



Australian Government
Anti-Dumping Commission

Application for a
review of
anti-dumping measures

APPLICATION UNDER SECTION 269ZA OF THE *CUSTOMS ACT 1901*
FOR A REVIEW OF ANTI-DUMPING MEASURES

In accordance with section 269ZA of the *Customs Act 1901*, I request that the Anti-Dumping Commissioner initiate a review of anti-dumping measures in respect of the goods the subject of this application to:

1. **revise the level of the measures** because one or more of the variable factors relevant to the taking of measures have changed (a variable factors review)

In this case the factors that I consider have changed are:

- normal value
 export price
 non injurious price
 subsidy

The variable factors review is in relation to:

- a particular exporter – AR Industrie Alimentari S.p.A.
 exporters generally

or

2. **revoke the measures** because the anti-dumping measures are no longer warranted (a revocation review)

In this case the measure I consider should be revoked is:

- the dumping duty notice
 the countervailing duty notice
 the undertaking

The revocation review is in relation to:

- a particular exporter (*if so provide name and country details*)
 exporters generally

NOTE

Where seeking variable factors review as well as a revocation review, indicate this in *both* 1 and 2 above.

DECLARATION

I believe that the information contained in this application:

- provides reasonable grounds for review of the anti-dumping measure; and
- is complete and correct to the best of my knowledge and belief.

Signature:

[Redacted Signature]

Name:

Walter Russo

Position:

CEO and Managing Director

Company:

AR Industrie Alimentari S.p.A.

ABN:

Not applicable

Date:

1 March 2016

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Signature requirements

Where the application is made:

By a company - the application must be signed by a director, servant or agent acting with the authority of the body corporate.

By a joint venture - a director, servant, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.

On behalf of a trust - a trustee of the trust must sign the application.

By a sole trader - the sole trader must sign the application.

In any other case - contact the Commission's client support section for advice.

Assistance with the application

The Anti-Dumping Commission has published guidelines to assist applicants with the completion of this application. Please refer to the '*Instructions and Guidelines for applicants: Application for review or revocation of measures*' on the Commission's website.

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:

Phone: 1300 884 159 or +61 2 6275 6066 (outside Australia)

Fax: 1300 882 506 or +61 2 6275 6888 (outside Australia)

Email: clientsupport@adcommission.gov.au

Other information is available from the Commission's website at www.adcommission.gov.au.

Small and medium enterprises (i.e., those with up to 200 employees) may obtain assistance, at no charge, from the International Trade Remedies Adviser, employed by Australian Industry Group and funded by the Australian government. To access this service, visit www.aigroup.com.au/traderemedies or telephone (03) 9867 0267.

Required information

1. Provide details of the name, street and postal address, of the applicant seeking the continuation.
2. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address.
3. Name other parties supporting this application.
4. Describe your interest as an affected party (eg are you concerned with the exportation of the goods, the importation of the goods, or part of the Australian industry, or acting on behalf of the Government of an exporting country).
5. Provide details of the current anti-dumping measure(s) the subject of this review application, including:
 - tariff classification
 - the countries or companies
 - specified date of publication of the measure

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Applications for review of variable factors	<p>6. Provide the names, addresses, telephone numbers and facsimile numbers of other parties likely to have an interest in this matter e.g. Australian manufacturers, importers, exporters and/or users.</p> <p>If you are applying for a variable factors review (in box 1 above) provide a detailed statement setting out your reasons. Include information about:</p> <ul style="list-style-type: none">• the factor(s) you wish to have reviewed;• the amount by which that factor is likely to have changed since anti-dumping measures were last imposed, and evidence in support; and• in your opinion the causes of the change and whether these causes are likely to persist.
Application for a revocation review	<p>If you are applying for a revocation review (in box 2 above), provide a detailed statement setting out your reasons.</p> <p>Include evidence in support of your view that there are reasonable grounds for asserting that the measures are no longer warranted. Refer to the “Guidelines for Preparing an Application for Review of Measures” as part of preparing your response. If you consider anti-dumping measures are no longer warranted because of:</p> <ul style="list-style-type: none">• <i>no dumping or no subsidisation</i>: provide evidence that there is no dumping, or no subsidy, and why dumping or subsidisation is unlikely to recur if measures were revoked.• <i>no injury</i>: provide evidence that there is no current injury, and there is unlikely to be a recurrence of injury if the measures were to be revoked.
Lodgement of the application	<p>This application, together with the supporting evidence, should be lodged with:</p> <p style="padding-left: 40px;">The National Manager - Operations Anti-Dumping Commission Customs House 1010 Latrobe St Docklands VIC 3008</p> <p style="padding-left: 40px;">or</p> <p style="padding-left: 40px;">Sent by facsimile to 1300 882 506 or +61 2 6275 6888 (outside Australia)</p>
Public Record	<p>During an investigation all interested parties are given the opportunity to defend their interests, by making a submission. The Commission maintains a public record of these submissions. The public record is available on the Commission’s website at www.adcommission.gov.au.</p> <p>At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application <u>must</u> be submitted. Please ensure each page of the application is clearly marked “FOR OFFICIAL USE ONLY” or “PUBLIC RECORD”. The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence, clearly showing the reasons for seeking the review, or, if those reasons cannot be summarised, a statement of reasons why summarisation is not possible. If you cannot provide a non-confidential version, contact the Commission’s client support section for advice.</p>

**APPLICATION FOR REVIEW OF VARIABLE FACTORS –
AR INDUSTRIE ALIMENTARI SPA**

REQUIRED INFORMATION

1. Applicant:

AR Industrie Alimentari (ARIA)
Registered address: Via Battimelli n. 25
80057 Sant' Antonio Abate (NA) Italy
Offices: Via Santa Maria La Carità n. 18
84018, Scafati (SA) Italy

2. Contact person:

Ms Elisa Scala
Export Manager
Tel. +39 081 8568111
Fax +39 081 8632385
Email: eliascala@arsrl.com

3. Applicant's representative

Mr John Bracic
J.Bracic & Associates Pty Ltd
PO Box 3026
Manuka, ACT 2603
Tel: +61 (0)499 056 729
Email: john@jbracic.com.au

4. Other parties supporting this application:

Not applicable

5. Applicant's interest:

ARIA is an Italian producer and exporter of prepared and preserved tomatoes.

6. Details of current anti-dumping measures:

Goods description:

The goods subject of the dumping duty notice are "canned tomatoes" described as:

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.

Tariff classification:

Canned tomatoes are classified to tariff subheadings 2002.10.00 (statistical code 60) of Schedule

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3 to the Customs Tariff Act 1995 (Tariff Act).

Country subject to the notice:

Italy

Date of publication of the notice:

On 16 August 2014, the Parliamentary Secretary to the Minister for Industry published a dumping duty notice for canned tomatoes exported to Australia from Italy.

1. GROUNDINGS FOR REVIEW

ARIA is requesting a review of the following variable factors:

- ascertained normal value, and
- ascertained export price.

2. ASCERTAINED NORMAL VALUE

2.1 Basis for current ascertained normal values

During the original canned tomatoes investigation (REP 274), the Anti-Dumping Commission (the Commission) nominated an investigation period for assessing dumping of 1 July 2012 to 30 June 2013¹. Whilst ARIA was not identified as a selected exporter through the Commission's sampling procedure, ARIA had been unable to properly comply with the Commission's request to complete Part 1 of the exporter questionnaire in a timely manner, which was ultimately used to determine which exporters would be identified as residual exporters. As such, ARIA was not considered to be a residual exporter and instead, considered to be a non-cooperative exporter.

Since the decision to publish a dumping duty notice on 16 April 2014, ARIA's exports have been subject to the country wide rate and associated all other exporters ascertained normal value (ANV) and interim dumping duty rate of 26.35%. The ascertained normal values relevant to the all other exporter rate was determined by reference to the highest normal value from cooperative selected exporters found to have a dumping margin greater than 2%. This amounted to an ascertained normal value of € [REDACTED] per kg net weight.

2.2 Grounds for review of ascertained normal values

Over three and a half years have passed since the beginning of the original investigation period in July 2012. Over that period, ARIA has observed variations in the price of fresh tomatoes which have resulted in corresponding fluctuations of canned tomatoes sold on the domestic market in Italy.

To demonstrate that the ascertained normal value relevant to the taking of anti-dumping measures has changed, ARIA provides the Commission with contemporary domestic invoices for a range of canned tomato products sold during each quarter of 2015. Based on this evidence, ARIA estimates a weighted average normal value of € [REDACTED] per kg net weight.

Domestic invoices and normal value calculations are at **Confidential Exhibit A**.

On the basis of the attached domestic invoices for canned tomatoes sold in Italy, ARIA considers that there appears to be reasonable grounds for asserting that the ascertained normal value relevant to the taking of anti-dumping measures has changed.

3. ASCERTAINED EXPORT PRICE

3.1 Basis for current ascertained export prices

As noted earlier, ARIA was considered to be a non-cooperative exporter in the original investigation and its ascertained export prices was determined having regard to all relevant information, being the lowest export price from cooperative selected exporters found to have a dumping margin greater than 2%. The Commission ascertained a single export price of € [REDACTED] per kg net weight.

3.2 Grounds for review of ascertained export prices

¹ REP 217 – Prepared or preserved tomatoes – Italy (March 2014); page 6

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Over the past 12 months, ARIA has not exported to Australia the goods subject to interim duties. On that basis, it is submitted that a contemporary ascertained export price should be determined by having regard to the contemporary ascertained normal values, which would ensure that any future exports of canned tomatoes were not dumped by requiring export prices to be equal to or greater than the corresponding normal value.

ARIA submits then that the contemporary ascertained export price for canned tomatoes exported during the past 12 months is equal to the contemporary ascertained normal value of € [REDACTED] per kg net weight.