



Australian Government
Anti-Dumping Commission

PUBLIC RECORD

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 276

**APPLICATION FOR A DUMPING DUTY NOTICE
PREPARED OR PRESERVED TOMATOES
EXPORTED FROM ITALY BY
FEGER DI GERARDO FERRAIOLI S.p.A. AND LA DORIA S.p.A**

5 January 2015

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ABBREVIATIONS

ABS	Australian Bureau of Statistics
ACBPS	Australian Customs and Border Protection Service
ADA	Anti-Dumping Authority
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
Aztec	IRiAztec market data
CAP	Common Agriculture Policy
CCA	Coca Cola Amatil Limited
Commission	Anti-Dumping Commission
the Commissioner	the Anti-Dumping Commissioner
EXW	ex-works
Feger	Feger di Gerardo Ferraioli S.p.A.
FOB	free on board
La Doria	La Doria S.p.A.
NIP	non-injurious price
REP 217	Anti-Dumping Commission Report Number 217
SEF	Statement of Essential Facts
SPCA	SPC Ardmona Operations Limited
the Act	Customs Act 1901
the applicant	SPC Ardmona Operations Limited
the goods	the goods the subject of the application (also referred to as the goods under consideration)
the Minister	the Minister for Industry and Science
USP	unsuppressed selling price

1 SUMMARY AND DECISION

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application by SPC Ardmona Operations Limited (SPCA) for the publication of a dumping duty notice in respect of prepared or preserved tomatoes exported to Australia from Italy by Feger di Gerardo Ferraioli S.p.A. (Feger) and La Doria S.p.A. (La Doria).¹

1.1 Application of law to facts

Division 2 of Part XVB of the *Customs Act 1901* (the Act)² sets out the procedures for considering an application for a dumping duty notice.

1.1.1 The role of the Commission

The Commission is responsible for preparing a report for the Anti-Dumping Commissioner (the Commissioner) examining an application for a dumping duty notice. In this report, the following matters are considered in relation to the application:

- whether the application complies with subsection 269TB(4)³;
- whether there is, or is likely to be established, an Australian industry in respect of like goods;⁴ and
- whether there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.⁵

1.1.2 The role of the Commissioner

The Act empowers the Commissioner, after having regard to the Commission's report, and to any other information that the Commissioner considers relevant, to reject or not reject an application for the publication of a dumping duty notice.

If the Commissioner decides not to reject the application, the Commissioner must give public notice of the decision providing details of the investigation.

1.2 Findings and conclusions

The Commission has examined the application for the publication of a dumping duty notice in relation to prepared or preserved tomatoes exported from Italy by Feger and La Doria.

The Commission is satisfied that:

¹ A dumping duty notice already exists in relation to prepared or preserved tomatoes exported to Australia from Italy by all exporters other than Feger and La Doria.

² A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

³ Subsection 269TC(1)(a)

⁴ Subsection 269TC(1)(b)

⁵ Subsection 269TC(1)(c)

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- the application complies with the requirements of subsection 269TB(4) (as set out in Chapter 3 of this report);
- there is an Australian industry in respect of like goods (as set out in Chapter 4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application exported from Italy by Feger and La Doria (as set out in Chapters 5, 6 and 7 of this report).

1.3 Recommendation

The Commission recommends that the Commissioner decide not to reject the application.

If the Commissioner accepts this recommendation, to give effect to that decision, the Commissioner must publish the notice at **Attachment 1** indicating that the Commission will inquire into whether the grounds exist to publish a dumping duty notice in respect of goods exported from Italy by Feger and La Doria.

2 BACKGROUND

2.1 Application

On 24 November 2014, SPCA lodged an application requesting that the Minister for Industry and Science (the Minister) publish a dumping duty notice in respect of prepared and preserved tomatoes exported to Australia from Italy by Feger and La Doria.

SPCA alleges that the Australian industry has suffered material injury caused by prepared and preserved tomatoes exported to Australia from Italy by Feger and La Doria at dumped prices. The applicant claims the Australian industry has been injured through:

- reduced sales volumes;
- reduced market share;
- price undercutting;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced capacity utilisation.

2.2 The goods the subject of the application

2.2.1 Description

The goods the subject of the application (the goods) are described by the applicant as:

Tomatoes (peeled or unpeeled) prepared or preserved otherwise than by vinegar or acetic acid, either whole or in pieces (including diced, chopped or crushed) with or without other ingredients (including vegetables, herbs or spices) in packs not exceeding 1.14 litres in volume (prepared or preserved tomatoes), exported from Italy by La Doria S.p.A and Feger di Gerardo Ferraioli S.p.A. The following tomato products do not form part of this application: pastes, purees, sauces, pasta sauces, juices and sundried tomatoes.

Additional product information

The application contains the following further information in relation to the goods the subject of the application:

The common container sizes of the imported prepared or preserved tomatoes the subject of this application are 300grams to 850grams, but the application covers all container sizes up to and including 1.14L.

The imported goods could be packaged in different containers such as cans, glass jars, pouches or Tetra packs.⁶

⁶ Tetra packs are proprietary packaging mediums produced, under copyright, by the Tetra Pak company.

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Products sold in multi-unit packs, for example 3x400gram cans, are to be considered as three single packs.

The imported prepared or preserved tomatoes can be labelled with a generic, a house brand / private label for retailer or a proprietary label. The imported goods the subject of this application covers all imported prepared or preserved tomatoes regardless of how labelled.

2.2.2 Tariff classification

The goods are classified to the tariff subheading 2002.10.00 (statistical code 60) of Schedule 3 to the *Customs Tariff Act 1995*.

The Australian Customs and Border Protection Service's (ACBPS) tariff branch has confirmed this is the correct classification.

The general rate of duty is currently 5% for goods imported from Italy.

2.3 Previous investigations and existing measures

In April 1992, the then Minister for Customs accepted the recommendations of the Anti-Dumping Authority (ADA) report (No. 68 of April 1992) and imposed countervailing duties on canned tomatoes from Italy, Spain and Thailand and dumping duties on the same goods from Italy and China.

Following a Federal Court challenge by an Italian exporter, the countervailing and dumping duties on canned tomatoes from Italy were removed in June 1993. Pursuant to a subsequent appeal to the Full Bench of that Court by the ADA, the Minister reinstated the duties. In February 1994, as a result of the Court decision, importers were advised that dumping and countervailing duties would be payable on future imports but that the amount of duty was to be reassessed. This was addressed in ADA report No. 124 of May 1994.

In 1997, the ADA (Report No. 169) concluded a continuation inquiry whereby countervailing and dumping duties on canned tomatoes from Italy were continued for a further five years.

In 2001, an application to continue the countervailing duty measures was submitted with the Trade Measures Branch of the ACBPS. Following an inquiry, the ACBPS concluded that the measures should continue for a further five years (Trade Measures Report No. 52 refers). The Minister took steps to continue those measures for a further five years. The measures lapsed on 27 April 2007.

On 10 July 2013, an investigation into the dumping of prepared or preserved tomatoes exported to Australia from Italy was initiated by the Commission (the previous investigation).⁷ The goods that were the subject of the previous investigation were prepared or preserved tomatoes falling under tariff subheading 2002.10.00 (statistical code 60), which is the same as the goods that are the subject of this current application.

⁷ Anti-Dumping Commission case No. 217 refers: <http://www.adcommission.gov.au/cases/ADC217.asp>.

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As a result of the Commission's investigation, it was found that in relation Feger and La Doria, the goods exported by those exporters had been dumped during the investigation period (1 July 2012 to 30 June 2013) but the dumping margin was less than 2%.⁸ Accordingly, on 20 March 2014, the Commissioner decided to terminate the investigation in accordance with subsection 269TDA(1) in so far as it relates to Feger and La Doria.

On 16 April 2014, the then Parliamentary Secretary to the Minister for Industry's decision to impose dumping duties on prepared or preserved tomatoes exported from Italy (except by Feger and La Doria) was published.⁹ The current anti-dumping measures on imports from Italy expire on 15 April 2019.

After accepting a request by certain parties to review the then Parliamentary Secretary to Minister for Industry's decision, the Anti-Dumping Review Panel (ADRP) ultimately affirmed the decision to impose dumping duties on prepared or preserved tomatoes exported from Italy (except by Feger and La Doria).

2.4 Consideration of the application

Under subsection 269TC(1) of the Act, the Commissioner shall examine the application and, within 20 days from the date of lodgement, decide whether or not to reject the application. Under subsection 269TC(2A), if an applicant, after lodging an application, decides to give further information to support its application, this has effect as if the application was lodged at the time the further information was lodged, and the 20-day consideration period recommences.

On 10 December 2014 and on 15 December 2014, SPCA provided further information to support its application. As a result, the application consideration period recommenced and the final decision date was extended to 5 January 2015.

Subsection 269TC(1) specifies that the Commissioner shall reject the application if he is not satisfied that:

- the application complies with subsection 269TB(4); or
- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

These above matters are examined in the following sections of this report.

⁸ Anti-Dumping Commission Termination Report No. 217 refers: <http://www.adcommission.gov.au/cases/documents/085-Report-TerminationReport217-Terminationofpartofaninvestigation.pdf>

⁹ Anti-Dumping Notice (ADN) No. 2014/32 refers: http://www.adcommission.gov.au/cases/documents/090-ADN-No201432-Findinginrelationtoadumpinginvestigation_003.pdf

3 COMPLIANCE WITH SUBSECTION 269TB(4)

3.1 Legislative Framework

Subsection 269TB(4) requires that the application must:

- be in writing; and
- be in an approved form; and
- contain such information as the form requires; and
- be signed in the manner indicated by the form; and
- be supported by a sufficient part of the Australian industry.

3.2 Approved form

The application is in writing, is in an approved form (a B108 application form), contains such information as the form requires (as discussed in the following sections) and is signed in the manner indicated in the form.

Confidential and public record versions of the application were submitted.

The Commissioner considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information within the confidential application.

3.3 Supported by Australian industry

An application is taken to be supported by a sufficient part of the Australian industry if the Commissioner is satisfied the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50% of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25% of the total production or manufacture of like goods in Australia.

SPCA advised that it is the sole Australian manufacturer of prepared or preserved tomatoes, and therefore represents 100% of the Australian industry.

3.4 The Commission's assessment

Based on the information submitted by the applicant, the Commission considers that the application complies with subsection 269TB(4).

4 LIKE GOODS AND THE AUSTRALIAN INDUSTRY

4.1 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, *inter alia*, he is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

4.2 Locally produced like goods

Subsection 269T(1) defines like goods as:

Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

4.2.1 Applicant's claims

SPCA states that it produces prepared or preserved tomato products that are either identical to or closely resemble the goods subject to its application and that it produces a number of products which:

- have similar composition, sizes, cuts and ingredients;
- are directly substitutable;
- compete directly in the same markets; and
- have the same end-uses.

SPCA provided further comments in terms of physical, commercial and functional likeness.

Physical likeness

- The imported products are available in the same size packaging as SPCA's products. The majority of the products available are 400 gram (g) and 800g size cans.
- The key ingredient in the imported prepared or preserved tomatoes and SPCA's products are tomatoes and are available with similar composition and liquid.
- Both imported products and SPCA's products are available in the same cuts such as diced, chopped, whole, crushed or mixed with herbs and spice.

Commercial likeness

- Both imported products and SPCA's prepared or preserved tomatoes are available on supermarket's shelves and compete with each other;
- Consumers switch between SPCA's products and imported products with the key purchase criteria driving the purchase decision being price.

Functional likeness

- Both the locally produced and imported prepared or preserved tomato products have comparable or identical end-uses and are interchangeable.

4.2.2 Close processed agricultural goods

In its application, SPCA indicated that prepared or preserved tomato products are not close processed agricultural goods. SPCA explained that the fresh tomatoes used in the production of prepared or preserved tomato products are not substantially devoted to the production of prepared or preserved tomato products. SPCA noted they are also used for consumption in the fresh form and they are used to manufacture other products such as paste, puree and sauces.

4.2.3 The Commission's assessment

Based on the information provided in the application:

- the imported and locally produced prepared or preserved tomatoes are either physically identical or have closely resembling characteristics;
- the imported and locally produced goods are commercially alike as they are sold through the same distribution channels to common end-users and with a high degree of substitutability; and
- the imported and locally produced goods are functionally alike as they have the same end-uses and are interchangeable.

The Commission is therefore satisfied that there is an Australian industry producing like goods to the goods the subject of the application.

The Commission notes that in the final report for the previous investigation, Anti-Dumping Commission Report Number 217 (REP 217), the Commission found that prepared or preserved tomatoes are not close processed agricultural goods.¹⁰

4.3 Manufactured in Australia

Subsections 269T(2) and 269T(3) specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3.1 Applicant's manufacturing operations

SPCA operates a manufacturing facility at Shepparton, located in regional Victoria, and its head office is located at Hawthorn East in Melbourne, Victoria.

SPCA has provided a production process diagram and summary of its main production processes in support of its claim that it undertakes more than one substantial process of manufacture in the production of like goods.

SPCA explained that it aims to bring fresh tomatoes to the bright can (unlabelled can) stage within 24 hours of delivery of the tomatoes. Broadly, the goods are produced in the following manner:

¹⁰ Anti-Dumping Commission Report 217, p. 17

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- The fresh tomatoes are delivered to SPCA's production facility directly by the local tomato growers on the same day that they are harvested from the vine.
- The delivered fresh tomatoes are moved immediately to the processing line, so as to be washed and graded.
- The higher quality fresh tomatoes are then steam-peeled whilst the lower quality tomatoes are graded for use in the production of juice which is either used as filling in the canning process or evaporated and used to produce concentrates and paste products.
- The peeled tomatoes are graded a second time, so as to be sorted for processing as either whole tomato products if they are higher quality or if they are lower quality tomatoes, these are graded a third time for dice, chop or crush cut profiles.
- Once sorted and processed according to cut profile, all products are put into cans. Each can is filled with standardised ratios of processed tomatoes to liquid filling stage (juice that is derived from step 3 above). Products are then sorted by can size and cut profile. At this stage, depending on specific product requirements, certain cans are produced with additional ingredients such as herbs, spices and other flavouring (referred to as 'value added' products).
- Once filled to product specifications, cans are sealed and pasteurised (cooked) to preserve the product and moved to cool to ambient temperature.
- Once cooled, all unlabelled cans (referred to as the 'bright can' stage) are moved to storage according to product grouping.
- Cans are labelled on an as-needed basis prior to shipping, depending on specific order requirements and customer demands.

4.3.2 The Commission's assessment

Based on the above description of the manufacturing process, the Commission is satisfied that there is at least one substantial process of manufacture performed in Australia and, therefore, that the goods may be taken to have been produced in Australia.

4.4 Australian market

SPCA submits that both imported prepared or preserved tomatoes and like goods produced by the Australian industry are primarily used for home consumption in food preparation, irrespective of product labelling, cut profile and value add specifications. As such, the goods compete for shelf space on the supermarket shelves, smaller retailer outlets such as delicatessens and corner stores.

4.4.1 Marketing and distribution

The application states that SPCA are the only local manufacturer of the goods and that the market comprises of distributors, agents/importers, 'major' retail/warehouses, 'minor' retailers and, the food service industry.

From information contained in the application and other available information, the Commission understands that broadly, the imported goods are either imported by:

- entities that sell the goods directly to end users; or
- entities that on-sell the goods to other business that then supply end users.

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SPCA explained that distribution arrangements differ according to the retailer concerned, with major retail chains requiring SPCA to supply products to their distribution centres and SPCA supplying smaller retailers through distributors.

SPCA also explained that the marketing arrangements differ according to the channel through which the products are sold. For example, SPCA explained, major supermarket chains purchase products and require SPCA to accept various marketing conditions for the sale of the product.

4.4.2 Market segmentation

SPCA claims that there is no significant geographic or product segmentation of the products. It explains that both the like goods produced by the Australian industry and the imported goods are sold and distributed across Australia, indicating that there is no further segmentation of the market beyond the channels to market which is further discussed in the following section.

SPCA state that consumers will substitute between difference size of packs available, depending on relative prices.

4.4.3 Market channels

In its application, SPCA explains that the Australian market for the prepared or preserved tomatoes is dominated by three segments with the significant majority of volume being sold into the 'major' retail segment. SPCA identified these segments as:

- 'Major' retail / warehouse – major corporate entities or large affiliated networks of grocery stores that source the prepared or preserved tomatoes for the retail market.
- 'Minor' retail – independent, smaller retail outlets that procure the prepared or preserved tomatoes for retail to consumers.
- Food service industry – independent, or larger corporate entities, that source the prepared or preserved tomatoes for preparation of food-stuffs in commercial quantities; such as catering firms and large public institutions such as hospitals, nursing homes and prisons.

Retail segment

The two retail tiers diverge into two key areas:

- Major retail entities in Australia typically:
 - are categorised by higher supply demands and long-term commercial sales negotiation and supply contracts; and
 - are increasingly displaying patterns of preference to its private label products over proprietary labels.
- Minor retailers typically:
 - order lower volumes of the prepared or preserved tomatoes on a more ad-hoc basis depending on retail inventory, and
 - do not demand private label products (in the case of small independent stores).

Food service industry segment

The food service industry segment can be delineated from the two tiers of the retail market on the basis that buyers within this segment typically demand goods in larger pack sizes due to commercial quantity end-uses. Specifically, SPCA advised that sales into the food service industry market are typically in pack sizes in excess of 1.14 litres.

SPCA indicated that insignificant sales volumes of the goods occur at this level.

End users

SPCA has indicated that the end users of the goods are household consumers for household meal preparation.

4.4.4 Alternative products

SPCA stated that there are no commercially significant substitutable products with respect to prepared or preserved tomatoes available in the Australian market.

4.4.5 Demand variability

In its application, SPCA stated that it has undertaken extensive consumer research on the factors affecting purchase criteria of the consumers. SPCA claimed that demand for the preserved tomatoes category as a whole has been reasonably stable, with imported products substituting for the Australian products. SPCA claimed that demand for the Australia products has fallen considerably in recent years owing to the impact of dumped imported products.

SPCA stated that Australian and imported products compete fundamentally on price, given that their composition and other features are essentially the same.

4.5 Market size

4.5.1 SPCA's claims

In its application, SPCA used import volume data (in tonnes) sourced from the Australian Bureau of Statistics (ABS), IRiAztec (Aztec) market data which provides point of sale records from the major retailers, Aztec's in home panel data (Aztec panel data)¹¹, SPCA's intelligence of market tenders, and its own sales data. Data was collected for each calendar year (being the period January to December) during the period 2010-2013 (inclusive) and, for half a calendar year (being for the period January to June) during 2014.

SPCA has completed Appendix A2 of the application, which estimates the total volume of sales of prepared or preserved tomatoes in the Australian market.

¹¹ SPCA advised that Aztec panel data contains shopping behaviour of 5,000 panellists who continually scan their purchases

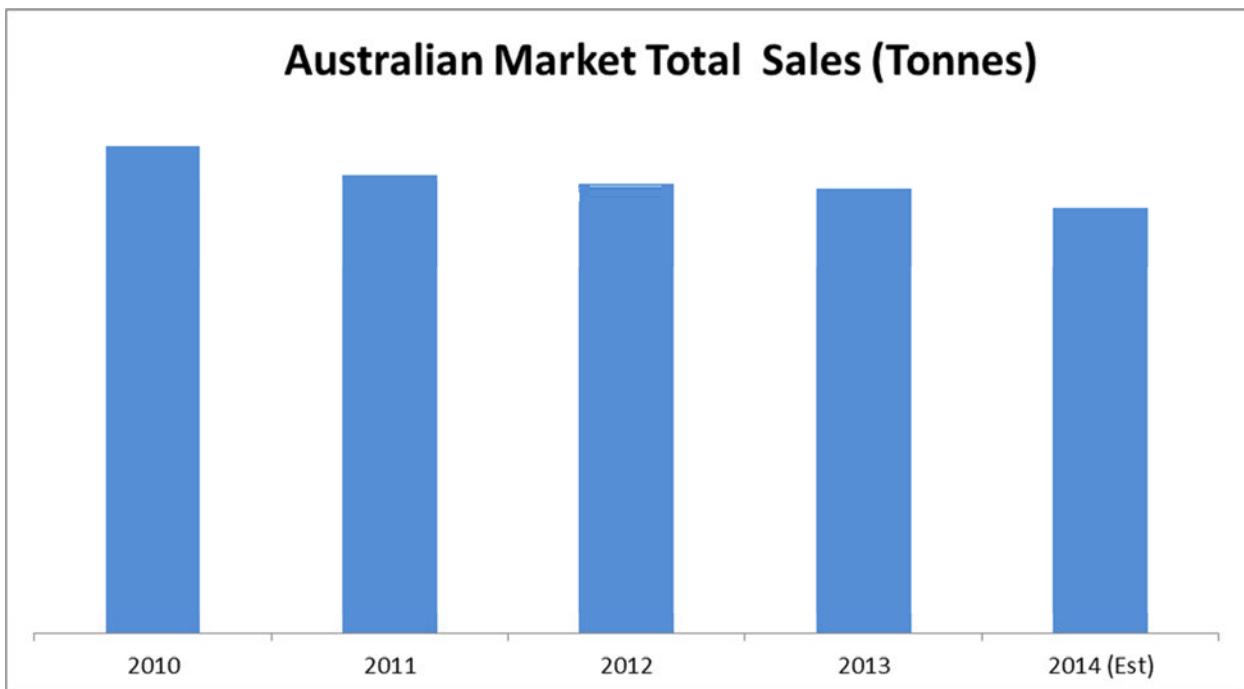
4.5.2 The Commission’s assessment

The Commission compared the import volumes in the application to the data in the ACBPS import database. The import data showed that the volume of Italian imports of prepared or preserved tomatoes under the relevant tariff classification was similar to the data relied upon by SPCA. Similarly, the volumes of prepared or preserved tomatoes exported by Feger and La Doria evident in the ACBPS import database were reasonably similar to the SPCA estimates. Some variations in the total figures between the two sets of data are observed, however both sets of data provide reasonably similar results for the purpose of determining the market size.

Consequently, the Commission considers that the sales data information submitted by SPCA in so far as the data relates to imports from Italy (including the subset attributable to Feger and La Doria) and its own sales data, is reliable, relevant and suitable for estimating the relative size of the Australian market for prepared or preserved tomatoes.

The Commission observed that in Appendix A2 to its application, SPCA did not provide import volume data for prepared or preserved tomatoes from countries other than Italy. Therefore, the Commission collected import data under the relevant tariff classification for all other countries from the ACBPS import database.

Graph 1 below shows the size of the Australian market based on SPCA’s submitted data on its own sales and imports from Italy, and ACBPS import data for imports from all other countries. The year 2014 is an estimate based on an extrapolation of the SPCA sales data for the first 6 months of 2014, and an extrapolation of the import data for the first 11 months of 2014.



Graph 1 – Estimate of the Australian market for prepared or preserved tomatoes

The Commission’s assessment of the Australian market size for prepared or preserved tomatoes is at **Confidential Appendix 1**.

4.6 Australian industry information

4.6.1 General accounting/administration

The company commenced commercial trading as SPCA in 2002, following the merger of two previously unaffiliated commercial entities – Shepparton Preserving Company and Ardmona Fruit Products Co-Op.

SPCA is currently a wholly owned subsidiary of Coca Cola Amatil Limited (CCA) following completion of acquisition of SPCA by CCA in 2005.

SPCA incorporates a number of distinct commercial operations related to the production of food products sold into retail and food industry markets in Australia under a number of different proprietary labels.¹²

SPCA's operates a calendar year for reporting purposes aligning with its parent company CCA. As part of the application, SPCA provided CCA's 2013 audited financial statements and annual report as well as CCA's interim financial results for 2014.

4.6.2 Australian industry's sales

SPCA provided sales volume and value information in the application, including a summary of domestic and export sales volumes and revenues. This data was in accordance with the requirements of Confidential Appendices A2, A3, A5 and A6, for the period 2010 to the end of June 2014 inclusive (1 January 2010 to 30 June 2014). Confidential Appendices A1 (Australian production) and A4 (detailed Australian sales data) provided data for 2013 and the first half of 2014.

The Commission examined the detail in, and link between, relevant appendices, noting no major discrepancies. For the purposes of this report, the Commission considers that SPCA's appendices are reliable for assessing the economic condition of the Australian industry in respect of prepared or preserved tomatoes.

4.6.3 Cost to make and sell information

SPCA completed an Appendix A6 cost to make and sell spreadsheet for domestic sales. The information provided in Appendix A6 included sales volumes, manufacturing costs, selling (including distribution), general and administrative (SG&A) expenses for the period 1 January 2010 – 30 June 2014 inclusive.

The Commission examined the information provided, and the link between other appendices, and considers the information reliable for the purposes of preliminarily assessing the economic condition of the Australian industry in respect of prepared or preserved tomatoes.

¹² SPCA advised in its application and associated material that its prepared or preserved tomatoes are produced and marketed exclusively under SPC and Ardmona branding (or private label branding associated with particular Australian customers).

4.6.4 Other economic factors

SPCA completed Confidential Appendix A7 for the period 1 January 2010 – 30 June 2014 inclusive showing movements in assets, capital investment, revenue, capacity, capacity utilisation, closing stocks and cash flow measures.

4.6.5 The Commission's assessment

Based on the information in the application, the Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and, that the information contained in the application is sufficient for the purposes of a preliminary analysis of the economic condition of the Australian industry in respect of prepared or preserved tomatoes for the period 1 January 2010 to 31 December 2014. It should be noted that the Commission had to extrapolate certain data to obtain annualised figures for the whole of 2014. This is explained in section 6.3 of this report.

5 REASONABLE GROUNDS – DUMPING

5.1 Findings

Having regard to the matters contained in the application, and to other information considered relevant, there appear to be reasonable grounds to support the claims that:

- prepared or preserved tomatoes have, in 2014, been exported to Australia from Italy by Feger and La Doria at dumped prices (refer Section 5.6);
- the volume of prepared or preserved tomatoes that appear to have been dumped from Italy by Feger and La Doria is greater than 3% of the total Australian import volume of the goods, and therefore is not negligible (refer Section 5.5); and
- the estimated dumping margin for Feger and La Doria is, in the case of each exporter, greater than 2% and is therefore not negligible (refer Section 5.6).

5.2 Legislative framework

Article 5.2 of the World Trade Organization *Anti-Dumping Agreement* states that an application shall include evidence of dumping. It also states that simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet this requirement, but such information must be reasonably available to the applicant.

Subsection 269TC(1) of the Act requires that the Commissioner must reject an application for a dumping duty notice if, *inter alia*, he is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG of the Act, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods. This issue is considered in the following sections.

5.3 Export price

5.3.1 SPCA's claims

In its application, SPCA submitted indicative export prices for prepared or preserved tomatoes from Italy exported by Feger and La Doria. SPCA calculated 'deductive export prices' for this purpose. It did so by calculating the selling prices in Australia for the goods exported by Feger and La Doria and then deducting amounts for all parts of that price that represented a charge or margin in respect of matters arising after exportation.

To calculate the Australian selling prices, SPCA relied on:

- Aztec data, which captures prepared or preserved tomatoes product sales within the three largest Australian supermarkets (being Coles, Woolworths and Metcash);
- Aztec panel data (which captures sales through Aldi); and,
- internal SPCA information to identify price and volume trends.

SPCA explained that it has estimated which of this product data is likely to be attributable to goods from Feger and La Doria by researching publically available information to

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establish the manufacturers and importers of the products in the Australian supermarkets and then by a process of elimination it derived an estimate of volume and type of products from Feger and La Doria. SPCA also explained that it compared the volume estimate to the findings in the previous investigation in terms of the proportion of the Italian export volumes that could be attributable to Feger and La Doria.¹³ SPCA was then able to use its pricing data to estimate the selling prices of Feger and La Doria products in the Australian market.

SPCA further explained that this data represented a selection of imports to Australia of prepared or preserved tomatoes over 2013 and 2014 that covered two types of pack size and three types of cut mix. So as to balance the variations within the data, SPCA converted its calculations to a per kilo basis rather than a per unit basis. It also applied product mix ratios to ensure its export price (and dumping margin) calculations were weighted towards the highest volume products.

Based on its knowledge of the market and typical costs incurred in the selling and distribution of the goods, SPCA has also made adjustments it considers reasonable to calculate to deductive export prices at the ex-works (EXW) level in Euro per kilogram. The deductions were in respect of retailer margin in Australia, Australian distribution costs, customs duty payable, and overseas freight and insurance. These calculations and supporting documents were provided by SPCA within Confidential Attachment B-2.1 of the Application.

5.3.2 The Commission's assessment

The calculations and supporting evidence provided by SPCA were examined.

The Commission was able to trace the sales volume and value data in Confidential Attachment B-2.1 to the documentary evidence provided, which it considers to be reasonable evidence of the sales values and volumes in Australia of prepared or preserved tomatoes exported to Australia from Italy by Feger and La Doria. The Commission also considered the deductions made to estimate deductive export prices at EXW delivery terms were reasonable. The Commission further verified the applied exchange rates used within the calculations to the documentary evidence supplied.

In addition, the weighted average calculations in Confidential Attachment B-2.1 were assessed and found to be correct.

As a further method of assessing the reasonableness of SPCA's export prices, the Commission reviewed the ACBPS import database for tariff classification 2002.10.00 (statistical code 60) whilst also taking into consideration facts established in the Commission's previous investigation into the alleged dumping of tomatoes undertaken by the Commission.

Prior to making the comparison, the Commission cleansed the ACBPS import data by removing product combinations and products that were not identified as prepared or preserved tomatoes. For example, items identified as pastes, purees, sauces, pasta

¹³ SEF217, section 8.8.1, p51

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sauces, juices and sundried tomatoes were removed. The Commission found that the volume in the ACBPS database was reasonably close to the estimates in the application.

The annual weighted average export prices from the ACBPS import database were calculated and compared to the calculations provided by SPCA. This ACBPS data does not routinely differentiate prepared or preserved tomatoes by pack size and cut mix, and therefore the calculated weighted averages are an aggregate of all types of prepared or preserved tomatoes that were imported.

Noting the above data limitations, the Commission observed that the weighted average export prices from the ACBPS database were reasonably comparable to the export prices submitted by SPCA.

The Commission notes that an applicant can only provide information in its application that is reasonably available to it. The Commission therefore considers that SPCA's use of the methodology outlined above to estimate export prices for prepared or preserved tomatoes exported by Feger and La Doria is reasonable.

The Commission considers that the export prices submitted by SPCA are sufficiently reliable and relevant for the purposes of the application.

SPCA's calculations of export price, and the Commission's comparison of these with ACBPS data, form **Confidential Appendix 2A**.

5.4 Normal value

5.4.1 SPCA's claims

Normal values based on selling prices in Italy

SPCA calculated normal values by using retail selling prices of prepared or preserved tomatoes in Italy obtained in respect of:

- 2013, by its personnel visiting retail outlets in Italy obtaining a total of 56 observations of price. The observations included a variety of can sizes, product mixes, and labels (private and branded); and
- October 2014 from five online retailer websites with a total of 44 observations. The observations again included a variety of can sizes, product mixes, and labels (private and branded).

SPCA used this data to calculate a weighted average price per kilogram in Euro.

SPCA then deducted from this retail price amounts for VAT in Italy, retailer's margin, and freight to customer to arrive at a normal value expressed in Euro at EXW delivery terms. SPCA estimated the retailer's margin using information based on market survey information sourced from 'Euromonitor', a third-party market data source provider.

Constructed normal values

The application also includes calculations of constructed normal values under s.269TAC(2)(c) of the Act, for each type of variant of prepared or preserved tomatoes that export prices were supplied for.

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SPCA considers constructed normal values are appropriate because of certain alleged market distortions that exist in the Italian market for prepared or preserved tomatoes. These allegations are discussed below.

SPCA has obtained publicly available cost to make and sell information as well as applied assumptions on its own costs so as calculate a constructed normal value, at an EXW level in Euro, both with and without a market situation adjustment.

SPCA established the costs to make and sell for 2013 and 2014 at a per kilogram average and had regard for the estimated differences in raw material pricing, labour costs overhead costs, utilities, other indirect expenses and profits.

Market situation and raw material claims

The Commission understands that SPCA is claiming, in accordance with section 269TAC(2)(ii), there is a situation in the Italian market for prepared or preserved tomatoes that renders domestic sales unsuitable for determining normal value under section 269TAC(1) (i.e. that a 'market situation' exists), and constructed normal values should be used instead for determining whether goods exported by Feger and La Doria are sold at dumped prices.

The application submits that the supply and price of fresh tomatoes in the Italian market for raw tomatoes is influenced by direct and indirect payments made to tomato growers under the European Union's Common Agriculture Policy (CAP)¹⁴. In particular, SPCA points to payments made to tomato growers under the Single Payment Scheme. In addition, SPCA claims there are regulations on imports of raw tomatoes and other trade distorting measures and support offered through Italian Producer Organisations.

SPCA alleges that in the absence of these factors:

*..the prices of raw tomatoes would have been higher than the historical and current prices paid by the tomato processors; this in turn would impact the normal value of prepared and preserved tomatoes in Italy.*¹⁵

Whilst acknowledging the findings of the previous investigation¹⁶, SPCA includes in its application a Non-Confidential Attachment B-4.1. Here, further detail on the market situation claims has been provided as well as reference to publically available supporting material, which includes EU regulations relevant to the delivery of the CAP and Single Payment Scheme. The Commission notes that SPCA has drawn upon some new material that had not been considered in the previous investigation.

SPCA estimated that the amount paid in 2013 under the Single Payment Scheme was up to 37% of the price paid for raw tomatoes by the prepared or preserved tomato processors.¹⁷ SPCA claims that the direct payments have had an influence on the supply

¹⁴ SPCA claims that under the CAP, EU member states are allowed to provide payments to growers of fruit and vegetables.

¹⁵ SPCA application, p. 25.

¹⁶ In REP 217 (p. 26), the Commission found that "...there is no situation in the market in Italy such that sales in Italy are not suitable for use in determining a price under subsection 269TAC(1) of the Act".

¹⁷ SPCA application, non-confidential attachment B-4.2

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and pricing of raw tomatoes, and the pricing of the finished products and eventually the impact on processor's overall profitability.

5.4.2 The Commission's assessment

The application outlines certain factors that SPCA claim have resulted in distortion to the markets in Italy for raw tomatoes and for prepared or preserved tomatoes. SPCA provides relevant evidence in support of its claims and it draws reasonable conclusions as to how the factors may have affected the domestic selling price of prepared or preserved tomatoes. Based on an assessment of the information set out in the application and, the information gathered by the Commission in the previous investigation into prepared or preserved tomatoes exported by Italy, the Commission considers it appropriate to examine SPCA's market situation claims during the course of the investigation.

The Commission will seek relevant information from exporters, the Government of Italy and the European Union in order to assess the claims thoroughly and objectively.

The Commission notes that a finding of a market situation and the potential impact on the methodology under which normal value is determined may remove the obligation on the Minister to consider application of the lesser duty rule – pursuant to s.8(5BAA)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*. Accordingly, in addition to its assessment of SPCA's market situation claims and if a market situation exists, the Commission will make recommendations to the Minister as to whether the lesser duty rule should be applied. This may affect the level of any duties that may be imposed.

The Commission considers that, based on the information submitted in the application, the applicant's estimate of normal values based on domestic selling prices are reasonable. The applicant has supported its estimates with information that is reasonably available to it and, where assumptions have been made, has explained the basis for those assumptions. Where appropriate, the applicant has used data from independent sources to make its normal value calculations. However, the Commission notes that the SPCA approach to assessing normal values based on selling prices is similar to the one contained in its application of 2013 that resulted in the previous investigation. At the conclusion of that investigation, the Commission established normal values for Feger and La Doria that were different to the ones estimated by SPCA. The Commission has therefore placed greater weight on SPCA's constructed normal values.

The Commission has also examined the calculations in SPCA's constructed normal values (without any adjustment for the alleged market distortion on raw tomatoes). However, in doing so, the Commission compared the cost estimates of SPCA to verified cost to make and sell data for Feger and La Doria established in the previous investigation. The Commission noted some discrepancies and it considered that adjustments to SPCA's constructed normal value were necessary, thereby providing greater weight to the verified cost to make and sell data.

A comparison of SPCA's normal values estimates and the ones adjusted by the Commission are at **Confidential Appendix 2B**.

5.5 Import volumes

From the information available from the ACBPS import database, imports of prepared or preserved tomatoes from Italy by Feger and La Doria represent more than 3% of the total import volume of prepared or preserved tomatoes in the 12 month period ending November 2014 and are therefore not in negligible volumes as defined in section 269TDA.

5.6 Dumping margins

Dumping margins for prepared or preserved tomatoes were calculated by SPCA and submitted in the confidential version of its application. SPCA had calculated dumping margins using three methods. While each method used the same approach to calculating export prices, these were compared with three variations of normal value, with its results as follows:

Method	Normal value based on retail prices	Normal value based on cost to make and sell	Normal value based on cost to make and sell after removing market situation distortion
Dumping Margin 2013	57%	60%	69%
Dumping Margin 2014	57%	53%	62%

Figure 1 – Applicant’s calculation of dumping margins

The Commission re-calculated estimated dumping margins, taking into account:

- ACBPS import data specific to Feger and La Doria exports of the goods to obtain a more accurate assessment of export prices; and
- adjustments to SPCA’s constructed normal values by drawing upon verified data from the previous investigation.

The Commission’s calculations have resulted in estimated dumping margins for Feger and La Doria, in 2014, that range from 4% to 25% depending on the products (or product mixes) being compared. In arriving at these dumping margin assessments, the Commission has not factored in any normal value option that addresses the alleged market situation.

A comparison of SPCA’s dumping margin calculations and the Commission’s dumping margin calculations are at **Confidential Appendix 2C**.

The Commission’s estimated dumping margins are substantially lower than the dumping margins that were calculated by SPCA, which reflects the adjustments to export price and constructed normal value made by the Commission. In any case, the Commission

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considers that the application has demonstrated that there are reasonable grounds for asserting that the goods exported to Australia by Feger and La Doria have been sold at dumped prices with dumping margins that are not negligible.

6 REASONABLE GROUNDS – ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

6.1 Findings

Having regard to the information contained in the application and to other information considered relevant, the Commission is satisfied that the Australian industry appears to have experienced injury in terms of:

- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced capacity utilisation.

6.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, *inter alia*, he is not satisfied that there appear to be reasonable grounds for the publication of a notice.

Under section 269TG, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that, because of dumping of the goods, material injury has been or is being caused or is threatened to the Australian industry producing like goods.

6.3 Approach to injury analysis

The injury analysis detailed in this section is based on information submitted by SPCA in its application, including:

- SPCA's submitted costs and sales data;
- ABS import data; and
- data obtained from the ACBPS' imports database.

The SPCA costs and sales data was provided in yearly periods from January 2010 to December 2013, and then for the first six months of 2014. Therefore, some graphs include estimates of annualised data points for 2014 that are based on extrapolations of:

- data submitted in the application for the six months ending June 2014; and/or
- data from the ACBPS import database for the 11 months ending November 2014.

SPCA sells an insignificant portion of goods on the export market. The analysis unless otherwise stated refers to domestic sales and production.

6.4 The applicant's injury claims

SPCA claims that the Australian industry has suffered injury through:

- reduced sales volumes;

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- reduced market share;
- price undercutting;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced capacity utilisation.

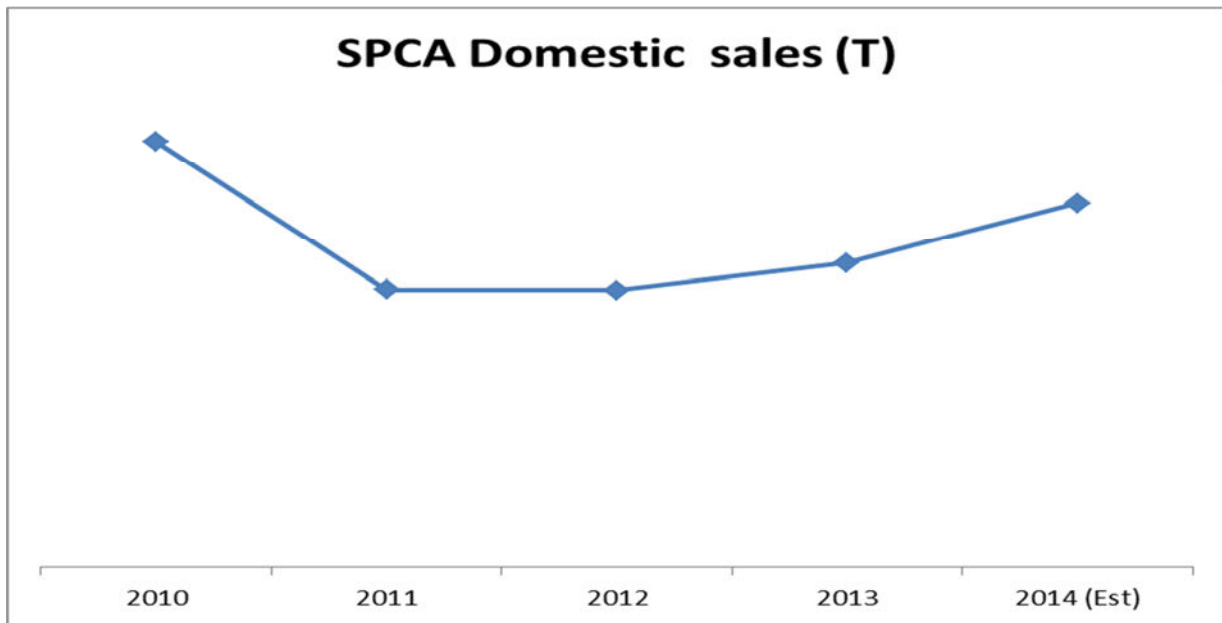
6.5 Commencement of injury

SPCA claimed the material injury that has been caused by goods which are the subject of its application has occurred over many years. However for the purpose of the application, SPCA presented its financial data from 2010.

6.6 Volume effects

6.6.1 Sales volume

The following graph depicts SPCA's total sales volume of prepared or preserved tomatoes on the Australian market. The year 2014 is an estimate based on an extrapolation of the SPCA sales data for the first 6 months of 2014.



Graph 2 – SPCA's sales volumes of prepared or preserved tomatoes

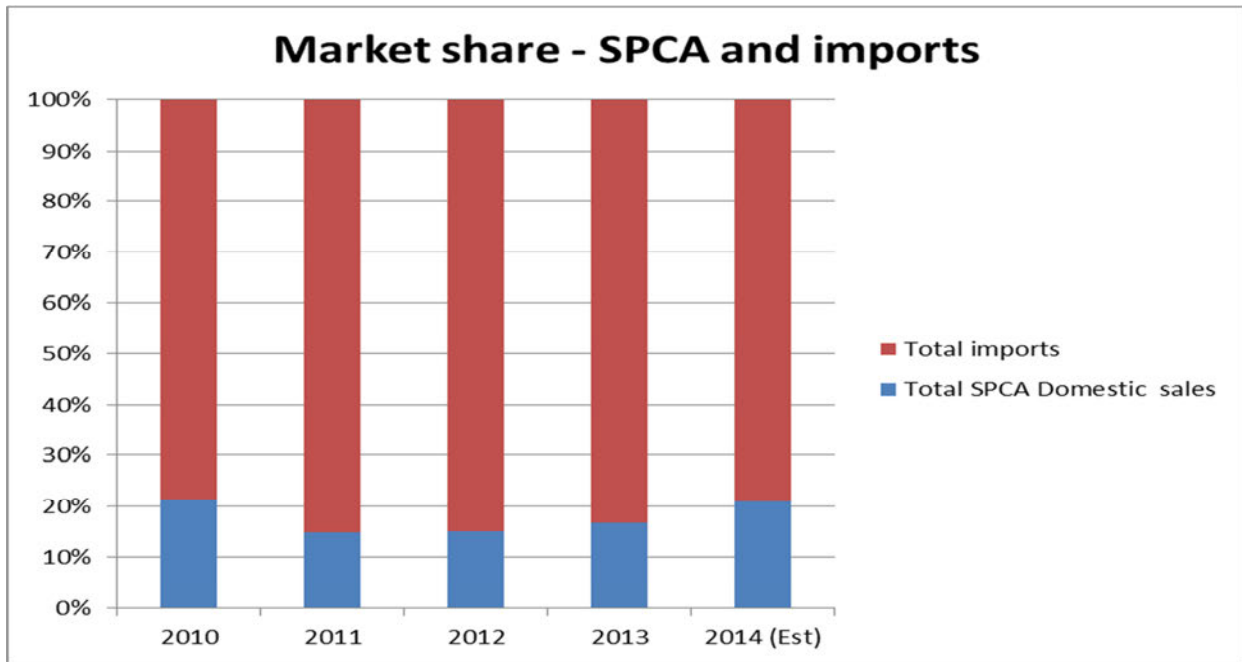
Graph 2 shows that after a significant fall in sales volume from 2010 to 2011, SPCA has increased its sales volume for each subsequent year.

6.6.2 Market Share

The following graph depicts the market shares for sales of prepared or preserved tomatoes on the Australian market by SPCA and by importers. The year 2014 is an

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estimate based on an extrapolation of the SPCA sales data for the first 6 months of 2014, and an extrapolation of the import data for the first 11 months of 2014.



Graph 3 – Market shares for prepared or preserved tomatoes

Graph 3 shows that after a significant fall in market share from 2010 to 2011, SPCA has increased its market share for each subsequent year.

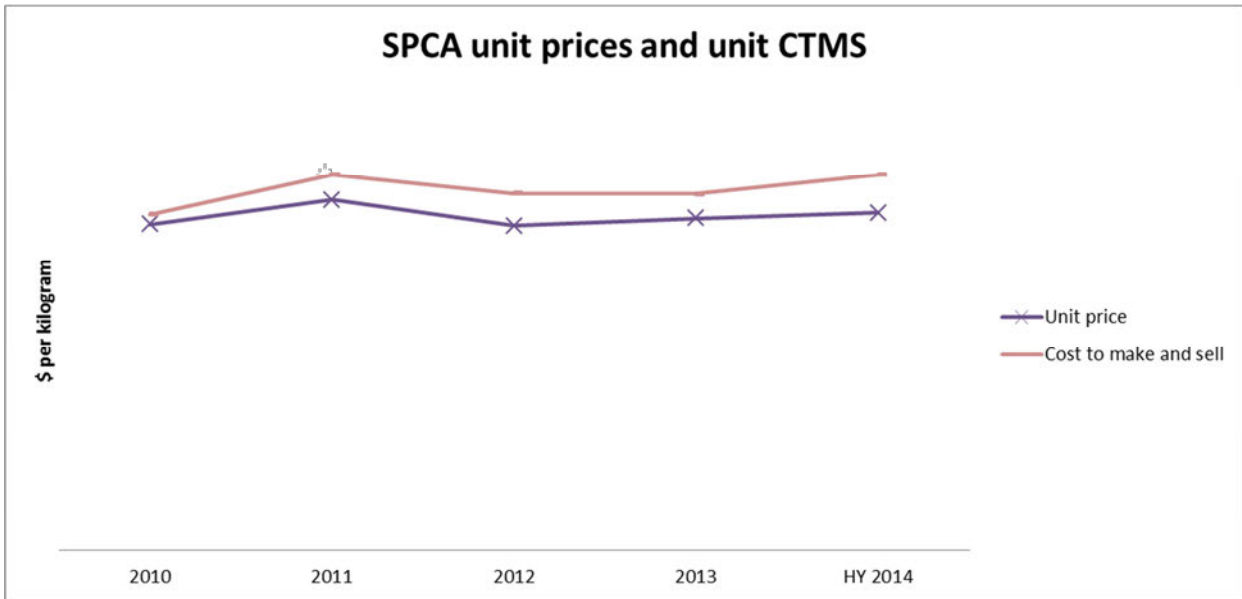
6.6.3 Conclusion – volume effects

Based on this analysis, there does not appear to be reasonable grounds to support the claim that the Australian industry has suffered injury in the form of reduced sales volume and/or reduced market share.

6.7 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The following graph depicts SPCA's unit prices and unit cost to make and sell data (as weighted averages per kilogram) for sales of prepared or preserved tomatoes on the Australian market. The 2014 data are actual figures but are based only on the first six months to June 2014.



Graph 4 – SPCA unit prices and unit cost to make and sell for prepared or preserved tomatoes

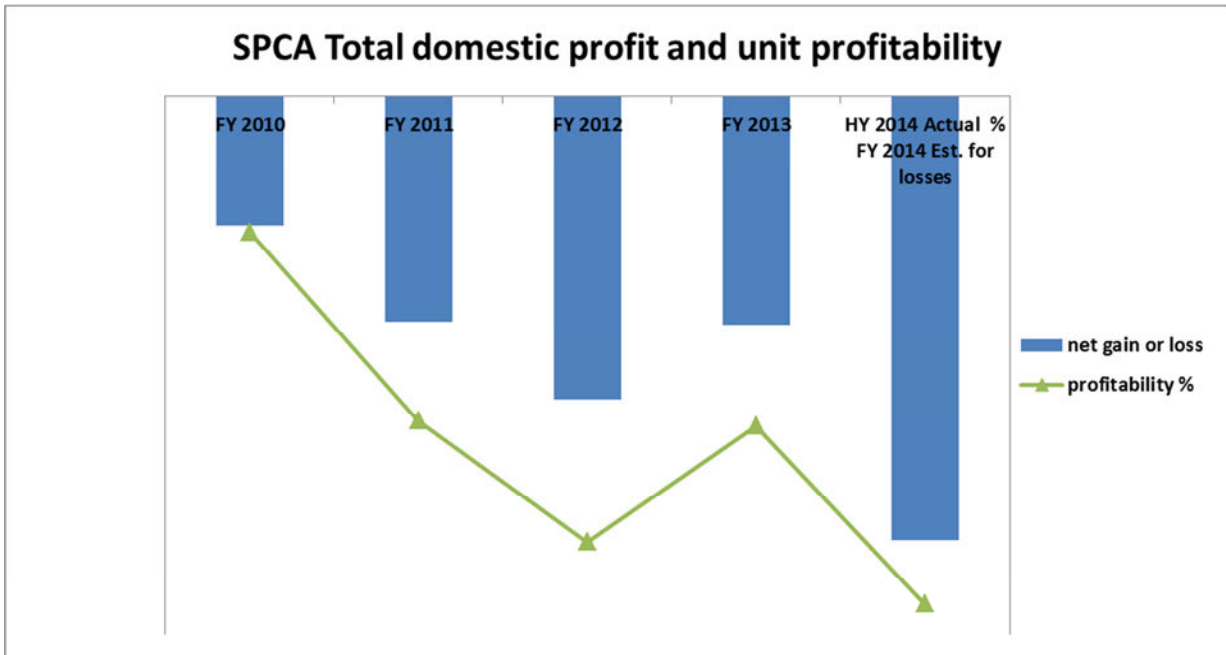
SPCA’s unit prices increased from 2010 to 2011 then fell in 2012. The unit prices then increased in 2013 and again in the first six months of 2014. SPCA’s unit cost to make and sell followed a similar trend. SPCA’s unit cost to make and sell was higher than its corresponding unit price in each period. The greatest margin of SPCA’s unit costs over unit price is observed in the first six months of 2014.

6.7.1 Conclusion – price effects

Based on this analysis, there appears to be reasonable grounds to support the claim that the Australian industry has suffered injury in the form of price depression and price suppression.

6.8 Profit and profitability effects

The following graph depicts SPCA’s total profits and unit profitability for sales of prepared or preserved tomatoes on the Australian market. The 2014 data for unit profitability are actual figures but are based only on the first six months to June 2014. The 2014 data for total profits is an estimate based on an extrapolation of the SPCA data for the first 6 months of 2014.



Graph 5 – SPCA total profits and unit profitability for prepared or preserved tomatoes

SPCA's total losses grew from 2010 to 2011 and again to 2012. The SPCA losses contracted in 2013 but worsened significantly for 2014. The unit profitability followed a similar trend.

6.8.1 Conclusion – profit and profitability effects

Based on this analysis, there appears to be reasonable grounds to support the claim that the Australian industry suffered injury in the form of reduced profits and reduced profitability.

6.9 Other economic factors

SPCA completed Confidential Appendix A7 (other injury factors) for each of the years from 2010 to 2014, noting the 2014 data related only to the first half of the year. The data provided by SPCA was at times in respect of the total SPCA business, and at times it was particular to prepared or preserved tomatoes. In relation to the two other economic factors particular to prepared or preserved tomatoes, these showed:

- reduced revenue; and
- reduced capacity utilisation

SPCA's performance in relation to the other economic factors will be further examined during the course of the investigation.

7 REASONABLE GROUNDS – CAUSATION FACTORS

7.1 Findings

Having regard to the matters contained in the application, and to other matters considered relevant, the Commission is satisfied that the goods exported to Australia from Italy by Feger and La Doria have been at dumped prices, and that dumping has caused material injury to the Australian industry.

7.2 SPCA claims

SPCA claims that the volumes of prepared or preserved tomatoes sold through major retailers in Australia have remained relatively stable from 2010 to 2014. SPCA notes that the previous investigation established that Feger and La Doria (combined) accounted for approximately 44% of total imports from Italy and that Italy accounted for 96% of total imports to Australia. In this context, SPCA claims that the volume of dumped imports from Feger and La Doria forms a significant part of the Australian domestic market.

SPCA claims that the product category is a highly price sensitive one, where the consumer's key purchasing criterion is retail price, and that the pricing activity from dumped imports impacts the pricing of the category. SPCA provided information to support its claims that the dumped imports from Feger and La Doria have been undercutting its own prices in the Australian market.

SPCA claims that the dumped prices have impacted its market share, caused price undercutting, price depression, price suppression and ultimately impacted SPCA's profitability.

SPCA claims that since the application of preliminary dumping duties in November 2013 and interim dumping duties in April 2014, some products have shown price shifts. However, SPCA claims that the full impact of the duties has not been observed in the retail price which implies that La Doria and Feger prices are causing the price suppression in the market. SPCA considers it is reasonable to assume that in the absence of the price effects attributable to La Doria and Feger, the market would have seen improved price points.

SPCA also claims that a decline in its sales volumes caused by imported products has resulted in higher costs to make and sell because of reduced economies of scale which in turn leads to poor overhead recovery, price suppression and eroded profits and profitability.

7.3 Factors other than dumping

SPCA claims that by far the biggest factor causing it damage has been the imported dumped products causing the loss in its volume, price undercutting, price depression, price suppression and lost profits.

SPCA considers that the Australian seasonal conditions do not impact consumer demand. It also notes that the cost of raw materials and labour has decreased from 2010, therefore not contributing to the cause of the injury.

7.4 The Commission's assessment

Price undercutting is a key indicator and tool for examining whether a causal link exists between goods exported at dumped prices and any injury to an Australian industry caused by dumping. The Commission has undertaken a price undercutting analysis for 2014 by comparing weighted average net prices for SPCA with estimated prices for the Feger and La Doria goods sold at wholesale prices to major retailers in Australia. These estimated prices were constructed using Feger and La Doria export prices for 2014 from the ACBPS import database and verified overseas freight, Australian port and delivery charges and importer SG&A costs established in the previous investigation. The Commission noted that Feger and La Doria products were at wholesale selling prices that were significantly below SPCA prices. The Commission's analysis of price undercutting is at **Confidential Appendix 3**.

The significance of a finding of price undercutting is increased in markets that exhibit a high degree of price sensitivity. The Commission notes the finding in REP 217 that:

The Commission examined the price sensitivity of the goods and considers that the goods priced in the upper three tiers of the supermarket pricing strategy are very price sensitive.¹⁸

Having regard to the extent of the dumping margins estimated in relation to the goods exported by Feger and La Doria in 2014, it is reasonable to expect that the dumping has provided those suppliers a competitive advantage.

It is also relevant to note the Commission has assessed the volume of goods exported to Australia by Feger and La Doria and has confirmed that this continues to represent a significant proportion of goods exported from Italy, and a significant proportion of the Australian market. The Commission notes that the combined Australian market share of prepared or preserved tomatoes that were exported from Feger and La Doria appears to have reached its highest point in 2014. A graph depicting the Commission's detailed market share analysis is at **Confidential Appendix 4**.

The Commission considers that the significant volume of prepared or preserved tomatoes exported by Feger and La Doria at what appear to be dumped prices, into the price sensitive Australian market, is likely to have resulted in significant price pressures at the wholesale level in Australia. In particular, the Commission considers it reasonable to conclude that the alleged dumping has caused SPCA to experience significant price suppression and reduced profits and profitability.

The Commission found in section 6.6.3 above that there does not appear to be reasonable grounds to support the claim that the Australian industry has suffered injury in the form of reduced sales volume and/or reduced market share. However, the Commission considers that if an investigation establishes that SPCA's sales have been

¹⁸ Anti-Dumping Commission Report Number 217, p. 58. Earlier in that report (at p. 22), the Commission explained there are four pricing tiers: local proprietary labels; Italian proprietary labels; premium private labels; and generic or value private labels.

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displaced by dumped imports, then such circumstances may be considered as constituting adverse volume effects caused by dumping. This may be the conclusion notwithstanding the fact that the Australian industry's sales and market share overall has been increasing.

For the purpose of this report, the Commission considers that the exports of the goods by Feger and La Doria at seemingly dumped prices are also likely to have displaced SPCA sales, thereby causing it to experience lower sales volumes and lower market share than would have been the case in a market absent the effects of dumping.

The Commission considers the combined volume, price and profit injury caused by the dumped goods exported by Feger and La Doria is material.

The impact of factors other than dumping that may have caused material injury to the Australian industry will be assessed throughout the investigation.

7.5 Comparison of export price and non-injurious price

To further assess whether the alleged dumping from Italy caused injury to the Australian industry, the Commission has undertaken a preliminary calculation of the non-injurious price (NIP) and compared that to the FOB export price.

The NIP is the minimum price necessary to prevent injury to the Australian industry producing like goods. If export prices are greater than the NIP, it would suggest that dumping may not be causing material injury. If, on the other hand, export prices are lower than the NIP, this would support a finding that dumped imports have caused material injury to the Australian industry producing like goods.

SPCA did not provide unsuppressed selling price (USP) or NIP estimates in its application. However, it is considered appropriate to compare the allegedly dumped export prices to NIP estimates for the purposes of this report.

To calculate the NIP, the Commission first assessed a USP using SPCA's 2014 cost to make and sell (for the six months to June 2014) from Appendix A.6 of the application. This approach is the same as that used by the Commission in the final report of the previous investigation (REP 217). The Commission then made deductions from that USP for reasonable estimates of post-exportation costs including overseas freight, insurance, landing and clearing charges and importer SG&A and profit. These estimates were derived from data verified previously for the purposes of REP 217. These calculations provided a NIP at an FOB level, which is considered reasonably suitable for comparison to an EXW export price.

The Commission compared its NIP with the weighted average export prices calculated from the ACBPS import database as being specific to Feger and La Doria. This comparison found that weighted average export prices for Feger and La Doria were all below the NIP.

This further supports the position that allegedly dumped imports have caused material injury to the Australian industry.

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The Commission's calculations of the NIP and the comparison with export price are at **Confidential Appendix 5**.

8 CONCLUSION

The Commission has examined the application and is satisfied that:

- the application complies with subsection 269TB(4); and
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of dumping duty notice in respect of the goods the subject of the application.

Accordingly, the Commissioner has decided not to reject the application for the publication of a dumping duty notice under subsection 269TB(1).

For the purposes of the investigation:

- the investigation period to determine whether dumping has occurred will be from 1 January 2014 to 31 December 2014; and
- the Commission will examine the Australian market and the economic condition of the Australian industry from 1 January 2010 for the purposes of injury analysis.

The Commission will also examine whether the trade in the dumped goods provides a basis for any dumping duty notice to apply retrospectively, pursuant to section 269TN of the Act.

9 APPENDICES AND ATTACHMENTS

Attachment 1	Commissioner's public notice
Confidential Appendix 1	Assessment of the Australian market size
Confidential Appendix 2A	Calculations of export price
Confidential Appendix 2B	Calculations of normal value
Confidential Appendix 2C	Calculations of dumping margins
Confidential Appendix 3	Price undercutting analysis
Confidential Appendix 4	Market share analysis
Confidential Appendix 5	Comparison of export price with NIP