



CONTINUATION INQUIRY 488

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

VISIT REPORT - EXPORTER

Princes Industrie Alimentari S.r.L

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

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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 Princes Industrie Alimentari S.r.L. (Princes) 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 Princes 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, Princes 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 grams.

2.2 Like goods sold on the domestic market

During the review period, Princes 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, Princes sold bright cans, cherry tomatoes, organic tomatoes and tomatoes with herbs 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, cherry tomatoes);
- the processing applied to the tomato (i.e. peeled, chopped);
- standard or premium as determined by Brix content;
- the inclusion of additives such as herbs;
- whether the can is labelled;
- prime and non-prime products;
- and net can size (i.e. 400g or 800g).

2.4 Like goods – preliminary assessment

The verification team considers that tomatoes produced by Princes 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).¹

¹ 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 Princes' 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 Princes' Australian sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

During this process, there were three amendments to the sales listing relating to inland transport, handling & other expenses and premium products sold to Australia. 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**.

3.2.1 Inland Transport

The verification team was unable to reconcile inland transport costs recorded in the Australian sales listing to source documents. The verification team recalculated the inland transport cost per can based on the actual costs of transportation applicable to the relevant point of dispatch for the goods exported to Australia.

3.2.2 Handling & Other

The verification team was unable to reconcile the handling costs recorded in the Australian sales listing to source documents. The verification team recalculated handling costs per can based on the total handling costs incurred by the company during the inquiry period.

3.2.3 Premium Products sold to Australia

At the commencement of the verification visit, the verification team received a new exporter questionnaire response. The new questionnaire response had identified that premium products were sold to Australia and the export sales listing had been updated to capture this information.

During the course of the verification visit, Princes identified that there was actually no premium products sold to Australia and that the confusion was attributed to two models sharing similar product codes. The domestically sold model is a premium product whereas the Australian sold model is a standard product. The verification team checked the two product codes against their respective specification sheets and confirmed that no premium models were sold to Australia.

3.3 The exporter

For all Australian export sales during the review period, the verification team considers Princes to be the exporter of the goods.²

3.4 The importer

In relation to prepared or preserved tomatoes exported to Australia by Princes, the verification team considers that all customers listed in the Australian sales listing (except the company's related trading entity) were the beneficial owners of the goods at the time of importation, and therefore were the 'importers' of the goods.

In relation to the company's related trading entity, the verification team notes that Princes negotiates directly with that entity, and considers that entity to be its customer. However, the related trading entity resells the goods to a customer in Australia (reflected in the delivery details on the relevant documentation). As a result, the verification team does not consider the related trading entity to be the beneficial owner of the goods at the time of importation, and therefore does not consider that company to be the importer.

3.5 Related party customers

Princes exported prepared or preserved tomatoes to Australia during the review period through a related trading entity.

3.6 Arms length

The verification team has compared the weighted average prices (per kg) for related and unrelated customers, and considers that prices to the company's related trading entity during the review period were reasonable.

Therefore, in respect of all Australian sales of prepared or preserved tomatoes made by Princes to both related and 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

² 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.

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- 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.³

The verification team therefore considers that all export sales to Australia made by Princes during the review period were arms length transactions.

3.7 Export price – preliminary assessment

The verification team is satisfied that the revised Australian sales listing is complete, relevant and accurate and recommends the following:

- that for goods sold to all Australian customers (except the company's related trading entity), 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 the company's related trading entity (which were not purchased by the importer from the exporter), that 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**.

³ 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, Princes provided annual cost to make and sell (CTMS) data. 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

At the commencement of the verification, princes provided the verification team with a new exporter questionnaire response. The new questionnaire reclassified some models manufactured into “standard” and “premium” models. Princes provided new CTMS spreadsheets reflecting those reclassified models.

The verification team verified the completeness and relevance of Princes’ revised CTMS spreadsheet 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 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 Princes’ 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 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 SG&A expenses

Princes allocated SG&A expenses relating to the sale of tinned tomato products equally between bright and labelled cans. The verification team established that additional costs were incurred in the sale of labelled cans when compared to bright cans. The verification team amended the CTMS spreadsheet to allocate SG&A expenses separately to bright and labelled cans.

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 Princes.

4.4 Cost to make and sell – summary

Having verified Princes’ 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.

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

5.2 Verification of domestic sales to source documents

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

During this process, there were three amendments to the sales listing relating to inland transport, premium products sold domestically and the verification team identified a transposition error for one invoice. The verification team did not identify any further issues.

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

5.2.1 Inland transport

The verification identified that one particular customer had an incorrect transport cost allocated against the customer for the majority of the domestic sales transactions. The verification team adjusted the inland transport cost. The verification team revised the domestic sales listing to reflect the inland transport cost pertaining to those sales.

5.2.2 Transposition error

The verification team identified that there was a transposition error in relation to an invoice. The verification team checked both invoices and was able to reconcile the transposition error.

5.2.3 Premium products sold domestically

At the commencement of the verification visit, the verification team received a new exporter questionnaire. The new questionnaire had identified that premium products were sold on the domestic market. The verification team checked the product codes against the specification sheets and is satisfied with the revisions to the domestic sales listing.

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 Princes.

5.4 Arms length

In respect of domestic sales of tomatoes made by Princes 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.⁴

The verification team therefore considers that all domestic sales made by Princes 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 not a sufficient volume of domestic sales made in the OCOT for any models exported to Australia during the inquiry period.

⁴ Section 269TAA of the Act refers.

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The verification team's sufficiency calculations are located at **Confidential Appendix 3**.

5.7 Profit

Where the Commission is required to calculate a normal value under section 269TAC(2)(c), an amount of profit must be determined.

The verification team has calculated the profit amount based on domestic sales of like goods made in the ordinary course of trade under section 45(2) of the Customs (International Obligations) Regulation 2015 (the Regulation).

The verification team's profit calculations are located at **Confidential Appendix 3**.

5.8 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 profitability of sales for the purposes of constructing a normal value in accordance with subsection 269TAC(2)(c).

The revised 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 free-on-board (FOB) terms, the verification team has considered the following adjustments in accordance with subsection 269TAC(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 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 not necessary to ensure a fair comparison to the FOB export price because, in constructing normal values, domestic SG&A has been calculated at EXW.

The verification team 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 rate applicable to short term borrowings during the inquiry period.⁵

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 weighted average days of credit for sales to Australia.

⁵ determined as the average for the inquiry period of the published European Central Bank interest rates on borrowings up to Euro 250,000 for up to 90 days.

6.4 Domestic commissions

Princes provides commissions to brokers and agents for certain domestic sales. The verification team verified domestic commissions for selected transactions against source documents and is 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 commissions 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 did not identify any commissions paid on Australian export sales during the inquiry period and hence, the verification team does not consider that a corresponding upward adjustment is necessary.

6.5 Adjustments – conclusion

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

Adjustment Type	Deduction/addition
Domestic packaging	Deduct the cost of domestic packaging.
Domestic credit	Deduct the cost of domestic credit.
Domestic commissions	Deduct the cost of domestic commissions.
Export packaging	Add the cost of export packaging.
Export inland transport & handling charges	Add the cost of export inland transport & handling charges.
Export credit	Add the cost of export credit.

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 because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under subsection 269TAC(1).

The verification team has therefore calculated a preliminary normal value under subsection 269TAC(2)(c) and in accordance with the Regulation.

The verification team proposes that the normal value be constructed under subsection 269TAC(2)(c) using Princes':

- cost to make of the goods exported to Australia, in accordance with subsection 43(2) of the Regulation;
- SG&A amounts on the assumption that the goods, instead of being exported, were sold domestically in accordance with 44(2) of the Regulation; and
- profit calculated under subsection 45(2) of the Regulation.

The verification team considers that certain adjustments, in accordance with subsection 269TAC(9), 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 Princes from Italy for the inquiry period is **10.2 per cent**.

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

9 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Australian export sales
Confidential Appendix 2	CTMS spreadsheet
Confidential Appendix 3	domestic sales
Confidential Appendix 4	Normal value
Confidential Appendix 5	Dumping margin
Confidential Attachment 1	Verification work program, with attachments