

## STATUTORY INSTRUMENTS

# 2019 No. 910

## The Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019

### PART 2

#### General provisions and reconsideration by the TRA

##### CHAPTER 1

##### General provisions

#### Deemed Service

3. Any document submitted to the TRA is deemed to have been submitted to the TRA on the earlier of—

- (a) the first working day after the day on which the document is received by the TRA; or
- (b) the day on which the TRA issues an acknowledgement of receipt.

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

- C1 Reg. 3 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)(b)**, 18 (with reg. 3)

#### Commencement Information

- I1 Reg. 3 in force at 3.6.2019, see [reg. 1\(1\)](#)

#### Public file

4.—<sup>[F1(1)]</sup> The TRA must, in respect of <sup>[F2]</sup>a reconsideration], establish and maintain a file which is open to the public (a “public file”) containing information, other than confidential information, which the TRA considers material to the reconsideration.

<sup>[F3(2)]</sup> Paragraph (1) does not apply to a reconsideration of a determination made under paragraph 9(4) of Schedule 4 to the Act to reject an application for the initiation of a dumping investigation or a subsidisation investigation.]

#### Textual Amendments

- F1 Reg. 4 renumbered as reg. 4(1) (3.5.2022) by [The Trade Remedies \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/414\)](#), regs. 1, **4(2)(a)**
- F2 Words in [reg. 4\(1\)](#) substituted (3.5.2022) by [The Trade Remedies \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/414\)](#), regs. 1, **4(2)(b)**

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**F3** Reg. 4(2) inserted (3.5.2022) by The Trade Remedies (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/414), regs. 1, 4(2)(c)

**Commencement Information**

**I2** Reg. 4 in force at 3.6.2019, see [reg. 1\(1\)](#)

**Confidential information**

- 5.—(1) Paragraph (3) applies where a person—
- (a) supplies information to the TRA in connection with the exercise by the TRA of any of its functions under these Regulations;
  - (b) either—
    - (i) requests the TRA to treat that information as confidential on the grounds that that information is by its nature confidential; or
    - (ii) supplies that information to the TRA on a confidential basis;
  - (c) demonstrates to the TRA good cause as to why the TRA must treat such information as confidential; and
  - (d) submits to the TRA—
    - (i) a non-confidential summary (see paragraph (6)(a)) of that information; or
    - (ii) in exceptional circumstances, a statement of reasons (see paragraph (6)(b)).
- (2) For the purpose of paragraph (1)(b)(i), information that is by its nature confidential includes information which, if disclosed, would—
- (a) be of significant competitive advantage to a competitor of the person supplying the information; or
  - (b) have a significant adverse effect on—
    - (i) the person supplying the information; or
    - (ii) any person from whom the person supplying the information had acquired it.
- (3) Where this paragraph applies, the TRA must treat such information as confidential.
- (4) The TRA may treat information as confidential where it is supplied to it otherwise than in accordance with paragraph (1) and, where it does so, it must—
- (a) inform the person supplying the information that it intends to treat that information as confidential; and
  - (b) request that that person submits a non-confidential summary of that information.
- (5) The Secretary of State must treat as confidential the information supplied by the TRA under regulation 6(2) which the TRA identifies as information that it is treating as confidential under this regulation.
- (6) In this regulation—
- (a) a “non-confidential summary” in relation to information means a sufficiently detailed summary for the public file referred to in regulation 4 (public file) which would enable a person other than the TRA to have a reasonable understanding of—
    - (i) the substance of the information to which it relates; and
    - (ii) its potential relevance to the exercise of any function by the TRA under these Regulations;

- (b) a “statement of reasons” means a statement setting out the reasons of a person supplying information to the TRA as to why the TRA should treat that information as confidential and why summarisation of that information in accordance with this regulation is not possible.

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

- C2** Reg. 5 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)(b)**, 18 (with reg. 3)

**Commencement Information**

- I3** Reg. 5 in force at 3.6.2019, see [reg. 1\(1\)](#)

**Permitted disclosure**

**6.—(1)** The TRA or the Secretary of State may disclose information which the TRA or the Secretary of State treats as confidential where such disclosure is—

- (a) made with the consent of the person supplying the information;
- (b) made for the purpose of court or tribunal proceedings in the United Kingdom relating to the exercise by the TRA or the Secretary of State of any functions under the Act or these Regulations;
- (c) made for the purpose of an international dispute relating to the exercise by the TRA or the Secretary of State of any functions under the Act or these Regulations; or
- (d) required or permitted by any other enactment or rule of law.

(2) The TRA may disclose to the Secretary of State information that it is treating as confidential for the purpose of the Secretary of State exercising functions under the Act or these Regulations.

(3) Where the TRA or the Secretary of State has a discretion to make a disclosure under paragraph (1)(b), (c) or (d), the TRA or the Secretary of State must consider whether such disclosure is likely to allow, or result in, such information being made available to a competitor of—

- (a) the person supplying that information; or
- (b) the person to which the information relates.

(4) In paragraph (1)(d), reference to an enactment includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

**Commencement Information**

- I4** Reg. 6 in force at 3.6.2019, see [reg. 1\(1\)](#)

**The use of information and facts available to the TRA from secondary sources**

**7.—(1)** This regulation applies in respect of the exercise by the TRA of functions under these Regulations.

(2) The TRA must have regard to information referred to in regulation 13(7)(a) to (c), provided that the information—

- (a) is verifiable;
- (b) has been appropriately submitted such that the TRA may use the information without undue difficulty;
- (c) has been supplied to it within any applicable time limit; and

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(d) where relevant, has been supplied to it in a form that it has requested.

(3) The TRA may disregard information which it treats as confidential (which it would otherwise have had regard to) where the person supplying that information has not supplied a non-confidential summary or a statement of reasons in accordance with regulation 5 (confidential information), unless it is satisfied from appropriate sources that such information is correct.

(4) The TRA may make a determination on the basis of information obtained from secondary sources, including information supplied by a person other than the applicant for reconsideration, provided that it—

- (a) does so with special circumspection; and
- (b) where practicable, verifies such information from independent sources, including but not limited to published price lists, official import statistics or customs returns and data pertaining to the relevant markets.

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

**C3** Reg. 7 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)(b)**, 18 (with reg. 3)

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**Commencement Information**

**I5** Reg. 7 in force at 3.6.2019, see [reg. 1\(1\)](#)

**Non-cooperation**

**8.**—(1) Where the TRA determines that a person has failed to cooperate with it during the course of its reconsideration or has otherwise significantly impeded the progress of its reconsideration (a “non-cooperative person”), it may disregard the information supplied by that person.

(2) For the purpose of paragraph (1), the TRA must not determine that a person is a non-cooperative person where it—

- (a) determines that that person has acted to the best of their ability to cooperate with the TRA during the course of its reconsideration; or
- (b) has accepted that compliance with any request for information to be supplied in a particular form would be unreasonably burdensome to that person.

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

**C4** Reg. 8 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)(b)**, 18 (with reg. 3)

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**Commencement Information**

**I6** Reg. 8 in force at 3.6.2019, see [reg. 1\(1\)](#)

**Changes to legislation:**

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

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

- Sch. 1 Pt. 56 inserted by [S.I. 2024/519 reg. 54\(2\)](#)
- Sch. 2 Pt. 1A inserted by [S.I. 2024/519 reg. 55\(a\)](#)
- Sch. 2 Pt. 5 inserted by [S.I. 2024/519 reg. 55\(b\)](#)
- reg. 16(1)(1A) substituted for reg. 16(1) by [S.I. 2024/519 reg. 52](#)
- reg. 17(2)(e) inserted by [S.I. 2024/519 reg. 53\(b\)\(ii\)](#)
- reg. 17(2)(aa) inserted by [S.I. 2024/519 reg. 53\(b\)\(i\)](#)