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Mr Geoff Gleeson
Director, Operations 1
Anti-Dumping Commission
1010 La Trobe Street
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Accelerated review of prepared or preserved tomatoes export from Italy - Calispa S.p.A.

Dear Geoff,

This supplementary submission is made on behalf of Calispa S.p.A (Calispa) and should be read in conjunction with the submission provided on Friday 8 August 2014.

The table below provides a price comparison between current export and retail shelf prices for various canned tomato products sourced from Italy. The purpose of the comparison table is to further highlight the unreasonableness of the proposed approach by the Anti-Dumping Commission in establishing a normal value for Calispa on its domestic sales of [redacted] [product type] alone.

Product	Selling prices	Terms
Coles Smart Buy - Diced	€ 4.37	Coles (Retail price Euro /carton)
Standard diced/peeled	XXX	XXXXXXXX (FOB Euro/carton) - XXXXXXXX
Standard diced/peeled	XXX	Non-cooperative exporters (26.35% duties)
Standard diced/peeled	XXX	XXXXXXXX (FOB Euro/carton) - XXXXXXXX
Woolworths Select Value-add	€ 6.62	Woolworths (Retail price Euro /carton)
Coles Organic	€ 8.02	Coles (Retail price Euro /carton)
Calispa - XXXXXXXXXXXX	XXX	Calispa (FOB Euro/carton) - XXXXXXXXXXXX
Ardmona peeled/crushed	€ 9.27	Woolworths (Retail price Euro /carton)

Notes:

1. All prices based on Euro/carton equivalent comprising 24 cans (400g net weight)
2. XXXXXXXX offered prices based on ex-works price of XXXXXX plus XXXX for freight to port.
3. Assumed ascertained normal value for non-cooperating exporters based on XXXXXX pricing.
4. XXXXXX price based on observed and actual commercial invoices
5. Woolworths prices based on advertised pricing
6. Coles prices based on advertised pricing

PUBLIC RECORD

The table highlights that exporters that made no effort to cooperate in the original investigation period, were found to be exporting canned tomatoes to Australia at a margin of 26.35% and causing material injury to the local industry, are able to sell the full range of the subject goods at the ascertained normal value. It's worth noting that those non-cooperating exporters are able to export premium products such as organic and cherry tomatoes at the determined ascertained export price, which would incur the 26.35% duty, resulting in an FOB price equal to the ascertained normal value for the investigation period.

This outcome, whereby certain models may continue to be exported at dumped prices is a direct result of the Federal Court decision to remove the ability of the Parliamentary Secretary from imposing model specific measures.

Meanwhile Calispa is an exporter that did not export the subject goods at dumped prices during the original investigation period or the current review period and has cooperated with the Commission's request for information. It is seeking to export its goods at an undumped normal value based on its comparable domestic selling prices, but under the normal value being proposed by the Commission, will be required to export the full range of canned tomato products at an FOB price of € [REDACTED] per carton. This represents a [REDACTED]% premium above prices from non-cooperating exporters and the [REDACTED] [suppliers details].

As the table clearly shows, the proposed ascertained normal value for Calispa would be:

- [REDACTED]% above the retail shelf price for premium private label organic canned tomatoes sold by Coles;
- [REDACTED]% above the retail shelf price for mid-range private label value-added canned tomatoes sold by Woolworths, and
- [REDACTED]% above the retail shelf price for generic private label diced canned tomatoes sold by Coles.

Based on this information, it is inconceivable and without doubt unfair, that the appropriate level of the floor price should be based on domestic sales of [REDACTED] [product type] alone.

Following the Federal Court's ruling that measures can only be imposed as a single consolidated duty reflecting the determined export price and normal value, the risk of continued dumping by exporters is present regardless of whether the exporter is a new exporter or an exporter originally investigated. As explained earlier, all exporters subject to duties are able to export the full range of canned tomatoes at their determined ascertained export price, regardless of the comparable normal value for each domestic model. As a result, some higher priced domestic models will be dumped and lower priced domestic models will not be dumped in those circumstances.

Ultimately, all that matters is whether the products subject of the measures are being sold at export prices that are on average not being dumped. This is no different from the calculations undertaken in the original investigation whereby some export sales or export models may be found to be dumped, whilst others are not dumped. In the end, the final determination of dumping is made on at the consolidated product level through the weighted averaging of model margins.

PUBLIC RECORD

Whilst that may not be acceptable to the Commission or local industry, the primary means for addressing this situation is for regular annual reviews of the measures, which may ultimately find that certain exporters are continuing to dump at even greater margins. Alternatively, the Commission should consider legislative change to properly address the risks arising from the Federal Court's decision.

Finally, it's once again important to highlight that this appears to be the first instance of an accelerated review or any such review whereby the Commission has simply decided to base the product normal value on a single model purely on price. Nowhere in the Commission's Dumping and Subsidy Manual or the relevant Anti-Dumping Notice (ADN No. 2013/80) does it explain this new policy or practice.

Given the greater awareness by new exporters of the accelerated review process and the sharp increase in applications by new exporters for individual determinations, it is critically important that the Commission be fully transparent about any significant changes to policy. For example, in the absence of any documented policy outlining the Commission's approach to using the highest model normal value, what would prevent the Commission from using the highest domestic price of any model from a single transaction during the review period?

Yours faithfully

John Bracic

11 August 2014