



ANTI-DUMPING NOTICE NO. 2014/99

Prepared or preserved tomatoes Exported to Australia from Italy Initiation of an exemption inquiry

Customs Tariff (Anti-Dumping) Act 1975

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (the Commission) have initiated an exemption inquiry in relation to certain goods the subject of anti-dumping measures applying to prepared or preserved tomatoes (“the goods”), exported to Australia from Italy.

The exemption is being sought pursuant to subsection 8(7)(a) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act). Under this provision the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) may exempt goods from dumping duties where satisfied:

‘that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.’

The Anti-Dumping Measures

Anti-dumping measures, in the form of a dumping duty notice, were initially imposed on “the goods” by public notice on 16 April 2014 by the Parliamentary Secretary following consideration of the *Anti-Dumping Commission Report No. 217* (REP 217). These measures are applicable to all exporters from Italy except La Doria S.p.A. and Feger di Gerardo Ferraioli S.p.A.

The dumping duty that had been determined was an amount worked out in accordance with the combination of fixed and variable duty method.

The Exemption Goods

The goods, the subject of the exemption inquiry, are:

- canned cherry tomatoes,
- canned organic tomatoes, and
- canned San Marzano tomatoes (“the exemption goods”).

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

PUBLIC RECORD

The exemption inquiry will examine whether the exemption goods satisfy the conditions of subsection 8(7)(a) of the Dumping Duty Act.

The Current Inquiry

Applications for exemption have been made to the Commission by:

1. Leo's Imports and Distributors Pty Ltd (Leo's)[Exemption Inquiry No:EX0023] in relation to canned cherry tomatoes, canned organic tomatoes and canned San Marzano tomatoes; and
2. Kadac Pty Ltd (Kadac)[Exemption Inquiry No:EX0026] in relation to canned organic tomatoes.

The grounds for the applications are as follows:

- that there is no Australian producer of canned cherry tomatoes (as claimed by Leo's);
- that there is no Australian producer of canned organic tomatoes (as claimed by Leo's and Kadac); and
- that there is no Australian producer of San Marzano tomatoes (as claimed by Leo's).

The applicants allege that their claims are evidenced by publicly available information from the sole Australian producer of canned tomatoes, SPC Ardmona Operations Ltd (SPCA).

After making inquiries of the Australian industry producing the goods and other interested parties, I will recommend to the Parliamentary Secretary whether the goods should be exempted from the anti-dumping measures.

This exemption inquiry is being conducted in relation to both applications as they both relate to prepared or preserved tomatoes exported to Australia from Italy, and overlap in respect of the claims made in relation to organic tomatoes.

Public Record

There is no legislative requirement to maintain a public record for exemption inquiries. However, in the interests of ensuring this process is conducted in an open and transparent manner, a public record for this inquiry has been opened which may be accessed at www.adcommission.gov.au. Alternatively the public record may be examined at the Commission's office by contacting the case manager on the details provided below.

The public record will contain, among other things, a copy of the application and a copy of all submissions from interested parties.

Lodgment of Submissions

Interested parties are invited to lodge written submissions concerning this inquiry no later than the close of business **28 December 2014** addressed to:

PUBLIC RECORD

The Director
Operations 3,
Anti-Dumping Commission
1010 La Trobe Street
Docklands VIC 3008

or email operations3@adcommission.gov.au, or fax to 1300 882 506 or +61 2 6275 6888 (outside Australia).

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I may not have regard to submissions received beyond this date.

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 me 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 lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

Report to the Parliamentary Secretary

Submissions received in the timeframe stated above will be taken into account in completing the report and recommendation to the Parliamentary Secretary. There is no legislated timeframe for this process.

Anti-Dumping Commission contact

Enquiries about this notice may be directed to the case manager on telephone number +61 3 9244 8056, fax number 1300 882 506 or +61 2 6275 6888 (outside Australia) or email operations3@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission
18 November 2014