



ANTI-DUMPING NOTICE NO 2024/089

Customs Act 1901 – Part XVB

TOMATOES, PREPARED OR PRESERVED

EXPORTED TO AUSTRALIA

FROM THE ITALIAN REPUBLIC

**Application of sampling provisions for
Investigation 654**

Section 269TACAA of the Customs Act 1901 – Part XVB

On 15 October 2024, I, Isolde Lueckenhausen, Acting Commissioner¹ of the Anti-Dumping Commission (**Commissioner**), initiated a dumping and subsidy investigation (**investigation 654**) into tomatoes, prepared or preserved (**the goods**), exported to Australia from Italy.

Anti-dumping Notice (**ADN**) No 2024/065 provides the particulars on the initiation of investigation 654 and is available on the commission's website.²

1. Background

Section 269TACAA(1) of the *Customs Act 1901*³ states that where the number of exporters from a particular country of export in relation to an investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters who:

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

Section 269TACAA(2) states if information is submitted by an exporter that is not named as a selected exporter, the investigation, review or inquiry must extend to that exporter unless to do so would prevent the timely completion of the investigation, review or inquiry.

¹ References in this document to individuals holding positions within the Anti-Dumping Commission (**commission**) are references to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

² www.adcommission.gov.au

³ All references to legislation are to the *Customs Act 1901* unless stated otherwise.

2. Preliminary Information Requests

In ADN No 2024/065, I invited exporters of the goods to Australia to participate in investigation 654 by completing a Preliminary Information Request (**PIR**). I stated that the commission will use responses to the PIR to determine whether sampling is required, due to the large number of exporters of the goods, such that it is not practicable to examine the exports of all those exporters.

I stated that if an exporter:

- submits a completed PIR, the commission may select it for further examination, including inviting it to complete an exporter questionnaire and have its information verified
- does not respond to the PIR, the commission may not examine its situation and may consider that the exporter did not cooperate with the investigation.

The commission received completed PIRs from the following entities:

- Attianese S.p.A
- Bioagriworld S.r.l Uninomiale
- Calispa S.p.A
- Compagnia Mercantile D'Oltremare S.r.l.
- Conditalia S.p.A
- Conserve Italia Soc.Coop.Agricola
- Conserve Manfuso S.r.l
- Davia S.p.A
- De Clemente Conserve S.p.A
- Di Leo Nobile S.p.A
- Feger Di Gerardo Ferraioli S.p.A
- Felice Conserve S.r.l
- Giaguaro S.p.A
- IMCA S.p.A
- Italia Meal S.r.l.
- La Doria S.p.A
- Le Specialità Italiane S.r.l
- Mutti S.p.A
- Pancrazio S.p.A
- Perano Enrico & Figli S.p.A
- Princes Limited
- Rispoli Luigi & C. S.r.l
- Rodolfi Mansueto S.p.A
- Salvati Mario & C. S.p.A
- Solana S.p.A

3. Selected exporters

Due to the large number of entities who have provided a PIR response, I consider it not practicable to examine the exports of all those exporters. Accordingly, I will carry out this investigation based on information obtained from an examination of a selected number of exporters who are responsible for the largest volume of exports to Australia that can reasonably be examined.

I intend to select the following exporters for examination (**selected exporters**):

- De Clemente Conserve S.p.A (**De Clemente**)
- La Doria S.p.A (**La Doria**)
- IMCA S.p.A (**IMCA**) and
- Mutti S.p.A (**Mutti**).

According to the ABF database, the selected exporters appear to represent almost 70% of the volume of the goods (measured by statistical quantity reported in kilograms) exported to Australia from Italy during the investigation period.

The commission will contact the selected exporters directly and invite them to complete an exporter questionnaire with respect to the investigation period.

If an exporter other than a selected exporter wishes to complete an exporter questionnaire, the exporter questionnaire is available on the case page for this investigation on the commission's website at www.adcommission.gov.au.

If information is submitted by an exporter that is not named above as a selected exporter, the investigation must extend to that exporter unless to do so would prevent the timely completion of the investigation.

Responses to the exporter questionnaire are due by 6 January 2025. Noting the public holidays over the Christmas and New Year period, the Commissioner is providing additional time for exporters to provide their response to the exporter questionnaire to account for the reduced business activity period.⁴

The Commissioner may reconsider the selected exporters in this investigation, subject to responses received to the exporter questionnaire and the extent of cooperation from the selected exporters named above.

4. Residual exporters

I will regard those exporters of the goods from Italy who completed the PIR, other than the selected exporters, as 'residual exporters' for the purposes of this investigation if their exports are not examined as part of the investigation and they are not an uncooperative exporter or non-cooperative entity in relation to the investigation.

In assessing the variable factors for residual exporters, the commission will not calculate:

- export prices that are less than the weighted average of export prices for cooperative exporters and
- normal values that exceed the weighted average of normal values for cooperative exporters.

The commission will determine subsidy margins for the residual exporters having regard to countervailable subsidies received by the selected exporters.

⁴ The commission typically provides exporters with 37 days to respond to the exporter questionnaire. In this case, 37 days after the date of issuing questionnaires is 22 December 2024 (as this is a weekend, the due date moves to 23 December 2024 as the next business day). The commission is also providing additional time to account for a reduced activity period and public holidays over the Christmas and New Year period.

5. Uncooperative exporters and non-cooperative entities

For the purposes of this investigation, any selected exporter who does not cooperate with the investigation by providing a complete exporter questionnaire response by 6 January 2025 (or later if the Commissioner grants an extension), and any other exporter (other than the selected exporters) that does not cooperate with the investigation by providing a complete response to the PIR, may be considered an uncooperative exporter and/or a non-cooperative entity, pursuant to section 269T, section 269TAACA and the *Customs (Extensions of Time and Non-cooperation) Direction 2015*.

Assessments in relation to the variable factors for uncooperative exporters and non-cooperative entities will be based on relevant information.

6. Other entities that are not exporters of the goods

Based on the PIR responses provided, I consider that the following entities are not exporters of the goods, but are either intermediaries involved in the export of the goods, or are entities that export products that are not the goods:

- Conserve Manfuso S.r.l
- Italia Meal S.r.l.
- La Molisana S.p.A

The commission will continue to assess exporter status throughout investigation 654.

7. Commission contact

Enquiries about this notice may be directed via email to investigations4@adcommission.gov.au.

Isolde Lueckenhausen
Acting Commissioner
Anti-Dumping Commission

14 November 2024