

## PUBLIC VERSION

## APPLICATION FOR ACCELERATED REVIEW

## PMC SRL

**1. Description of the goods to which the notice relates.**

The Anti-Dumping Commission's (the Commission) 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 sundried tomatoes.*

**2. Grounds for review**Exports prior to the Statement of Essential Facts

A new exporter may request an accelerated review of a dumping duty notice, in so far as that notice affects that exporter.

New exporter is defined under s.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.*

PMC Srl (PMC) has never exported prepared or preserved tomatoes to Australia.

Related to investigated exporters

The Commissioner may reject the application if satisfied in accordance with s.269ZE(2)(b) that:

*the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice; [emphasis added]*

PMC can confirm that it is not related to any 'exporter whose exports were examined in relation to the application for publication of the notice'.

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### Grounds for review

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 subject goods to Australia. This is supported by the findings of the WTO Panel and upheld by the Appellate Body which examined whether Article 9.5 of the Anti-Dumping Agreement subjected the right to an expedited new shipper review to a showing of a "representative" volume of export sales. The Panel found that:

*Article 9.5 of the AD Agreement provides that the authorities shall promptly carry out a review, provided that the exporters or producers who have not exported the product subject to a duty during the period of investigation can show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product. In sum, in case a producer or exporter which (i) has not exported the product to the country concerned during the period of investigation and (ii) is not related to an exporter or producer already subject to the duty requests a new shipper review, the authority is required to promptly carry out such a review.*

As outlined above, PMC complies with the two necessary requirements for an accelerated review.

PMC presently produces preserved or processed tomatoes [REDACTED]  
[REDACTED] [product description]. However the company is [REDACTED]

[REDACTED] [export expectations]. As a result, PMC seeks an individual determination of the interim duties applying to its future exports as it is currently subject to the country-wide measures determined for non-cooperating exporters.