



J.BRACIC & ASSOCIATES
TRADE REMEDY ADVISORS

PO Box 3026
Manuka, ACT 2603
Mobile: +61 499 056 729
Email: john@jbracic.com.au
Web: www.jbracic.com.au

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Ms Kerry Taylor
Director Operations 4
Anti-Dumping Commission
1010 La Trobe Street
DOCKLANDS VIC 3008

**Accelerated review of prepared or preserved tomatoes exported from Italy –
PMC SRL**

Dear Ms Taylor,

This submission is made on behalf of PMC SRL (PMC) in respect of the accelerated review of the interim dumping duties applying to prepared or prepared tomatoes (canned tomatoes) exported from Italy by PMC.

Determination of normal values

As outlined in its application and exporter questionnaire response, PMC did not sell like goods to the goods subject of the dumping duty notice, on the domestic market in Italy during the period of review, 1 July 2013 to 30 June 2014. Accordingly, normal value cannot be determined under subsection 269TAC(1) of the *Customs Act 1901* (the Act).

As PMC has not produced the goods or like goods during the review, no information exists to establish the cost of production or selling, general and administrative expenses, for the purposes of determining a constructed normal value under subsection 269TAC(2)(c) of the Act. Likewise, there is no information available to determine normal value on the basis of exports to third countries pursuant to subsection 269TAC(2)(d) of the Act.

As sufficient information is not available to enable the normal value of goods to be ascertained under the preceding subsections, the normal value must be determined in accordance with subsection 269TAC(6), having regard to all relevant information.

A review of archived cases listed on the Anti-Dumping Commission's (the Commission) website, reveals no examples of accelerated reviews where normal values were determined under subsection 2689TAC(6). In addition, it is noted that the Commission's Dumping and Subsidy Manual provides no further guidance in these circumstances beyond outlining that normal value and export price 'for the new exporter will be established under the relevant provisions of s.269TAC and s.269TAB.'

Therefore in the absence of any policy or practice established in a previous accelerated review, PMC submits that the following methodologies, in order of preference, are based on relevant information and considered reasonable for establishing normal value and export price. Each of these alternative approaches takes into consideration the Commission's recent view¹ 'that the outcome should ensure that the effectiveness of the remedy for injurious dumping is upheld, but any outcome should, where possible, also avoid unintended or unnecessary consequences.'

1. Residual floor price – normal value and export price to be equally ascertained at the normal value determined for residual exporters during the original investigation period. This is considered reasonable given that PMC has never exported canned tomatoes to Australia at dumped prices and would have met the definition of a residual exporter in the original investigation given its level of cooperation in this review.
2. Non-cooperating exporter floor price - normal value and export price to be equally ascertained at the normal value determined for non-cooperating exporters during the original investigation period. If the Commission does not consider the residual floor price option above appropriate, then PMC submits that it would be reasonable to impose a zero rate of fixed duty and an ascertained export price equal to the normal value established for non-cooperating exporters. This would take into account that PMC has never exported goods at dumped prices and did not have the opportunity to cooperate during the original investigation.
3. New exporter floor price - normal value and export price to be equally ascertained at the normal value recently determined for the new exporter, Calispa S.p.A. (Calispa), during the review period 1 April 2013 to 31 March 2014. Whilst this is the most contemporaneous domestic sales information available to the Commission, PMC notes the significant discussion in the Commission's Report 250 surrounding the product mix of domestic sales made by Calispa. In the absence of further information, PMC is concerned that the mix of different types of canned tomatoes sold by Calispa in Italy during its review period, may not properly reflect the product mix expected to be exported to Australia by PMC in the future.

Yours sincerely

John Bracic

¹ Report 250 – Accelerated review for Prepared or Preserved Tomatoes from Italy – Calispa S.p.A.; page 12.