



26 November 2013

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Mr John Bracic  
Director  
Australian Anti-Dumping Commission  
Customs House  
5 Constitution Avenue  
Canberra ACT 2600

Dear Mr Bracic,

**PREPARED OR PRESERVED TOMATOES EXPORTED FROM ITALY**

This submission, made on behalf of Conserve Italia Soc. Coop. Agr (“Conserve Italia”), is the first of a series of submissions refuting the allegation of SPC Ardmona Operations Ltd (“SPCA”) that dumping of the subject goods from Italy has, of itself, caused material injury to the Australian industry producing like goods.

Contrary to the false claim by SPCA that *no other factors have had a significant impact on its sales apart from dumping*,<sup>1</sup> facts established by the Safeguards Inquiry into the Import of Processed Tomato Products and otherwise, demonstrate that the combination of a number of factors other than dumping has caused significant injury to SPCA during the injury analysis period, ie from 1 January 2009. These other factors include the following:

- Appreciation of the Australian dollar;
- Supermarkets’ development of private label products;
- The 2011 floods;
- Comparative cost advantage of Italian producers;
- SPCA’s decreased exports;
- Consumer preference for Italian products;
- Long-term import competition; and
- Undumped imports from other countries, eg China.

The Anti-Dumping Commission (“the Commission”) is well aware of its obligation to not attribute the injuries caused by these other factors to dumping,<sup>2</sup> which SPCA has blatantly done. They are also aware that in order to determine whether dumping is of itself the cause of material injury, it is necessary to assess the injurious effects of the other known factors and separate them from the injurious effects of dumping.

We note that in its Preliminary Affirmative Determination (PAD), the Commission based its preliminary material injury assessment on the effect of the shelf prices of retailers of the allegedly dumped imports on SPCA’s selling prices and sales volumes to these retailers. Because shelf prices are impacted by retailers’ pricing and marketing strategies, it cannot be assumed that injuries caused by such prices are attributable to dumping. The correct consideration in determining whether dumping is the cause of injury to SPCA is the effect of

<sup>1</sup> Visit report – Australian Industry sec. 7.9.

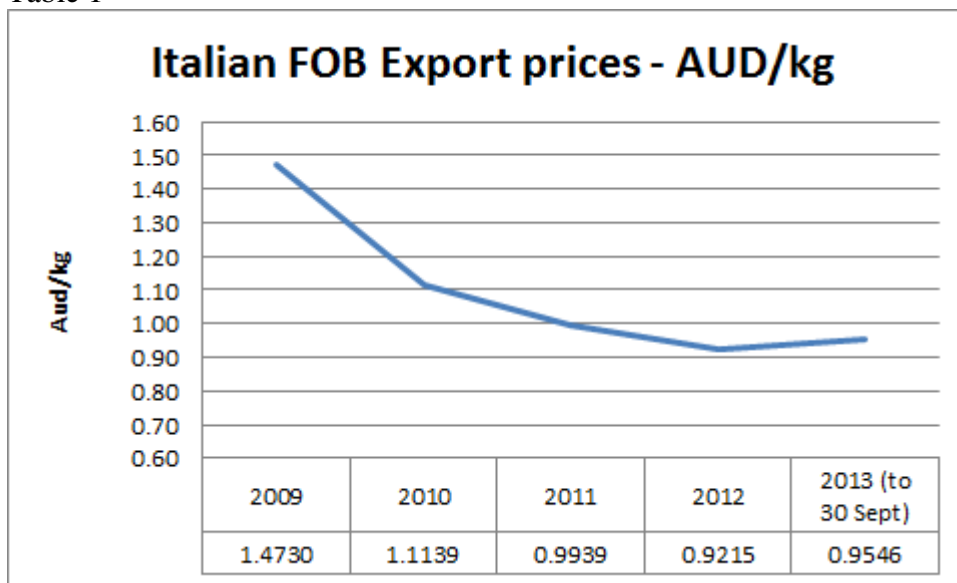
<sup>2</sup> S269TAC(2A) of the Customs Act; Article 3.5 of the WTO Ant-Dumping Agreement.

the import prices of the allegedly dumped imports on SPCA's selling prices and sales volumes to its retail customers, ie the purchase prices and volumes of the retailers, not their resell prices and volumes.

It is demonstrated by tables 1-4 hereunder that it is the significant reduction of import prices (AUD/kg) of the subject goods from Italy which has caused increased import volumes from Italy and decreased SPCA sales volumes, rather than reduction of export prices (Euro/kg) by Italian exporters over the injury analysis period. This significant reduction of import prices is not the result of dumping by Italian exporters, whose export prices (Euro/kg) have been relatively stable, but by significant (>40%) appreciation of the Australian dollar. Therefore, injuries by reason of increased import volumes and decreased sales volumes by SPCA during the injury analysis period **must not be attributed to dumping of exports from Italy**.<sup>3</sup> It is clear from tables 1,3 and 4 that the trend of increased volumes of imports from Italy and decreased volumes of SPCA sales during 2009-2012 has followed the trend of reduced import prices (AUD/kg). Details of import quantities and unit prices are attached hereto.

We await information from the Commission concerning SPCA's sales volumes during 2013, but it appears from information to hand that SPCA's sales volume increased during the investigation period (July'12-June'13) and table 3 hereunder demonstrates that the import volume from Italy decreased during the investigation period.

Table 1



<sup>3</sup> S269TAE(2A) of the Customs Act; Article 3.5 of the WTO AD Agreement.

Table 2

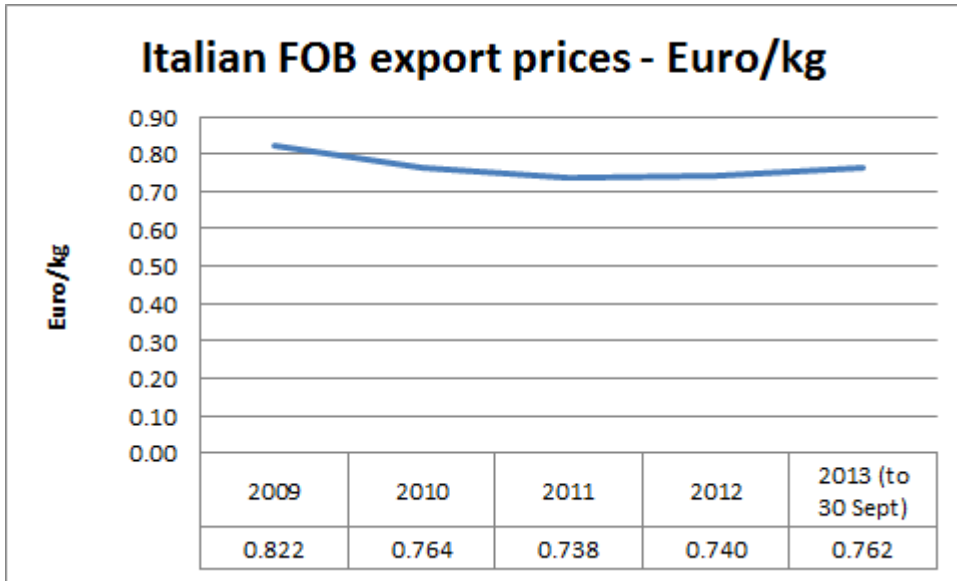


Table 3

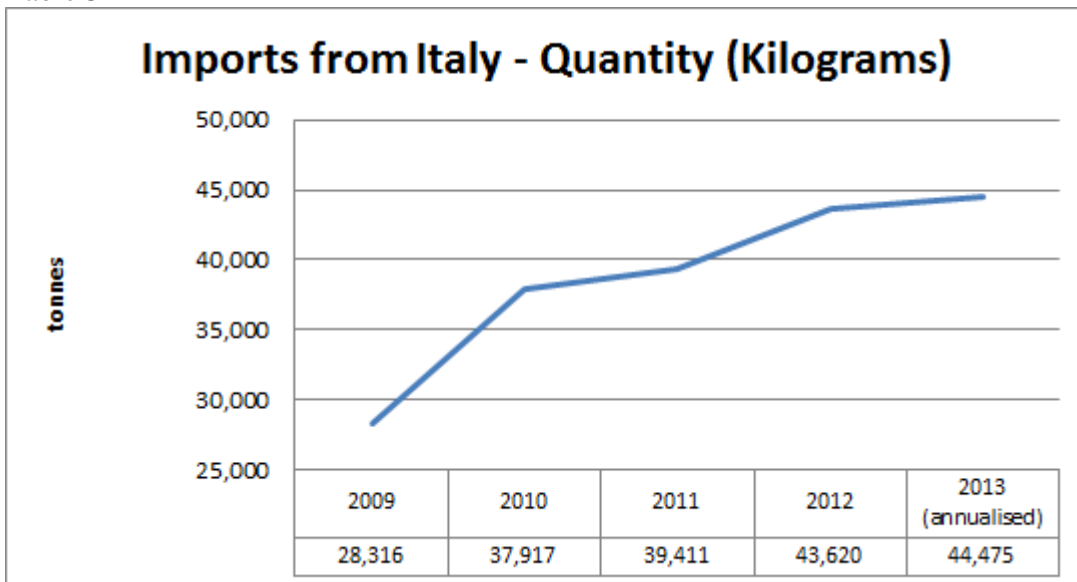
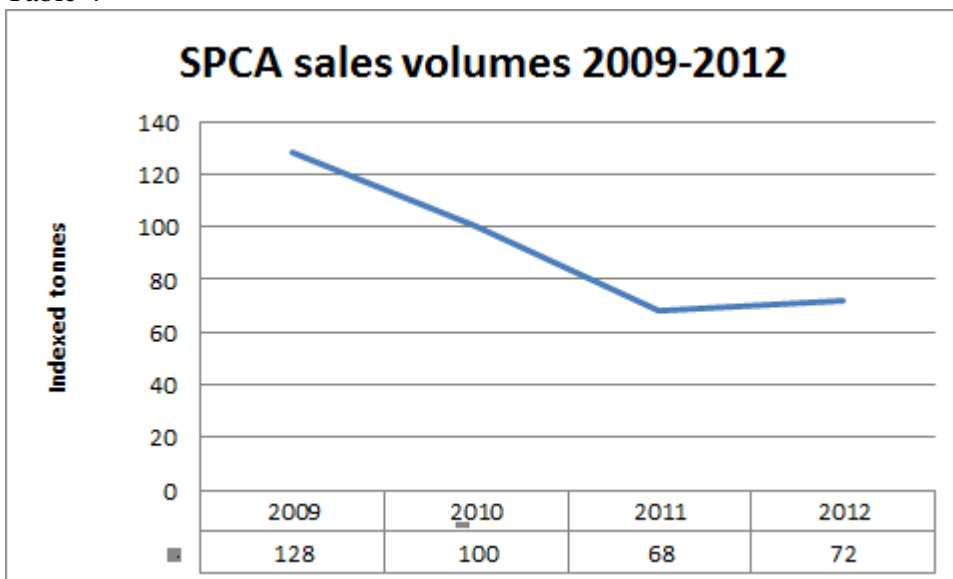
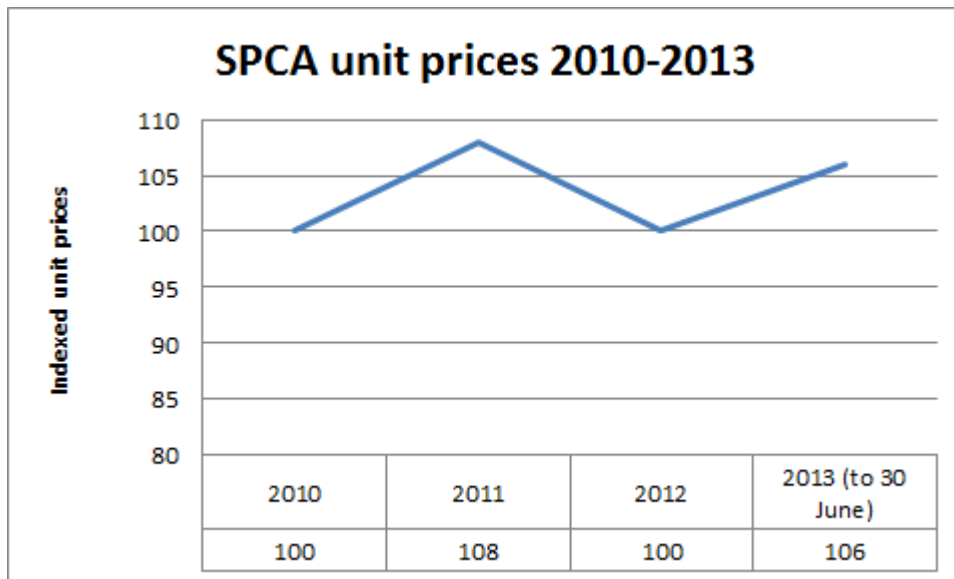


Table 4



Concerning price injury, it is demonstrated by table 5 hereunder that SPCA's selling prices increased during both the injury analysis period and the investigation period, so there is **no price injury caused by dumped imports**.

Table 5



SPCA's reductions in profit and profitability that can be linked to import competition are also primarily attributable to reducing import prices of those imports by reason of appreciation of the Australian dollar. The reduced volume of SPCA sales and hence production because of the increased volume of imports from Italy on account of the Australian dollar appreciation, not dumping, will have caused increased fixed costs and reduced profit – this reduced profit **must not be attributed to dumping**.<sup>4</sup> Similarly, profit reductions brought by suppression of SPCA's selling prices are primarily because of increased price pressure brought by significantly reduced import prices due to significant appreciation of the Australian dollar against the Euro during the injury analysis period. But for the appreciating Australian dollar, import prices from Italy would have been significantly higher and price pressure on SPCA's selling prices significantly reduced.

It is incredible that SPCA should claim that dumping is *by far the biggest factor* causing it injury,<sup>5</sup> when it is clearly demonstrated by the above that, among other things, significant appreciation of the Australian dollar (>40%) has had a major negative impact on the economic performance of SPCA during the injury analysis period.

I would like to discuss the content of this submission at our meeting planned for Thursday (28/11).

Yours sincerely,

Roger Simpson

<sup>4</sup> S269TAC(2A) of the Customs Act, Article 3.5 of the WTO AD Agreement.

<sup>5</sup> Application sec A-9.6.

## Imports from Italy: January '09 - September '13

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Reference Period	Harmonised Tariff Item Statistical Classification - Codes	Harmonised Tariff Item Statistical Classification - Labels	Country of Origin	Quantity (Kilograms)	Value (FOB) (\$'000)	Unit FOB export price (AUD/kg)	Exchange rate (AUD-EURO)	Unit FOB export price (EURO/kg)
CAL YR 2009	2002100060	Tomatoes, whole or in pieces, prepared	Italy	28,316,121	41,710.767	1.4730	0.5582	0.822
CAL YR 2010	2002100060	Tomatoes, whole or in pieces, prepared	Italy	37,917,265	42,237.684	1.1139	0.6856	0.764
CAL YR 2011	2002100060	Tomatoes, whole or in pieces, prepared	Italy	39,410,873	39,168.995	0.9939	0.7428	0.738
CAL YR 2012	2002100060	Tomatoes, whole or in pieces, prepared	Italy	43,619,612	40,197.367	0.9215	0.8028	0.740

Reference Period	Harmonised Tariff Item Statistical Classification - Codes	Harmonised Tariff Item Statistical Classification - Labels	Country of Origin	Quantity (Kilograms)	Value (FOB) (\$'000)	Unit FOB export price (AUD/kg)	Exchange rate (AUD-EURO)	Unit FOB export price (EURO/kg)
MAR QTR 2013	2002100060	Tomatoes, whole or in pieces, prepared	Italy	10,122,758	9,409.746	0.9296		
JUN QTR 2013	2002100060	Tomatoes, whole or in pieces, prepared	Italy	10,419,327	9,454.943	0.9074		
SEP QTR 2013	2002100060	Tomatoes, whole or in pieces, prepared	Italy	12,813,796	12,975.594	1.0126		
Average				33,355,881	31,840.283	0.9546	0.798	0.762

The Jan - Sep total quantity annualised is 44,474,508

Source of the above tables

1. Import quantity and value (AUD) - ABS import statistics
2. Exchange rates (AUD:Euro) - average from Customs' website