the TRA; and
  - (b) the date of the visit as agreed with that person.

(6) Paragraph (7) applies where, prior to carrying out a verification visit, the TRA receives enquiries or requests for clarification relevant to such a visit from the person or the government of the relevant foreign country or territory.

(7) Where this paragraph applies, the TRA must, where practicable, respond to the enquiries or provide the clarification in advance of the visit.

(8) The TRA must not conduct a verification visit after the statement of essential facts is published (see regulation 62).

### **Verification report**

**59.**—(1) The TRA must—

- (a) provide a written report on a verification visit (a “verification report”) to the person subject to that visit;
- (b) require the person subject to a verification visit to supply it with a version of the verification report with summarisation of information that it requests the TRA to treat as confidential (a “non-confidential verification report”); and
- (c) set a time limit by which the non-confidential verification report is to be supplied.

(2) In the application of regulation 45 (confidential information) to this regulation, a reference in that regulation to—

- (a) the supply of information is to be taken to include information obtained by the TRA from the person subject to a verification visit; and
- (b) a non-confidential summary is to be taken to include a non-confidential verification report.

### **Facilitation visit**

**60.**—(1) Subject to paragraph (3), the TRA may make such arrangements in connection with a facilitation visit in the United Kingdom as it considers appropriate.

(2) Subject to paragraph (3), in exceptional circumstances, the TRA may make such arrangements in connection with a facilitation visit in any foreign country or territory as it considers appropriate, provided that the requirements set out in regulation 58(4) to (7) are met.

(3) The TRA must not conduct a facilitation visit after the statement of essential facts is published.

(4) In the application of regulation 58 (verification visit) to paragraph (2), reference in that regulation to a verification visit is to be taken to include a facilitation visit.

### **Hearing**

**61.**—(1) The TRA may conduct a hearing at any time during an investigation either—

- (a) at the request of any interested party; or
- (b) on its own initiative.

(2) The TRA must notify interested parties and contributors of any processes and procedures to be adopted at a hearing in advance of it taking place.

(3) When deciding whether and how to conduct a hearing, the TRA must have regard to—

- (a) the need to preserve the confidentiality of information it is treating as confidential in accordance with regulation 45(3) or (4); and
- (b) whether holding a hearing and whether such processes and procedures it proposes to adopt at a hearing would be convenient to interested parties and contributors.

(4) The TRA must allow interested parties and contributors to present their views by written and oral statements (see regulation 47(3)).

(5) Where the TRA decides to conduct a hearing, it—

- (a) must give sufficient notice of the hearing to interested parties and contributors;
- (b) must allow interested parties and contributors to attend; and
- (c) may request that an interested party or a contributor intending to attend to supply the TRA with the information they wish to rely on at the hearing.

(6) Where the TRA makes a request referred to in paragraph (5)(c), it must set a time limit by which such a request must be complied with.

(7) An interested party or a contributor is not under an obligation to attend a hearing.

(8) The TRA must not determine that an interested party who fails to attend a hearing is a non-cooperative party (see regulation 49) or that such failure to attend is otherwise prejudicial to its interests.

### **Essential facts and disclosure**

**62.**—(1) Before making a final affirmative or final negative determination for the purpose of paragraph 11(5) of Schedule 4 to the Act, the TRA must—

- (a) publish a statement (a “statement of essential facts”) which sets out—
  - (i) the final determination that it intends to make (“intended final determination”);
  - (ii) a summary of the facts considered by the TRA during the investigation;
  - (iii) those facts referred to in sub-paragraph (ii) that formed the basis of the intended final determination; and
- (b) inform interested parties who have supplied information that has been considered by the TRA—
  - (i) how it has used the information supplied by that party in making the intended final determination; and
  - (ii) of the details of the TRA’s analysis forming the basis of the intended final determination.

(2) The TRA must specify in the statement of essential facts a period during which it will consider comments on that statement from interested parties, contributors or any other person who has supplied information to it.