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Mr Geoff Gleeson
Director, Operations 1
Anti-Dumping Commission
1010 La Trobe Street
DOCKLANDS VIC 3008

Accelerated review of prepared or preserved tomatoes export from Italy - Calispa S.p.A.

Dear Geoff,

This submission is made on behalf of Calispa S.p.A (Calispa) in the current accelerated review of prepared or preserved tomatoes from Italy. The purpose of this submission is to place on the public record, Calispa's concerns about the lack of transparency and procedural fairness in this matter.

Firstly, Calispa continues to have little understanding of the reasoning or information used by the Commission in reaching this preliminary decision. To date and contrary to the Commission's usual practice, Calispa has not been provided with any verification report outlining the Commission's reasoning or legislative basis for the preliminary findings. The 'note for file' in which the Commission requests interested parties to comment on its preliminary findings contains no explanation of the reasoning or legislative basis on which those findings are based.

Secondly, this preliminary findings appears to be a clandestine change in the Commission's policy for determining normal values without properly informing interested parties. If the Commission's policy is to simply pick the highest normal value in a circumstance where no exports took place during the review period, it seems improper to have not informed Calispa of this policy at the time of the application or soon after. To inform Calispa of this new proposed approach 2 weeks prior to the completion of the inquiry is in our view unjust.

Thirdly, if the change in policy is driven by the Federal Court decision in *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth*, as suggested in the Commission's email to Calispa, it is unclear what amendments were made to the Commission's Dumping and Subsidy Manual to capture this change given the Federal Court decision was made 12 months ago. The relevant Anti-Dumping Notice referred to by the Commission provides no useful information on the impact of the decision on the Commission's policy or practice in future reviews.

PUBLIC RECORD
DATE RECEIVED 14 AUGUST 2014

In conclusion, Calispa continues to be of the view that the Commission's preliminary finding in this particular inquiry is neither lawful or WTO compliant. Without a proper and meaningful understanding of the legislative basis upon which the finding was made, Calispa is unable to properly respond and defend its interests in this matter.

Yours faithfully

John Bracic

14 August 2014