



ANTI- DUMPING NOTICE NO. 2013/59

PREPARED OR PRESERVED TOMATO PRODUCTS

Exported from Italy

Initiation of an Investigation into Alleged Dumping

Customs Act 1901 – Part XVB

The Anti-Dumping Commissioner has initiated an investigation following an application lodged by SPC Ardmona Operations Limited (the applicant) a manufacturer of prepared or preserved tomato products (“the goods”) in Australia. The application seeks the publication of a dumping duty notice in respect of prepared or preserved tomato products exported to Australia from Italy in packs not exceeding 1.14 Litres.

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry through:

- loss of sales volume;
- reduced market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced assets for production;
- reduced capital investment; and
- reduced attractiveness for reinvestment in the tomato processing business.

The non-confidential version of the application, which contains the basis of the alleged dumping is available on the public record.

A notice under subsection 269TC(4) of the *Customs Act 1901* (the Act) advising initiation of this investigation was published in *The Australian* newspaper on 9 July 2013.

The Goods

The goods subject of the application are prepared or preserved tomato products. The applicant provided further details of the goods as follows:

Tomatoes, whether peeled or unpeeled, prepared or preserved otherwise than by vinegar or acetic acid, either whole or in pieces (including diced, chopped or crushed) with or without other ingredients (including vegetables, herbs or spices) in packs not exceeding 1.14 litres in volume

The applicant indicated that the goods excluded from this application are;

Pastes, purees, sauces, pasta sauces, juices and sundried tomatoes

The goods are currently classified to the tariff subheading 2002.10.00 (statistical code 60) of Schedule 3 to the *Customs Tariff Act 1995*. These goods exported from Italy are subject to 5% Customs duty.

Investigation Process

The investigation period is 1 July 2012 to 30 June 2013. The Anti-Dumping Commission (the Commission) will examine exports to Australia of the goods during that period to determine whether dumping has occurred. The Commission will examine details of the Australian market from 1 January 2009 for injury analysis purposes.

Where the Minister for Home Affairs (Minister) is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Lodgement of Submissions

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on **19 August 2013** addressed to:

The Director
Operations 1
Anti-Dumping Commission
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Or by email operations1@adcommission.gov.au or by fax to 1300 882 506

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that the Commissioner is not obliged to have regard to a submission received by the Commission after the date above if to do so would, in the Commissioner's opinion, prevent the timely placement of the statement of essential facts on the public record.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

The Commissioner must maintain a public record of each inquiry. The public record must contain, among other things, a copy of all submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the inquiry.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy the Commissioner that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "For Official Use Only".

Interested parties must also lodge a non-confidential version or a summary of their submission in accordance with the requirement above, which will be placed on the public record. Parties must provide two copies of each version.

Public Record

Documents included in the public record are available at www.adcommission.gov.au. Alternatively, the public record may be examined at Customs House, Canberra by contacting the Case Manager on the details provided below.

Provisional Measures

A preliminary affirmative determination may be made not earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping duty notice. In accordance with section 269TD of the Act, provisional measures, in the form of securities in respect of interim dumping duty that may become payable on the goods may be imposed where a preliminary affirmative determination has been made.

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable the Commission to report to the Minister within the legislative timeframe. A statement of essential facts will be placed on the public record by 28 October 2013, or by such later date as the Minister may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which the Commissioner proposes to base a recommendation to the Minister. That statement will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record.

Submissions received in response to the statement of essential facts within that timeframe will be taken into account in completing the report and recommendation to the Minister.

Report to the Minister

A recommendation to the Minister will be made in a report on or before 12 December 2013 (or such later date as the Minister may allow), unless the Commissioner terminates the investigation.

The Minister must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period as the Minister considers appropriate.

Review Officer

Certain parties will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB of the Act of either a decision by the Commissioner to terminate the investigation, or a decision of the Minister after considering the Commissioner's report.

Anti-Dumping Commission Contact

Enquiries about this notice may be directed to the case manager on telephone number (02) 6274 4948, fax number 1300 882 506 or by email operations1@adcommission.gov.au.

Scott Wilson
A/G National Manager Operations
Anti-Dumping Commission

10 July 2013