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STATUTORY INSTRUMENTS

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**2019 No. 450**

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

**PART 11**

Miscellaneous

**Extension of the period of a provisional remedy in a dumping investigation**

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

(2) The TRA may only make an extension recommendation where—

- (a) paragraph (3) or (4) applies; and
- (b) the TRA 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 TRA 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 TRA considers that extending the period of the provisional remedy is appropriate in the circumstances;
- (b) the TRA issues a notification to overseas exporters notifying them that the TRA 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) An extension recommendation must include—

- (a) a description of the goods to which the recommendation relates;
- (b) the overseas exporters that support or do not object to the extension;
- (c) the recommended 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 have otherwise expired; and
- (d) the reasons for the TRA’s recommendation.

(6) If the TRA makes an extension recommendation, the Secretary of State must decide whether to accept or reject it.

(7) The Secretary of State may only reject the TRA’s recommendation where the Secretary of State is satisfied that it is not in the public interest to accept it.

(8) In making a decision under paragraph (6), the Secretary of State must accept the TRA’s determination that an extension meets the economic interest test (see paragraph 25 of Schedule 4 to

the Act) unless the Secretary of State is satisfied that the recommendation is not one that the TRA could reasonably have made.

(9) Where the Secretary of State accepts an extension recommendation, 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.

(10) Where the Secretary of State rejects an extension recommendation, 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 rejecting the recommendation.

### **Relevant period in a dumping investigation**

**91.**—(1) The TRA may recommend that an anti-dumping amount should apply to goods from the relevant date specified in paragraph 19(3)(a)(i) of Schedule 4 to the Act where paragraph (2) applies.

(2) This paragraph applies where the Secretary of State has published a notice under paragraph 29(1) of Schedule 4 to the Act and the TRA considers in a dumping investigation that—

- (a) there is a history of dumping which caused injury or the importer is, or should have been, aware that the overseas exporter practises dumping and that such dumping would cause injury to a UK industry;
- (b) the injury caused to a UK industry was caused by a massive volume of dumped goods in a short period of time; and
- (c) in light of the timing and volume of the dumped goods and other circumstances (for example a rapid build-up of inventories of the dumped goods), the application of the anti-dumping amount to be applied is likely to seriously undermine the remedial effect of that amount.

(3) Before making the recommendation in paragraph (1), the TRA must allow importers to submit any evidence they consider relevant.

### **Relevant period in a subsidisation investigation**

**92.**—(1) The TRA may recommend that a countervailing amount should apply to goods from the relevant date specified in paragraph 19(3)(a)(i) of Schedule 4 to the Act where paragraph (2) applies.

(2) This paragraph applies where the Secretary of State has published a notice under paragraph 29(1) of Schedule 4 to the Act and the TRA considers in a subsidisation investigation that in critical circumstances—

- (a) there is a massive volume of imports of the subsidised goods into the United Kingdom in a short period of time;
- (b) the massive imports of the subsidised imports caused injury to a UK industry, which is difficult to repair; and
- (c) it is necessary in order to preclude the recurrence of such injury to a UK industry to recommend that a countervailing amount apply to goods from the relevant date specified in paragraph 19(3)(a)(i) of Schedule 4 to the Act.

### **Meaning of export subsidisation**

**93.**—(1) For the purpose of paragraph 27 of Schedule 4 to the Act, “export subsidisation” (and “export subsidy” accordingly) has the meaning given by this regulation.

(2) Subject to paragraph (3), export subsidisation means the granting of a subsidy which is contingent, in law or in fact, upon export performance.

(3) The fact that a subsidy is granted to enterprises which export does not for that reason alone mean that it is an export subsidy.

(4) When considering whether or not a subsidy is an export subsidy, the TRA must take into account footnote 1 and Annexes I to III to the Agreement on Subsidies and Countervailing Measures (being part of Annex 1A to the WTO Agreement).