

**EXPLANATORY MEMORANDUM TO**  
**THE TRADE REMEDIES (MISCELLANEOUS AMENDMENTS) REGULATIONS**  
**2022**

**2022 No. 414**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 The Taxation (Cross-border Trade) Act 2018 (“TCBTA”) sets out the framework for the UK’s trade remedies system following the UK’s exit from the EU. This instrument makes minor changes to the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019, the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 and the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019. The instrument makes technical amendments to those instruments to clarify certain definitions, the conduct of transition reviews by the Trade Remedies Authority (TRA) as well giving the power to the Secretary of State to grant exemptions to certain UK trade remedies measures.

**3. Matters of special interest to Parliament**

- 3.1 This instrument is subject to the negative resolution procedure.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom. Trade remedies measures under the TCBTA usually take the form of additional rate of import duty and are therefore a matter of reserved competence.
- 4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

**6. Legislative Context**

- 6.1 The Taxation (Cross-border Trade) Act 2018 (“TCBTA”) sets out the framework for the UK’s trade remedies system following the UK’s exit from the EU. The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019, the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 and the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (“the Trade Remedies Regulations”) set out the UK’s independent framework for trade remedies. These pieces of legislation set out how the Trade Remedies Authority (TRA) should carry out their investigations.

- 6.2 The changes being made amend this legislation to support the smooth running of our trade remedies system.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The SI amends the Trade Remedies Regulations to support the TRA and the Secretary of State in carrying out their functions. There are four types of changes being made. First, the definitions of certain terms are being clarified, namely the definition of “interested party” and “pace of liberalisation”. The amendment to the definition of “interested party” will ensure that a broader group of stakeholders can participate in TRA investigations.
- 7.2 The second set of changes gives the Secretary of State the power to grant exemptions to certain UK trade remedies measures. The UK transitioned some anti-dumping and countervailing duties applied by the EU. Some of those measures had been extended by the EU following a circumvention review, which considers whether activity has been undertaken to avoid duties and if trade remedies measures should be extended to mitigate that. The EU was able to grant exemptions to the extended measures and any definitive exemptions to transitioned measures that were granted before 31<sup>st</sup> December 2020 were also transitioned. The changes will enable the TRA to consider applications for exemptions and for the TRA to make a recommendation to the Secretary of State to grant an exemption where the applicant can demonstrate that they are not involved in circumvention of the UK trade remedies measure.
- 7.3 Third, an amendment is being made to clarify what the TRA should consider in reviews of anti-dumping and countervailing measures transitioned over from the EU.
- 7.4 The final changes amend the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 so that TRA determinations in relation to exemptions to UK trade remedies measures are subject to reconsideration and determinations of the Secretary of State are subject to appeal.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it relates to trade remedies measures transitioned over to the UK at the end of the transition period.

## **9. Consolidation**

- 9.1 The Department for International Trade is keeping under review the desirability of consolidating instruments amended by these Regulations.

## **10. Consultation outcome**

- 10.1 The Department for International Trade has consulted the TRA as required under sections 51(10) and 56(13) of the TCBTA.

## **11. Guidance**

- 11.1 Not applicable

## **12. Impact**

- 12.1 There is no, or no significant, impact on charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on public sector.
- 12.3 As outlined in the Impact Assessment accompanying the TCBTA, the powers in the TCBTA on trade remedies relate to the imposition of duties, which fall under the exemption for tax measures set out in the Small Business, Enterprise and Employment Act 2015. The same applies to this instrument, so there is no requirement to complete an Impact Assessment.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is to take no action since the legislation does not any specific regulatory burdens for small businesses. Instead it allows them to apply for an exemption from certain UK trade remedies measures if they wish to do so.

## **14. Monitoring & review**

- 14.1 These Regulations do not include a statutory review clause as they are made under the Secretary of State's power to make regulations relating to tax legislation and are therefore exempt from the requirements under Section 28(3) of the Small Business, Enterprise and Employment Act 2015.

## **15. Contact**

- 15.1 Hayley Gowen at the Department for International Trade Telephone: 07919211960 or email: hayley.gowen@trade.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Re Hobley, Deputy Director for Trade Remedies and Constitutional Affairs, at the Department of International Trade can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Penny Mordaunt at the Department of International Trade can confirm that this Explanatory Memorandum meets the required standard.