



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

Application for a  
review of  
anti-dumping measures

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

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In accordance with section 269ZA of the *Customs Act 1901* (the Act), 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 – Genpacco Inc.  
 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:

|           |                         |
|-----------|-------------------------|
| Name:     | John Irwin              |
| Position: | Managing Director       |
| Company:  | Irwin Packaging Pty Ltd |
| ABN:      | 57 162 818 500          |
| Date:     | 31 October 2018         |

**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, employee, 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:** 13 28 46 or +61 2 6213 6000 (outside Australia)

**Fax:** (03) 8539 2499 or +61 3 8539 2499 (outside Australia)

**Email:** clientsupport@adcommission.gov.au

Other information is available from the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Small and medium enterprises (i.e., those with less than 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the *Corporations Act 2001*), may obtain assistance, at no charge, from the International Trade Remedies Advisory (ITRA) Service. For more information on the ITRA Service, visit [www.business.gov.au](http://www.business.gov.au) or telephone the ITRA Service Hotline on +61 2 6213 7267.

**Review Period**

The review period is *generally* the 12 month period preceding the initiation date and ending on the most recently completed month or quarter.

For the purposes of information requested in this application, please consider the review period as the 12 month period ending on the most recently completed quarter prior to the date that you submit the application.

The actual review period will be set by the Commissioner if a review is initiated, and may differ to that used by the applicant in the application form.

**Required information**

1. Provide details of the name, street and postal address, of the applicant seeking the review.
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 (e.g. 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 and the goods subject to the measure(s), including:
- tariff classification
  - the countries and/or companies
  - specified date of publication of the measure
6. If you are an exporter of the goods the subject of this application please answer the following questions:
- Have you exported the goods to Australia during the review period?
    - o If yes, what was the total quantity and total value of the goods exported to Australia during the review period?
  - Have you previously (prior to the review period) exported the goods to Australia?
    - o If yes, please provide the total quantity and total value of the goods exported to Australia each year during the three years prior to the review period.
  - Have you exported like goods to countries other than Australia during the review period?
    - o If yes, please provide the total quantity and total value of exports of the goods to each other country during the review period. Please indicate if any of the sales are to a related party.

*NB: In relation to the goods the subject of this application, 'like goods' means goods that are identical in all respects to the goods the subject of this application or, although not alike in all respects to the goods the subject of this application, have characteristics closely resembling those goods (s 269T(1) refers).*

*NB: Please note you must provide this information if you are an exporter of the goods the subject of the application. If you are not an exporter of the goods, you may choose to provide information relevant to this question.*

7. 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.

**Applications  
for review of  
variable  
factors**

If you are applying for a variable factors review (in box 1 above) provide a detailed statement setting out your reasons. Include information about:

- 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**

If you are applying for a revocation review (in box 2 above), provide a detailed statement setting out your reasons.

Include evidence in support of your view that there are reasonable grounds

for asserting that the measures are no longer warranted. Refer to the *'Instructions and guidelines for applicants: Application for review or revocation of measures'* as part of preparing your response. If you consider anti-dumping measures are no longer warranted because of:

- *no dumping or no subsidisation*: provide evidence that there is no dumping, or no subsidy, and why dumping or subsidisation is unlikely to recur if measures were revoked.
- *no injury*: 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**

In accordance with subsection 269SMS(2) of the Act, this application, together with the supporting evidence, must be lodged by either:

- preferably, email, using the email address [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au), or
- post to:  
  
The Commissioner of the Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601, or
- facsimile, using the number (03) 8539 2499 (or +61 3 8539 2499 if outside Australia)

**Public Record**

During a review 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](http://www.adcommission.gov.au).

At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application must 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.

## **APPLICATION FOR REVIEW OF VARIABLE FACTORS**

### **REQUIRED INFORMATION**

**1. Applicant:**

Company: [Irwin Packaging Pty Ltd \("IP"\)](#)  
Address: [8-10 Yulong Close, Moorebank, NSW 2170](#)

**2. Contact person:**

Name: [Mr John Irwin](#)  
Tel: [+61 2 9600 7800](#)  
Fax: [n/a](#)  
Email: [john.irwin@irwinpackaging.com.au](mailto:john.irwin@irwinpackaging.com.au)

**Applicant's representative**

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

**3. Other parties supporting this application:**

[IP](#) understands that [Genpacco](#) will cooperate with the Commission's review of measures.

**4. Applicant's interest:**

[IP](#) has imported resealable can end closures ("TRF") from the Philippines for many years prior to and during the original investigation period.

**5. Details of current anti-dumping measures:**

The 'description of goods' subject to measures are:

[Resealable can end closures](#) (referred to as [tagger](#), [ring and foil \(TRF\) ends](#), or [TRFs](#)) comprising:

- [a tinfoil 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.](#)

[The goods](#) may be [coated or uncoated and/or embossed or not embossed](#). The goods can also be known as [RLTs \(ring, lid tagger\)](#), [RLFs \(ring, lid, foil\)](#) or [Penny Lever ends](#).

**Sizes:** [TRFs](#) are commonly manufactured by the [TRF industry](#) in the following nominal diameters:

## PUBLIC VERSION

- 73mm;
- 99mm;
- 127mm; and
- 153/4mm.

The following are excluded from measures - TRFs of nominal diameter:

- 52mm;
- 65mm;
- 189mm; and
- 198mm

### Tariff classification:

TRFs are classified using the tariff sub-headings and associated statistical codes of Schedule 3 to the Customs Tariff Act 1995 (Tariff Act) below:

| Tariff subheading | Statistical code |
|-------------------|------------------|
| 8309.90.00        | 10               |

### Country subject to the notice:

The Philippines

### Date of publication of the notice:

On 24 March 2017, anti-dumping measures were imposed on TRF exported from the Malaysia, the Philippines and Singapore. (refer to ADN 2017/20).

**6. If you are an exporter of the goods the subject of this application please answer the following questions.**

Not applicable as IP is the importer of the goods.

### **7. Details of interested parties**

#### Exporter

Genpacco Inc.

Bo. Pittland Cabuyao,

Laguna Philippines



## 1. GROUNDINGS FOR REVIEW

IP submits that at least one of its relevant variable factors has changed since the original imposition of the interim dumping duties.

### 1.1 ASCERTAINED EXPORT PRICE

#### **Basis for current ascertained export prices**

The current ad valorem rate applicable to Genpacco's exports was based on an ascertained export price determined in the original investigation period (REP 350) in accordance with s.269TAB(1)(a) of the Act, using Genpacco's export invoice prices. The original weighted average export prices are shown in the table below.

[CONFIDENTIAL TABLE REMOVED]

#### **Grounds for review of ascertained export prices**

IP has continued to source and import TRF's into Australia from Genpacco in the Philippines. IP's contemporary import prices are supported by copies of commercial invoices contained at **Confidential Attachment 1**.

To calculate contemporary export prices, IP submits at **Confidential Attachment 2** its declared ex-factory export prices for the period November 2017 to February 2018. A summary of the relevant export prices is shown in the table below.

[CONFIDENTIAL TABLE REMOVED]

These contemporary export prices show that price movements varied across the range of models with ■■■mm experiencing the largest ■■■%, and ■■■mm TRFs showing the largest ■■■%. On a weighted average basis, contemporary export prices ■■■% when compared to the original investigation period.

#### **Conclusion**

On the basis of the attached evidence supporting the contemporary export prices of TRFs exported by Genpacco, IP considers that there appears to be reasonable grounds for asserting that the ascertained export price relevant to the taking of anti-dumping measures have changed.

### 1.2 ASCERTAINED NORMAL VALUE

#### **Basis for current ascertained normal values**

The applicable ascertained normal value relevant to Genpacco's current advalorem dumping duty rate was determined in REP 350, in accordance with s.269TAC(2)(c) of the Act, due to the absence of domestic sales of like goods. The original determined normal values for each model and overall are shown in the table below.

[CONFIDENTIAL TABLE REMOVED]

## Grounds for review of ascertained normal values

To calculate contemporary normal values, IP has relied on the Commission's findings from the recently completed duty assessment (DA123) in which it calculated and determined contemporary normal values for the period March – September 2017. To ensure that these normal values reflect prices covering a similar period to the estimated export prices, a timing adjustment has been applied based on the movement in tinplate prices between the relevant period.

A summary of the estimated normal values is shown in the table below and included at **Confidential Attachment 3**.

[CONFIDENTIAL TABLE REMOVED]

The verified and reliable information shows that price movements varied across the range of models with [REDACTED]mm experiencing the largest [REDACTED]%, and [REDACTED]mm TRFs showing the largest [REDACTED]%. On a weighted average basis, contemporary normal values [REDACTED]% when compared to those from the original investigation period.

In IP's opinion, normal values at these contemporary levels are likely to persist given current tinplate prices appear to reflect their long-term historical average price, as confirmed in the graph below.



## Conclusion

IP considers that the submitted evidence supports the view that there appears to be reasonable grounds for asserting that the ascertained normal value relevant to the taking of anti-dumping measures has changed.

### 1.3 CONTEMPORARY DUMPING MARGIN

Based on the calculated contemporary ex-factory export prices and normal values, IP observes that its imports of TRFs from Genpacco were non-dumped. The comparison of export price and normal value below shows that Genpacco's contemporary dumping margin during is approximately

- EXW Export price = A\$ [REDACTED]/unit
- EXW Normal Value = A\$ [REDACTED]/unit
- Dumping Margin = [REDACTED]%

This estimated margin is also consistent with the Commission's findings in DA123 which resulted in a full refund of the dumping duties paid by IP.