



The Commissioner of the  
Anti-Dumping Commission  
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25 May 2016

Dear Sir,

**Subject: Application for accelerated review in respect of prepared or preserved tomatoes exported from Italy by F.P.D. S.r.l.**

*F.P.D. S.r.l.* presents below an application for accelerated review of the antidumping measures imposed by ADN 2014/32.

### **1. Details of the applicant**

F.P.D. S.r.l. is an Italian producer of prepared or preserved tomatoes. F.P.D.'s street and postal address is via delle Industrie 1, 84084 Fisciano Salerno (Sa), Italy.

### **2. Description of the goods to which the notice relates.**

The Anti- Dumping Commission's (the Commission) Report No. 217 describes the goods as follows:

*Tomatoes, wheter 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.*

*The goods excluded from this definition are pastes, purees, sauces, pasta sauces, juices and sun dried tomatoes.*

F.P.D. Srl  
*Industria Conserve Alimentari*  
Via delle Industrie, 1  
84084 Fisciano (Sa)  
Tel. 089 879898  
Fax 089 825030  
[www.fpd srl.it](http://www.fpd srl.it)

### 3. Grounds for review

A new exporter may request an accelerated review of a dumping duty notice, in so far as that notice affects that exporter. New exporter is defined under Section 269T of the Customs Act 1901 as:

“an exporter who did not export such goods to Australia at any time during the period:

- (a) Starting at the start of the investigation period in relation to the application;  
and
- (b) Ending immediately before the day the Commissioner places on the public record the statement of essential facts in relation to the investigation of the application.”

F.P.D. has never exported prepared or preserved tomatoes to Australia. It has only ever exported tomato puree and 90 oz San Marzano Dop tomatoes which are clearly excluded from the goods subject of the notice.

F.P.D. seeks an accelerated review of the notice as it is currently subject to the country-wide rate of 26.35%. This rate reflects the dumping margin determined for non-cooperating exporters during the investigation No 217, which was based on the lowest weighted average export price and the highest weighted average normal value from the cooperating exporters during the original investigation period.

As F.P.D. did not have the opportunity to participate in the original investigation as it had not exported the subject goods to Australia, these ascertained variable factors are clearly inappropriate and hindering its ability to access the Australian market.

As outlined in the Commission’s Dumping and Subsidy Manual, it is not required for a new exporter to have already exported a minimum quantity of the goods under consideration to Australia. Therefore, F.P.D. seeks the determination of an ascertained normal value based on its own domestic selling prices.

F.P.D. notes that the current interim dumping duties currently applicable on imports of prepared or preserved tomatoes from Italy are in the form of a fixed amount of duty plus a variable amount of duty where actual export prices fall below the ascertained export prices. In these circumstances, F.P.D. seeks an ascertained export prices set equal to the determined ascertained normal value. This would effectively result in an undumped floor price with a zero fixed amount of duty payable.

For the purpose of s.269ZE(2)(b) please note that F.P.D. is not related to an exporter whose exports were examined in relation to the application for publication of the dumping duty notice.

Kind Regards,

Nicola Palo

