
STATUTORY INSTRUMENTS

2022 No. 414

The Trade Remedies (Miscellaneous Amendments) Regulations 2022

Amendment of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019

3.—(1) The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019(1) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the definition of “interested party” after paragraph (e) insert—

“(f) an overseas producer of the goods concerned or the goods subject to review;”;

(b) after the definition of “non-confidential summary” insert—

““overseas producer” means a person outside of the United Kingdom that produces goods;”

(c) in the definition of “review application” after “Part 7” insert “or 12”.

(3) In regulation 94 (interpretation for Part 12) after the definition of “appropriate date” insert—

““circumvention” has the meaning given in regulation 73(2);”;

(4) After regulation 96D (transition of EU exemption after replacement of EU trade duty) insert—

“PART 3A

Exemptions to UK trade remedies measures

UK trade remedies measure exemption review

96E.—(1) The TRA(2) 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.

(1) [S.I. 2019/450](#) as amended by [S.I. 2019/1076](#), [2020/99](#) and [2021/942](#). There are other amendments, but these are not relevant to this instrument.

(2) See sections 13 and 38 of the Taxation (Cross-border Trade) Act 2018 for the meaning of “TRA”.

- (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. ”.

(5) In regulation 99A (conduct of a transition review), for paragraph (1) substitute—

“(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.”.

(6) After paragraph 3 insert—

“Notice of the Secretary of State accepting or rejecting a recommendation by the TRA to exempt an importer or overseas exporter from an anti-dumping amount or a countervailing amount or a UK trade remedies measure

3A. The information to be contained in a notice referred to in regulation 96H(3)(a) and (5) is—

- (a) a description of the goods to which the notice relates;
- (b) the name of the importer or the overseas exporter that made the application for an exemption under regulation 96E;
- (c) a summary of the review;
- (d) the reasons for the TRA’s recommendation;
- (e) where the Secretary of State accepts the TRA’s recommendation—
 - (i) the name of the importer or overseas exporter to which the exemption relates; and
 - (ii) the date from which the exemption from the application of the UK trade remedies measure applies.”.