



ANTI – DUMPING SPECIALISTS

ACN 056 514 213

ABN 87 056 514 213

6 January 2013

NON-CONFIDENTIAL

Mr Tom O'Connor
Manager
Australian Anti-Dumping Commission
Customs House
5 Constitution Avenue
Canberra ACT 2600

Dear Mr O'Connor,

PROCESSED TOMATOES EXPORTED FROM ITALY BY [REDACTED]

This submission is made on behalf of Conserve Italia Soc. Coop. Agr ("Conserve Italia").

We submit that, [REDACTED] is the legal exporter of the "[REDACTED]" brand processed tomatoes produced by Conserve Italia and sold and shipped to [REDACTED], Australia by Conserve Italia's domestic customer [REDACTED]. There are no valid grounds for the Commission's view per section 4.6 of its verification visit report re Conserve Italia ("the visit report") that the exporter of these goods is Conserve Italia. Contrary to the Commission's statement in section 4.6 of the visit report, Conserve Italia is not aware of the value of [REDACTED] resales to [REDACTED] of the goods purchased from it. Conserve Italia is obviously aware of [REDACTED] purchase price but it does not know the additional amount received by [REDACTED] from [REDACTED] in respect of these resales. [REDACTED] has informed Conserve Italia that it receives an additional amount, but Conserve Italia does not know the quantum of this amount. It is important that, even if Conserve Italia was aware of the amount realised by [REDACTED] in its resales to [REDACTED], such awareness has no impact on [REDACTED] exporter status.

Conserve Italia is merely the producer of the goods sold and shipped to Australia by [REDACTED]. Conserve Italia produced the goods against orders received from [REDACTED], sold them to [REDACTED] at an agreed price and delivered them to the Italian port of shipment in accordance with [REDACTED] delivery instructions. The delivery terms of sales from Conserve Italia to [REDACTED] were FOB port of shipment and it is at this point that ownership was transferred from Conserve Italia to [REDACTED].

The goods purchased from Conserve Italia were resold to [REDACTED] by [REDACTED] at a price agreed by [REDACTED] and [REDACTED]. Shipment to Australia was arranged by [REDACTED] and such arrangements provided the basis of its delivery instructions to Conserve Italia.

Conserve Italia is not a principal in export sales to [REDACTED] by [REDACTED]. It is a principal in its domestic sales to [REDACTED], but not in [REDACTED] export sales to Australia. It is [REDACTED] who is the Italian principal in its exports sales to Australia of goods produced by Conserve Italia.

That [REDACTED] has an arrangement with its Australian customer, [REDACTED], to the effect that it has responsibility to purchase the goods required by that customer from Italian producers and resell and ship them to [REDACTED] in return for an agreed fee, does not impact on [REDACTED]'s status as principal in the export sales to [REDACTED]. Similarly, that [REDACTED] may know the price paid by [REDACTED] to Conserve Italia has no relevance to the exporter status of [REDACTED]. Also, [REDACTED]' advice to the Commission during its verification visit that it had engaged [REDACTED] to act on its behalf and considers [REDACTED] a "buying agent in Italy", has no relevance to [REDACTED]'s exporter status. The relevant facts are as follows:

- The final price payable by [REDACTED] to [REDACTED] for goods purchased by [REDACTED] from Conserve Italia is decided by [REDACTED] and [REDACTED]. It is not known by Conserve Italia;
- [REDACTED] receives purchase orders and shipping instructions from [REDACTED] for the goods to be exported to Australia;
- Conserve Italia receives purchase orders and delivery instructions from [REDACTED] as a domestic customer;
- Conserve Italia invoices the goods to be exported to Australia by [REDACTED] to [REDACTED] according to the price agreed with [REDACTED];
- [REDACTED] arranges shipment to Australia of the goods produced by and purchased from Conserve Italia;
- Conserve Italia delivers the goods purchased by [REDACTED] to the port of shipment in accordance with [REDACTED] delivery instructions; and
- [REDACTED] and [REDACTED] are the principals in the export sales of the goods produced to [REDACTED] order by Conserve Italia. Conserve Italia is not involved in the sales by [REDACTED] to [REDACTED] and nor is it involved in the exportation of the goods to Australia.

In summary, [REDACTED] is the Italian party who sells the goods to the Australian importer ([REDACTED]) and on whose behalf the goods are transported to Australia.

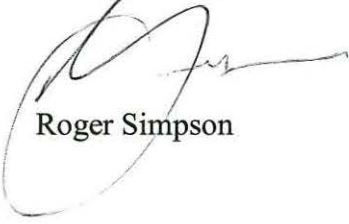
The Commission's non-mandatory policy concerning exporter identification per chapter 6 of its Dumping and Subsidy Manual does not fit the particular circumstances of this case.

In view of the foregoing, [REDACTED], rather than Conserve Italia, is the legal exporter of [REDACTED] export sales and shipments to [REDACTED]. Consequently, export prices of goods produced by Conserve Italia under the "[REDACTED]" label and exported to [REDACTED] by [REDACTED], are not to be taken into account in determining the dumping margin applicable to Conserve Italia's exports to Australia. These export prices should be taken into account in the determination of a separate dumping margin for [REDACTED]'s exports to Australia.

Removal of export prices of [REDACTED] exports to Australia from the dumping margin calculation in respect of Conserve Italia's exports to Australia provides for a revised dumping margin of [REDACTED]% for these exports.

Please make the necessary revisions.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Roger Simpson', written over a large, light-colored circular mark or stamp.

Roger Simpson