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**Australian Government**  
Department of Industry,  
Innovation and Science

**Anti-Dumping Commission**

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**CONTINUATION INQUIRY 488**

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

**VISIT REPORT - EXPORTER**

**De Clemente Conserve 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

**December 2018**

# CONTENTS

<b>CONTENTS.....</b>	<b>2</b>
<b>1 BACKGROUND.....</b>	<b>3</b>
<b>2 THE GOODS AND LIKE GOODS.....</b>	<b>4</b>
2.1 THE GOODS EXPORTED TO AUSTRALIA .....	4
2.2 LIKE GOODS SOLD ON THE DOMESTIC MARKET .....	4
2.3 MODEL MATCHING .....	4
2.4 LIKE GOODS – PRELIMINARY ASSESSMENT.....	4
<b>3 VERIFICATION OF EXPORT SALES TO AUSTRALIA.....</b>	<b>5</b>
3.1 VERIFICATION OF AUSTRALIAN SALES TO AUDITED FINANCIAL STATEMENTS .....	5
3.2 VERIFICATION OF AUSTRALIAN SALES TO SOURCE DOCUMENTS .....	5
3.3 THE EXPORTER .....	5
3.4 THE IMPORTER .....	5
3.5 RELATED PARTY CUSTOMERS.....	5
3.6 ARMS LENGTH.....	6
3.7 EXPORT PRICE – PRELIMINARY ASSESSMENT .....	6
<b>4 COST TO MAKE AND SELL.....</b>	<b>7</b>
4.1 VERIFICATION OF COSTS TO AUDITED FINANCIAL STATEMENTS.....	7
4.2 VERIFICATION OF COSTS TO SOURCE DOCUMENTS.....	7
4.3 RELATED PARTY PURCHASES.....	8
4.4 COST TO MAKE AND SELL – SUMMARY .....	8
<b>5 VERIFICATION OF DOMESTIC SALES .....</b>	<b>9</b>
5.1 VERIFICATION OF DOMESTIC SALES TO AUDITED FINANCIAL STATEMENTS .....	9
5.2 VERIFICATION OF DOMESTIC SALES TO SOURCE DOCUMENTS .....	9
5.3 RELATED PARTY CUSTOMERS .....	9
5.4 ARMS LENGTH.....	9
5.5 ORDINARY COURSE OF TRADE.....	10
5.6 SUITABILITY OF DOMESTIC SALES.....	10
5.7 DOMESTIC SALES – SUMMARY.....	10
<b>6 ADJUSTMENTS .....</b>	<b>11</b>
6.1 PACKAGING .....	11
6.2 INLAND TRANSPORT AND HANDLING .....	11
6.3 CREDIT TERMS .....	11
6.4 DEBT INSURANCE .....	11
6.5 ELECTRONIC DOCUMENTATION FEE.....	12
6.6 COMMISSIONS .....	12
6.7 PALLET RENTAL .....	12
6.8 ADJUSTMENTS – CONCLUSION .....	13
<b>7 NORMAL VALUE.....</b>	<b>14</b>
<b>8 DUMPING MARGIN.....</b>	<b>15</b>
<b>9 APPENDICES AND ATTACHMENTS.....</b>	<b>16</b>

## **1 BACKGROUND**

On 22 June 2018, an application was lodged by SPC Ardmona Operations Limited requesting an inquiry into the continuation of anti-dumping measures in relation to certain prepared or preserved tomatoes (the goods) exported to Australia from Italy.

Public notification of the initiation of the inquiry was published on the Anti-Dumping Commission's (Commission's) website on 16 July 2018. The background relating to the initiation of this inquiry is contained in Anti-Dumping Notice 2018/106.

Following initiation of the inquiry, a search of the Australian Border Force import database indicated that De Clemente Conserve S.p.A. (De Clemente) exported tomatoes to Australia from Italy during the period 1 July 2017 to 30 June 2018 (the inquiry period).

The Anti-Dumping Commission (the Commission) notified De Clemente of initiation of the inquiry, and sought its cooperation through the completion of an Exporter Questionnaire regarding the goods.

## 2 THE GOODS AND LIKE GOODS

### 2.1 The goods exported to Australia

During the inquiry period, De Clemente exported tomato products to Australia. These included tomato products that were the goods, being tomatoes in containers less than 1.14L. The tomato products exported to Australia were chopped or peeled tomatoes with a net weight of 400 or 800 grams.

### 2.2 Like goods sold on the domestic market

During the review period, De Clemente sold tomato products to domestic customers in Italy. The models sold domestically were chopped or peeled tomatoes with a net weight of 400 or 800 grams. In addition, De Clemente sold bright cans, cherry tomatoes and organic tomatoes on the domestic market.

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 (until labelled);
- 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 purpose of model matching, the verification team considers that it is appropriate to model match based on:

- tomato type (i.e. ordinary tomatoes, organic tomatoes);
- the processing applied to the tomato (i.e. peeled, chopped);
- whether the can is labelled; and
- net can size (i.e. 400g or 800g).

### 2.4 Like goods – preliminary assessment

The verification team considers that tomatoes produced by De Clemente 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>1</sup>

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<sup>1</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 De Clemente'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 De Clemente's Australian sales listing by reconciling it to source documents in accordance with ADN No. 2016/30. During this process, the verification team identified that credit costs were not included in the Australian sales listing. The verification team did not identify any further issues.

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

#### 3.3 The exporter

For all Australian export sales during the review period, the verification team considers De Clemente to be the exporter of the goods.<sup>2</sup>

#### 3.4 The importer

In relation to tomatoes exported to Australia by De Clemente, 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 the company's response to the Exporter Questionnaire, sales data and audited financial statements, the verification team did not identify any information that might suggest any Australian customers were related to De Clemente.

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<sup>2</sup> The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

### **3.6 Arms length**

In respect of Australian sales of tomatoes made by De Clemente to its unrelated customers during the review 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 all export sales to Australia made by De Clemente during the review 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:

- for goods sold directly to Australian customers, 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; and
- for goods sold to trading entities who then sold the goods to Australian customers, the export price be determined under paragraph 269TAB(1)(c), having regard to all the circumstances of the exportation.

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

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<sup>3</sup> Section 269TAA of the Act 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, De Clemente 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 De Clemente's CTMS spreadsheet by reconciling it to audited financial statements in accordance with ADN No. 2016/30. During this process the verification team identified a number of expenses that had been excluded from CTMS. The verification team did not identify any other issues.

#### 4.1.1 General expenses

De Clemente advised that it excluded certain costs from the CTMS spreadsheet that it considered were not relevant to the production of the goods. While the verification team agreed that certain cost items are not related to the production of tomato products and therefore should be excluded from the CTMS, there were other cost items which were general expenses that should be included. Therefore, the verification team revised the spreadsheet to include the cost of these general expenses.

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

### 4.2 Verification of costs to source documents

The verification team verified the accuracy of De Clemente's revised CTMS spreadsheet by reconciling it to source documents in accordance with ADN No. 2016/30. During this process, an amendment was made relating to the allocation of can costs and selling, general and administrative expenses (SG&A). The verification team did not identify any other issues.

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

#### 4.2.1 Allocation of can costs

De Clemente allocated the cost of cans over the production of all tomato products, which included bottled tomato products. While the verification team agreed that the cost of bottles and caps should be excluded from the CTMS, as it relates to products not under consideration, the verification team considers that allocating can costs to all tomato products results in the under-allocation of those costs to the goods under consideration. Therefore, the verification team amended the CTMS spreadsheet to allocate can costs only to tomato products in cans.

#### **4.2.2 Allocation of SG&A expenses**

De Clemente allocated SG&A expenses relating to the production of tinned tomato products based on the volume of cans produced. Given the different sizes of cans produced by De Clemente the verification team considered that an allocation based on the value of sales during the inquiry period was a more reasonable basis of allocation. The verification team amended the CTMS spreadsheet to allocate SG&A expenses by value of sales.

#### **4.3 Related party purchases**

Based on the company's response to the Exporter Questionnaire and documentation supplied for the purpose of the verification visit, the verification team did not identify any suppliers that might be related to De Clemente.

#### **4.4 Cost to make and sell – summary**

Having verified De Clemente's CTMS spreadsheet to audited financial statements and to source documents, the verification team is satisfied that the revised CTMS spreadsheet is complete, relevant and accurate.

De Clemente's revised 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 De Clemente's domestic sales listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The verification team identified an issue 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**.

#### 5.1.1 Completeness of domestic sales listing

The verification team identified that the domestic sales listing did not include domestic sales of the goods which were not sold to Australia. A revised complete domestic sales listing was provided by De Clemente.

### 5.2 Verification of domestic sales to source documents

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

The verification team identified an issue with the accuracy 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**.

#### 5.2.1 Accuracy of domestic sales listing

The verification team identified inconsistencies with domestic expenses in the domestic sales listing. These inconsistencies included the following:

- A domestic expense comprising of handling and electronic expenses. These expenses were separated appropriately.
- Domestic handling expense incorrectly recorded for one customer.
- Pallet rental expense incorrectly recorded for one customer.

The verification team revised the domestic sales listing to reflect actual domestic selling expenses.

### 5.3 Related party customers

Based on the company's response to the Exporter Questionnaire, sales data and audited financial statements, the verification team did not identify any information that might suggest domestic customers were related to De Clemente.

### 5.4 Arms length

In respect of domestic sales of tomatoes made by De Clemente to its unrelated customers during the review period, the verification team found no evidence that:

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- 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 De Clemente during the review period were arms length transactions.

### 5.5 Ordinary course of trade

Section 269TAAD 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).

The verification team compared the revenue (i.e. net sales value) for each domestic sale (excluding returns) 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 exported to Australia during the inquiry period.

### 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 revised domestic sales listing is at **Confidential Appendix 3**.

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

## 6 ADJUSTMENTS

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

### 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 listed 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 and handling

The verification team considers that a downward adjustment to the normal value for domestic inland transport and 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 and handling 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 Credit terms

The verification team considers that a downward adjustment to the normal value for domestic credit is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the number of credit days listed for each domestic transaction and the interest paid on short term borrowings during the inquiry period.

The verification team also considers that an upward adjustment for export credit is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the number of credit days listed on the invoice for each Australian transaction and the interest paid on short-term borrowings during the inquiry period. The upwards adjustment is made based on the weighted average credit cost compared to the net invoice value.

### 6.4 Debt insurance

De Clemente insures against payment defaults by certain domestic customers. The verification team verified the insurance cost against an insurance document between

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De Clemente and the insurer which contained the agreement and premium cost details. The verification team considers that a downward adjustment to the normal value for domestic debt insurance costs is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the debt insurance costs listed for the relevant domestic transactions.

The verification team also considers that an upward adjustment for export debt insurance is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the weighted average debt insurance compared to the net invoice value.

### **6.5 Electronic documentation fee**

De Clemente use an electronic documentation interchange and an electronic order placement tool for the placement of domestic orders.

The verification team verified this expense and found that it was only applicable to some domestic customers. The verification team analysed the selling price of the goods to those customers and could not see any correlation between this expense and price. For this reason, the verification team does not consider that a downwards adjustment is appropriate for the electronic documentation fees.

### **6.6 Commissions**

De Clemente provides commissions to brokers and agents for certain domestic sales. The verification team verified domestic commissions for selected transactions against source documents and are satisfied that the commissions applied to the relevant transactions in the domestic sales spreadsheet are relevant. 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 listed for relevant domestic transactions.

The verification team also considers that an upward adjustment for export Commissions is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the weighted average Commissions compared to the net invoice value.

### **6.7 Pallet Rental**

De Clemente use pallets for domestic sales. The verification team reviewed source documents and are satisfied with the allocation of the pallet rental fees recorded in the domestic sales listing. The verification team considers that a domestic downward adjustment to the normal value for domestic pallet rental expenses is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the pallet rental fees listed for the relevant domestic transactions.

The verification team did not identify any pallet rental fees on Australian export sales during the inquiry period and hence, the verification team does not consider that a corresponding upward adjustment is necessary.

## 6.8 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) of the Act, and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices:

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Domestic packaging	<b>Deduct</b> the cost of domestic packaging.
Domestic inland transport and handling	<b>Deduct</b> the cost of domestic inland transport and handling.
Domestic credit	<b>Deduct</b> the cost of domestic credit.
Domestic debt insurance	<b>Deduct</b> the cost of domestic debt insurance.
Domestic commissions	<b>Deduct</b> the cost of domestic commissions.
Domestic pallet rental	<b>Deduct</b> the cost of domestic pallet rental.
Export packaging	<b>Add</b> the cost of export packaging.
Export inland transport & port charges	<b>Add</b> the cost of export inland transport & port charges.
Export credit	<b>Add</b> the cost of export credit.
Export debt insurance	<b>Add</b> the cost of export debt insurance.
Export commissions	<b>Add</b> the cost of export commissions.

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

## 7 NORMAL VALUE

The verification team is satisfied that it found sufficient volumes of domestic sales of tomatoes of identical models, 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 are suitable for assessing normal value under subsection 269TAC(1).

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

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

## 8 DUMPING MARGIN

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

The preliminary dumping margin in respect of tomatoes exported to Australia by De Clemente from Italy for the inquiry period is **negative 8.6 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 sales
<b>Confidential Appendix 2</b>	Revised CTMS spreadsheet
<b>Confidential Appendix 3</b>	Revised domestic sales
<b>Confidential Appendix 4</b>	Normal value
<b>Confidential Appendix 5</b>	Dumping margin
<b>Confidential Attachment 1</b>	Verification work program, with attachments