



**AUSTRALIAN
CUSTOMS SERVICE**

Australian Customs Dumping Notice
No.2002/45

CUSTOMS ACT 1901 - PART XV B

INITIATION OF AN INVESTIGATION

CANNED TOMATOES FROM ITALY

The Minister for Justice and Customs has decided to initiate an investigation under section 269TAG of the *Customs Act 1901* (the Act) into whether countervailing duties should be imposed on imports of canned tomatoes from Italy. This follows a Federal Court decision that set aside the Minister's decision to continue the countervailing duties on imports of canned tomatoes from Italy after 28 April 2002.

In directing Customs to undertake this investigation, the Minister was satisfied that there appear to be reasonable grounds for the publication of a countervailing duty notice.

A notice under section 269TAG advising initiation of this investigation was published in *The Australian* on 1 October 2002.

The goods

The goods under investigation are whole (peeled or unpeeled), diced or crushed tomatoes (including value added products), canned in water or juice. Value added products are those where other ingredients have been added to the canned tomatoes. Other processed tomato products, such as pastes, sauces or dried tomatoes packed in oil, are excluded from the investigation. The goods are classified under sub-heading 2002.10.00 (statistical codes 60 and 61) and under sub-heading 2002.90.00 (statistical codes 30 and 31) in Schedule 3 to *Customs Tariff Act 1995*.

Investigation process

The investigation period is from 1 January 2001 to 31 August 2002. Customs will examine exports to Australia of the goods under consideration during that period to determine whether subsidisation has occurred. Customs will examine details of the Australian market for the period from 1 January 1998 to 31 August 2002 for injury analysis.

In reaching its findings Customs must consider:

- (i) whether there is a countervailable subsidy received in respect of canned tomatoes in Italy; and, if so
- (ii) whether that subsidy may continue to be paid on canned tomatoes exported to Australia from Italy in the future; and
- (iii) whether, because of that, material injury to the Australian industry producing like goods has been or is being caused or is being threatened.

Lodgement of submissions

Interested parties are invited to lodge submissions on the above issues no later than the close of business on Monday 11 November 2002. The submissions should be addressed to:

The Director
Dumping Liaison Unit
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

All interested parties wishing to participate in the investigation must ensure that submissions are lodged promptly. The legislation confers upon Customs the power to disregard submissions received after specified periods if there is insufficient time remaining for their proper consideration.

A public record of non-confidential submissions to this investigation will be maintained at Customs House, Canberra. Interested parties wishing to examine or take copies from that record may contact Trade Measures Branch office management on telephone (02) 6275 6547 during business hours.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information; or
- satisfy Customs 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 "in-confidence".

Interested parties may lodge a non-confidential version or a summary of their submission in accordance with the requirement above. In either case, interested parties must provide two copies of each for the public record.

Provisional measures

Under section 269TD of the Act, Customs may make a preliminary affirmative determination that there are sufficient grounds for the publication of a countervailing duty notice on the goods under investigation. Such action allows for the imposition of provisional measures (in the form of securities) on imports of the goods under investigation pending the completion of an investigation and a final decision by the Minister. Provisional measures are designed to prevent further material injury occurring to the Australian industry.

A preliminary affirmative determination may be made not less than 60 days from the date of initiation.

Retrospective duties

Importers should be aware that, under section 269TN of the Act, there is provision to impose countervailing duties retrospectively. This may occur where there is evidence of a large quantity of imports of canned tomatoes over a short period that causes material injury to the Australian industry.

Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable Customs to report to the Minister within the legislative timeframe. A statement of essential facts will be placed on the public record by 19 January 2003 (or by such later date as the Minister may allow). The statement will set out the material findings of fact on which Customs intends to base its recommendation to the Minister. Interested parties will have the opportunity to respond that statement within 20 days of its publication date.

Report to the Minister

Submissions received within 20 days in response to the statement will be taken into account in compiling the final report and recommendations to the Minister. The final report on this investigation will be made by Wednesday 5 March 2003 (or by such later date as the Minister may allow).

Customs contact

Any queries about this notice may be directed to Petri Povel at one of the following:

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Fax	(02) 6275 6990
E-mail	petri.povel@customs.gov.au

SUE PITMAN
National Manager
Trade Measures Branch
1 October 2002