

SCHEDULES

SCHEDULE 4

DUMPING OF GOODS OR FOREIGN SUBSIDIES CAUSING INJURY TO UK INDUSTRY

PART 5

UNDERTAKINGS

Acceptance of undertakings

- 23 (1) Where the TRA determines to recommend to the Secretary of State under paragraph 17(3) or (4) that an anti-dumping amount or a countervailing amount should be applicable to goods, the TRA may also recommend to the Secretary of State the acceptance of an undertaking in respect of the goods.
- (2) In this Part, an “undertaking” means—
- (a) in the case of the dumping of goods, an undertaking offered by an overseas exporter of the goods—
 - (i) to revise the overseas exporter’s prices for export to the United Kingdom, or
 - (ii) to cease exports to the United Kingdom at prices which cause the goods to be dumped;
 - (b) in the case of subsidised goods—
 - (i) an undertaking offered by an overseas exporter of the goods to revise the overseas exporter’s prices for export to the United Kingdom, or
 - (ii) an undertaking offered by a relevant foreign government to eliminate or limit the importation into the United Kingdom of the subsidised goods or to take other measures concerning its effects.
- (3) “A relevant foreign government” means the government of a foreign country or territory—
- (a) which granted one or more of the countervailable subsidies in question, or
 - (b) within whose territory is located a foreign authority which granted one or more of those subsidies.
- (4) Regulations may make provision about—
- (a) recommendations by the TRA under sub-paragraph (1);
 - (b) the acceptance of undertakings by the Secretary of State on such a recommendation.
- (5) The regulations must secure that the TRA may request an undertaking in respect of goods only—
- (a) at a time after it has made a provisional affirmative determination in relation to the goods, and

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- (b) if such other requirements as the regulations may specify are met.
- (6) The regulations must secure that the TRA may recommend the acceptance of an undertaking in respect of goods to the Secretary of State only if it is satisfied that—
 - (a) 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), and
 - (c) it is appropriate to accept the undertaking.
- (7) The regulations may make provision for the purposes of sub-paragraph (6)(c) about the circumstances where it is or is not appropriate to accept an undertaking.
- (8) Those circumstances may include that the terms and conditions of an undertaking include provision for the provision of information to enable the monitoring of compliance with the undertaking.
- (9) The regulations must require that if the Secretary of State accepts an undertaking, the Secretary of State—
 - (a) publishes a notice to that effect, and
 - (b) notifies interested parties (see paragraph 32(3)) accordingly.

Reviews of undertakings etc

- 24 (1) Regulations may make provision for or in connection with—
- (a) monitoring compliance with an undertaking;
 - (b) investigations by the TRA of breach of an undertaking;
 - (c) reviews by the TRA of the continuing application of an undertaking;
 - (d) the circumstances in which an undertaking ceases to apply;
 - (e) the acceptance of a new undertaking in place of an existing undertaking.
- (2) Regulations under sub-paragraph (1)(c) may, among other things, provide for a review to consider—
- (a) whether the continuing application of the undertaking is sufficient to eliminate the injurious effect of—
 - (i) the dumping of the goods to a UK industry in the goods, or
 - (ii) the importation of the subsidised goods to a UK industry in the goods;
 - (b) whether the continuing application of the undertaking is appropriate.
- (3) Paragraph 10(2) applies to regulations under sub-paragraph (1)(b) or (c) in relation to an investigation or review as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (4) The reference in sub-paragraph (1)(e) to the acceptance of a new undertaking is to the acceptance of an undertaking in respect of goods by the Secretary of State, on the recommendation of the TRA.
- (5) Sub-paragraphs (4) and (6) to (9) of paragraph 23 apply to regulations under sub-paragraph (1)(e) in relation to the acceptance of new undertakings by virtue of those

regulations as they apply to the acceptance of undertakings by virtue of regulations under paragraph 23(4).

- (6) References in sub-paragraph (1) to an “undertaking” (other than the reference in sub-paragraph (1)(e) to a “new undertaking”) are to an undertaking accepted by the Secretary of State by virtue of regulations under paragraph 23(4) or sub-paragraph (1)(e).