



TRADE MEASURES ISSUES PAPER – 2008/140

Investigation into the alleged dumping of processed dried currants exported to Australia from Greece

MARKET SITUATION AND CLOSE PROCESSED AGRICULTURAL GOODS

PURPOSE

The purpose of this paper is to identify and discuss two issues related to the anti-dumping investigation in respect of processed dried currants exported to Australia from Greece:

- Issue 1 **Market situation** – an assessment of whether there is a situation in the market of the country of export such that sales in that market are not suitable for use as a basis for normal value. This issue can be relevant to the assessment of dumping.
- Issue 2 **Close processed agricultural goods** – in certain circumstances, like goods produced in Australia are considered to be close processed agricultural goods. This issue can be relevant to the definition of the Australian industry and to the assessment of material injury to the Australian industry.

The timing of this paper and the due date for responses to this paper are intended to afford interested parties the opportunity to provide submissions on these issues in time for Customs to take account of comments in formulating its statement of essential facts (SEF).

SUBMISSIONS IN RESPONSE TO THIS PAPER

Submissions in response to this paper should be lodged by **6 October 2008** and be addressed to:

Director, Operations 3
Trade Measures Branch
Customs House
5 Constitution Avenue
Canberra ACT 2600

Or by fax to:

(02) 6275 6440

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Or by email to:

tmops3@customs.gov.au

Submissions in response to this paper that are received in a timely manner will be considered by Customs in formulating its SEF. Customs is not obliged to have regard to a submission received by Customs if to do so would, in Customs opinion, prevent the timely placement of the SEF on the public record.

Customs must maintain a public record of each inquiry. The public record must contain, among other things, a copy of all submissions from interested parties (letters and electronic mail are generally regarded as "submissions" if they contain information relevant to the inquiry).

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- satisfy Customs that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "In-Confidence".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above. In either case, interested parties must provide two copies of each for the public record.

The public record may be examined at the above office address, during business hours, by contacting Trade Measures office management on telephone number 02 6275 6547.

BACKGROUND

This investigation was initiated on 28 April 2008 (ACDN 2008/15) following an application from Sunbeam Foods Pty Ltd (Sunbeam). The application requested that the Minister for Home Affairs (Minister) publish a dumping duty notice in respect of processed dried currants exported from Greece to Australia.

Sunbeam described the goods subject of the application as:

processed dried currants of the grape variety Vitis Vinifera L. Black Corinth. The application does not include sultanas, Muscat raisins, unprocessed currants or blended dried fruit mixes.

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Sunbeam is a producer of processed dried currants. The Australian Dried Fruit Association (ADFA) is a supporter of Sunbeam's application and is the peak industry body representing the interests of dried fruit growers, including growers of dried currants. Sunbeam is a member of the ADFA.

In its Initiation Report No. 140, Customs indicated that:

- it will examine whether there is a situation in the market of Greece such that sales in that market are not suitable for use as a basis for normal value; and
- processed dried currants produced in Australia are close processed agricultural goods and therefore the industry in respect of those goods consists not only of the person or persons producing the processed goods (processed dried currants) but also of the person or persons producing the raw agricultural goods (dried currants).

Since initiation of the investigation, Customs indicated to interested parties that it would publish an issues paper to outline its intended approach in relation to these two issues. Customs undertook to do so in sufficient time to allow interested parties to comment, and for those comments to be taken into account by Customs in formulating its SEF. Submissions in response to this issues paper are due by 6 October 2008. Customs SEF No. 140 is due to be placed on the public record by 4 November 2008 (as this date is a public holiday in the Australian Capital Territory, the SEF will be published on 5 November 2008).

ISSUE ONE – MARKET SITUATION:

Is there a situation in the Greek domestic market for processed dried currants which renders domestic sales unsuitable for normal value assessment?

Customs is currently of the view that an assessment of market situation is no longer required in this investigation.

Customs considers that the exporters of processed dried currants from Greece did not provide the necessary information within a reasonable period of time. This is despite Customs advice to exporters of the inadequacy of information submitted, and despite the extensions of time granted to exporters to provide the necessary information.

In these circumstances, Customs is unable to establish normal value in terms of s. 269TAC(1) of the *Customs Act 1901* (the Act), using the price paid or payable in the domestic market for sales by the exporters or other sellers in Greece. Customs will therefore make its assessment of normal value on the basis of facts available.

The legislative provision for an assessment of ‘market situation’ is contained within s. 269TAC(2)(a)(ii) of the Act. It provides for an assessment of the suitability of domestic sales having regard to any situation in the market of the country of export, but it is only relevant to determining normal value under s. 269TAC(1) of the Act. In the absence of s. 269TAC(1) as an option for normal value determination, Customs considers the market situation assessment is not required.

Customs therefore proposes that it will not include any detailed discussion of ‘market situation’ in its SEF or final report.

ISSUE TWO – CLOSE PROCESSED AGRICULTURAL GOODS

Based on the available evidence, Customs considers the processed dried currants produced in Australia are close processed agricultural goods. Customs therefore considers that the Australian industry comprises both the processors of dried currants and the growers of dried currants. Customs assessment of whether the Australian industry producing like goods has suffered material injury will take into account factors relevant to the performance of both the processors of dried currants and the growers of dried currants.

In providing views on this statement, interested parties may wish to comment on Customs approach to assessing injury to the Australian industry as represented by the producers of processed dried currants (including Sunbeam) and the producers of dried currants (dried currant growers).

LEGISLATION

Section 269T(4A) of the Act provides that where the like goods produced in Australia are close processed agricultural goods then the Australian industry consists not only of the person or persons producing the processed goods but also of the person or

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persons producing the raw agricultural goods from which the processed goods are derived.

Section 269T(4B) of the Act provides that for the purposes of s. 269T(4A):

“...processed agricultural goods derived from raw agricultural goods are not to be taken to be close processed agricultural goods unless the Minister is satisfied that:

- (a) the raw agricultural goods are devoted substantially or completely to the processed agricultural goods; and
- (b) the processed agricultural goods are derived substantially or completely from the raw agricultural goods; and
- (c) either:
 - (i) there is a close relationship between the price of the processed agricultural goods and the price of the raw agricultural goods; or
 - (ii) a significant part of the production cost of the processed agricultural goods, whether or not there is a market in Australia for those goods, is, or would be constituted by the cost to the producer of those goods of the raw agricultural goods.”

Having regard to the information provided in the application for publication of a dumping duty notice, and to the information obtained and verified in visits to the processors of dried currants and to the representatives of the dried currant growers in Australia, Customs is currently of the view that the processed dried currants produced in Australia are close processed agricultural goods.

CUSTOMS' APPROACH TO ASSESSING INJURY IN RELATION TO CLOSE PROCESSED AGRICULTURAL GOODS

In relation to the processors of dried currants, Customs visited Sunbeam and Sunraysia Dried Fruits Pty Ltd (Sunraysia) to verify production, cost and sales data. Customs considers that Sunbeam accounts for the majority of production and sales of Australian processed dried currants throughout the injury analysis period (period commencing 1 July 2003). A copy of the Sunbeam visit report is available on the public record.

Customs recognises Sunraysia is a relatively new processor of dried currants, with limited production and sales commencing in relation to more recent harvests. The Sunraysia visit report will be available on the public record in the near future.

Customs understands that Clyne Foods Pty Ltd (Clyne) was a processor of dried currants throughout the injury analysis period. Customs requested production, cost and sales data from Clyne, but it declined to provide Customs with any information.

In relation to growers of dried currants, Customs visited ADFA as the peak body and nominated representative of dried fruit growers, including dried currants. Customs sought to understand the production, cost and sales data that was presented by ADFA in support of the application for publication of a dumping duty notice.

During and since the visit to ADFA, Customs requested additional production, costs and sales data for dried currant growers in Australia generally. The ADFA visit report,

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inclusive of analysis of the growers' production, cost and sales data provided, will be placed on the public record in the near future.

In addition, Customs issued a grower questionnaire in order to gather information from growers of dried currants directly about their individual economic performance. Customs intends to compare the data submitted in grower questionnaire responses to the ADFA data for growers of dried currants generally. Customs considers this should provide for reliable and reasonably representative production costs and sales data for dried currant growers.

Customs considers it is in possession of information that is reasonably representative of the economic condition of processors of dried currants and of growers of dried currants over the injury analysis period. Customs will rely upon this data to draw conclusions on whether the Australian industry for processed dried currants as a whole (comprising processors and growers) has suffered material injury.

22 September 2008