



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	3 January 2018
Participants	Leora Blumberg (Chair, ADRP Reviewing Member), Rhys Piper (ADC); Reuben McGovern (ADC) and Patrick Quiggin (ADC)
Time opened	11 am AEST
Time closed	12:45 pm 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. Conserve Italia (“Conserve Italia”) Reinvestigated Ground of Review

- a. The Reviewing Member (RM) requested clarification from the ADC Representative(s) (AR) of the ADC’s reinvestigated finding of Conserve Italia.

Firstly, the AR pointed out that REP 128 (relating to Washing Machines), that Conserve Italia had relied upon as being an example of where the ADC previously accepted such an adjustment, related to proposed adjustments to the unsuppressed selling price (USP) and not to an adjustment to normal value. The AR further stated that the ADC was not aware of any instance in Australia where an adjustment to normal value had been granted for brand awareness.

The AR advised that the ADC did not consider it as simple as saying the difference in spread between the CIRIO brand and the private label brand models in Italy and Australia, respectively, is a meaningful way of establishing what the value differential of the brand ought to be. The AR said that there needed to be some sort of correlation between the circumstances in one market versus the other to make the comparison. The AR said that there was not enough information to precisely establish all of the drivers of price in Italy and all of the drivers of price in Australia and their respective influences, to be able to ascertain exactly what the brand value is doing to that price, since there’s a lot more factors in play than just that brand power. Therefore trying to quantify the adjustment based purely on the spread, on one pair of models, is not considered by the ADC to be particularly strong, positive evidence to allow an adjustment of a type that has never been adjusted before.

- b. In response to a request for clarification by the RM, the AR pointed out that in REP 349/354 Conserve Italia’s calculations were based on [REDACTED] CIRIO models and [REDACTED] private label models, with its adjustment claim



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being based on the only product model common to both the CIRIO brand and the private label. The AR pointed out that dumping margins were calculated for each model, and then a weighted average calculated for Conserve Italia's dumping margin, being 5.4%. Further it was pointed out that the CIRIO branded model used for calculating the adjustment claim had the [REDACTED] while [REDACTED] [REDACTED] CIRIO branded models [REDACTED]. The AR also stated that [REDACTED] out of the [REDACTED] private label models had dumping margins. The AR agreed to provide details of the different models exported to Australia (both CIRIO and private label) and the individual dumping margins calculated for each model.¹

2. SPCA Reinvestigated Grounds of Review

- a. The RM requested clarification and explanations from the AR on a number of issues relating to the ADC's methodology, analysis and conclusions in respect of the statistical analysis relating to the reinvestigation of the application of findings in REP 360 to reviews 349/354, in particular:
 - clarification relating to the four different levels of examination of the effect of CAP payments and reasons for selecting the farmer level;
 - elaboration of reasons for excluding La Doria's data from the statistical analysis;
 - explanation of r^2 value in respect of all four levels (representing the level of confidence in the accuracy of the relevant calculation);
 - explanation of possible reasons why the r^2 value at the association level was even higher than at the farmer level;
 - clarification of *Confidential Attachment 1* to the Reinvestigation Report and Table 2, relating to the calculation of the pass through rates at each level;
 - clarification of the significance of the weighting of volume / market share (regarding Feger only);

¹ Following the Conference, this information was subsequently provided by the ADC.



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- explanations of Figures 7 to 10 in *Confidential Attachment 1* to the Reinvestigation Report; and
- clarification of statements relating to weight of evidence.

The AR provided all the clarifications and explanations requested.

- b. The RM sought clarification of the statement in the Reinvestigation Report that the ADC, “*does not consider that the regression analysis alone is sufficient to determine that the cost of tomatoes as recorded by Feger are **not** competitive market costs.*” (emphasis added)

The AR clarified that the insertion of the word “*not*” was an inadvertent error.