

Non Confidential



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Dear Sir/Madam

1. SPC with the assistance of its trade consultants Blackburn Croft & Co wishes to make some observations.
2. In recent submissions SPC has pointed the Commission to the evidence from experts which questions the self-classification by the EC that the SPS qualifies for the Green Box classification under the WTO's Agreement on Agriculture.

SPC has also pointed out that whether or not the SPS qualifies as a Green Box measure (importantly no independent authority has made such an assessment) is irrelevant in the analysis of a market situation.

Similarly, SPC's view has been that whether or not tomato payments are coupled or decoupled, does not remove the distortions caused by the payment (income support) to tomato growers

- Significant payments are made to the tomato growers in Italy under the regulation 73/2009.
- The payments as a percentage of raw tomato prices are estimated to be up to 37% of the raw tomato prices paid by processors in 2013 (Application paragraph 26 f). These payments act as income support and support the economics of the tomato growers.
- If these payments were not in place, processors would have to pay growers a higher price to compensate for the same level of income support.
- As raw tomatoes are a significant proportion of the total cost of canned tomatoes, these payments impact the CTMS of a can of tomatoes (Application paragraph 33).
- The price of canned tomatoes on the Italian domestic market therefore cannot be used because of distortions in the supply and prices of raw tomatoes caused by the EU's generous payments to Italian tomato growers. SPC's application and subsequent submissions also present external expert validation of the proportion of impact caused by subsidies.

3. The 2007 study by ABARE (“The European Union’s Common Agriculture Policy – A Stocktake of Reforms”), was summarised on Farmpolicy.com¹. That summary quotes the Report as follows:

“The EU has framed the rationale for changing toward decoupled payments in terms of decoupled support being minimally market distorting, as is stated in the Uruguay Round Agreement on Agriculture. The implication is that, by changing to decoupled payments, the effect on reducing policy induced market distortions will be much the same as eliminating support payments” (page seven).

*“Overall, the European Union is making progress toward an agriculture that is less costly to its economy and less distorting to world markets than the very distorting, open ended price support policies that formerly applied. However **support levels remain high and many remain considerably market distorting.** The move to decoupling is helping reduce distortions but can only go part of the way. There are several areas where distortions could be reduced further, especially through reducing tariffs and other barriers to market access” (page nine).*

“- income and wealth effects from the payments affect credit availability and adoption of technology, thereby affecting production.”

“- the payments support agricultural land prices. The higher prices help maintain land in agriculture rather than have it transfer to nonagricultural uses. They also make it more difficult for new farmers to enter the agricultural sector.”

“- whole farm payments, such as the single payment scheme, are a subsidy to farming and farmers. As such they are likely to maintain resources in farming that would flow to nonfarm activities if that subsidy were removed.”

4. As another validation, in a study based on decoupling in Ireland the authors concluded:

*To sum up, the analysis presented in this paper highlights **how important it is to determine the actual supply inducing impact of decoupled payments, as different assumptions regarding their production impacts, result in very different projected levels of agricultural production and by extension levels of trade and prices. Furthermore, arguments that as these payments are not directly linked to production they must have a negligible effect, if any, on trade are not realistic.** The results presented here suggest that decoupled payments maintain a strong effect on agricultural production in many sectors, albeit one that is less than if these payments were still fully coupled. In relation to future research, it is unlikely that the supply inducing impact of decoupled payments will be the same across farming systems and future micro-*

¹ <http://farmpolicy.com/2007/08/16/abare-report-on-eu-cap-reforms-green-box-issues/>

econometric analysis is needed at the farm level to ascertain the differential impact of decoupled payments.²

While the study looked at a range of agricultural production, it is reasonable to observe that the comments also apply to the growing of tomatoes in Italy and the consequential impact on the supply and pricing of tomatoes to the processors of canned tomatoes and the price of canned tomatoes.

5. In addition to the above, La Doria has repeatedly admitted to the effects of these payments on supply (Application paragraph 38).
6. It should be further noted that in addition to the decoupled subsidy, the amount of coupled payments in the tomato sector will increase following the 2013 reforms. In Italy, coupled payments will increase from 3.2 percent of total direct aids in 2013 to 11 percent in 2015.³ Presumably similar percentages will apply to coupled payments provided to tomato growers. The return to coupled payments underlines the intent to protect and influence the supply and price support relating to tomatoes available for processing.
7. As has been noted, there has been no evidence raised by exporters that the volumes and price for raw tomatoes in the Italian market during the investigation period would have been the same if payments were not made under the SPS to tomato growers.
8. In its application, SPC provided the Commission with detailed calculations approximating the impact of an increase in the price of raw tomatoes (including the impact on the tomato paste input) paid by Italian processors. This uplift is the most accurate way to include “competitive market costs associated with the production or manufacture of like goods”⁴ pursuant to the application of s269TAC(2)(c). (Customs Act 1901). The price of raw tomatoes in other jurisdictions may also be impacted by subsidies or different growing conditions and therefore cannot be used as indicators. Italy is recognised as being a high cost producer of processing tomatoes.
9. Evidence supplied to the Commission and independent expert assessment suggests that despite decoupling the level of payments has caused distortion and this has led to conditions of a particular market situation for canned tomatoes in Italy. To fairly calculate a domestic value for the like goods, there must be an uplift on the raw tomato price (and consequential increases in the cost of the tomato paste input) to reasonably reflect competitive market costs for the production of like goods.

² Howley, Peter, et al. "Do decoupled payments affect farm behaviour? Evidence from Ireland." *Agricultural Economics Society annual conference Dublin*. 2009 at page 23.

³ <http://capreform.eu/two-steps-forward-one-step-back-coupled-payments-in-the-cap/>

⁴ Customs (International Obligations) Regulation 2015 – Regulation 42 (previously included as Regulation 180 in Customs Regulations 1926)