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*L' Ambasciatore d' Italia*  
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**INVESTIGATION INTO THE ALLEGED DUMPING OF PREPARED OR PRESERVED TOMATOES EXPORTED TO AUSTRALIA FROM ITALY BY FEGER DI GERARDO FERRAIOLI S.P.A. AND LA DORIA S.P.A.**

Please find hereinafter a non confidential submission related to the subject case made by the Government of Italy.

The Ambassador  
Pier Francesco ZAZO

A handwritten signature in black ink, appearing to read 'Pier Francesco ZAZO', with a red horizontal line underneath.

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Anti-Dumping Commission  
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Rome, 24 February 2015

**ANTI-DUMPING RE-INVESTIGATION BY THE AUSTRALIAN GOVERNMENT ON IMPORT  
OF PROCESSED TOMATO PRODUCTS**

**Written submission of the Italian Government on the new anti-dumping  
investigation on preserved tomatoes exported to Australia from Italy**

The Italian Government wishes to express its deep concern with regard to the initiation of a second anti-dumping investigation, by which the Australian Antidumping Authority is aiming at imposing anti-dumping duties on preserved tomatoes exported to Australia from Italy, in particular, on export by the two Italian companies concerned *Feger di Gerardo ferraioli S.p.A.* and *La Doria S.p.A.*

In fact, as is well known, the Australian Anti-Dumping Commission launched on July 2013 an antidumping investigation against the imports of the same product originated in Italy and definitive measures were imposed on April 2014.

During this investigation, the Australian Antidumping Authority found no evidence of dumping practices carried out by these two Italian exporters, consequently, the proceeding was terminated without imposition of measures with regard to these two companies.

This new case, launched only 10 months after many Italian exporters were required to pay anti-dumping duties, started on the basis of alleged new evidence submitted by the complainant, *SPS Ardmona*.

In fact, *SPS Ardmona* in its submission stressed the fact that the Italian processed tomato industry is receiving subsidies as part of the EU's Common Agriculture Policy (CAP).

Italy considers that the *SPS Ardmona* did not provide any new elements with respect to the original investigation that would justify the re-opening of the proceeding and, therefore, the application lodged by *SPS Ardmona* presents manifest inconsistencies with the WTO requirements.

Furthermore, with regard to the alleged subsidies, Italy believes that such supports under the EU's Common Agriculture Policy are aimed at helping farmers instead of boosting production or give advantages to the food processing enterprises: the CAP is now an income support scheme and not a subsidy scheme.

In any case, the WTO regulation contains clear indications regarding anti-subsidy issues; in fact, such issues should be addressed according to a specific legislation, which is different from the Antidumping Agreement. Therefore, any antidumping

measure based on elements relating to subsidies should be considered WTO incompatible.

Likewise, with regard to the Italian Government Questionnaire requested by the Australian Anti-Dumping Commission, Italy believes that the antidumping questionnaire improperly deals with questions concerning subsidies, issues not covered by the Antidumping Agreement of the WTO, and that may be the object only of a countervailing proceeding (as foreseen in the WTO "SCM Agreement").

The anti-dumping investigations are aimed exclusively to establish the phenomena of dumping caused by private companies' decisions on the market, and in no way these behaviors are related to any State subsidies.

Italian Government does not believe that this questionnaire is appropriate and does not consider this approach justified under WTO rules.

Italy also wishes to emphasize that it should be carefully considered that during the investigation period of this new proceeding (Jan/Dec 2014), *La Doria* and *Feger*, the two Italian companies involved, had good sales results in terms of market share thanks to the exclusion from the antidumping duties currently in force. It is clear that they are not causing material injury to the Australian Industry, but they are legitimately taking advantages from the price increasing of the Italian tomatoes exported in Australia by the Italian companies which have been subject to antidumping measures. In other words, *Feger* and *La Doria* are replacing other Italian exporters not because of dumping, but thanks to the antidumping duties paid by the others Italian exporters.

In the light of the above considerations, Italy urges the Australian Anti-Dumping Commission to withdraw the questionnaire and terminate the case without delay, since the questionnaire does not seem to be in line with the provisions of this specific antidumping investigation, and since the request is not supported by sufficient new evidence.

The Italian Government will continue to follow the matter and monitor its evolution in close coordination with the European Commission in order to ensure that the Italian exporters are fairly treated and that the Italian rights at WTO level are fully respected. The Italian Government wishes to reassure that Italy is willing to offer the maximum cooperation to the Anti-Dumping Commission in the full transparency and compliance with the WTO rules.