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STATUTORY INSTRUMENTS

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**2019 No. 450**

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

**PART 8**

**Undertakings**

**TRA's power to recommend acceptance of undertakings**

**78.**—(1) 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 in respect of goods only if—

- (a) it is satisfied that the undertaking is sufficient to eliminate the injurious effect of—
  - (i) the dumping of the goods to a UK industry in those goods; or
  - (ii) the importation of the subsidised goods to a UK industry in those goods;
- (b) acceptance of the undertaking meets the economic interest test (see paragraph 25 of Schedule 4 to the Act);
- (c) it is satisfied that it is appropriate to accept the undertaking; and
- (d) it has complied with the requirements set out in regulation 77 (requests and offers of undertakings).

(2) In making an assessment as to whether it is appropriate to recommend the acceptance of an undertaking for the purpose of paragraph (1)(c), the TRA may consider—

- (a) the adequacy of the terms and conditions of an undertaking including—
    - (i) the sufficiency of provision for the supply of information to the TRA to enable the monitoring of compliance with the undertaking, including regular supply of information relevant to the fulfilment of the undertaking and provision to permit verification of relevant information;
    - (ii) the provision of a non-confidential version of the undertaking by the overseas exporter or relevant foreign government;
    - (iii) what constitutes a breach of the undertaking and the consequences of any such breach;
  - (b) whether acceptance is impractical; and
  - (c) reasons of general policy.
- (3) The terms and conditions of the undertaking must cover—
- (a) the supply of information to the TRA for the purpose of compliance monitoring;
  - (b) compliance monitoring by the TRA;
  - (c) activities that may be considered a breach of the undertaking;
  - (d) the circumstances in which the undertaking will cease to apply;

- (e) when an anti-dumping amount or a countervailing amount applies in the alternative to the continuation of the undertaking; and
  - (f) anything else which the TRA considers necessary.
- (4) A recommendation to accept an undertaking may only be made when accompanied by a recommendation in accordance with paragraph 17(3)(a) or (4)(a) of Schedule 4 to the Act and must—
- (a) specify the goods in respect of which the undertaking is offered;
  - (b) identify the overseas exporter or relevant foreign government who offered the undertaking;
  - (c) contain details of the undertaking, including the full terms and conditions of the undertaking; and
  - (d) include the reasons for the TRA's determination that the acceptance of the undertaking is appropriate.
- (5) If an undertaking is offered by an overseas exporter or a relevant foreign government and the TRA determines that it is not appropriate to accept an undertaking, it must—
- (a) where it is practicable, notify the overseas exporter or relevant foreign government of the reasons for its determination; and
  - (b) where possible, provide the overseas exporter or relevant foreign government an opportunity to provide comments.
- (6) The terms and conditions of the undertaking must be in accordance with paragraph 18(6) of Schedule 4 to the Act.