



ADRP Conference Summary

2017/56 – Certain Prepared or Preserved Tomatoes Exported from the Republic of Italy by all exporters except Feger di Gerardo Ferraioli, La Doria and AR Industrie Alimentari and Certain Prepared or Preserved Tomatoes Exported from the Republic of Italy by AR Industrie Alimentari

Panel Member	Leora Blumberg
Review type	Review of Minister's decision
Date	22 December 2017
Participants	Leora Blumberg (Chair, ADRP Reviewing Member), Rhys Piper (ADC); Reuben McGovern (ADC) and An Chew (ADC)
Time opened	11:00 am AEST
Time closed	12:30pm AEST

Purpose

The purpose of this conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (ADRP) in relation to Certain Prepared or Preserved Tomatoes Exported from the Republic of Italy by all exporters except Feger di Gerardo Ferraioli, La Doria and AR Industrie Alimentari and Certain Prepared or Preserved Tomatoes Exported from the Republic of Italy by AR Industrie Alimentari.

The conference was held pursuant to s 269ZZHA for a review of a Minister's decision.

In the course of the conference, I may have asked parties to clarify an argument, claim or specific detail contained in the party's application or submission. The conference was not a formal hearing of the review, and was not an opportunity for parties to argue their case before me.

I have only had regard to information provided at this conference as it relates to relevant information (within the meaning of section 269ZZK(6) of the *Customs Act 1901*). Any conclusions reached at this conference are based on that relevant information. Information that relates to some new argument not previously put in an application or submission is not something that the ADRP has regard to, and is therefore not reflected in this conference summary.



Discussion

The specific information that the ADRP sought in this conference was:

1. Mutti S.p.A (“Mutti”) Ground of Review
 - a. The Reviewing Member (RM) obtained clarification from the ADC Representative(s) (AR) on Mutti’s calculation (in its application for review) for a lower Ascertained Export Price (AEP) as well as a resulting adjustment to the Ascertained Normal Value (ANV) and dumping margin percentage (if Mutti’s legal argument were to be accepted by the ADRP), with reference to relevant confidential spreadsheets.

The AR flagged the issue of a potential unintended effect on the adjustment for credit terms. It was agreed that the AR would examine the potential effect and revert to the RM.¹

- b. The RM requested clarification of possible fiscal effects of the adjustments to the AEP and resulting adjustment to the duty percentage, based on the historic exports of Mutti since the publication of ADN No. 2017/47, to determine if a decision based on Mutti’s claim would be materially different to the reviewable decision, with reference to both the fixed and variable duties.

During the Conference the AR provided a ‘rough’ calculation based on a comparison of the interim dumping duty collected since ADN No. 2017/47 and the duty that would have been collected if the adjustments were made. The AR agreed to provide the RM with a more accurate calculation after the Conference.²

¹ Following the Conference the ADC provided an updated file for Mutti which also updated the credit terms adjustment to account for the impact of using the net export price. The AR advised that the total impact results in a different (confidential) AEP, a different (confidential) ANV, and the dumping margin increases from 3.2% to 3.9%.

² Following the Conference the ADC provided a detailed calculation based on a comparison of the interim dumping duty collected since ADN No. 2017/47 and the interim dumping duty that would have been collected with a revised AEP and dumping margin, with the difference being almost AU\$ [REDACTED] less.



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2. Le Specialità Italiane Srl (“LSI”) Ground of Review Relating to ANV

- a. The RM obtained clarification and explanations from the AR as to various adjustments made by the ADC in the reinvestigation, with reference to the relevant worksheets of Confidential Attachment 2 to the Reinvestigation Report.

The AR provided the RM with clarifications and explanations as to any differences in adjustments to the ANV in the reinvestigated finding from REP 351, where relevant.

3. LSI’s Grounds of Review Relating to AEP

- a. The RM sought clarification from the AR as to the effect on LSI’s AEP of the reinvestigated finding, if accepted, and therefore the appropriate form of duty for LSI (as was acknowledged in the Commissioner’s covering letter to the Reinvestigation Report).

The AR confirmed that, as appropriate, the ADC would separately recommend to the Minister a change in the form of duties in accordance with the Guidelines on the Application of Forms of Dumping Duty (November 2013).