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## STATUTORY INSTRUMENTS

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# 2019 No. 450

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

### [<sup>F1</sup>PART 12

#### Transitional provisions

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#### Textual Amendments

- F1** Pt. 12 substituted (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **10**

#### CHAPTER 1

#### General

#### Interpretation for Part 12

**94.**—(1) In this Part—

“appropriate date” means—

- (a) in relation to a transition review under regulation 97(2)(a), the day of replacement of EU trade duty;
- (b) in relation to a transition review under regulation 97(2)(b)—
  - (i) the [<sup>F2</sup>day after the] day of publication of the notice under regulation 101C(2)(a); or
  - (ii) the day of expiry if the relevant UK trade remedies measure continues to apply under regulation 97C(2);

[<sup>F3</sup>“circumvention” has the meaning given in regulation 73(2);]

“determination notice” means a notice published by the Secretary of State under regulation 96(1);

“EU anti-dumping duty” means a definitive anti-dumping duty imposed by an EU instrument made under—

- (a) the EU anti-dumping regulation;
- (b) an earlier EU regulation under which an EU instrument imposing a definitive anti-dumping duty could have been made;

“the EU anti-dumping regulation” means Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union;

“EU countervailing duty” means a definitive countervailing duty imposed [<sup>F4</sup>by an EU instrument] made under—

*Status: Point in time view as at 22/03/2023.*

*Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 12. (See end of Document for details)*

- (a) the EU countervailing regulation; or
- (b) an earlier EU regulation under which an EU instrument imposing a definitive countervailing duty could have been made;

“the EU countervailing regulation” means Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union;

“EU regulation” has the same meaning as in Article 288 of the Treaty on the Functioning of the European Union;

“EU trade remedies measure” means an EU anti-dumping duty or an EU countervailing duty;

“recommendation of revocation” means a recommendation made under regulation 100(1) in accordance with regulation 100B;

“recommendation of variation” means a recommendation made under regulation 100(1) in accordance with regulation 100A;

“replacement of EU trade duty” means the coming into force of paragraph 1 of Schedule 7 to the Act in so far as it relates to any EU anti-dumping duty or EU countervailing duty;

“transition review” means a review under regulation 97(2)(a) or (b);

“UK trade remedies measure” means an anti-dumping amount or a countervailing amount applied by public notice under regulation 96A(1).

(2) For the purposes of this Part, “EU countervailing duty” includes a duty that would apply to goods were it not for acceptance by the European Commission of an undertaking in accordance with Article 13 of the EU countervailing regulation.

#### Textual Amendments

- F2** Words in reg. 94(1) inserted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **21(a)**
- F3** Words in reg. 94 inserted (3.5.2022) by [The Trade Remedies \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/414\)](#), regs. 1, **3(3)**
- F4** Words in reg. 94(1) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **21(b)**

#### Treatment of trade remedies measure transitioned under this Part

**94A.**—(1) This regulation applies for the purposes of the other Parts of these Regulations.

(2) An anti-dumping amount or a countervailing amount applied by public notice under regulation 96A(1) or [<sup>F5</sup>101C(2)(a)] is to be treated as if it were [<sup>F6</sup>an anti-dumping amount or a countervailing amount]—

- (a) applied under section 13(2) of the Act;
- (b) giving effect to a recommendation made by the TRA under paragraph 17(3) or (4) of Schedule 4 to the Act;
- (c) following an investigation conducted in accordance with Schedule 4 to the Act and the other Parts of these Regulations.

(3) A reference to a public notice under section 13 includes a reference to a public notice under regulation 96A(1) or [<sup>F7</sup>101C(2)(a)].

#### Textual Amendments

- F5** Word in reg. 94A(2) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **22(a)(i)**
- F6** Words in reg. 94A(2) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **22(a)(ii)**
- F7** Word in reg. 94A(3) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **22(b)**

#### New exporter review of trade remedies measure transitioned under this Part

**94B.**—(1) This regulation applies for the purposes of a new exporter review in relation to an anti-dumping amount or a countervailing amount applied by public notice under regulation 96A(1) or <sup>F8</sup>101C(2)(a)].

(2) Regulation 71 (new exporter review) has effect as if—

- (a) in paragraphs (2), (3)(a)(ii), and the first reference in paragraph (3)(b), for “the United Kingdom”, there were substituted “the European Union”;
- (b) in paragraph (4), for “regulation 37 (determination of the anti-dumping amount or countervailing amount for non-sampled overseas exporters)” substitute “the EU anti-dumping regulation or the EU countervailing regulation”;
- (c) in paragraph (7), for “the rate previously calculated in accordance with regulation 38 (determination of residual amount)”, there were substituted “the relevant anti-dumping amount applied by public notice under regulation 96A(1) or 101C(2)(a)”;
- (d) after paragraph (9), there were inserted—

“(10) In this regulation, “EU anti-dumping regulation” and “EU countervailing regulation” have the same meaning as in regulation 94.”.

#### Textual Amendments

- F8** Word in reg. 94B(1) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **23**

#### Scope review of trade remedies measure transitioned under this Part

**94C.**—(1) This regulation applies for the purposes of a scope review in relation to an anti-dumping amount or a countervailing amount applied by public notice under regulation 96A(1) or <sup>F9</sup>101C(2)(a)].

(2) Regulation 74 (scope review) has effect with the omission of paragraph (4)(a).

#### Textual Amendments

- F9** Word in reg. 94C(1) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **24**

#### <sup>F10</sup>Suspension of trade remedies measure transitioned under this Part

**94D.**—(1) This regulation applies if the same goods are subject to—

*Status: Point in time view as at 22/03/2023.*

*Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 12. (See end of Document for details)*

- (a) a trade remedies measure; and
  - (b) a safeguarding measure.
- (2) The Secretary of State must by public notice suspend the application of—
- (a) the full trade remedies measure if the trade remedies measure is equal to, or less than, the safeguarding measure;
  - (b) the portion of the trade remedies measure equal to the safeguarding measure if the trade remedies measure is more than the safeguarding measure.
- (3) The Secretary of State must by public notice revoke the suspension of the trade remedies measure if the goods are no longer subject to the safeguarding measure.
- (4) A suspension under paragraph (2) does not suspend the period specified in accordance with—
- (a) regulation 96A(2)(c)(iii) in a public notice made under regulation 96A(1);
  - (b) regulation 101C(3)(b)(iii) in a public notice made under regulation 101C(2)(a).
- (5) In this regulation—
- (a) “trade remedies measure” means an anti-dumping amount or a countervailing amount applied by public notice under regulation 96A(1) or 101C(2)(a) but for the effect of any suspension under this regulation;
  - (b) “safeguarding measure” means an additional amount of import duty applied by public notice under regulation 47(2) or 52(4)(a) of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019.]

#### Textual Amendments

**F10** Reg. 94D inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(2), **10(2)**; S.I. 2020/1643, reg. 2, Sch.

## CHAPTER 2

### Dumping and subsidisation investigation

#### [<sup>F11</sup>Initiating an investigation before replacement of EU trade duty

**95.**—(1) This regulation applies if the TRA is requested to initiate an investigation in an application made by or on behalf of an applicant UK industry before replacement of EU trade duty.

(2) The TRA may initiate an investigation only to the extent the application relates to goods which are the subject of—

- (a) an anti-dumping investigation initiated by the European Commission in accordance with article 5 of the EU anti-dumping regulation; or
- (b) a countervailing duty investigation initiated by the European Commission in accordance with article 10 of the EU countervailing regulation.]

#### Textual Amendments

**F11** Reg. 95 substituted for regs. 95, 95A (5.8.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/730\)](#), regs. 1, **18**

## Application before replacement of EU trade duty

<sup>F11</sup>95A. ....

### Textual Amendments

**F11** Reg. 95 substituted for regs. 95, 95A (5.8.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/730\)](#), regs. 1, **18**

## CHAPTER 3

### Transition of EU trade remedies measure

#### Determination to transition EU trade remedies measure

**96.**—(1) The Secretary of State may by publishing a notice determine to transition an EU trade remedies measure.

(2) A notice under paragraph (1) may be published at any time before replacement of EU trade duty.

#### Transition of EU trade remedies measure

**96A.**—(1) The Secretary of State must by public notice make provision giving effect to an EU trade remedies measure specified in a determination notice.

(2) A notice made under paragraph (1) must—

- (a) be made before replacement of EU trade duty;
- (b) take effect on replacement of EU trade duty;
- (c) specify—
  - (i) the anti-dumping amount or the countervailing amount;
  - (ii) the goods or the description of the goods to which the anti-dumping amount or the countervailing amount applies;
  - (iii) the period beginning on replacement of EU trade duty for which the anti-dumping amount or the countervailing amount is to apply to those goods;
- (d) refer to the relevant determination notice;
- (e) if applicable, include a statement that the anti-dumping amount or the countervailing amount is subject to a transition review under regulation 97(2)(b).

(3) Subject to regulations 96B and 96C, the information specified under paragraph (2)(c) must be consistent with the relevant EU trade remedies measure [<sup>F12</sup>specified in the determination notice].

(4) Paragraph (1) does not apply if the Secretary of State—

- (a) has [<sup>F13</sup>accepted under regulation 101(1) a recommendation of revocation] in relation to the relevant EU trade remedies measure; or
- (b) has published a notice withdrawing the relevant determination notice.

(5) A notice under paragraph (1) does not take effect if the relevant EU trade remedies measure is no longer in force.

*Status: Point in time view as at 22/03/2023.*

*Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 12. (See end of Document for details)*

#### Textual Amendments

- F12** Words in reg. 96A(3) substituted (31.10.2019) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(3)(c), **10(3)**
- F13** Words in reg. 96A(4)(a) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **25**

#### Transition of expired EU trade remedies measure

**96B.**—(1) This regulation applies if an EU trade remedies measure specified in a determination notice remains in force pending the outcome of an EU expiry review.

(2) The period specified under regulation 96A(2)(c)(iii) must end 30 days after replacement of EU trade duty unless regulation 96C applies.

(3) In this regulation, “EU expiry review” means a review conducted by the European Commission in accordance with—

- (a) Article 11(2) of the EU anti-dumping regulation; or
- (b) Article 18 of the EU countervailing regulation.

#### Transition of varied EU trade remedies measure

**96C.**—(1) This regulation applies if the Secretary of State has [<sup>F14</sup>accepted under regulation 101(1) a recommendation of variation] in relation to the relevant EU trade remedies measure.

(2) The information specified under regulation 96A(2)(c) must be consistent with that recommendation.

#### Textual Amendments

- F14** Words in reg. 96C(1) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **26**

#### [<sup>F15</sup>Transition of EU exemption after replacement of EU trade duty

**96D.**—(1) The Secretary of State may by public notice exempt goods imported by a person in the United Kingdom from the application of a UK trade remedies measure if—

- (a) the person requested from the European Commission an EU exemption to an EU trade remedies measure before replacement of EU trade duty;
- (b) the EU trade remedies measure was specified in the determination notice that preceded the UK trade remedies measure; and
- (c) the person was granted the EU exemption after replacement of EU trade duty, but with effect from a date before replacement of EU trade duty.

(2) The public notice—

- (a) must not take effect before the day after the day on which it is made; and
- (b) applies only to goods imported into the United Kingdom after it takes effect.

(3) In this regulation, “EU exemption” means an exemption authorised by the European Commission under Article 7(1) of [Commission Regulation \(EC\) No 88/97](#) of 20 January 1997 on the authorization of the exemption of imports of certain bicycle parts originating in the People’s

Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93.]

**Textual Amendments**

**F15** Reg. 96D inserted (6.9.2021) by The Trade Remedies (Dumping and Subsidisation) (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/942), regs. 1, 3

[<sup>F16</sup>CHAPTER 3A

Exemptions to UK trade remedies measures

**Textual Amendments**

**F16** Chapter 3A inserted (3.5.2022) by virtue of The Trade Remedies (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/414), regs. 1, 3(4)

**UK trade remedies measure exemption review**

**96E.**—(1) The TRA may conduct a review (a “UK trade remedies measure exemption review”) to consider whether goods imported by a review applicant should be exempted from the application of a UK trade remedies measure.

(2) The TRA must initiate a UK trade remedies measure exemption review—

- (a) where a review application is made by or on behalf of an importer or overseas exporter; and
- (b) the TRA is satisfied that the review application contains sufficient information to substantiate the need for a review in accordance with paragraph (4) or (5).

(3) Parts 2, 3, 4 and 6 apply to a UK trade remedies measure exemption review to the extent that the TRA considers relevant.

(4) Where the review applicant is an overseas exporter, a review application must include evidence that the overseas exporter is not engaged in circumvention of the UK trade remedies measure.

(5) Where the review applicant is an importer, the application must include evidence that—

- (a) the importer is not related to an overseas exporter which is subject to the UK trade remedies measure; and
- (b) the importer is not engaged in circumvention of the UK trade remedies measure.

(6) The TRA may determine to reject a review application, in particular where it has conducted a previous review into an application made by the relevant review applicant in respect of the relevant UK trade remedies measure and there is no change of circumstances.

(7) Where the TRA rejects a review application, the TRA must notify the review applicant.

(8) Where the TRA initiates a UK trade remedies measure exemption review, the TRA must—

- (a) publish a notice of its decision to initiate a review; and
- (b) recommend that the Secretary of State suspends, by a public notice, the application of the UK trade remedies measure to the review applicant’s goods pending the outcome of the UK trade remedies measure exemption review.

(9) A notice under paragraph (8)(a) must—

- (a) specify the relevant UK trade remedies measure; and
- (b) contain the information set out in paragraph 1(d), (f), (g) and (k) and (l) of Schedule 3.

(10) The TRA may satisfy a requirement of paragraph (9) by reference to a document on an Internet site that is available to the public and free of charge.

### **Suspension of application of a UK trade remedies measure**

**96F.**—(1) Where the TRA makes a recommendation under regulation 96E(8)(b), the Secretary of State must decide whether to accept or reject that recommendation.

(2) Where the Secretary of State rejects the TRA’s recommendation, the Secretary of State must notify the review applicant of the reasons for the decision.

(3) Where the Secretary of State accepts the TRA’s recommendation, the Secretary of State may suspend, by public notice, the application of the UK trade remedies measure to the review applicant’s goods pending the outcome of the UK trade remedies exemption review.

### **TRA recommendation on exemption to a UK trade remedies measure**

**96G.**—(1) Where the conditions in paragraphs (2) and (3) are met, the TRA may make a recommendation to the Secretary of State to exempt the review applicant’s goods from the application of a UK trade remedies measure (a “UK trade remedies measure exemption recommendation”).

(2) The first condition is that the UK trade remedies measure applies an EU trade remedies measure that was extended following an EU circumvention review.

(3) The second condition is that the TRA has determined that—

- (a) where the review applicant is an overseas exporter, the review applicant is not engaged in circumvention of the UK trade remedies measure; or
- (b) where the review applicant is an importer, the review applicant—
  - (i) is not related to an overseas exporter which is subject to the UK trade remedies measure; and
  - (ii) is not engaged in circumvention of the UK trade remedies measure.

(4) Where the TRA determines not to make a recommendation under paragraph (1), it must—

- (a) publish a notice of the reasons for its decision;
- (b) notify the Secretary of State and the review applicant; and
- (c) where the Secretary of State has suspended the application of the UK trade remedies measure to the review applicant’s goods, the TRA must recommend that the Secretary of State reinstates the application of the UK trade remedies measure to the review applicant’s goods.

(5) Where the TRA has made a recommendation in accordance with paragraph 4(c), the Secretary of State may, by a public notice, reinstate the application of the UK trade remedies measure to the review applicant’s goods from the day after the day that the public notice is made.

(6) Where the TRA makes a UK trade remedies measure exemption recommendation, the recommendation must include—

- (a) details of the review applicant’s goods;
- (b) details of the public notice which applies the UK trade remedies measure concerned;
- (c) the name of the importer or overseas exporter concerned; and
- (d) the reasons for the recommendation.

(7) In this regulation, “EU circumvention review” means a review conducted pursuant to Article 13 of the EU anti-dumping regulation, Article 23 of the EU countervailing regulation or a



circumvention review conducted pursuant to powers under an earlier EU regulation under which a circumvention review could have been conducted.

### **Acceptance or rejection by the Secretary of State of the TRA's recommendation to grant an exemption to a UK trade remedies measure**

**96H.**—(1) Where the TRA makes a UK trade remedies measure exemption recommendation in accordance with regulation 96G the Secretary of State must accept or reject the recommendation.

(2) The Secretary of State may reject the TRA's recommendation only if satisfied that the recommendation is not one that the TRA could reasonably have made.

(3) Where the Secretary of State rejects the TRA's recommendation, the Secretary of State must—

- (a) publish a notice containing the information set out in paragraph 3A of Schedule 3;
- (b) notify the review applicant of the reasons for the decision; and
- (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

(4) Where the Secretary of State rejects the TRA's recommendation, the Secretary of State may, by public notice, apply the rate previously applied under the UK trade remedies measure to goods imported by the review applicant the from day after the day that the public notice is made.

(5) Where the Secretary of State accepts the TRA's recommendation, the Secretary of State must publish a notice containing the information set out in paragraph 3A of Schedule 3.

### **Treatment of public notices made under regulations 96F to 96H**

**96I.** A public notice made under regulation 96F(3), 96G(5) or 96H(3)(a), (4) or (5) is to be treated as if it were a public notice made under section 13(4) of the Act. ]

## CHAPTER 4

### Transition review

#### *General*

### **Transition review of EU trade remedies measure**

**97.**—(1) The TRA must review every EU trade remedies measure specified in a determination notice.

(2) The TRA may conduct a transition review—

- (a) before replacement of EU trade duty, in which case the review is of an EU trade remedies measure; or
- (b) after replacement of EU trade duty, in which case the review is of a UK trade remedies measure.

### **Continuation of transition review**

**97A.**—(1) This regulation applies if—

- (a) the TRA is conducting a transition review under regulation 97(2)(a); and
- (b) the relevant EU trade remedies measure is transitioned as a UK trade remedies measure.

(2) The TRA must continue the transition review as a review of a UK trade remedies measure being conducted under regulation 97(2)(b).

**Termination of transition review**

**97B.**—(1) This regulation applies if—

- (a) a transition review is being conducted under regulation 97(2)(a); and
- (b) the Secretary of State has published a notice withdrawing the relevant determination notice.

(2) The TRA must by publishing a notice terminate that transition review.

(3) A notice under paragraph (2) must contain the information set out in paragraph 2 of Schedule 3.

**Continuation of expired UK trade remedies measure**

**97C.**—<sup>F17</sup>(1) This regulation applies if a UK trade remedies measure would otherwise expire during—

- (a) a transition review being conducted under regulation 97(2)(b);
- (b) the period during which the Secretary of State is to decide in relation to a transition review under the Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022.]

(2) The UK trade remedies measure continues to apply until the day the Secretary of State has published a notice in accordance with <sup>F18</sup>“regulation 101A(2) or 101C(2)(a) or in accordance with regulation 15(1)(b) of the Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022] .

**Textual Amendments**

**F17** Reg. 97C(1) substituted (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), regs. 1(1), **19(2)(a)**

**F18** Words in reg. 97C(2) substituted (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), regs. 1(1), **19(2)(b)**

*Initiation***Initiation of transition review**

**98.**—(1) The TRA must publish a notice to initiate a transition review before the expiry of—

- (a) the relevant EU trade remedies measure, if the review is conducted under regulation 97(2)(a); or
- (b) the relevant UK trade remedies measure, if the review is conducted under regulation 97(2)(b).

(2) A notice under paragraph (1) must—

- (a) specify—
  - (i) the relevant EU trade remedies measure, if the review is conducted under regulation 97(2)(a); or
  - (ii) the relevant UK trade remedies measure, if the review is conducted under regulation 97(2)(b);

- (b) contain the information set out in sub-paragraphs (c), (d), (f), (g), and (k) to (o) of paragraph (1) of Schedule 3.

(3) The TRA may satisfy a requirement of paragraph (2) by reference to a document on an Internet site that is available to the public and free of charge.

#### Notification of transition review

- 98A.**—(1) The TRA must notify the parties of a transition review—
- (a) before and after initiating the transition review, if the review relates to a countervailing amount;
  - (b) after initiating the transition review, if the review relates to an anti-dumping amount.
- (2) In this regulation, “the parties” means—
- (a) the government of the exporting country or territory;
  - (b) the Secretary of State.

#### Conduct

#### Conduct of transition review

- 99A.**—<sup>F19</sup>(1) In a transition review, the TRA must consider whether—
- (a) the dumping of the goods or the importation of the subsidised goods subject to review would be likely to continue or recur if the anti-dumping amount or countervailing amount were no longer applied to those goods; and
  - (b) injury to a UK industry in the goods would be likely to continue or recur if the anti-dumping or countervailing amount were no longer applied to those goods.]
- (2) The TRA may also—
- (a) consider—
    - (i) whether it is appropriate to recalculate the anti-dumping amount or the countervailing amount;
    - (ii) whether the goods or the description of the goods to which the anti-dumping amount or the countervailing amount applies should be varied;
    - (iii) any of the matters of a review conducted under Chapter 2 of Part 7;
  - (b) reassess—
    - (i) the margin of dumping or the amount of the subsidy;
    - (ii) in accordance with Part 5, the anti-dumping amount or the countervailing amount adequate to remove the injury to a UK industry in the relevant goods caused by the dumped goods or the subsidised imports.
- (3) For the purposes of conducting a transition review under regulation 97(2)(a)—
- (a) an EU anti-dumping duty is to be treated as an anti-dumping amount;
  - (b) an EU countervailing duty is to be treated as a countervailing amount.

#### Textual Amendments

**F19** Reg. 99A(1) substituted (3.5.2022) by [The Trade Remedies \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/414\)](#), regs. 1, **3(5)**

*Status: Point in time view as at 22/03/2023.*

*Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 12. (See end of Document for details)*

**Modifications etc. (not altering text)**

- C1** Reg. 99A modified (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), regs. 1(1), **7(3)(a)** (with reg. 3)

**Determination of export price**

**99B.**—(1) This regulation applies if the TRA constructs an export price for the purposes of a transition review in accordance with regulation 15.

(2) The TRA may deduct any anti-dumping amount paid if it is not reflected in resale prices and subsequent selling prices in the United Kingdom.

**Modifications etc. (not altering text)**

- C2** Reg. 99B modified (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), regs. 1(1), **7(3)(a)** (with reg. 3)

**Relationship with other Parts**

**99C.** The TRA may apply Parts 2, 3, 4, and 6 to the extent the TRA considers relevant for the purposes of a transition review.

**Modifications etc. (not altering text)**

- C3** Reg. 99C modified (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), regs. 1(1), **7(3)(a)** (with reg. 3)

*Recommendation*

**Recommendation following transition review**

**100.**—(1) The TRA must make a recommendation to the Secretary of State following a transition review to vary or revoke the application of the anti-dumping amount or the countervailing amount to the relevant goods.

(2) A recommendation under paragraph (1) must—

(a) be made in accordance with—

- (i) regulation 100A, if the recommendation is variation;
- (ii) regulation 100B, if the recommendation is revocation;

(b) include—

- (i) a description of the goods to which the recommendation relates;
- (ii) the names of overseas exporters or, where impracticable, the exporting countries or territories;
- (iii) a summary of the review;
- (iv) the reasons for the recommendation.

(3) The TRA must make a recommendation of revocation if the TRA is not satisfied that the application of an anti-dumping amount or a countervailing amount meets the economic interest test.

### Recommendation of variation

**100A.**—(1) This regulation applies if the TRA is making a recommendation under regulation 100(1) to vary the application of the anti-dumping amount or the countervailing amount applicable to the relevant goods.

- (2) The TRA must—
- (a) be satisfied that the application of an anti-dumping amount or a countervailing amount meets the economic interest test;
  - (b) have had regard to the current and prospective impact of the anti-dumping amount or the countervailing amount;
  - (c) specify the information set out in regulation 96A(2)(c).
- (3) The TRA must not make a recommendation comprising or including—
- (a) an anti-dumping amount that exceeds the margin of dumping;
  - (b) a countervailing amount that exceeds the amount of subsidy;
  - (c) an anti-dumping amount or a countervailing amount that is more than an amount the TRA is satisfied would be adequate to prevent or remove injury to the UK industry caused by the dumped or subsidised goods;
  - (d) a period for which the anti-dumping amount or the countervailing amount is to apply that extends more than five years after the appropriate date.
- (4) The TRA may recommend—
- (a) a different anti-dumping amount or a different countervailing amount to apply in respect of some of the relevant goods;
  - (b) maintaining the anti-dumping amount or the countervailing amount if it has not been possible for the TRA to recalculate that amount.

### Recommendation of revocation

**100B.**—(1) This regulation applies if the TRA is making a recommendation under regulation 100(1) to revoke the application of the anti-dumping amount or the countervailing amount applicable to the relevant goods.

(2) The TRA must recommend the appropriate date as the date the anti-dumping amount or the countervailing amount is revoked.

### Decision

#### Decision on recommendation following transition review

**101.**—(1) [<sup>F20</sup>Subject to paragraph (3),] the Secretary of State must accept a recommendation made under regulation 100(1) unless the Secretary of State is satisfied that it is not in the public interest to accept that recommendation.

(2) In considering whether a recommendation of variation is not in the public interest, the Secretary of State must accept the relevant TRA determination that the economic interest test is met unless the Secretary of State is satisfied that that determination is not a determination that the TRA could reasonably have made.

[<sup>F21</sup>(3) Paragraph (1) does not apply where, as mentioned in regulation 3(b) of the Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022, the Secretary of State notifies the TRA in writing that, in respect of the goods to which the recommendation relates,

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the Secretary of State will decide whether to vary, maintain or revoke an anti-dumping amount or countervailing amount applicable to those goods.]

#### Textual Amendments

- F20** Words in [reg. 101\(1\)](#) inserted (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), [regs. 1\(1\)](#), **19(3)(a)**
- F21** [Reg. 101\(3\)](#) inserted (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), [regs. 1\(1\)](#), **19(3)(b)**

#### Rejection of recommendation

**101A.**—(1) This regulation applies if the Secretary of State rejects [<sup>F22</sup>under regulation 101(1) a recommendation].

(2) The Secretary of State must—

(a) publish a notice containing—

- (i) a description of the goods to which the notice relates;
- (ii) a summary of the review;
- (iii) the recommendation made under regulation 100(1);
- (iv) the reasons for rejecting the recommendation;

(b) notify interested parties;

(c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

#### Textual Amendments

- F22** Words in [reg. 101A\(1\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), [regs. 1](#), **28**

#### Acceptance of recommendation before replacement of EU trade duty

**101B.**—(1) This regulation applies if the Secretary of State accepts [<sup>F23</sup>under regulation 101(1) a recommendation] before replacement of EU trade duty.

(2) The Secretary of State must publish a notice containing—

(a) in relation to a recommendation of variation—

- (i) the information set out in regulation [<sup>F24</sup>101A(2)(a)(i) to (iii)];
- (ii) a statement that the EU trade remedies measure will be transitioned on replacement of EU trade duty;

(b) in relation to a recommendation of revocation—

- (i) the information set out in regulation [<sup>F25</sup>101A(2)(a)(i) to (iii)];
- (ii) a statement that the EU trade remedies measure will not be transitioned on replacement of EU trade duty.

#### Textual Amendments

- F23** Words in [reg. 101B\(1\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, [29\(a\)](#)
- F24** Words in [reg. 101B\(2\)\(a\)\(i\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, [29\(b\)](#)
- F25** Words in [reg. 101B\(2\)\(b\)\(i\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, [29\(b\)](#)

#### Acceptance of recommendation after replacement of EU trade duty

**101C.**—(1) This regulation applies if the Secretary of State accepts [<sup>F26</sup>under regulation 101(1) a recommendation] after replacement of EU trade duty.

- (2) The Secretary of State must—
- (a) make provision by public notice giving effect to that recommendation;
  - (b) notify interested parties.
- (3) A notice made under paragraph (2)(a) must—
- (a) contain the information set out in regulation [<sup>F27</sup>101A(2)(a)(i) to (iii)];
  - (b) specify —
    - (i) the anti-dumping amount or the countervailing amount;
    - (ii) the goods or the description of the goods to which the anti-dumping amount or the countervailing amount applies;
    - (iii) the period beginning on the appropriate date for which the anti-dumping amount or the countervailing amount is to apply to those goods.]

#### Textual Amendments

- F26** Words in [reg. 101C\(1\)](#) substituted (1.3.2020) by virtue of [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, [30\(a\)](#)
- F27** Words in [reg. 101C\(3\)\(a\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, [30\(b\)](#)

**Status:**

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**Changes to legislation:**

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