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*Customs Act 1901 – Part XVB*

## **Anti-Dumping Notice No. 2019/39**

**Prepared or preserved tomatoes**

**Exported from Italy**

**Initiation of a Review of Anti-Dumping Measures  
relating to Feger di Gerardo Ferraioli S.p.A**

***Notice under subsection 269ZC(4) of the Customs Act 1901***

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have initiated a review of the anti-dumping measures applying to certain prepared or preserved tomatoes (the goods) exported to Australia from Italy by Feger di Gerardo Ferraioli S.p.A. (Feger). The review will examine whether the anti-dumping measures are no longer warranted.

### **The Goods**

The goods subject to the anti-dumping measures are:

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.

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

### **Background to the measures**

The anti-dumping measures were imposed on 11 February 2016 by publication of the dumping duty notice, Anti-Dumping Notice (ADN) No. 2016/13, following the relevant Minister's consideration of *Anti-Dumping Commission Report No. 276* (REP 276).<sup>1</sup>

Exports of PPT by Feger currently attract an interim dumping duty calculated by reference to the combination of fixed and variable duty method. The fixed component is calculated as a percentage (2.3 per cent) of the export price or the ascertained export price, whichever is higher, plus a variable amount of duty if the actual export price (per kilogram) is below the ascertained export price.

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<sup>1</sup> These documents are available on the electronic public record on the Commission [website](#).

The dumping duty notice will expire (unless continued) on 11 February 2021.<sup>2</sup>

### **The current review**

On 9 March 2019, an application was lodged by Feger under subsection 269ZA(1) of the *Customs Act 1901* (the Act) for a review of the dumping duty notice in relation to the goods exported to Australia from Italy by Feger. Particulars of the reasons for the decision to undertake this review are shown in *Consideration Report No. 508*, which has been placed on the public record.

The Commission will examine the period from 1 January to 31 December 2018 to assess whether dumping has occurred, and will obtain additional information from 1 January 2015, particularly in terms of Feger's past export sales, to assess whether the measures are no longer warranted.

After concluding the review, I will recommend to the Minister for Industry, Science and Technology (the Minister) that the dumping duty notice:

- i. remain unaltered; or
- ii. be revoked.

### **Future Reviews**

Under subsection 269ZA(2), an application for a review must not be made earlier than 12 months after the publication of the notice implementing the original measure or the notice declaring the outcome of the last review.

### **Public Record**

A public record must be maintained for this review. The public record must contain, among other things, a copy of all submissions from interested parties. Documents included in the public record may be examined on the Commission website, [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **Lodgement of submissions**

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge written submissions concerning this review by no later than the close of business on **5 May 2019**,<sup>3</sup> addressed to:

The Director, Investigations 1  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

or email [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au), or fax to +61 3 8539 2499.

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<sup>2</sup> There is another dumping duty notice applying to prepared or preserved tomatoes exported from Italy, which does not apply to goods exported by Feger. These measures were imposed following *Anti-Dumping Commission Report No. 217*, and is currently the subject of a continuation inquiry ([Statement of Essential Facts No. 488](#) refers).

<sup>3</sup> As this day is a Sunday, the effective due date for the lodgement of a submission is the following business day, 6 May 2019.

Interested parties wishing to participate in the review must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received by the Commission after the date mentioned above if to do so would, in my opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

Interested 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". Interested parties making submissions must also provide a non-confidential version for public record (clearly marked "PUBLIC RECORD").

### **Statement of Essential Facts**

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. A SEF will be placed on the public record by **17 July 2019**, or by such later date as allowed in accordance with section 269ZHI of the Act.<sup>4</sup> The SEF will set out the essential facts on which I propose to base a recommendation to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record.

### **Report to the Minister**

Submissions received in response to the SEF will be taken into account in preparing the report and recommendation to the Minister. A recommendation to the Minister will be made in a report on or before **31 August 2019** (or such later date as may be allowed).<sup>5</sup>

### **Anti-Dumping Commission contact**

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2419 or email [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

29 March 2019

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<sup>4</sup> On 14 January 2017, the powers and functions of the Minister under section 269ZHI of the Act were delegated to the Commissioner of the Anti-Dumping Commission; ADN No. 2017/10 refers.

<sup>5</sup> As this day is a Saturday, the effective due date by which to provide the Minister a report is the following business day, 2 September 2019.