



Australian Government
Anti-Dumping Commission

**CONTINUATION INQUIRY
AND
REVIEW OF ANTI-DUMPING MEASURES**

**ANTI-DUMPING MEASURES IN RESPECT OF CURRANTS
EXPORTED FROM GREECE**

VISIT REPORT – IMPORTER

FRUTEX AUSTRALIA PTY LTD

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

July 2013

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ABBREVIATIONS

\$	Australian dollars
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Aeghion	Agricultural Co-Operative Union Aeghion
AUD	Australian dollars
Commission	Anti-Dumping Commission
Commissioner	Anti-Dumping Commissioner
Currants	Processed Dried Currants
EUR	Euro
FOB	Free On Board
P&L	Profit and Loss Statement
SEF	Statement of Essential Facts
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Minister	the Minister for Home Affairs

1 BACKGROUND AND PURPOSE

1.1 Background

The anti-dumping measures applying to processed dried currants (currants) exported to Australia from Greece were initially imposed by public notice on 14 January 2009 by the Minister for Home Affairs (the Minister) following consideration of Trade Measures Report No. 140.

On 13 May 2013 the Minister revised the level of measures relating to exports of currants from Greece by one exporter, Agricultural Co-Operative Union Aeghion (Aeghion), after consideration of International Trade Remedies Branch Report No. 192.

The anti-dumping measures in so far as they relate to exporters other than Aeghion have not been reviewed since their introduction in 2009.

The existing anti-dumping measures are due to expire on 14 January 2014.

On 11 July 2013, the Anti-Dumping Commission (the Commission), following receipt of an application made by Sunbeam Foods Pty Ltd (Sunbeam) representing the Australian industry, initiated a continuation inquiry into whether the continuation of measures for another 5 years is warranted.

On 25 July 2013, the Commission initiated a review after a request was made by the Minister to review the anti-dumping measures applying to currants exported to Australia from Greece. The review period is 1 July 2012 to 30 June 2013, and covers all exporters of the goods from Greece. The review will examine whether the variable factors relevant to the taking of the measures have changed.

If an affected party considers that it can provide evidence that may satisfy the Anti-Dumping Commissioner (the Commissioner) that there are reasonable grounds for determining that anti-dumping measures are no longer warranted, that party may lodge an application no later than 3 September 2013 to request that the Commissioner consider that evidence to extend the review of anti-dumping measures to include revocation. If the review of measures is extended to include revocation and, following the review, the Minister decides that measures should be revoked either in relation to a particular exporter or to exporters generally (or in relation to a particular kind of goods), the earliest date that the Minister can determine the revocation to apply from is 25 July 2013, being the date the review was initiated.

Frutex Australia Pty Ltd (Frutex) was identified in the application as an importer of currants. A search of the Australian Customs and Border Protection Service's import database confirmed that Frutex was an importer of currants from Greece during the review period. The Commission notified Frutex of the initiation of the continuation inquiry and review and was provided with an importer questionnaire to complete. Frutex provided a completed importer questionnaire and was cooperative with the verification visit.

1.2 Purpose of visit

The purpose of the visit was to:

- confirm that Frutex is the importer of currants and obtain information to assist in establishing the identity of the exporter(s) of these currants;
- verify information on imports of currants to assist in the determination of export prices;
- establish whether the purchases of currants were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers, and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for currants; and
- provide the company with an opportunity to discuss any issues it believed relevant to the continuation inquiry and review of measures.

As the review period overlaps with the duty assessment importation periods of 14 July 2012 to 13 January 2013 and 14 January 2013 to 13 July 2013, the verified information collected during this visit will also be used for the relevant duty assessment applications.

A copy of the agenda that was forwarded to Frutex prior to the meeting is at **Confidential Attachment 1**.

1.3 Meeting details

Company	Frutex Australia Pty Ltd
Date of visit	25 July 2013

The following were present at various stages of the meetings.

Frutex	Sandy Tsoutsas – General Manager Michael Ristevski – Shipping Officer
the Commission	An Chew – A/g Manager - Operations 2 Cathy Cole – Supervisor - Operations 1

1.4 Investigation process and timeframes

We advised the company of the inquiry and review process and timeframes as follows.

- The review period for ascertaining variable factors is 1 July 2012 to 30 June 2013.

- The Statement of Essential Facts (SEF) for the continuation inquiry is due to be placed on the public record by 29 October 2013 and for the review by 29 November 2013, or such later date as the Minister allows under s.269ZHI of the *Customs Act 1901* (the Act). However, the Commission is aiming to publish the SEF in relation to the review at the same time as the SEF for the continuation inquiry.

The SEFs will set out the material findings of fact on which the Commission intends to base its recommendations to the Minister, and will invite interested parties to respond, within 20 days, to the issues raised therein.

- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Minister.

This final report for the continuation inquiry is due no later than 13 December 2013 and for the review by 27 December 2013, unless an extension to the SEF is approved by the Minister. However, as with the SEF, the Commission intends to report to the Minister in relation to the review at the same time as the continuation inquiry.

1.5 Visit report

We explained to the company that we would prepare a report of our visit and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We explained that, in consultation with the company, we would prepare a non-confidential version of the report, and place this on the Public Record.

2 THE GOODS

2.1 Description

The goods the subject of the application (the goods) 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 measures.

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

2.2 Tariff classification

The goods are classified to the following tariff subheading 0806.20.00, statistical code 29 in Schedule 3 to the *Customs Tariff Act 1995*.

3 COMPANY DETAILS

3.1 Commercial Operations

Frutex has been visited several times in the past. We confirmed with Frutex that the following information recorded in previous visits remained correct:

- Frutex is a privately owned company, established in 1968, with an initial focus on supplying egg products to the baking industry. Frutex explained that it has since diversified to become a large-scale importer/exporter/supplier/manufacture of food ingredients, supplying a broad spectrum of ingredients to major industrial food manufacturers. All sales are wholesale based.
- Frutex has warehousing, distribution and manufacturing facilities located in Kingsgrove, Sydney.
- Frutex advised that it added value to many of its products prior to resale, such as cleaning, inspecting and combining ingredients into dried fruit mixes [REDACTED]
- Frutex stated that it supplied predominantly imported Greek currants to the food industry, and that it occasionally supplies domestically-produced currants to its customers.
- Frutex stated that it sold currants to a variety of customers, including smaller bakers and large retail bakery franchises. These sales included currants with or without blends of other dried fruits (fruit mixes).
- Some of Frutex's imported currants from Greece were sold in the same form in which they were imported, while the bulk were reprocessed, blended with other fruits and then repackaged for sale. Frutex stated that the business does not repackage currants on their own – currants are either sold in 12.5kg boxes (as imported) or blended with other fruit.

3.2 Accounting structure and details of accounting systems

Frutex's financial year is from July to June and it uses [REDACTED] software for its accounting functions. Frutex advised that its accounts are not audited. Frutex explained that as it is set up as a trading discretionary trust, there is no requirement to have the accounts audited. Frutex stated that its financial statements and tax returns are prepared by the accounting firm Watson Erskine Pty Ltd.

3.3 Relationship with suppliers and customers

Frutex advised that it has an exclusive relationship with its supplier, Aeghion, for the supply of Greek currants to the Australian market. Frutex also stated that its relationship with the supplier is arm's length.

With regard to its customers, Frutex noted that they vary from year to year and that all relationships are arm's length.

4 IMPORTS

4.1 Volume of trade

Frutex imported four shipments of currants from Aeghion in Greece during the review period 1 July 2012 to 30 June 2013.

The imported goods were packed in 12.5kg cartons and shipped in 20 foot containers. The following table provides a summary of the imported goods during the review period:

Customs entry number	Exporter inv. no.	Import date	Kilograms	FOB Value (AUD)
██████	██	██████	██████	██████
██████	██	██████	██████	██████
██████	██	██████	██████	██████
██████	██	██████	██████	██████

4.2 Ordering process and price

Frutex provided us with an outline of its ordering process for the importation of currants as follows:

- In September, a quote is sought from Aeghion for a forecast quantity of currants for the following 12 months;
- a contract is signed setting out the price and volumes required for the following 12 months;
- the price is set in Euros (EUR) per kilogram for those volumes;
- the terms of the invoices are free on board (FOB);
- payment terms are cash at sight of shipping documents (CAD);
- payment is by bank transfer in Euros; and
- Frutex arranges all the shipping and import logistics.

4.3 Forward orders

Prior to the visit, Frutex advised that it is expecting a shipment of █████ kg of currants at a unit price of EUR █████ per kg to arrive in September 2013.

4.4 Verification of imports

Prior to the visit, Frutex provided a detailed import route spreadsheet listing the costs to import and sell for each of the shipments (**Confidential Attachment 2**). We compared the import schedule with a report from the Australian Customs and Border Protection Service's import database of all exports of currants and found no discrepancies.

Prior to the initiation of the continuation inquiry and review, Frutex had already provided us with source documentation for the first two shipments as part of its duty assessment application (duty assessment 6). During the visit, Frutex provided the source documents for the other two shipments.

The source documents for each shipment are at **Confidential Attachment 3** and include the following documents:

- commercial invoice;
- brokers invoice, which includes port charges;
- Ocean freight invoice;
- N10 customs entry declarations;
- bill of lading; and
- payment details report from its bank showing proof of payment to Aeghion.

Frutex also provided us with inland delivery invoices for the four shipments from the wharf to its warehouse in a separate bundle during the visit (**confidential attachment 4**).

We were able to match the details in the import route spreadsheet to the source documents and therefore are satisfied with the accuracy of the import route spreadsheet.

4.4.1 Currency conversion

Frutex advised on the previous visit that it operates foreign currency bank accounts in EUR and US dollars (USD) and that generally these accounts are topped up on a regular basis.

Similar to the previous visit, Frutex provided a spreadsheet showing all of its deposits into its EUR and USD accounts with the applicable exchange rate over the 2012/13 financial year (**Confidential Attachment 5**). However, as one of the importation occurred in July 2012 and Frutex did not make any EUR conversions in that month, we asked for, and it provided, its foreign exchange spreadsheet for the January – June 2012 period.

We then sought to verify the accuracy of this foreign exchange spreadsheet and selected a number of transactions for further verification. For the selected transactions, Frutex provided copies of the bank payment details report showing the amounts and currency conversion rates and was able to match these rates to the spreadsheet (**Confidential Attachment 5**).

In the import route spreadsheet, and consistent with the previous visit, Frutex used the exchange rate of the most recent preceding deposit into its foreign currency accounts to convert the EUR currants price to Australian Dollars (AUD) and the USD ocean freight cost to AUD. We consider this approach appropriate.

4.5 Selling, general and administrative (SG&A) costs

Prior to the visit Frutex calculated the selling, general and administration (SG&A) expenses based on its profit and loss statement (P&L) for the 2012/13 financial year (**Confidential Attachment 6**).

Frutex calculated the SG&A allocation as a percentage of revenue based on the expenses amount shown the P&L, noting the following adjustments:

- Deduction for overseas freight. Frutex's P&L included an item under expenses for overseas freight. As the import route spreadsheet already contains an item for ocean freight, we considered it appropriate to deduct this amount from the SG&A.
- Deduction for warehouse rental. Frutex advised that it rents a warehouse in its bottom yard which is primarily used to store high quantity stock such as sultanas and raisins. It stated that it have never been used, nor will it ever use it, to store

currants. Frutex explained that currants have a fast turn around and are always stored and processed in the main warehouse. Prior to the visit, Frutex provided us with a copy of its rental lease agreement (**Confidential Attachment 7**), and at the visit, Frutex provided copies of the invoices covering the review period (**Confidential Attachment 8**). We considered it reasonable to deduct this amount from the SG&A.

- Addition for general quarantine expenses. As quarantine costs were included in the cost of goods sold in the P&L (rather than an expense item), we consider it appropriate to add any quarantine expenses that were general in nature and not associated with a particular importation (**Confidential Attachment 9**). We note that this is the same approach taken in the previous visit.

The SG&A expense calculation is at **Confidential Appendix 1**.

4.6 Summary

Our calculation of export prices for each of the four shipments is summarised in the table below.

Customs entry number	Invoice date	FOB EUR	FOB AUD
██████	██████	██	██
██████	██████	██	██
██████	██████	██	██
██████	██████	██	██
Weighted Average		██	██

The average post FOB expenses in Australian Dollars (AUD) for the selected shipments are summarised in the table below:

Ocean freight	██████
Importation charges (including duty)	██████
SG&A expenses	██████

5 WHO IS THE IMPORTER AND EXPORTER

5.1 Who is the importer?

We reviewed the documents provided in respect of the selected shipments. We note that Frutex:

- Is named as the customer on supplier invoices;
- Is named as the consignee on the bill of lading;
- Declares itself as the owner of the goods in the import declaration; and
- Pays the importation costs associated with the entry.

We consider Frutex to be the beneficial owner of the goods at the time of importation, and therefore the importer.

5.2 Who is the exporter?

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

Subject to further inquiries, we are satisfied that Aeghion can be considered the exporter of the currants imported by Frutex. To our knowledge, this entity is a principle in the country of export that manufactures the goods and gave up the goods for shipment directly to Frutex.

6 AUSTRALIAN MARKET

6.1 General

Frutex confirmed that the imported currants from Greece are either on-sold in the same condition as imported in 12.5kg boxes, or sold as part of a fruit blend specified by its customers. The company advised that the majority of its customers are in the food manufacture industry, such as bakers and cereal manufacturers.

For 2013, Frutex estimated the Australian market for currants at about 3,000 tonnes with the Australian crop size being about 1,800 tonnes. It compared that to 10 years ago when the Australian market for currants was 5,000 to 8,000 tonnes. Frutex explained that since the imposition of anti-dumping measures in 2008, the price of currants has increased significantly and end-users are turning to other substitutes. It used an example of hot cross buns. In the past, the main ingredient was currants, however a number of its customers have now substituted currants for other ingredients, such as raisins, which are cheaper than currants, and other flavours like choc chips.

Frutex stated that it supported the Australian currant industry and would source currants locally if the Australian industry had quality produce at reasonable prices.

6.2 Distribution and Selling

Frutex advised that its sales of currants are delivered free-into-store. The company informed us that delivery Australia-wide is included in the selling price and that the same price is quoted to all customers regardless of delivery location.

Frutex stated that it generally provides 45 days credit from invoice date to its customers, however, due to economic conditions some of its customers have been taking longer than 45 days to make payment.

6.3 Sales

6.3.1 Ordering and sales process

Frutex stated that the price negotiating process differs from customer to customer. The company explained that some customers negotiate a set price and supply volume every 12 months, while others prefer to renegotiate price and volume monthly. It also explained that some customers conduct tenders to source currants.

Frutex stated that to ensure quality of the product, the imported Greek currants are first transported to its premises for testing before being delivered to its customers. It informed us that it has nine full time employees dedicated to quality control and testing to ensure that all goods imported and sold by Frutex meet the required quality and quarantine standards.

6.3.2 Rebates and discounts

Frutex advised that it does not provide rebates to its customers except to [REDACTED]. Frutex provided us with an example of a [REDACTED] tender document (**Confidential Attachment 10**) that shows a rebate of [REDACTED] %.

Therefore, we deducted █% from the selling prices for all sales to █ from the sales spreadsheet.

6.3.3 Date of sale

Frutex advised that the date of sale is the date the order is shipped to the customer. This date is also the date of the commercial invoice.

6.3.4 Sales verification

Prior to the visit, Frutex provided a detailed sales listing of currants that were on-sold in the same condition as they were imported during the review period (**Confidential Attachment 11**) and we selected five transactions for further verification down to source documents. At the visit Frutex provided us with source documents for the selected transactions (**Confidential Attachment 12**), including the commercial invoice, delivery documents and payment details, and we were able to match the details in the sales spreadsheet to the source documents.

We then selected one transaction for proof of payment and Frutex provided a bank statement showing the amount being credited to its account (**Confidential Attachment 13**).

Having reconciled selected sales transactions down to source documents, we were satisfied with the accuracy of the detailed sales spreadsheet.

6.3.5 Reconciliation up to financial statements

We sought to reconcile the detailed sales spreadsheets up to financial statements to verify its completeness and relevance. Frutex provided us with a spreadsheet listing all of its sales for July 2012 to June 2013 (**Confidential Attachment 14**) with the Greek Currants subset matching the detailed sales spreadsheets. It was then able to demonstrate how the total sales value reconciled the total sales income on its 2012/13 P&L (**Confidential Attachments 6**).

As Frutex is not required to produce audited statements, we explained that we are required to gain a reasonable level of confidence in the accuracy of the profit and loss statement and asked Frutex to show how its profit and loss statement reconciled to its tax return. Frutex explained that at the time of the meeting, it had yet to lodge its 2012/13 tax return. Alternatively, Frutex demonstrated how its 2011/12 P&L (**Confidential Attachment 15**) reconciled to its 2011/12 tax return (**Confidential Attachment 16**), and therefore enabling us to gain a reasonable level of confidence in its financial statement reporting process.

Having reconciled the total sales value up to financial statements, we were satisfied with the completeness and relevance of the detailed sales spreadsheet.

6.3.6 Profitability of sales

To assess the profit and profitability of Frutex's importations for the review period, we compared the fully absorbed cost to import and sell currants with the weighted average selling price of currants in either the same month or the following month (if the shipment arrived at the end of the month).

When we compared the fully absorbed cost to import and sell (including interim dumping duties) the 4 shipments of Greek currants with the weighted average selling prices, we found none of the shipments to be profitable. The total weighted average profitability for the review period is ■■■%.

We note that excluding the interim dumping duties, two of the shipments would have made a profit, with the weighted average profitability of ■■■%. We also note that Frutex had applied for duty assessments for every duty assessment period since the imposition of anti-dumping measures in 2009 and in the last completed duty assessment, Frutex received a full refund.

Our calculations of profitability and import costs for the selected shipments are at **Confidential Appendix 2.**

7 ARMS LENGTH

In determining export prices under section 269TAB(1)(a) of the Act, it requires that the relevant sales are arm's length transactions.

Section 269TAA of the Act outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Frutex stated that there is no relationship between it and the exporter other than that of buyer and seller. Frutex stated that it does not receive any rebates, financial assistance or other support from the exporter.

Notwithstanding the weighted average losses for the 4 shipments during the review period, we note sales of Greek currants represent █% of the company's total sales, that currants are also sold in a fruit blend and that the 2012/13 P&L (Confidential Attachment 6) shows that Frutex is operating profitably overall.

Given the overall profitability of Frutex's business, this does not lead us to deem that section 269TAA(2) of the Act should apply and we consider that the losses should not be treated as an indication that the Frutex will be reimbursed, be compensated or otherwise receive a benefit from its supplier for the purpose of determining whether the export sales are arm's length transactions.

We reviewed the documentation for the selected shipments and did not find any evidence that:

- there is any consideration payable other than price;
- the price is influenced by a commercial or other relationship between Frutex and Aeghion; or that
- the buyer, or an associate of the buyer, will, subsequent to the purchase or sale, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We confirmed during our verification that the price invoiced by the exporter was the price paid by Frutex.

We are satisfied that import transactions between Frutex and its supplier are at arm's length in terms of section 269TAA of the Act.

8 GENERAL COMMENTS

Frutex stated that over the last 5 years, the prices of currants have increased significantly both internationally and in Australia, which has resulted in a noticeable reduction in the market for currants in Australia as food manufactures substitute away from currants (as discussed in section 6.1 above).

Frutex stated that the removal of anti-dumping measures applying to currants would have little impact on the Australian industry. It claimed that the 2012 and 2013 crops in Australia were impacted by heavy rain causing Australian currants to have high moisture content of around 21% compared with the Greek currants of around 14%. It advised that its customers require currants with low moisture content as currants with high moisture content are unsuitable for production of baked goods.

Frutex explained that there are differences between the imported and locally produced currants, and even currants imported from different countries. Frutex informed us that according to its customers, Greek currants were preferable to Australian currants for use in commercial baking due to both the quality and quantity available of Greek currants compared to Australian currants. Frutex explained that the Greek currants had lower moisture content and a more consistent colour and size than Australian currants.

Frutex stated that the moisture content of the currants is relevant because this affects not only the weight of the currants (and therefore the overall price) but the tendency of the fruit to split and break during the bread making process; juice from broken currants can seep out into the dough mixture, turning it grey, which is considered undesirable by commercial bakers. A higher quantity of sticks, stems and other foreign matter was also found in batches of Australian currants, which Frutex informed us required them to perform additional washing and inspection compared to the Greek currants.

Frutex also stated that regardless of the quality, the quantity of Australian currants available for purchase was significantly lower than the total quantity of currants sold by the company each year, meaning that it was not possible to fulfil all customer orders using solely Australian fruit.

With regard to the application for a duty assessment Frutex provided assistance in translating invoices for sales currants on the domestic market as well as details of Greek distribution costs (**Confidential attachment 17**).

9 RECOMMENDATIONS

From our analysis, we are of the opinion that, for the goods imported by Frutex from Aeghion:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arm's length transactions.

Subject to further inquiries with the exporter, we recommend that the export price for currants imported by Frutex from Aeghion can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the FOB level as required.

10 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Calculation SG&A costs
Confidential Appendix 2	Sales route spreadsheet and profitability
Confidential Attachment 1	Visit Agenda
Confidential Attachment 2	Cost to import and sell (Importer Questionnaire)
Confidential Attachment 3	Import documents
Confidential Attachment 4	Inland delivery invoices
Confidential Attachment 5	Exchange rates 2012/2013
Confidential Attachment 6	Income Statement 2012/2013
Confidential Attachment 7	Lease agreement
Confidential Attachment 8	Lease invoices
Confidential Attachment 9	Quarantine expense report
Confidential Attachment 10	Baker's Delight rebates
Confidential Attachment 11	Australian sales listing - Greek Currants
Confidential Attachment 12	Australian sales supporting documents
Confidential Attachment 13	Proof of payment of selected sales invoice
Confidential Attachment 14	Listing of all sales for 2012/13
Confidential Attachment 15	2011/12 profit and loss statement
Confidential Attachment 16	2011/12 tax return and reconciliation
Confidential Attachment 17	Greek distribution costs