



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

## **INSTRUCTIONS AND GUIDELINES**

**ANTI-DUMPING COMMISSION**  
**INSTRUCTIONS AND GUIDELINES FOR APPLICANTS**  
on the  
**Application for review / revocation of measures**  
**March 2018**

<b>Published date:</b>	March 2018
<b>Purpose:</b>	To provide guidance to applicants preparing the application form for review / revocation of measures
<b>Owner:</b>	Commissioner of the Anti-Dumping Commission
<b>Contact:</b>	Mail to: Commissioner of the Anti-Dumping Commission GPO Box 2013 Canberra ACT 2601 AUSTRALIA  Phone: 13 28 46 Facsimile: (03) 8539 2499 Email: <a href="mailto:clientsupport@adcommission.gov.au">clientsupport@adcommission.gov.au</a>

These Guidelines should be read in conjunction with other publicly available documents on the Anti-Dumping Commission website including the Dumping and Subsidy Manual.

## 1. BACKGROUND

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An affected party may seek review of an ‘anti-dumping measure’ - a term defined as meaning a dumping duty notice, or a countervailing duty notice, or an undertaking.

An ‘affected party’ includes a person directly concerned with the exportation or importation of the goods to which the measures relate; a person representing all or part of the Australian industry producing like goods; or the Government of a country from which like goods have been exported to Australia.

The review application may concern changes to the normal value, export price, non-injurious price, or the amount of the countervailable duty. This is called a ‘variable factors review’ in the application form. Changes affect the amount of interim duty imposed, or the undertaking.

The review application may also seek revocation of the measure. This is called a ‘revocation review’ in the application form.

### **When an application can be lodged**

A review application may not be lodged earlier than 12 months after publication of either the notice implementing the original measure or the notice declaring the outcome of the last review<sup>1</sup>.

The Minister may initiate a review at any time.

### **Applying for a review**

Among other requirements, a review application must be in writing and contain the information required by the approved application form. The application form is available on the Commission’s [website](#) and provides details of the approved manner of lodging the application.

Note that the scope of what may be examined in a review is not limited to the matters raised in your review application. For example, while an application may seek review of the measures as they apply to particular exporters, the Commissioner may recommend that the Minister broaden the review to include any additional matter, such as the measures as they apply to additional exporters.

## 2. ASSISTANCE WITH THE APPLICATION

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The Commission’s client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

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<sup>1</sup> Two other restrictions concern the time a review may be lodged: (1) *Review Panel reviews*: Where the Minister decides to publish a dumping or countervailing duty notice, or varies or substitutes a notice, following review by the Anti-Dumping Review Panel, the 12 month period after which an applicant has the right to seek review begins from the date of the Minister’s original decision not to publish a notice, or from the date that the original notice was published; and (2) *Accelerated reviews*: Where a person has sought an accelerated review under s. 269ZE(1) of the *Customs Act 1901* – a review application may not be lodged by that person within 12 months of publication of the notice declaring the outcome of that accelerated review.

**Phone:** 13 28 46  
**Fax:** (03) 8539 2499  
**Email:** [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au)

Information is available from the Commission website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **Small and medium enterprises**

Small and medium enterprises (i.e., those with less than 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the *Corporations Act 2001*) may obtain assistance, at no charge, from the International Trade Remedies Advisory (ITRA) Service. For more information on the ITRA Service, visit [www.business.gov.au](http://www.business.gov.au) or telephone the ITRA Service Hotline on +61 2 6213 7267.

## **3. THE INQUIRY PROCESS**

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### **Consideration of the application**

The Commissioner has 20 days to examine your application and decide whether there appear to be reasonable grounds for your claims.

### **Initiation of a review**

If the Commissioner decides not to reject an application and initiate a review, the commencement of the review is published in an anti-dumping notice and interested parties are invited to make submissions. The notice will indicate whether the review application concerns revocation and/or a review of variable factors.

Submissions in relation to the review must be received within 37 days of the date of publication of the notice. The Commissioner is not obliged to have regard to submissions received after that period if doing so would prevent the timely placement of the statement of essential facts on the public record.

Copies of the non-confidential application and non-confidential submissions will be placed on the electronic public record (available on the Commission's website).

The Commission will contact known interested parties inviting them to participate in the review. In addition to inquiries in Australia, the review may include verification of information provided by parties overseas.

### **Applying to extend a review**

If a review only relates to a review of variable factors, the notice will invite affected parties to apply for the review to be extended to include a revocation review within 37 days of that notice. A separate application form, 'Application to extend the review of measures – B1215', is used for that purpose.

The Minister may also expand a review examining variable factors to cover revocation. In either situation a second notice ("revocation review notice") will be published advising interested parties that the review will examine revocation and will invite affected parties to lodge submissions concerning the extended review. Revocation as a result of a review is only possible if a revocation review notice has been published.

### **Statement of Essential Facts**

At or before day 110 of the inquiry, the Commissioner must prepare a statement of essential facts on which they intend to base their review recommendations to the Minister. Interested parties will be invited to make submissions in response to the statement of essential facts within the following 20 days. The Commissioner is not obliged to have

regard to submissions received after that period if to do so would prevent the timely preparation of the report to the Minister.

### **Final report**

The review findings and recommendations are reported to the Minister within 155 days of publication of the notice commencing the review, although extensions are possible.

## **4. REASONS FOR A REVIEW & SUPPORTING EVIDENCE**

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The form asks you to nominate the type of review you are seeking. You may seek:

- A variable factors review – where you consider the normal value, export price, non-injurious price, or subsidy level as originally determined has now changed; or
- A revocation review – where you consider that anti-dumping measures are no longer warranted.

If you are seeking both a variable factor review *and* a revocation review you must indicate this intention in the application form by ticking the relevant boxes.

Whether you are seeking a variable factors review, or a revocation review, the application form asks you to provide evidence in support. It is in the interests of applicants to provide as much relevant, accurate and comprehensive evidence in support of an application as possible.

### **Changed variable factors**

#### *Normal value*

Evidence of changed normal values may be current price lists for domestic sales; quotations or invoices relating to domestic sales; or published information on the domestic selling prices. Or, where a normal value had been based on domestic costs and profit an estimate may be made of the changes that have occurred in the cost to make and sell the goods sold in the exporter's domestic market (plus any profit).

#### *Export Price*

Evidence of changed export prices can be current price lists or sales invoices for export sales, or published information. If this information is unavailable the current free on board (FOB) export price could be estimated by deducting the relevant expenses and an amount for profit from the current selling price in Australia.

Where it is determined that there is insufficient or unreliable information to ascertain an export price due to an absence or low volume of exports of goods to Australia, the export price may be determined in accordance with subsection 269TAB(2B). When making this determination, the Minister will have regard to the previous volumes of exports of those goods, patterns of trade for like goods or factors affecting patterns of trade for like goods that are not within the control of the exporter. In order to assist the Commission in determining whether this provision applies, the application form requires applicants who are also exporters to provide additional information.

#### *Non-injurious price*

Changed non-injurious prices (normally expressed at FOB level) may be demonstrated by evidence of changes in the unsuppressed selling price in Australia; or changes to the

various charges and expenses incurred upon importation and subsequent re-sale in Australia.

### **Anti-dumping measures are no longer warranted**

If you are seeking a review on the grounds that the measures are no longer warranted, the application form asks you to provide a detailed statement setting out the reasons.

Relevant evidence may be:

- evidence that there is no current dumping or subsidisation;
- evidence that any current dumping or subsidisation is not causing injury;
- evidence that the measures are having no effect and there is no current injury; and
- an assessment of why a recurrence or continuation of the dumping and subsidisation and of the injury is unlikely were the measures to be revoked (while there may be no current dumping or subsidisation this does not, of itself, mean that the measure must be revoked).

Evidence could examine why the Australian industry was no longer suffering material injury or why there was no causal link between the dumping or the subsidisation and the material injury. Evidence that there is no longer an Australian industry represents the simplest case for revocation.

You should be aware that if the Commissioner is not satisfied that there appear to be reasonable grounds for your assertions then the application must be rejected. The supporting evidence in support of your review request should show what the changed circumstances are since the time the last notice was published (implementing the original or continued measure or declaring the outcome of the last review), or undertaking accepted.

Responses should be made as accurately and as comprehensively as possible. Supporting evidence should be attached wherever possible. For example, it will not be sufficient to simply assert that the measure should not remain in force. Applications relying primarily upon unsubstantiated allegations, or assertion, may be rejected.