

PUBLIC RECORD VERSION



Australian Government
Anti-Dumping Commission

INVESTIGATION 217

**ALLEGED DUMPING OF PREPARED OR PRESERVED
TOMATOES**

EXPORTED FROM ITALY

VISIT REPORT - EXPORTER

FEGER DI GERARDO FERRAIOLI SPA

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|---|
| <p>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</p> |
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October 2013

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ABBREVIATIONS

| | |
|---------------|---|
| \$ | Australian dollars |
| ACBPS | Australian Customs and Border Protection Service |
| The Act | <i>Customs Act 1901</i> |
| ADN | Anti-Dumping Notice |
| The applicant | SPC Ardmona Operations Limited |
| Commission | Anti-Dumping Commission |
| CTM | Cost to make |
| CTMS | Cost to make & sell |
| CTS | Cost to sell |
| FOB | Free On Board |
| GAAP | Generally accepted accounting principles |
| NIP | Non-injurious Price |
| PAD | Preliminary Affirmative Determination |
| 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 Industry |
| USP | Unsuppressed Selling Price |

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1 BACKGROUND AND PURPOSE

1.1 Previous investigations

In April 1992, the then Minister for Customs accepted the recommendations of the Anti-Dumping Authority (ADA) in its report (No. 68 of April 1992) and imposed countervailing duties on canned tomatoes from Italy, Spain and Thailand and dumping duties on the same goods from Italy and China.

Following a Federal Court challenge by an Italian exporter, the countervailing and dumping duties on canned tomatoes from Italy were removed in June 1993. Pursuant to a subsequent appeal to the Full Bench of that Court by the ADA, the Minister reinstated the duties. In February 1994, as a result of the Court decision, importers were advised that dumping and countervailing duties would be payable on future imports but that the amount of duty was to be reassessed. This was addressed in ADA report No. 124 of May 1994.

In 1997 the ADA (Report No. 169) concluded a continuation inquiry whereby countervailing and dumping duties on canned tomatoes from Italy were continued for a further five years.

In 2001, an application to continue the countervailing duty measures was submitted with the Trade Measures Branch of the Australian Customs and Border Protection Service (ACBPS) concluding that the measures should continue for a further five years (Trade Measures Report No. 52 refers). The Minister took steps to continue those measures for a further five years. The measures lapsed on 27 April 2007.

1.2 Current measures

There are currently no anti-dumping or countervailing measures on the goods exported to Australia.

1.3 Current investigation

On 17 June 2013, an application was lodged by SPC Ardmona Operations Limited (SPCA) requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of prepared or preserved tomatoes exported to Australia from Italy.

SPCA alleges the Australian industry has suffered material injury caused by prepared or preserved tomatoes exported to Australia from Italy at dumped prices. The applicant claims that the industry has been injured through:

- loss of sales volume;
- reduced market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;

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- reduced cash flow
- reduced attractiveness for reinvestment in the tomato processing business.

1.4 Purpose of meeting

The purpose of the visit was to verify information submitted in the exporter questionnaire response. Information verified during the visit has been used to make preliminary assessments regarding:

- like goods;
- who is the exporter and who is the importer;
- export prices;
- normal values; and
- dumping margins.

1.5 Meeting details

| | |
|--|---|
| Company | Feger di Gerardo Ferraioli SPA (Feger) |
| Dates of visit | 21 to 25 October 2013 |
| <i>The following were present at various stages of the meetings:</i> | |
| Feger | Maurizio Ferraioli, Managing Director Gioacchino Spuillante, Administration Dino Ragonese, Administration Olga Strisciuglio, Customer Service Domenico Rescigno, Quality Assurance Silvia Cuomo, Interpreter Michele Grimaldi, Consultant |
| Consultants | Gabriele Coppo, Van Bael & Bellis Alistair Bridges, Moulis Legal |
| Anti-Dumping Commission | John Bracic, Director, Operations 1 Pamela Garabed, Supervisor, Operations 1 |

1.6 Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- The investigation period is 1 July 2012 to 30 June 2013.
- The injury analysis period is from 1 January 2009 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (8 September 2013) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

The Commission will not make a PAD until (and if) it becomes satisfied that there

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appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice.

- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 16 December 2013, after the Minister for Industry (the Minister) extended the deadline for publication pursuant under s.269ZHI of the *Customs Act 1901* (the Act).

The SEF 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 is due no later than 30 January 2014, unless a further extension to the SEF is approved by the Minister.

1.7 Visit report

We advised Feger that we would prepare a confidential report on the visit, a copy of which would be provided to them to provide them opportunity to review the report for accuracy.

Feger was also advised that a non-confidential version of this visit report would be prepared in consultation with the company and placed on the public record.

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2 COMPANY INFORMATION

2.1 Company background

Feger is a privately owned manufacturer and distributor of canned food products. The majority shareholder is Gerardo Ferraioli, with a shareholding interest of **[CONFIDENTIAL TEXT DELETED – shareholder information]**%. He has maintained **[CONFIDENTIAL TEXT DELETED – shareholder information]** founding Feger in 1962.

In its exporter questionnaire response (EQR) Feger provided a diagram outlining its company structure. This forms **confidential attachment GEN 1**. Feger has the following divisions:

- Quality assurance;
- Production, Maintenance and Logistics;
- Export sales;
- Domestic Sales; and
- Administration.

Feger produces the goods under consideration at its sole production facility in Angri, Italy. Feger's head office is also located at the site of its production facility.

In addition to the production of canned tomato products, Feger also manufactures and sells a range of other products, such as canned and dried beans, soups and pasta sauces. Feger utilises different lines within the production facility to manufacture these goods.

2.1.1 Relationship with suppliers and customers

All fresh tomato used in production is sourced by Feger from the open market. Feger also sources tin plate and manufacturing of cans and labels from unrelated suppliers.

Feger outlined that it did not sell to related parties. Feger sells directly to its export customers and where applicable the buying agents of its export customers.

On the domestic market, Feger sells directly or through an agent or broker. An agent is engaged by Feger to source and negotiate with potential domestic customers and is reimbursed by way of commission. A broker will approach Feger on behalf of customers and is also reimbursed by commissions.

The Commission is satisfied that Feger does not buy from or sell to related parties.

2.2 Accounting

Feger's accounting period is 1 January to 31 December. Its financial records are held at its head office in Angri. Feger's accounting methods are described at section A-4 to its submission.

Feger provided the Commission with copies of its financial statements for the previous completed accounting periods (FY 11 and 12) as an attachment to the EQR. These were provided in original form, presented in Italian.

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For the purpose of verifying the income statements provided as an appendix to the EQR and the completeness of Feger's costs and sales data, we requested and Feger provided a translated list of its chart of accounts during the visit. This also highlighted which accounts were used for the preparation of specific information in the income statement. This forms **confidential attachment GEN 2**.

At the visit we also worked with Feger to translate its financial statements for the purpose of upwards verification.

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| 3 | GOODS UNDER CONSIDERATION AND LIKE GOODS |
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3.1 The goods

The goods the subject of the application (the goods) are:

Tomatoes, whether peeled or unpeeled, prepared or preserved otherwise than by vinegar or acetic acid, either whole or in pieces (including diced, chopped or crushed) with or without other ingredients (including vegetables, herbs or spices) in packs not exceeding 1.14 litres in volume.

Tomato pastes, purees, sauces, pasta sauces, juices and semi-dried or sun-dried tomatoes are excluded from the investigation.

3.1.1 Tariff classification

The goods are classified to the following tariff subheading 2002.10.00 to Schedule 3 of the *Customs Tariff Act 1995* with statistical code 60. The general rate of duty is currently 5 per cent for goods imported from Italy.

3.2 Product range and production process**3.2.1 Product range**

Feger produces a number of prepared or preserved tomato products, including:

- whole peeled tomatoes: manufactured using “long tomatoes” in a standard or organic variety with or without variants such as salt or herbs;
- chopped tomatoes: manufactured using “round tomatoes” in a standard or organic variety, with or without variants such as salt or herbs;
- cherry tomatoes in a standard or organic variety with or without variants such as salt or herbs;
- San Marzano tomatoes, which is a type of tomato only grown in Italy in a standard or organic variety and is manufactured with or without variants such as salt or herbs; and
- passata products.

Feger produces this range of products in a range of sizes from 300g to 3kg cans and glass jars. All sizes are available in cans, with limited products also available in glass jars. Most products have a drained weight of 60%, though Feger does produce some products with a drained weight of 70% which are sold predominately on the domestic market.

Feger identifies products using a product code **[CONFIDENTIAL TEXT DELETED – product code details]**. Feger outlined the composition of its product codes in the confidential version of the EQR. Below is an updated description of the composition of the product code that incorporates further information provided at the visit.

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| Code position | Field description | Explanation |
|--|-------------------|-------------|
| [CONFIDENTIAL TEXT DELETED – product code details] | | |

The domestic sales and Australian sales listings provided by Feger in the EQR identified the product code relevant to the transaction.

3.2.2 Production process

During verification we conducted an inspection of Feger's production facilities in Angri. Feger advised that production occurs in September each year and outlined the process as follows:

- Feger purchases tin plate sheets, lacquer and easy open lids and provides this to a can manufacturer. The manufacturer lacquers the tin sheets and cuts and moulds the can body and base. The easy open lid is attached to the can body at this stage. The can body is returned separately to the can base to Feger for use in production.
- Raw tomatoes arrive by truck to the production facility and are weighed. A sample is taken from selected containers within the truck for quality assessment. The sample is assessed for the existence of foreign objects (such as stones and leaves) and impurities such as green or overripe fruit and fruit that are blemished or sunburnt. If the sample shows defects **[CONFIDENTIAL TEXT DELETED – details of quality control]** the truck is rejected.
- Once the raw tomatoes pass the quality assessment, a certificate of entrance is issued by Feger outlining the weight and price paid.
- The tomatoes are sent immediately for production. Feger operates **[CONFIDENTIAL TEXT DELETED – details of factory lines and layout]**.
- The tomatoes go through a manual washing and pre-sorting phase. This removes large foreign objects such as branches and leaves and dirt from the tomatoes.
- The washed tomatoes are then sorted using an automated process to remove remaining foreign bodies and poor quality tomatoes. **[CONFIDENTIAL TEXT DELETED – details of quality control]**.
- The skin is removed from the sorted tomatoes through a process of steaming. The tomatoes are then put through a vacuum to remove the skin. Juice created through this process is sent to the juicing line.
- On the chopping line, the tomatoes are chopped and go through a second round of electronic sorting **[CONFIDENTIAL TEXT DELETED – details of quality control]**. Whole tomatoes are directed straight to sorting once the skin has been removed.
- The remaining fruit is then passed through a metal detector and visually verified to ensure **[CONFIDENTIAL TEXT DELETED – details of quality control]**. The visual verification at this stage is undertaken by employees.

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- This fruit is then put into the container (can or jar) and juice added. The container is sealed, pasteurized and cooled.
- **[CONFIDENTIAL TEXT DELETED – details of quality control]**. All tomatoes are initially washed then shredded before being put in an evaporator. Feger must monitor and adjust the pH of the juice to ensure compliance with health regulations. This is also where Feger monitor the brix of the juice, which determines the quality of the product. **[CONFIDENTIAL TEXT DELETED – details of quality control]**. For recipes that require variants such as salt or herbs, the variants are added at the juice stage.
- The product is either kept in inventory until required for labelling, or sent directly to the packaging service for labelling and packing. If delivery is not required immediately, the goods can also be stored at the packaging provider's depot. On average, the product can be kept in inventory (with at Feger or an external depot) **[CONFIDENTIAL TEXT DELETED – movement of product to customers]**.

Feger provided a detailed outline of its production process (in Italian) for the whole line and chopped line as an attachment to the EQR. These, with translation, form **confidential attachment GOODS 1**.

3.2.3 Goods exported to Australia

Without taking account of the selling information that forms the last **[CONFIDENTIAL TEXT DELETED – number]** digits of the product code, Feger exported **[CONFIDENTIAL TEXT DELETED – number]** different prepared or preserved tomato products to Australia during the investigation period:

- **[CONFIDENTIAL TEXT DELETED – number]** product of standard whole tomatoes in 400g cans (**[CONFIDENTIAL TEXT DELETED – number]**);
- **[CONFIDENTIAL TEXT DELETED – number]** product of organic whole peeled tomatoes in 400g cans (**[CONFIDENTIAL TEXT DELETED – number]**);
- **[CONFIDENTIAL TEXT DELETED – number]** products of standard chopped tomatoes in 400g cans (**[CONFIDENTIAL TEXT DELETED – number]**);
- **[CONFIDENTIAL TEXT DELETED – number]** products of organic chopped tomatoes in 400g cans (**[CONFIDENTIAL TEXT DELETED – number]**); and
- **[CONFIDENTIAL TEXT DELETED – number]** products of aromatized chopped tomatoes in 400g cans (**[CONFIDENTIAL TEXT DELETED – number]**).

3.2.4 Like goods

By removing selling information from the product codes provided in the EQR, Feger identified **[CONFIDENTIAL TEXT DELETED – number]** different products sold on the domestic market during the investigation period for all prepared and preserved tomato products that fall within the goods description. None of the domestic products

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are identical to any of the products exported to Australia during the investigation period.

In section C of its EQR, Feger submitted that the product codes used internally were too detailed for the purpose of comparison with the exported goods. Feger devised a “product code type” (PCT) which sought to group product codes on the basis of only the physical characteristics Feger considered relevant for the purpose of fair comparison. These characteristics included:

- the type of product **[CONFIDENTIAL TEXT DELETED – product types]**;
- **[CONFIDENTIAL TEXT DELETED – product code details]**;
- the weight of the product (**[CONFIDENTIAL TEXT DELETED – numbers]**)
- the drained weight (**[CONFIDENTIAL TEXT DELETED – numbers]**%)

During verification, we identified five main factors used to determine which domestic models were similar to the exported models based on what we recommend to be the main factors that determine both cost and price differences. The five factors are:

- Type of tomato – **[CONFIDENTIAL TEXT DELETED – product types]**;
- Recipe – **[CONFIDENTIAL TEXT DELETED – product type]**;
- Gross can size – **[CONFIDENTIAL TEXT DELETED – can sizes]**;
- Container material – tin or glass; and
- Drained weight – **[CONFIDENTIAL TEXT DELETED – numbers]**%

| Export model identifier | Type of tomato | Recipe | Can size | Container | Drained weight | Equivalent product sold domestically? |
|---|----------------|--------|----------|-----------|----------------|---------------------------------------|
| [CONFIDENTIAL TEXT DELETED – product type details] | | | | | | |

[CONFIDENTIAL TEXT DELETED – details of product sold on domestic market].

Feger provided the technical specifications relevant to the products exported to Australia. These form **confidential attachment GOODS 2**.

A list of product codes with the applicable export model identifier forms **confidential appendix 1**.

3.3 Like goods – preliminary assessment

We consider that the prepared and preserved tomatoes produced by Feger for sale on the domestic market, while not alike in all respects to the goods under consideration, has characteristics closely resembling those of the goods under consideration in terms of s. 269T(1) of the Act and are like goods.

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4 EXPORT SALES**4.1 General**

During the investigation period Feger exported a total of **[CONFIDENTIAL TEXT DELETED – number]** kilograms to **[CONFIDENTIAL TEXT DELETED – number]** Australian customers:

[CONFIDENTIAL TEXT DELETED – names of customers]

The following table summarises the total volume of the goods exported to Australia by customer and product type.

| Customer | Product type | Volume (kg) | % of total volume |
|--|--------------|-------------|-------------------|
| [CONFIDENTIAL TEXT DELETED – names of customers, product types and numbers] | | | |

4.2 Export sales process

Feger outlined that sales to **[CONFIDENTIAL TEXT DELETED – names of customers]** are subject to yearly contracts that are negotiated in July and August each year.

- In July, **[CONFIDENTIAL TEXT DELETED – names of customers]** provide suppliers with an invitation to tender for contracts for the following year. The tender lists the technical specifications of each product **[CONFIDENTIAL TEXT DELETED – names of customers]** are seeking to purchase and the volume needed for the following 12 months.
- Suppliers are given two weeks to provide a response to the tenders. Representatives from **[CONFIDENTIAL TEXT DELETED – names of customers]**, acting as **[CONFIDENTIAL TEXT DELETED – names of customers]**, then visit suppliers to negotiate price. Once contracts are confirmed, **[CONFIDENTIAL TEXT DELETED – names of customers]** provide Feger with a shipment plan.
- All production occurs in September each year. Feger produces bright cans of the required product which are labelled and packaged by an external packing service. The label design is provided by **[CONFIDENTIAL TEXT DELETED – names of customers]** and Feger arranges for label and packing materials to be purchased and provided to the packing service.
- Where shipment is not due for some time, Feger warehouses the bright cans at its production facility. Once required for shipping, the goods are transferred to the packing service for labelling, packing and loading into shipping containers. These are transported directly from the packing service to port. The goods are then loaded and shipped to various Australian ports.
- Payment is received by Feger as per the contracted payment terms.

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4.3 Pricing and terms

All sales to [CONFIDENTIAL TEXT DELETED – names of customers] during the investigation period were on [CONFIDENTIAL TEXT DELETED – sales terms] terms. Sales to [CONFIDENTIAL TEXT DELETED – names of customers] were on [CONFIDENTIAL TEXT DELETED – sales terms] terms. Feger offered [CONFIDENTIAL TEXT DELETED – number] day payment terms, with all contracts negotiated and paid in [CONFIDENTIAL TEXT DELETED – currency].

As outlined above, [CONFIDENTIAL TEXT DELETED – names of customers] purchase canned tomato products through a tender process which results in contracts for yearly supply. Feger detailed that the price is dependent on [CONFIDENTIAL TEXT DELETED – negotiation process] the negotiation process. [CONFIDENTIAL TEXT DELETED – negotiation process] many suppliers in the region who are given one week to provide responses.

Feger outlined that when representatives from [CONFIDENTIAL TEXT DELETED – names of customers] visit during the period of contract negotiation they [CONFIDENTIAL TEXT DELETED – negotiation process].

Feger outlined that while price negotiations [CONFIDENTIAL TEXT DELETED – negotiation process], contracts with [CONFIDENTIAL TEXT DELETED – names of customers] were appealing given the large volume of product offered for purchase. Feger also explained that selling to [CONFIDENTIAL TEXT DELETED – names of customers] is easier than selling domestically as the goods are sold on [CONFIDENTIAL TEXT DELETED – sales terms] terms and the retailers provide their own labels and a detailed shipment plan well in advance of required delivery.

4.3.1 Role of [CONFIDENTIAL TEXT DELETED – names of customers]

In section B of its EQR, Feger outlined that [CONFIDENTIAL TEXT DELETED – names of customers and third parties]

At verification, Feger confirmed that during contract negotiations it deals with [CONFIDENTIAL TEXT DELETED – negotiation process] Feger understood that [CONFIDENTIAL TEXT DELETED – names of customers] but was not certain of the details of the commission.

While the contract for supply is made directly between Feger and [CONFIDENTIAL TEXT DELETED – names of customers], Feger explained that it sometimes invoiced [CONFIDENTIAL TEXT DELETED – names of customers]. Feger always invoiced the contract price for the goods and received payment from [CONFIDENTIAL TEXT DELETED – names of customers].

Feger outlined that [CONFIDENTIAL TEXT DELETED – names of customers] also offered post-production and logistics services, such as [CONFIDENTIAL TEXT DELETED – details of services].

Feger submitted in its EQR that sales to [CONFIDENTIAL TEXT DELETED – names of customers] should be treated as sales to a distributor rather than a

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retailer. During verification, Feger provided a further submission on this issue. This submission forms **confidential attachment EXP 1**.

4.4 Discounts, rebates and allowances

Feger submitted in section B of its EQR that **[CONFIDENTIAL TEXT DELETED – details of discounts, rebates and allowances]**. We were able to confirm this during export sales verification (detailed below at section 4.6).

4.5 Sales verification - reconciliation to financial statements

Please see section 6.6 below for a description of the verification of sales data to financial statements.

4.6 Export sales verification - reconciliation to source documents

Prior to the visit, we requested that Feger provide supporting documents for the following **[CONFIDENTIAL TEXT DELETED – number]** selected shipments to Australia:

| Customer | Product code | Invoice no. | Invoice date |
|--|--------------|-------------|--------------|
| [CONFIDENTIAL TEXT DELETED – names of customers, product types and numbers] | | | |

Feger provided source documents for each of these shipments during the verification, containing the:

- relevant contract (where applicable);
- purchase order;
- commercial invoice;
- packing list;
- ocean freight invoice (where applicable);
- inland transport invoice (where applicable);
- invoices for loading, handling and port charges (where applicable); and
- bank statement showing proof of payment.

The source documents for selected export transactions form **confidential attachment EXP 2**.

During verification of selected transactions, we found that some sales to **[CONFIDENTIAL TEXT DELETED – names of customers]** in Annex 7 of the EQR represented exports to **[CONFIDENTIAL TEXT DELETED – destination country]**. Feger confirmed that while these transactions were **[CONFIDENTIAL TEXT DELETED – names of customers]**, these were entered into home consumption in **[CONFIDENTIAL TEXT DELETED – destination country]**.

Feger provided an updated Australian Sales spread sheet with these transactions removed to replace Annex 7 provided with the EQR. This updated spread sheet forms **confidential attachment EXP 3**.

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We were able to reconcile the sales volume (in cases and net weight) using the commercial invoices, packing lists and sales values to the updated Australian Sales spread sheet.

4.6.1 Packing materials

Feger advised that it purchased all labels, trays and plastic to provide to the packaging service for labelling and packing of the goods exported to Australia. This cost is listed as “Packing materials” in the Australian Sales spread sheet.

Feger calculated a per unit rate (EUR/can) for packing materials by dividing the total packing material expense incurred in relation to **[CONFIDENTIAL TEXT DELETED – names of customers]** and dividing it by the total number of units exported to **[CONFIDENTIAL TEXT DELETED – names of customers]**.

On the basis of the contract with each customer and invoices for packing materials, we were satisfied that the cost recorded in the Australian Sales spread sheet is the cost paid by Feger.

4.6.2 Packaging service

Feger advised that it outsources labelling and packing to a number of unrelated packaging services. The cost associated with this is subject to long term contracts between Feger and its packaging providers and is invoiced periodically.

Feger calculated a unit cost (EUR/kg) for the amount for the packaging of each export transaction by dividing the total packaging expense incurred during the investigation period for each product by the total volume of that product shipped to Australia during the investigation period.

Feger provided a worksheet of this calculation, as well as a copy of the contract with the packaging service setting out the tariffs for particular services. We requested an invoice for packaging services to confirm that the price paid by Feger was equal to the contract price. These documents form **confidential attachment EXP 4**.

We are satisfied that the cost recorded in the Australian Sales spread sheet is the cost paid by Feger for packaging.

4.6.3 Logistics

Feger advised that the expense titled “Logistics cost” in the Australian Sales spread sheet related to the packing of the exported goods into shipping containers at the site of its packing provider. It was only incurred in relation to sales to **[CONFIDENTIAL TEXT DELETED – names of customers]** and is subject to the rate specified in the contract with Feger’s packaging providers.

We verified the cost of packing a container by obtaining the schedule of costs pertaining to the contract for packaging services between Feger and **[CONFIDENTIAL TEXT DELETED – name of service provider]**. We requested an invoice for logistics services to confirm that the price paid by Feger was equal to the contract price. These documents form **confidential attachment EXP 5**.

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We are satisfied that the cost recorded in the Australian Sales spread sheet is the cost paid by Feger for logistics services.

4.6.4 Inland freight

An amount for inland freight was included for sales **[CONFIDENTIAL TEXT DELETED – names of customers]**, as **[CONFIDENTIAL TEXT DELETED – commercial information about service provision and payment]**. Feger calculated the per unit rate (EUR/kg) for inland freight by dividing the total cost of transport per container by the average number of cases in a container multiplied by the number and weight of cans in each case.

We requested invoices in relation to inland transport to confirm that amount for transport of each container in the calculation was the price paid by Feger. These are included with the source documents for selected transactions (where applicable).

We are satisfied that the cost recorded in the Australian Sales spread sheet is the cost paid by Feger for logistics services.

In relation to sales to **[CONFIDENTIAL TEXT DELETED – names of customers and service providers]** for transportation and handling services and invoiced Feger for all pre-FOB expenses. The amount for inland transport incurred for sales to **[CONFIDENTIAL TEXT DELETED – names of customers]** is included in “Handling” the Australian Sales spread sheet.

4.6.5 Handling and port charges

Feger confirmed that the expense listed “Handling” in the Australian Sales spread sheet related to the loading of the container on to the ship and customs clearance charges.

For sales to **[CONFIDENTIAL TEXT DELETED – names of customers and service providers]** unit handling cost (EUR/kg) by totalled the handling charges invoiced **[CONFIDENTIAL TEXT DELETED – names of service providers]** for export sales during the investigation period and dividing by the total net kilograms of the goods shipped during the period. This unit handling charge was then applied to the net weight of each export transaction for **[CONFIDENTIAL TEXT DELETED – names of customers]**.

We verified the unit handling cost by obtaining the ledger for handling expenses related to sales to **[CONFIDENTIAL TEXT DELETED – names of customers]**. We confirmed the total of the handling expense incurred by Feger during the investigation period reconciled to Feger’s calculation worksheet. These documents form **confidential attachment EXP 6**.

As outlined at 4.6.4 above, the amount for handling also includes inland transport for sales to **[CONFIDENTIAL TEXT DELETED – names of customers and service providers]**, Feger established a unit cost for handling and inland transport (EUR/kg) for sales to **[CONFIDENTIAL TEXT DELETED – names of customers]** by dividing the total handling and transport costs incurred during the investigation period by the

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net weight of the goods shipped to **[CONFIDENTIAL TEXT DELETED – names of customers and service providers]** during the same period.

We verified the unit handling cost by obtaining the ledger for handling and transport expenses related to sales to **[CONFIDENTIAL TEXT DELETED – names of customers]**. We confirmed the total of these expenses incurred by Feger during the investigation period reconciled to Feger's calculation worksheet. These documents form **confidential attachment EXP 7**.

We are satisfied that the cost recorded in the Australian Sales spread sheet is the cost paid by Feger for handling and inland transport (where applicable).

4.7 The exporter

We consider Feger to be the exporter of prepared or preserved tomato products shipped from Italy to Australia as Feger:

- is the manufacturer of the goods and manufactured the goods to the specific order of the Australian customer;
- owned the goods at the time of export;
- is listed as the supplier on the bill of lading;
- is the principal in the transaction located in the country of export from where the goods were shipped that gave up responsibility by knowingly placing the goods in the hands of a freight forwarder for delivery to Australia;
- sent the goods for export to Australia and was aware of the identity of the purchaser of the goods; and
- received payment for the goods from the importer.

4.8 The importer

We noted that **[CONFIDENTIAL TEXT DELETED – names of customers]**:

- negotiates directly with Feger for the purchase of the goods;
- are named as the consignee on the bill of lading;
- arrange customs clearance, quarantine, logistics, and overseas freight and storage of the goods after they have been delivered to the Australian port; and
- take control of the goods on arrival and become the beneficial owner of the goods.

We consider that **[CONFIDENTIAL TEXT DELETED – names of customers and service providers]** are the beneficial owners of the goods at the time of importation and are therefore the importer of the goods exported by Feger during the investigation period.

4.9 Arm's length

In respect of exports sales to Australia during the investigation period, we found no evidence that:

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- there is any consideration payable for or in respect of the goods other than their price; or
- 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; or
- the buyer, or an associate of the buyer, will directly or indirectly, be reimbursed, compensated or otherwise receive a benefit for, or in respect of, whole or any part of the price.

We therefore consider that all export sales to Australia during the investigation period were arm's length transactions.

4.10 Export price preliminary assessment

We consider that:

- 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

In relation to exports by Feger to **[CONFIDENTIAL TEXT DELETED – names of customers]**, we recommend that the export price be determined under subsection 269TAB(1)(a), the price paid by the importer less transport and other costs arising after exportation.

In relation to exports by Feger to **[CONFIDENTIAL TEXT DELETED – names of customers]**, we recommend that the export price be determined under subsection 269TAB(1)(c), having regard to all the circumstances of exportation.

Export price calculations are included at **confidential appendix 2**.

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5 COST TO MAKE & SELL

5.1 Introduction

Feger's financial statements are prepared on a calendar year basis. Feger provided copies of its 2011 and 2012 financial statements as attachments to the EQR.

Feger's accounts are maintained in accordance with generally accepted accounting principles in Italy. Financial statements are prepared in accordance with principals governed by European Union provisions. Actual costs are posted in the accounts.

Feger provided cost to make and sell information at the product code level (incorporating differences in **[CONFIDENTIAL TEXT DELETED – product code details]**) for the investigation period. As there was only one period of production during the investigation period, Feger provided a yearly cost for each product code.

Feger provided documents including bills of materials (in the form of recipes) invoices, management accounts and financial statements, as requested, to assist our verification of the information.

At the visit, we were provided with revised cost to make and sell information in the form of attachments G-4 (domestic) and G-5 (export) from the company's questionnaire response. This forms **confidential attachment CTMS 1**.

5.2 Verification of cost to make and sell data to financial statements

To assess cost to make and sell data for completeness and relevance, verification to financial statements was undertaken for the selected verified costs. During verification, Feger provided a copy of the detailed income and expenses statement that could be verified to the financial management report.

5.3 Verification of cost of production

To assess production cost data for accuracy, verification to source documents was undertaken.

5.3.1 Raw materials

We confirmed that raw material, being tomatoes (both fruit and juice) and cans constituted greater than **[CONFIDENTIAL TEXT DELETED – number]**% of the total cost to make, with variances above this dependent on the recipe.

To aid in verification of these raw materials, Feger provided a bill of materials setting out the weight and cost of each component of the cost of production. This forms **confidential attachment CTMS 2**.

Tomatoes

Feger outlined that contracts for supply of tomatoes are negotiated in February to April each year with cooperatives that act on behalf of farmers. The contract

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[CONFIDENTIAL TEXT DELETED – contractual details] (see section 3.2.2 above for a description of the quality assessment process).

Feger provided a copy of its contract with one cooperative for 2012 production. The contracted base prices for tomatoes were as follows:

| Type | Standard | Organic |
|--|----------|---------|
| [CONFIDENTIAL TEXT DELETED – product types and numbers] | | |

In order to reconcile the price paid for raw tomatoes to the cost recorded in the bill of materials we had to determine the yield, or volume of raw tomatoes required to produce the final product. We selected product **[CONFIDENTIAL TEXT DELETED – product code details]** to trace from the bill of materials to the ledger for tomato purchases.

Feger provided a yield calculation worksheet for all tomato products produced in 2012. This forms **confidential attachment CTMS 3**. We were able to reconcile the total volume of raw tomatoes purchased on the yield worksheet to the relevant ledger for tomato purchases.

We then sought to verify production by requesting a report of total production for the selected product. We observed that the total production for the selected product reconciled to the production volume recorded in the yield worksheet by viewing a report in Feger's production system.

In order to confirm the price paid for raw tomato purchases, we requested a copy of a production report for 11 August 2012. From this we were able to request invoices for specific purchases. Feger provided the certificate of entrance confirming the weight and price after variances for quality and proof of payment for requested purchases on 11 August 2012. These documents form **confidential attachment CTMS 4**.

We are satisfied that the costs and volume recorded for raw tomato purchases and production volumes listed in the yield worksheet were accurate. We then applied the yield to the information relevant to the selected product to reconcile the cost of raw tomato and juice in the yield worksheet to the bill of materials.

We confirmed that across all tomato products in the 2012 production period, Feger required approximately **[CONFIDENTIAL TEXT DELETED – number]** kilograms of raw tomato to produce 1 kilogram of canned tomato. Feger advised that the loss of approximately **[CONFIDENTIAL TEXT DELETED – number]**% of fresh product is made up of foreign objects (such as branches and leaves) removed at sorting, skin and seeds and juice that is lost during production.

Cans

As outlined in section 3.2.2 above, Feger purchases tin plate sheets, lacquer and easy open lids to provide to its can manufacturers, who then return finished cans to

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Feger for use in production. The cost of the can and base was recorded separately in the bill of materials.

Feger provided a calculation worksheet which outlined the allocation of the cost of the can and base for selected product **[CONFIDENTIAL TEXT DELETED – product code details]**. In order to verify these calculations, we obtained the general ledger for tin purchases and lacquering. Feger also provided all invoices related to these costs. We were able to reconcile the cost of tin plate per kilogram to the calculation worksheet. To obtain the cost of tin plate per can, Feger divided the cost per kilogram by **[CONFIDENTIAL TEXT DELETED – number]**, which represents the average number of cans that are produced per sheet of tin plate.

For lacquering, we obtained the contract for Feger's sole supplier. We confirmed that the contract price reconciled with the invoice price for the selected product.

Feger also purchases easy open lids from a single supplier. We requested the contract for supply and reconciled the contract price to the invoice price for the selected product. The cost of lacquering and easy open lids was accurately reflected in Feger's calculation worksheet.

Feger outlined that it used a number of different can manufacturers to cut the can base and to cut, mould and add the easy open base to the can body. For selected product code **[CONFIDENTIAL TEXT DELETED – product code details]**, we observed the contract which set out the cost per can for each type of can supplied. We confirmed that the contract price reconciled with the invoice price for the selected product. This cost was accurately reflected in Feger's calculation worksheet.

Having verified the calculation worksheet, we reconciled the calculation to the cost recorded for the tin can and can base in the bill of materials for selected product **[CONFIDENTIAL TEXT DELETED – product code details]**.

The source documents related to the verification of the cost of cans form **confidential attachment CTMS 5**.

Based on this verification we are satisfied that the amounts for raw materials listed in G-4 and G-5 is accurate.

5.3.2 Direct labour

From the bill of materials we confirmed that direct labour accounts for approximately **[CONFIDENTIAL TEXT DELETED – number]**% of the cost to make. We sought to verify the amount for direct labour provided in G-4 and G-5 by requesting the labour rates applicable to the production report previously requested for verification of raw tomato cost in relation to product **[CONFIDENTIAL TEXT DELETED – product code details]**.

Feger outlined that it required approximately **[CONFIDENTIAL TEXT DELETED – number]** staff each day during production season, which were employed seasonally. Feger provided an outline of where these staff are required in the production line and confirmed its calculation of a flat production labour rate. Feger provided a wage

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sheet to support the calculation of the hourly production labour rate. The labour rate calculation and wage sheet form **confidential attachment CTMS 6**.

We were able to apply the labour rate to the hours recorded in the production report for 11 August 2012. This reconciled to the amount outlined in the bill of materials, which reconciled to that recorded in G-4 and G-5.

We are therefore satisfied that the amounts for direct labour listed in G-4 and G-5 are accurate.

5.4 Verification of selling, distribution and administration costs

5.4.1 Selling expenses

Feger separately identified and categorised the following expenses under the heading of selling costs for domestic sales:

- commissions;
- quality control;
- advertisement, and
- **[CONFIDENTIAL TEXT DELETED – details of discounts, rebates and allowances]**

For **[CONFIDENTIAL TEXT DELETED - details of discounts, rebates and allowances]**, Feger calculated the proportions that **[CONFIDENTIAL TEXT DELETED - details of discounts, rebates and allowances]** represented of the total sales revenue for each domestic customer where these items applied.

For the purposes of testing whether domestic sales were made in the ordinary course of trade, we have **[CONFIDENTIAL TEXT DELETED - details of discounts, rebates and allowances]** been recognised in calculating the net selling price.

The updated G-4 spread sheet with amended selling expenses forms **confidential appendix 3**.

Other direct selling expenses

All other direct selling expenses included:

- packing materials and pallets;
- delivery expenses;
- logistics, handling and labelling service, and
- packing services

For these items, Feger estimated unit costs by apportioning the relevant total expenses across the total volume of all products using a relevant measure of volume.

To support these calculations we were provided with relevant ledgers reconciling the total costs and reports to demonstrate the volumes used to calculate the unit values.

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5.4.2 General and administration expenses

Unit selling, general and administration (SG&A) expenses were calculated by apportioning the total general and administration costs across total sales. However, for some items, Feger was able to distinguish costs between export and domestic using an allocation based on **[CONFIDENTIAL TEXT DELETED – allocation methodology]** to the domestic market and export markets.

The methodology proposed resulted in a higher allocation of general and administrative expenses to domestic sales compared to export sales.

The only remaining item was financial gains and losses identified in Feger's profit and loss statement which was calculated by apportioning net financial gains and losses across total sales revenue. This amounted to approximately **[CONFIDENTIAL TEXT DELETED - number]**% of the net selling price of the goods.

Documents supporting the calculation of SG&A expenses form **confidential attachment CTMS 7**.

5.5 Profit

The weighted average profit achieved on all domestic sales of like goods was approximately **[CONFIDENTIAL TEXT DELETED - number]**% over the investigation period.

We consider that the profit level achieved on like goods sold domestically in the ordinary course of trade is appropriate to use if normal values are to be constructed in accordance with paragraph 269TAC(2)(c) of the Act.

5.6 Cost to make and sell – summary

We are satisfied that sufficient information was available and verified to substantiate the cost to make and sell of both domestic and exported goods. We are satisfied that the method Feger has adopted to allocate costs reasonably reflects the cost to make and sell.

We consider the CTMS is suitable for assessing the profitability of domestic sales and for determining constructed normal values, where recommended (see section 9.2 below).

The final CTMS worksheets are at **confidential appendix 3**.

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| | |
|---|----------------|
| 6 | DOMESTIC SALES |
|---|----------------|

6.1 General

During the investigation period Feger sold approximately **[CONFIDENTIAL TEXT DELETED - number]** kilograms or **[CONFIDENTIAL TEXT DELETED - number]** cartons of tomato products on the domestic market to approximately **[CONFIDENTIAL TEXT DELETED - number]** customers, categorised as **[CONFIDENTIAL TEXT DELETED – customers details]**. Feger manages all domestic sales directly, **[CONFIDENTIAL TEXT DELETED – sales method in domestic market]**.

During verification, Feger provided an amended Domestic Sales spread sheet to replace Annex 9 provided with its EQR. This forms **confidential attachment DOM 1**.

6.2 Domestic market

Feger outlined that the domestic market for prepared or preserved tomato products is separated into three tiers: a premium brand product; a mid-range private label; and an economy brand.

Feger explained that an economy product will average **[CONFIDENTIAL TEXT DELETED - number]** brix and will use a can of standard tin plate with no easy open lid. Economy products can be both whole (long) tomatoes and chopped (round) tomatoes. Feger outlined that retailers will often stock one economy product, which can be a private label of the retailers or an independent brand. Where retailers are seeking to sell a very low cost product, it will often opt for an independent brand as the brand is then liable for any quality issues that arise.

Feger outlined that quality products can be both private labels and brands. A quality product will be above **[CONFIDENTIAL TEXT DELETED - number]** brix and will use a can of lacquered tin plate, with the option of an easy open lid. Examples of the main brands in the premium market are **[CONFIDENTIAL TEXT DELETED – names of premium brands]**.

Private labels are owned by the retailer. Feger explained that a retailer will often stock a brand as well as its private label. The pricing between the private labels and the branded products will depend on the strategy of the retailer; if the retailer has a strong private label with a loyal customer following it can be priced higher than a brand.

Feger outlined that it only suppliers **[CONFIDENTIAL TEXT DELETED – customers' details]**. Feger's products are all above **[CONFIDENTIAL TEXT DELETED - number]** brix, using a can of lacquered tin plate with an easy open lid. Feger also sell a small amount of bright cans to **[CONFIDENTIAL TEXT DELETED – customers' details]**.

6.3 Domestic sales process

Feger outlined that sales to domestic customers are also based on yearly contracts which are negotiated in February to April each year. However, Feger submitted that

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the process of domestic selling was considerably more burdensome than that of export sales to Australia:

- **[CONFIDENTIAL TEXT DELETED – sales process]**. Feger will begin budget planning for customers. **[CONFIDENTIAL TEXT DELETED – sales process]**
- Contract negotiation is finalised **[CONFIDENTIAL TEXT DELETED – sales process]**. and contracts are entered **[CONFIDENTIAL TEXT DELETED – sales process]**.
- **[CONFIDENTIAL TEXT DELETED – sales process]**.
- All production occurs in September each year. Feger produces bright cans of the required product which **[CONFIDENTIAL TEXT DELETED – sales process]**..
- Contracts with domestic customers do not include **[CONFIDENTIAL TEXT DELETED – sales process]**.
- Customers place purchase orders for a certain volume as required. A customer must order a minimum of **[CONFIDENTIAL TEXT DELETED - number]** per purchase order and will usually request delivery within **[CONFIDENTIAL TEXT DELETED - number]** days.
- The goods are then packed according to the delivery destination as pallet sizes can vary dependent on the retailers' depot.
- Once delivered, Feger invoices the customer. Feger outlined that it can be difficult to secure payment from some customers within the payment terms specified in the contract.
- **[CONFIDENTIAL TEXT DELETED - details of discounts, rebates and allowances]**.

6.4 Pricing and terms

All contracts with domestic customers are **[CONFIDENTIAL TEXT DELETED - sales method in domestic market]** over twelve months, but may include **[CONFIDENTIAL TEXT DELETED – commercial negotiation details]**.

Feger offered **[CONFIDENTIAL TEXT DELETED – commercial negotiation details and numbers]** payment terms to customers **[CONFIDENTIAL TEXT DELETED – commercial negotiation details and numbers]**. Feger's accounting system does not record the actual date of payment for each sales transaction.

6.5 Discounts, rebates and allowances

Feger submitted in section D of its EQR that **[CONFIDENTIAL TEXT DELETED – information concerning discounts, rebates and allowances]**

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6.6 Sales verification - reconciliation to financial statements

We firstly sought assurance that the data submitted by Feger in respect of its domestic canned tomato sales was comprehensive.

Beginning with the audited financial statements for 2012, Feger was able to reconcile total sales revenue through to a trial balance report for the same period. Tracing the total sales, we were able to establish the further breakdown of sales into various product categories.

Feger advised that identification of sales at this level between domestic and export was only possible by a discreet identifier in the customer codes. We requested a transactional report for each product category falling within the scope of the investigation.

Using the transactional sales report, we were able to reconcile total sales values for selected customers in the 2nd half of 2012 to the D-4 domestic sales spread sheet submitted by Feger in its questionnaire response. We requested similar reports for the 1st half of 2013 and were able to confirm that the total sales value for the investigation period, matched the total value contained in attachment D-4.

In matching the domestic market sales of canned tomatoes to the totals of the data submitted by Feger, we also took into account an immaterial discrepancy to account for minor credit and debit note adjustment.

We were satisfied the data submitted in respect of domestic sales of canned tomatoes was a complete listing of sales made in the investigation period. Further, we were satisfied that all relevant discounts and rebates have been taken into account in the net sales values submitted by Feger.

Documents relevant to sales completeness form **confidential attachment DOM 2**.

6.7 Domestic sales verification - reconciliation to source documents

Prior to the visit, we requested that Feger provide supporting documents for the following **[CONFIDENTIAL TEXT DELETED – numbers]** selected domestic sales transactions:

| Customer | Product code | Invoice no. | Invoice date |
|--|--------------|-------------|--------------|
| [CONFIDENTIAL TEXT DELETED – names of customers, product types and numbers] | | | |

Feger provided source documents for each of these shipments during the verification, containing the:

- relevant contract (where applicable);
- commercial invoice;
- packing list;
- evidence of payment of rebate (where applicable);
- evidence of payment of commission (where applicable); and

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- bank statement showing proof of payment.

The source documents for selected domestic sales transactions form **confidential attachment DOM 3**.

We were able to reconcile the sales volume (in cases and net weight) using the commercial invoices and packing lists, and sales values in EUR to the updated Domestic Sales spread sheet.

6.7.1 Inland transport, labelling, logistics, palletisation and packing expenses

Feger calculated a per unit rate (EUR/kg) for each of these expenses in the same method outlined in section 4 above for export sales.

Feger also incurs an additional packing cost in relation to domestic sales for palletisation of the goods. This service is provided by the packaging provider. Feger calculated a per unit rate (EUR/kg) for palletisation by dividing the total cost incurred by the total volume of goods.

Feger provided supporting documents specific to domestic sales for each of these expenses. These form **confidential attachment DOM 4**.

On the basis of these source documents, we are satisfied that Feger's allocation of these expenses in the Domestic Sales spread sheet is accurate.

6.7.2 Commissions

[CONFIDENTIAL TEXT DELETED – details concerning commissions] These documents form **confidential attachment DOM 5**.

We are satisfied that the cost recorded in the Domestic Sales spread sheet is the cost paid by Feger for commissions.

6.8 Arm's length

In respect of domestic sales during the investigation period, we found no evidence that:

- there is any consideration payable for or in respect of the goods other than their price; or
- 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; or
- the buyer, or an associate of the buyer, will directly or indirectly, be reimbursed, compensated or otherwise receive a benefit for, or in respect of, whole or any part of the price.

We therefore consider that all domestic sales during the investigation period were arm's length transactions.

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6.9 Ordinary course of trade

Before considering the tests of profitability contained within s. 269TAAD of the Act, we considered the nature of the sales of canned tomatoes made domestically. We noted that for the **[CONFIDENTIAL TEXT DELETED – “value added” product types]** products exported to Australia, there were no comparable like goods based on the **[CONFIDENTIAL TEXT DELETED – number]** factors considered to define the essential characteristics of the various models.

However, Feger did have a very small volume of (**[CONFIDENTIAL TEXT DELETED – product type]** products that differed from the exported goods in terms of the size and type of packaging. The domestic goods were **[CONFIDENTIAL TEXT DELETED – product types]** compared to **[CONFIDENTIAL TEXT DELETED – product types]** exported to Australia.

Further, we note that the low volume of **[CONFIDENTIAL TEXT DELETED – product type]** products sold domestically reflects the lower demand for **[CONFIDENTIAL TEXT DELETED – product types]** products by Italian consumers. This is in contrast to the Australian market where the **[CONFIDENTIAL TEXT DELETED – product type]** products are increasing in popularity with Australian consumers. This is reflected in Feger’s export sales with **[CONFIDENTIAL TEXT DELETED – product type]** products representing approximately **[CONFIDENTIAL TEXT DELETED – number]** of its total export volume.

Feger also sold **[CONFIDENTIAL TEXT DELETED – product types]** tomatoes on the domestic market. However, these products had a drained weight of **[CONFIDENTIAL TEXT DELETED – number]**, as opposed to the exported products that had a drained weight of **[CONFIDENTIAL TEXT DELETED – number]**%.

In the absence of relevant domestic sales of **[CONFIDENTIAL TEXT DELETED – product types]** products, we conducted our ordinary course of trade tests in terms of s. 269TAAD of the Act only in respect of **[CONFIDENTIAL TEXT DELETED – product types]** products sold domestically.

For each individual domestic transaction, we compared the unit cost to make and sell to the corresponding unit net selling price. Given that production only occurs during a two month period each year, the single unit cost to make and sell was also the recoverable cost for ordinary course of trade purposes. Therefore, domestic sales found to be unprofitable would also be found to be non-recoverable.

We found that all domestic sales of **[CONFIDENTIAL TEXT DELETED – product types]** tomatoes were in the ordinary course of trade as the volume of unprofitable sales did not exceed 20% of the total volume. **[CONFIDENTIAL TEXT DELETED – profitability information]**.

[CONFIDENTIAL TEXT DELETED – profitability information] were at prices paid in the ordinary course of trade and considered relevant for establishing normal values.

The spread sheets outlining the ordinary course of trade tests are at **confidential appendix 4.**

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6.10 Volume of sales

We compared the volume of each product category exported to Australia with the volume of domestic sales of the comparable product category sold during the investigation period.

The volumes of domestic sales for products to compare with export product categories **[CONFIDENTIAL TEXT DELETED – product type]** exceeded 5% of the corresponding export sales volumes and were therefore made in sufficient volumes.

Our sufficiency calculations are at **confidential appendix 4.**

6.11 Suitability of domestic sales

The Commission is also investigating whether the operation and administration of the European Union's Common Agricultural Policy and related programmes have distorted domestic prices of prepared or preserved tomatoes and the major raw material input (fresh tomatoes) used in the manufacture of the goods. If so, the Commission may make a finding that a "particular market situation" has impacted the domestic selling prices of the goods in such a way that selling prices could not be relied on to determine normal values.

In its EQR, Feger submitted that it had not received any benefits, payments or forms of support from the Italian government, European Committee or any other affiliated agency or group related to the European Union's Common Agricultural Policy or related programmes.

To verify Feger's claims that no payments had been received, we sought information on its non-operating income during the investigation period. Feger provided a description of what formed non-operating income in the financial report. We requested full ledgers for accounts that formed non-operating income and verified line by line what each form of income represented.

[CONFIDENTIAL TEXT DELETED – information about product machinery loan].

We are satisfied that Feger has not received financial support directly or indirectly associated with the sale or production of prepared or preserved tomatoes through the European Union's Common Agricultural Policy or any other related programmes. We therefore recommend that domestic sales by Feger are appropriate for use in determining the normal value of the goods.

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It its exporter questionnaire response, Feger provided summary sales information relating to its exports sales of prepared or preserved tomatoes to other third country export markets.

We consider that there is insufficient information about each of these other export markets to establish whether the nature of trade of like goods in Italy would be similar to the nature of trade in these third countries.

Therefore, we considered that third country export sales were not an appropriate basis for establishing a normal value to be compared with export sales to Australia.

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8 **ADJUSTMENTS**

8.1 Adjustments

To ensure that domestic sales could be properly compared with Feger's export sales, we considered whether adjustments were necessary for the following items.

Packing

Feger identified that domestic and export sales varied in terms of the packing material used. On the domestic market, packing materials differ across all customers and are dependent on the requests of the customer. The different materials include:

[CONFIDENTIAL TEXT DELETED – information about different kinds of packaging]

In contrast, exports to Australia are packed **[CONFIDENTIAL TEXT DELETED – information about different kinds of packaging]**.

For each customer, Feger were able to calculate the costing of packing materials using the relevant materials codes that identified the type of packing used. We selected a sample of domestic customers and were provided with supporting documentation of the packing material costs.

We consider that a downward adjustment is warranted for domestic packing materials and an upward adjustment is warranted for export packing materials.

Commissions

[CONFIDENTIAL TEXT DELETED – information about commissions]

We consider that a downward adjustment is warranted for commissions paid on domestic sales.

Transportation

As explain in the export sales section of this report, Feger arranges for the goods to be delivered to the port from its storage depot in fully loaded containers. Feger has estimated the cost of delivery to the port using the standard contract price for a full container. Documentation of the contract rates with the trucking company was provided and we were able to reconcile these rates to source documentation provided for the selected export transactions.

A similar approach was used to estimate the delivery charges incurred for domestic sales. We were able to confirm the standard rates used for domestic sales were based on contracted rates established with local logistics companies.

We consider that a downward adjustment is warranted for domestic inland freight and a corresponding upward adjustment is warranted to domestic selling prices to account for the inland freight incurred on export sales.

Logistics and handling

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Feger incurs handling and other FOB related charges on exports made to Australia. It also incurs logistics and handling charges on domestic sales which relate to the consolidation of part orders for loading of full truck loads. Additional work is also required to consolidate numerous orders across Feger's entire product range for individual customers.

Feger estimated the cost of domestic logistics and handling by apportioning the total amount of haulage and manual labour identified in the relevant ledger account, across total domestic sales and then converted to a per kilo rate using the volumes for each individual customer.

We were provided with relevant documentation supporting Feger's calculations and are satisfied that they are reasonable.

We consider that a downward adjustment for logistics and handling charges incurred on domestic sales is warranted, along with a corresponding upward adjustment for handling and FOB related charges incurred on exports to Australia.

Credit terms

Feger stated that payment terms on domestic sales **[CONFIDENTIAL TEXT DELETED – information concerning credit terms]**. In order to calculate the credit expense incurred on domestic sales, it used a **[CONFIDENTIAL TEXT DELETED – number]**% rate of interest.

In calculating the cost of providing domestic credit, we calculated the amounts on a line by line basis using the net value of the transaction multiplied by the interest rate, divided by 365 and multiplied by the average number of days credit.

We consider that a downward adjustment is warranted for domestic credit terms.

Payment terms for export sales **[CONFIDENTIAL TEXT DELETED – information concerning credit terms]**. These documents form **confidential attachment ADJ 1**.

As with domestic credit, we have calculated the cost of providing export credit on a line by line basis using the net value of the transaction multiplied by the interest rate, divided by 365 and multiplied by the average number of days credit.

We consider that an upward adjustment to domestic selling prices is necessary to ensure the normal value is comparable with the export price.

Quality control

Feger claimed that it incurred expenses related to quality control testing undertaken by certain domestic customers across the range of products produced and sold by Feger. The amount of the claimed adjustment was calculated by apportioning the total amounts invoiced by relevant customers across the total revenue of all products sold to those domestic customers.

Feger was able to provide invoices from the relevant customers that confirmed that the adjustment claimed related to the goods under consideration and supporting the allocation. We are therefore satisfied that the claimed adjustment is reasonable.

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For **[CONFIDENTIAL TEXT DELETED – names of customers]**, the claimed adjustment was varied to account for the percentage of total turnover that sales of tomato products represented. This calculation forms **confidential appendix 6**.

We consider a downward adjustment for quality control expenses incurred on domestic sales is warranted.

Advertising

Feger claimed that it incurred expenses related to advertising **[CONFIDENTIAL TEXT DELETED – details of advertising costs on domestic market]**.

We note that at the time of the visit Feger was unable to identify the amounts for advertising relating to tomato products, or whether any of its customers advertised tomato products at all.

Subsequent to the visit, Feger provided **[CONFIDENTIAL TEXT DELETED – details of advertising costs on domestic market]**. We therefore amended the allocations to ensure that the claimed adjustment related only to the goods under considerations. These calculations form **confidential appendix 6**.

We consider a downward adjustment for advertisement expenses incurred on domestic sales is warranted.

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9 NORMAL VALUE

9.1 [CONFIDENTIAL TEXT DELETED – product types]

The sales of [CONFIDENTIAL TEXT DELETED – product types] by Feger in the domestic market were found to be in transactions that were arm's length, and at prices that were in the ordinary course of trade. The price paid for the goods in those domestic sales was established satisfactorily.

Based on the information provided by Feger, and the verification processes conducted on site, we are satisfied that prices paid in respect of those domestic sales are suitable for assessing normal value under s. 269TAC(1) of the Act. We consider those domestic selling prices require adjustment in terms of s. 269TAC(8) of the Act, to ensure fair comparison to the export prices, for the following:

- packing;
- commissions;
- transportation;
- handling and logistics; and
- credit terms.

We were not satisfied that claimed adjustments in respect of quality control and advertising were warranted as there was no evidence provided to demonstrate that the expenses incurred were relevant to canned tomato products produced or sold by Feger.

Normal value calculations for [CONFIDENTIAL TEXT DELETED – product types] tomatoes are at **confidential appendix 4**.

9.2 [CONFIDENTIAL TEXT DELETED – product types]

We consider that there were no relevant sales of [CONFIDENTIAL TEXT DELETED – product types] products made by Feger on the domestic market in Italy for the purposes of establishing normal values under s.269TAC(1).

Where normal values cannot be assessed under subsection 269TAC(1), the legislation states the normal value is, except where paragraph 269TAC(2)(c) applies, the sum of:

- (i) such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export; and
- (ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export – such amounts as the Minister determines would be the administrative, selling and general costs associated with the sale and, subject to subsection (13), the profit on the sale.

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9.2.1 Cost of production

As detailed in section 6 of this report, we have verified information submitted by Feger in its exporter questionnaire responses and are satisfied that the costs of production are both accurate and complete. We have used the cost of production for **[CONFIDENTIAL TEXT DELETED – product types]** products exported to Australia as the basis for constructing a normal value.

9.2.2 Administrative, selling and general costs and profit

The next step is to establish amounts that would be the administrative, selling and general costs and profit associated with the sale of the goods if, instead of being exported, they had been sold for home consumption in Italy.

Subsections 269TAC(5A) and (5B) state, inter alia, that the amounts determined to be the administrative, selling and general costs and profit in relation to goods under paragraph 269TAC(2)(c) must be worked out in such a manner, and taking account of such factors, as the regulations provide.

Sub-regulation 181A(2) of the Customs Regulations provides that the Minister must calculate the administrative, selling and general costs and profit using data relating to the production, manufacture, and sale of the like goods sold in the ordinary course of trade by the exporter.

As noted in the previous subsection of this report, we have determined that Feger made domestic sales of like goods in the ordinary course of trade. Therefore the profit from those domestic sales must be used to construct normal values under s.269TAC(2)(c).

Normal value calculations for **[CONFIDENTIAL TEXT DELETED – product types]** tomatoes are at **confidential appendix 5**.

PUBLIC RECORD VERSION**10 DUMPING MARGINS**

Dumping has been assessed by comparing the weighted average of export prices to a corresponding weighted average of normal values for the investigation period.

We considered the most appropriate approach to calculating weighted average normal values was to group **[CONFIDENTIAL TEXT DELETED – product types]** tomatoes. Similarly, we consolidated the export sales into the same **[CONFIDENTIAL TEXT DELETED – number]** grouping in assessing weighted average export price.

The dumping margin for the investigation period is 1.3%.

The dumping margins are shown at **confidential appendix 2**.

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11 LIST OF APPENDICES AND ATTACHMENTS

| | |
|---------------------------------|--|
| Confidential appendix 1 | Export model identifier list |
| Confidential appendix 2 | Export price calculations |
| Confidential appendix 3 | CTMS worksheet |
| Confidential appendix 4 | OCOT, sufficiency and normal value summary |
| Confidential appendix 5 | Constructed normal value calculations |
| Confidential appendix 6 | Advertising adjustment |
| Confidential attachment GEN 1 | Feger company structure |
| Confidential attachment GEN 2 | Translated chart of accounts |
| Confidential attachment GOODS 1 | Feger production process |
| Confidential attachment GOODS 2 | Technical specifications for export products |
| Confidential attachment EXP 1 | Submissions regarding sales to [CONFIDENTIAL TEXT DELETED – names of customers] |
| Confidential attachment EXP 2 | Source documents for selected export sales |
| Confidential attachment EXP 3 | Revised Australian Sales spread sheet |
| Confidential attachment EXP 4 | Documents supporting packaging service expense |
| Confidential attachment EXP 5 | Documents supporting logistics expense |
| Confidential attachment EXP 6 | Documents supporting [CONFIDENTIAL TEXT DELETED – product types] handling expense |
| Confidential attachment EXP 7 | Documents supporting [CONFIDENTIAL TEXT DELETED – product types] handling expense |
| Confidential attachment CTMS 1 | Revised CTMS spread sheet |
| Confidential attachment CTMS 2 | Bill of materials |
| Confidential attachment CTMS 3 | Tomato yield calculation worksheet |
| Confidential attachment CTMS 4 | Documents supporting tomato purchases |
| Confidential attachment CTMS 5 | Documents supporting verification of cans |
| Confidential attachment CTMS 6 | Labour rate calculation and wage sheet |
| Confidential attachment CTMS 7 | Documents supporting SG&A expenses |
| Confidential attachment DOM 1 | Revised Domestic Sales spread sheet |
| Confidential attachment DOM 2 | Documents supporting sales completeness |
| Confidential attachment DOM 3 | Source documents for selected domestic sales |
| Confidential attachment DOM 3 | Documents supporting inland transport, labelling, logistics, palletisation and packing expenses |
| Confidential attachment DOM 4 | Documents supporting [CONFIDENTIAL TEXT DELETED – information concerning commissions] expense |
| Confidential attachment ADJ 1 | Documents supporting [CONFIDENTIAL TEXT DELETED – information concerning credit terms] |