



Australian Government
**Australian Customs and
Border Protection Service**

R E P O R T

**INTERNATIONAL TRADE REMEDIES BRANCH
REPORT TO THE MINISTER NO.192**

**REVIEW OF
ANTI-DUMPING MEASURES**

**PROCESSED DRIED CURRANTS
EXPORTED FROM
GREECE**

19 March 2013

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1. SUMMARY AND RECOMMENDATIONS

This review is in response to an application by Frutex Australia Pty Ltd (Frutex) seeking a review of the anti-dumping measures applying to processed dried currants exported to Australia from Greece by a single nominated exporter, Agricultural Co-Operative Union Aeghion (Aeghion).

The Australian Customs and Border Protection Service (Customs and Border Protection) examined exports of processed dried currants to Australia from Aeghion during the period 1 October 2011 to 30 September 2012 (the review period) to determine if the variable factors relevant to the taking of the anti-dumping measures had changed.

This report sets out the facts on which the delegate of the Chief Executive Officer (the delegate) of Customs and Border Protection is basing his recommendations to the Minister for Home Affairs (the Minister) for measures applicable to processed dried currants exported from Greece by Aeghion.

1.1 Applicable law

Division 5 of Part XVB of the Act¹ enables affected parties to apply for the review of measures. The Division also empowers the Minister to initiate such a review. The Division, among other matters:

- sets out the procedures to be followed by the Chief Executive Officer of Customs and Border Protection (CEO) in dealing with applications or requests and preparing reports for the Minister; and
- empowers the Minister, after consideration of such reports, to leave the measures unaltered or to modify them as appropriate.

The CEO's powers under this Division have been delegated to certain officers of Customs and Border Protection (the delegate).

After conducting a review of anti-dumping measures, the delegate must give the Minister a report containing recommendations².

1.2 Recommendation

The delegate recommends to the Minister that the dumping duty notice have effect in relation to Aeghion as if different variable factors had been ascertained.

The delegate recommends that the Minister sign the attached schedules (**confidential attachment 1 and 2**) and sign the attached public notice (**confidential attachment 3**) to declare that the dumping duty notice in respect of processed dried currants exported from Greece by Aeghion have effect as if different variable factors had been ascertained.

¹ A reference in this report to a provision of legislation, unless otherwise specified, is a reference to the *Customs Act 1901*.

² Section 269ZDA(1).

1.3 Findings and conclusions

Based on all available information Customs and Border Protection has found that:

- the export price for processed dried currants exported from Greece by Aeghion has been determined under s.269TAB(1)(a), being the price paid or payable by the importer other than any part of that price which represents a charge in respect of the transportation of the goods after exportation or in respect of any other matter arising after exportation.
- the normal value for processed dried currants exported by Aeghion has been established pursuant to s.269TAC(1) using domestic sales by Aeghion in Greece³ adjusted for comparison with the export price⁴;
- processed dried currants exported to Australia from Greece by Aeghion during the review period were dumped. The dumping margin calculated for Aeghion was 4.2%.
- The non-injurious price (NIP) has been established for processed dried currants by using the selling prices of the Australian industry during the review period, with appropriate adjustments made to take account of post-exportation expenses and duty payable by Frutex in relation to the importation of the goods during the period of review;
- export prices and normal values for Aeghion of processed dried currants from the Greece have increased and the NIP has also increased;
- the NIP is the operative measure⁵ for processed dried currants and the revised amount of interim dumping duty to be imposed would decrease; and

Based on these findings, the delegate recommends to the Minister that the measures be varied for Aeghion.

³ Subsection 269TAC(1)

⁴ Subsection 269TAC(8)

⁵ The operative measure is the lesser of the normal value or non-injurious price. The difference between the revised operative measures and the revised export prices provide for the fixed component of interim dumping duty per unit.

2. INTRODUCTION

2.1 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally.

Accordingly the affected party may apply for, or the Minister may request that the Chief Executive Officer conduct, a review of those measures if one or more of the variable factors has changed. The Minister may initiate a review at any time, however, no other interested party may apply for a review to take place earlier than 12 months since the publication of the dumping duty notice or the publication of a notice declaring the outcome of the last review of the notice.

If an application for a review of anti-dumping measures is received and not rejected, Customs and Border Protection has up to 155 days, or such longer time as the Minister may allow, to inquire and report to the Minister on the review of the measures. Within 110 days of the initiation, or such longer time as the Minister may allow, Customs and Border Protection must place on the public record a statement of essential facts on which it proposes to base its recommendation to the Minister concerning the review of the measures.

In making recommendations in its final report to the Minister, Customs and Border Protection must have regard to:

- the application for a review of the anti-dumping measures;
- any submission relating generally to the review of the measures to which the delegate has had regard for the purpose of formulating the statement of essential facts;
- the statement of essential facts; and
- any submission made in response to this statement of essential facts that is received by Customs and Border Protection within 20 days of being placed on the public record.

Customs and Border Protection may also have regard to any other matter that it considers to be relevant to the review.

In respect of a dumping duty notice, the delegate must provide a proposed recommendation to the Minister that the dumping duty notice⁶:

- remain unaltered; or
- be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained.

Following the Minister's decision, a notice will be published advising interested parties of the decision.

⁶ s. 269ZDA(1)(a) of the *Customs Act 1901* (the Act)

2.2 Notification and participation

On 21 September 2012, Customs and Border Protection received an application by Frutex Australia Pty Ltd (Frutex) for the review of the variable factors in relation to anti-dumping measures that apply to processed dried currants exported to Australia from Greece by Aeghion.

As part of its application, Frutex also applied for the review as to whether the measures should be revoked. The specific requests for the initiation of a variable factors review, and a revocation review are treated by Customs and Border Protection as separate applications pursuant to the terms of the Act.

Having regard to Frutex's claims and other relevant information, Customs and Border Protection was not satisfied that there are sufficient grounds for asserting that the measures are no longer warranted. On this basis the application for revocation review was rejected.

Customs and Border Protection was satisfied that the application for a variable factors review met the applicable form and substance provisions under the Act. The variable factors review in relation to the measures commenced on 24 October 2012. The period of 1 October 2011 to 30 September 2012 was set as the review period.

Public notification of initiation of the review was made on 24 October 2012 in The Australian newspaper. Australian Customs Dumping Notice (ACDN) No. 2012/53 was also published.

Customs and Border Protection is required to place the statement of essential facts for measures relating to processed, dried currants, exported from Greece by Aeghion on the public record on or before 11 February 2013.

Customs and Border Protection placed the statement of essential facts for this review on the public record on 1 February 2013. Interested parties were invited to lodge submissions in response to the statement of essential facts not later than 21 February 2013.

This final report to the Minister which outlines Customs and Border Protection's findings and recommendation is due on or before 28 March 2013.

2.3 Responses to the statement of essential facts

Customs and Border Protection received a response to the statement of essential facts (SEF 192) from Sunbeam. A non-confidential version of the submission was placed on the public record.

No other submissions to SEF 192 were received.

2.4 History of anti-dumping measures

Anti-dumping measures were imposed on processed dried currants from Greece on 14 January 2009 following Trade Measures Report No. 140. All exporters of processed, dried currants from Greece were subject to interim dumping duties.

After measures were imposed, the Trade Measures Review Officer (TMRO) accepted applications for a review of the decision taken by the Minister to

impose measures. Following the review, the Minister accepted the recommendations of the TMRO and subsequently wrote to the Chief Executive Officer (CEO) requiring him to reinvestigate the original findings.

Following its reinvestigation, Customs and Border Protection set out its findings in Reinvestigation Report 149. The Minister accepted those findings and published a notice on 17 November 2009 reaffirming the decision to publish a dumping duty notice.

The measures have not been reviewed since they were imposed, and subsequently affirmed.

3. GOODS SUBJECT TO THE REVIEW

3.1 Findings

The Australian industry produces consumer processed dried currants that have characteristics closely resembling those of processed dried currants produced in Greece and exported to Australia by Aeghion. Therefore processed dried currants manufactured by the Australian industry are like goods⁷.

3.2 The goods and like goods

The goods the subject of the application are processed dried currants of the grape variety *Vitis Vinifera* L. Black Corinth. Sultanas, muscat raisins, unprocessed currants or blended dried fruit mixtures are excluded from the definition of the goods.

3.2.1 Tariff classification

The goods are correctly classified to tariff subheading 0806.20.00, statistical code 29 in Schedule 3 of the *Customs Tariff Act 1995* (Cth). The rate of duty for the goods exported from Greece is 5%.

3.2.2 Like goods

The issue of like goods was considered during the original investigation in REP 140.

In REP 140, as affirmed in Reinvestigation Report 149, Customs and Border Protection was satisfied that there was an Australian industry producing like goods to the goods under consideration (GUC).

Subsection 269T(1) defines like goods as 'goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration'.

In assessing like goods, Customs and Border Protection uses an analytical framework, which identifies different ways of examining likeness, namely physical likeness, commercial likeness, functional likeness and production likeness.

The Australian industry defined the meaning of "processed" in the context of dried currants as:

Processing of sun dried currants involves a multi-staged procedure which includes the separation of good fruit from stems, capstems, poor fruit, grit, and other foreign matter through a riddle and cone system. The fruit then passes onto a belt where it is examined and unsuitable fruit or foreign matter not removed earlier is removed via hand-picking, prior to washing of the fruit and

⁷ In terms of s.269T.

then passing to a de-watering procedure via a spinner. Finally, a light oil is sprayed onto the fruit before packing for sale.

The Australian industry further clarified the description of the goods as follows:

Dried currants are black raisins. Raisins are a dried vine fruit (i.e. predominantly seedless grapes of the variety Vitis Vinifera L.) of which there are two very distinct types (i.e. black and white raisins). Currants are black raisins that are dried under the sun and consumed predominantly as dried fruits in food and sweets or alone. Greek currants are of the variety (cultivars) Vitis Vinifera L. Black Corinth. Sub-varieties of Vitis Vinifera L. Black Corinth include Provincial, Vostizza and Gulf.

Sultanas (white raisins) are grapes of a generally light colour which are dried under the sun and consumed predominantly as dried fruits in food, alone, mixed with other dried fruit or used as food additives. Greek sultanas are of the variety (cultivars) Vitis Vinifera L. Apyrena.

The goods under consideration do not include buck currants or red currants, nor does it include berries (e.g. red berries). The goods under consideration also does not include a reference to the percentage content of currants as the Australian industry considers that once a tolerance level is included, the product could be tailored specifically to circumvent the description.

3.3 Australian Industry

3.3.1 Findings

There is an Australian industry that is producing like goods, consisting of Sunbeam Foods Pty Ltd, Sunraysia Dried Fruits Pty Ltd and Australian Premium Dried Fruits Pty Ltd⁸.

Sunbeam Foods Pty Ltd controls the significant majority of market share for the goods in Australia

3.3.2 Manufacturing process

For goods to be taken as produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- for the goods to be partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia⁹.

The three entities listed above wholly comprise the total Australian industry for the production of processed, dried currants. No other interested party has

⁸ For completeness, we note that the entities which comprise the Australian industry have changed since the original investigation. Specifically, Clyne Foods Pty Ltd who was operating during the original investigation period has since ceased operation. We understand that Australian Premium Dried Fruits is a relatively new entrant to the Australian industry and has, in general terms, absorbed the market share previously held by Clyne Foods Pty Ltd.

⁹ Subsections 269T(2) and 269T(3).

claimed during this review to be an Australian producer of processed dried currants.

A verification visit was undertaken to Sunbeam during the review where the manufacturing process was confirmed and data was verified. A non-confidential version of the Sunbeam visit report will be made available on the public record.

4 MARKET

Customs and Border Protection used information from past investigations and information collected during the review in its examination of the Australian market for processed, dried currants.

Customs and Border Protection established the market for processed, dried currants during the review period using information supplied by the Australian industry, Frutex importer, and the nominated exporter in the context of the original investigation.

Customs and Border Protection did not discover, or was provided with, any evidence to suggest that the market for processed dried currants has changed to any significant degree since the original investigation.

We understand that processed dried currants are sold to three market segments in Australia, namely:

- retail;
- food service; and
- industrial food processing.

These market segments can be differentiated by the package size sold in the respective markets. Specifically;

- the retail market generally purchases the goods in 300 gram and 1 kilogram (KG) pack sizes; and
- the food service and industrial food processor sectors generally purchase processed dried currants in larger, 10KG and 12.5KG pack sizes.

The food services and industrial food processor market segments could, for the purposes of anti-dumping enquiries, be categorised as one market segment (namely the 'industrial food' segment).

4.1 Retail segment

The retail segment is driven by demand from consumers using processed dried currants as an additive for foods. Typical customers include large supermarket chains and fresh produce and health stores.

We understand that domestically produced processed, dried currants do not compete with imported product in any significant degree with respect to the retail segment of the Australian market.

4.2 Industrial food segment

The food service sector includes the hospitality and smaller distributors for processed dried currants. The industrial food processor segment of the market includes the larger, bulk buyers that use processed dried currants as ingredients in further value-add manufacturing such as bakeries, biscuit, cake and cereal manufacturers.

As mentioned above, this segment is characterised by sales of processed, dried currants in large 'bulk' quantities of 10kg and 12.5kg packs. We understand

that domestically produced product competes directly with imported product in relation to sales into the industrial food segment.

Further, we understand that sales into this segment are largely made on the basis of long-term supply contracts and there is significant competition for the securement of contracts between domestic producers and importers, food brokers and traders who source imported processed, dried currants.

5. EXPORT PRICE AND NORMAL VALUE

5.1 Findings

- export price for processed dried currants exported from Greece by Aeghion has been determined under s.269TAB(1)(a), being the price paid or payable by the importer other than any part of that price which represents a charge in respect of the transportation of the goods after exportation or in respect of any other matter arising after exportation.
- Export prices have been calculated for each export transaction pursuant to s269TAC(1) using the price between Aeghion and the importer, Frutex. The individual transactions have been used to determine a weighted average export price for all shipments exported during the investigation period
- The normal value for processed dried currants exported by DPI has been established using domestic sales by Aeghion in Greece¹⁰ adjusted for comparison with the export price¹¹;
- Processed dried currants exported by Aeghion during the review period was dumped, with a dumping margin of 4.2%.

5.2 The applicant's claims

Frutex claimed that one or more of the variable factors relevant to the taking of anti-dumping measures with respect to processed, dried currants have changed.

Specifically, Frutex asserted that the export price, normal value and the NIP have changed since the imposition of measures.

5.3 Importers

Customs and Border Protection examined data from its import database and identified that Frutex was the sole importer of processed dried currants supplied by Aeghion during the review period.

5.4 Exporters

An exporter questionnaire was sent to Aeghion requesting a response with respect to its exports of processed dried currants to Australia during the period of review. Aeghion provided a completed response to the questionnaire. A non-confidential copy of Aeghion's response is available on the public record.

Customs and Border Protection was satisfied that the commercial sales data provided by Aeghion was relevantly complete and accurate to enable a desk-

¹⁰ Subsection 269TAC(1)

¹¹ Subsection 269TAC(8)

based verification to be undertaken for the purposes of establishing normal value with respect to the goods.

Additionally, Customs and Border Protection was cognisant of key circumstances of the investigation including, but not limited to, determinations that had been made relating to the contemporary NIP (see section 6) which provided sufficiently robust indication that the NIP would be the operative measure in relation to the review of measures.

On this basis, having regard to all the circumstances of the investigation, Customs and Border Protection was satisfied that a verification visit was not warranted.

5.5 Export price

The export price for the goods exported by Aeghion has been determined under s.269TAB(1)(a) being the price paid or payable by the importer other than any part of that price which represents a charge in respect of the transportation of the goods after exportation or in respect of any other matter arising after exportation.

Export prices have been calculated for each export transaction using the price between Aeghion and the importer, Frutex. The individual transactions have been used to determine a weighted average export price for all shipments exported during the investigation period.

Export price calculations are at **Confidential Attachment 3**.

5.6 Normal value

5.6.1 General

As stated above at 5.4, Customs and Border Protection considered that the material provided by Aeghion was sufficient to determine normal values for processed dried currants sold in the domestic market in Greece pursuant to s.269TAC(1), being the price paid or payable for like goods sold in the ordinary course of trade for home consumption in Greece in sales that are arms-length transactions by Aeghion.

Customs and Border Protection has used the domestic selling prices for Corinthian Vostizza Currants sold in Greece in 12.5kg packs sizes on the basis that Customs and Border Protection is satisfied, on the basis of the available information, that these goods are identical to the goods exported to Australia.

Selling prices, as reflected in the commercial data provided by Aeghion, have been adjusted for domestic credit terms, export inland freight and FOB related expenses, for the purposes of determining normal values on a cash FOB basis.

In SEF 192, Customs and Border Protection noted, as a caveat to the above, that consideration of the commercial data provided by Aeghion did not extend to an examination of whether payments received by Greek growers of currants under the Common Agricultural Policy implemented by the European Union have resulted in distorted production costs or have created, or contributed to, a

situation in the Greek domestic market that renders domestic sales unsuitable for the purposes of determining normal value of the subject goods.

In SEF 192, Customs and Border Protection highlighted that further analysis of the Greek domestic market for the goods may be undertaken in the event that an interested party can furnish sufficient evidence to suggest that factors exist which would render domestic sales unsuitable for the purposes of determining normal values.

Customs and Border Protection has not received any submissions from any interested parties which would warrant the examination of these issues.

5.6.2 Normal value determination

Customs and Border Protection found that Aeghion's domestic sales of processed dried currants were representative, arm's length and in the ordinary course of trade.

The normal value for processed dried currants exported by Aeghion has been established using domestic sales by Aeghion in Greece¹² adjusted for comparison with the export price¹³.

Normal value calculations are at **Confidential Attachment 3**.

5.7 Dumping margins

Measurement of a dumping margin is not required for the purposes of revising the variable factors. However a dumping margin has been calculated for processed dried currants exported by Aeghion over the review period based upon a comparison of normal values and corresponding export price. The dumping margin calculated for Aeghion was 4.2%.

Dumping margins were calculated for processed dried currants exported by Aeghion over the review period based upon a comparison of the quarterly normal values and the export prices¹⁴.

Dumping margin calculations are at **Confidential Attachment 5**.

5.8 Submissions to SEF

Customs and Border Protection did not receive any submissions in relation to its determination of export price and normal value and the calculation of the dumping margin outlined in SEF 192.

¹² Subsection 269TAC(1)

¹³ Subsection 269TAC(8)

¹⁴ Subsection 269TACB(2)(a).

6. NON-INJURIOUS PRICE

6.1 Findings

The NIP can be established for processed dried currants by using the selling prices of the Australian industry during the review period, with appropriate adjustments made to take account of post-exportation expenses and duty payable by Frutex in relation to the importation of the goods during the period of review

6.2 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury.

The calculation of the NIP provides the mechanism whereby this lesser duty provision is given effect. The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping¹⁵.

Anti-dumping duties are usually based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

6.3 Methods of calculating non-injurious price

The method of calculating a NIP is not given in the legislation, but it is generally derived from Australian industry's unsuppressed selling price (USP). The unsuppressed selling price is a price at which the Australian industry might reasonably be able to sell the goods in a market unaffected by dumped imports.

Customs and Border Protection's preferred approach to establishing the unsuppressed selling price observes the following hierarchy:

- Industry selling prices at a time unaffected by dumping (known as an unsuppressed selling price).
- Constructed industry prices – industry cost to make and sell plus an appropriate profit.
- Selling prices of un-dumped imports.

Having calculated the USP, Customs and Border Protection then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia.

In the original investigation the USP for processed, dried currants was determined using the second methodology set out above – that is, using

¹⁵ The non-injurious price is defined in s.269TACA.

Sunbeam's cost to make and sell plus a rate of profit achieved with respect to sales of all products.

As referred to above at 6.1, Customs and Border Protection believes selling prices during this period can reasonably be deemed to reflect prices achieved in relation to the subject goods at a time unaffected by dumping, by virtue of the measures currently in force. On this basis, for the purposes of the present review of measures, Customs and Border Protection believes that verified selling prices achieved by the Australian industry in relation to sales of processed dried currants in the Industrial Food Segment during the review period can be seen to reflect an USP for the purposes of calculating the NIP.

6.4 Australian industry's claims

Following publication of SEF192 Customs and Border Protection received a submission from Sunbeam in relation to the proposed method of calculating non-injurious price.

Sunbeam submitted that it did not agree with Customs and Border Protection's view that selling prices for processed dried currants achieved by Sunbeam in the Australian market during the review period can be deemed to be unaffected by dumping and, hence, should not be used as the basis for determining the USP upon which the NIP is calculated.

Sunbeam has explained to Customs and Border Protection that there is a temporal delay between recorded costs associated with the production of the goods, and period in which those goods are sold into the relevant Australian market. Specifically, Sunbeam advised, the costs presented for the review period reflect recorded costs for the immediately preceding production season – that is the 2011 calendar year.

Sunbeam claims that, due to the relative disconnect between cost and selling prices, the use of recorded costs, relative to selling prices into the industrial food services sector, reflects that the goods were sold below cost.

On these bases, Sunbeam contends that it is inappropriate to use these sales as the basis for determining the USP as to do so would not allow for full recovery of relevant costs and would not reflect an appropriate measure of profit.

Sunbeam also disagreed with the view outlined in SEF 192 that selling prices during the review period reflect prices unaffected by dumping. Sunbeam submitted that:

- sales of processed dried currants in the industrial food sector during the period were made at a loss;
- the selling prices of goods into the sector were affected by competition with goods sold by Frutex, which were found to be dumped by Aeghion; and
- the unprofitability of sales into this sector are injurious to Sunbeam

On the basis of the above, Sunbeam has submitted that the most appropriate method for determining the USP for processed dried currants would be to apply the methodology applied in the original investigation – using the contractual

grower's selling prices of unprocessed currants over the review period plus Sunbeam's cost to make and sell (CTMS).

Sunbeam also submits that a measure for profit should be allocated to the constructed USP.

6.5 Customs and Border Protection's assessment

6.5.1 Consideration of the submission

Customs and Border Protection considered the bases for Sunbeam's submissions with respect to the methodology for calculating a relevant USP for processed dried currants sold into the industrial food services segment of the Australian market.

Customs and Border Protection is satisfied that the two central bases upon which Sunbeam's submission relies – that sales of the goods were made at a loss and the goods exported to Australia were dumped – are supported by the available evidence.

As reflected in SEF 192, and affirmed in this report, on the basis of the determined export prices and normal value with respect to processed dried currants produced and exported to Australia by Aeghion, Customs and Border Protection is satisfied that the goods have been exported to Australia, and sold into the industrial food services segment, at dumped prices.

Further, on the basis of the verified commercial data provided by Sunbeam, Customs and Border Protection is satisfied that Sunbeam's assertions that sales prices into the industrial food segment market were below cost and, by definition, unprofitable.

6.5.2 Customs and Border Protection's response

USP methodology

As reflected above at 6.3 Customs and Border Protection's preferred approach to establishing the unsuppressed selling price observes the following hierarchy:

- Industry selling prices at a time unaffected by dumping (USP); or
- Constructed industry prices – industry cost to make and sell plus an appropriate profit; or
- Selling prices of un-dumped imports.

Pursuant to the above hierarchy, constructed industry prices will only be used for the purposes of determining the USP where the first tier approach is not appropriate in the circumstances – that is, where there are reasonable grounds upon which to be satisfied that industry selling prices cannot be appropriately regarded to be unaffected by dumping.

In relation to Sunbeam's submission regarding the temporal delay between cost and selling price, Customs and Border Protection was not satisfied that the asserted fact, of itself, was sufficient evidence that selling prices are not an appropriate basis upon which to calculate the USP.

Customs and Border Protection is satisfied that verified commercial documentation provided by Sunbeam for the period provided a reliable and complete reflection of the selling prices actually achieved by Sunbeam in relation to the goods sold during the relevant period.

Customs and Border Protection considers that the verified domestic selling prices reflect the actual price of the goods for the review period, notwithstanding the asserted fact that these selling prices do not appropriately account for the corresponding cost of production.

Customs and Border Protection is not satisfied that the fact that the verified selling prices during the review period were unprofitable, of itself, is a sufficient basis upon which to determine that it is not appropriate to use industry prices for the purposes of calculating the USP.

As reflected in the above hierarchy, where reliable industry selling prices have been determined, the crucial determinant in deciding whether it is reasonable to use industry selling prices to determine the USP is whether those selling prices during the review period are reflective of prices unaffected by dumping.

Customs and Border Protection considers that in the circumstances of a review of anti-dumping measures in force in relation to the importation of a subject good, there must be sufficient and persuasive evidence to suggest that industry selling prices cannot be regarded as unaffected by dumping during the period of review.

Customs and Border Protection considers that by operation, the calculation of Interim Dumping Duty (IDD), and payment by the relevant importer, in relation to imported goods subject to the measures in force aims to apply a measure of duty payable on imported goods from subject countries and by subject exporters which reflects the margin by which those goods have found to be dumped.

The imposition of IDD calculated on the basis of the variable factors determined for the purposes of the imposition of the measures and applied on the basis of FOB export prices, aims to mitigate the potentially injurious effects of the dumping in relation to downstream sales of those goods by the importer into the relevant Australian market.

As such, by virtue of the applicable IDD paid by Frutex, Customs and Border Protection does not consider it reasonable to assert that the selling prices of Frutex in relation to the goods to be influenced by the dumped FOB purchase price between Frutex and Aeghion.

Conclusion

On the basis of the above, Customs and Border Protection is not satisfied that the facts that;

- a) the goods sold by Frutex into the industrial food services segment are exported at dumped prices by Aeghion, and

- b) that Sunbeam's sales into this segment were sold unprofitably during the review period;

provides reasonable basis upon which to be satisfied that:

- c) the selling prices of goods into this segment of the market achieved by Sunbeam were affected by dumping during the review period.

Customs and Border Protection does not consider that Sunbeam has provided sufficient supporting evidence to substantiate the assertion that the USP should not be determined using industry sale during the review period.

USP and NIP calculations are at **Confidential Attachment 4**.

8 EFFECT OF THE REVIEW

As a result of this variable factors review, Customs and Border Protection has found that the export price and normal value for exports of processed dried currants to Australia from Greece by Aeghion have increased. The NIP has also increased¹⁶.

From this review of the variable factors, the NIP is the operative¹⁷ measure for processed dried currants exported from Greece by Aeghion. The outcome of the review will see the level of IDD decrease.

¹⁶ We note that the methodology used to calculate NIP for the purposes of this review differs from the methodology used in the original investigation.

¹⁷ The operative measure is the lesser of the normal value or non-injurious price. The difference between the revised operative measures and the revised export prices provide for the fixed component of interim dumping duty per unit.

9 RECOMMENDATIONS

Customs and Border Protection recommends that the Minister considers this report, and if agreed, sign the attached schedule (**confidential attachment 1**) and sign the attached public notice (**confidential attachment 3**) to **declare**:

- under s. 269ZDB of the Act, that, for the purpose of the Act and the *Customs Tariff (Anti-Dumping) Act 1975*, to the extent that the anti-dumping measures concerned involved the publication of a dumping duty notice, that, with effect from the date of publication of the notice, the notice is taken to have effect in relation to the exporter subject to this review as if different variable factors had been fixed in respect of that exporter, relevant to the determination of duty.

Customs and Border Protection recommends that the Minister directs:

- in accordance with s. 269TAC(8) of the Act, in assessing normal value for Aeghion that the price paid for like goods be adjusted for domestic credit terms, export inland transport and export handling expenses.

10 CONFIDENTIAL ATTACHMENTS

Confidential attachment 1	Schedule – direct
Confidential attachment 2	Section 269ZDB public notice
Confidential attachment 3	Export prices, normal values and NIP summary.
Confidential attachment 4	USP and NIP calculation
Confidential attachment 5	Dumping margin calculation