
STATUTORY INSTRUMENTS

2019 No. 450

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

PART 7

Initiation and conduct of a review

CHAPTER 1

General provisions and the initiation of a review

Purpose of Part 7

66. Reviews by the TRA of the continuing application, including the variation and extension, of an anti-dumping amount or a countervailing amount to goods pursuant to paragraph 21 of Schedule 4 to the Act are subject to the following provisions of this Part.

Commencement Information

II Reg. 66 in force at 6.3.2019, see [reg. 1\(2\)](#)

Initiation of a review

67.—^[F1(A1)] The Secretary of State may, within 60 days of the application, variation, extension or suspension of an anti-dumping amount or a countervailing amount pursuant to Part 4 of Schedule 4 to the Act, or Part 7, Part 9, Part 9A or Part 12 of these Regulations, request that the TRA undertakes an early review.

(B1) Paragraph (A1) does not apply in relation to an anti-dumping amount or a countervailing amount which is maintained or varied as a result of an early review.

(C1) The Secretary of State may request an early review where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its investigation or review that is relevant to the anti-dumping amount or countervailing amount;
- (b) the TRA made an error in relation to its recommendation; or
- (c) exceptional circumstances make the request appropriate.

(D1) Before making a request under paragraph (A1), the Secretary of State must consult the TRA.

(E1) Where the Secretary of State makes a request under paragraph (A1), the TRA must comply with the request.]

(1) If the TRA is satisfied that there is sufficient information substantiating the need for a review, the TRA may initiate an interim review, an absorption review, a circumvention review or a scope review—

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Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7. (See end of Document for details)

- (a) where a review application is made by or on behalf of an interested party; or
 - (b) on its own initiative.
- (2) If there is sufficient evidence substantiating the need for an expiry review, the TRA may initiate an expiry review—
- (a) where a review application is made by or on behalf of UK industry in the goods; or
 - (b) on its own initiative in special circumstances.
- (3) The TRA must initiate a new exporter review—
- (a) where a review application is made by or on behalf of a new exporter; and
 - (b) the TRA is satisfied that the review application contains sufficient information substantiating the need for a review in accordance with regulation 71 (new exporter review).
- (4) The TRA may, in particular, reject a review application where—
- (a) it considers the review application is made in relation to a change in circumstances that is not of a lasting nature;
 - (b) it has conducted a previous review or rejected a previous review application in respect of the relevant anti-dumping amount or countervailing amount and—
 - (i) the review application relates to matters which are similar to those arising under that previous review or set out in that previous review application; and
 - (ii) there is no change of circumstances since the termination of that previous review or rejection of that previous review application which substantiates the need for a new review;
 - (c) information on which the review application relies could have been provided to the TRA in the investigation or a previous review; or
 - (d) the review applicant has not complied with procedural requirements in accordance with this Part.
- (5) The TRA may reject a review application if it is not made via the TRA's case management system.
- (6) Where the TRA rejects a review application, it must notify the review applicant.
- [^{F2}(6A) Where the TRA initiates an early review, it must take then the following steps in the order in which they are set out—
- (a) publish a notice (a notice of initiation of a review); and
 - (b) notify the Secretary of State and interested parties.]
- (7) [^{F3}Where the TRA has made a determination to initiate a review other than an early review, the TRA must notify the Secretary of State that it intends to initiate the review and, after the relevant interval, must take the following steps in the order in which they are set out—]
- [^{F4}(za) initiate the review;]
- (a) publish a notice of its decision to initiate a review (for the purpose of this Part a “notice of initiation of a review”); and
 - (b) notify the Secretary of State and interested parties.
- [^{F5}(7A) In paragraph (7), the “relevant interval” is the period of two working days beginning with the first working day after the day on which the TRA notifies the Secretary of State of its intention to initiate the review.]
- (8) A notice of initiation of a review must contain the information listed in paragraph 1 of Schedule 3.

(9) Where a review application is made in respect of goods subject to a countervailing amount, the TRA must notify the government of the exporting country or territory ^{F6}... prior to the initiation of that review.

Textual Amendments

- F1** Regs. 67(A1)-(E1) inserted (23.5.2024) by The Trade Remedies (Amendment) Regulations 2024 (S.I. 2024/545), regs. 1(2), **8(a)** (with reg. 2)
- F2** Reg. 67(6A) inserted (23.5.2024) by The Trade Remedies (Amendment) Regulations 2024 (S.I. 2024/545), regs. 1(2), **8(b)** (with reg. 2)
- F3** Words in reg. 67(7) substituted (23.5.2024) by The Trade Remedies (Amendment) Regulations 2024 (S.I. 2024/545), regs. 1(2), **8(c)(i)** (with reg. 2)
- F4** Reg. 67(7)(za) inserted (23.5.2024) by The Trade Remedies (Amendment) Regulations 2024 (S.I. 2024/545), regs. 1(2), **8(c)(ii)** (with reg. 2)
- F5** Reg. 67(7A) inserted (23.5.2024) by The Trade Remedies (Amendment) Regulations 2024 (S.I. 2024/545), regs. 1(2), **8(d)** (with reg. 2)
- F6** Words in reg. 67(9) omitted (23.5.2024) by virtue of The Trade Remedies (Amendment) Regulations 2024 (S.I. 2024/545), regs. 1(2), **8(e)** (with reg. 2)

Commencement Information

- I2** Reg. 67 in force at 6.3.2019, see **reg. 1(2)**

CHAPTER 2

Conduct of a review

The conduct of a review

68.—(1) Where the TRA considers it appropriate, the TRA may expand or limit the issues to be considered in a review.

(2) The TRA must provide interested parties with an opportunity to provide comments prior to acting in accordance with paragraph (1).

[^{F7}(3) The TRA must make a determination that an anti-dumping amount or a countervailing amount should be revoked in respect of goods from a particular overseas exporter where, at any stage during a review, it determines that the margin of dumping or the amount of subsidy is minimal.

(4) Where regulation 36(5) applies in respect of goods from a particular overseas exporter (“E”), but an anti-dumping amount or a countervailing amount remains in place for at least one other overseas exporter in respect of such goods, E—

- (a) may be subject to a review or subsequent review carried out in respect of the exporting country or territory; and
- (b) following the review or subsequent review, may have an anti-dumping amount or a countervailing amount applied or re-applied to those goods.

(4A) Paragraph 4 does not apply where the Secretary of State has accepted a recommendation made by the TRA (see regulation 76) which is in accordance with a determination referred to in paragraph (3).]

(5) The TRA may, where it is satisfied that there is sufficient information to justify doing so, extend a review initiated in respect of one overseas exporter to any, or all, other overseas exporters who export the dumped goods or subsidised imports which are subject to the relevant public notice made under section 13 of the Act.

Status: Point in time view as at 23/05/2024.

Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7. (See end of Document for details)

(6) The TRA may, where it considers it appropriate, terminate a review on the request of the review applicant.

[^{F8}(6A) The TRA must terminate an early review on the request of the Secretary of State.]

(7) Where the TRA constructs the export price in accordance with regulation 15 (export price), the TRA may deduct any anti-dumping amount paid where it is not reflected in resale prices and subsequent selling prices in the United Kingdom.

(8) Parts 2, 3, 4 and 6 apply to reviews to the extent that the TRA considers relevant.

(9) If the TRA applies any part of Parts 2, 3, 4 or 6 to a review, any references in those Parts to “goods concerned” should be read as “goods subject to review”.

(10) Following a review, the anti-dumping amount or countervailing amount applicable to goods must be such that it does not exceed—

- (a) the margin of dumping or the amount of subsidy in relation to the goods;
- (b) the amount which the TRA is satisfied would be adequate to remove the injury to a UK industry in the goods if that amount is less than the margin of dumping or the amount of subsidy referred to sub-paragraph (a).

(11) Part 5 applies to—

[^{F9}(za) an early review where the TRA considers varying the level of an anti-dumping amount or a countervailing amount;]

- (a) an interim review where the TRA considers varying the level of an anti-dumping amount or a countervailing amount by varying its level and duration;
- (b) an interim review where the TRA reassesses the amount adequate to remove the injury;
- (c) an expiry review where the TRA considers varying the level of an anti-dumping amount or a countervailing amount;
- (d) a new exporter review where the TRA calculates an individual anti-dumping amount or an individual countervailing amount;
- (e) an absorption review.

(12) Where it is not possible for the TRA to recalculate the anti-dumping amount or countervailing amount, the TRA may determine that the amount should not be varied.

Textual Amendments

- F7** Reg. 68(3)-(4A) substituted for reg. 68(3) (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **19**
- F8** Reg. 68(6A) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **9(a)** (with reg. 2)
- F9** Reg. 68(11)(za) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **9(b)** (with reg. 2)

Commencement Information

- I3** Reg. 68 in force at 6.3.2019, see [reg. 1\(2\)](#)

[^{F10}Early review

68A.—(1) The TRA may conduct a review (an “early review”) to consider whether—

- (a) to vary the application of an anti-dumping amount or a countervailing amount;
- (b) to vary the suspension of the application of such an amount; or

- (c) to revoke the application of such an amount.
- (2) When conducting the early review, the TRA must have regard to any particular considerations which the Secretary of State may specify in the request made under regulation 67(A1).
- (3) Where the TRA—
 - (a) receives a request from the Secretary of State under regulation 67(A1) to undertake an early review; and
 - (b) accepts an application under Chapter 2 of Part 2 of the Reconsideration and Appeals Regulations 2019 for reconsideration of an original decision to which the request under sub-paragraph (a) relates,the TRA must take into account any notice published or public notice issued under regulation 14 of the Reconsideration and Appeals Regulations 2019 in relation to that reconsideration in any determination under this regulation.
- (4) For the purposes of paragraph (3)—
 - “the Reconsideration and Appeals Regulations 2019” means the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019;
 - “original decision” has the meaning given in regulation 9(1) of the Reconsideration and Appeals Regulations 2019.
- (5) Following the conclusion of an early review, the TRA may determine that the application or suspension of an anti-dumping amount or a countervailing amount should be—
 - (a) maintained in accordance with the relevant public notice made under section 13 of the Act;
 - (b) varied; or
 - (c) revoked.]

Textual Amendments

F10 Reg. 68A inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **10** (with reg. 2)

Interim review

- 69.**—(1) The TRA may conduct a review (an “interim review”) to consider whether—
- (a) the continuing application of an anti-dumping amount or a countervailing amount to goods is necessary or sufficient to offset—
 - (i) in the case of an anti-dumping amount, the dumping of the goods which has caused or is causing injury to a UK industry in the goods; or
 - (ii) in the case of a countervailing amount, the importation of the subsidised goods which has caused or is causing injury to a UK industry in the goods;
 - (b) the application of an anti-dumping amount or a countervailing amount to goods is having the effect of removing the injury to a UK industry in the goods.
- (2) Otherwise than on its own initiative in accordance with regulation 67 (initiation of a review), the TRA may not initiate an interim review in relation to goods within a year of the imposition or variation of an anti-dumping amount or a countervailing amount pursuant to a public notice made under section 13 of the Act.
- (3) An interim review application must include—
- (a) evidence that since the application of an anti-dumping amount or a countervailing amount, there has been a change in circumstances which is of a lasting nature; and

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- (b) the required information.
- (4) The required information is information that—
 - (a) the continued imposition of an anti-dumping amount or a countervailing amount is not necessary to offset the relevant dumping or subsidisation;
 - (b) the injury would be unlikely to continue or recur if the anti-dumping amount or countervailing amount were removed or varied; or
 - (c) the existing anti-dumping amount or countervailing amount is not sufficient to offset the injury caused by the dumped goods or subsidised imports.
- (5) In conducting an interim review, the TRA may consider, among other things—
 - (a) whether the circumstances in respect of the dumped goods or subsidised imports, or injury, caused by the dumped goods or subsidised imports have changed significantly;
 - (b) whether the existing application of an anti-dumping or a countervailing amount is necessary or sufficient to offset or prevent the injury caused by dumped goods or subsidised imports previously established in accordance with Part 6; or
 - (c) whether, and if so to what level, it is appropriate to vary the anti-dumping amount or countervailing amount.
- (6) Following an interim review, the TRA may determine that the application of an anti-dumping amount or a countervailing amount to some or all of the goods subject to review should be—
 - (a) maintained;
 - (b) varied; or
 - (c) revoked.

[^{F11}(6A) Where the TRA proposes to make a determination under paragraph (6)(a) the TRA must notify the Secretary of State of its proposed determination.

(6B) Where the Secretary of State has been notified in accordance with paragraph (6A), the Secretary of State may, within the relevant period (and subject to paragraph (6C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(6C) The Secretary of State may only make a request under paragraph (6B) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;
- (b) the TRA has made an error in relation to its proposed determination; or
- (c) exceptional circumstances make the request appropriate.

(6D) The TRA must comply with a request under paragraph (6B).

(6E) The TRA may not make its proposed determination until—

- (a) the relevant period has ended; or
- (b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (6B), the time when the TRA receives that information.

(6F) For the purposes of paragraphs (6B) and (6E), the “relevant period” is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.]

(7) Where the goods subject to review are subject to an anti-dumping amount or a countervailing amount, the TRA must have regard to the current and prospective impact of the anti-dumping amount or countervailing amount when making a determination regarding the future application of an anti-dumping amount or a countervailing amount.

(8) The TRA must not treat compliance with an undertaking in accordance with Part 8 as evidence of—

- (a) the cessation of dumping;
- (b) the elimination of the effect of a subsidy; or
- (c) a lasting change in circumstances which justifies the initiation of an interim review.

(9) The TRA may only make a determination that the application of an anti-dumping amount or a countervailing amount to some or all of the goods subject to review be varied by extending its duration where it has reassessed—

- (a) the margin of dumping or the amount of subsidy; and
- (b) the amount adequate to remove the injury.

(10) Where the TRA determines that the application of an anti-dumping amount or a countervailing amount be extended in accordance with this regulation, it [^{F12}must conduct the economic interest test (see paragraph 25 of Schedule 4 to the Act)].

(11) Where—

- (a) the countervailing amount imposed is less than the amount of subsidy; and
- (b) after the period of investigation, export prices have decreased or there has been no movement, or insufficient movement of resale prices of the goods subject to review in the United Kingdom to reflect the application of that amount, the TRA may determine that the countervailing amount be increased to attain the price increase required to remove injury caused by the subsidised imports.

(12) Where the TRA determines that a countervailing amount be increased pursuant to paragraph (11), the level after the increase must not exceed the amount of the subsidy.

Textual Amendments

F11 Reg. 69(6A)-(6F) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **11(a)** (with reg. 2)

F12 Words in reg. 69(10) substituted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **11(b)** (with reg. 2)

Commencement Information

I4 Reg. 69 in force at 6.3.2019, see [reg. 1\(2\)](#)

Expiry review

70.—(1) The TRA may conduct a review to consider whether injury to a UK industry in the goods would be likely to continue or recur if the application of an anti-dumping amount or a countervailing amount to the relevant goods were to expire (an “expiry review”).

(2) The TRA may make a determination that the anti-dumping amount or countervailing amount should be varied—

- (a) by extending the duration; and
- (b) where it considers it appropriate, by amending the level.

(3) The TRA must notify interested parties of the expiry of the application of an anti-dumping amount or a countervailing amount in sufficient time to allow interested parties to make an application for an expiry review.

(4) The TRA may only consider an application for an expiry review if it is made at least three months but not more than 12 months before the scheduled expiry of the relevant anti-dumping amount or countervailing amount.

(5) An expiry review application must include evidence that if the application of an anti-dumping amount or a countervailing amount were to expire in accordance with the terms of the public notice made under section 13 of the Act, the following would be likely to continue or recur—

- (a) the dumping or subsidisation of the goods subject to review; and
- (b) the injury caused by the dumped goods or subsidised imports.

(6) In conducting an expiry review, where relevant, the TRA must consider whether—

- (a) dumping or subsidisation of the goods subject to review is continuing or is likely to recur;
- (b) injury has been removed, or reduced, in whole or in part due to the application of the anti-dumping amount or countervailing amount; and
- (c) the circumstances of the relevant exporting country or territory, or overseas exporter, are such that the injury caused by the dumped goods or subsidised imports is likely to continue or recur.

(7) The TRA may only make a determination that the application of an anti-dumping amount or a countervailing amount to some or all of the goods subject to review be varied in any way other than by extending its duration where it has reassessed—

- (a) the margin of dumping or the amount of subsidy; and
- (b) the amount adequate to remove the injury.

(8) Where the goods subject to review are subject to an anti-dumping amount or a countervailing amount, the TRA must have regard to the current and prospective impact of the anti-dumping amount or countervailing amount when making a determination regarding the future application of an anti-dumping or a countervailing amount.

(9) Where an application for an expiry review has been made in accordance with this regulation, an anti-dumping amount or a countervailing amount which applies to the goods subject to review is to be treated as continuing (where it would otherwise cease to do so) until the TRA has made a determination in accordance with paragraph (11)(a) or the Secretary of State has accepted or rejected the TRA's recommendation in accordance with regulation 76 ^[F13](powers of the Secretary of State in relation to the TRA's recommendation) or made a decision under regulation 76A (Secretary of State's power to apply an alternative remedy)].

(10) In order to extend the application of an anti-dumping amount or a countervailing amount pursuant to paragraph (9), the Secretary of State must make a public notice under section 13 of the Act on initiation of the expiry review.

(11) Following an expiry review, the TRA may determine that—

- (a) the application of the relevant anti-dumping amount or countervailing amount to some or all of the goods subject to review should expire as set out in the public notice made under section 13 of the Act;
- (b) the application of the relevant anti-dumping amount or countervailing amount at the same level to some or all of the goods subject to review should be extended by a period of no more than five years; or
- (c) the application of the relevant anti-dumping amount or countervailing amount at a different level to some or all of the goods subject to review should be extended by a period of no more than five years.

^[F14](11A) Where the TRA proposes to make a determination under paragraph (11)(a) the TRA must notify the Secretary of State of its proposed determination.

(11B) Where the Secretary of State has been notified in accordance with paragraph (11A), the Secretary of State may, within the relevant period (and subject to paragraph (11C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(11C) The Secretary of State may only make a request under paragraph (11B) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;
- (b) the TRA has made an error in relation to its proposed determination; or
- (c) exceptional circumstances make the request appropriate.

(11D) The TRA must comply with a request under paragraph (11B).

(11E) The TRA may not make its proposed determination until—

- (a) the relevant period has ended; or
- (b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (11B), the time when the TRA receives that information.

(11F) For the purposes of paragraphs (11B) and (11E), the “relevant period” is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.

(11G) Where the TRA makes a determination under paragraph (11)(a) after the date on which the application of the relevant anti-dumping amount or countervailing amount would, but for paragraph (9), have ended as set out in the original public notice under section 13 relating to the amount (the “original expiry date”)—

- (a) the Secretary of State must provide by public notice for the application of the relevant anti-dumping amount or countervailing amount to be treated as having ended on the original expiry date; and
- (b) a public notice under sub-paragraph (a) must contain the information set out in paragraph 1A of Schedule 3.]

(12) Where the TRA determines that the application of an anti-dumping amount or a countervailing amount be extended in accordance with this regulation, it [^{F15}must conduct] the economic interest test (see paragraph 25 of Schedule 4 to the Act).

Textual Amendments

F13 Words in [reg. 70\(9\)](#) substituted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024](#) (S.I. 2024/545), [regs. 1\(2\)](#), [12\(a\)](#) (with [reg. 2](#))

F14 [Reg. 70\(11A\)-\(11G\)](#) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024](#) (S.I. 2024/545), [regs. 1\(2\)](#), [12\(b\)](#) (with [reg. 2](#))

F15 Words in [reg. 70\(12\)](#) substituted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024](#) (S.I. 2024/545), [regs. 1\(2\)](#), [12\(c\)](#) (with [reg. 2](#))

Commencement Information

I5 [Reg. 70](#) in force at 6.3.2019, see [reg. 1\(2\)](#)

New exporter review

71.—(1) The TRA may conduct a review (a “new exporter review”) to consider whether the application of an anti-dumping amount or a countervailing amount to goods should be varied in the case of a new exporter.

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Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7. (See end of Document for details)

(2) A “new exporter” is an overseas exporter that did not export the goods subject to review into the United Kingdom during the period of investigation in respect of which the application of the relevant anti-dumping amount or countervailing amount is based.

(3) A review application for a new exporter review must include evidence that—

- (a) the review applicant is not related to any overseas exporter—
 - (i) who is subject to the application of an anti-dumping amount or a countervailing amount in respect of the dumped goods or subsidised imports; and
 - (ii) who exported the dumped goods or subsidised imports to the United Kingdom during the period of investigation;
- (b) the review applicant did not export the goods subject to review to the United Kingdom during the period of investigation and either—
 - (i) is exporting the goods subject to review to the United Kingdom; or
 - (ii) has a contractual obligation to export a significant quantity of the goods subject to review to the United Kingdom.

(4) Where an anti-dumping amount or a countervailing amount has been determined using sampling in accordance with regulation 37 (determination of the anti-dumping amount or countervailing amount for non-sampled overseas exporters), an anti-dumping amount or a countervailing amount applied to the goods subject to review must be the same as the non-sampled overseas exporter amount determined in accordance with that regulation.

(5) Where the TRA initiates a new exporter review in relation to an anti-dumping amount—

- (a) the TRA must notify the Secretary of State; and
- (b) the Secretary of State must suspend, by a public notice made under section 13 of the Act, the collection of any anti-dumping amount for the review applicant's goods pending the outcome of the new exporter review.

(6) Following a new exporter review, the TRA may determine that—

- (a) the review applicant is not a new exporter;
- (b) the review applicant is a new exporter and the non-sampled overseas exporter amount should be applied to the review applicant's exports of the goods subject to review;
- (c) the review applicant is a new exporter and an individual anti-dumping amount or individual countervailing amount should be applied to the review applicant's exports of the goods subject to review at a rate calculated during the review; or
- (d) the review applicant is a new exporter and an undertaking should be accepted in accordance with Part 8.

^[F16](6A) Where the TRA proposes to make a determination under paragraph (6)(a) the TRA must notify the Secretary of State of its proposed determination.

(6B) Where the Secretary of State has been notified in accordance with paragraph (6A), the Secretary of State may, within the relevant period (and subject to paragraph (6C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(6C) The Secretary of State may only make a request under paragraph (6B) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;
- (b) the TRA has made an error in relation to its proposed determination; or
- (c) exceptional circumstances make the request appropriate.

(6D) The TRA must comply with a request under paragraph (6B).

(6E) The TRA may not make its proposed determination until—

- (a) the relevant period has ended; or
- (b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (6B), the time when the TRA receives that information.

(6F) For the purposes of paragraphs (6B) and (6E), the “relevant period” is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.]

(7) If the TRA makes a determination under paragraph (6)(a) in respect of an anti-dumping amount, the Secretary of State may, by a public notice made under section 13 of the Act, apply the rate previously calculated in accordance with regulation 38 (determination of the residual amount) in respect of the relevant review applicant from the date of the initiation of the new exporter review.

(8) If the TRA makes a determination under paragraph (6)(b) or (c) in respect of an anti-dumping amount, the Secretary of State may, by a public notice made under section 13 of the Act, apply the rate specified in the TRA's recommendation in respect of that new exporter from the date of the initiation of the new exporter review.

(9) If the Secretary of State accepts an undertaking, Part 8 applies to the extent it is relevant.

Textual Amendments

F16 Reg. 71(6A)-(6F) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **13** (with reg. 2)

Commencement Information

I6 Reg. 71 in force at 6.3.2019, see [reg. 1\(2\)](#)

Absorption review

72.—(1) The TRA may conduct a review (an “absorption review”) to consider whether there has been a sufficient change to the export price or resale price of goods to reflect the application of an anti-dumping amount.

(2) An absorption review application must include evidence that after the period of investigation relating to the application of an anti-dumping amount—

- (a) export prices of the goods subject to review have decreased; or
 - (b) there has been no movement, or insufficient movement, in the resale price or subsequent selling prices of the imported goods subject to review.
- (3) In conducting an absorption review, the TRA must consider, among other things—
- (a) available information from overseas exporters, importers and UK industry in respect of the export prices, resale prices and subsequent selling prices;
 - (b) whether the application of an anti-dumping amount has led to movements in resale prices and subsequent selling prices;
 - (c) any other relevant factors which may have had an impact on prices.

(4) Subject to paragraph (5), for the purpose of making a determination under this regulation, the TRA may make any assessment, finding or determination relevant to the calculation of the anti-dumping amount which it could have made in the investigation to which the anti-dumping amount relates.

Status: Point in time view as at 23/05/2024.

Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7. (See end of Document for details)

(5) The TRA must not reassess the economic interest test (see paragraph 25 of Schedule 4 to the Act) when carrying out an absorption review.

(6) The TRA must not recommend the application of an anti-dumping amount exceeding twice the anti-dumping amount most recently applied to the goods subject to review.

(7) Following the conclusion of an absorption review, the TRA may determine that the level of an anti-dumping amount to some or all of the goods subject to review should be—

- (a) maintained; or
- (b) varied.

^[F17](8) Where the TRA proposes to make a determination under paragraph (7)(a) the TRA must notify the Secretary of State of its proposed determination.

(9) Where the Secretary of State has been notified in accordance with paragraph (8), the Secretary of State may, within the relevant period (and subject to paragraph (10)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(10) The Secretary of State may only make a request under paragraph (9) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;
- (b) the TRA has made an error in relation to its proposed determination; or
- (c) exceptional circumstances make the request appropriate.

(11) The TRA must comply with a request under paragraph (9).

(12) The TRA may not make its proposed determination until—

- (a) the relevant period has ended; or
- (b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (9), the time when the TRA receives that information.

(13) For the purposes of paragraphs (9) and (12), the “relevant period” is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.]

Textual Amendments

F17 Reg. 72(8)-(13) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **14** (with reg. 2)

Commencement Information

I7 Reg. 72 in force at 6.3.2019, see [reg. 1\(2\)](#)

Circumvention review

73.—(1) The TRA may conduct a review (a “circumvention review”) to consider whether activity is being undertaken to circumvent the application of an anti-dumping amount or a countervailing amount to goods.

(2) For the purpose of this regulation, “circumvention” exists where—

- (a) there is a change in the pattern of trade between—
 - (i) a foreign country or territory not listed in the relevant public notice made under section 13 of the Act (a “third country”) and the United Kingdom; or

- (ii) individual companies in the exporting country or territory listed in the public notice made under section 13 of the Act (“the relevant exporting country or territory”) and the United Kingdom; and
- (b) the change in the pattern of trade results from a practice, process or work which has insufficient economic justification other than the avoidance of the anti-dumping amount or countervailing amount;
- (c) there is injury or the remedial effects of the anti-dumping amount or countervailing amount are being undermined in respect of prices or quantities of the goods subject to review; and
- (d) either—
 - (i) there is dumping in relation to the normal values previously established for the goods subject to review; or
 - (ii) the countervailable subsidy still confers a benefit on the goods subject to review.
- (3) The practice, process or work referred to in paragraph (2)(b) includes—
 - (a) the minor modification of the dumped goods or subsidised imports to make them subject to a different customs code and so not subject to the anti-dumping amount or countervailing amount, provided that the modification does not alter the essential characteristics of the good;
 - (b) channelling the consignment of dumped goods or subsidised imports via third countries;
 - (c) the reorganisation by overseas exporters of their patterns and channels of sales in the relevant exporting country or territory in order to export dumped goods or subsidised imports to the United Kingdom through exporters of goods which are subject to a lower anti-dumping amount or countervailing amount;
 - (d) the assembly of parts by an assembly operation in the United Kingdom or a third country.
- (4) For the purpose of paragraph (3)(d), an assembly operation is one—
 - (a) which started or substantially increased after, or immediately prior to, the initiation of the relevant investigation;
 - (b) which uses parts from the relevant exporting country or territory;
 - (c) where 60 per cent. or more of the total value of the parts of the assembled goods come from the relevant exporting country or territory, except that in no case shall circumvention be considered to be taking place where the value added to the parts brought in, during the assembly or completion operation, is greater than 25 per cent. of the manufacturing cost; and
 - (d) where the remedial effects of the anti-dumping amount or countervailing amount are being undermined in terms of the prices or quantities of the assembled like goods and there is evidence of either dumping of the goods in relation to the normal values previously established or importation of subsidised imports into the United Kingdom.
- (5) A circumvention review application must include sufficient evidence of the matters alleged to constitute circumvention.
- (6) In order to determine whether circumvention exists, the TRA may consider, among other things—
 - (a) the nature of the relationship between persons in the export chain;
 - (b) the timing of the change in the pattern of trade; and
 - (c) the nature of the change in the pattern of trade.
- (7) Following a circumvention review, the TRA may determine that—

Status: Point in time view as at 23/05/2024.

Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7. (See end of Document for details)

- (a) the application of an anti-dumping amount or a countervailing amount should remain unchanged; or
- (b) the application of the relevant anti-dumping amount or countervailing amount imposed should be varied—
 - (i) to apply to some or all of the goods subject to review;
 - (ii) to apply to goods from a third country; or
 - (iii) where circumvention exists in the form described in paragraph (3)(c), to apply an anti-dumping [^{F18}amount] or a countervailing amount at a level less than or equal to that specified in the relevant public notice made under section 13 of the Act.

[^{F19}(7A) Where the TRA proposes to make a determination under paragraph (7)(a) the TRA must notify the Secretary of State of its proposed determination.

(7B) Where the Secretary of State has been notified in accordance with paragraph (7A), the Secretary of State may, within the relevant period (and subject to paragraph (7C)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(7C) The Secretary of State may only make a request under paragraph (7B) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;
- (b) the TRA has made an error in relation to its proposed determination; or
- (c) exceptional circumstances make the request appropriate.

(7D) The TRA must comply with a request under paragraph (7B).

(7E) The TRA may not make its proposed determination until—

- (a) the relevant period has ended; or
- (b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (7B), the time when the TRA receives that information.

(7F) For the purposes of paragraphs (7B) and (7E), the “relevant period” is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.]

(8) At any time during a circumvention review, the TRA may exempt an importer or overseas exporter from any anti-dumping amount or countervailing amount which it may impose as a result of a determination under paragraph (7)(b) where the conditions in paragraph (10) are met.

(9) The TRA may grant an exemption after the conclusion of a circumvention review where the importer or overseas exporter did not import or export the goods subject to review during the circumvention review and the conditions in paragraph (10) are met.

(10) The TRA may grant an exemption in favour of—

- (a) an overseas exporter, who it determines not to be engaged in circumvention, where the practice, process or work referred to in [^{F20}paragraph (2)(b)] takes place outside the United Kingdom; or
- (b) an importer, who is not related to an overseas exporter which is subject to the anti-dumping amount or countervailing amount to which the circumvention review relates, where the practice, process or work referred to in [^{F20}paragraph (2)(b)] takes place in the United Kingdom.

Textual Amendments

- F18** Word in [reg. 73\(7\)\(b\)\(iii\)](#) inserted (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), [regs. 1, 8\(2\)\(a\)](#)
- F19** [Reg. 73\(7A\)-\(7F\)](#) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), [regs. 1\(2\), 15](#) (with [reg. 2](#))
- F20** Words in [reg. 73\(10\)](#) substituted (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), [regs. 1, 8\(2\)\(b\)](#)

Commencement Information

- I8** [Reg. 73](#) in force at 6.3.2019, see [reg. 1\(2\)](#)

Scope review

74.—(1) The TRA may conduct a review (a “scope review”) to consider whether the goods or the description of goods to which an anti-dumping amount or a countervailing amount is applicable should be varied.

(2) Otherwise than on its own initiative in accordance with regulation 67 (initiation of a review), the TRA may not initiate a scope review in relation to goods within a year of the imposition or variation of an anti-dumping amount or a countervailing amount pursuant to a public notice made under section 13 of the Act.

(3) A scope review application must include evidence that—

- (a) the goods or the description of the dumped goods or subsidised imports should be varied; and
- (b) the nature of the variation does not justify an investigation in accordance with Part 6.

(4) In order to determine whether it is appropriate to initiate a scope review, the TRA must consider—

- (a) whether it would have included the goods or description of goods subject to review in the original investigation had it had the information contained in that application before it at the time of that investigation;
- (b) the relationship between the goods subject to review and the like goods in the domestic market in the United Kingdom;
- (c) the impact, or potential impact, of any change in scope on the intended effects of the anti-dumping amount or countervailing amount;
- (d) whether any prejudice could be caused to the interests of any interested party or contributor;
- (e) whether the application of rules of customs would resolve the issues raised by the review applicant; and
- (f) any other factors it considers relevant.

(5) Following a scope review, the TRA may determine that the goods or the description of goods to which an anti-dumping amount or a countervailing amount is applicable should be—

- (a) maintained; or
- (b) varied.

^[F21](6) Where the TRA proposes to make a determination under paragraph (5)(a) the TRA must notify the Secretary of State of its proposed determination.

Status: Point in time view as at 23/05/2024.

Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7. (See end of Document for details)

(7) Where the Secretary of State has been notified in accordance with paragraph (6), the Secretary of State may, within the relevant period (and subject to paragraph (8)), request that the TRA reassess its proposed determination by reference to any matter specified in the request.

(8) The Secretary of State may only make a request under paragraph (7) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review that is relevant to the proposed determination;
- (b) the TRA has made an error in relation to its proposed determination; or
- (c) exceptional circumstances make the request appropriate.

(9) The TRA must comply with a request under paragraph (7).

(10) The TRA may not make its proposed determination until—

- (a) the relevant period has ended; or
- (b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under paragraph (7), the time when the TRA receives that information.

(11) For the purposes of paragraphs (7) and (10), the “relevant period” is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination in question.]

Textual Amendments

F21 Reg. 74(6)-(11) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **16** (with reg. 2)

Commencement Information

I9 Reg. 74 in force at 6.3.2019, see [reg. 1\(2\)](#)

CHAPTER 3

TRA recommendation and decision of the Secretary of State

TRA recommendation to the Secretary of State

75.—(1) Following the conclusion of a review, the TRA must make a recommendation to the Secretary of State, where it is satisfied that ^{F22}...—

- (a) the application of an anti-dumping amount or a countervailing amount to some or all of the goods subject to review should be varied;
- (b) the application of an anti-dumping amount or a countervailing amount to some or all of the goods subject to review should be revoked;
- (c) the period of the application of an anti-dumping amount or a countervailing amount should be extended; or
- (d) an anti-dumping amount or a countervailing amount should be applied to a new exporter at a particular level.

(2) The TRA's recommendation must include—

- (a) a description of the goods to which the recommendation relates;
- (b) the names of overseas exporters, or where impracticable, the exporting countries or territories;

- (c) where relevant, the recommended period for which the anti-dumping amount or countervailing amount should be applicable, which must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the recommendation, unless the TRA makes a recommendation in accordance with paragraph (3); and
- (d) the reasons for its recommendation.

[^{F23}(2A) Where, in relation to an early review, an interim review or an expiry review, the TRA considers that there are two or more options which it could recommend under paragraph (1), it may give the Secretary of State each of those options as part of its recommendation.

(2B) The TRA must consider whether it could give the Secretary of State two or more options as part of its recommendation under paragraph (1)—

- (a) in the case of an interim review or an expiry review, where the TRA considers that applying an anti-dumping amount or a countervailing amount in accordance with its proposed recommendation would not meet the economic interest test; or
- (b) where the TRA otherwise considers that it is appropriate.

(2C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation in accordance with paragraph (2A), the TRA considers that there is only one option which it could reasonably recommend under paragraph (1), it must give the Secretary of State its reasons for reaching that conclusion.

(2D) 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.

(2E) Where, in the case of an interim review or an expiry review, the TRA makes a recommendation under paragraph (1) to extend the application of an anti-dumping amount or a countervailing amount, it must advise the Secretary of State whether and why it considers that the extension of the application of that amount in accordance with its recommendation, or in accordance with each option, as the case may be, would meet the economic interest test.]

(3) The TRA may recommend that the application of a varied anti-dumping amount or countervailing amount should be applicable to goods from a date before the date set out in the public notice made under section 13 of the Act giving effect to the recommendation where—

- (a) the recommendation is in respect of a review in accordance with regulation 73 (circumvention review); and
- (b) the requirements set out in paragraph 21(10) of Schedule 4 to the Act are satisfied.

(4) Where the TRA terminates a review but does not make a recommendation in accordance with paragraph (1), the TRA must—

- (a) publish a notice containing the information set out in paragraph 2 of Schedule 3; and
- (b) notify the Secretary of State and interested parties.

Textual Amendments

- F22** Words in [reg. 75\(1\)](#) omitted (23.5.2024) by virtue of [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), [regs. 1\(2\)](#), [17\(a\)](#) (with [reg. 2](#))
- F23** [Reg. 75\(2A\)-\(2E\)](#) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), [regs. 1\(2\)](#), [17\(b\)](#) (with [reg. 2](#))

Commencement Information

I10 Reg. 75 in force at 6.3.2019, see [reg. 1\(2\)](#)

[^{F24}Powers of the Secretary of State in relation to the TRA's recommendation]

76.—(1) Where the TRA makes a recommendation in accordance with regulation 75 (TRA recommendation to the Secretary of State), the Secretary of State must [^{F25}—

- (a) accept or reject the recommendation; or
- (b) except in the case of a recommendation made in relation to an early review under regulation 68A, request that the TRA reassess its recommendation, by reference to any matters specified in the request, with a view to amending or replacing the recommendation.]

[^{F26}(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 75(2A), the Secretary of State must decide which of those options to adopt.]

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

(3) In considering that, where the recommendation is one which comprises or includes extending the period for which an anti-dumping amount or a countervailing amount applies [^{F27}following an interim or expiry review, the Secretary of State must have regard to the TRA's advice on whether the application of an anti-dumping amount or a countervailing amount to goods in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test].

(4) Where the Secretary of State rejects the TRA's recommendation [^{F28}and does not make a decision under regulation 76A], the Secretary of State must—

- (a) publish a notice containing the information set out in paragraph 3 or 4 of Schedule 3;
- (b) notify interested parties; and
- (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

(5) Where the Secretary of State accepts the TRA's recommendation, the notice published by the Secretary of State under paragraph 21(7)(a) of Schedule 4 to the Act must contain the information set out in paragraph 3 or 4 of Schedule 3.

[^{F29}(6) Where the Secretary of State accepts the TRA's recommendation, the Secretary of State may decide that the date from which any variation has effect is a date before the date of the recommendation by the TRA.

(7) The Secretary of State may only make a request under paragraph (1)(b) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review that is relevant to the recommendation;
- (b) the TRA made an error in relation to its recommendation; or
- (c) exceptional circumstances make the request appropriate.

(8) Before making a request under paragraph (1)(b), the Secretary of State must consult the TRA.]

Textual Amendments

- F24** Reg. 76 heading substituted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **18(a)** (with reg. 2)
- F25** Reg. 76(1)(a)(b) substituted for words in reg. 76(1) (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **18(b)** (with reg. 2)
- F26** Reg. 76(1A) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **18(c)** (with reg. 2)
- F27** Words in reg. 76(3) substituted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **18(d)** (with reg. 2)
- F28** Words in reg. 76(4) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **18(e)** (with reg. 2)
- F29** Reg. 76(6)-(9) inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **18(f)** (with reg. 2)

Commencement Information

- I11** Reg. 76 in force at 6.3.2019, see [reg. 1\(2\)](#)

[^{F30}Secretary of State's power to apply an alternative remedy

76A.—(1) This regulation applies where—

- (a) the TRA makes a recommendation under regulation 75(1)(a), (c) or (d); and
- (b) the Secretary of State rejects the recommendation.

(2) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that the application of the anti-dumping amount or countervailing amount should be—

- (a) varied or applied, or the period of application of that amount extended, other than in accordance with the recommendation, subject to paragraph (3) where applicable; or
- (b) revoked.

(3) Where the Secretary of State makes a decision under paragraph (2)(a) in respect of—

- (a) a recommendation made by the TRA following a determination by the TRA under regulation 69(11), the restriction in regulation 69(12) applies to the Secretary of State's decision;
- (b) a recommendation made by the TRA following a determination by the TRA under regulation 72(7), the restriction in regulation 72(6) applies to the Secretary of State's decision.

(4) Where the Secretary of State makes a decision under paragraph (2), the Secretary of State may decide that the date from which any revocation or variation has effect is a date before the date of the decision by the Secretary of State.

(5) Where the Secretary of State makes a decision under paragraph (2)—

- (a) the notice published by the Secretary of State under paragraph 21(7)(a) of Schedule 4 to the Act must contain the information set out in paragraph 3 of Schedule 3; and
- (b) the Secretary of State must lay a statement before the House of Commons setting out the reasons for the decision.

Status: Point in time view as at 23/05/2024.

Changes to legislation: There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7. (See end of Document for details)

Textual Amendments

F30 Regs. 76A, 76B inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **19** (with reg. 2)

Power to request assistance etc. from TRA

76B.—(1) The Secretary of State may request that the TRA give advice, information or other support to the Secretary of State for the purpose of allowing the Secretary of State to decide whether to make a decision under regulation 76A(2).

(2) The Secretary of State may include in a request under paragraph (1) a requirement that the TRA investigate and provide a report on any matter specified in the request.

(3) Before making a request under paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under paragraph (1).]

Textual Amendments

F30 Regs. 76A, 76B inserted (23.5.2024) by [The Trade Remedies \(Amendment\) Regulations 2024 \(S.I. 2024/545\)](#), regs. 1(2), **19** (with reg. 2)

Status:

Point in time view as at 23/05/2024.

Changes to legislation:

There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, PART 7.