
Changes to legislation: There are currently no known outstanding effects for the Taxation (Cross-border Trade) Act 2018, Cross Heading: TRA's duty to recommend a definitive safeguarding amount or tariff rate quota. (See end of Document for details)

SCHEDULES

SCHEDULE 5

INCREASE IN IMPORTS CAUSING SERIOUS INJURY TO UK PRODUCERS

PART 4

DEFINITIVE REMEDIES: DEFINITIVE SAFEGUARDING AMOUNT & TARIFF RATE QUOTAS

TRA's duty to recommend a definitive safeguarding amount or tariff rate quota

- 16 (1) This paragraph applies where the TRA makes a final affirmative determination in relation to goods which are the subject of a safeguarding investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) The TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as a “definitive safeguarding amount”) should be applicable for a specified period to all the relevant goods or to specified relevant goods;
 - (b) that all the relevant goods, or specified relevant goods, should be subject to a quota for a specified period during which a lower rate of import duty should be applicable to imports of goods within the amount of the quota than is applicable to imports of goods outside the amount of the quota (referred to in this Schedule as a “tariff rate quota”).
- (4) Where the TRA makes a recommendation under sub-paragraph (3)(a) in relation to relevant goods it must, as part of the recommendation, recommend to the Secretary of State how a definitive safeguarding amount applicable to those goods should be determined.
- (5) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that—
- ^{F1}(a)
 - (b) there is in place an adjustment plan setting out how UK producers of the relevant goods intend to adjust to the importation of the goods in increased quantities.
- (6) But sub-paragraph (5) is to be read as if paragraph (b) were omitted if the TRA waived the requirement for the application to initiate a safeguarding investigation in relation to the relevant goods to be accompanied by a preliminary adjustment plan.
- (7) Regulations may make provision about the form and content of an adjustment plan.
- (8) The TRA may only make a recommendation under one or other of paragraphs (a) and (b) of sub-paragraph (3) in relation to any particular relevant good.

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- (9) The TRA may make a recommendation under paragraph (a) or (b) of sub-paragraph (3) in relation to specified relevant goods (rather than all the relevant goods) only if the recommendations which it makes under that sub-paragraph, when taken together, cover all the relevant goods.
- (10) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) in relation to all the relevant goods, or that there are one or more recommendations which it could make under sub-paragraph (3) in relation to specified relevant goods, it must make that recommendation or one of those recommendations (subject to sub-paragraphs (8) and (9)).
- [^{F2}(10A) Where the TRA considers that there are two or more options which it could recommend under sub-paragraph (3)(a) or (b), in relation to relevant goods or descriptions of relevant goods, it may give the Secretary of State each of those options as part of its recommendation.
- (10B) The Secretary of State may by regulations make provision requiring the TRA, in specified circumstances, to consider whether it could give the Secretary of State two or more options as part of its recommendation under sub-paragraph (3)(a) or (b) in relation to relevant goods or descriptions of relevant goods.
- (10C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation in accordance with regulations under sub-paragraph (10B), the TRA considers that there is only one option which it could reasonably recommend under sub-paragraph (3)(a) or (b) in relation to relevant goods or descriptions of relevant goods, it must give the Secretary of State its reasons for reaching that conclusion.
- (10D) Where the TRA gives the Secretary of State options, it must—
- (a) give the Secretary of State its reasons for including each option, and
 - (b) inform the Secretary of State which option it prefers and why.
- (10E) Where the TRA makes a recommendation under sub-paragraph (3) it must advise the Secretary of State whether and why it considers that applying a definitive safeguarding amount or making relevant goods subject to a quota in accordance with—
- (a) its recommendation, or
 - (b) where the recommendation contains options given under sub-paragraph (10A), each option,
- would meet the economic interest test (see paragraph 23).]
- (11) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3) it must—
- (a) publish notice of its final affirmative determination in relation to the goods,
 - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and
 - (c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.

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Textual Amendments

- F1** Sch. 5 para. 16(5)(a) omitted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by virtue of Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(1)(a)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)
- F2** Sch. 5 para. 16(10A)-(10E) inserted (11.7.2023 for specified purposes, 25.8.2023 in so far as not already in force) by Finance (No. 2) Act 2023 (c. 30), **Sch. 19 paras. 11(1)(b)**, 17(1); S.I. 2023/918, reg. 2 (with reg. 3)

Modifications etc. (not altering text)

- C1** Sch. 5 para. 16(3) applied (2.3.2022) by The Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022 (S.I. 2022/113), regs. 1(1), **17(b)** (with reg. 3)

Commencement Information

- I1** Sch. 5 para. 16 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, **reg. 2** (with regs. 4-9)

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