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# ANTI-DUMPING NOTICE No 2024/101

*Customs Act 1901*

*Customs (Preliminary Affirmative Determinations) Direction 2015*

**Tomatoes, prepared or preserved**

**Exported to Australia from the Italian Republic**

**Investigation No 654 into alleged  
dumping and subsidisation**

**Day 60 Status Report**

## **Introduction**

This Status Report concerns the investigation into the alleged dumping and subsidisation of prepared or preserved tomatoes (**the goods**) exported to Australia from the Italian Republic (**Italy**). The report reflects the status of the investigation at day 60.

This Status Report sets out the reasons why I, Isolde Lueckenhausen, the Acting Commissioner<sup>1</sup> of the Anti-Dumping Commission (**commission**), have not made a preliminary affirmative determination (**PAD**) on day 60.

I note that I may make a PAD at any time from day 60 onwards if I am satisfied the requirements of section 269TD(1) of the *Customs Act 1901* (Cth)<sup>2</sup> have been met.

## **Background**

On 15 October 2024, I initiated an investigation into the alleged dumping and subsidisation of the goods after SPC Operations Pty Ltd (**SPC**) made an application under section 269TB. Further details can be found in the public notice published on 15 October 2024, (refer to Anti-Dumping Notice (**ADN**) 2024/065 at [www.adcommission.gov.au](http://www.adcommission.gov.au)).<sup>3</sup>

Under section 269TD(1), I may make a PAD at any time not earlier than 60 days after I initiate an investigation in relation to the publication of a dumping duty and countervailing duty notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice, or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

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<sup>1</sup> References in this document to individuals holding positions within the Anti-Dumping Commission (commission) are references to whoever occupies the position at the time. This includes when the position is held in an acting capacity

<sup>2</sup> All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise specified.

<sup>3</sup> Electronic public record (**EPR**) 654, [Item 1](#).

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015 (the Direction)*, 60 days after the initiation of such an investigation I must either make a PAD or provide a Status Report outlining the reasons why I have not made a PAD.

### **Information before me to date**

In deciding whether to make a PAD on day 60 of this investigation, I have, in accordance with section 269TD(2), had regard to:

- SPC's application
- data from the Australian Border Force import database
- consultations with the Government of Italy (**GOI**) and the European Commission.
- submissions from the GOI and the European Commission
- submissions from the GOI and the European Commission on initiation
- submissions from exporters on the Model Control Code (**MCC**) structure
- several responses from exporters to the Preliminary Information Request
- three complete responses to the importer questionnaire.

### *Exporters*

On 14 November 2024, I notified through public notice ADN 2024/089 that I would select the following exporters for examination in this investigation (**selected exporters**):

- De Clemente Conserve S.p.A
- La Doria S.p.A (**La Doria**)
- IMCA S.p.A (**IMCA**)
- Mutti S.p.A (**Mutti**)

The commission invited the selected exporters to complete an exporter questionnaire with respect to the investigation period with responses due in January 2025.

La Doria, IMCA and Mutti each made submissions proposing amendments to the MCC structure proposed for the investigation as set out in ADN 2024/065.

### *Importers*

The commission received complete questionnaire responses from 3 importers. Each importer who provided a response to the questionnaire requested and was granted an extension of time to respond. The commission is continuing its consideration of the completed responses.

### *Submissions*

The commission has received 8 submissions as at the date of this report:

- three submissions from the selected exporters for an amendment to the MCC structure
- two submissions from the GOI
- three submissions from the European Commission.

The commission is continuing its consideration of each submission.

### **Reasons for publishing a Status Report**

The commission is required to examine various issues in the investigation, including:

- export prices and normal values of the goods exported from Italy
- volumes of the goods exported from Italy
- the Australian market for the goods
- the level (if any) of countervailable subsidies received by exporters from Italy.

These issues are critical to ascertain:

- if the goods exported from Italy have been dumped at above negligible levels
- if the goods exported from Italy have been subsidised at above negligible levels, and
- whether those goods, if dumped or subsidised at above negligible levels, have caused or are causing material injury to the Australian industry.

These issues are critical to determine whether there are sufficient grounds for the publication of a dumping and countervailing duty notice in respect of goods exported from Italy.

At this time and based on the evidence and the analysis undertaken to date, I am not yet satisfied that any injury to the Australian industry has been caused by any dumping or subsidisation that may have occurred. Accordingly, I am not yet satisfied that there appears to be sufficient grounds for the publication of dumping duty and countervailing duty notices on the goods exported to Australia from Italy and have not made a PAD.

### **Other considerations**

#### *Relevant matters – section 269TD(2)(b)*

In accordance with the Direction and for the purposes of section 269TD(2)(b), I have considered the desirability of providing relief to an injured Australian industry as quickly as possible, where warranted.

I have decided it is not yet warranted to make a PAD, at this time, because I am not yet satisfied that there appear to be sufficient grounds for the publication of a dumping and countervailing duty notice for the reasons outlined above. I will continue to assess the need for a PAD and may make one as soon as I am satisfied there appears to be sufficient grounds to do so based on the evidence before me.

#### *Reconsideration of making a PAD – section 269TDAA*

The Direction requires me to reconsider whether to make a PAD at least once prior to the publication of Statement of Essential Facts (**SEF**) required under section 269TDAA. I am due to publish the SEF on **1 July 2025**. Prior to the publication, or in the SEF, I will advise whether I made a PAD subsequent to this report and the reasons for the decision.

### **Anti-Dumping Commission Contact**

Enquiries about this report may be directed to the case manager on telephone number +61 3 8539 2527 or at [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au).

Isolde Lueckenhausen  
Acting Commissioner  
Anti-Dumping Commission

16 December 2024