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STATUTORY INSTRUMENTS

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**2019 No. 449**

**The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019**

**PART 5**

Initiation and conduct of an investigation

CHAPTER 3

Conduct of an investigation

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

**24.**—(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) The TRA may issue a questionnaire (see regulation 25) to—

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

(3) Where the TRA uses a limited examination in accordance with regulation 26 (limited examination), it may limit the issuing of questionnaires to those interested parties included in that examination.

(4) 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 if it is satisfied that doing so would not significantly impede the progress of the investigation.

(5) 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 limited examination in accordance with regulation 26 (limited examination).

<sup>F1</sup>(6) .....

**Textual Amendments**

**F1** Reg. 24(6) omitted (25.9.2023) by virtue of [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), regs. 1(2), 5 (with reg. 2)

**Commencement Information**

**I1** Reg. 24 in force at 6.3.2019 with effect in accordance with reg. 1(3)-(8), see [reg. 1\(2\)](#)

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**Changes to legislation:** The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019, CHAPTER 3 is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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### Form of questionnaires and deficiency notice

**25.**—(1) Subject to paragraph (2), the questionnaire referred to in regulation 24 (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.

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#### Commencement Information

**I2** Reg. 25 in force at 6.3.2019 with effect in accordance with reg. 1(3)-(8), see [reg. 1\(2\)](#)

### Limited examination

**26.**—(1) The TRA may, where it considers it appropriate for the purpose of making any determination or conducting any analysis under the Act or these Regulations, limit its examination to a sample of—

- (a) categories of goods;
- (b) UK producers;
- (c) transactions for the purchase of the like goods and directly competitive goods in the United Kingdom; or
- (d) anything else the TRA considers it appropriate to examine in order to make its determination.

(2) Where the TRA limits its examination in accordance with this regulation, it may use any reasonable method to determine the sample it considers appropriate.

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#### Commencement Information

**I3** Reg. 26 in force at 6.3.2019 with effect in accordance with reg. 1(3)-(8), see [reg. 1\(2\)](#)

### Authentication visit and authentication visit report

**27.**—(1) The TRA may make such arrangements in connection with an authentication visit as it considers appropriate.

(2) Where the TRA conducts an authentication visit, it must—

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

(3) In the application of regulation 16 (confidential information) to this regulation, a reference in that regulation to—

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

#### Commencement Information

**I4** Reg. 27 in force at 6.3.2019 with effect in accordance with reg. 1(3)-(8), see [reg. 1\(2\)](#)

### Hearing

- 28.**—(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 16(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 18(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 20) or that such failure to attend is otherwise prejudicial to its interests.

#### Commencement Information

**I5** Reg. 28 in force at 6.3.2019 with effect in accordance with reg. 1(3)-(8), see [reg. 1\(2\)](#)

### [<sup>F2</sup>Alternative options for final affirmative determination

- 28A.** The TRA must consider giving two or more options as part of its recommendation to the Secretary of State under paragraph 16(3) of Schedule 5 to the Act in the following circumstances—
- (a) where the TRA considers that applying a definitive safeguarding amount or making relevant goods subject to a tariff rate quota in accordance with its proposed recommendation would not meet the economic interest test;

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(b) where the TRA otherwise considers that it is appropriate.]

#### Textual Amendments

**F2** Reg. 28A inserted (25.9.2023) by The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/954), regs. 1(2), 6 (with reg. 2)

#### Disclosure

**29.**—(1) Before making a final affirmative or final negative determination for the purpose of paragraph 9(5) of Schedule 5 to the Act, the TRA must—

- (a) publish a statement (a “statement of intended final determination”) 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 its 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 assessment forming the basis of the intended final determination.

(2) The TRA must specify in the statement of intended final determination 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.

#### Commencement Information

**I6** Reg. 29 in force at 6.3.2019 with effect in accordance with reg. 1(3)-(8), see **reg. 1(2)**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. para. 4(f)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(a\)\(ii\)](#)
- Sch. para. 6(f)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(b\)\(i\)\(bb\)](#)
- Sch. para. 6(g)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(b\)\(ii\)\(bb\)](#)
- Sch. para. 10(f)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(c\)\(ii\)](#)
- Sch. para. 18(i)para. 18(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(d\)\(ii\)](#)
- reg. 33A(5A)(5B) inserted by [S.I. 2024/545 reg. 37\(2\)\(a\)](#)
- reg. 36(3A) inserted by [S.I. 2024/545 reg. 37\(3\)](#)
- reg. 38(2E) inserted by [S.I. 2024/545 reg. 37\(4\)\(b\)](#)
- reg. 42I(3D) inserted by [S.I. 2024/545 reg. 37\(8\)](#)