

VAN BAEL & BELLIS

JEAN-FRANÇOIS BELLIS ¹
 PHILIPPE DE BAERE ^{*1}
 ANDRZEJ W.J. KMIECIK ²
 PETER L'ECLUSE ^{*1}
 RICHARD W.D. LUFF ^{*1}
 CATHERINE LONGEVAL ^{*1}
 FABRIZIO DI GIANNI ³
 BENOÎT SERVAIS ^{*1}
 KRIS VAN HOVE ^{*1}
 MARKUS WELLINGER ^{*1}
 PORTER ELLIOTT ^{*5}
 RESHAD FORBES ^{*2}
 MARTIN FAVART ^{*1}
 TIMOTHY M. KASTEN ^{*6}
 YURIY RUDYUK ^{*7}
 RICHARD BURTON ^{*2}
 PABLO MUÑIZ ^{*8}
 MICHEL BONNE ^{*1}

GLAVERBEL BUILDING
 CHAUSSEE DE LA HULPE 166 TERHULPSESTEENWEG
 B-1170 BRUSSELS, BELGIUM
 TELEPHONE +32 (0)2 647 73 50
 TELEFAX +32 (0)2 640 64 99
 WWW.VBB.COM

JOHAN VAN ACKER ^{*1}
 DAVID W. HULL ^{2 5}
 STEPHANIE REINART ^{*4}
 CHARLOTTE NASSOGNE ^{*1}
 MICHAEL CLANCY ^{*9}
 S.N.C./V.O.F.
¹ AVOCAT/ADVOCAAT
² SOLICITOR (ENGLAND & WALES)
³ AVVOCATO CASSAZIONISTA
⁴ RECHTSANWÄLTIN
⁵ MEMBER OF THE GEORGIA BAR
⁶ MEMBER OF THE WISCONSIN BA
⁷ MEMBER OF THE UKRAINIAN BA
⁸ ABOGADO
⁹ MEMBER OF THE NEW YORK BA
¹⁰ S.P.R.L./B.V.B.A.

The Commissioner of the
 Anti-Dumping Commission
 GPO Box 1632
 Melbourne VIC 3001
 Fax: +61 3 8539 2499
 Email: clientsupport@adcommission.gov.au

4 April 2016

By post, fax and e-mail

Dear Sir,

Subject: Application for accelerated review in respect of prepared or preserved tomatoes exported from Italy by *Le Specialità Italiane S.r.l.*

On behalf of *Le Specialità Italiane S.r.l.* (see the enclosed power of attorney) please find below an application for accelerated review of the antidumping measures imposed by ADN 2014/32.

1. Details of the applicant

Le Specialità Italiane S.r.l. (hereinafter, 'Le Specialità') is an Italian producer of prepared or preserved tomatoes. Le Specialità's street and postal address is via Ligea 92, 84121 Salerno (SA), Italy.

2. Description of the goods

Final Report No. 217 describes 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 goods excluded from this definition are pastes, purees, sauces, pasta sauces, juices and sun dried tomatoes.

The goods are classified to subheading 2002.10.00 (statistical code 60) to Schedule 3 of the Customs Tariff Act 1995.

3. Grounds for review

A new exporter may request an accelerated review of a dumping duty notice, in so far as that notice affects that exporter. A new exporter is defined under Section 269T of the Customs Act 1901 as:

“an exporter who did not export such goods to Australia at any time during the period:

- (a) starting at the start of the investigation period in relation to the application; and*
- (b) ending immediately before the day the Commissioner places on the public record the statement of essential facts in relation to the investigation of the application.”*

Le Specialità should be considered as a new exporter pursuant to Section 269T since it has never exported prepared or preserved tomatoes to Australia.

Le Specialità is currently subject to the country-wide rate of 26.35%. This rate reflects the dumping margin determined for non-cooperating exporters during the investigation No 217, which was based on the lowest weighted average export price and the highest weighted average normal value from the cooperating exporters during the original investigation period. As Le Specialità did not have the opportunity to participate in the original investigation - since it did not export the goods under consideration - these ascertained variable factors are clearly inappropriate and hindering its ability to access the Australian market.

As outlined in the Commission's Dumping and Subsidy Manual, it is not required for a new exporter to have already exported a minimum quantity of the goods under consideration to Australia. Therefore, Le Specialità seeks the determination of an ascertained normal value based on its own domestic selling prices.

The interim dumping duties currently applicable on imports of prepared or preserved tomatoes from Italy are in the form of a fixed amount of duty plus a variable amount

of duty where actual export prices fall below the ascertained export prices. Given these circumstances, Le Specialità seeks an ascertained export price set equal to the determined ascertained normal value. This would effectively result in an undumped floor price with a zero fixed amount of duty payable.

Finally, for the purposes of s.269ZE(2)(b), please note that Le Specialità is not related to an exporter whose exports were examined in relation to the application for publication of the dumping duty notice.

Kind regards,



Gabriele Coppo