
STATUTORY INSTRUMENTS

2023 No. 954

The Trade Remedies (Increase in Imports
Causing Serious Injury to UK Producers)
(EU Exit) (Amendment) Regulations 2023

Part 2

Amendment of the Safeguards Regulations

Chapter 4

Amendment of Part 6 (reviews)

Amendment of regulation 38 (acceptance or rejection of the TRA’s recommendation by the Secretary of State)

14. In regulation 38—

- (a) for the heading substitute “**Powers of the Secretary of State in relation to the TRA’s recommendation**”;
- (b) in paragraph (1), for “accept or reject the recommendation” substitute—

“—

- (a) accept or reject the recommendation; or
- (b) except in the case of a recommendation made in relation to an early review under regulation 33A, 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.”;
- (c) after paragraph (1), insert—

“(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 37(2A), the Secretary of State must decide which of those options to adopt.”;
- (d) in paragraph (2), for the words from “that—” to the end, substitute “that it is not in the public interest to accept it”;
- (e) after paragraph (2), insert—

“(2A) In considering the public interest under paragraph (2), where regulation 37(2E) applies the Secretary of State must have regard to the TRA’s advice on whether extending the application of a definitive safeguarding remedy in accordance with a recommendation, or in accordance with each option, as the case may be, would meet the economic interest test.

(2B) Paragraph (2C) applies if—

- (a) the TRA makes a recommendation to vary or replace the application of a definitive safeguarding remedy; and
- (b) the Secretary of State rejects the recommendation.

(2C) 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 definitive safeguarding remedy should be—

- (a) varied or replaced other than in accordance with the recommendation, subject to paragraph (2D) where applicable; or
- (b) revoked.

(2D) Where the Secretary of State decides to vary a recommendation made by the TRA following a determination by the TRA under regulation 35B(7)(b), the restrictions in regulation 35B(8) apply to the Secretary of State’s decision under paragraph (2C)(a).”;

- (f) in paragraph (3), after “rejects the recommendation”, insert “and does not make a decision under paragraph (2C)”;
- (g) after paragraph (3), insert—

“(4) 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.

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

(6) Where the Secretary of State makes a request under paragraph (1)(b), the TRA must—

- (a) comply with the request; and
- (b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request.”.