



## FILE NOTE

# PREPARED OR PRESERVED TOMATOES EXPORTED TO AUSTRALIA FROM ITALY

## ACCELERATED REVIEW OF THE DUMPING DUTY NOTICE

### CALISPA S.p.A

#### Preliminary assessment of variable factors

##### Purpose

The purpose of this file note is to inform interested parties of the Anti-Dumping Commission (the Commission) preliminary assessment of the variable factors for the purposes of the accelerated review of the dumping duty notice on prepared or preserved tomatoes from Italy, so far as it affects Calispa S.p.A. (Calispa).

##### The Commission's preliminary assessment of the variable factors

Firstly, it should be noted that Calispa did not export prepared or preserved tomatoes in the review period (1 April 2013 to 31 March 2014). The Commission has therefore focused on calculating normal value and non-injurious price for Calispa.

The Calispa response to the exporter questionnaire contained cost and price information relating to its domestic sales of prepared or preserved tomatoes in the review period. The Commission initially rejected Calispa's cost to make and sell data and requested a different approach. Calispa provided revised cost data as requested. The Commission then considered the response to the exporter questionnaire and requested verification for the purposes of the accelerated review. Calispa provided a range of source documents to assist in the verification of the cost and price data. The Commission decided to not request an on-site verification exercise.

After considering the evidence provided by Calispa, the Commission wrote to Calispa to advise of its preliminary normal value calculations. The following text is a full copy of the content of an email sent by the Commission to Calispa on 7 August 2014:

*"Please find attached the spread sheet relating to the proposed normal value calculation for Calispa.*

*Please note the following in relation to the normal value calculation, which was assessed in terms of subsection 269TAC(1) of the Customs Act 1901:*

- the Commission is likely to propose Euro [REDACTED] cents per kilogram as the normal value, which is regarded as being at EXW terms. The Commission regards the value to be at*

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EXW terms because it sought to calculate the normal values at EXW by deducting the amounts for domestic inland freight from the delivered prices. However, the evidence provided to support the inland freight amounts is considered inadequate. The Commission does not consider it is reasonable to calculate domestic inland freight [REDACTED].

[REDACTED]. Further, the Commission has selected the highest normal value of the models/types because of the recent Federal Court finding that favoured single “consolidated” levels for anti-dumping measures (rather than by model). Please refer to ADN 2013/80.

- in terms of the calculation, the Commission has excluded [REDACTED] products from the calculation. This is because the Commission considers it likely that [REDACTED]. Therefore such sales would be unsuitable for normal value purposes. The Commission has set aside [REDACTED] because it is unable to test profitability and ordinary course of trade without the cost to make and sell data for these products.
- the Commission has excluded unprofitable domestic sales relating to tomato type [REDACTED]. This is because, in circumstances where there is only one weighted average cost to make and sell for each product, the recovery test for ordinary course of trade would yield no differences in result from the initial test of profitability. As the volume of sales at a loss was greater than 20% of the sales volume of that product (in the review period), the Commission considers that only the profitable sales are in the ordinary course of trade.
- the Commission has not accounted for [REDACTED] (column Z), [REDACTED] (column AC) and ‘inland freight’ (column AF), in the calculation as these items could not be verified against the source documents provided. As such, profit from sales (column AI) has been calculated with respect to ‘gross invoice value’ (column X).
- The Commission has not taken account domestic [REDACTED] charges (column AN) because there is presently no evidence to support those amounts. The Commission recognises that such evidence was not requested earlier. If Calispa can submit evidence to support those amounts in relation to the selected sales, the Commission may consider an adjustment.

Can you please provide any comments that you may have in relation to the calculation methodology by COB 14 August 2014.

Please note that if you seek an alteration to the methodology of calculating an ascertained normal value, you will need to substantiate the reasons with relevant source documents.

In closing, an **earlier response** to COB 14 August 2014 will be greatly appreciated if this can be managed.

### Non-injurious price

The Commission explained in Report No. 217, in relation to assessment of non-injurious price:

*“In these circumstances the Commission considers it appropriate to construct a notional minimum price using SPCA’s cost to make and sell for like goods sold during the investigation”* Report 217, p. 70.

The Commission considers it is appropriate to maintain the same approach for the purposes of the accelerated review. In response to the Commission’s request, SPC Ardmona provided updated cost to make and sell data from SPC Ardmona for this purpose. As was the case in the original investigation, the Commission noted the non-injurious price for the accelerated review period exceeded the normal value calculated for Calispa for the review period.

### Effect of the proposed variable factors

If the Commissioner recommended that the dumping duty notice should be changed in accordance with the approach to variable factors outlined above, and if the Minister accepted that proposal, the ascertained export price would be set at the level of the ascertained normal value. The proposed approach is to base the ascertained normal value on the highest weighted average normal value of

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the models/types sold by Calispa in the review period. Accordingly, prepared or preserved tomatoes exported by Calispa would only attract a variable component of interim dumping duty where the Calispa export price was less than the ascertained export price. This is sometimes described as giving effect to a 'floor price', where no dumping duty is incurred if the export price is at, or above, the ascertained export price. The fixed component of dumping duty would be zero.

In this case, the non-injurious price is an amount that is higher than the highest weighted average normal value of the models/types sold by Calispa in the review period, and as such will not be recommended as the basis for the ascertained export price.

### Submissions on the Commission's proposed approach to establishing Calispa's variable factors

Should any interested parties wish to make a submission on this issue, they are encouraged to do so before **18 August 2014**.

Interested parties should attach relevant evidence to support the views expressed in their submissions. A non-confidential version of submissions must be provided. Submissions can be provided:

by mail to:            Director Operations 1  
                              Anti-Dumping Commission  
                              Customs House  
                              5 Constitution Avenue  
                              CANBERRA CITY ACT 2601

or by email to:        [operations1@adcommission.gov.au](mailto:operations1@adcommission.gov.au)

or by fax to            02 6275 6990.