



*Ministero  
dello Sviluppo Economico*

3810

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

**Written submission of the Italian Government on the Preliminary Affirmative  
Determination Report**

On 1<sup>st</sup> November the Australian Anti-Dumping Commission published the Preliminary Affirmative Determination ("PAD") Report NO. 217 assessing the grounds for imposition of provisional duties on imports of prepared or preserved tomatoes from Italy. As result of this assessment, provisional anti-dumping duties were imposed.

The Italian Government is deeply concerned about this decision since it considers that the arguments on injury and causation given by the Anti-Dumping Commission are not strong enough to justify the imposition of provisional measures on Italian products. In addition, this decision to take provisional duties was held while the visits of the Australian inspectors were still currently taking place in Italy, with the full cooperation and transparency of the Italian concerned companies, thus not considering the great damage that the provisional measures are already causing to the exports of Italian tomato preparations, also in the light of the excellent relations that have always bound Italy to Australia and the Italian Government's strong commitment and cooperation in the investigation.

According to Article 7.1 of the WTO Anti-Dumping Agreement (ADA), "*provisional measures may be applied only if (...) a preliminary affirmative determination has been made of dumping and consequent injury to a domestic industry*"; in this context, the Italian Government considers that the PAD does not contain sufficient elements to justify the imposition of provisional measures and that the evaluation of price effects is essentially inconclusive, providing no basis to support the preliminary findings on price depression and suppression. A similar consideration is made for the approach taken for the assessment of the market share variations or the profit performance of the domestic industry while there is no analysis on the other relevant economic factors as mentioned in the WTO Anti-Dumping Agreement.

As for the preliminary determination on causation, the Italian Government regrets that the weak grounds on which this determination is made are not reflected in the report and that the PAD lacks any analysis of causes other than the alleged dumped imports which would have caused any injury. Furthermore, the Anti-Dumping Commission states in this regard that it will continue to examine

other possible causes of injury, but it is the opinion of the Italian Government that such analysis should have been carried out before considering the imposition of provisional measures.

All the above considered, the Italian Government calls upon the investigating authorities to pay careful attention to the preliminary findings of the Australian Productivity Commission on the causes of injury of the Australian prepared or preserved tomatoes industry. The notification of such

findings to the WTO under Article 12.1 (B) of the Agreement on Safeguards on finding serious injury or threat thereof caused by increased imports read as follows:

*"The Commission found that the injury to the domestic industry has been caused by a combination of long-term industry and market trends and recent acute events including extreme weather events, such as floods, and the appreciation of the Australian dollar. The Commission identified that the floods in 2011 reduced the supply of processing tomatoes by two thirds and significantly decreased the production of processed tomatoes. Decreased domestic supply and the appreciation of the Australian dollar caused retailers to source private label products from imports.*

*The Commission found that developments in supermarket private label strategies, decreased exports and ongoing competition from imports, contributed to the injury to the domestic tomato processing industry.*

*The Commission found that sourcing decisions by supermarkets on pricing strategies and product sourcing of private label products were made domestically and not by changes in the world market for processed tomato products."*

As the Anti-Dumping Commission may be well aware, the Productivity Commission found that provisional safeguard measures were not warranted for imports of processed tomato products for the reasons explained above, thus concerning the Italian products among the others.

In this context, the Italian Government considers that the preliminary findings in the safeguard investigation should equally be valid for the injury determination of the anti-dumping investigation since, as a matter of fact, it points to a number of factors other than the dumped imports which were causing injury to the domestic industry. This seems to be confirmed by the fact that the PAD underlines that the sales of the domestic industry have been unprofitable over the investigation period and the injury analysis period. Therefore, the domestic industry must be suffering from structural problems in addition to the other causes identified by the Productivity Commission and the importance of these factors would clearly break any causal link between the allegedly dumped imports and the injury suffered by the Australian Industry, if any.

All the above considered, it would be difficult to understand that the Australian Anti-Dumping Commission would not take all the above matters into consideration for the on-going investigation.

The Italian Government trusts that the Australian authorities will carefully look into the issues raised in this submission in order to ensure that the WTO provisions are respected in the current investigation and that the situation might evolve positively and without any further damage for the Italian companies.