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Wednesday, 11 March 2015

The Commissioner  
Anti - Dumping Commission  
Level 5, 5 Constitution Avenue  
CANBERRA ACT 2601

**APPLICATION FOR EXEMPTION FROM DUMPING DUTIES**

**ZINTIX (AUSTRALIA) PTY LIMITED**

**1. Applicant seeking the Exemption:**

Name: Zintix (Australia) Pty Limited t/a Italian Food Australia (hereafter shown as Zintix)  
Address: 187 John Street, Lidcombe NSW 2141  
Contact: Furio Rossi  
Position: Managing Director  
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**2. Applicant's Interest in seeking an Exemption:**

Zintix is an importer of tomato products as defined in the Anti-Dumping Commission's (the Commission) Report No. 217:

*Tomatoes, whether 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 sundried tomatoes.*

and as such, the products we import, although never 'dumped', are currently subject to duty.

**3. Grounds for review.**

Section 8(7)a of the Customs Tariff (Anti-Dumping) Act 1975 provided that the Minister may exempt goods from interim dumping duty and dumping duty if satisfied that;

*like or directly competitive goods are not offered for sale in Australia to all purchases on equal terms under like conditions having regard to the custom and usage of trade.*

We believe that a product we are in process of importing, namely, San Marzano Tomatoes in Glass, offers sufficient differentiation to be exempt from the duty.

#### 4. Tomatoes in Glass

Zintix (Australia) Pty Limited understands that no Australian producer currently supplies whole or chopped tomatoes in glass<sup>1</sup>. The only retail processor, SPC Admona, sells canned diced tomatoes and tends to source their product from the major processor of tomato products, Kagome Australia (formally Cedenco Australia) which only supplies diced tomatoes in bulk packs not retail. Neither supplier lists "whole tomatoes" as part of their product list. Neither producer grows San Marzano tomatoes. Therefore, it is reasonable to conclude that there are no directly competitive goods in Australia for the San Marzano Italian tomatoes in glass jars.

In assessing whether the products produced and sold by SPCA on the Australian market are 'like' to the tomatoes in glass imported from Italy, the like goods framework adopted by the Commission has been used.

a) Physical Likeness

The tomatoes being imported are San Marzano tomatoes from a particular geological area in Italy. They differ to the tomatoes sold in the Australian market in that they are a special tomato variety with a stronger and sweeter taste than the normal Australian tomatoes.

b) Commercial Likeness

In examining the commercial likeness between the Italian tomatoes in glass jars and the locally produced canned tomatoes, Zintix (Australia) Pty Limited will address the questions posed in the Commission's Dumping and Subsidy Manual.

1. *Are the goods directly competitive in the market? e.g. do the goods compete in the same market sector? Within a market sector, are the goods similarly positioned?*

No, it is the understanding of Zintix (Australia) Pty Limited that although SPCA indicated that the market segment is to be considered by product type, there are actual divisions within the segment based on packaging. The type of packaging does have a significant impact on the consumers buying decision. In the mind of the consumer, canned diced tomatoes are usually readily interchangeable across labels unless they have a secondary buying trigger such as "Product of Australia" but canned diced tomatoes are different from retort packaged diced tomatoes which are different from diced tomatoes in glass jars. Preserved whole tomatoes are a different segment which is currently not covered by production in Australia. Also, San Marzano tomatoes, are a boutique type of tomato that does not compete directly with Australian tomatoes.

2. *To what extent are participants in the supply chain willing to switch between sources of the goods and like goods? e.g. willingness of participants to switch between source may suggest commercial interchangeability.*

There are no other sources of tomatoes in glass jars as this is not a product that is produced in Australia, nor is it a product that has previously been imported or a product that is commonly imported into Australia. To our knowledge, Zintix is the only importer currently importing the product in Australia.

3. *How does price competition influence consumption? e.g. close price competition may indicate product differentiation is not recognised by the market.*

There is no price competition between the imported Italian San Marzano tomatoes in glass and the local canned tomatoes. The visual and production aspects position the imported product at the premium end of the spectrum. They are currently double the price of our tinned tomatoes.

<sup>1</sup> <http://kagomechuca.com/product-for-sale/>, <http://spcardmona.com.au/healthy-brands/ardmona/Products>,

4. *Are the distribution channels the same?*

Zintix anticipates more of this product will be sold through deli's, smaller retail outlets and wholesalers supporting the premium food service sector as opposed to the main supermarkets. Therefore there is no direct competition.

c) Functional Likeness

Diced and whole tomatoes are used in cooking and functionally the canned tomatoes are interchangeable with the tomatoes in jars. However the consumer perception surrounding preservation in glass as opposed to preservation in cans will go some way in negating this, as will the San Marzano brand. Zintix anticipates that those consumers who purchase the tomatoes in glass will not necessarily purchase tomatoes in cans. The most direct comparison may be with passata which is traditionally sold in glass and currently exempt from duty.

In conclusion, Zintix (Australia) Pty Limited believes that no harm is imposed on Australia's local industry through the importation of Italian Whole and Diced San Marzano Tomatoes in Glass as there is no local equivalent and the price point puts the product at the premium end of the scale and across a different distribution channel than the majority of Australia's preserved tomatoes. We believe there will be no direct competition and the product can safely be made exempt from dumping duty.

regards



Furio Rossi  
Managing Director  
Italian Food Australia

