



FILE NOTE

PREPARED OR PRESERVED TOMATOES EXPORTED TO AUSTRALIA FROM ITALY BY FEGER DI GERARDO FERRAIOLI S.P.A. AND LA DORIA S.P.A.

Anti-Dumping Commission Case 276

1. Purpose

This file note relates to the investigation by the Anti-Dumping Commission (the Commission) into the allegations made by SPC Ardmona Operations Ltd (SPCA) that certain prepared or preserved tomatoes exported to Australia from Italy by Feger di Gerardo Ferraioli S.p.A. (Feger) and La Doria S.p.A. (La Doria) at dumped prices have caused material injury to the Australian industry producing like goods (Case 276).

The purpose of this file note is to set out the Commission's approach for this investigation, in relation to:

- assessing the economic condition of the Australian industry based on SPCA's cost, sales and other financial data for prepared or preserved tomatoes produced and sold in Australia;
- assessing importers' costs and sales data in relation to sales in Australia of prepared or preserved tomatoes exported to Australia from Italy by Feger and La Doria; and
- undertaking price comparisons (including price undercutting analysis) for the investigation period, being the calendar year 2014, based on the data submitted by SPCA and by importers, and data available to the Commission from the Australian Customs and Border Protection Service (ACBPS) import database.

In summary, the Commission considers that for the purpose of this investigation, it is not necessary to undertake an on-site visit to SPCA to verify its costs, sales and other financial data. Likewise, the Commission considers that it is not necessary to undertake on-site visits to importers of Feger and La Doria's prepared or preserved tomatoes exported from Italy to verify cost and sales data.

Accordingly, the following assessment of the economic condition of the Australian industry (section 2 below)¹ and stated approach to comparing prices (sections 3 and 4 below) will be taken into account by the Commission in formulating the statement of essential facts (SEF).

The SEF will set out material findings of fact upon which the Commission intends to base its recommendations to the Parliamentary Secretary to the Minister for Industry and Science (the

¹ Usually, this type of analysis would be presented in the Commission's *Australian Industry Visit Report*.

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Parliamentary Secretary)². The Commission will take into account interested parties' submissions obtained in the course of the investigation that do not prevent the timely placement of the SEF on the public record. The Commission considers that submissions made in response to this file note that are received by **15 July 2015** can be taken into account for the purpose of the SEF.

When making submissions, interested parties should attach relevant evidence to support the views expressed in their submissions. A non-confidential version of submissions must also be provided. Submissions can be provided:

by mail to: Director, Operations 1
 Anti-Dumping Commission
 Level 35, 55 Collins Street
 Melbourne Vic 3000

or by email to: operations1@adcommission.gov.au

or by fax to: +61 3 8539 2499.

BACKGROUND TO INVESTIGATION

Refer to <http://adcommission.gov.au/cases/Pages/CurrentCases/ADC276.aspx>

2. Economic condition of the Australian industry

Background

On 19 January 2015, the Commission initiated an investigation following an application lodged by SPCA, a manufacturer of prepared or preserved tomatoes in Australia. The application requested the Parliamentary Secretary to publish a dumping duty notice in respect of prepared or preserved tomatoes exported to Australia from Italy by Feger and La Doria.

In its application, SPCA claimed that the Australian industry has suffered material injury caused by prepared or preserved tomatoes being exported to Australia from Italy by Feger and La Doria at dumped prices. SPCA claimed that the injurious effects of dumping have been:

- reduced sales volumes;
- reduced market share;
- price undercutting;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced capacity utilisation.

² The Minister for Industry and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, who is the relevant decision maker for this investigation.

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Consideration Report No. 276 (CON 276) advised that the Commission will examine the Australian market and the economic condition of the Australian industry from 1 January 2010 for the purposes of its injury analysis.

Evidence provided by the Australian industry

As noted in CON 276, SPCA provided in its application responses to Confidential Appendices A1 through to A7 for each calendar year (being the period January to December) during the period 2010-2013 (inclusive) and for half a calendar year (being for the period January to June) during 2014.

SPCA was invited by the Commission to update Confidential Appendices A1 through to A7 to include data for the second half of the investigation period to allow the Commission to assess SPCA's claims that it has suffered injury as a result of the allegedly dumped goods. On 24 February 2015, SPCA provided to the Commission updated annualised data regarding SPCA's sales, cost to make and sell, volumes and net revenue for sales of the like goods, and other economic factors (being for Confidential Appendices A1 through to A7 for the period 1 January 2010 through to 31 December 2014).

Approach to economic condition analysis

For the purpose for analysis of the economic condition of the Australian industry for this investigation, the Commission considers that it is not necessary to undertake on-site verification of the Australian industry's information and data.

The Commission is satisfied that the cost and sales data provided by SPCA for the purpose of this investigation is of a similar nature and in similar detail to that provided for the purpose of the previous investigation of the same goods. The Commission notes that the SPCA cost and sales data was subject to on-site verification by Commission staff during the previous investigation. The visit team concluded that the sales data was reasonably complete, relevant and accurate and was suitable for assessing the economic condition of the Australia industry.³

In this context, the Commission has accepted the costs, sales and other financial data submitted by SPCA for the purpose of this investigation, including such data up to and including the calendar year 2014, as suitable for assessing the economic condition of the Australian industry producing prepared or preserved tomatoes.

SPCA is the sole Australian manufacturer of prepared or preserved tomatoes.⁴ Accordingly, the Commission has only considered SPCA's costs, sales and other financial data for the purposes of the Australian industry economic condition analysis.

The following analysis is based on:

- SPCA's updated sales, cost and other financial data;
- ACBPS import database; and
- SPCA's other relevant economic factors data.

Charting and analysis has been completed on an annualised basis for the five years ending 31 December 2014. The annualised charts are aligned with the calendar year, being January to December.

³ Investigation 217 Australian industry visit report, p.25.

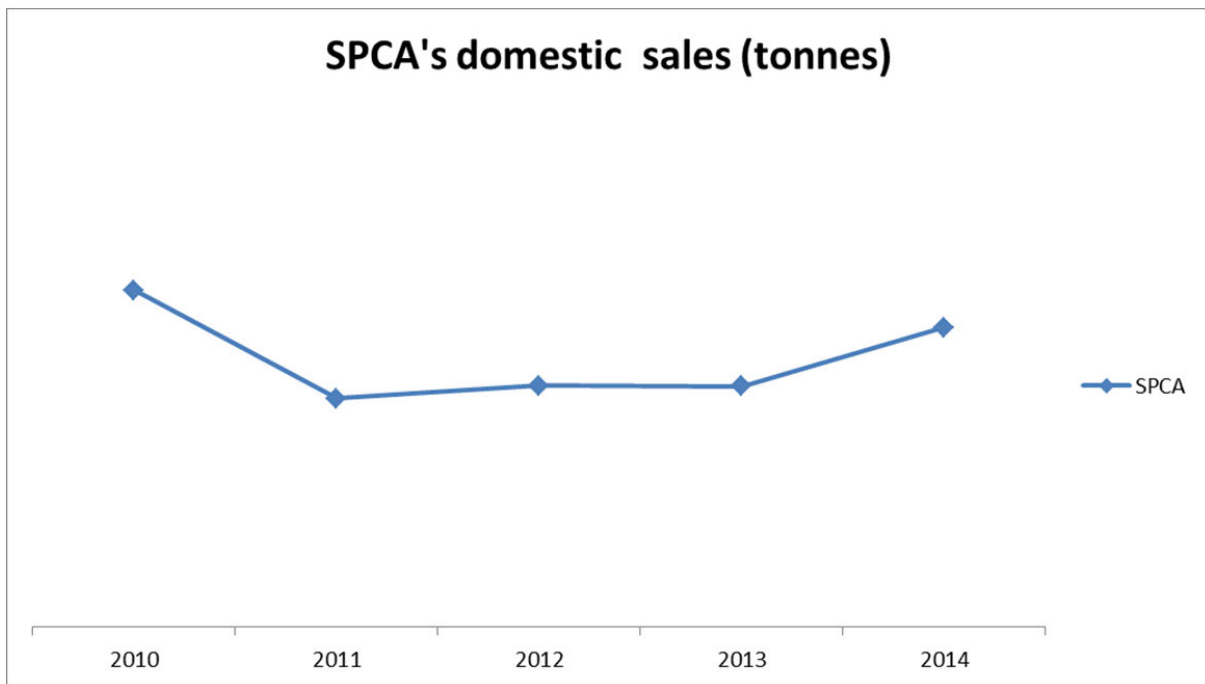
⁴ CON 276, p.10.

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Volume effects

In its application, SPCA claimed that the market share held by dumped goods is significant, with market volume and market share impacted by pricing activity. However at the time of writing CON 276, the Commission did not consider there to be reasonable grounds to support SPCA's claims that it had suffered injury in the form of reduced sales volume and reduced market share.⁵

The following graph illustrates the annual volume of SPCA's domestic sales over the injury analysis period.



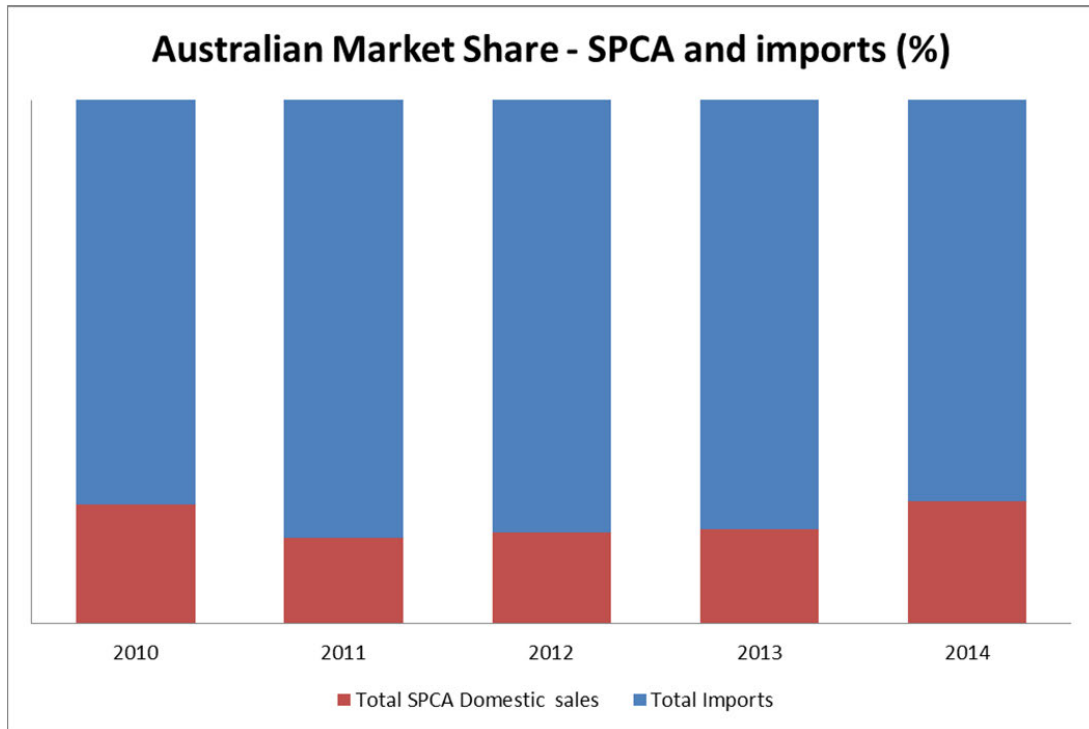
Graph 1 – SPCA's annual domestic sale volumes of prepared or preserved tomatoes

Graph 1 above shows that following a significant fall of SPCA domestic sales in 2011, sales volumes increased in the following years but did not return to the level observed in 2010.

Using SPCA's sales data and the ACBPS import database, the Commission has displayed the distribution of market share in the Australian market for prepared and preserved tomatoes. The following graph shows the changes in SPCA's domestic market share for prepared or preserved tomatoes across the calendar years from 2010 through to 2014.

⁵ CON 276, p.28.

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Graph 2 - Australian domestic market share for prepared or preserved tomatoes

Graph 2 shows that SPCA's market share decreased from 2010 to 2011 before slightly improving in each subsequent year. For the investigation period, it can be observed that SPCA's market share has returned to a comparable level to 2010.

Conclusion – volume effects

The Commission notes that in a market slightly decreasing in size:⁶

- SPCA's sales volumes increased from 2011 to 2014 but did not reach the sales volume level observed in 2010; and
- SPCA's market share has returned to approximately the same level as that for 2010.

Based on the above analysis, the Commission does not consider there to be evidence to support SPCA's claim that the Australian industry has suffered injury in the form of reduced sales volume and/or reduced market share.

Price effects

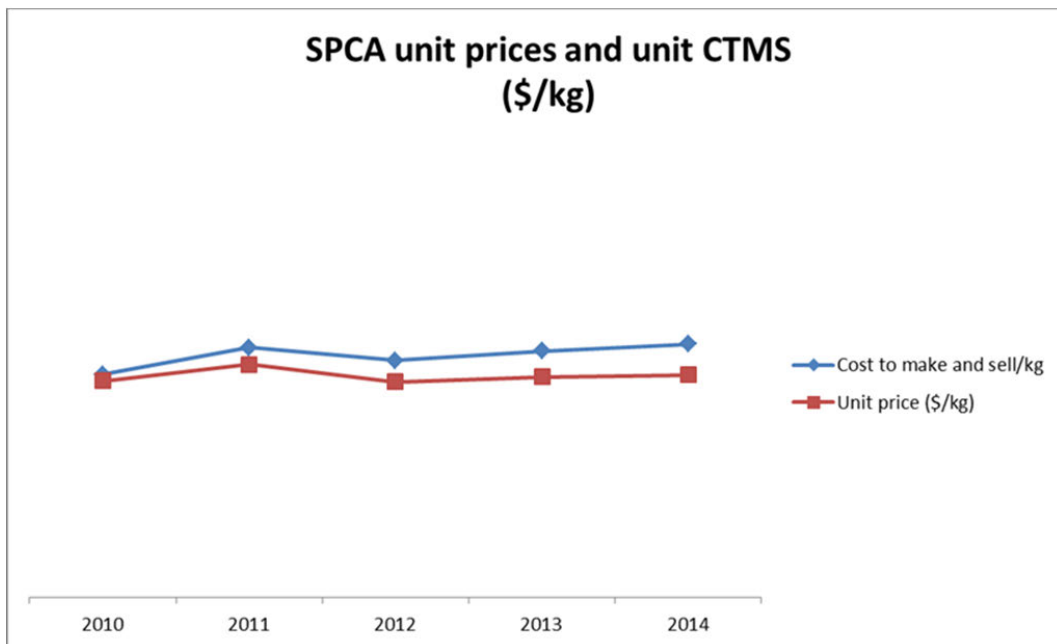
Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The Commission has analysed the weighted average net unit (per kilogram) prices obtained by SPCA over the period 1 January 2010 to 31 December 2014. Graph 3 below illustrates the

⁶ CON 276, p. 16.

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movements in and relationship between SPCA's unit cost to make and sell and unit selling prices for its domestic sales of its prepared or preserved tomatoes.



Graph 3 – SPCA's prepared or preserved tomatoes unit price and unit cost to make and sell

The Commission has observed from Graph 3 that the unit prices for prepared or preserved tomatoes had increased from 2010 to 2011 and then fell in 2012. The unit prices then increased in 2013 and slightly again in 2014. SPCA's unit cost to make and sell followed a similar trend. The Commission notes that SPCA's unit cost to make and sell has been above its unit selling price throughout the injury analysis period and that the amounts by which costs have exceeded prices has increased in all of the years. This analysis is consistent with the findings of CON 276.⁷

Conclusion – price effects

The deteriorating margin between revenue and cost to make and sell for SPCA is indicative of price suppression as SPCA has been unable to raise its prices to a level that would enable it to either make a profit or reduce its losses.

SPCA's unit prices have been reasonably stable for the last three years of the injury analysis period, albeit with increases in 2013 and 2014.

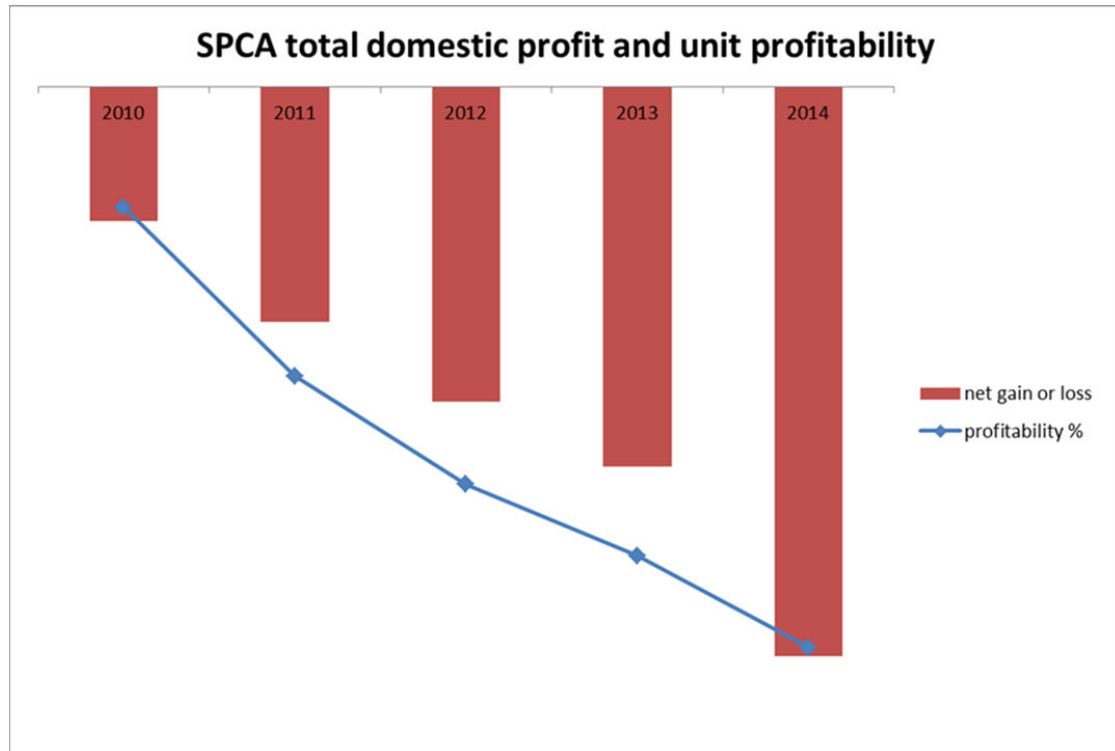
Accordingly, the Commission considers that the above analysis supports SPCA's claim that the Australian industry has experienced injury in the form of price suppression but not with respect to price depression.

⁷ CON 276, p.29.

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Profit and profitability effects

In Graph 4 below, the Commission has displayed the annualised total profit and profitability (profits measured as a percentage of revenue) for SPCA's sales of prepared or preserved tomatoes on the Australian market over the period 1 January 2010 to 31 December 2014.



Graph 4 – SPCA total profits and unit profitability for prepared or preserved tomatoes

Graph 4 above indicates that SPCA's profits and profitability in respect of domestic sales of prepared or preserved tomatoes have been negative since 2010 and the losses worsened significantly for 2014.

Conclusion – profit and profitability

The Commission considers that the data SPCA has provided supports its claims that it has experienced material injury through reduced profits and profitability over the relevant period.

Other economic factors

In support of its claims of material injury, SPCA completed Confidential Appendix A7 (other injury factors) for each of the years from 2010 to 2013 and the first half of 2014. Since initiating the investigation, the Commission received a revised Confidential Appendix A7 from SPCA, with updated data covering the entire 2014 calendar year.

As was noted in CON 276, the data provided by SPCA was at times in respect of the total SPCA business, and at other times it was particular to prepared or preserved tomatoes. In relation to the two other economic factors particular to prepared or preserved tomatoes, these showed:

- reduced revenue; and

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- reduced capacity utilisation.

Domestic sales revenue

Domestic sales revenue substantially declined in 2011 where it stayed at a relatively constant level until 2014, where there was a moderate improvement. The 2014 revenue has not recovered to a comparable level to 2010 indicating revenues have reduced in the injury analysis period.

Capacity utilisation

SPCA provided information on its capacity utilisation, which is based on production volumes and budgeted capacity. The Commission notes that other than improvements in 2012 and 2013, SPCA's capacity utilisation has trended downwards over the injury analysis period.

Conclusion

Based on an analysis of the information contained in the application and obtained subsequent to the initiation of the investigation, the Commission considers that SPCA has experienced injury in the form of:

- price suppression;
- reduced profits;
- reduced profitability;
- reduced revenue; and
- reduced capacity utilisation.

3. Importers' costs and sales data

Evidence provided by the importers

At the commencement of the investigation, the Commission identified a number of importers of the goods that are the subject of this investigation from the ACBPS import database. The Commission noted that there were six importers that, in aggregate, accounted for approximately 95 per cent of the import volume of the goods to Australia in the investigation period.

On 23 January 2014, the Commission contacted these six importers and invited them to cooperate with the investigation by completing an importer questionnaire, which requested information relevant to the investigation.

The due date for responses to the importer questionnaire was set as 16 February 2015.

The Commission received responses from all but one of these importers of the goods. Responses received included:

- company information for the importer;
- overseas supplier information;
- details of imported goods (including cost to import and sell);
- details of selling expenses for the goods;

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- details of Australian sales of the goods;
- details of forward orders of the goods;
- contracts for supply of the goods; and
- supporting documentation for selected importations of the goods identified by the Commission.

Approach to importers' costs and sales data analysis

The Commission considers that for the purpose of this investigation, it is not necessary to undertake on-site visits to verify the importers' information and data.

The Commission:

- has verified costs and sales data to the source documentation provided; and
- considers that the composition of the updated importers costs and sales data is closely aligned to previously verified data.⁸

Accordingly, the Commission considers that the data is suitable for use for the purpose of this investigation as follows:

- corroborating evidence in relation to export price;
- determining selling prices in Australia to Australian customers for goods exported from Italy by Feger and La Doria; and
- assessing the post-exportation costs incurred in relation to goods exported by Feger & La Doria.

4. Comparison of prices in Australia

Approach to price comparison analysis

In order to compare the selling prices in Australia of the goods exported by Feger and La Doria to SPCA's prices, the Commission will take into account:

- prices paid to SPCA in its sales of like goods to retailers;
- prices paid to importers in their sales of the goods to retailers; and
- constructed selling prices where exporters sell directly to retailers.

In order to undertake a price comparison analysis, the Commission will compare the weighted average free into store price in Australian dollars (per kilogram) for prepared or preserved tomatoes sold by importers, to SPCA's delivered net selling price in Australian dollars (per kilogram), at a comparable level of trade for the 2014 calendar year, being the investigation period.

The Commission will use:

- SPCA's domestic sales data of its prepared or preserved tomatoes during the investigation period;

⁸ Investigation 217.

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- importers' costs and sales data in relation to sales in Australia of prepared or preserved tomatoes exported to Australia from Italy by Feger and La Doria; and
- data collected from the ACBPS import database.

The Commission considers that the data available is sufficiently detailed to enable it to compare Australian selling prices to the major retailers in the investigation period for:

- like goods sold by SPCA;
- goods exported by Feger and La Doria; and
- a selection⁹ of other imports, being prepared or preserved tomatoes exported to Australia from Italy already subject to anti-dumping measures.

The Commission intends to construct the prices where exporters sell directly to retailers. It proposes that it will do this by using data from the ACBPS import database. Specifically, the Commission proposes to construct weighted average unit (per kilogram) selling prices by taking the sum of free on board export prices, amounts for duty and where applicable the dumping duty. Where available, the Commission will use amounts for shipping and importation costs, into-store costs and the gross margins for importers for 2014. Otherwise, the Commission will use such data ascertained from verified importers data from the previous dumping investigation.

In this context, the Commission has accepted the importers' cost to import and sell data that is available to it and the ACBPS import data, including such data relating up to and including the calendar year 2014, as suitable for its price comparison approach that will be used in formulating the SEF.

⁹ The Commission has used ACBPS import data in relation to a significant proportion of the goods exported by other Italian exporters (not including Feger and La Doria).