



## INVESTIGATION 217

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

### EXPORTED FROM ITALY

### VISIT REPORT - EXPORTER

### CONSERVE ITALIA SOC. COOP. AGR.

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

November 2013

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\$	Australian dollars
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
The applicant	SPC Ardmona Operations Limited
CFR	Cost and freight
COGS	Cost of goods sold
Commission	Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
EBIT	Earnings before interest and tax
EDITA	Earnings before interest, tax, depreciation and amortisation
FOB	Free On Board
GAAP	Generally accepted accounting principles
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
EQR	Exporter questionnaire response
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

# 1 BACKGROUND AND PURPOSE

## 1.1 Background

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 the industry has been injured through:

- loss of sales volume;
- reduced market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced cash flow; and
- reduced attractiveness for reinvestment in the tomato processing business.

The Commissioner of the Anti-Dumping Commission (the Commission) was satisfied that the application was made in the prescribed manner by a person entitled to make the application.

Public notification of initiation of the investigation was made on 10 July 2013 in *The Australian* newspaper and Australian Dumping Notice No. 2013/59.

## 1.2 Purpose of visit

The purpose of the visit was to verify information submitted Conserve Italia Agricultural Co-operative Society's (Conserve Italia) exporter questionnaire response (EQR). 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.

### 1.3 Meeting details

The verification meetings took place at:

Conserve Italia Soc. Coop. Agr.

Via Paolo Poggi, 11

40068 – San Lazzaro di Savena (Bo)

Telephone: +39-051-6228 311

The following were present at various stages of the meetings.

Dates	4, 5 and 6 November 2013
Conserve Italia	Mr. Pier Paolo Rosetti – Director Vice General Mr. Davide Mazzacurati – Chief Administrative Officer Mr. Cesare Concilio – Export Sales Director Mr. Gianluca Pilo – Relazioni Esterne Gestione Finanziamenti (External Relations Management Funding) Mr. Alessandro Torresi – Deputy Export Director PL & Brands, Managing Director Mediterranean Growers Ltd, Managing Director Warburger GmbH Mr. Daniele Malin – Quality Assurance Manager Mr. Andrea Colombo – Sales Manager for Brands and Private Labels  Ms. Gabriella Verdi – Conference Interpreter Mr. Roger Simpson – Consultant for Conserve Italia
Government of Italy	Ms. Barbara Zara – Directorate General for International Trade Policy, Division VII (Asian Countries, included Gulf Countries, Australia and New Zealand), Department for Internalization, Ministry of Economic Development
European Commission	Ms. Eva-Maria Sanchez – Directorate-General for Trade
The Commission	Mr. Tom O'Connor – Manager, Operations 1 Mr. Timothy Flor – Supervisor, Operations 2

### 1.4 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

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- The injury analysis period is from 1 January 2009 to 30 June 2013 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. Subsequently a PAD was made on 1 November 2013 and securities were imposed

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 and/or a countervailing duty notice.

This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

- Following an extension to The Statement of Essential Facts (SEF) due date the SEF is now due to be placed on the public record by 16 December 2013, or such later date as the Minister for Industry (the Minister) allows 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 an extension to the SEF is approved by the Minister.

## **1.5 Visit report**

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

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

## **1.6 Cooperation and preliminary issues**

Conserve Italia cooperated with the verification of details contained in the EQRs and provided further information when requested.

We advised Conserve Italia that:

- our findings and recommendations would be subject to internal review;
- if the Commission is satisfied that Conserve Italia had not exported the products to Australia in the investigation period at dumped prices, The Commission would

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be required to terminate the investigation so far as it relates to Conserve Italia;  
and

- if the Commission is satisfied that there has been dumping from Italy, but the injury, if any, to the Australian industry that has been caused by that dumping is negligible, then The Commission would be required to terminate the investigation.



## 2 COMPANY INFORMATION

### 2.1 General

Conserve Italia Agricultural Co-operative Society (Conserve Italia) is a cooperative company that process fresh fruit and vegetables founded in 1976.

Conserve Italia's website claims that it is one of Europe's largest agri-food industry companies with a global group turnover of 1,033 million euro in 2011-12. Conserve Italia group processes approximately 600,000 tonnes of raw produce annually and through its member cooperatives cultivates 20,000 hectares of primary fruit, vegetables and prepared or preserved tomatoes.

The processed goods are packaged in twelve production plants:

- • 8 located in Italy; (4 plants manufacture the goods)
- • 3 in France and managed by Conserves France S.A.; and
- • 1 in Spain and managed by Juver Alimentación S.L.U.

Conserve Italia group employs 1,724 full time employees and employs 1,385 temporary workers for the harvesting and processing period.

The primary product inputs are supplied by its member cooperatives of whom number about 12,000 farmers, located mainly in the northern part of Italy (Emilia Romagna, Veneto, Lombardia regions) but also in the centre (Tuscany region) and south (Apulia region).

According to its website, Conserve Italia and Conserves France processed 352,928 tonnes of tomatoes in Europe during the 2011-12 financial year, representing ■■■% per cent of its total production of processed raw produce.<sup>1</sup>

Prepared or preserved tomatoes are processed from July to September annually. Finished products are designated as 'white can' i.e. cans without label.

Canned prepared or preserved tomatoes comprised ■■■% of its product group turnover. The majority of the groups product turnover was contributed by nectars, juices and fruit drinks (■■■%) with canned vegetables, syrups, jams and compote and others contributing to the remainder of the company's turnover.

Conserve Italia claims that it is a market leader in Italy with the Cirio, De Rica, Valfrutta and Jolly Colombani brands. It is also the market leader in Europe for peeled and chopped prepared or preserved tomatoes.

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<sup>1</sup> <http://www.conserveitalia.it/content/view/28/185/lang,en/>

## 2.2 Corporate, organisational and ownership structure

Conserve Italia's company structure consists of fifty-one members of which:

- Thirty eight are ordinary cooperative members that supply the raw material for the industrial processing;
- Eleven are financial supporting cooperative members, or rather cooperatives that take part in the company either as financiers and as suppliers of raw materials;
- Three (Fondosviluppo, Regione Toscana and ISA Spa) are Organisations that support Conserve Italia Cooperative as supporting members or financiers, but do not take part in the business of Conserve Italia even if they have some representatives in the Board of the cooperative;
- One is a special cooperative member.

The list of shareholders was provided as part its EQR.

### 2.2.1 Organisational structure

The Board of Directors is appointed by the Members' Meeting. The Board of Directors appoints the holders of offices with powers of representation including the Chairman and two Deputy Chairmen. According to its EQR reporting to the Board is via three staff departments, and five line departments under the Chairman and the General Management which include sales, operations, production and agricultural services, logistics and marketing.

## 2.3 Related parties

As part of the Conserve Italia group are entities located outside of Italy which includes

- Conserve France SA (France) (91.8% owed)

- [REDACTED]

[REDACTED] Tera Seeds S.r.L (90% owed)

## 2.4 Relationship with suppliers and customers

Conserve Italia advised us that it is not related to any of its customers via share ownership. Additionally it indicated that it is not related to any suppliers of raw materials. We were advised it only has a small parcel of land for available for cultivation and for which it receives a payment under the European Union's Common Agricultural Policy and related programmes.

## 2.5 Accounting structure and details of accounting system

### 2.5.1 Accounting process

Conserve Italia noted that its financial reports are in accordance with Generally Accepted Accounting Principles (GAAP) of Italy. To capture financial and production information Conserve Italia uses Enterprise Resource Planning (ERP) SAP R3. The company's accounting currency is in Euros (EUR) and has a financial year running from 1 July to

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30 June. An audited annual report is prepared yearly by PWC. At the time of the visit the 2013 audited report was made available. See **Confidential Attachment GEN 1**.

In its EQR, Conserve Italia provided a detailed description of depreciation rates and the asset's useful life.

**2.5.2 Accounting structure**

In its EQR, Conserve Italia provided a chart identifying the reporting lines and a detailed chart identifying the SAP information capture architecture.

As part of the EQR Conserve Italia provided its 2011 and 2012 audited financial statements.

### 3 THE GOODS UNDER CONSIDERATION AND LIKE GOODS

#### 3.1 The goods

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

The goods the subject of the application (the goods) are prepared or preserved tomato products. The application specifies:

*Prepared or preserved 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.*

##### 3.1.1 . Exclusion of certain goods from investigation

In SPCA's application, it indicated the goods excluded from this application are:

*pastes, purees, sauces, pasta sauces, juices, and sundried prepared or preserved tomatoes*

The Commission considers that the goods covered by the investigation do not include those listed above.

##### 3.1.2 Tariff classification

The goods are classified to 20021000 the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995 with statistical code 60

#### 3.2 Product range and manufacturing facilities

##### 3.2.1 Product range

When sorted by product types we identified the following broad categories;

- Cherry prepared or preserved tomatoes 1/1 Kg can
- Cherry prepared or preserved tomatoes 1/2 Kg can
- Crushed prepared or preserved tomatoes 1/2 Kg can
- Crushed prepared or preserved tomatoes 1/4 Kg can
- Diced prepared or preserved tomatoes 1/2 Kg can
- Diced prepared or preserved tomatoes 330g glass bottle
- Like cherry prepared or preserved tomatoes 1/2 Kg can
- Peeled prepared or preserved tomatoes 1/1 Kg can
- Peeled prepared or preserved tomatoes 1/2 Kg can
- Peeled prepared or preserved tomatoes 1/4 Kg can
- Sliced prepared or preserved tomatoes 1/1 Kg can
- Sliced prepared or preserved tomatoes 1/2 Kg can
- Spicy diced prepared or preserved tomatoes 690g glass bottle.

### 3.2.2 Manufacturing facilities

Conserve Italia manufactures the goods from four facilities in Italy. As identified on its web site the four facilities are located at;

- Codigoro (Pomposa)
- Ravarino
- Albinia
- Mesagne

We were informed that each of Conserve Italia's facilities are located within 100 kilometres of the tomato raw material to ensure freshness at the time of processing. Additionally, Conserve Italia advised us that the long tomato variety is not grown in the Northern parts of Italy. To this end, the Mesagne facility located in the southern parts of Italy is Conserve Italia's only facility to make peeled prepared and preserved tomatoes. The other three facilities make the other variants of the goods.

### 3.2.3 Production process

As part of the EQR, Conserve Italia provided production flow charts. Very simply put the raw material is received and checked. It is analysed for quality and graded.

It is then washed, blanched chopped (peeled Mesagne only). Juices are captured and sent to the concentrating facility. Through the process the goods are sorted and scrutinized for defect material and metal and other foreign objects before the can is filled.

The can is filled with the solids (tomatoes) followed by the addition of the concentrated juice. We were informed the concentrated juice is taken from an initial brix of 4 to 6 depending on quality and is increased to a brix of between [REDACTED]. Conserve Italia made a distinction with the peeled goods, in that; no concentrate is added to the finished product.

The combination of the solid and the concentrate when blended will result in a finished product of approximately [REDACTED] brix.

The can is then seamed sealed, coded and then undertakes the pasteurization.

Following the pasteurization the goods are considered semi-finished and are stored waiting to be labelled.

Conserve Italia advised us that it does not sell any goods to domestic or export markets in the unlabelled form.

The goods are labelled in anticipation of orders being received. Once labelled the goods and packed in trays and wrapped waiting for dispatch which follows shortly thereafter.

### 3.2.4 Goods exported to Australia

For the goods exported to Australia we consider the manufacturing process is identical for domestic like goods manufacture.

### 3.3 Like goods

Subsection 269T(1) defines like goods to mean:

*Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

To examine the issue of like goods we applied the following considerations of

- Physical likeness
- Commercial likeness
- Functional likeness
- Production likeness
- And other matters.

#### 3.3.1 Physical likeness

##### Container

Conserve Italia indicated that the goods it produces for the domestic market have different characteristics such as the container and container size. As indicated at section 3.2.1 there is a range of sizes and containers being glass and cans. With respect to the tin can container, there are two main types and two types of opening mechanisms.

Cans can either be internally lacquered or not. The lacquer looks like a white plastic liner. We were informed by that the lacquer provides no functional benefit. It is cosmetic and helps to add a premium feel to the finished good. The alternative is that it is not lacquered.

Can openings are either a ring pull type called easy opening that requires no specific implement, or the traditional lid where a can opener is required.

Conserve Italia also uses glass bottles for its containers.

Conserve Italia uses [REDACTED] with [REDACTED] for both domestically sold goods and those sold to Australia.

##### Filling

Conserve Italia makes a range of products including diced, crushed, chopped, and cherry for the domestic and export markets. It uses either the long tomato variety for its peeled prepared or preserved tomatoes products or round tomatoes grown in the north of Italy for the other models.

We were informed that it does have a range of recipes for different clients but the variations within those recipes is so minor that it does not exclude it from likeness.

Conserve Italia advised us that the main recipe it uses is [REDACTED] being diced [REDACTED] mm with a brix of [REDACTED]. This recipe is used for many products

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████████████████████. This recipe aims for a brix value of approximately ██████████. We were provided with page one of this recipe that identified a number of labels that use this finished goods recipe. See **Confidential Attachment GEN 2**

Conserve Italia considered that the majority of its manufactured goods are like goods to the goods under consideration. It considers the peeled product is similar to the exported models and the diced, crushed and cherry also similar.

### Product coding

To identify products Conserve Italia uses product coding. Codes are used for the identification of the recipe to bright can stage. Another code is used for the finished goods stage and a further code is used to identify product groups. We understand that the coding system was not a single code with each key having particular meaning. Each code appeared to be mutually exclusive.

In its EQR, Conserve Italia used the material code and the product code to help define like goods. The material code referred to the finished good and the product code identified similar product groups.

In its EQR Conserve Italia sold to Australia products that belonged to the product codes below,

- 41274 (Diced ½ kg) ,
- 41275 (Crushed ½ kg); and
- 42274 (Peeled ½ kg)

We also note in its supplementary response Conserve Italia also exported cherry prepared or preserved tomatoes to Australia.

In its EQR Conserve Italia used the same product codes to identify domestically sold products. From the product codes, Conserve Italia indicated the products to be identical.

It further described that the exported goods and domestic goods had the same characteristics; being;

- “private label”
- Either peeled, diced or crushed
- easy open lacquer cans of ½ kg in packs of 12 wrapped in plastic film.
- The goods had a net weight of 400 grams and a brix of between 6.0 and 7.0.

Prior to the verification visit, the Commission asked Conserve Italia to provide all domestic sales of all like products rather than the private labels as initially provided . The Commission also sought the respective cost to make and sell of those goods. Conserve Italia provided this information prior to the visit.

Following an examination of the supplementary cost to make and sell information we noted that the product codes listed in the supplementary cost to make and sell identified branded labels being Valfrutta, Jolly Colombani, and Cirio sold by Conserve Italia with the same product codes as those identified for export product sold to Australia.

We consider the broader range of branded products should also be considered like goods following the logical progression of the coding system identified in the like goods section of Conserve Italia's EQR.

### **3.3.2 Commercial Likeness**

Conserve Italia stressed to the commission that the private label versus branded label (Conserve Italia's proprietary labels) is a critical distinction to use to identify like goods. Private labels were described as goods with labels specified by its customers rather than by Conserve Italia. Conserve Italia indicated that private labels are marketed differently, and priced differently. Branded labels are priced higher, required substantial promotion and support and rebates and deferred discounts from part of the contracted selling price. These factors are substantially different to the private label products which did not receive these commercial activities and, as such, branded products should not be considered like goods.

We were informed that the branded labels of Conserve Italia had a strong product presence in the domestic market developed through many years of promotion and development of good will.

With regard to competition, we were informed that Conserve Italia's branded labels do compete against private labels products on the same shelves in the same retail space.

### **3.3.3 Functional likeness**

Although many products use the same recipe and or there may be slight differences, there does not appear to be any functional difference between the goods and those like goods sold on the domestic market. Typically the goods sold on the export market are 400gram (net) in size, lacquered cans with easy open lids with a recipe almost identical, if not identical, to the domestically sold products. The domestic like goods are also sold in 400g net sizes with lacquered cans and easy open lids.

Importantly it is the same raw ingredients used for products in both markets and the end use is the same – sold to consumers via retail outlets for use in the preparation of foods.

### **3.3.4 Production likeness**

We were informed that the goods made for export and those sold on the domestic market were made using the same production techniques and raw materials.

## **3.4 Like goods – preliminary assessment**

From an examination of the physical, functional, production and commercial likeness, pursuant to subsection 269T(1) like goods definition we are satisfied that the prepared or preserved tomatoes produced by Conserve Italia for domestic sale in Italy are like goods to those exported to Australia.



## 4 SALES TO AUSTRALIA

### 4.1 General

Conserve Italia claims to be market leading manufacturer of tomato based products. Conserve Italia's target export markets are located within the European Union and include France, Spain, Germany, Great Britain and Ireland.

In its EQR Conserve Italia indicated it is developing other export markets for its tomato products primarily in other parts of Europe and into new markets in North America, Brazil, Japan and South Africa.

Conserve Italia confirmed at the visit that it had been exporting prepared or preserved tomatoes to Australia since 2009. Australian retailers [REDACTED] are Conserve Italia's major customers and have direct lines of contact with these retailers. Sometimes Conserve Italia uses the services of a wholesaler or a broker as an intermediary.

Sales made to [REDACTED] are canned prepared or preserved tomatoes under the [REDACTED]. [REDACTED] is an Australian based importer that on-sells the goods on an indent basis to [REDACTED]. Similarly sales made [REDACTED] are on-sold to [REDACTED]. At the time of the visit Conserve Italia noted that [REDACTED] is a logistics and trading company, where Conserve Italia invoices [REDACTED] for tomato products that are sold to the Australian [REDACTED].

Conserve Italia indicated that sales to [REDACTED] are domestic in nature [REDACTED] is Italian domiciled. At the verification visit Conserve Italia provided the full list [REDACTED] sales made during the investigation. See **Confidential Attachment EXP1**

#### 4.1.1 Export sales data provided

In its EQR, Conserve Italia provided an Australian sales spreadsheet listing each export sale within the investigation period. At the verification visit the company advised that it had revised this spreadsheet for payment terms.

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

- customer name;
- level of trade;
- model (product description);
- product code invoice number;
- invoice date and date of sale;
- order number;
- shipping and payment terms;
- quantities of cans and kilograms;
- units (kilogram);
- gross invoice value and net invoice value;
- currency and exchange rate;

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- charges for ocean freight and marine insurance;
- FOB export price (Euro can);
- packing cost (Euro can); and
- inland transport (Euro can).

Conserve Italia's Australian sales listing forms **Confidential Attachment EXP2**.

Additionally, Conserve Italia provided at Annexure 3 a 'Turnover' spreadsheet (showing sales values and volumes for the investigation period from the management financial statements for 2012-2013).

#### 4.1.2 Sales volume and value

From the revised Australian sales spread sheets the following volume and value for peeled, diced and crushed was identified;

Customer name	Total kilograms	Net invoice value
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Over the period of investigation the majority of Conserve Italia's export volume and value to Australia were diced prepared or preserved tomatoes.

## 4.2 Selling process

### 4.2.1 Export sales process

In its EQR, Conserve Italia detailed the sales process involved with export sales to Australia. This process is described below. At the verification visit we confirmed the detail of the export sales process as follows:

- Contract negotiations between Conserve Italia and its Australian wholesale customers take place annually from June to September. Conserve Italia claims no ownership of any of its Australian wholesale importers. When negotiating with its customers Conserve Italia takes into consideration factors such as the budgeted cost of products, its targets on gross margin and competitive market conditions such as tomato availability, seasonality and demand. There are no volume discounts or thresholds, bonuses, warranties or rebates applicable to any of Conserve Italia's sales to Australian customers. The price payable is the final price paid.
- For quantities that are not fulfilled, sometimes the delivery terms to importers can be delayed.
- Contracts are signed typically for a twelve month period, which is a typical contract length for a seasonal product like prepared or preserved tomatoes. These contracts specify the price and volumes for this period. Conserve Italia aims to avoid variations to the contracted price and volume and stated that such variations are uncommon.

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- Following a contract, customers place an order with Conserve Italia. Upon receipt of an order Conserve Italia's production and logistics departments prepare the tomato products for shipment which includes labelling of the can.
- When the goods are ready to be shipped they are layered onto a pallet with other canned prepared or preserved tomatoes and shrink-wrapped with plastic. They are loaded into a container of only canned prepared or preserved tomatoes. On the same day the goods leave Conserve Italia's premises Conserve Italia's accounting department generates an invoice related to the relevant shipment.
- Credit terms for Australian customers are in line with their respective contracts with Conserve Italia of direct remittance within [REDACTED] except for [REDACTED] days.

Conserve Italia indicated that the contract price holds for the term of the contracted period. We were informed that it is very rare for the contracted price to be renegotiated during the contact period.

#### **4.2.2 Date of sale**

The Commission usually regards the invoice date as the date of sale (i.e. the date that best represents when the material terms of the sale have been established) unless there is clear evidence to indicate that another date is appropriate. We used the invoice date as the date of sale.

#### **4.2.3 Pricing and terms**

Conserve Italia claimed that all of Australian sales were sold to [REDACTED], [REDACTED] and [REDACTED]. Conserve Italia stated that all its Australian sales are mostly on FOB terms, with [REDACTED] invoiced on an EXW basis. Sales to [REDACTED] were on FOB terms as well.

All sales are made in Euros.

Conserve Italia outlined that an internal theoretical starting price determines its starting point for all commercial negotiations. Its consideration of a price to market is determined by several factors including the cost of the raw materials, its target margin for each canned tomato (its own brand or private label), after sales services and the market channel where the canned prepared or preserved tomatoes are sold.

Conserve Italia noted that similar considerations take place for good sold into the domestic market.

We were informed, the selling price to [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Conserve Italia indicated that the [REDACTED] to [REDACTED] for logistics is confidential.

#### 4.2.4 Export packaging

Conserve Italia explained that packing costs are similar between domestic and export customers. Pallets are used for domestic and export sales. Conserve Italia explained that there are additional taxes on packaging on domestically sold product which is discussed further under the Adjustments section.

Goods are packed into trays of 12 cans and then wrapped in plastic. The goods are then placed onto pallets with cardboard layers used in between the trays and again the whole pallet is wrapped in plastic.

#### 4.2.5 Inland freight and handling charges

In the Export sales worksheet provided with its ERQ, Conserve Italia recorded inland freight.

On examination of Conserve Italia's EQR the company noted that the inland transport charges for exported goods from Conserve Italia's premises to the port are determined from contractual obligations with its third party carriers. These carriers also provide ancillary services related to port terminal handling, wharfage, port charges and container services which are charged to Conserve Italia accordingly.

The inland freight charge had been converted to a unit charge per can in Euros for each shipment of prepared or preserved tomatoes. This unit charge per can was input into the Australian sales spreadsheet for each transaction to determine a per transaction inland freight charge. From the commercial documents provided at section 4.3 we confirmed the value of the inland freight and handling charges to the source documentation.

### 4.3 Verification of export sales to source documents

Prior to the visit we requested that Conserve Italia provide commercial documents for ten shipments from Italy to Australia. As part of the ten transactions we also selected one shipment that was a credit note.

Conserve Italia provided the following documents for each of these shipments for verification;

- commercial invoice
- order confirmation
- purchase order
- packing list
- sea waybill
- evidence of payment
- credit/debit note.

Additional to the commercial documents provided were source documents for inland freight.

Source document bundles form **Confidential Attachment EXP3**.

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We compared the data contained within the source documents to that provided by Conserve Italia and were able to trace the sales volume (in pieces) using the commercial invoices and packing lists, and sales value in EUR.

We observed that the proof of payment for each invoice showed that Conserve Italia's customers paid the purchase price in EUR into Conserve Italia's bank account. Conserve Italia provided a copy of its banking statement recording credits for payments in bulk to its account for each shipment and forms Confidential Attachment EXP3.

#### 4.3.1 Credit terms

Conserve Italia advised that its terms of payment for both [REDACTED] days net from invoice value. This was reflected on Conserve Italia's revised Australian sales spreadsheet and invoice documentation for [REDACTED] for the relevant selected sales but not detailed specifically on [REDACTED] invoices. For [REDACTED] sales payment terms in the spreadsheet were listed as [REDACTED] days net from invoice value. For the selected sales to [REDACTED] on the Australian sales spreadsheet these payment terms reconciled to the invoice.

#### 4.3.2 Other charges

We observed that no warranty expenses, technical support were recorded within the export sales spreadsheet. We found no evidence to believe that any further charges should be reported against the transactions.

### 4.4 Verification of export sales to audited financial statements

Conserve Italia provided its 2013 Audited Financial statements (see Confidential Attachment GEN 1) and its management profit and loss (see **Confidential Attachment GEN 2**) for the completeness test. We were informed the management profit and loss statement was used to compile the responses in Annexures 3 and 4 of the EQR and as such this report was not final. Conserve Italia confirmed that the profit figure in the audited report was the same as the management profit and loss.

To confirm total export sales Conserve Italia provided a report listing all sales to all countries which included both Australia and Italy. See **Confidential Attachment EXP4**. Total sales value in this report agreed to the management profit and loss. We could identify the total Australia sales value and volume. This value agreed with the export sales worksheet.

To reconcile sale to [REDACTED], we also reconciled the amounts to another internal management report extracted from the BW system (a reporting and analysis tool of the SAP system) listing turnover by country of export and this forms **Confidential Attachment EXP5** to confirm sales made to [REDACTED] as Conserve Italia recognises these as domestic sales although the goods are destined for Australia.

At **Confidential Attachment EXP 6** is a copy of a sale to [REDACTED]. We requested this to confirm that the details in the revised [REDACTED] sales work sheet agreed to source documents.

## 4.5 Forward orders

As previously discussed, Conserve Italia stated that as prepared or preserved tomatoes are a seasonal product, there is an annual harvest and processing period from July to September and that the sales to its Australian customers are specified under contract for a twelve month period.

We accepted that although forward orders exist, it is within the general trading arrangements between Conserve Italia and its Australian customers.

## 4.6 The exporter

The Commission generally identifies an exporter as:

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

In this instance, Conserve Italia manufactured the goods and sold them to their Australian customers and was aware they would be exported to Australia. Therefore, we consider that Conserve Italia is the exporter for the purposes of determining export price and normal value.

Although Conserve holds a different opinion for sales to [REDACTED] we are also of the view that Conserve Italia is the exporter despite the invoice being made in favour of [REDACTED]. All the circumstance of those sales indicates that Conserve Italia is well aware of the final destination of the goods.

## 4.7 The importer

We consider that [REDACTED] respectively are importers of the goods. This is because these importers:

- negotiate with Conserve Italia for the purchase of prepared or preserved tomatoes; and
- are named as the consignees on their respective waybills; and
- control of the goods despite the goods being directly shipped in some instances to the end user.

We consider that each importer is the beneficial owner of the goods at the time of importation and each importer is therefore the importer of the goods exported by Conserve Italia.

From the discussion with Conserve Italia we do not consider [REDACTED] to be the importer. We consider [REDACTED] to be the importer in these transactions.



## 4.8 Arms length

### 4.8.1 Exports to Australia

In respect of Conserve Italia's sales to each importer 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, will, subsequent to the purchase or sale, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We consider the sales of the goods by Conserve Italia to [REDACTED] each to be at arms length.

## 4.9 Export price – preliminary assessment

For [REDACTED], we are satisfied that:

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

We consider that the export price for these sales can be determined under s. 269TAB(1)(a) using the invoiced price less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

For goods sold to [REDACTED] we consider the goods were not sold from the exporter to the importer. We consider [REDACTED] sells the goods to the importer. Accordingly we consider the export price be established pursuant to s.269 TAB(1)(c) having regard to all circumstances of these sales.

## 5 COST TO MAKE & SELL

### 5.1 Approach to verification

At the visit we emphasised that we wanted to reconcile the cost data upwards to audited financial statements via management reports to ensure completeness of the data and also downwards to supporting source documentation to ensure accuracy and reliability of the data.

Prior to the verification of the domestic and Australia sales cost to make and sell (CTMS) information, Conserve Italia provided a copy of the management profit and loss statement for the financial year 2013. See **Confidential Attachment Gen 3**. We were informed this document that was used to compile the EQR and in particular the income statement at Annexure 3 to the EQR.

From this document we were able to verify total sales and the company's profit to Annexure 3. We were also able to confirm the profit in the management profit and loss to the 2013 audited financial statements.

Throughout the verification, Conserve Italia referred to the management profit and loss and interrogated its SAP system for greater detail that reconciled to the management reports.

In its EQR Conserve Italia indicated that between 90 and 95% of all production is under contracted sales.

### 5.2 Costing methodology

#### 5.2.1 Standard Costs

Conserve Italia uses a standard costs to capture the costs of production. In addition however at the end of the production period it examines total costs and develops actual costs. Therefore Conserve Italia does not account for production variances to the general ledger. From a verification perspective, Conserve Italia had prepared the CTMS worksheets for its EQR based on the pre-production standard cost.

At the time of the verification visit, Conserve Italia had finalised its year end statements and they had been signed off by the auditor. Conserve Italia provided actual costs. The difference between the two figures was negligible.

We commenced our verification confirming the prep production standard costs and then made the minor amendments where necessary.

#### 5.2.2 Allocations

As part of the EQR, Conserve Italia described the allocation of the production costs.

#### Direct production costs



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Direct production costs were described as all costs directly related to production which are allocated directly using a unit of measure for each component of the direct production cost.

These were described as raw materials, packing, labour, energy.

#### Manufacturing overhead

These are not direct costs and cannot be attributable to specific goods. These costs are allocated based on physical quantities /volume.

#### Variable selling costs

Variable selling costs are attributable to the product and are applied using selling revenue.

#### General overheads

These are described as structures fixed costs, commercial and marketing costs, finance costs which are all allocated based on sales revenue.

For verification we selected bill of materials (BOM) from the Mesagne and Pomposa plants. See **Confidential Attachment CTM 1**

Conserve Italia also provided a copy of the actual BOM for the Mesagne plant to confirm the slight differences between standard cost and actual cost. See **Confidential Attachment CTM 2**

### **5.3 Production volume**

#### **5.3.1 Verification of volumes**

Total production capacity is [REDACTED] tonnes of raw material for all products. Conserve Italia calculated this as the sum of production volume from each plant. Annex 21 to the EQR identified that from the four plants used to manufacture the goods [REDACTED] of ½ kg cans can be produced of chopped and crushed. [REDACTED] tonnes can be produced of peeled ½ kg cans.

To verify total production volume identified at Annex 21 to the EQR Conserve Italia confirmed the total production volume to the audited financial statements page 63. See **Confidential Attachment GEN XX**

During the investigation period [REDACTED] tonnes of diced and crushed and [REDACTED] tonnes and peeled tomato products were produced.

To verify these amounts Conserve Italia extracted production reports from its ERP to confirm. See **Confidential Attachment CTM 3**

### **5.4 Manufacturing costs**

#### **5.4.1 Verification of costs**

##### Raw prepared or preserved tomatoes

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To verify raw prepared or preserved tomatoes, Conserve Italia provided a detailed listing of all tomato purchases at Annex 25 as part of its EQR. We were informed that they seek to purchase prepared or preserved tomatoes from the cooperatives that from the basis of shareholding prior to using non cooperative growers produce.

In the detailed listing at Annexure 25 to the EQR, we were able to identify the seller, the volume, scrap, value and plant for use.

To confirm the value of the raw tomato used in the standard for peeled tomato products, Conserve Italia provided a cost reconciliation. See **Confidential Attachment CTM 4**

To confirm this reconciliation Conserve Italia provided production reports and an extract from its SAP system identifying total tomato purchases for Mesagne. See **Confidential Attachment CTM 5**.

At the Mesagne plant (used only for peeled tomato products) it also makes concentrate for sale. It values the concentrate at the prevailing market price.

To obtain the raw tomato cost for the peeled tomato used, Conserve Italia deducts the volume used for concentrate and applies the market price. The market value is multiplied by the concentrate volume. This value is deducted from total raw tomato purchases at Mesagne. The remaining cost applied for peeled prepared or preserved tomatoes is a residual value after deducting the prepared or preserved tomatoes used for concentrate production.

The result is the peeled tomato unit cost increases from the buy in price.

To confirm tomato purchases, we selected to see invoices and evidence of payment for tomato purchases occurring for the Pomposa plant. We were informed the Pomposa plant does not make concentrate for sale.

Conserve Italia provided an SAP extract (general ledger detail) to identify the volume and value of tomato purchases from its member growers. See **Confidential Attachment CTM 6**. This value agreed to the value in Annex 25 of the EQR.

On examination of confidential attachment CTM 6 we found that growers can invoice Conserve Italia at a later date after delivery when the quality is determined to be higher than that was originally found. Accordingly we found additional invoices seeking additional payments. See **Confidential Attachment CTM 7**. We were informed this type of payment is rare and in total amounted to less than [REDACTED] of the tomato purchases value at the Pomposa facility.

The detail provided in confidential attachment 6 identified additional payments. Conserve Italia provided the selected invoices and evidence of payment. See **Confidential Attachment CTM 8**.

### Concentrate

We examined the cost to concentrate the juice used for the crushed and diced prepared or preserved tomatoes. We noted in the BOM for Pomposa a single rate called tomato/concentrate. We asked to see the unit cost for concentrate.

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Conserve Italia informed us that the raw material for the concentrate is market value of concentrate. On examination we found that the concentrate cost is an addition to the raw tomatoes used in the manufacture of the goods. Although a market value, we were informed that the unit cost to convert the juice into concentrate would be an increase in overhead labour and energy as the juice had already been captured from the raw tomatoes.

Conserve Italia stated that it does not purchase any concentrate for use in prepared or preserved prepared or preserved tomatoes. See Confidential Attachment CTM 2.

Cans and Lids

Conserve Italia uses two suppliers for its cans and lids. We selected to see an invoice and evidence of payment to confirm the unit price in the standard.

Conserve Italia provided these and it confirms the standard applied. See **Confidential Attachment CTM 9**

Energy

To demonstrate the energy cost represented in the BOM, we asked to see the electricity invoice and standard cost calculation. Conserve Italia provided a July 2012 electricity invoice for Mesagne plant. This was then compared to an internal worksheet showing the usage within the plant. Total usage for July in the worksheet agreed with total kilowatts purchased shown in the invoice. Conserve Italia used the weighted average power cost as it could be seen that different rates applied during the month of the July. See **Confidential Attachment CTM 10**. The actual rate used in the BOM was the weighted average calculated over the year from all invoices. From the worksheet provided we saw the weighted average kilowatt rate was applied to the BOM.

Labour

To confirm the rate of labour in the BOM for the Mesagne plant, Conserve Italia provided a labour cost report. It identified total manufacture of all products and the direct labour costs. It then divided direct labour cost by the units produced per second. It was this figure used in the BOM. See **Confidential Attachment CTM 11**.

Manufacturing overhead

Due to the eight plants in Italy, Conserve Italia applied the manufacturing overhead on a product group and applied these indirect costs by volume (kilograms).

We identified the two cost components, being fixed costs indirect and depreciation indirect in the management profit and loss statement.

When the total value was applied by the volume to the domestic private labels product group profit and loss (**Confidential Attachment CTMS 1**) the per cent applied in the domestic sales CTMS agreed to this. See **Confidential Attachment CTM 12**.

Raw material loss

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We asked Conserve Italia to calculate the amount of losses that occurs in the production of the goods. Conserve Italia provided a worksheet identifying the loss associated with the raw tomato. See **Confidential Attachment CTM 12**

Conserve Italia indicated that the standard loss calculation occurs at three points in the production process.

- The loss associated with the farmer estimate of volume delivered and the actual delivered volume
- Loss associated between the tomato delivered brix and the brix needed for the finished goods
- The actual loss being the difference between that consumed and the delivered.

Product 400grams	Raw Material consumed grams	Un- recovered losses of raw material consumed	Delivered losses
Diced			
Crushed			
Peeled			

## 5.5 Selling, general and administration (SG&A) expenses

### 5.5.1 Verification of costs

All Selling and Administration expenses were a function of revenue. In this regard Conserve Italia had a 22 business units. Whilst Conserve Italia had strict definitions for each group, a group may be [REDACTED] for example. Conserve Italia used these business units and sales value to apply the SG&A expenses. For our purposes, the two main groups of relevance are the Cirio brand and the Private Label domestic business units.

In the CTMS Conserve Italia applied relevant percentages from each of its business units. For the CTMS provided Conserve Italia provided a profit and loss for the business unit related to private label sales on the domestic market. See **Confidential Attachment CTMS 1**. From this we were able to identify the following items

#### Selling costs

These costs included agent commissions and bonus and promotion expenses together with marketing consultants, sales force and other sundry expenses.

#### Administration

These costs related to the buildings associated with this business unit.

#### Financing

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This is the cost associated with bank fees and charges and interest.

Delivery

The costs associated with the delivery of goods. These costs were also verified as part of the domestic sales verification. From the SAP system we were provided total delivery costs and volume (cans) by product. Conserve Italia calculated a per can rate and applied to the domestic sales transactions. It then calculated the total inland freight and handling charges and divided it by the net invoice value to derive a per cent which it applied to the CTMS. See **Confidential Attachment DOM 2**

Other

These costs were considered sundry items but a large part of this value related to an insurance payout associated with a flood in one of the factories in 2012 production year.

Conserve Italia also directed us to examine the whole of company management profit and loss statement to confirm the costs. From this document we were able to identify the relevant cost items before the allocation process. See **Confidential Attachment CTMS 2**

**5.6 Costs to make and sell - conclusion**

We consider that Conserve Italia's cost to make and sell (CTMS) data is a reasonably complete, relevant and an accurate reflection of the actual CTMS of prepared and preserved tomatoes during the investigation period.

We consider sufficient CTMS information was obtained and verified to determine a constructed normal value under section 269TAC(2)(c) of the Act.

## 6 DOMESTIC SALES

### 6.1 General

Conserve Italia advised that the Italian domestic market for prepared or preserved prepared is competitive this is despite Conserve Italia having well-established relationships with supermarket and Conserve Italia's products have a strong brand loyalty. In its EQR Conserve Italia outlined several categories of customers as follows:

- Retail – purchasing centres of large supermarkets, organised distribution chains, discount stores and small shops to which Conserve Italia sells its own brands Cirio, Yoga, Valfrutta, Derby Blue, De Rica and Jolly Colombani;
- Private labels – retailer-owned labels, organised distribution chains and discount stores (according to Conserve Italia this growing area of its business);
- Ho.Re.Ca. – these customers are wholesalers who distribute to food service outlets such as bars, restaurants and fast food chains; and
- Industrial trade – national and multinational companies to which Conserve Italia's tomato paste products are sold.

In Conserve Italia's first EQR submission we noted that it did not include all of its domestic sales, in particular sales of its Cirio brand. In its EQR Conserve Italia stated that its Cirio, De Rica and Valfrutta brands were not similar to the goods exported to Australia because the prices for these brands were considerably higher and they have strong brand loyalty. Furthermore the selling effort is considerably more than that for the export sales to Australia and the private label sales made on the domestic market.

Prior to the visit we asked for a listing of all domestic sales irrespective of brand together with corresponding updated cost to make and sell worksheets. Conserve Italia provided these documents prior to departure. Conserve Italia's combined domestic sales listing forms **Confidential Attachment DOM 1**

Conserve Italia's largest brand in the domestic market was the Cirio brand, followed by Valfrutta. Private brands, De Rica, Jolly Colombani. Sales to the Food Service sector were in small volumes in comparison to Conserve Italia's domestic sales of like goods.

In the investigation period, domestic sales to its [REDACTED] customers of all like goods (cherry, crushed, diced, peeled and sliced prepared or preserved tomatoes) totalled gross weight [REDACTED] kilograms with a value of EUR [REDACTED].

Conserve Italia's [REDACTED] largest customers during the investigation period for prepared or preserved tomatoes were supermarket retailers, the largest of which was [REDACTED]. Further discussion on price levels to retailers is discussed in section 6.2.

Conserve Italia explained that it had no ownership interests in any of its customers and it does not sell any can to any other manufacturers in bright can stage or for that matter any unlabelled cans to any customer..

Conserve Italia identified three levels of trade on the domestic market, Caterer, Retail and Wholesale. From total combined domestic sales worksheets sales we found that sales to the retail market represented more than [REDACTED]% of total domestic sales of prepared and

preserved tomatoes. We found the pricing to the wholesale market to [REDACTED] than the retail market with the caterer [REDACTED].

## 6.2 Domestic sales process, pricing and terms

### 6.2.1 Pricing

Conserve Italia outlined that an internal theoretical starting price determines its starting point for all commercial negotiations. Its consideration of a price to market is determined by several factors:

- the cost of the raw material goods including harvesting and processing and availability of prepared or preserved tomatoes (Conserve Italia operates on a 'costs plus' approach for price setting);
- to maintain the margin for its own brands versus the private brands it manufactures for its retailers;
- depending on its own brand or private retail brands, after sales services including marketing, market research, advertising, sales force, promotional support; and
- the channel through which the product will be sold, such as retail (trade, wholesale, hypermarket or supermarket) or food service and the details of the contract that the customer signs and generally specifies:
- the intended selling volume of the customer to market; and
- the results of the previous year's selling campaign and forecasted sales volumes.

Conserve Italia noted that as a result of the above considerations a range of price points are developed for the market. It is a highly competitive market in which Conserve Italia's brands must compete. Private labels are generally [REDACTED]% lower than branded products and represent up to [REDACTED]% of total prepared or preserved tomatoes sold in Conserve Italia's portfolio.

Conserve Italia provided details of its domestic sales process in its EQR and confirmed this to us at the visit as follows:

- Contract negotiations between Conserve Italia and its Italian customers take place annually from June to September, prior to tomato processing for the season. Conserve Italia claims no ownership of any of its Italian customers. Like its export sales, when negotiating with its customers Conserve Italia takes into consideration factors such as the budgeted cost of products, its targets on gross margin depending on the customer type and competitive market conditions such as tomato availability, seasonality and demand.
- Retailer customers will approach Conserve Italia and contracts are negotiated with retailers for a standard twelve month period. Contract negotiations commence based on the level of available raw material and the price that can be offered by Conserve Italia for the year. Contracts may include assistance to retailers, deferred discounts, marketing activities and promotions.
- For private labels, Conserve Italia negotiates the price with the retailer to take into account specific order requirements. Substantially fewer discounts and promotional activity is afforded to the private label range.
- Once a contract is signed with a retailer (which will include tomato products, fruit juices, canned vegetables, canned fruit for example) a retailer will place an order,



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generally on a fortnightly basis at the contracted [REDACTED] price for the year. Conserve Italia records this order. Prior to the goods being delivered, the goods are labelled in accordance with the customer's order (only private or cans are sold on the domestic market).

- On the same day the goods leave Conserve Italia's premises Conserve Italia's accounting department generates an invoice related to the relevant shipment.
- The goods are then packed onto a truck with other products and the goods are delivered from the warehouse to the customer.
- Credit terms for Italian customers are in line with their respective contracts with Conserve Italia. Extending credit terms is possible but cannot exceed sixty days for processed products under Italian law.

### **6.2.2 Inland transport**

As discussed at section 5.5.1 the transport costs, logistics and handling costs are charged to the ledger account. Third party logistic firms are used and this was evident in the domestic sales bundles of invoices selected. The costs of handling and loading include inbound transport, warehouse movements, picking operations and loading. We examined the general ledger for total domestic transport costs. The handling costs demonstration forms **Confidential Attachment DOM2**.

### **6.2.3 Delivery terms**

Conserve Italia explained that all domestic sales were on an [REDACTED] basis, indicating that Conserve Italia's price includes all costs up to the delivery to a customer.

### **6.2.4 Payment terms**

The domestic sales spreadsheet provided by Conserve Italia in the EQR identified various payment terms, including options for payment from 20 days up to 90 days. In its EQR Conserve Italia provided a spreadsheet showing the average payment terms and the average days on average a late payment was made. Payments by domestic customers were made according to each of their respective contracts. The company noted that the average delay in payments was less than a week and as such did not claim an adjustment for extending credit.

We were informed however that since October 2012 Italian legislation had passed and domestic credit terms can be no greater than 60 days.

### **6.2.5 On invoice discounts**

Within the domestic sales spreadsheet, Conserve Italia indicated that its customers can receive on invoice discounts. These discounts are part of the negotiated terms and are deducted off the invoice price. We examined the invoices from the selection requested and identified the discount and compared the calculation to that in the domestic sales worksheet. We confirmed the calculations were correct and as per stated on the invoice.



### 6.2.6 Deferred discounts and promotions

Conserve Italia stated that promotional spending differs between brands and private labels. No promotions are conducted for private labels.

Conserve Italia noted that it conducts a number of promotions but that these were focused on tomato purees or chopped prepared or preserved tomatoes. The rationale for its promotional schedule is to compete with other market competitors and to maintain market share in the face of decreasing consumption in the domestic market.

Promotional spending is budgeted for in advance and specified in each customer's contracts and reflects the brand's positioning in the marketplace.

Conserve Italia identified the process of when it was invoiced for a promotion and the regularity of its credits to customers. We observed that the type of promotion being conducted and the regularity of payments to customers reflected the terms of the contract.

In its EQR Conserve Italia outlined three types of discounts on domestic sales of its private labels. We found Branded labels also receive deferred discounts and are significantly larger than those received for the private labels. These discounts are specified in contracts with Conserve Italia's customers and are:

- Discounts on invoice that include commercial discounts, logistics discounts and prepayment discounts;
- Deferred discounts that discounts based on a percentage of turnover, target turnover discounts, promotional discounts and marketing contributions. We verified the process and the amounts paid to customers for these deferred discounts as a percentage of sales turnover; and
- Allowances for quality control based on the number of items.

Conserve Italia informed us that no other forms of assistance are available to customers unless they are specified in the contract. Conserve Italia also advised that there are no warranties or technical support charges applicable to the domestic sales. As such no records were listed for these items in the domestic sales spreadsheet.

We took samples of ten invoices and compared the discounts paid to the respective contracts negotiated. We calculated the discount on the invoice and the deferred discount to the general ledger. See **Confidential Attachment DOM 3**.

### 6.2.7 Commissions

In its EQR Conserve Italia noted that no commissions are paid to agents in respect of private label sale.

For branded products, however we verified the process and the amounts paid to sales agents. Typically the agent collects the order, visits the customer and enters the order with Conserve Italia. The level of agent's commission paid depends on the product and the type of customer, whether a retailer or an independent trader. We verified the rate of commission paid by Conserve Italia. The relevant documents form **Confidential Attachment DOM 4**.

### 6.2.8 National Consortium for Packaging Materials (CONAI) environmental tax

In its EQR Conserve Italia noted the existence of the CONAI environmental tax for packaging. The tax applies on all domestic sales packaging material. The rates vary according to the packaging material. Conserve Italia demonstrated how this tax was calculated and applied to the domestic sales worksheet. In essence it calculated the entire CONAI tax paid and then divided the value by the volume incurred in the domestic market and applied a rate to each sale in the domestic sales worksheet. Information on the CONAI tax forms **Confidential Attachment DOM 5**.

We also requested information from a government website to confirm the values applying to the relevant materials. We confirmed the unit values applying agreed with those used by Conserve Italia.

### 6.3 Verification of domestic sales and export sales to audited financial statements

We sought to trace the original and supplementary domestic sales data provided by Conserve Italia in its EQR through management reports to the audited financial statements to provide us with confidence in the completeness and relevance of the data.

As per the export sales verification, Conserve Italia demonstrated how the sales volume and value of its domestic sales of prepared or preserved tomatoes, as shown in the spreadsheets provided in its EQR, could be linked to the profit and loss statements of the audited financial statements.

Conserve Italia also provide a copy of BW system extract that showed the total value and volume of domestic sales. These agreed with the worksheets provided with their EQR. See **Confidential Attachment DOM 6**.

### 6.4 Conclusion – domestic and export sales

On the basis of our verification to source documents, we consider the detailed domestic sales data and the export sales data provided by Conserve Italia in its EQR is complete and relevant in relation to the investigation period.

### 6.5 Verification of domestic sales to source documents

Having established the completeness and relevance of the domestic sales data, we then sought to trace that data down to source documents to ensure the accuracy of the data.

Like its spreadsheet for Australian sales, Conserve Italia's domestic sales spreadsheet also detailed the customer name and customer code, the model number or product code and product type (i.e. cherry, peeled, diced or crushed tomato). The spreadsheet also recorded the invoice number and invoice date and information such as quantity in cans, and kilograms.

Prior to the visit we sent Conserve Italia a list of thirteen selected domestic sales. We requested proof of payment for these transactions and requested a credit note as part of the selections. We then compared the data contained within the source documents to that provided by Conserve Italia to verify the information recorded within its domestic

sales spreadsheet. In relation to each of the selected domestic transactions, Conserve Italia provided all relevant copies of the commercial documentation.

We found that all the data contained in the domestic sales spreadsheet agreed with the source documents provided. We confirmed invoice prices, invoice dates and product and model numbers. See **Confidential Attachment DOM 7**.

In terms of evidence of payment, Conserve Italia provided copies from its customer account ledgers and documentation from its customers and these details indicated that the invoice price was the price paid in EUR.

We compared the data contained within the source documents to Conserve Italia's within domestic sales spreadsheet and verified them as follows.

### 6.5.1 Discounts

We noted that within the domestic sales spread sheets that the discounts were a calculated figure. We verified that applicable discounts noting that the amount in the worksheet was calculated as a percentage of net invoice value and built up of different discount types for different kinds of products (e.g. canned products or beverages). The figure is based on the customer, the contract period and the estimated volume of sales.

We verified that the discount listed on the commercial invoice, as discussed in section 6.2.5 included commercial discounts, logistics discounts and prepayment discounts and that these were directly related to the customer's activities. We verified the listed amount on the commercial invoice and domestic sales spreadsheet to internal management reports showing the relevant code and confirmed the number and nature of these discounts.

We also verified that the appropriate amounts were credited to customers and listed on the respective commercial invoices of the selected domestic sales transactions.

### 6.5.2 Other costs

We noted that the supplementary domestic sales had listed an additional charge for advertising, listing fees and consumer promotions. These were related to Conserve Italia's domestic sales of its own products including Cirio, De Rica and Jolly Colombani.

We noted that this figure was a calculated figure. We verified that the amount was derived from Conserve Italia's management profit and loss ledgers for its own brands where it stated the percentage charge for advertising, listing fees and consumer promotions. The allocation to the brand was based on total turnover of the brand. See **Confidential Attachment DOM 8**.

## 6.6 Arms length

In respect of Conserve Italia's 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

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- 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 of Conserve Italia's domestic sales during the investigation period were arms length transactions.

## 6.7 Sales by other sellers

Pursuant to s.269TAC (1), normal values may be established using the sales of like goods sold by other sellers where the sale is an arm's length transaction sold in the ordinary course of trade. This provision can be used if the exporter does not sell like goods on the domestic market.

We consider that Conserve Italia makes sales of like goods on the domestic market.

## 6.8 Volume of sales and ordinary course of trade

### 6.8.1 Sufficiency of Sales

Domestic sales cannot be used to establish normal values if the volume of domestic sales is less than 5% of the volume of comparable goods exported to Australia. We compared the volume of Conserve Italia's export sales with like models sold on the domestic market in the categories of diced, crushed, cherry and whole peeled. We found that for these models there was a sufficient volume of domestic sales. **Confidential Appendix 1**

### 6.8.2 Recovery test

We compared the unit invoice price paid net of all discounts and rebates for each domestic sale by model with the fully absorbed CTMS net of all discounts and rebates for those respective models to determine the volume of goods sold at a loss. Given the unit CTMS is derived from approximately two months of production, the unit CTMS is also the annual CTMS. The recoverability test cannot be performed. Where sales were sold at a loss and the loss sales were greater than 20% those sales were discarded. **Confidential Appendix 2**

Row Labels	Vol Sold at loss (pieces)	Total Quantity Sold (pieces)	Sold at a loss %
Cherry			
Crushed			
Diced			
Peeled			
<b>Total</b>			

### 6.8.3 Market situation

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

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(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.

Conserve Italia responded to section H of the exporter questionnaire indicating that it did receive a small payment under the European Union’s Common Agricultural Policy under the Single Payment Scheme benefit. Conserve Italia provided its general ledger account information that showed it had received [REDACTED] Euro during the investigation period. Also provide was a letter from the relevant authority indicating the payment. We were informed that this is the only land subject to the Single Payment Scheme. See

**Confidential Attachment GEN 4**

Furthermore, during the discussion of the domestic market, Conserve Italia indicated that in its price negotiations with its customers the issue of potential Single Payment Scheme benefits do not enter the price discussions. Price is agreed following many considerations, but a price reduction as a result of Italian government or European Union’s Common Agricultural Policy programmes is not one of those considerations.

The representative from the European Commission indicated there is no market situation because the Single Payment Scheme is paid to the grower on the basis that the land upon which the payment is made is maintained for the purpose of agricultural use. This enables the grower to have free choice over the products produced.

**6.9 Ordinary course of trade summary**

Before considering the tests of profitability contained within s. 269TAAD of the Act, we considered the nature of the sales of prepared or preserved tomatoes made domestically. For comparability we used the domestic sales most like to those exported to Australia. We excluded domestic sales that were out of scope above 1.14 litres in size, and those with in glass jars.

We applied the product code to limit the number of models sold on the domestic market and identified models that corresponded with the naming conventions associate with the export models. We excluded all models that had been identified as deleted lines.

We sought to compare models that were of 400g net in size with easy open lids, lacquered tins in either peeled, diced, crushed, and cherry models which were sold in trays sizes of 12 cans. See **Confidential Appendix 3**

## **7 THIRD COUNTRY SALES**

It its exporter questionnaire response, Conserve Italia 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.

## **8 ADJUSTMENTS**

### **8.1 Introduction**

Pursuant to s.269 TAC(8) of the Act an adjustment to the price of like goods is to be taken so that differences relating to certain circumstances would not affect its comparison with that export price.

Conserve Italia claimed several adjustments should be made to normal values for domestically supplied prepared or preserved prepared or preserved tomatoes to ensure comparability to prepared or preserved prepared or preserved tomatoes export prices. These adjustments are detailed in the following section of this report.

#### **8.1.1 Trader adjustment**

Conserve Italia indicated that an adjustment is required to account for the trader circumstances occurring with their export customer [REDACTED]. Conserve Italia indicated that a negative margin is required.

On assessment of the circumstances of trade, we considered Conserve Italia to be the exporter, however the price negotiated and invoiced to [REDACTED] is a price to the retailer. Conserve Italia negotiates directly with the retailer on FOB terms. In this instance a trader margin adjustment is not warranted.

#### **8.1.2 Level of trade (Domestic selling activity adjustment)**

Although not requested in the ERQ, we considered the circumstances of trade for sales to Australia and those made on the domestic market. Whilst we could identify significant costs incurred to undertake selling activities on the domestic market, the costs however were at a business unit level and not the like good product level we need to substantiate such an adjustment. Consequently we considered this information was not suitable to make an adjustment for the selling activity.

#### **8.1.3 Credit**

Conserve Italia did not seek a credit adjustment in its EQR. We did however consider the merits of such an adjustment. We considered that the interest rate is currently at record lows, the comments regarding credit terms and that it had no influence on price and that the credit terms were similar in both markets. We consider the adjustment, if made, would be insignificant. Consequently we did not make any adjustment.

### **8.2 Positive Adjustments**

#### **8.2.1 Inland freight and handling charges export**

Conserve Italia demonstrated the costs associated with export inland freight and handling charges. We consider a positive adjustment should apply.

## **8.3 Negative Adjustments**

### **8.3.1 CONAI tax**

We examined the CONAI tax at section 6.2.9 and that it applied to goods sold on the domestic market. We consider a negative adjustment should apply.

### **8.3.2 Commission**

Conserve Italia provided evidence (see section 6.2.8) that in addition to the sales activity on the domestic market a commission was paid for sales generation purposes. We consider a negative adjustment should apply.

### **8.3.3 Inland freight handling and other (domestic)**

Conserve Italia demonstrated the costs associated with domestic inland freight. We consider a negative adjustment should apply.

### **8.3.4 Advertising**

Conserve Italia provided evidence that in addition to the sales activity on the domestic market advertising occurred for domestic sales. We consider a negative adjustment should apply.



## 9 NORMAL VALUE

We consider that information gathered from all sources and detailed in this report and its attachments, can be relied upon to establish normal values.

Normal values have been established under s. 269TAC(1) using sales in the domestic market that were arm's length transactions and sold at prices that were in the ordinary course of trade. We compared products that were identical or most like to those goods exported to Australia.

For private label sales of crushed and peeled, we found that no sales were made on the domestic market and sold in sufficient volumes in the ordinary course of trade.

For crushed and peeled private label we established the export price pursuant to s.269TAC(2)(c) and constructed the normal value based on the cost to make of crushed canned tomatoes exported to Australia and used the domestic selling, general and administrative expenses as if they were sold on the domestic market. A rate of profit was calculated based on those domestic sales sold in the ordinary course of trade.

We made adjustments to the normal value under s. 269TAC(8) and s.269TAC(9) for:

- export inland freight handling, loading and ancillary costs;
- domestic commission
- domestic advertising
- domestic inland freight; and
- domestic CONAI tax.

A summary of normal value calculations is at **Confidential Appendix 4**.

## 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.

We considered the most appropriate approach to calculating weighted average normal values was to group individual recipes into four broad categories: peeled, diced, crushed and cherry tomatoes. Similarly, we consolidated the export sales into the same four grouping in assessing weighted average export price.

The dumping margin for the investigation period is 4.54%.

A summary of dumping margin calculations is at **Confidential Appendix 4**.

## 11 APPENDICES AND ATTACHMENTS

<b>Confidential Appendix 1</b>	Sufficiency of Sales
<b>Confidential Appendix 2</b>	Recovery test
<b>Confidential Appendix 3</b>	Ordinary Course of Trade
<b>Confidential Appendix 4</b>	Normal Value and Dumping Margin Calculation
<b>Confidential Attachment GEN 1</b>	2013 Audited financial statements
<b>Confidential Attachment GEN 2</b>	Recipe [REDACTED]
<b>Confidential Attachment GEN 3</b>	Management profit and loss statement 2013
<b>Confidential Attachment GEN 4</b>	Single Payment Scheme benefit evidence
<b>Confidential Attachment EXP1</b>	[REDACTED] export sales worksheet
<b>Confidential Attachment EXP2</b>	Revised Export sales listing.
<b>Confidential Attachment EXP3</b>	Commercial documents for selected shipments
<b>Confidential Attachment EXP4</b>	Total sales by country
<b>Confidential Attachment EXP5</b>	[REDACTED] total sales confirmation.
<b>Confidential Attachment EXP6</b>	[REDACTED] Invoice.
<b>Confidential Attachment CTM 1</b>	Bill of Materials standard costs
<b>Confidential Attachment CTM 2</b>	Bill of Materials Mesagne actual costs
<b>Confidential Attachment CTM 3</b>	Confirmation of production volumes
<b>Confidential Attachment CTM 4</b>	Peeled tomato unit cost reconciliation
<b>Confidential Attachment CTM 5</b>	Mesagne production report and tomato purchase volumes
<b>Confidential Attachment CTM 6</b>	Pomposa member grower tomato purchases total volume and value
<b>Confidential Attachment CTM 7</b>	Tomato purchased additional payments
<b>Confidential Attachment CTM 8</b>	Tomato purchases invoice and evidence of payment
<b>Confidential Attachment CTM 9</b>	Can and lid invoices and evidence of payment

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<b>Confidential Attachment CTM 10</b>	Electricity usage
<b>Confidential Attachment CTM 11</b>	Labour
<b>Confidential Attachment CTM</b>	Manufacturing overhead
<b>Confidential Attachment CTM 13</b>	Raw material loss worksheet
<b>Confidential Attachment CTMS 1</b>	Domestic sales private label profit and loss statement detail
<b>Confidential Attachment DOM 1.</b>	Revised domestic sales listing
<b>Confidential Attachment DOM 2</b>	Inland transport evidence
<b>Confidential Attachment DOM 3</b>	Evidence of discounts and deferred discounts
<b>Confidential Attachment DOM 4</b>	Evidence of commissions
<b>Confidential Attachment DOM 5</b>	CONAI tax
<b>Confidential Attachment DOM 6</b>	BW system extract demonstrating total domestic sales.
<b>Confidential Attachment DOM 7.</b>	Selected domestic sales and evidence of payment
<b>Confidential Attachment DOM 8</b>	Other costs