



## **INVESTIGATION 276**

# **ALLEGED DUMPING OF PREPARED OR PRESERVED TOMATO PRODUCTS EXPORTED FROM ITALY**

## **VISIT REPORT - EXPORTER**

**LA DORIA S.p.A**

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

**June 2015**

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## **ABBREVIATIONS**

The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
The applicant	SPC Ardmona Pty Ltd
AUD	Australian Dollars
the Commission	Anti-Dumping Commission
CTMS	Cost to make & sell
DDP	Delivery Duty Paid
EXW	Ex-Works
EUR	Euro Dollars
FOB	Free On Board
GBP	Great British Pound
GUC	Goods Under Consideration
La Doria	La Doria S.p.A
PAD	Preliminary Affirmative Determination
REQ	Response to exporter questionnaire
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 & Science

## 1 BACKGROUND AND PURPOSE

### 1.1 Investigation 217

In March 2014, the then Minister accepted the recommendations of the Commissioner of the Anti- Dumping Commission (the Commissioner) in Report No. 217 and imposed dumping duties on prepared or preserved canned tomatoes exported from Italy by all exporters other than Feger di Gerardo Ferraioli S.p.A (Feger) and La Doria S.p.A. (La Doria). Feger and La Doria were found to be dumping prepared or preserved canned tomatoes however the dumping margin was less than two per cent. Therefore the Commissioner terminated the investigation so far as it related to Feger and La Doria in accordance with section 269TDA(1) of the *Customs Act 1901* (the Act).<sup>1</sup>

### 1.2 Current investigation

On 19 January 2015, the Commissioner initiated an investigation, after deciding not to reject an application lodged by SPC Ardmona Operations Limited (SPCA) requesting the Minister for Industry and Science to publish a dumping duty notice in respect of prepared or preserved tomatoes exported to Australia, from Italy, by Feger and La Doria.

SPCA alleges the Australian industry is suffering material injury caused by prepared or preserved tomatoes exported to Australia from Italy by Feger and La Doria at dumped prices. SPCA claims that the Australian industry has been injured through:

- reduced sales volumes;
- reduced market share;
- price undercutting;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced capacity utilisation.

### 1.3 Purpose of verification

The purpose of the verification visit is to verify information submitted by La Doria in their 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

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<sup>1</sup> A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

- dumping margins.

#### **1.4 Meeting details**

Company	La Doria S.p.A.
Dates of visit	19, 20 and 23 June 2015

The following were present at various stages of the meetings.

La Doria S.p.A.	Antonio Ferraioli – Chief Executive Officer Iolanda Ferraioli – Management Control Director Giovanni Giudice – Management Control Manager Alberto Festa – Chief Financial Officer Cristiano Ermenegildo – Export Sales Director Fabrizio Cuomo – Export Area Manager Giuseppe Tammaro – National Sales Director Fiammetta Monaco – Legal Affairs Manager
European Commission	Carlo Pinto – Head of Sector – Policy and WTO Relations
Anti-Dumping Commission	Joanne Reid, Director, Operations Steven Spears, Assistant Director, Operations

#### **1.5 Investigation process and timeframes**

The Commission advised the company of the investigation process and timeframes as follows.

- The investigation period is 1 January 2014 to 31 December 2014.
- The injury analysis period is from 1 January 2010 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.
- The Commission will not make a PAD until, and if it becomes satisfied, that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.
- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 7 August 2015, after the Parliamentary Secretary to the Minister for Industry and Science (Parliamentary Secretary) extended the deadline for publication pursuant to section 269ZH1 of the Act.

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- The SEF will set out the material findings of fact on which the Commissioner intends to base his recommendations to the Parliamentary Secretary, 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 Commissioner will provide his final report and recommendations to the Parliamentary Secretary.
- The final report is due no later than 21 September 2015, unless further extensions are approved by the Parliamentary Secretary.

### **1.6 Visit report**

The Commission advised La Doria that a confidential report of the visit will be prepared and a copy will be provided to La Doria, giving them the opportunity to review the report for its accuracy.

La Doria were also advised that, in consultation with them, a non-confidential version of the report will be placed on the public record.

## 2 COMPANY INFORMATION

### 2.1 General

La Doria were requested to advise the visit team of any changes to the company structure, it's corporate, organisational and ownership structure and relationships with related parties. La Doria confirmed these details remain the same to the published findings of the verification report from Investigation 217 in 2013. Below is a summary of those findings;

- *La Doria S.p.A (La Doria) was established by the Ferraioli family in Angri in 1954. Angri is located within the territory of Agro Nocerino Sarnese. La Doria was a private family business before becoming a publicly listed company on the Italian Stock Exchange, Borsa Italiana.*
- *La Doria manufactures tomato-based products, from its factories located in Angri, Sarno, Fisciano and Lavello. La Doria identifies its tomato based products from the production line known as the "red line".*
- *La Doria's tomato-based products account for the largest proportion of its sales. The majority of La Doria's products are produced for private labels which are distributed domestically and internationally. Its international markets include the United States, the United Kingdom, Europe, Africa, Asia and Australia.*

### 2.2 Corporate, organisational and ownership structure

- *La Doria belongs to the La Doria Group, which comprises parent company, La Doria, and subsidiaries Eugea Mediterranea S.p.A. (Eugea) and trader LDH (La Doria) Ltd (LDH). Only La Doria is publically listed, of which 64% of the corporate capital is held by various members of the Ferraioli family. The remaining capital is held by the company, and the remaining shares free floating.*
- *The Lavello factory is owned by Eugea. Eugea manufactures canned tomato products without labels) that are subsequently purchased, labelled and sold to market by La Doria. Eugea does not engage in the direct sales of the goods.*

### 2.3 Related parties

- *La Doria engages in related party transactions with its subsidiaries LDH and Eugea.*
- *LDH is a UK trader that supplies La Doria products to the UK. As mentioned in section 2.2, Eugea is a manufacturer of tomato products which are sold to La Doria.*
- *With the exception of LDH and Eugea, La Doria is not related to its customers, suppliers, agents or the tomato growers supplying their raw materials. In relation to suppliers who arrange for transportation of the raw materials from the supplier tomato growers, all parties are independent. None of La Doria's customers of the finished products are related to La Doria, nor the agents representing La Doria customers.*



## **2.4 Accounting structure and details of accounting system**

The visit team requested La Doria to explain and update the Commission regarding any changes to its accounting structure or its accounting system from the published findings of the verification visit in 2013. La Doria stated that no changes or updates have occurred. Below is a summary of the findings of the previous visit in 2013;

*La Doria's accounting period follows the calendar year of 1 January to 30 December.*

*La Doria maintains SAP for its financial management information system. This is a fully integrated system including sales, costs and inventory records.*

*La Doria's accounts are maintained in Euro (EUR).*

*La Doria's cost accounting system is based on actual costs and is organised by direct and indirect cost centres, and product lines.*

*Cost centres are divided into:*

- *structure cost centres: includes general overheads such as administrative, finance, and industrial costs; and*
- *production cost centres: are attributed to direct production costing and general product-related costs.*

*Profit centres in the cost accounting system are:*

- *red lines: peeled, chopped, cherry tomatoes, paste, and sauces;*
- *pulse lines: beans, pasta and soups; and*
- *fruit lines: drinks, nectars and juices.*

*Tomatoes are manufactured at four of La Doria's five factories:*

- *Angri (Salerno)*
- *Sarno (Salerno)*
- *Fisciano (Salerno); and*
- *Lavello (Potenza).*

### 3 THE GOODS UNDER CONSIDERATION AND LIKE GOODS

#### 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.*

This also includes multiple packs of individual packs of prepared or preserved tomato products, each not exceeding 1.14 litres in volume, which are sold together to aggregate to greater than 1.14 litres in volume.

Goods excluded from this application are pastes, purees, sauces, pasta sauces, juices, and sundried tomatoes.

##### 3.1.1 Tariff classification

The goods are currently classified to tariff subheading 2002.10.00 (statistical code 60) in Schedule 3 to the *Customs Tariff Act 1995*.

The general rate of duty is currently 5% for the goods imported from Italy.

#### 3.2 Product range and manufacturing facilities

##### 3.2.1 Product range

In relation to the goods under consideration (GUC) La Doria explained that it manufactures and sells a variety of canned tomato products with differing attributes in terms of tomato recipe, cut, brix, can size, can type and pack type.

La Doria advised that the type and characteristics of a canned tomato product are identified by the product code. The first four alpha/numeric characters indicate recipe type, inclusive of the alpha letter that specifies the cut of the product (ie. P = peeled; C= chopped). The following 2 digits refer to the can size and type. Together the first 6 alpha/numeric characters refer to the product's 'brite can' code. The 'brite can' code refers to cans without labels, which La Doria describes as semi-finished brite cans (brite cans). The remaining digits are customer specific identifiers – 2 digits describe the tray type and the final 3 digits the brand. Product codes that contain the remaining digits indicate the can is a labelled product, which La Doria describes as finished can products (finished can).

Product characteristics and technical specifications of each product type identified as the GUC were provided by La Doria in the REQ. (refer **confidential attachment GEN 1**).

### **3.2.2 Manufacturing facilities**

The visit team asked La Doria to advise whether there were any changes to its manufacturing facilities from the published findings of the verification visit in 2013. La Doria stated that no changes or updates have occurred. Below is a summary of the findings of the published findings:

*La Doria advised that tomatoes are a seasonal produce with crops planted in April, and the harvest period operating between mid-July to late September/early October.*

*There are 4 factories that manufacture tomato products: Angri, Sarno, Fisciano and Lavello. La Doria advised that canned tomato products are, depending on the model, manufactured at either one or multiple plants.*

*La Doria also has can manufacturing equipment located at the Sarno and Angri plants.*

### **3.2.3 Production process**

The visit team asked La Doria to advise whether there were any changes to its process from the published findings of the verification visit in 2013. La Doria stated that no changes or updates have occurred. Below is a summary of the findings of the published findings:

*At the meeting, it described the following production process:*

- *upon delivery at the manufacturing plants raw tomatoes are stored on the truck within the factory yard for a maximum of 24 hours;*
- *at the commencement of the canning process the raw tomatoes are washed and have mud and other foreign matters removed;*
- *the raw tomatoes are then inspected and depending on the quality they are selected for use in the canned product or sent to the juicing line;*
- *tomatoes are graded for consistency in size, colour and blemishes;*
- *tomatoes are then peeled, with the skins and seeds removed – of which a small proportion are sold as animal feed;*
- *the tomatoes selected for chopped tomato products are sent for chopping; tomatoes sent to the juicing line are crushed;*
- *attempts are made to recover any tomato juice lost during the peeling, crushing and chopping process, which is sent to the juicing line;*
- *citric acid (powder form) is added to tomato juice if the brix of the tomato content is too high;*
- *the can is filled with the peeled and/or cut tomato, and tomato juice from the juicing line and other ingredients as required;*
- *a lid is applied, the can sealed and a code printed on the can;*

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- *the sealed can is pasteurised, cooled and air dried; and*
- *the cans are then palletised and labelled, before being warehoused at the factory and despatched.*

### 3.3 Goods exported to Australia by La Doria

The visit team asked La Doria to advise whether there were any changes to the goods exported to Australia from the published findings of the verification visit in 2013. La Doria stated that the factors affecting price remained the same and that they did not make any sales to SPCA or Global Food Holdings during the investigation period. All other details remain the same. Below is a summary of the published findings:

*La Doria explained that almost all of the canned tomato exports to Australia in the investigation period were either 400 gram or 800 gram cans that contained cherry, peeled, or chopped tomatoes. The brix level of the products were said to range between 4.8 – 7. The type of can containing the tomatoes had either an easy open top or a standard open top can, and could be lacquered or non-lacquered. It was also clarified during the meeting that goods were exported in cartons of twelve. The export sales verification confirmed this to be the case.*

The visit team noted that during the current investigation period only [REDACTED] % **[Confidential text deleted – product sale information]** of export sales were of La Doria branded product with the remainder being private brands.

*La Doria advised that factors affecting price of the goods sold to Australia are:*

- *quality of the crop used for the production year;*
- *can type, including the presence of lacquering and lacquering type (standard, white or gold);*
- *recipe, including brix content;*
- *can top type, be it either open top or easy open top;*
- *addition of ingredients; and*
- *packing, the standard packing tray size being 12 cans with 6 and 24 packs available.*

La Doria identified the following Australian customers in its REQ that it exported to during the investigation period, all of which were confirmed during the visit:

- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] [Confidential text deleted – customer information]

The only change to customers since the previous investigation is that La Doria did not make any sales to [REDACTED] –or [REDACTED] [Confidential text deleted – customer information] during the current investigation period.

### 3.4 Like goods sold domestically by La Doria

The visit team asked La Doria to advise whether there were any changes to the goods exported to Australia from the published findings of the verification visit in 2013. La Doria stated that the factors affecting price remained the same. Below is a summary of the published findings:

*La Doria considers that the distinguishing features of canned tomato products and the factors that affect price by kilogram are the cut, recipe type, can size, can type and packing type. In the REQ, La Doria identified the models of like goods identical to the GUC and submitted product specification information for each of their models. However, we noted this comparison was only based on brite can codes.*

*We noted that tomato products with added ingredients (value-added tomato products) were not present in La Doria's domestic sales during the investigation period. La Doria informed us that value-added tomato products are manufactured for export sales only as there is no demand for them in the domestic market.*

*Prior to the visit the visit team identified several variations in can sizes. Two sizes – 400g and 800g – were present in both domestic sales and export sales to Australia. The visit team noted that other sizes sold domestically in the investigation period included 230g, 680g and 690g products.*

*Domestic sales of canned tomato products are in standard trays of 12 cans. In addition to the x12 pack type, we also noted in the domestic sales data that the pack types took the form of: 12x2, 24x, 3x8, 4x3, 8x3, x24 and x86.*

### 3.5 Like goods – preliminary assessment

The visit team consider that all the domestic sales of prepared or preserved tomato products contained in the La Doria sales domestic listing are like goods to the products it exported to Australia.

## 4 SALES TO AUSTRALIA

### 4.1 Sales to Australia

We asked La Doria whether any aspect of export sales had changed since the Commission's previous verification visit in 2013. La Doria stated that it was the same in all key respects:

- contract negotiations commence around May each year;
- each contract is negotiated individually with each customer;
- the contract price is valid for a year's supply; and
- price is not affected by the customer's level of trade.

Following are the key changes in customers from the previous investigation:

- [REDACTED]-and [REDACTED] were not customers of La Doria during this investigation period; and
- After January 2015, [REDACTED]  
[REDACTED] [Confidential text deleted – customer information]

As per the previous investigation, La Doria pays Orange & Green (an importer) in relation to market research carried out in Australia for the benefit of La Doria.

We asked La Doria why an importer that showed up in the ACBPS import database – [REDACTED] — was not included in La Doria's export sales spreadsheet. La Doria advised that this is [REDACTED], which is included in the spreadsheet. [Confidential text deleted – customer information]

In its REQ, La Doria provided an export sales spreadsheet listing each sale of canned tomatoes made to Australia during the investigation period. La Doria provided an updated version of the spread sheet prior to the verification visit.

The updated spreadsheet included line-by-line information relating to:

- customer;
- level of trade;
- product code;
- product description;
- invoice number and date;
- order number;

- date of sale;
- shipping terms;
- payment terms;
- payment terms;
- sales quantity in colis;
- net weight value (kg);
- gross invoice value (in EUR or AUD);
- net invoice value (EUR);
- inland transport;
- handling;
- insurance;
- technical assistance and other services;
- commissions; and
- advertising.

#### **4.1.1 Export sales process**

We asked La Doria to advise whether any aspect of the export sales process, as set out in the previous visit report, had changed since the previous verification visit. La Doria confirmed that it remained the same. For reference, the following extract is from the previous visit report:

- *“during May to June La Doria commences the negotiation process by offering new season prices and contract volumes;*
- *following a negotiation process customers and La Doria agree on a contract with volumes, price, shipment periods and payment terms;*
- *each month the customer sends a purchase order (PO) via email and requests a date of shipment;*
- *the La Doria warehousing department will confirm stock, labels and vessel;*
- *La Doria confirms the PO;*
- *the La Doria warehousing department will arrange labelling and packaging of cans into cartons that are shrink wrapped and loaded onto a pallet;*



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- *prepared pallets are loaded onto a flatbed truck and transported by freight forwarder [REDACTED] to the port in Naples;*
- *the commercial invoice is issued to the customer;*
- *[REDACTED] stuff the cartons into shipping containers; and*
- *sailing time to Australia is about 6 to 7 weeks with vessel stopping at a number of Australian ports.”*

### 4.1.2 Currency

All Australian customers other than [REDACTED] are invoiced in EUR-[REDACTED]  
[REDACTED] is invoiced in AUD- [Confidential text deleted – customer payment information]

### 4.1.3 Delivery terms

The export sales spreadsheet shows that sales to Australia were on either an FOB or EXW basis. Sales to [REDACTED] were a mixture of both FOB and EXW terms.

### 4.1.4 Payment terms

La Doria offers a variety of payment terms to its Australian customers. The terms and the respective customer/s, which have not changed from the previous investigation, are listed below:

Payment terms	Customer
[REDACTED] days from invoice date	[REDACTED]
[REDACTED] days from invoice date	[REDACTED]
[REDACTED] days from invoice date	[REDACTED]
[REDACTED] days from invoice date	[REDACTED]
[REDACTED]	[REDACTED]

[Confidential text deleted – customer and payment information]

### 4.1.5 Discounts, rebates and allowance

La Doria does not provide any discounts, rebates or allowances for export sales to Australia.

### 4.1.6 Date of sale

The export sales spreadsheet indicates the invoice date is the date of sale. While we did not discuss this specifically with La Doria at this visit, the previous verification visit used invoice date as the date of sale and we have no reason to consider that approach should be altered.



## **4.2 Verification of export sales and domestic sales to audited financial statements**

La Doria produced a report for total company turnover from SAP (**Confidential verification exhibit 1**). We noted that this varied to the gross sales from the income statement by ■■■%, [**Confidential text deleted – sales information**] a difference we consider immaterial.

We then compared the total turnover to the sales from La Doria's audited financial statements for the year ended 31 December 2014. There was a variance of ■■■% [**Confidential text deleted – sales information**] to the SAP turnover, however La Doria was able to demonstrate that this difference equated to rebates, which were not included in the SAP turnover (**Confidential verification exhibit 2**).

In order to verify the turnover of the goods, La Doria showed us in SAP how it applied certain filters to derive the turnover for the goods under consideration for export and domestic sales, for example:

- to pick up all 'red line' products;
- to exclude red line products that are not the goods under consideration (for example passata);
- to exclude can sizes outside the range of the goods under consideration; and
- to select Australian customers (in order to include FJ Tytherleight, La Doria had to first include Italian sales because FJ Tytherleight is recorded as a local sale. La Doria showed us how only FJ Tytherleight was included in this filter).

Applying these filters we matched the turnover, by value, from SAP for the goods exported to Australia to the turnover summary supplied with the exporter questionnaire. A report of the query was provided to us (**Confidential verification exhibit 3**). In terms of volume, the report produced from SAP reported quantity of trays only. In order to calculate the quantity in kilograms for the questionnaire response a manual formula was applied based on the net weight of each product, by tray. La Doria showed us in SAP how the 'net weight per tray' matched to Appendix B-4 (**Confidential verification exhibit 4**).

A similar filtering process in SAP to that described above was carried out in order to verify domestic sales. We matched the values and volumes derived from SAP to the turnover summary, and Appendix D-4, for the investigation period.

We were satisfied that the turnover summary of the goods for the 12 months ending December 2014 included all relevant sales of the goods and like goods and omitted all irrelevant sales. Therefore we are satisfied that the turnover summary of the goods for the investigation period includes all relevant sales of the goods and like goods and no irrelevant sales.

### **4.2.1 Completeness and relevance of sales - conclusion**

On the basis of the verification discussed above, we were satisfied that the export sales and domestic sales listings submitted by La Doria are complete and relevant. Tests of

accuracy have been addressed with reference to links to source documents (discussed below for export sales and later in this report for domestic sales).

### **4.3 Verification of export sales to source documents**

Prior to visit we requested that La Doria provide supporting documents for twelve shipments to Australia selected by the Commission.

During the verification visit La Doria provided source document bundles for each of these shipments containing the:

- supply contract;
- La Doria commercial invoice;
- order confirmation;
- packing list;
- bank statement showing proof of payment to La Doria;
- bill of lading; and
- inland transport invoice for FOB shipments.

Additional source documents were provided for several shipments including:

- purchase order;
- contracts outlining commission; and
- invoices for commissions.

These document bundles form **confidential attachment EXP 1**.

#### **4.3.1 Sales volume and value and credit terms**

We matched the volume and value from the selected invoices to the volumes and values in the export sales spreadsheet with no discrepancies identified.

For some invoices the payment made by the customer covered a number of invoices. La Doria provided the remittance advice that set out the invoices included in each payment. In this way we were able to match the payment amounts to the invoice amounts in all cases.

For seven of the 12 selected shipments the payment was made outside the stated payment terms, however in four of these instances the delay was six days or less. Two of the remaining three delayed payments were for invoices to FJ Tytherleight and the delay was 24 days in each instance. La Doria stated it was a sporadic and occasional delay of their clients that after solicit, regularly paid the invoices.

#### 4.3.2 Supply contract

The supply contracts outline the agreed terms and conditions for the supply of tomato products for the entire production and supply period. ie. the year following harvest.

We were therefore unable to reconcile the sales volumes in the selected shipments to the order quantities in the supply contracts. We were, however, able to match the product type and unit invoice price from the selected shipments to the supply contract in all instances.

Given that invoice prices from the first part of the investigation period would have related to supply contracts drawn up in 2013, we checked that the appropriate supply contract was provided for each invoice.

#### 4.3.3 Inland freight, terminal handling and customs charges

The circumstances surrounding inland freight, terminal handling and customs charges during the investigation period are the same as existed during the previous investigation. The relevant extract from the previous visit report is set out below:

*“For FOB sales...there are three components in the breakdown for the transportation expenses incurred– inland transport, terminal handling charges and customs charges. Transport of the goods from the warehouse to the port is provided by freight forwarding company, [Confidential text deleted – supplier information] with whom La Doria negotiates and sets the price for both transportation and customs charges. Terminal handling charges, which includes the loading of the goods onto the ship, is performed by the customer’s chosen shipping company. The cost of this component is determined by the shipping company and is non-negotiable for La Doria.”*

La Doria explained that the inland freight costs were obtained by interrogating SAP for the income statement by customer for the goods under consideration. This inquiry reports the actual cost of inland transport associated with each customer. La Doria divided the total inland transport cost by the total income associated with that customer to determine a percentage of revenue to apply for inland transport.

La Doria demonstrated that the total inland transport allocated across all customers matched the total inland transport on the income statement for the customer. It also provided us with the income statement for all goods under consideration exported to Australia (**Confidential verification exhibit 5**). The total inland transport expense from this report matched the total inland transport from the export sales spreadsheet.

[Confidential text deleted – customer information] bought some goods on FOB terms and some goods on EXW terms. The total inland transport cost incurred for this customer was divided only by sales revenue from sales made on FOB terms. Sales on EXW terms have all been allocated zero inland transport costs.

To further test the veracity of the costs in the export sales spreadsheet we asked La Doria to call up the income statement for [Confidential text deleted – customer information]. La Doria worked through how the percentage allocation was

derived from the income statement and we matched this to the percentage used in the export sales spreadsheet.

#### 4.3.4 Handling charges

La Doria engages an external contractor to undertake all tasks associated with goods handling.

Handling charges were calculated in the same manner as inland freight. **Confidential verification exhibit 5**, referred to above, also contains the total handling charges which reconcile to the export sales spreadsheet.

At the last visit the handling charges in the export sales spreadsheet were said to also include bank charges. La Doria advised that no such bank charges are included in the handling charges for this investigation.

We are satisfied that the handling charges data in the export sales spreadsheet is accurate.

#### 4.3.5 Credit insurance

A column labelled 'warranty and guarantee expenses – (insurance)' with figures listed for each shipment during the investigation period was provided by La Doria in the export sales spreadsheet. La Doria explained that, as per the last investigation, this charge relates to credit insurance. We asked La Doria whether any aspects of the credit insurance had changed since the last visit and it confirmed they had not. The relevant extract from the last visit report is:

*"...the company's policy enforces the requirement of credit insurance cover so that should a customer default on its agreement, a percentage of bad debts can be claimed. For Australian customers...it can claim █% of bad debts."*

The rate of credit insurance in the export sales spreadsheet was █% of the invoice value for all customers and transactions other than █, which was █%.**[Confidential text deleted – customer sales information]**

Given the size of the expense and that the last team was able to verify the amount back to insurance documents; we did not request a copy of the insurance documents during this visit.

#### 4.3.6 Market research costs

The export sales spreadsheet contains a column headed 'Commissions (Promotional Contribution)'. La Doria explained that these amounts relate to payments to █  
█**[Confidential text deleted – customer information]** for market research it undertakes in Australia for La Doria.

The export sales spreadsheet shows that the cost amounts to █% **[Confidential text deleted – sales information]** of the net invoice value.

We are therefore satisfied with the market research expenses component of La Doria's export sales.

#### **4.3.7 Export sales – conclusion**

We are satisfied that the invoiced amount for the exported goods was the price paid and this was accurately reflected in the spreadsheets. We are also satisfied that the export sales spreadsheet contains reasonably accurate amounts (where relevant) for:

- inland transport; terminal handling charges, and other export fees;
- handling and loading charges;
- cost of credit insurance;
- commissions; and
- market research expenses.

#### **4.4 The exporter**

For all export sales during the investigation period, we consider La Doria to be the exporter of canned tomatoes as La Doria:

- is the manufacturer of the goods;
- owned the goods at the time prior to export;
- is listed as the supplier on the bill of lading (except for sales to FJ Tytherleight);
- invoices the importer for the goods (except for sales to FJ Tytherleight);
- arranges and pays the inland transport costs from the place of manufacture to the port of export for FOB transactions;
- arranges and pays for associated handling costs and other export expenses incurred in moving the goods to the port of export;
- 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 good 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 (except for sales to FJ Tytherleight).

## 4.5 The importer

### 4.5.1 All Australian customers other than Coles

We consider that, in relation to export sales of tomato products to all Australian customers other than [REDACTED] - [Confidential text deleted – customer information] in the investigation period, all customers:

- negotiate directly with La Doria for the purchase of the goods;
- are named as the consignee on the bill of lading; and
- were the beneficial owner of the goods at the time of their arrival in Australia.

Therefore we consider the following Australian customers were importers prepared or preserved tomatoes from La Doria during the investigation period:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] - [Confidential text deleted – customer information]

### 4.5.2 [REDACTED]

We consider that, in relation to export sales of tomato products to [REDACTED] in the investigation period via [REDACTED]:

- Although [REDACTED], negotiated directly with La Doria for the supply of the goods to [REDACTED] - and entered into binding legal contracts pursuant to negotiated terms, we consider [REDACTED] - to be the importer because [REDACTED] - is named for both the brand and private label goods in the binding legal contract;
- [REDACTED] - is named as the consignee on the bill of lading; and
- [REDACTED] is the beneficial owner of the goods at the time of their arrival in Australia.

We consider [REDACTED] to be the importer. [Confidential text deleted – customer information]



## **4.6 Arms length**

In respect of export sales to Australia 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 export sales to Australia during the investigation period were arms length transactions.

## **4.7 Export price – preliminary assessment**

The visit team considers that for all export sales to Australia other than those through FJ Tytherleight:

- 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

For these sales, the visit team recommends that the export price be determined under subsection 269TAB(1)(a), being the price paid by the importer less transport and other costs arising after exportation.

In relation to exports by La Doria to [REDACTED]

- the goods have been exported to Australia otherwise than by the importer; but
- the goods have not been purchased by the importer from the exporter.

The visit team recommends that the export price for all transactions via [REDACTED] be determined under subsection 269TAB(1)(c), having regard to all the circumstances of exportation. We have used the invoiced prices from La Doria to [REDACTED] less amounts for charges after exportation.

Details of the export price calculations are at **confidential appendix 1**.

## 5 COST TO MAKE & SELL

### 5.1 General

As part of its REQ, La Doria provided cost to make and sell (CTMS) spreadsheets for its domestic and Australian sales of prepared or preserved tomatoes. The data contained in the CTMS related to all prepared or preserved tomato product models exported to Australia, and all prepared or preserved tomato product models sold domestically except for the 3kg can size, which is not part of the GUC.

La Doria stated that the CTMS data represents the actual costs of production and associated expenses incurred in the production and sale of prepared or preserved tomatoes.

La Doria stated that many product models are manufactured in more than one of its production facilities, and that in these cases the CTMS data represents a weighted average of its production costs for the two or more sites. La Doria explained that production costs incurred at all four of their production facilities for prepared or preserved tomatoes are represented as described above. However, La Doria advised that the costs reported for purchases of Eugea products are the cost of the purchases of that product.

The detailed CTMS data is presented in the following categories:

- industrial costs (including raw materials, labour and fixed and variable manufacturing overheads);
- destruction and depreciation;
- transport;
- loading;
- commissions;
- year-end bonuses, promotionals, and promotions for free;
- credit insurance;
- advertising;
- structure and operating expenses; and
- non-operating expenses.

The visit team asked La Doria to explain any differences from the published findings of the 2013 verification regarding 'on-invoice' and 'off-invoice' discounts that La Doria provide to their customers. La Doria stated that no change to the allocation of these discounts has taken place subsequent to the 2013 verification visit. Below is a summary of the published findings of the previous visit regarding these discounts.



- *The year-end bonuses, promotionals, and promotions for free are shown in the domestic sales listing, collectively, as “other discounts – promotional expenses”. These are all described by La Doria as off-invoice discounts, which are also included in the CTMS data.*

Therefore as La Doria confirmed that their CTMS data reflects actual costs, meaning the ‘off-invoice’ discounts are included in the CTMS, when conducting the profitability tests the visit team used the selling price prior to any ‘off-invoice’ discount being applied.

La Doria’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. As part of its REQ, La Doria provided their annual reports for 2012 and 2013 and a quarterly report for 2014. La Doria’s 2014 financial report has now been provided to the Commission and all their financial reports are available on their website.

La Doria provided CTMS information at the brite can and the labelled product level. The CTMS data was distilled into different tomato types, recipe types and can types. The CTMS data was for the whole of the investigation period of 2014 and due to annual production, La Doria provided a yearly cost for each product code at each product level.

## **5.2 Verification of cost to make and sell data to the financial statements**

To assess CTMS data for completeness and relevance, verification to financial statements was undertaken for selected verified costs.

The visit team sought to verify the income and cost information La Doria provided in its REQ (income statement A-5). The visit team verified that the net sales figure contained in the A-5 income statement matched the total revenue figure contained in the 2014 audited financial report published on La Doria’s website.

La Doria provided the visit team with a report from SAP that contained a breakdown of all costs relating to all lines that contained a total gross profit. The gross profit figure contained in the A-5 income statement matched the SAP report and also the audited 2014 financial report. **See confidential verification visit exhibit 2**

The visit team noted that the figure for total cost of production contained in the audited financial report was slightly different to the figure contained in the A-5 income statement. La Doria stated that the discrepancy was because the figure contained in the A-5 income statement does not include inventory variation cost. Structure costs that are contained in A-5 income statement are included in the figure contained in the audited accounts and labour is split between direct and indirect in the A-5 income statement.

La Doria was then asked to show how the total industrial cost for the chopped goods under consideration was extracted from their total costs. La Doria showed the visit team a spreadsheet that contained all exports. In conjunction with the data contained in the CTMS spreadsheet, La Doria showed the visit team the total industrial cost for export sales to Australia. La Doria then showed the visit team in SAP, how a report was extracted to match the total cost for all products and the total cost for the company.

La Doria then filtered the report to show the visit team the total industrial costs for the chopped and peeled models and excluding 3kg products. Each of these figures was slightly lower than the figures provided in the A-5 income statement. La Doria stated that the differences were because the SAP system does not contain amounts for destruction. **See confidential verification exhibit 2**

La Doria then applied a filter to exclude and include export sales to demonstrate the figures for total industrial costs for their domestic and export sales respectively. Again the figures contained in the report were slightly lower than those contained in the A-5 income statement. La Doria stated that the difference was due to SAP not containing amounts for destruction. **See confidential verification exhibit 11**

La Doria then provided two separate reports that showed a breakdown of their total domestic costs for industrial, transport, handling, commissions and end of year rebates and promotions for the goods under consideration and their total industrial costs relating to sales to domestic customers of the goods under consideration. The total cost amounts for all of the categories relating to the goods under consideration matched the individual cost amounts contained in the A-5 income statement La Doria provided as part of its REQ. **See confidential verification exhibit 10.**

The visit team then sought to verify the industrial cost breakdown of one finished product (chopped [REDACTED]) [**Confidential text deleted – product specification information**] contained in La Doria's CTMS data. La Doria provided a report relating to this model for the investigation period that detailed purchases and packing costs, opening stock levels and production costs. The unit cost contained in the report matches the cost data in the CTMS. **See confidential verification exhibit 12.**

Based on the above information, the visit team is satisfied that the CTMS spread sheets provided by La Doria are complete.

### **5.3 Verification of production costs to source documents**

To assess production cost data for accuracy, verification to source documents was undertaken focusing upon the domestic model described above.

#### **5.3.1 Production volume**

La Doria provided an extract from a report that shows the actual production total for the model in question during the investigation period. The report contains the production quantity, the unit cost, the total value of production, the average unit cost and the various costs associated with the production of the model. From the report the visit team calculated the unit cost by dividing the total value of production by the quantity produced in the investigation period. The figure derived matched the unit cost contained in the industrial cost breakdown report described above, (**confidential verification exhibit 12**) which also matched the unit cost contained in the CTMS data La Doria provided for the model in question. **See confidential verification exhibit 13.**

The visit team then sought to verify the production volumes of the brite can contained in the production report for the model in question. La Doria provided a production report which contained the amount of cans produced for the model in question during the investigation period. The report also contained the brite can unit cost, which is derived by

dividing the total value of production by the quantity produced. The brite can unit cost matched the cost contained in the overall production report. **See confidential verification exhibit 14.**

### **5.3.2 Raw Materials**

#### Tomatoes

La Doria stated that it purchases its various types of tomatoes from the same nine or ten suppliers each year. The suppliers are mainly from the Southern regions of Italy.

La Doria provided a detailed bill of materials for the model identified in the previous section. The production quantity in the bill of materials matched that of the brite can production report La Doria provided. The bill of materials sets out the actual cost of production and the various cost components for the particular model. **See confidential verification exhibit 15.**

The visit team then sought to verify the cost of round and long tomatoes contained in the bill of materials. La Doria provided a summary purchase report showing the total purchases of round and long tomatoes in kilos and the prices per kilo. The visit team verified that the price per kilo in the bill of materials matched the price per kilo of round and long tomatoes contained in the summary purchase report. **See confidential verification exhibit 16.**

The visit team then sought to verify the purchases by La Doria of round and long tomatoes. La Doria provided a detailed report containing every purchase of round and long tomatoes for the investigation period. The visit team verified that the total kilo amount purchased for all round and long tomatoes, matched the total kilo amounts contained in the summary purchase report for round and long tomatoes. **See confidential verification visit 17.**

The visit team then sought to verify individual purchases of round and long tomatoes based on random selections of purchases during the investigation period from the detailed purchase report. **See confidential verification exhibits 18 and 19.**

La Doria provided the contract and invoice from the suppliers of the selected purchases of round and long tomatoes. From the contracts the visit team established the kilo amounts to be purchased from the customer, the price per kilo of each type of tomato and the rates that are applied to defective tomatoes.

The visit team then verified from the attached invoice, the total price paid by La Doria for the purchases of round and long tomatoes. The amounts contained in the invoices for the individual purchases matched the price amounts contained in the detailed tomato purchase report. **See confidential verification exhibits 20 and 21.** The visit team then verified La Doria's payment of each tomato purchase from the invoices they received from their customers to the accompanying payment details generated from their accounting system. **See confidential verification exhibits 25 and 26.**

La Doria stated that it does not use paste in its prepared or preserved tomatoes only in its passata products.

## Cans

La Doria explained that it manufactures the majority of its own cans at two of its plants and applies a weighted average cost to the production of a can. La Doria also purchases a small amount cans. The visit team sought to verify the cost of a can.

Using the bill of materials for the model described above, the visit team identified the code for the can that was used in the production of the model ( [REDACTED] ). **[Confidential text deleted – product specification information]** La Doria provided a summary report containing the production figures of their cans. The unit cost is derived by dividing the total value of production by the total volume produced. The unit cost contained in the summary report matched the unit cost contained in the bill of materials for the model described above. **See confidential verification exhibit 22.**

The visit team requested a bill of materials to verify the purchase and consumption of tinplate used to make the can in question. La Doria stated that they import their tinplate and use only one supplier. The bill of materials represents the average cost for the two production sites. From the bill of materials the visit team verified the unit cost of tinplate to the unit cost of the can contained in the full bill of materials for the model in question. **See confidential verification exhibits 23 and 15.** La Doria also provided a summary report for all purchases of tinplate during the investigation period and the opening stock. The visit team verified the total purchases of tinplate and the unit cost from that report to the documents described above. **See confidential verification exhibit 24.**

The visit team then sought to verify the purchase and payment of the tinplate. La Doria stated that .031 of a sheet of tinplate is required to make one can. La Doria stated that they use a conversion rate of 0.9918 divided by a metric tonne of tinplate purchased to derive the amount of sheets that are contained in a particular purchase. It is this number that is entered into La Doria's inventory system regarding tinplate.

La Doria provided a detailed report showing the total cost of the purchased tinplate, including all ancillary costs during the investigation period. The ancillary costs include import duty and a small amount paid for the disposal of packing associated with the purchase of tinplate. The total cost amount from the detailed report containing all La Doria's purchases of tinplate, matched the total cost amount in the summary report generated from their accounting system. **See confidential verification exhibit 27 and 24.**

La Doria provided the visit team with a detailed report of their tinplate inventory. From the report the visit team selected two purchases of tinplate to verify. La Doria provided the orders contained in their system and invoices relating to the selected purchases. Applying the conversion rates described above the visit team was able match the amount of sheets contained in the tinplate inventory to the ordered amount. The visit team was also able match the amounts in the invoices La Doria received for its purchases. **See confidential exhibits 30, 28 and 29.**

### 5.3.3 Destruction Depreciation and Burden

The visit team sought to verify the costs La Doria allocates to the classification of burden. La Doria stated that burden related costs are comprised of labour costs, salaries, amortisation, maintenance, consumables, rent and leasing and other costs. La Doria

stated that a burden cost is calculated for each its plants and that figure is then applied to each product produced at that plant. The visit team chose to focus on the plant at Angri to verify burden related costs.

La Doria provided a summary report that showed the total amount of fixed and variable burden, as a unit cost applied to each product. The figure is calculated by dividing the total of each cost described above by the total hours worked. The visit team was able to match the figure from the summary report to the bill of materials of the model in question. **See confidential verification exhibit 31 and 15.**

The visit team requested the bill of materials of a different model ( ) **[Confidential text deleted – product specification information]** and matched the burden cost allocated to that model to the summary burden report containing the unit cost calculation. **See confidential verification exhibit 32.**

#### **5.3.4 Structure and Operating Costs**

La Doria stated that these costs are calculated as a percentage of total turnover. La Doria stated that they combine their structural costs and their operating costs and divide that total by their total turnover. La Doria provided a summary report relating to both of these costs. The visit team was able to calculate the total cost which matched the total cost from La Doria's income statement provided (A-5) to the Commission in the REQ. **See confidential verification exhibit 33.**

#### **5.3.5 Purchases of Eugea products**

La Doria stated that they only purchase peeled tomatoes at brite can stage from Eugea. The visit team sought to verify the purchases. La Doria provided a summary report for one peeled model . **[Confidential text deleted – product specification information]** The summary report showed total volume purchased from Eugea and the unit cost. The visit team requested, and was provided a bill of materials for the selected peeled model made by La Doria and one made by Eugea. The visit team noted from the respective bills of materials that the unit price of long tomatoes was **[Confidential text deleted – price information]** less in the Eugea bill of materials than the La Doria bill of materials. La Doria stated that the difference in price of long tomatoes was attributed to Eugea being closer in proximity to the growers than La Doria, which translated to lower transport costs being attributed to prices of long tomatoes paid by Eugea. **See confidential verification exhibit 34.**

#### **5.3.6 Additional bills of materials**

The visit team explained to La Doria that if the Commission makes a positive finding regarding a market situation being present in Italy for prepared or preserved tomatoes, one option in the calculation of normal values would potentially be the replacement of the cost of tomatoes. The visit team asked La Doria to provide bills of materials for their entire exported like goods and the bills of materials for the like goods purchased from Eugea. La Doria provided the requested bills of materials. **See confidential verification exhibits 35, 36 and 37.**

## **5.4 Profit**

The weighted average net profit achieved on all domestic sales of like goods sold in the ordinary course of trade was approximately ■% [**Confidential text deleted – profit information**] over the investigation period.

The visit team considers 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.

## **5.5 Costs to make and sell – preliminary assessment**

The visit team is satisfied that sufficient information was available and verified to substantiate the CTMS of both domestic and exported goods. The visit team is satisfied that the method La Doria has adopted to allocate costs reasonably reflects the CTMS.

The verified unit CTMS calculations for La Doria's products are contained in **confidential appendix 2**.

## 6 DOMESTIC SALES

### 6.1 General

#### 6.1.1 Levels of trade

La Doria confirmed that, as per the last visit, it sells canned tomatoes in the domestic market to the following distribution channels:

- Retail
- Industrial customers; and
- Other sales – (including customers categorised as catering, various sales, marginal retail sales)

We confirmed that price does not vary according to differences in distribution channel or category of customer, rather price is negotiated on an individual basis, customer by customer.

#### 6.1.2 Sales of brite can product

Around █% [**Confidential text deleted – sales information**] of La Doria's domestic sales (by value) were brite cans. At the last visit La Doria advised that for such sales it is not aware of the identity of the final customer, and it was not aware of whether the product was ultimately sold for home consumption in Italy or sold to an export market (including Australia). For that reason, the Commission considered in the original investigation that La Doria's sales of brite cans were therefore not relevant sales for the purpose of section 269TAC(1) of the Act because it could not be satisfied that the price paid or payable for like goods sold in such sales were in the ordinary course of trade *for home consumption in the country of export*.

We asked La Doria about this issue in the present visit. It advised that it can be almost certain that none of its domestic sales were ultimately exported because it would be required to be advised of the relevant export specifications when it manufactured the goods. We noted with La Doria that this response differed to the advice given at the previous visit however it remained satisfied that all its domestic sales of brite cans ultimately remained in Italy.

However, we note that La Doria made no sales of brite cans to Australia during the investigation period. We consider that while domestic sales of brite cans may still be regarded as like goods, we do not consider these goods to be reasonably comparable to the goods sold in export sales to Australia in the investigation period. La Doria's domestic sales of brite cans have therefore not been used in the calculation of La Doria's dumping margin.

All La Doria's domestic sales to its related company, Eugea, during the investigation period were brite cans.



### 6.1.3 Sales of second choice products

As per the previous investigation, La Doria sells *second choice* products to certain customers and the unit prices for such products are generally quite low relative to its selling prices for primary product.

La Doria identified the following sales as being sales of second choice finished product in the investigation period, which together accounted for around [REDACTED] % of the domestic sales of like goods by volume (tonnes):

Customer	Quantity (T)
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[Confidential text deleted – customer volume information]

We consider that while these goods may still be regarded as like goods, we do not consider these goods to be reasonably comparable to the goods sold in export sales to Australia in the investigation period.

### 6.1.4 Domestic sales process and pricing

As per the previous investigation, La Doria confirmed that it sets the price for La Doria labelled products on the basis of price lists and negotiation with the purchaser. La Doria explained that although its price lists are revised periodically, only one price list was operational during the investigation period. A copy of the relevant price list is at **confidential attachment D3**. La Doria also provided copies of emails sent to customers in each quarter of the investigation period advising that this price list remained unchanged, other than the price for cherry tomatoes.

### 6.1.5 Factors affecting price

As per the previous investigation, La Doria confirmed that the following factors affect price per kilogram of prepared or preserved tomatoes sold domestically in Italy:

- product type – chopped; peeled; cherry; or chopped organic (noting that added ingredients are not a feature of the products sold domestically)
- can size – 800 gram can ; 400 gram can; 230 gram can; 680 gram glass jar; or 690 gram glass jar;
- packing type (number of cans and configuration per carton) – 12x2; 24x; 3x8; 4x3; 8x3; x12; x24; x6; x86
- can type – easy-open with lacquer; easy-open without lacquer; open top with lacquer; or open top without lacquer



#### **6.1.6 Delivery and payment terms**

La Doria's delivery terms for domestic sales were either:

- delivered into store - shown in the domestic sales spreadsheet as delivery duty paid (DDP) – approximately █% by volume (tonnes) was delivered; or
- ex-works – shown in the domestic sales spreadsheet as EXW – approximately █% by volume (tonnes) was EXW.

The domestic sales spreadsheet showed that a variety of payment terms existed for domestic sales during the investigation period, ranging from payment in advance to █ days from the end of the month of the invoice. We noted that one payment term was the most common in the investigation period – █ days from the end of the month of the invoice. This represented around █% of the sales by net invoice value. [Confidential text deleted – payment information]

#### **6.1.7 Rebates and discounts**

La Doria explained that it offers a range of discounts to prices for tomatoes:

- channel discounts
- on-invoice discounts
- promotional discounts
- discount extra
- transport discounts

Details of these possible discounts were provided on the price list at **confidential verification exhibit 6**.

As per the findings of the previous investigation, where multiple discounts were applied they were done sequentially, not cumulatively. That is a discount sequence of █%, █% and █% was the equivalent of an overall discount of █%, not █%. [Confidential text deleted – sales information]

The on-invoice discounts were recorded in the domestic sales spreadsheet as discounts applicable to the gross invoice price, and the net invoice price on the invoice matched the amount by the same name in the spreadsheet. All of the other discounts were recorded in aggregate in the spreadsheet column called "Other discounts – promotional expenses". Further discussion of these amounts is contained in the section dealing with verification of the domestic sales data to source documents.

#### **6.1.8 Commissions**

La Doria explained that commissions apply only to those sales that involve agents. We noted in the domestic sales data provided for the investigation period that where commissions did apply, the amount generally ranged up to approximately █%. Further

discussion of these amounts is contained in the section dealing with verification of the domestic sales data to source documents.

## **6.2 Domestic sales data submitted by La Doria**

In its response to the REQ, La Doria provided a domestic sales spreadsheet listing each domestic sale of canned tomatoes (except for 3kg cans) made during the investigation period.

The spreadsheet included line-by-line information relating to:

- customer code and name;
- level of trade;
- model;
- product code;
- label;
- invoice number and date;
- order number;
- delivery terms;
- payment terms;
- sales quantity in cases;
- sale quantity in kilos;
- gross invoice value;
- discounts;
- net invoice value;
- other discounts – promotional expenses;
- inland transport;
- handling and other charges;
- cost of credit insurance; and
- commissions.

We sought to verify the domestic sales data contained within the domestic sales spreadsheet. Firstly we sought to test for completeness and relevance by tracing the data

through management reports to audited financial statements. Secondly we sought to test the accuracy by tracing the data to source documents. These verification exercises are discussed in the following two sections of this report.

### **6.3 Verification of sales to audited financial statements**

Our verification of the completeness and relevance of domestic sales was undertaken in conjunction with the same test for export sales. This verification is discussed at section [4.2](#) above.

### **6.4 Verification of sales to source documents**

Prior to the visit we selected 12 domestic sales transactions for detailed verification. For each transaction we asked for and were provided:

- purchase order;
- order confirmation;
- commercial invoice;
- packing list;
- evidence of on-invoice discounts; and
- payment of net invoice amount.

The domestic sales documents are at **confidential appendix 3**.

Where appropriate for each selected invoice, we also asked for and were provided evidence of:

- off-invoice discounts;
- inland transport charges;
- handling and other expenses;
- cost of credit; and
- commissions

#### **6.4.1 Key invoice details including value and volume**

We were able to match the sales volume and sales value of the net invoice amounts on commercial invoices to the detail in the domestic sales spreadsheet. The net invoice amount was after on-invoice discounts. The packing lists provided also supported the volume detail in the domestic sales spreadsheet.

Other key information on the invoices and packing lists also matched the details provided in the domestic sales spreadsheet. In particular we checked the product description; invoice number and date; customer name; and delivery and payment terms.

#### 6.4.2 Discounts

In terms of on-invoice discounts, seven of the selected transactions included amounts, which ranged from ■% to ■% of gross invoice value. La Doria took us through one of the transactions with the highest discount, with reference to the corresponding invoice (■■■■■■) and supporting schedule of discounts (included at **confidential appendix 3**) applicable to this customer. We noted that the on-invoice discounts were made up of six different components being “channel” discount (■■%); “on-invoice” discount (■■%); promotional discount (■■%); “transport” discount (■■%); and “Extra” discount (■■%). In sequence, this provides for a combined discount of around ■%. This matched the amount in the domestic sales spreadsheet. **[Confidential text removed – customer discount information]**

In relation to off-invoice discounts, ten of the selected transactions included amounts, which ranged from 2% to 35% of net invoice value. It should be noted that the majority of the selected transactions had off-invoice discounts of ■% or below (of net invoice value) with only one transaction containing an amount of ■%. La Doria took us through two transactions (**confidential verification exhibit 8**) to demonstrate how the amount in D-4 was calculated. La Doria provided copies of signed agreements between it and the customer in relation to two components of discount. One related to “promotional contributions” and the other to “end of the year award” (premio fine anno). In the first example La Doria demonstrated that the applicable discounts were ■% plus a fixed amount Euro ■■■■ in relation to sales of all products. La Doria divided the ■■■■ by the total revenue from the customer for all products to obtain a percentage. When this was added to the fixed rate of ■% the discount amount was close to the amount in the D-4 spreadsheet, with minor variation. **[Confidential text removed – customer discount information]**

In the second example La Doria showed that the discount in D-4 was ■% and this matched the contract with the customer, which showed that ■% was the only discount that applied. **[Confidential text removed – customer discount information]**

We also asked for evidence of the payment of the off-invoice discount. La Doria provided payment receipts showing their payments of off-invoice discounts for 12 of the 15 domestic sales that were verified. The payment receipts matched the order numbers of the selected sale. La Doria also provided payment receipts for the off-invoice discounts for the selected sales. From the payment receipts we matched the model and the amount ordered for each selected sale. The payment receipts also showed the amount of discount paid to each customer either per sale or for a period of a month.

Copies of the documents supporting the off-invoice discounts are at **confidential attachment DOM 1**.

#### 6.4.3 Payment terms

The majority of the selected transactions had payment terms of ■ days from the end of the month of the invoice. Using the evidence of payment documents provided by La

Doria, we noted that payment was made in close parallel to the agreed terms for the selected transactions.

#### **6.4.4 Inland transport**

All but one of the selected transactions were for goods sold on delivery terms of delivered to customer (marked in the spreadsheet as DDP). La Doria explained that the inland transport amounts in Appendix D-4 were derived from income statements for each customer. It selected one customer (██████) to demonstrate the calculation.

La Doria demonstrated how the total inland transport costs in Appendix D-4 reconciled to the income statement. By taking us through the SAP system it demonstrated how the total transport costs from La Doria's income statement were broken down into domestic and export transport costs by applying certain filters. By filtering on the goods under consideration on the total domestic transport costs, La Doria demonstrated how the GUC transport costs for retail and industrial customers matched the total inland transport costs on appendix D-4 (**confidential verification exhibit 10**).

#### **6.4.5 Handling**

La Doria explained that it used the same method to ascertain the handling charges as it did for inland transport. La Doria demonstrated on the screen how the total handling charges were split between export and domestic markets, and then filtered for the goods under consideration only. We observed that the resulting handling charges for domestic sales of the GUC matched the total handling charges in Appendix D-4.

#### **6.4.6 Commissions**

The domestic sales spreadsheet indicated that four of the selected transactions incurred commissions expenses, paid to agents. Included at **confidential attachment DOM 1**, La Doria provided copies of the signed agreements with the relevant agent for the commission involved. The evidence provided support for the rates of commission used in the spreadsheet.

La Doria also provided evidence of payment for the commissions, together with a summary of the sales values to which the payment related. We noted that the commission payment, when measured as a percentage of the sales value, matched the commission rate used in the spreadsheet.

Copies of the documents pertaining to commission payments are at **confidential attachment DOM 1**.

#### **6.4.7 Domestic sales – conclusion**

We are satisfied that the domestic sales spreadsheet provided by La Doria is complete and accurate. However, we do not consider the following domestic sales data suitable for assessing normal value:

- sales of brite can products (which includes sales to La Doria's related party, Eugea); and

- sales of second choice products.

## **6.5 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.

In some instances the buyer is reimbursed for part of the price via a year-end bonus. We concur with the following statement from the previous investigation that the evidence provided by La Doria in this investigation (discussed in section 6.4.2 of this report) to support the year-end bonuses:

*'...indicated that these were well established trading practices, underpinned by written agreements between buyer and seller, and such agreements specified a period and made clear the amount of the bonuses in advance of the sale. Therefore, we consider, pursuant to section 269TAA of the Act, that in spite of the payment of the year-end bonuses, the domestic sales can be treated as arm's length transactions.'*

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

## **6.6 Ordinary course of trade and sufficiency of volume tests**

Before considering the tests of profitability contained within section 269TAAD of the Act, the visit team considered the nature of the sales of prepared or preserved tomatoes made domestically. The visit team noted that of the 33 models of the goods exported to Australia, there were no identical models of like goods for 24 of those models of the goods exported to Australia.

For each individual domestic transaction, the visit team compared the unit cost to make and sell per kilo to the corresponding unit net selling price per kilo (after on-invoice discounts only). As production only occurs during a two month period each year, the single unit cost to make and sell is also the recoverable cost for ordinary course of trade purposes. Therefore, the visit team believe it would be unreasonable to conduct the recoverability test against all domestic models without the ability to obtain a weighted average unit cost to make and sell. As a result the domestic sales found to be unprofitable are also considered to be non-recoverable.

The visit team found that some models sold domestically had sales at a loss that were in substantial quantities (greater than 20%). Therefore, only unprofitable sales of these models were considered not to be sold in the ordinary course of trade and were not included for determination of normal values.

The visit team also tested those models exported to Australia with the identical models sold domestically to establish whether the sales in the ordinary course of trade were in sufficient volume. All nine identical models have been sold in sufficient volumes.

The calculations for the ordinary course of trade tests and the sufficiency of volumes are at **confidential appendix 3**.

## **6.7 Profit on sales made in the ordinary course of trade**

We calculated profit rates applicable to domestic sales of like goods that were made in the ordinary course of trade in the investigation period. These are discussed further in the context of a constructed normal value, later in this report. The overall profit rate for domestic sales of like goods that were made in the ordinary course of trade in the investigation period was ■%. **[Confidential text removed – profit information]**

The calculations of profits achieved on domestic sales of like goods made in the ordinary course of trade are at **confidential appendix 4.1**.



## **7 Third country sales**

In its REQ, La Doria provided a summary of sales quantities and values to third countries.

The data does not contain sufficient information to be able to assess whether the nature of the trade in like goods between Italy and any or all of these third countries is similar to the nature between Italy and Australia. Therefore we considered that third country export sales were not a suitable basis for establishing normal value.

We noted that sufficient information was available to establish normal value on the basis of domestic sales for some models, and by way of constructed normal value for other models.



## 8 Adjustments

To ensure proper comparison of normal values with export prices the visit team considered the adjustments discussed in this section of the report.

It is important to note that the export prices and normal values exclude commissions because of the multiple commission rates. Another exclusion from export prices was made in the case of exports to O&G, which related to market research expenses that were paid by La Doria.

The export prices and normal values include handling/loading charges and also include the cost of credit insurance.

### 8.1 Inland transport

La Doria included within its domestic sales data amounts for inland transport charges for each invoice. The verification of these amounts is discussed above in the domestic sales section of this report. La Doria also provided within its export sales data amounts for inland transport. The verification for these amounts is discussed above in the export sales section of the report. The visit team concluded that the amounts recorded in respect of the domestic sales transactions are relevant and reliable.

In order to ensure normal values are comparable with export prices the visit team considers that a downward adjustment to domestic selling prices is required for domestic inland transport and a corresponding upwards adjustment to domestic selling prices to account for the inland transport on export sales.

### 8.2 Credit terms

The visit team verified the amounts paid and also the actual credit terms applicable to the payments for the selected transactions, which is discussed above in the domestic sales section of this report. The visit team concluded that the credit terms recorded in respect of the domestic sales transactions are relevant and reliable.

The visit team used the rate (████%) contained in La Doria's 2014 audited financial report as a basis for calculating the opportunity cost of extending credit terms.

In order to ensure normal values are comparable with export prices, the visit team considers it is appropriate to make a downward adjustment to domestic selling prices for domestic credit terms and a corresponding upwards adjustment to domestic selling prices to account for the credit terms regarding export sales.

### 8.3 Commissions

The visit team verified amounts for commissions paid by La Doria in relation to certain domestic sales, and the verification of these amounts is discussed above in the domestic sales section of this report. The visit team verified that no-████████████████████  
████████ [Confidential text removed – customer commission information]

In order to ensure normal values are comparable with exports, the visit team consider it is appropriate to make a downward adjustment to domestic selling prices for the amount of domestic commission.

#### **8.4 Handling/loading charges**

In its export price spreadsheet La Doria listed expenses for “*Handling - Loading & Ancillary expenses and Bank Charges*”. In its domestic sales spreadsheet, La Doria included amounts for “*Handling & other*” expenses”. Further discussion of handling and loading charges is contained above in the domestic sales section and the exports sales section of this report.

In order to ensure normal values are comparable with export prices the visit team consider it is appropriate to make a downward adjustment to domestic selling prices for the amount of the domestic *Handling & other expenses*, and an upward adjustment for *Handling - Loading & Ancillary expenses and Bank Charges* relating to exports.

#### **8.5 Warranty and Cost of credit insurance**

We noted this expense was determined by La Doria with reference to a percentage rate applicable to sales value, and that the percentage rate was the same for domestic and export sales. Accordingly, the visit team do not consider it is necessary to adjust normal values because of the cost of credit insurance.

#### **8.6 Promotional contribution (export)**

La Doria listed in its export sales spreadsheet expenses described as “*Commissions (Promotional Contribution)*” which, at the visit, it described more specifically as payments to O&G for market research in Australia. We consider that these expenses are likely to make up some part of the La Doria export prices to O&G. Rather than calculate separate normal values for O&G transactions, we considered it was appropriate to deduct such expenses from the export price so that all export prices were exclusive of the expenses for other factors (market research).

#### **8.7 Other Factors Advertising**

La Doria listed in its export sales spreadsheet expenses described as “*Other Factors (Advertising)*”. La Doria stated that this expense relates to the promotion of La Doria’s own brand and has been allocated evenly across all products. As discussed above at section 3.3, sales of La Doria’s own brand only makes up ■■■ % of export sales. The visit team do not consider it is necessary to adjust normal values because of the cost of “*Other Factors (Advertising)*”.

## 9 Normal Values

### 9.1 Normal value assessments

The sales of peeled tomatoes, chopped tomatoes, organic peeled, organic chopped tomatoes and cherry tomatoes by La Doria 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 La Doria, and the verification processes conducted on site, the visit team is satisfied that prices paid in respect of the domestic sales of nine models sold by La Doria are suitable for assessing normal value under section 269TAC(1) of the Act. The visit team considers those domestic selling prices require adjustment in terms of section 269TAC(8) of the Act, to ensure fair comparison to the export prices, for the following differences in export and domestic prices that are caused by differences in relation to:

- inland transport;
- Credit terms;
- commissions;
- handling and logistics; and
- warranty and cost of credit insurance.

Normal value calculations for those nine domestic models of prepared or preserved tomatoes are at **confidential appendix 4.1**.

### 9.2 Remaining Models

The visit team has established that there is an absence of sales on the domestic market in Italy of 24 models exported to Australia by La Doria, that allows normal value to be ascertained under section 269TAC(1).

Where normal values cannot be ascertained under subsection 269TAC(1), 269TAC(2)(c) of the Act states that the normal value is, except when paragraph (2)(d) 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 the profit on that sale.

#### 9.2.1 Cost of production

Subsection 269TAC(5A)(a) of the Act provides that amounts to be determined to be the cost of production or manufacture of the goods when constructing a normal value, must be worked out in such a manner as the regulations provide.

The visit team is satisfied that the costs of production that have been verified are accurate and complete. In accordance with regulation 43 of the *Customs (International Obligations) Regulations 2015* (the Regulations), the visit team has used the cost of production of the exported goods, in this case the 24 models identified as not being sold on the domestic market, as the source for constructing a normal value.

### **9.2.2 Administrative, selling and general costs and profit**

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

Regulation 44 of the Regulations provides that the Minister must calculate the administrative, selling and general (SG&A) costs associated with the sale of like goods in the country of export providing that the exporter or producer of like goods keeps records relating to the like goods that are in accordance with generally accepted accounting principles and reasonable reflect the SG&A costs associated with the sale of like goods.

Regulation 45 of the Regulations provides that the Minister must, if reasonably practicable, work out the amount of 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, the visit team have determined that La Doria 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 subsection 269TAC(2)(c).

To ensure fair comparison to the export price adjustments have been for the following under section 269TAC(9) of the Act;

- inland transport;
- Credit terms;
- commissions;
- handling and logistics; and
- warranty and cost of credit insurance.

Normal value calculations for value-added chopped tomatoes are at **confidential appendix 4.1**.

## **9.3 Market situation**

The visit team explained to La Doria that part of the investigation involved whether the operation and administration of the European Union's Common Agricultural Policy and related programmes have distorted domestic selling prices of prepared or preserved tomatoes and the purchase price of the major raw material input (fresh tomatoes) used in the manufacture of the goods. If so, the Minister may make a finding that a "particular

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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 REQ, La Doria submitted that it had not received any benefits, payments or forms of support from the Italian government, European Commission or any other affiliated agency or group related to the European Union’s Common Agricultural Policy or related programmes.

La Doria’s position was affirmed during the verification visit and confirmation of their position can be found in submissions to the Commission made on their behalf by their legal representation, Van Bael & Bellis.

The visit team is satisfied that La Doria could provide no further information regarding the market situation claims.

## 10 Dumping margin

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

The dumping margin for the investigation period is de minimis [REDACTED] % [Confidential TEXT DELETED – number].

The dumping margin calculations are at **confidential appendix 5**.

## 11 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Export Price calculations
Confidential Appendix 2	Cost to make and sell
Confidential Appendix 3	Ordinary course of trade and sufficiency tests
Confidential Appendix 4	Adjustments
Confidential Appendix 4.1	Construction
Confidential Appendix 5	Dumping Margin calculations
Confidential Attachment GEN 1	La Doria product specifications
Confidential Attachment EXP 1	Export Sale Documentation
Confidential Attachment DOM 1	Domestic Sale Documentation
Confidential verification exhibit 1	Gross Sales report
Confidential verification exhibit 2	Income Statement
Confidential verification exhibit 3	SAP Sales Turnover
Confidential verification exhibit 4	SAP Turnover Report (model)
Confidential verification exhibit 5	SAP Cost Report
Confidential verification exhibit 6	Email confirming price list
Confidential verification exhibit 7	SAP report value by product
Confidential verification exhibit 8	Discounts contract
Confidential verification exhibit 9	Packing cost contract
Confidential verification exhibit 10	Summary Cost Report
Confidential verification exhibit 11	SAP report for Chopped GUC
Confidential verification exhibit 12	Industrial Cost Report for selected Product Code
Confidential verification exhibit 13	Bill of Materials for selected model
Confidential verification exhibit 14	Product code volume report
Confidential verification exhibit 15	Bill of materials brite can stage



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Confidential verification exhibit 16	Tomato purchase report
Confidential verification exhibit 17	Summary report tomato purchases
Confidential verification exhibit 18	Report round tomatoes
Confidential verification exhibit 19	Report long tomato purchases
Confidential verification exhibit 20	Tomato supplier contract
Confidential verification exhibit 21	Tomato supplier contract
Confidential verification exhibit 22	Can type report
Confidential verification exhibit 23	Bill of materials for a can
Confidential verification exhibit 24	Tinplate report
Confidential verification exhibit 25	Invoice payment of round tomato purchase
Confidential verification exhibit 26	Invoice payment of long tomato purchase
Confidential verification exhibit 27	Tinplate and ancillary cost report
Confidential verification exhibit 28	Tinplate purchase invoice
Confidential verification exhibit 29	Tinplate purchase invoice
Confidential verification exhibit 30	Tinplate Inventory ledger
Confidential verification exhibit 31	Burden cost summary report
Confidential verification exhibit 32	Bill of materials to support burden cost
Confidential verification exhibit 33	Report of structure and operating costs
Confidential verification exhibit 34	Report of purchases from Eugea
Confidential verification exhibit 35	Bill of materials for all brite cans
Confidential verification exhibit 36	Bill of materials for Eugea brite cans
Confidential verification exhibit 37	Bill of materials for PC's produced in 2013 and sold in 2014