



CONTINUATION INQUIRY 488

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

VISIT REPORT - EXPORTER

Attianese 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**

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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 Attianese S.p.A (Attianese) 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 Attianese 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, Attianese exported tomato products to Australia. These included tomato products that were the goods, being tomatoes in containers less than 1.14 litres. The goods exported to Australia were chopped or peeled ordinary tomatoes with a net weight of 400 grams and chopped or peeled organic tomatoes with a net weight of 400 grams.

2.2 Like goods sold on the domestic market

During the inquiry period, Attianese sold tomato products to domestic customers in Italy. The models sold domestically were chopped and peeled tomatoes that were labelled and unlabelled, and cherry tomatoes, with a net weight of 400 or 800 grams. Attianese also sold products that were purchased and not manufactured by Attianese from unrelated manufacturers.

The verification team considers that the goods manufactured by Attianese 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);
- net can size (i.e. 400g or 800g);
- whether the can is labelled; and
- whether the can has an “easy open” lid or not.

2.4 Like goods – preliminary assessment

The verification team considers that tomatoes produced by Attianese 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 financial statements

The verification team verified the completeness and relevance of Attianese's Australian sales listing by reconciling it to the management accounts and financial statements.

The verification team identified an issue relating to third country sales during this process. Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

3.1.1 Third country sales

The verification team identified that the third country sales listing was incomplete. The verification team verified the actual total third country sales in the company's accounting system and obtained an updated third country sales listing.

3.2 Verification of Australian sales to source documents

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

During this process, there were four amendments to the sales listing relating to packaging, labels, inland transport and commissions.

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

3.2.1 Packaging

The verification team observed that for three sales, the packaging materials and packaging service rates were incorrect. The verification team corrected the rates that applied to these sales.

3.2.2 Calculation of labels

The verification team identified that the calculation for the cost of labels was incorrect for all sales. Attianese provided a corrected sales listing and source documents to support the cost of labels. The verification team is satisfied that labels have been correctly calculated.

3.2.3 Inland transport

The verification team observed that for one sale, the inland transport rate applied was incorrect. The verification team corrected the rate for this sale.

3.2.4 Commissions

The verification team observed that for one sale, the commission which applied to the selling agent for that customer was omitted. The verification team amended the listing to include the commission for this sale.

3.3 The exporter

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

3.4 The importer

In relation to tomatoes exported to Australia by Attianese, 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 Attianese's response to the exporter questionnaire, verified sales data and financial statements, the verification team did not identify any information that might suggest any Australian customers were related to Attianese.

3.6 Arms length

In respect of all Australian sales of prepared or preserved tomatoes made by Attianese 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.³

The verification team therefore considers that all export sales to Australia made by Attianese 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**.

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.

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, Attianese 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 financial statements

The verification team verified the completeness and relevance of Attianese's CTMS spreadsheet by reconciling it to management accounts and financial statements.

At the commencement of the verification visit, the exporter provided a revised CTMS that excluded products that were originally listed as being manufactured by the exporter. Attianese identified that several products that were sold by the company were incorrectly included into the CTMS as being manufactured by the company, and as such, revised CTMS to exclude these products.

During this process the verification team also identified expenditures relating to variable manufacturing overheads where not allocated to CTMS. The verification team did not identify any other issues.

4.1.1 Variable manufacturing overheads

The verification team identified that certain variable costs were not allocated to manufacturing overheads. The verification team identified these costs through the exporter's general ledger listing and incorporated the costs into the CTMS. The costs were allocated based on the volume of raw tomatoes processed.

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 Attianese's revised CTMS spreadsheet by reconciling it to source documents in accordance with ADN No. 2016/30. 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**.

4.3 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 Attianese.

4.4 Cost to make and sell – summary

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

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

5 VERIFICATION OF DOMESTIC SALES

5.1 Verification of domestic sales to financial statements

The verification team verified the completeness and relevance of Attianese's domestic sales listing by reconciling it to management accounts and financial statements.

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**.

5.1.1 Accuracy of domestic sales listing

The verification team identified that one domestic sale had an incorrect model assigned to that particular sale. Attianese explained that this was due to a transposing error when it prepared the domestic sales listing. The verification team obtained a domestic sales listing from Attianese's accounting system and amended that particular sale. The verification team was satisfied that there were no other errors relating to the assignment of models.

5.2 Verification of domestic sales to source documents

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

During this process, there were eight amendments to the sales listing relating to: the identification of models produced by Attianese; an incorrect quantity; level of trade omission; calculation of cost of labels; packaging; inland transport; discounts; and delivery terms.

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

5.2.1 Identification of models produced by Attianese

The verification team observed that in some instances a purchased model that was on-sold was incorrectly categorised as manufactured by Attianese. The verification team received a revised domestic sales listing that corrected the error. The verification team was satisfied that the revised listing was accurate.

5.2.2 Incorrect quantity

Attianese calculates the total quantity in kilograms from the number of cartons of goods sold. The verification team identified that the quantity in kilograms for two sales were incorrectly calculated, resulting in unusually large unit prices for the goods. Attianese advised that it had made an error in the calculation for these two sales and provided a corrected sales listing. The verification team is satisfied that the amended quantities are correctly calculated.

5.2.3 Level of trade

The verification team observed that several sales in the domestic sales listing provided in the REQ did not have an associated level of trade. Attianese provided the verification team with a corrected sales listing.

5.2.4 Calculation of labels

The verification team identified that the calculation for the cost of labels was incorrect for all sales. Attianese provided a corrected sales listing and source documents to support the cost of labels. The verification team is satisfied that labels have been correctly calculated.

5.2.5 Packaging

The verification team observed that the cost for packaging material for several sales was calculated incorrectly as a consequence of the wrong packaging rate being applied. The verification team corrected the rate that applied to these sales.

5.2.6 Inland transport

The verification team identified that the inland transport for a particular customer was calculated incorrectly. Attianese provided supporting documents to evidence the inland transport costs for this customer. The verification team amended the inland transport rate in the domestic sales listing and were otherwise satisfied that inland transport had been correctly calculated.

5.2.7 Discounts

Attianese had incorrectly posted commissions for one customer as being discounts. The verification team corrected the domestic sales listing for the relevant customer and obtained evidence in support of commissions relating to this customer.

The verification team also identified one sale to another customer which had an incorrect rate of discount. The verification team amended the sales listing and is satisfied that discounts have been correctly identified and calculated.

5.2.8 Delivery terms

Two sales were identified as having incorrect delivery terms. The verification team corrected the delivery terms for these sales.

5.3 Related party customers

The verification team identified two domestic sale transactions of like goods to a related customer that was transacted at a reduced unit price compared to Attianese's unrelated customers for the equivalent type of goods. The verification team considers these transactions to be non arms length and therefore these transactions are not considered for the purpose of the calculation of the variable factors.

5.4 Arms length

In respect of domestic sales of tomatoes made by Attianese to its unrelated customers 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.⁴

The verification team therefore considers that all domestic sales made by Attianese to its unrelated customers during the inquiry 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 at ex-works (EXW) terms to the corresponding annual CTMS, also at EXW terms, 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.

There were no sales in the domestic market for three models to enable use of domestic sales under section 269TAC(1). In these instances, the verification team did not consider a specification adjustment to be appropriate. On this basis, the verification team has constructed a normal value under section 269TAC(2)(c) for these models.

The verification team did not include domestic sales of goods which were purchased by Attianese in ascertaining variable factors.

⁴ Section 269TAA of the Act refers.

PUBLIC RECORD

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 establishing normal values under subsection 269TAC(1) and 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(8) and (9).

6.1 Packaging

The visit team considers that a downward adjustment to the normal value for domestic packaging is required to ensure a fair comparison to the FOB export price.

Where normal value was established under subsection 269TAC(1), the verification team has applied this adjustment based on the packaging costs listed for each domestic transaction.

For normal values established under subsection 269TAC(2)(c), the verification team applied the adjustment based on the weighted average unit cost (per kilogram) over the inquiry period.

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

6.2 Inland transport

Where normal value was established under subsection 269TAC(1), 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 based on the calculated inland transport cost.

For normal values established under subsection 269TAC(2)(c), 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 calculating and constructing normal values, domestic SG&A has been calculated at an EXW point.

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

6.3 Credit terms

The visit team considers that a downward adjustment to the normal value for domestic credit is required to ensure a fair comparison to the FOB export price.

Where normal value was established under subsection 269TAC(1), the verification team has calculated 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

For normal values established under subsection 269TAC(2)(c), the verification team applied the adjustment based on the domestic weighted average credit cost over the inquiry period.

The visit team considers that an upward adjustment for export credit is required to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment as the weighted average unit cost for export credit costs over the inquiry period.

6.4 Commissions

The visit team considers that a downward adjustment to the normal value for domestic commissions is required to ensure a fair comparison to the FOB export price.

Where normal value was established under subsection 269TAC(1), the verification team has applied this adjustment based on the commissions listed for each domestic transaction.

For normal values established under subsection 269TAC(2)(c), the verification team applied the adjustment based on the domestic weighted average commission cost over the inquiry period.

The verification team considers that an upward adjustment to the normal value for export commissions is required to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment as the weighted average unit cost (against revenue) for commissions relating to domestic sales over the inquiry period.

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.

6.5 Adjustments – conclusion

The verification team is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8) and (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.
Inland Transport	Deduct the cost of inland transport.
Domestic commissions	Deduct the cost of domestic commissions.
Export packaging	Add the cost of export packaging.
Export inland transport and handling	Add the cost of export inland transport handling
Export credit	Add the cost of export credit.
Export commissions	Add 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 has derived normal value under subsection 269TAC(1) for two models which had sufficient domestic sales volumes. The verification team constructed the normal value under subsection 269TAC(2)(c) for three models that did not have sufficient domestic sales volumes using Attianese's:

- cost to make the goods exported to Australia; plus
- SG&A amounts on the assumption that the goods, instead of being exported, were sold domestically, and,
- an amount for profit based in accordance with Regulation 45(2) of the Customs (International Obligations) Regulation 2015, having regard to all relevant information.

The verification team considers that certain adjustments, in accordance with subsections 269TAC(8) and (9), are necessary to ensure fair comparison of normal values with export prices, as outlined in Section 6 of this report.

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 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 Attianese from Italy for the inquiry period is **negative 13.7 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