



**CONTINUATION INQUIRY 488**

**CONTINUATION INQUIRY OF  
ANTI-DUMPING MEASURES ON  
PREPARED OR PRESERVED TOMATOES  
EXPORTED FROM  
ITALY**

**VERIFICATION REPORT - EXPORTER**

**Mutti S.P.A.**

**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 2018**

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## 1 BACKGROUND

On 16 July 2018, the Commissioner of the Anti-Dumping Commission gave public notice in Anti-Dumping Notice (ADN) No. 2018/106<sup>1</sup> of his decision to initiate an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice, in respect of certain prepared or preserved tomatoes (the goods) exported to Australia from Italy by all exporters other than Feger di Gerardo Ferraioli S.p.A. (Feger) and La Doria S.p.A. (La Doria), is justified.

The application for anti-dumping measures, and a search of the Australian Border Force (ABF) import database, indicated that Mutti S.p.A. (Mutti) exported the goods to Australia from Italy during the period 1 July 2017 to 30 June 2018 (the inquiry period).

Following initiation of the inquiry, the Anti-Dumping Commission (the Commission) notified Mutti of the inquiry and sought its cooperation through the completion of an exporter questionnaire.

Based on a risk assessment conducted by the Commission, a decision was made not to conduct an on-site verification visit at Mutti's premises.

While a decision was made not to conduct an on-site verification visit, a detailed analysis of the Exporter Questionnaire provided by Mutti was completed. This analysis included tests for the reasonableness, accuracy and completeness of export sales, domestic sales and cost to make and sell (CTMS) data utilised in calculating the dumping margin.

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<sup>1</sup> Document number 2 on the [public record](#).

## 2 THE GOODS AND LIKE GOODS

### 2.1 The goods exported to Australia

During the inquiry period, Mutti exported prepared or preserved tomatoes to Australia, including products that met the goods description (being prepared or preserved tomatoes in containers less than 1.14 litres). The tomato products exported to Australia were chopped, peeled or whole tomatoes with a net weight of 400 grams or 690 grams.

### 2.2 Like goods sold on the domestic market

The verification team has found that with the exception of chopped organic tomatoes, all other models of the goods exported to Australia were sold on the domestic market over the inquiry period.

The verification team considers that the goods manufactured for domestic consumption are identical to, or have characteristics closely resembling the goods exported to Australia as they:

- have the same production process;
- are identical;
- are produced at the same facilities and with the same raw material inputs and manufacturing processes; and
- can be considered functionally and commercially alike.

### 2.3 Model matching

For the purposes of model matching, the verification team considers that it is appropriate to model match based on:

- tomato type (i.e. round, cherry, organic or otherwise);
- the processing applied to the tomatoes (i.e. peeled, chopped); and
- net can weight (i.e. 400g, 690g).

### 2.4 Like goods – preliminary assessment

The verification team considers that tomatoes produced by Mutti for domestic sales have characteristics closely resembling those of the goods exported to Australia and are therefore 'like goods' in accordance with subsection 269T(1) of the *Customs Act 1901* (the Act).<sup>2</sup>

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<sup>2</sup> References to any section or subsection in this report relate to provisions of the Act, unless specifically stated otherwise.

### 3 VERIFICATION OF EXPORT SALES TO AUSTRALIA

#### 3.1 Verification of Australian sales to audited financial statements

The verification team verified the completeness and relevance of Mutti's Australian sales listing by reconciling it to audited financial statements in accordance with ADN. No 2016/30.

The verification team did not identify any issues during this process. Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

#### 3.2 Verification of Australian sales to source documents

The verification team verified the accuracy of Mutti's Australian sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

#### 3.3 The exporter

The Act does not define the exporter; however it is the Commission's policy as outlined in the *Dumping and Subsidy Manual*, to consider the circumstances (e.g. the role of the parties, their functions and responsibilities) surrounding the exportation of the goods in order to determine the exporter. The Commission will generally identify the 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.

The verification team has considered the roles of Mutti and their subsidiaries for all Australian export sales during the inquiry period and consider Mutti to be the exporter of the goods.

#### 3.4 The importer

In relation to the goods exported to Australia by Mutti from Italy, the verification team considers that all the customers listed in the Australian sales listing were the beneficial owners of the goods at the time of importation, and therefore were the 'importers' of the goods.

#### 3.5 Related party customers

Based on Mutti's response to the exporter questionnaire, sales data and financial statements, the verification team did not identify any information that might suggest any Australian customers were related to Mutti.

### **3.6 Arms length**

In respect of canned tomatoes produced by Mutti and sold to Australia during the inquiry period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was 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, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.<sup>3</sup>

The verification team therefore considers that sales to Australia by Mutti during the inquiry period were arms length transactions.

### **3.7 Export price – preliminary assessment**

The verification team is satisfied that the Australian sales listing is complete, relevant and accurate and recommends that the export price be determined under paragraph 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The verification team's preliminary export price calculations are at **Confidential Appendix 1**.

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<sup>3</sup> Section 269TAA refers.

## 4 COST TO MAKE AND SELL

Due to the annual nature of tomato production, where production only occurs during two or three months per year, Mutti provided a single annual cost to make and sell (CTMS). The verification team considers this to be reasonable and consistent with previous prepared or preserved tomato cases.

### 4.1 Verification of costs to audited financial statements

The verification team verified the completeness and relevance of Mutti's CTMS spreadsheet by reconciling it to audited financial statements in accordance with ADN No. 2016/30. The verification team identified several issues with the selling costs in the CTMS spreadsheet. Mutti revised the CTMS listing and the verification further revised this CTMS spreadsheet. Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

#### 4.1.1 Allocation of selling, general and administrative expenses

Mutti had identified that transport costs had been double counted in the selling costs. Mutti also identified that "off invoice" rebates and discounts had been recorded incorrectly. Mutti provided revised domestic and export CTMS spreadsheets.

The verification team had further revised the CTMS spreadsheet to exclude "off-invoice" rebates and discounts from selling costs.

### 4.2 Related party purchases

The verification team did not identify any suppliers that may be related to Mutti, based on the response to the exporter questionnaire and documentation supplied for the purpose of verification.

### 4.3 Cost to make and sell - summary

The verification team is satisfied that the revised CTMS spreadsheets are complete, relevant and accurate.

Mutti's CTMS spreadsheet is at **Confidential Appendix 2**.

## 5 VERIFICATION OF DOMESTIC SALES

### 5.1 Verification of domestic sales to audited financial statements

The verification team verified the completeness and relevance of Mutti's domestic sales listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The verification team did not identify any issues with the completeness of the domestic sales listing during this process. Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**

### 5.2 Verification of domestic sales to source documents

The verification team verified the accuracy of Mutti's domestic sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

### 5.3 Related party customers

Based on Mutti's response to the exporter questionnaire, sales data and financial statements, the verification team did not identify any information that might suggest domestic customers were related to Mutti.

### 5.4 Arms length

In respect of domestic sales of the goods made by Mutti during the inquiry period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was 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, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.<sup>4</sup>

The verification team therefore considers that all domestic sales made by Mutti during the inquiry period were arms length transactions.

### 5.5 Ordinary course of trade

Section 269TAA of the Act provides that if like goods are sold in the country of export at a price less than the cost of such goods, and are unrecoverable within a reasonable period, then they are taken not to have been sold in the ordinary course of trade (OCOT).

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<sup>4</sup> Section 269TAA of the Act refers.



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The verification team compared the revenue (i.e. net sales value) for each domestic sale of tomatoes to the corresponding annual CTMS to test whether those sales were profitable.

Where a sale was unprofitable, the verification team tested if the volume of unprofitable sales exceeded 20% for that particular model and if so, those unprofitable sales were considered not to be in the OCOT.

### 5.6 Suitability of domestic sales

Subparagraph 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under subsection 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export.

Low volume is defined by subsection 269TAC(14) as less than 5% of the total volume of the goods under consideration that are exported to Australia.

The verification team found there was a sufficient volume of domestic sales made in the OCOT for all models except one. For this model, the verification team calculated the normal value under subsection 269TAC(2)(c), using the constructed normal value method.

### 5.7 Domestic sales – summary

The verification team is satisfied that the revised domestic sales listing is complete, relevant and accurate, and can be used for assessing normal value under subsection 269TAC(1).

The domestic sales listing is at **Confidential Appendix 3**.

## 6 ADJUSTMENTS

To ensure the normal value is comparable to the export price of goods exported to Australia at FOB terms, the verification team has considered the following adjustments in accordance with subsection 269TAC(8) and (9).

### 6.1 Packaging

The verification team considers that a downward adjustment to the normal value for domestic packaging expenses is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the packaging costs calculated for each domestic transaction.

The verification team also considers that an upward adjustment for export packaging expenses is required, to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the weighted average cost (per kilogram) for those expenses over the inquiry period.

### 6.2 Inland transport & handling charges

The verification team considers that a downward adjustment to the normal value for domestic inland transport & handling expenses is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the inland transport costs calculated for each domestic transaction.

The verification team also considers that an upward adjustment for export inland transport and handling expenses is required, to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the weighted average cost (per kilogram) for those expenses over the inquiry period.

### 6.3 Commissions

The verification team considers that a downward adjustment to the normal value for domestic commission expenses is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the commission costs calculated for relevant domestic transactions.

The verification team also considers that an upward adjustment for export commissions is required, to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the weighted average commissions to the net invoice value over the inquiry period.

### 6.4 Promotional Marketing

The verification team considers that a downward adjustment to the normal value for domestic promotional marketing expenses is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the promotional marketing costs calculated for each domestic transaction.

The verification team also considers that an upward adjustment for export promotional marketing expenses is required, to ensure a fair comparison to the FOB export price. The

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verification team has applied this adjustment based on the weighted average cost (per kilogram) for those expenses over the inquiry period.

### 6.5 Credit adjustments

The verification team considers that a downward adjustment to the normal value for domestic credit expenses is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the weighted average domestic credit cost using an average interest rate for short term loans (less than 90 days and less than €250,000) over the inquiry period.

The verification team also considers that an upward adjustment for export credit expenses is required, to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the weighted average export domestic credit cost using an average interest rate for short term loans (less than 90 days and less than €250,000) over the inquiry period.

### 6.6 Adjustments – conclusion

The verification team is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8) and (9), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices:

Adjustment Type	Deduction/addition
Domestic packaging	<b>Deduct</b> the cost of domestic packaging.
Domestic inland transport & handling	<b>Deduct</b> the cost of domestic inland transport & handling
Domestic promotional marketing	<b>Deduct</b> the cost of domestic promotional marketing.
Domestic commissions	<b>Deduct</b> the cost of domestic commissions.
Domestic credit	<b>Deduct</b> the cost of domestic credit.
Export packaging	<b>Add</b> the cost of export packaging.
Export inland transport & handling	<b>Add</b> the cost of export inland transport & handling
Export promotional marketing	<b>Add</b> the cost of export promotional marketing.
Export commissions	<b>Add</b> the cost of export commissions.
Export credit	<b>Add</b> the cost of export credit

The verification team's adjustment calculations are included in the normal value calculation at **Confidential Appendix 4**.

## 7 NORMAL VALUE

The verification team is satisfied that it found sufficient volumes of domestic sales of tomatoes, for most models exported to Australia, that were arms length transactions and at prices that were within the OCOT. The verification team is therefore satisfied that the prices paid in respect of domestic sales of tomatoes of those models are suitable for assessing normal value under subsection 269TAC(1).

The verification team however did not find sufficient volumes of domestic sales of tomatoes, that were arms length transactions and at prices that were within the OCOT for one model. The verification team considers that the prices paid in respect of domestic sales of tomatoes of that model are suitable for assessing normal value under subsection 269TAC(2).

In using domestic sales as a basis for normal value, the verification team considers that certain adjustments, in accordance with subsection 269TAC(8) and 269TAC(9), are necessary to ensure fair comparison of normal values with export prices, as outlined in Chapter 6.

The verification team's preliminary normal value calculations are at **Confidential Appendix 4**.

## **8 PRELIMINARY DUMPING MARGIN**

The dumping margin has been assessed by comparing weighted average Australian export prices to the corresponding weighted average normal values for the inquiry period, in accordance with subsection 269TACB(2)(a) of the Act.

The preliminary dumping margin in respect of the goods exported to Australia by Mutti for the inquiry period is **negative 1.3 per cent**.

Details of the preliminary dumping margin calculation are at **Confidential Appendix 5**.

**9 APPENDICES AND ATTACHMENTS**

<b>Confidential Appendix 1</b>	Australian export price
<b>Confidential Appendix 2</b>	CTMS spreadsheet
<b>Confidential Appendix 3</b>	Domestic sales
<b>Confidential Appendix 4</b>	Normal value
<b>Confidential Appendix 5</b>	Dumping margin
<b>Confidential Attachment 1</b>	Verification work program