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Non Confidential

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Dear Sir/Madam

SPC has reviewed the recent submissions from the European Commission (EC, available on the EPR 28 July 2015), the Government of Italy (GOI, 29 July) and the exporters (3 August). With the assistance of its trade consultants, Blackburn Croft & Co, SPC provides the following comments on the exporter's submission. After reviewing the exporters' submission some comments are then made on the EC and GOI submissions.

A large part of the exporters' submission addresses "methodological flaws" in the Commission's report prepared by its consultant "Assessment of the Market Situation Factors in Italy for Prepared and Preserved Tomatoes' (the Report").

As presented in the previous submission SPC is strongly of the view that:

a. Report under estimates per hectare subsidy

- i. The Italian national ceiling corresponding to tomatoes in Regulation 73/2009(Annex X) provides the actual per hectare subsidy for growing tomatoes of around €2802 per hectare. (€184 million divided by 65,672 hectares)
- ii. The Report never referred to the specific Italian national ceiling corresponding to tomatoes of €184 million and instead "borrowed" from a sample farm study an average payment of €766 per hectare.
- iii. The report does not attempt to reconcile its figure to the gazetted national ceiling.
- iv. The sample using data from 2011 (the investigation period is 2014) is not a substitute for an independent, objective and verifiable investigation usually undertaken by the Commission.
- v. The sample has not been established as being representative of growing only tomatoes.
- vi. The Report's analysis of the sample (and this also applies to the exporters) is statistically wrong as the analysis of both parties brings into the sample actual values that are not in the sample.

- b. The Report's approach of using flow through modelling is neither relevant nor accurate.**
- i. It is unreasonable and unrealistic to conclude that significant increases in a key raw material cost will not impact canned tomato price or supply.
 - ii. Use of the flow through modelling does not appear to have been used in previous investigations (The most recent example being the completed Silicon Metal case)
 - iii. It is asserted that a theoretical flow through analysis is unreliable given the presence of vertically integrated firms and cooperative operations.
 - iv. It is also asserted that the flow through model used in the Report uses out dated supply and demand elasticities (established from data in 1967-1975) and uses an incorrect subsidy rate per hectare and therefore the Report's conclusion cannot be relied on.

Further consideration of the above points and the claims made in the exporters' submission are expanded below:

1. SPC strongly believes that the approach used in the Report to assess flow through assumes an outcome which is outside of the parameters of a dumping investigation. For example how a producer will react to a theoretical increase in its costs cannot be accurately estimated. In the same way it is beyond the objectives of an investigation to speculate how the imposition of an actual dumping margin may affect the local industry.
2. For example, in PVPM² the SEF noted that the actual dumping margins would not address the price undercutting and so this was an element in denying relief. The fact that there could be some improvement in profitability by reducing the incidence of price undercutting is relevant. But even so there is no need for the Commission to guess what the industry will do with an analysed improvement in price undercutting or any other competitive factor (distribution, rationalising products, reallocating resources) if duties are imposed. The five year period allowed before a sunset review suggests that the ADA recognises that the remedial impact of duties is not necessarily immediate.
3. The Commission's normal practice in assessing a market situation is to use actual accounting data and replacing an actual evidence based approach with economic modelling is unacceptable.
4. The Report's reliance on the Solazzo study does not give an accurate assessment of the impact of the payment per hectare on raw tomato costs in Italy. The Solazzo study looked at 2011 data relating to a sample used to assess the convergence of direct payments and the [then] three greening requirements.
5. The use of an academic and theoretical model using data collected in 2011 instead of actual accounting data relating to the investigation period has not been adequately explained or justified.
6. Equally, the use of a sample extracted from the FADN³ by using a model based on Positive Mathematical Programming (PMP) is not appropriate in a dumping investigation. The sample (and this was missed in the Report) is relatively small and includes 453 farms. Of this number 36 farms (less than 10 per cent) are presumably classified as tomato "farms" because the tomato crop has been assessed by the farmer or the FADN's agent as the main contribution to the farm's gross saleable production (GSP).

² PV Modules or Panels (Case 239)

³ Farm Accounting Data Network

7. Importantly, information solely relating to the subsidy paid per hectare for the tomato crop is not available in such a high level sample. The fact that the tomato hectare subsidy cannot be identified makes the sample redundant and should not take the place of verified accounting information (and cannot be viewed as best information available).
8. The Report borrows a figure from Solazzo (€776) and says this is the subsidy per hectare and ignores SPC's calculation based on the national ceiling corresponding to tomatoes as provided in Regulation 73/2009 (Annex X).
9. The Report has no evidence that the sample taken from Solazzo⁴ is a reliable indication of the subsidy obtained from the national ceiling⁵.
10. The Report makes an extraordinary leap from the Solazzo sample to conclude that the FADN database "... **suggests** that in 2011 the average CAP payment per hectare [€776] was in fact much less [than the amount calculated by SPC of around € 2802 per hectare from the national ceiling corresponding to tomatoes]. The Report connects this "average CAP payment per hectare" to tomatoes only because the sampled farms were "...In one of the major production areas of processing tomatoes..." That is, the sample is of no use in the Report's assessment of SPC's calculation using the national ceiling corresponding to tomatoes divided by the estimated hectares for 2014.
11. The presence of other crops on tomato farms as shown in Solazzo was completely overlooked in the Report. A tomato grower can receive less than the sample's €776 per hectare across the total crops grown but it is highly unlikely that the farmer would have been paid a lesser amount per hectare for the hectares growing tomatoes than that provided in the national ceiling. It must be noted that a farm designated as a "tomato grower" will be described as such because the tomato crop is the biggest contributor (but not the only) to Gross Saleable Production.
12. The use of the Solazzo sample data gives an unrealistic assessment of the cost of growing tomatoes as an input into the like goods compared with actual accounting data. By importing into the sample an actual price of €88 per tonne⁶ which is not from FADN data as stated in the Report, the sample is distorted such that the gross margin is calculated at an unrealistic and non-verified 62 per cent.
13. The exporters make a similar methodological error with the substitution of variable costs from "independent and publically available information" for the variable costs used in the sample. So by going outside the sample to obtain data to be used in the sample negates the evidence in the sample and is statistically incorrect. SPC notes that the confidential variable costs in Annex 2 of the exporters' submission are for "an ordinary and typical farm in Southern Italy whereas the Solazzo data is for farms in Northern Italy. SPC also draws the Commission's attention to the use of non-verifiable information.
14. The Report's assessment of the Solazzo sample contradicts a finding by the same author (with others) showing that "*the subsidies represented about 50% of the entire producers revenue*". This was quoted in paragraph 34 of the Application which also included an extract from another

⁴ Solazzo from the Report

⁵ Italian Gazette (paragraph 24 of the Application and SPC's email to ADC 27 July 2015 Rickard and Sumner (2008) from the Report

Afrini and others "An Impact Assessment of the CAP Reform Health Check on the Italian Tomato Sector", from the Report

⁶ Solazzo page 10, footnote 1: This was the price negotiated within the framework contract, drawn up by the representative branches of producer organisations and processing industries

study (Gentilcore, 2010): “Recently, however, the subsidy has been half the grower’s price, or to put it another way, once the costs are accounted for (fertilizer, labour), any profit that growers make for the labour, is the subsidy itself.” Note that in 2010 half the subsidy was coupled to production with the balance from the national ceiling corresponding to tomatoes paid on the basis of hectares declared in the base period. The subsidy is now paid to the growers from the national ceiling corresponding to tomatoes divided by the declared hectares for tomatoes in Italy. The method of calculating the subsidy during the transition to full decoupling is referred to in the first reference on page 34 of the Report to which the consultant had access to in completing the Report:

For processed tomatoes Italy chose to maintain the transitional coupled payments at 50 per cent of the national ceiling until the end of 2010. More specifically, during the three-year transition period (2008-2011) a proportion of the subsidy in the amount of EUR1,300 per hectare in 2008 is in coupled form while the other 50 per cent of national ceiling (EUR91,984 million) moves to the single farm payment scheme. The latter amount is distributed to farmers who received historical payments in the reference period of 2004-2006, while the coupled amount of the payments is subjected to the condition that farmers be members of a producer organization and have a contract for processing. (Page 222)⁷

15. A further reference has been supplied to the Commission which explains the allocation of decoupled payments in the transition period.⁸(see footnote 11 of the Application, resupplied with SPC’s submission of 27 July). This was a Google translated version of the Italian gazette demonstrating how the decoupled balance of the national ceiling was to be disbursed to the hectares growing tomatoes. It is shown here to assist the Commission in observing that the organisation “AGEA” shown in the first line of the extract from the Italian Gazette below is the same organisation referred to on page 14 of the exporter’s submission being the “Italian agency in charge of the management of the SPS”

VIEW communication of 9 June 2011 prot. ACIU.2011.464 with which he Agea announced that the area determined as a result of the eligibility checks within the application of the transitional arrangements for the sector of the tomato in the year 2010, amounted to 77807.16 hectares; HELD, therefore, to fix the 'final amount of aid per hectare for the year 2010, in accordance with the aforesaid provisions, to a level equal to 1182.1534 EUR / ha, calculated dividing the EU ceiling of 91.98 million euro for the areas determined in 77807.16 hectares;

16. For completion, SPC notes that in addition to the market price, the subsidy based on the national ceiling is paid to the tomato grower. This was explained in SPC’s submission of 24 July:

Using the same information from paragraph 26 in the application, the hectares used in 2008 for tomatoes was 69,050.

a. Applying the coupled part of the tomato ceiling gives 1,332 Euro per hectare (which is similar to the rounded amount in the above extract).

b. Applying the balance to be paid as a single payment gives 1,332 Euro per hectare.

⁷ Afrini and others “An Impact Assessment of the CAP Reform Health Check on the Italian Tomato Sector” from the Report

⁸ Italian Gazette (paragraph 24 of the Application and SPC’s submission to ADC 27 July 2015)

c. This total 2,664 Euro is consistent with the calculation shown above for 2007 and 2014 (2802 per hectare or 38.4 Euro/tonne paid by the EU).

d. The processors payment of around 88 Euro tonne gives a total revenue to the grower of around 126 Euro/tonne (SPC's email of 27 July supported this interpretation with a number of references including a copy of the Google translated Gazette of the Italian Republic)

The estimate of the subsidy per hectare in the Report is clearly wrong and has no relationship to the Italian national ceiling corresponding to tomatoes.

17. The Solazzo 2011 sample data (€776 per hectare or €10.6 per tonne) gives a subsidy value of around 12 per cent of the raw tomato selling price of €92 per tonne in 2014. The actual percentage was around 42 per cent. So the grower received €92 per tonne from the processors and an additional €38.4 per tonne as allocated from the national ceiling corresponding to tomatoes.
18. Having established a value for the subsidy, the Report examines pass through with the use of supply and demand elasticities. These theoretical values are of little practical use in an investigation by the Commission that is usually based on evidence and factual accounting information.
19. Furthermore these elasticities have been obtained from data analysed in 1967-1975 which may be problematic in applying them in the Italian 2014 domestic market. (The supply elasticity of 0.8 was from an estimation of price elasticity of tomato acreage response in California, presumably in the 1967-1975 period)⁹
20. There seems to be no reason for the Commission to adopt a different analytical approach to market situation in this investigation then say, it used in Silicon Metal. In that investigation the value of the distorted input was not discounted by a theoretical assessment on what might pass through to the final price. The point is that if the input cost was competitively priced then as far as market situation is concerned the recovery of that adjusted cost is axiomatic.
21. In tomatoes the ability of the domestic market to respond to a theoretical increase in costs is possibly affected by the market situation distortions being present for many years. Or, put another way the market situation is reflected in current pricing. Indeed there is an argument that the historical subsidisation of the Italian tomato industry has embedded these distortions in the rest of world markets. This is the case in Australia and is one reason why a convenient "benchmark" is not available to assist in the evaluation of competitive costs.
22. The use of a pass through test is compromised by the structure of firms in the region where the sample was done. The Report refers to vertical integration and in such structures the usefulness of a pass through test is questionable. Further evidence of vertical integration in Emilia Romagna is found in the EC's consideration of state aid to a major integrated tomato company.¹⁰
23. The pass through approach appears to have ignored or discounted an important part of SPC's claim of market situation. That is the subsidy has encouraged some tomato farmers to exit growing tomatoes and encouraged others to stay thereby guaranteeing supply to non-integrated processors such as Feger and La Doria. Rickard¹¹ mentions that over time "farms and processing

⁹ Rickard and Sumner (2008) from the Report

¹⁰ [http://www.ccdp.it/filiera/ State aid / Italy \(Emilia Romagna and Lombardy\) Aid No SA.36178 \(N/2013\)](http://www.ccdp.it/filiera/State%20aid/Italy%20(Emilia%20Romagna%20and%20Lombardy)Aid%20No%20SA.36178%20(N/2013))

¹¹ Rickard and Sumner (2008) from the Report

firms would gradually shift more resources out of the processing tomato industry in response to a reduction in subsidies.”

24. The exporters argue that the €776 figure referred to in the Report and obtained from Solazzo is a ‘maximum’. SPC observes there is no maximum payment of €776 per ha as argued by the exporters and there is no evidence of a maximum payment in Solazzo or the national ceiling corresponding to tomatoes. As a cross check to dismiss this argument of the €776 being a maximum, when €776 is divided into the national ceiling corresponding to tomatoes (€184 million) then it suggests that an unrealistic 237,000 hectares of tomatoes are grown in Italy (the estimated hectares is around 66,000 in 2014). Or expressed another way, the €776 figure applied across the estimated hectares planted in tomatoes in 2014 (chart 26.b of the Application) reduces the annual national ceiling corresponding to tomatoes in Italy from €184 million (paragraph 20 of the Application) to around €51 million. This, of course, highlights the inaccuracy of the exporters’ calculations and some of the calculations in the Report. As explained, this figure of €776 is at best “borrowed” from a study that looks at data relating to a sample used to assess the convergence of direct payments and the [then] three greening requirements.
25. SPC notes that either evidence should be presented to confirm the reduction in the national ceiling corresponding to tomatoes from €184 million to €51 million (which corresponds to a subsidy per ha of €776) or only the factual gazetted information of €184 million (as referred to in Regulation 73/2009 (Annex X)) should be used in establishing the subsidy per hectare.
26. To put this in perspective, a €160 per hectare coupled subsidy for tomatoes was introduced in 2015. According to the Report, this coupled payment cannot be more than 5 per cent of the national ceiling. Using estimated hectares of 65,672 in 2014 this gives a value of €10.5 million as the coupled subsidy. If €51 million was an accurate amount for the national ceiling corresponding to tomatoes (based on €776 per ha) then the coupled subsidy would be 21 per cent of the total national ceiling, not 5 per cent as required. However, €10.5 million (coupled subsidy) works out to be 5.7 per cent of €184 million. (The amount is above 5 per cent presumably because 2014 estimated hectares are used). This strongly validates SPC’s estimates of a subsidy per hectare based on €184m from the national ceiling.
27. The Report’s failure to recognise and apply the national ceiling (€184 million) corresponding to tomatoes on actual hectares has led to an incorrect assessment of the subsidy rate. If this was applied, the subsidy impact on raw tomato prices for 2014 would be 42 percent as shown in paragraph 17. That is to say, that if there was no subsidy, raw tomato prices would be impacted by 42 percent. A 42 per cent increase in the price of raw tomatoes if there was no subsidy is enough evidence to demonstrate market situation. The embedded distorted costs are also evidence that there is a market situation.
28. The most accurate method of establishing the effect of the raw material cost on the price of finished goods is to follow the Commission’s usual practice of replacing the affected input price with an adjusted non distorted price. In the case of tomatoes, the value of the price paid to the growers by the processors would be increased by 42 per cent.
29. The confidential attachment supplied to the Commission on 27 July shows SPC’s estimate of the impact on canned tomato prices. This is a significant amount in the context of a fast moving consumer good and is strong evidence that the price of the like good has been affected by a market situation such that the price paid or payable will not accurately reflect a proper normal

value. Applying SPC's assumptions to Table 13 of the Report (page 31) will result in the same outcome as presented in the confidential attachment supplied to the Commission on 27th July.

30. Annex 1 of the exporter's submission is a document authored by the Director of UAPROA (National Union of Organisations of Fruit and Vegetables Producers). UAPROA describes itself as a "Common Organisation" which represents over 30 per cent of the value of the marketed production of all Italian Producer Organisations. The Annex is a helpful confirmation of the elements that SPC has argued contributes to a market situation. In particular Annex 1 explains the historical nature of direct payments and the link to the qualifying tomato hectares which then receive a payment from the national ceiling corresponding to tomatoes. In explaining who benefits from decoupled aid Annex 1 says:

the historical farmer that in the base period (2004, 2005 and 2006) declared an area for the culture(sic) of raw tomatoes and received a payment on the basis of a quantity delivered through a contract concluded with a processor by the Producer Organization

31. Importantly Annex 1 contains a reference to the national ceiling for tomatoes (under section 3, first indented line) which as far as SPC can recall is the first time that a party other than SPC has mentioned the national ceiling for tomatoes
32. The exporters repeat their argument that the SPS is a green box measure and is " fully WTO compliant." As submitted by SPC in its submission of 29 June 2015:

Whether or not the SPS is compatible with a Green Box measure is irrelevant to the analysis of a market situation. What is relevant is that payments made under the SPS influence the price of raw tomatoes which in turn affects the price of canned tomatoes, thereby making the price paid or payable unreliable for the purposes of determining a normal value

SPC's submission of 29 June also noted that:

Therefore, the House of Commons Report takes issue with the claim that the "SPS is fully WTO compatible" by querying whether it is correct that the conditions in paragraph 6 of Annex 2 of the Agreement on Agriculture are met and, importantly, notes that it is difficult to argue that the SPS does not have some impact on production.

33. The exporters argue that the "price of raw tomatoes in Italy is not depressed by allegedly illegal subsidies is further confirmed by the available market data, which reveal that the prices of raw tomatoes on the Italian market are the highest worldwide."

SPC addressed this same argument in its 29 June submission reproduced below for convenience:

The exporters argue that because "prices for raw tomatoes for processing in Italy are amongst the highest in the world" there is no distortion on production and prices. Firstly, in the Application SPC showed that Regulation 73/2009 carried through the tomato ceiling payments until the end of 2014. There is no evidence that these payments of around Euro 183 million were not made to tomato growers. Secondly, the fact that Italian raw tomato prices are high reflects the cost of growing tomatoes in Italy and, as has been argued in other submissions, if a subsidy was not paid then it is not unreasonable to expect that the price for raw tomatoes paid by the processor would be higher

34. The exporters appear to refer to the verification visit at the bottom of page 5 mentioning "...the data verified by the Commission case handlers..." The Commission will be aware that the prices

paid for raw tomatoes by the processors are not the full payment received by the growers of tomatoes. What the exporters probably did not inform the Commission is that prices for raw tomatoes would be higher if not for the national ceiling payments. The Commission is also reminded that the Report refers to vertically integrated firms supplying and processing tomatoes and that this may affect some of the information the Commission may have.

35. SPC notes that the exporter arguments in section 5.1.1 about the alleged distorting effects of the CAP have been addressed in previous submissions by SPC with reference to third party experts and those expert findings have not been addressed or contradicted by the exporters.
36. In section 5.1.2 the exporters dismiss the anti-competitive comments in the Report as there is no “official record of such infringements” SPC refers the Commission to its submission of 9 April 2015 where it was noted:

The ability of POs to “planning and adjusting production to demand” and “stabilising producer prices” without breaching competition rules is permissible as an inter branch organization is exempt from the anti-trust provisions of the Treaty on the function of the European Union (Article 101(1) This exemption permits the PO to enforce and control prices and other market factors with tomato growers

37. Not surprisingly this exemption would explain why there are no recorded infringements. Again this reference to an exemption from competition rules has not been queried by the exporters or the EC.
38. With a complete disregard for the actual values in the sample the conclusions in the exporter’s table on page 13 need to be ignored as they are based on a subsidy rate that is not valid..
39. It is difficult to accept that the exporters believe that the maximum payment per hectare is €776. La Doria’s knowledge and understanding of the SPS is implicit in the public comments most recently repeated to the Commission in SPC’s submission of 24 July. La Doria noted in its 2014 first half report (paragraph 29 e of the Application) that the reintroduced coupled payment was to be around €160 per hectare. As has been explained in the paragraph 26 above, if the €776 per hectare subsidy rate for hectares growing tomatoes is valid, then this would imply a substantial reintroduction of the coupled subsidy from 2015.
40. The exporters then continue the confusion relating to the Report’s misplaced “suggestion “that the subsidy is €776 per hectare or around €10.6 per tonne.

Having the above in mind, to assume that ALL the suppliers of the two exporters received the maximum amount of 776 €/ha is ill-founded. Had the Commission checked this information during the long on-the-spot visits carried out at the premises of the two exporters they would have verified that many suppliers of the two exporters indeed received amounts smaller than 776 €/ha.

41. First of all SPC recalls that the exporters have throughout the current and previous investigation suggested that they have been unaware of the value of payments made to tomato growers. This comment however seems to suggest that the exporters do have knowledge regarding the amounts received by their suppliers but have not supplied this to the ADC despite various requests. Presumably the exporters could point the Commission to how this actual average payment (of whatever value) is made up. Are the exporters inviting the Commission to examine its supplier accounts to verify the amount received per hectare for the tomato crop grown by the suppliers? Furthermore are the exporters suggesting that the main suppliers by volume of tomatoes for processing to the two exporters do not qualify for the historical payments?

42. The exporters refer on page 14 (mentioning Annex 3 although this is not shown on the EPR) to the Italian agency in charge of the management of the SPS (AGEA) and the exporters provide “randomly selected declarations” although how this “randomness” is achieved is not explained.
43. The exporters then observe:

Thus, it is claimed that the Report is totally flawed as it wrongly assumes that ALL the suppliers of the two exporters received the maximum possible payment (776€/ha) while this is not proved.

SPC Comment: SPC has shown there is no maximum payment of €776 and the national ceiling corresponding to tomatoes is where the value of €2802 per hectare used for growing tomatoes has been derived.

44. The exporters then summarise their submission. SPC’s responses to the exporters’ conclusions are given below

-First of all, a finding of “market situation” requires the existence of an illegal subsidy. As previously explained, however, the CAP is fully WTO compliant and therefore cannot be considered to distort the price of raw tomatoes.

SPC Comment: SPC has presented expert views of various parties in its previous submissions to demonstrate that this self-serving view that the CAP is WTO compliant is not universally shared and, in any case, is not relevant to market situation.

-Second, even if a particular market situation were to exist, quod non, this would not justify concluding that the price of PPT in Italy is unfit for proper comparison. In fact, in 2014 the price of raw tomatoes in Italy was extremely profitable and was among the highest in the world

SPC Comment: Firstly, suggesting that the prices are the highest in the world does not deem them to be undistorted. Whether the prices are distorted or not can only be established by considering the influences of factors in the market. Secondly, the exporters’ view of the profitability of growing tomatoes is from the Report (and if not from the Report, this information does not appear to have been shared with the Commission) which incorrectly compares a market price with costs derived from a sample. Thirdly, precedence from previous investigations by the Commission suggests that if an input was not priced at a competitive level because of an identifiable intervention then the price of the downstream product could not be used to establish a normal value using the price paid or payable. Using data from the national ceiling corresponding to tomatoes (as provided in Regulation 73/2009 and applicable in 2014) SPC estimates that the selling price of raw tomato is undervalued by 42 per cent. It is inconceivable that this undervaluing has not significantly distorted a high volume low margin business that is canning tomatoes. It is the price that would be paid by the processor without the subsidy(and the effects on supply) which is relevant to answer the allegation of market situation.

-Third, it is recalled that, in any event, the question of the legality of the CAP has be addressed in an anti-subsidy investigation, in accordance with WTO law, and not in the framework of an antidumping investigation

SPC Comment: This argument has been addressed by the Commission and the provisions of Australia’s anti-dumping legislation

-Fourth, both the conclusion and methodology of the Report were flawed. About the conclusions:

- The first conclusion is based on the wrong premise that in 2014 the measures under consideration were coupled which is factually wrong

SPC Comment: Decoupling was introduced during the transition period which commenced in 2008 and ended in 2010. However, as Annex 1 of the exporter submission itself highlights, payments are made based on the reference period of 2004- 2006. Therefore the payments are implicitly linked. Also, the national ceiling corresponding to tomatoes continued with the payment of around €184 million annually to hectares grown in tomatoes

-It is simply untrue that limits on import of raw tomatoes are in place in the EU. The fact that EU processors can avail themselves of the inward processing regime in no way proves, or even suggests, that the market is distorted

SPC Comment: SPC observed in its application (paragraph 46) - “These high tariff rates form an integral part of shielding Italian farmers from the effect of global competition thereby limiting the normal market conditions

-Even accepting the logic and figures contained in the Report – quod non – it should be noted that the impact of the alleged subsidy on the price of PPT would be, in the worst scenario, [Confidential] % and not [Confidential] %.

SPC Comment: The exporter’s calculations are based on the sample obtained from Solazzo and erroneously used in the Report. The exporters’ findings are therefore of no value.

-Moreover, the above figure should be adjusted downward by eliminating the amount of alleged subsidy which the suppliers of the two exporters, which received amounts lower than 776 €/ha, did not obtain (sic)

SPC Comment: SPC believes this comment is misleading as it is based on the rejected, unsubstantiated and unverified value of €776 which purports to be the subsidy per hectare for growing tomatoes. If the exporters have the actual evidence of a lower subsidy why has this not been shared with the ADC?

-A final example further confirms that the Report rests on totally wrong data and flawed premises.

Table 8 of the Report argues that the price of raw tomatoes without subsidy is 0.116 €/kg. Appendix I then reports that the price paid by the exporters for raw tomatoes in 2014 was [Confidential] €/kg.

SPC Comment: As already noted by SPC the use of €88 per tonne in the Report to get to €116 per tonne (€0.116/kg) has been shown to be wrong and the subsequent multiple to be incorrect. As explained in the footnote of the Solazzo study the €88 per tonne was the actual price in 2011 negotiated within the framework contract, drawn up by the representative branches of producer organisations and processing industries.

45. The submission by the EC is supported by the GOI. The EC notes the Report's conclusion that the flow on effect may be small. But as shown in the consideration of the exporters' submission SPC has been able to demonstrate that the calculations used in the Report are based on data that is not relevant to the investigation. The exporter's expert in Annex 1 refers to the national ceiling for tomatoes and that is where the evidence of the €2802 per hectare is derived. Using this verifiable value instead of the €776 figure shows the Report's conclusions on flow through to be vastly understated.
46. The EC's other arguments have been covered in SPC's response to the exporters submission.

Conclusion

SPC reiterates that the subsidy established by the Report has been under estimated and does not correspond to the gazetted national ceiling established pursuant to the Regulation applicable in the investigation period. It is urged that only verifiable information be used in establishing the subsidy rate per hectare.

Secondly, the Commission is requested not to speculate on the processors' reaction on canned prices if the raw prices were increased. As per the approach in previous investigations, the presence of a significant distortion in raw prices should be sufficient to establish market situation. The use of theoretical econometric modelling to establish flow through is erroneous as it is based on inaccurate inputs (lower subsidy rate, out dated elasticities, smaller non representative sample and modelling that is unreliable in a vertically integrated environment). It is unrealistic to conclude that in a low profitability business an increase in the cost of key inputs will not result in an impact on finished good prices.