



## **INVESTIGATION 217**

### **ALLEGED DUMPING OF PREPARED OR PRESERVED TOMATOES**

#### **EXPORTED FROM ITALY**

## **SAMPLING REPORT**

**8 August 2013**

**Prepared or preserved tomatoes – Sampling Report Aug 2013**

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## 1 Background

On 10 July 2013 the Anti-Dumping Commission (the Commission) initiated an investigation into the alleged dumping of prepared or preserved tomatoes exported to Australia from Italy.

Pursuant to s.269TACAA of the *Customs Act 1901* (the Act), this report outlines the Commission's consideration and assessment of the need to limit the examination of exportations to selected exporters.

## 2 Invitation to cooperate

Prior to initiation, a preliminary search of the Commission's commercial database identified approximately 106 suppliers as possible exporters of prepared or preserved tomatoes exporting to Australia from Italy during the period 1 July 2012 to 30 June 2013.

On or shortly after the date of initiation, the Commission contacted each identified supplier of the goods and invited them to complete an exporter questionnaire which requested necessary information to determine whether goods were exported at dumped prices. The questionnaire was broken up into two distinct parts. Part 1 of the exporter questionnaire sought preliminary information about the company and the goods exported to Australia and was requested to be completed and returned by 26 July 2013.

Part 2 of the exporter questionnaire requested detailed information in respect of the company's export and domestic sales, relevant costing information and payments relevant to the assessment of whether a market situation exists. This part of the questionnaire is due to be provided by 19 August 2013.

In total, the Commission considers that 106 possible exporters of prepared or preserved tomatoes from Italy were identified.

## 3 Responses

After notifying suppliers of the opportunity to cooperate with the investigation, the Commission received responses to Part 1 of the questionnaire from 15 exporters. This includes 8 exporters that represent approximately 68% of the total export volume of the goods during the investigation period.

## 4 Sampling

Australia's legislation (s.269TACB) and the Anti Dumping Agreement (Art 6.10) sets out a basic rule that an individual margin of dumping will be determined for each exporter involved in an investigation. The Commission has met this requirement by inviting every exporter to take part in the investigation by completing the exporter questionnaire.

An exception to determining an individual dumping margin for each exporter arises when there is a large number of them – as provided for in s.269TACAA of the Act. It states that where the number of exporters from a particular country of export in relation to the

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investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters:

- (c) who constitute a statistically valid sample of those exporters; or
- (d) who are responsible for the largest volume of exports to Australia that can reasonably be examined.

In considering whether this investigation should be limited to a smaller number of exporters, the Commission has taken into account:

- the large number of suppliers/exporters from Italy;
- the large number of exporters likely to submit completed questionnaires, and
- the current and foreseeable investigative workload of the Commission in other investigations and the resources available to examine exporters of tomatoes.

As a result, the Commission considers that it is appropriate to limit the number of exporters to a sample of exporters to ensure the investigation is manageable and completed within a reasonable timeframe.

In identifying the sample of exporters to be investigated, the Commission has taken into account:

- the number of exporters that the Commission can practically investigate/verify;
- the number of exporters that would sufficiently cover the various brands and types of exports to the four major Australian retail customers, and
- the individual volume of each identified exporter and the cumulative volume of a manageable number of the largest volume exporters.

Having regard to relevant import data and preliminary information submitted by importers and exporters, the Commission has decided to investigate the exportations of seven selected exporters of prepared or preserved tomatoes from Italy. These selected exporters are the largest exporters of the goods to Australia during the investigation period and represent approximately 70% of the total import volume of prepared or preserved tomatoes from Italy.

The selected exporters are:

<b>SELECTED EXPORTERS</b>
Conserve Italia Soc. Coop Agricola
COREX S.p.A.
De Clemente Conserve S.p.A.
Feger di Gerardo Ferraioli S.p.A.
I.M.C.A. S.p.A.
La Doria S.p.A.
Lodato Gennaro & C. S.p.A.

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As a consequence of limiting the examination of exportations to the selected exporters listed above, all remaining exporters will fall within the definitions of residual exporters or uncooperative exporters. However, where a residual exporter provides a completed response to the exporter questionnaire, the Commission must examine that exporter's exportations and as a result determine an individual dumping margin for them, unless to do so would prevent the timely completion of the investigation.

A residual exporter is an exporter whose exportations were not examined as part of the investigation and the exporter was not an uncooperative exporter. An uncooperative exporter is defined as an exporter that did not provide information considered to be relevant to the investigation, or an exporter that significantly impeded the investigation.

At the time of publishing this report, the Commission considers that exporters that completed and provided Part 1 of the exporter questionnaire have complied with the request for information and are therefore not considered to be uncooperative exporters. The residual exporters are:

<b>RESIDUAL EXPORTERS</b>
Agritalia SRL
Attianese S.p.A.
F. Divella SRL
Fiamma Vesuviana SRL
Greci Industria Alimentare S.p.A.
Menu' SRL
Mutti S.p.A.
Nolana Conserve SRL
Princes Industrie Alimentari SRL
Probios SRL

The Commission is continuing to examine whether some of the identified residual exporters meet the definition of an exporter or are simply trading/distributing intermediaries.

Exporters that have not submitted a response to Part 1 as at the day of this report's publication, have until 19 August 2013 to submit a completed exporter questionnaire. In so doing, those exporters will also be considered a 'residual exporter'. The Commission intends publishing a revised sampling report soon after the due date for exporter questionnaires (19 August 2013) to identify all residual exporters.

All exporters not identified as a selected exporter or residual exporter in the revised sampling report will be considered to be uncooperative exporters.

## 5 Determination of dumping margins

For each selected exporter, the Commission will determine individual export prices, normal values and dumping margins using relevant information supplied in the exporter

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questionnaire. Where a selected exporter refuses to provide requested information required by the exporter questionnaire, the Commission will determine individual export prices, normal values and dumping margins using all relevant information.

For residual exporters, export prices and normal values will be calculated using the weighted average of export prices and normal values for like goods of cooperative exporters from Italy. In calculating the weighted average export price and normal value, the Commission will not include any export price or normal value from a cooperative exporter that was found to not be dumping or where the dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2%.

If information is submitted by a residual exporter that was not initially selected, the investigation must extend to that exporter unless to so extend it would prevent its timely completion. Therefore any identified residual exporter that seeks to have its own dumping margin determined, must complete the exporter questionnaire and submit it by 19 August 2013, or such later date as extended.

However the Commission advises that by submitting a completed exporter questionnaire by the due date, residual exporters are not guaranteed an individual dumping duty rate as the volume of exporters that have submitted a completed exporter questionnaire may be so large that it is not practical to do so.

For uncooperative exporters, the Commission will establish export prices and normal values under s.269TAB(3) and s.269TAC(6) respectively, having regard to all relevant information.

## **6 What should exporters do now**

### Selected exporters

For the seven identified selected exporters, the Commission intends determining individual dumping margins for them. Therefore each of these exporters must complete and provide a response to the remaining sections of the exporter questionnaire (Part 2) by the due date of 19 August 2013 or such later date as agreed and extended by the Commission with individual exporters.

Where a selected exporter fully cooperates with the investigation (includes providing a completed response to Part 2 of the questionnaire and making themselves available to allow the Commission to verify the information submitted), the Commission will determine export prices, normal values and dumping margins having regard to the exporter's information. Where a selected exporter does not fully cooperate with the investigation, the Commission will determine export prices, normal values and dumping margins having regard to all relevant information.

### Residual exporters

The identified residual exporters are under no obligation to complete and provide information to the remaining Part 2 of the exporter questionnaire. However these exporters have the option of:

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- a) continuing to fully cooperating with the investigation (includes providing a completed response to Part 2 of the questionnaire and making themselves available to allow the Commission to verify the information submitted), or
- b) opt not to complete the remaining Part 2 of the exporter questionnaire.

Where an identified residual exporter chooses to complete information requested in the remaining Part 2 of the exporter questionnaire, that information must be provided by the due date of 19 August 2013 or such later date as agreed and extended by the Commission with individual exporters. For identified residual exporters that choose this option, the Commission must examine their exportations unless to do so would prevent the timely completion of the investigation.

The extent to which the Commission will be able to extend the investigation to these residual exporters will be determined by:

- the level of cooperation from the seven selected exporters,
- the number of residual exporters seeking an individual dumping margin determination, and
- the available resources within the Commission to undertake either on-site or remote verification.

For identified residual exporters that opt not to complete the remaining Part of the exporter questionnaire, the Commission must not calculate:

- export prices that are less than the weighted average of export prices for cooperative exporters, excluding those export prices from cooperative exporters whose dumping margins were less than 2%, and
- normal values that exceed the weighted average of normal values for cooperative exporters, excluding those normal values from cooperative exporters whose dumping margins were less than 2%.

### Uncooperative exporters

All exporters of prepared or preserved tomatoes from Italy that are not identified as either a selected or residual exporter at the time of the report, are considered to have not cooperated with the investigation. The exception to this is where an exporter provides a completed response to the full exporter questionnaire (Parts 1 and 2) by the due date of 19 August 2013. The Commission will consider these parties to meet the definition of a residual exporter. As a result their information will be considered in the same manner as an identified residual exporter that seeks to have its individual dumping margin determined.

Exporters that have not as yet provided a response to Part 1 of the exporter questionnaire should note that the Commission does not intend granting any requests for extension beyond the original due date of 19 August 2013. Therefore to be considered a residual exporter, a completed response to Parts 1 and 2 must be provided by 19 August 2013.

An exporter not identified as a selected or residual exporter will be considered an uncooperative exporter. Given that these exporters have not provided sufficient

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information as requested, the Commission will determine export prices, normal values and dumping margins having regard to all relevant information.

The Commission will publish a revised sampling report soon after 19 August 2013 and finalise its list of exporters that are considered to meet the definition of selected or residual exporters.

## **7 Anti-Dumping Commission Contact**

Enquiries about this report or any aspect of the investigation may be directed to the case team at the following email - [operations1@adcommission.gov.au](mailto:operations1@adcommission.gov.au).