



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

ANTI-DUMPING NOTICE NO. 2018/68

Customs Act 1901 – Part XVB

Application for an accelerated review of a dumping duty notice

Submitted by Federal Metal Printing Factory Sdn Bhd

applying to certain resealable can end closures exported to Australia from Malaysia, the Republic of the Philippines and the Republic of Singapore

20 April 2018

Introduction

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have commenced an accelerated review of the anti-dumping measures applying to certain resealable can end closures exported to Australia from Malaysia, the Republic of the Philippines and the Republic of Singapore, in so far as they relate to a new exporter from Malaysia, Federal Metal Printing Factory Sdn Bhd (the applicant).

The lodgement date of **6 April 2018** is the commencement date of the accelerated review.¹

The goods

The goods subject to anti-dumping measures (the goods), in the form of a dumping duty notice (the notice), are outlined in the table below.

Full description of the goods the subject of the application					
<p>Resealable can end closures (TRFs) comprising:</p> <ul style="list-style-type: none">• a tinplate outer ring with or without compound;• an aluminium foil membrane for attachment to the outer ring; and• a plug or tagger, which fits into the outer ring. <p>TRFs are commonly manufactured by the TRF industry in the following nominal sizes (diameters):</p> <ul style="list-style-type: none">• 73 mm;• 99 mm;• 127 mm; and• 153/4 mm. <p>The goods may be coated or uncoated and/or embossed or not embossed.</p> <p>The goods are referred to locally as TRF ends (Tagger, Ring and Foil ends, or TRFs) and can also be known as RLTs (Ring, Lid, Tagger), RLFs (Ring, Lid, Foil) or Penny Lever Ends.</p>					
Further information					
<p>Goods specifically excluded from the description of the goods are TRFs of nominal size:</p> <ul style="list-style-type: none">• 52 mm;• 65 mm;• 189 mm; and• 198 mm <p>The goods may be classified to sub heading 8309.90.00 (statistical code 10) in Schedule 3 to the <i>Customs Tariff Act 1995</i>.</p>					
<table border="1"><thead><tr><th>Tariff Subheading</th><th>Statistical Code</th></tr></thead><tbody><tr><td>8309.90.00</td><td>10</td></tr></tbody></table>	Tariff Subheading	Statistical Code	8309.90.00	10	
Tariff Subheading	Statistical Code				
8309.90.00	10				

¹ Subsection 269ZF(2) states that an application for accelerated review is taken to have been lodged when the application is first received by a Commission staff member doing duty in relation to applications for accelerated reviews. Subsection 269ZF(3) states that the day on which an application is taken to be lodged must be recorded on the application.

Further details on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission's (the Commission) website (www.adcommission.gov.au).

Accelerated reviews

The legislative framework that underpins the making of, and my consideration of, an application for accelerated review of dumping duty notice is contained in Divisions 1 and 6 of Part XVB of the *Customs Act 1901*.²

If I do not reject an application or terminate an accelerated review, pursuant to subsections 269ZG(1) and (2) I must, no later than 100 days after the application is lodged, provide the Assistant Minister for Science, Jobs and Innovation (Assistant Minister)³ a report recommending:

- (a) that the dumping duty notice the subject of the application remain unaltered; or
- (b) that the dumping duty notice the subject of the application be altered so as to apply to the applicant as if different variable factors had been fixed;

and set out my reasons for so recommending.

In relation to this application, this recommendation must be made no later than **16 July 2018**.⁴

There is no legislative requirement to maintain a public file for accelerated reviews. However, in the interests of transparency, a public record will be maintained. This notice, along with a non-confidential version of the application, response to the exporter questionnaire and any non-confidential submissions that are received, will be published on the public record, available at www.adcommission.gov.au.

Submissions

Written submissions concerning this accelerated review must be lodged by **28 May 2018** via email to Investigations3@adcommission.gov.au.

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**" on each page. A non-confidential version, or a summary, of the submission must also be lodged, clearly marked "**PUBLIC RECORD**" on each page.

² Unless stated otherwise, all legislative references in this notice are to the *Customs Act 1901*.

³ On 20 December 2017, the Prime Minister appointed the Parliamentary Secretary to the Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation. For the purposes of this decision the Minister is the Assistant Minister.

⁴ The legislated due date is 15 July 2018, however as this is a Sunday, the effective due date is the following business day, being the 16 July 2018.

Circumstances in which an accelerated review may be sought

Section 269ZE sets out the circumstances in which an accelerated review may be sought. If the circumstances of subsection 269ZE(2) are met, I may reject the application.

Requirement	Finding
<p>Applicant meets the definition of new exporter (subsection 269ZE(1)).⁵</p> <p>To fall within the definition of a new exporter, the period within which the applicant must not have exported the goods to Australia is 1 April 2015 to 31 March 2016 (the investigation period for the original investigation).</p>	<p>There is no evidence of exports by the applicant during the investigation period for the original investigation (ADC 350). A search of the Australian Border Force's import database did not reveal the applicant as a supplier of the goods during this period.⁶</p> <p>Accordingly, I consider that the applicant should be considered a new exporter for the purposes of the accelerated review.</p>
<p>Declaration has not already been made in respect of the applicant under subsection 269ZG(3)(b) (subsection 269ZE(1)).</p>	<p>No such declaration has been made.</p>
<p>The applicant did not refuse to co-operate, in relation to the application for publication of the notice (subsection 269ZE(2)(a))</p>	<p>There is no evidence of exports by the applicant during the investigation period for the original investigation and, therefore, cooperation was not required from the applicant during the original investigation as the applicant would not have been identified as an exporter. Accordingly, the applicant did not refuse to cooperate with the original investigation.</p>
<p>The applicant is not related to an exporter whose exports were examined in relation to the application for publication of the notice (subsection 269ZE(2)(b))</p> <p><i>Subsection 269ZE(4) provides that, for the purposes of section 269ZE, an exporter is taken to be related to another exporter if the two exporters are associates of one another under subsection 269TAA(4).</i></p>	<p>Relying on the information provided in its application and an examination of publically available company information, the Commission established that the applicant is a subsidiary of Kian Joo Can Factory Berhad (Malaysia) (KJ Can), who has 100% ownership.</p> <p>KJ Can was contacted in the original investigation as a possible exporter of the goods. KJ Can did not respond to the Commission's request to complete an exporter questionnaire response. However, the Commission has found no evidence of importations from KJ Can or related entities during the investigation period for the original investigation.</p> <p>The Commission found no evidence to suggest that the applicant is related to an exporter whose exports were examined during the original investigation.</p>

For the reasons set out above, I consider that the application complies with subsection 269ZE(1). As there are presently no grounds to reject the application under subsection 269ZE(2), I have not rejected it.

⁵ A new exporter is defined in subsection 269T(1) as, in relation to the goods the subject of the application for a dumping notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application. Subsection 269T(1) also defines 'application' in relation to a dumping duty notice as meaning an application for the publication of such a notice.

⁶ Confidential Attachment 1 refers.

Application for accelerated review – compliance with section 269ZF

Subsection 269ZF(1) requires that an application for accelerated review must:

- be in writing and be lodged in a manner approved under section 269SMS (subsection 269ZF(1));
- contain a description of the goods to which the dumping duty notice relates (subsection 269ZF(1)(a)); and
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate so far as the exporter is concerned (subsection 269ZF(1)(b)).

Requirement	Finding
Lodged with the Commissioner in writing and in a manner approved under section 269SMS	The application was in writing and lodged in a manner approved in an instrument made under section 269SMS, being by email to the Commission's nominated email address.
Contains a description of the goods to which the dumping duty notice relates	The application contained a description of the model of the goods produced by the applicant to which the dumping duty notice relates.
Contains a statement of the basis on which the applicant considers that the particular notice is inappropriate in so far as the exporter is concerned	The applicant claims the notice is inappropriate on the basis that its export prices are higher than its domestic prices and it is therefore not dumping. It also claims that it is a new exporter.

Based on the information submitted by the applicant, I consider that the application complies with subsection 269ZF(1).

Conclusion

I am satisfied that, on the basis of currently available information in the application:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied;
- the conditions for rejection under subsection 269ZE(2) are not satisfied; and
- the application satisfies the requirements of section 269ZF.

In view of the above, I have decided that the application should not be rejected. My decision has been made on the basis of all currently available information. If, during the accelerated review, evidence becomes available that satisfies me that the requirements of either subsection 269ZE(2) or subsection 269ZE(3) are met, I may reject the application or terminate the accelerated review.

The review period for the accelerated review is set as **1 April 2017 to 31 March 2018**.

Securities

When an application for an accelerated review of a dumping duty notice is lodged, subsection 269ZH(a) provides that no interim duty can be collected from the applicant in respect of consignments of goods, to which the application relates, entered for home consumption after the application is lodged and until the completion of the review.

However, pursuant to subsection 269ZH(b), the Commonwealth may require and take securities under section 42 in respect of interim dumping duty that may be payable on importation of the goods to which the application relates.

I declare that the Commonwealth will require and take securities, as shown in the confidential table at **Confidential Attachment 2**, under section 42 from **6 April 2018** in respect of interim dumping duty that may be payable on the importation of the goods to which the application under subsection 269ZE(1) relates.

The interim dumping duty that has been determined is an amount that has been worked out in accordance with the combination of fixed and variable duty method pursuant to subsection 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

Contact

Enquiries about this notice may be directed to the Case Manager by email to Investigations3@adcommission.gov.au, or telephone number +61 3 8539 2437.

Dale Seymour

Commissioner of the Anti-Dumping Commission

20th day of April 2018

Appendices and attachments

Confidential Attachment 1	Australian Border Force Import Data
Confidential Attachment 2	Confidential Table 1 - Ascertained variable factors and rates of duty for the collection of securities