PUBLIC RECORD

Australian Government
Department of Industry, Science and Resources

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

ANTI-DUMPING COMMISSION PRELIMINARY REINVESTIGATION REPORT FOR THE ANTI-DUMPING REVIEW PANEL

REINVESTIGATION OF CERTAIN FINDINGS IN REPORT NO 654

TOMATOES, PREPARED OR PRESERVED EXPORTED FROM ITALY TO AUSTRALIA

28 September 2026

CONTENTS

ABBREVIATIONS

$	Australian dollars
The Act	*Customs Act 1901*
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
The applicant	SPC Operations Pty Ltd (SPC)
ANICAV	Associazione Nazionale Industriali Conserve Alimentari Vegetali
Calispa	Calispa S.p.A.
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
EPR	electronic public record
EC	European Commission
Frontier Economics	Frontier Economics Pty Ltd
the goods	the goods the subject of the reinvestigation (also referred to as the goods under consideration or GUC)
Italy	the Italian Republic
Material Injury Direction	Ministerial Direction on Material Injury 2012
the Minister	the Minister for Industry and Innovation and Minister for Science
PRR	Preliminary Reinvestigation Report
REP 654	Anti-Dumping Report No 654
Safcol	Safcol Australia Pty Ltd
SPC	SPC Operations Pty Ltd
Simplot	Simplot Pty Ltd

1 SUMMARY AND PRELIMINARY FINDINGS

1.1 Introduction and preliminary findings

The Commissioner of the Anti-Dumping Commission (the Commissioner) is conducting a reinvestigation following a request from the Anti-Dumping Review Panel (ADRP). The ADRP has requested the reinvestigation of the finding in Anti-Dumping Report No 654 (REP 654) that the Commissioner was not satisfied that dumping and subsidisation had been causing, or were the cause of, material injury to the Australian industry.[1]

This Preliminary Reinvestigation Report (PRR) sets out the preliminary findings of the Commissioner in relation to the ADRP's reinvestigation request.

On reinvestigation, the Commissioner preliminarily affirms the finding in REP 654 that the Commissioner is not satisfied that dumping and subsidisation have been causing, or are the cause of, material injury to the Australian industry.

The Anti-Dumping Commission (the commission) invites interested parties to make submissions in response to this PRR. Submissions received before 12 October 2026 will inform the preparation of the reinvestigation report provided to the ADRP.

1.2 Preliminary finding

In accordance with the ADRP's request, the commission has conducted a reinvestigation of certain findings in REP 654 that were relevant to the determination that the Commissioner was not satisfied that dumping and subsidisation had caused, or were causing, material injury to the Australian industry.

Consistent with the scope specified by the ADRP in its reinvestigation request, the reinvestigation has re-examined:

1. The finding that the effect of dumped and subsidised imports on SPC's economic condition did not amount to material injury to the Australian industry and
2. Certain aspects of the four identified "other injury factors" that were found, individually and in combination, to be causing material injury, and which led to the finding that the material injury experienced by the Australian industry was caused by factors other than dumping and subsidisation.[2]

On reinvestigation, the Commissioner preliminarily remains not satisfied that dumping and subsidisation have caused material injury to the Australian industry. The key aspects of the reinvestigation's preliminary findings are summarised below.

[1] Electronic Public Record (EPR), item number (no.) 47.
[2] ADRP Reinvestigation Request, 18 May 2026, p 3. The ADRP's Review public record can be accessed at https://www.industry.gov.au/trade/anti-dumping-review-panel/current-anti-dumping-review-panel-reviews/tomatoes-prepared-or-preserved-exported-italian-republic

Other injury factors (chapter 3)

In accordance with the ADRP's request, the commission reinvestigated its findings concerning the other injury factors of:

- increases in raw material costs and higher production costs for the Australian industry
- an increase in domestic Australian competition and
- consumer preference by some consumers for Italian products.

Following reinvestigation, the commission preliminarily finds that increases in raw material and production costs are more appropriately considered as part of the broader competitive advantage enjoyed by Italian producers. The commission continues to find that the competitive advantages enjoyed by Italian producers, including lower raw material and production costs, remained a significant cause of price suppression and price depression injury independent of dumping and subsidisation.

In relation to domestic competition, the commission preliminarily continues to find that competition between Australian producers contributed to price discounting and shifts in sales volumes within the Australian industry. However, the commission considers that its impact was less significant than previously assessed in REP 654.

The commission also preliminarily continues to find that consumer preferences are a relevant consideration in the assessment of injury and materiality. However, the commission identified no evidence of a material change in consumer preferences during the investigation period that would independently explain the observed deterioration in the Australian industry's performance.

Further information concerning these findings is detailed in chapter 3 of this PRR.

Assessment of injury caused by dumping and subsidisation (chapter 4)

In accordance with the ADRP's request, the commission undertook further analysis to separate and distinguish the injurious effects of dumped and subsidised imports from the injurious effects of the other factors.

To separately assess the degree of injury caused by dumped and subsidised imports, the commission undertook a counterfactual analysis comparing the condition of the Australian industry during the investigation period with the condition that would likely have prevailed in the absence of dumping and subsidisation. The commission is satisfied that this approach appropriately distinguishes the injurious effects of dumped and subsidised imports from the injurious effects of the other factors.

The commission preliminarily finds that dumped and subsidised imports from Italy caused price injury in the form of price suppression, price depression, reduced revenue, reduced profit and reduced profitability. However, the commission is not satisfied that there is sufficient evidence to establish that dumped and subsidised imports caused volume injury. While Australian industry sales volumes declined as Italian import volumes increased, the available evidence is insufficient to support a finding that dumped and subsidised import prices contributed to a separate volume displacement effect and thereby caused volume injury.

The commission's counterfactual analysis indicates that, in the absence of dumping and subsidisation, Australian industry prices would likely have been higher. However, the commission considers that any increase would likely have been less than the estimated upper-bound price effect identified by the analysis. This reflects a range of factors, including the findings of the commission's price analysis, the concentration of retailer buying power in purchasing negotiations, and the fact that Italian imports would have remained substantially lower priced than Australian industry products even after removing the effects of dumping and subsidisation. Accordingly, the commission considers that the counterfactual analysis provides an upper-bound estimate of the injury attributable to dumping and subsidisation and that the actual degree of injury caused by dumping and subsidisation is likely to have been lower.

Further details of these findings are set out in chapter 4 of this PRR.

Materiality of injury caused by dumping and subsidisation (chapter 5)

In accordance with the ADRP's reinvestigation request, the commission has considered its reinvestigated findings in combination, to determine whether the additional injury caused by the dumping and subsidisation was material.

Having regard to the requirements of the Act and the Ministerial Direction on Material Injury, the commission continues to find that the injury caused by dumped and subsidised imports was not negligible. However, the commission remains not satisfied that the injury was material. In reaching this preliminary view, the commission has considered the relatively modest dumping and subsidy margins, the limited incremental price effects attributable to dumping and subsidisation, the absence of sufficient evidence to establish a causal link to volume injury, the modest impact on Australian industry revenue, and the limited contribution of dumping and subsidisation to the overall financial injury experienced by the Australian industry when compared with the fluctuations observed in SPC's economic performance during the injury analysis period and the relative degree of injury caused by the competitive advantage of Italian producers. Collectively, these considerations indicate that the injury attributable to dumping and subsidisation did not constitute material injury.

The commission further notes that its counterfactual analysis forms part of the materiality assessment and provides an upper-bound estimate of the injury attributable to dumping and subsidisation. In assessing materiality, the commission has taken into account that the effects attributable to dumping and subsidisation were likely lower than the upper-bound effects identified by the counterfactual assessment.

Accordingly, while the commission preliminarily finds that dumped and subsidised imports from Italy caused price injury to the Australian industry, it remains preliminarily satisfied that the injury attributable to dumping and subsidisation was not of sufficient magnitude to constitute material injury.

1.3 Background to reinvestigation

The background to the ADRP's reinvestigation request is detailed below.

1.3.1 Reviewable decision

On 15 October 2024, the Commissioner initiated an investigation into whether the Australian industry for tomatoes, prepared or preserved (the goods) had experienced material injury caused by the goods being exported to Australia from the Italian Republic (Italy) at dumped and subsidised prices.[3]

The Commissioner initiated the investigation following an application lodged by SPC Operations Pty Ltd (SPC), seeking the publication of a dumping notice and countervailing duty notice in respect of the goods exported to Australia from Italy.[4]

Following the investigation, the Commissioner recommended in REP 654 that the Minister for Industry and Innovation and the Minister for Science (the Minister) do not impose either a dumping duty notice, or a countervailing duty notice in respect of goods exported from Italy, because the requirements of section 269TG or section 269TJ were not satisfied. Specifically, the Commissioner was not satisfied that material injury to an Australian industry producing like goods had been or was being caused, or was threatened because of dumped and/or subsidised exports from Italy.[5]

On 2 February 2026, the Minister accepted the recommendations in REP 654 and declared his decision to not publish a dumping duty notice or countervailing notice in respect of the goods exported to Australia from Italy.[6] The commission published the public notice of the Minister's decision (the reviewable decision) on its website on 3 February 2026.[7]

1.3.2 Review of the Minister's decision

On 18 March 2026, the ADRP published an application lodged by SPC for a review of the Minister's decision (the reviewable decision). SPC sought a review of the reviewable decision that the Minister was not satisfied that dumping and subsidisation had been causing or were the cause of material injury to the Australian industry.

On the same day, the ADRP published a notice of its intention to conduct a review of the reviewable decision.[8]

1.3.3 Request for reinvestigation

On 19 May 2026, the ADRP requested, pursuant to section 269ZZL of the *Customs Act 1901* (the Act), that the Commissioner reinvestigate the finding:

> *'The finding that the Commissioner is not satisfied dumping and subsidisation have been causing or are the cause of **material** injury to the Australian industry.' (ADRP added emphasis)*

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[3] EPR 654, item no 1.
[4] EPR 654, item no 2.
[5] EPR 654, item no 47.
[6] Anti Dumping Notice 2026/021 refers.
[7] EPR 654, item no 48.
[8] *Public Notice – Intention to Conduct a Review*, 18 March 2026, on ADRP's website.

Specifically, the ADRP requested that the Commissioner reinvestigate 2 components of the finding:

1. The finding that the effect on SPC's economic condition of the dumped and/or subsidised imports does not amount to material injury to the Australian industry and
2. Certain aspects of the four named 'other factors' found to be causing material injury, separately and then in combination, which led to the finding that "the material injury has been caused by other factors".[9]

The ADRP requested the commission to consider its reinvestigated conclusions for these 2 components in combination, to determine if the additional injury caused by the dumping is material.

The ADRP also requested the commission to take into consideration the section 269ZZJ submissions of all interested parties.[10]

Further details of the ADRP's reinvestigation request are included in relevant sections of this report.

1.4 Conduct of reinvestigation

The Commissioner conducted this reinvestigation in accordance with both section 269ZZL(2) of the Act and the ADRP's letter of request. Details of the reinvestigation were published on the EPR on 4 June 2026 in Anti Dumping Notice (ADN) 2026/074.[11]

A further ADN, ADN 2026/133, was published on 16 September 2026 notifying interested parties that the commission would be publishing this PRR on 28 September 2026.[12] The notice further specified that submissions received in response to the PRR within 14 days would be taken into account in preparing the reinvestigation report to be provided by the Commissioner to the ADRP.

This PRR sets out the preliminary findings of the Commissioner in response to the ADRP's letter of request. This report also provides an opportunity for interested parties to comment on the preliminary findings and for the Commissioner to consider those submissions received prior to providing the ADRP with a reinvestigation report under section 269ZZL(2) of the Act.

Further information concerning the conduct of this reinvestigation is detailed in chapter 2 of this report.

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[9] The four 'other factors' are: (i) competitive advantage of the Italian producers; (ii) increase in raw material costs and higher production costs for the Australian industry; (iii) an increase in domestic Australian competition; and (iv) consumer preference by some consumers for Italian products.

[10] The European Commission (EC) in its submission to the ADRP raised a range of grounds. The commission considers that issues raised in relation to SPC's past history in relation to anti dumping matters and SPC's claims concerning subsidies are not relevant to the reinvestigation request.

[11] EPR 654, item no 49.

[12] EPR 654, item no 50.

1.4.1 Next steps

The commission invites interested parties to make submissions in response to the Commissioner's preliminary findings as set out in this PRR. Submissions received will inform the preparation of the final reinvestigation report that the Commissioner will provide to the ADRP.

Submissions are due no later than **12 October 2026**. Submissions received after this date may not be considered if they will delay providing the reinvestigation report to the ADRP. The commission's preference is to receive submissions by email to investigations2@adcommission.gov.au. Interested parties may also address submissions to:

The Director, Investigations 2
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2600

Interested parties claiming that information contained in their submissions is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests
- satisfy the Commissioner that there is no way such a summary could allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked 'OFFICIAL: SENSITIVE'. Interested parties must lodge a non-confidential version of their submission, clearly marked 'PUBLIC RECORD'.

2 CONDUCT OF THE REINVESTIGATION

2.1 Approach to the reinvestigation

The commission is conducting the reinvestigation in accordance with section 269ZZL(2). In conducting the reinvestigation, the commission is considering:

- the ADRP's reasons for requesting the reinvestigation
- the grounds accepted for review (as set out in the ADRP's notice under section 269ZZI)
- relevant information contained in SPC's application to the ADRP for the review of the Minister's decision
- section 269ZZJ submissions of interested parties to the ADRP
- REP 654, relevant information referenced in REP 654 and the record evidence for investigation 654
- the report provided by Frontier Economics Pty Ltd (Frontier Economics), as detailed in section 2.2
- further information the commission specifically requested from certain parties (as set out in section 2.3)
- other information where specified in this report.

The commission is assisting the Commissioner in undertaking the reinvestigation, pursuant to the commission's function specified in section 269SMD.

2.2 Engagement of Frontier Economics

The commission engaged Frontier Economics to conduct a review of the injury assessment in REP 654 and provide advice on extensions that could be made to the REP 654 analysis, in the context of the available data, for assessing the materiality of injury to Australian industry.

Frontier Economics' findings have been incorporated into the PRR where relevant to the commission's reinvestigation.

A non-confidential version of Frontier Economics' report is included as an attachment to this report at **Attachment A**.

2.3 Requests for further information from interested parties

For the purposes of completing its price analysis in the reinvestigation the commission sought further sales data from Australian industry members, including:

- Sales data from SPC for the period between 1 October 2020 and 30 September 2023
- Sales data from Safcol Australia Pty Ltd (Safcol) and Simplot Pty Ltd (Simplot) for the period between 1 October 2023 and 30 September 2024.

Both SPC and Safcol provided the requested further sales data. Simplot did not provide the requested information.

The commission also met with Safcol to obtain further information concerning its pricing and sales process to assist with the analysis of the further sales data it provided. The commission also discussed with Safcol the nature of the goods supplied by Safcol into the Australian market, Safcol's pricing for those goods, and the nature of competition in the Australian market during the investigation period. Safcol also discussed the trend in its prices and costs after the investigation period. A file note of the meeting with Safcol is at **Confidential Attachment 1**.

The commission also obtained further information from both Safcol and SPC to assist with the assessment of their profit and profitability during the investigation period. Further details concerning this additional information are detailed in **Appendix A** of this report.

In regard to obtaining this information, the commission is not limited in a reinvestigation under section 269ZZL of the Act to considering a specified body of information or submissions. The commission has sought the new information because the new information is relevant to a finding the subject of reinvestigation. That is, the ADRP has requested the Commissioner reinvestigate certain findings. The new information is directly relevant to these findings.

The commission has used the new information obtained from SPC and Safcol to assess the nature of pricing in the Australian market and their respective profits and profitability during the injury analysis period and/or the investigation period.[13]

2.4 Review and amendments to analysis in REP 654

During the reinvestigation, the commission undertook a review of the analysis conducted in the original investigation. As a result of the review, the commission amended aspects of its analysis relating to the remedied price assessment, SPC's profit assessment, and Simplot's sales volume during the investigation period.

Details of these amendments are included in **Appendix A**.

2.5 Submissions received prior to the publication of the preliminary reinvestigation report

On 4 June 2026, the commission published Anti-Dumping Notice (ADN) 2026/074 on the EPR, outlining the procedural parameters for the reinvestigation and that the commission proposed to publish this PRR. It advised that the commission would invite interested parties to make submissions in response to the PRR.

ADN 2026/133 was published on 16 September 2026 and notified interested parties that the commission would publish the PRR on 28 September 2026. Interested parties were also advised that they would be invited to make submissions in response to the Commissioner's preliminary findings within 14 days of that publication date.

No submissions were received prior to the publication of this PRR.

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[13] The investigation period for this investigation is 1 October 2023 to 30 September 2024. The injury analysis period is from 1 October 2020.

2.6 PRR and request for submissions

This PRR sets out the preliminary findings of the Commissioner in response to the ADRP's reinvestigation request. The PRR provides an opportunity for interested parties to comment on the preliminary findings and for the commission to consider those submissions prior to providing the ADRP with the reinvestigation report.

Submissions are requested to be provided by **12 October 2026**. Submissions received after this date may not be considered if they will delay providing the reinvestigation report to the ADRP.

2.7 Reinvestigation report to the ADRP

The commission was originally due to provide its reinvestigation report to the ADRP by 16 October 2026. On 14 September 2026, the ADRP granted the commission a 21-day extension to provide its report.[14] The reinvestigation report is now due on 6 November 2026.

[14] ADRP electronic public record, Letter from the Review Panel to the Commissioner - Extension of time, published 14 September 2026.

3 OTHER INJURY FACTORS

3.1 Preliminary finding

In accordance with the ADRP's request, the commission has reinvestigated its findings concerning the other injury factors relating to raw material costs, domestic competition and consumer preferences.

The preliminary findings in relation to these factors further inform the preliminary assessment in chapter 4 of the injury caused by dumping and subsidisation, and the preliminary assessment in chapter 5 of the materiality of the injury.

On reinvestigation:

<u>Increasing raw material costs</u>

- In REP 654, the commission assessed increasing raw material costs and competitive advantage as separate injury factors.
- On reinvestigation, the commission preliminarily finds that SPC's increasing raw material and production costs should be treated as being captured within the competitive advantage injury factor, to the extent that those increasing costs reflect the same type of underlying differences in production costs between Australian and Italian producers.
- Accordingly, the commission preliminarily finds that the competitive advantages enjoyed by Italian producers, including those arising from lower raw material and production costs relative to Australian producers, remain a material cause of the injury identified in REP 654, independent of dumping and subsidisation.
- As discussed in Chapters 4 and 5, the effects of Italian producers' competitive advantage were separated from the price effects attributable to dumped and subsidised imports when assessing the injury caused by dumping and subsidisation. However, the commission continues to find that this competitive advantage was a significant cause of the price suppression and depression experienced by Australian industry and would likely have continued to constrain the Australian industry's ability to increase prices in the absence of dumping and subsidisation.

<u>Domestic competition</u>

- The commission preliminarily continues to find that increased competition between Australian producers resulting from Simplot's entry into the market contributed to greater discounting and shifts in sales volumes within the domestic industry.
- However, on reinvestigation, the commission preliminarily finds that the impact of increased domestic competition on the Australian industry's economic performance was less significant than that assessed in REP 654.
- Accordingly, while domestic competition remained a contributing cause of injury during the investigation period to specific industry members, the commission considers its relative significance to be lower than previously assessed.

Consumer preferences

- The commission remains satisfied that consumer preferences constitute a relevant factor when assessing the materiality of injury caused by dumping and subsidisation.
- While price is an important factor influencing purchasing decisions, the commission considers that it is not the sole determinant of consumer behaviour. Consumers balance price against other product attributes and preferences in assessing the value offered by competing products.
- Consumer preferences form part of the market conditions within which dumping and subsidisation occurred. The commission has not identified any evidence of a material change in these preferences during the investigation period. While consumer preferences do not provide an independent explanation for the deterioration in Australian industry sales prices, sales volumes and market share in the investigation period, they remain relevant to the assessment of injury and materiality as a factor influencing competitive outcomes in the market.

3.2 Grounds of review and reinvestigation request

The ADRP requested the reinvestigation of certain aspects of the four identified 'other factors' that were found also to be causing material injury, which separately and in combination, led to the finding that the material injury had been caused by other factors.

Specifically, the ADRP requested that the commission should:

- reconsider the increase in raw material costs as an "other factor" causing injury
- reassess its analysis and conclusions relating to the increase in domestic competition as an "other factor".
- reassess its analysis and conclusions relating to the consumer preferences as an "other factor".

These aspects of the ADRP's request are detailed further below.

3.2.1 Raw material costs

In reconsidering the increase in raw material costs as an "other factor" causing injury, the ADRP has sought the commission to consider whether the higher costs of the Australian industry are in fact part of the competitive advantage "other factor" rather than a separate other factor amounting to a "double counting of the same injury with attribution to different causes", as suggested by SPC.

The ADRP agreed with SPC that the commission's treatment of raw material costs was confusing and that identifying price suppression injury and then applying the same injury to raw material cost increases appeared to amount to a "double counting" of the same injury with attribution to different causes.

3.2.2 Domestic competition

The ADRP advised that it considered SPC's claims and analysis of the ADC's findings relating to the increase in domestic competition had validity.

The ADRP asked the ADC to take into consideration SPC's submission that Simplot was present in the market for only 5 months of the 12-month investigation period and that the actual volumes over those 5 months are the relevant data point.

3.2.3 Consumer preferences for Italian origin and flavour

The ADRP requested the commission to reassess its analysis and conclusions relating to the consumer preferences as an "other factor".

3.2.4 Submission from ANICAV to the ADRP concerning other injury factors

The submission from the Associazione Nazionale Industriali Conserve Alimentari Vegetali (ANICAV) to the ADRP raised a range of other injury factors relating to the '2022-23 climatic shock', Australian industry's inability to meet demand and SPC's 'structural fragility'.[15] The commission notes that these claimed other injury factors are not within the scope of the injury factors identified by the ADRP for reinvestigation. The commission has therefore not considered these other factors for the purposes of this PRR.

3.3 Reassessment of certain aspects of the other injury factors

3.3.1 Raw material costs

On reinvestigation, the commission preliminarily finds that SPC's increasing raw material and production costs should be treated as being captured within the competitive advantage other injury factor identified in REP 654, to the extent that those increasing costs reflect the same type of underlying differences in production costs between Australian and Italian producers.

The commission considers that these cost increases help explain the circumstances that gave rise to the identified price suppression. The injury arose when SPC was unable to recover its increasing costs through higher selling prices, resulting in the price suppression, reduced margins, lower profits and reduced profitability identified in REP 654.

While dumped and subsidised Italian imports contributed additional pricing pressure, the evidence preliminarily indicates that Italian products would have continued to undercut Australian industry prices even in the absence of dumping and subsidisation. This suggests that Italian producers' competitive advantages, including lower production costs, would have continued to constrain SPC's pricing absent the effects of dumping and subsidisation.

The commission preliminarily considers that SPC's increasing raw material and production costs increased its reliance on higher selling prices to maintain margins and profitability. At the same time, competition from Italian products constrained SPC's ability to obtain those prices. To the extent that this constraint reflected the underlying competitive advantages of Italian producers, the resulting injury is appropriately captured within the competitive advantage other injury factor identified in REP 654. To the extent that the constraint reflected the additional price effects of dumping and subsidisation, the

[15] ANICAV, …(C)omments in response to the application for review…, 17 April 2026, pp 17–22

resulting injury has been assessed separately through the commission's counterfactual and materiality analysis.

Accordingly, the commission preliminarily finds that Italian producers' competitive advantages, including lower raw material and production costs relative to Australian producers, remain a significant cause of the price suppression identified in REP 654, independent of dumping and subsidisation. As discussed in chapters 4 and 5, the commission's counterfactual and materiality analysis isolates the additional injury attributable to dumping and subsidisation and thereby distinguishes that injury from the injury likely caused by the underlying competitive advantages of Italian producers which was further exacerbated by increasing raw material costs for Australian industry.

3.3.2 Domestic competition

On reinvestigation, the commission preliminarily continues to find that increased domestic competition resulting from Simplot's entry into the Australian market contributed to the adverse price and volume outcomes for some Australian producers, particularly SPC. The commission continues to find that increased competition between Australian producers led to greater discounting and shifts in sales volumes within the domestic industry. However, on reinvestigation, the commission finds that the impact of this increased domestic competition on the Australian industry's economic performance was less significant than that found in REP 654. Accordingly, while domestic competition remained a contributing factor, the commission considers its relative significance to be lower than previously assessed.

The ADRP requested the commission to consider SPC's submission that Simplot was present in the market for only 5 months of the investigation period and that its actual sales volumes during that period were the relevant measure of domestic competition. SPC in its application accepted that "Simplot's entry contributed to some increased domestic competition", but submitted that the commission in REP 654 “failed to properly contextualise the scale of this domestic competitive impact against the vastly larger impact of dumped Italian imports on the Australian industry”.[16] SPC's concerns focused on Simplot's limited period of market presence, the reliability of the evidence relied upon by the commission, and the commission's emphasis on Simplot's entry rather than the larger volume growth and price effects associated with Italian imports. SPC submitted that domestic competition was a less significant cause of injury than competition from Italian imports.

As part of the reinvestigation, the commission re-examined the evidence provided by Calispa S.p.A. (Calispa) concerning Simplot's sales volumes. This review, undertaken by both the commission and Frontier Economics, identified that Calispa had incorrectly relied on a sales revenue figure to estimate Simplot's sales volumes. This error impacted the commission’s analysis in REP 654. The commission subsequently obtained further clarification from Calispa and calculated a revised estimate of Simplot's sales volumes. To assess the reliability of this revised estimate, the commission reviewed information

[16] See SPC’s application to ADRP, pp 27–28.

provided by SPC during the original investigation concerning Simplot.[17] The commission found that the SPC information validated the revised methodology used to estimate Simplot's retail sales volumes during the investigation period.[18] The reassessment of Simplot's sales volume and validation using the SPC information is contained in **Confidential Attachment 2 - Revised estimate of Simplot sales volume**.

As a result of the revisions made, Simplot sales volume has, on reinvestigation, been reassessed to be 22% of the volume originally assessed in REP 654. As a result of this amendment, the commission has revised the findings in REP 654 impacted by the revised sales volume for Simplot. Details of this reassessment are included in **Appendix A** of this PRR.

Specifically in relation to Simplot's entry into the market the commission preliminarily finds that:

- Simplot's entry was likely to have affected SPC to a greater extent than Safcol, given SPC and Simplot competed in the same market segment and product tier, whereas Safcol primarily operated in a different product tier.
- The entry of Simplot into the Australian market coincided with retail price discounts by SPC at Woolworths in the immediate period before and after Simplot's market entry, as illustrated in Figure 1.

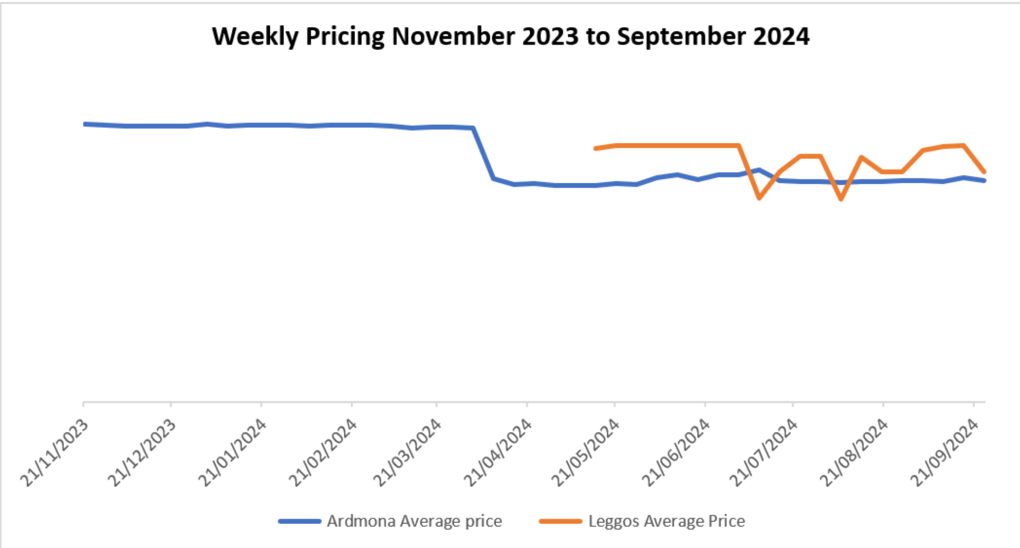

Figure 1: SPC Ardmona & Simplot Leggo's average weekly Woolworths pricing

- Analysis of retail sales data indicates that SPC's sales volumes initially increased following the introduction of discounted pricing. However, this increase in sales volumes began to diminish shortly after Simplot entered the market. The commission considers that this suggests Simplot captured a portion of sales that

[17] This information was provided during SPC's verification visit and in its application. The commission also examined SPC's wholesale sales volumes to Woolworths over the same period. This analysis further supported the revised assessment.

[18] The commission sought further confirmation of the Simplot's sales volume from Simplot and Woolworths. As at the date of this PRR, confirmation of Simplot's sales volume has not been obtained from Safcol. At the time of publication of this PRR, the commission's discussions with Woolworths were continuing.

may otherwise have been made by SPC, despite SPC's discounted pricing. This analysis is reflected in Figure 2.

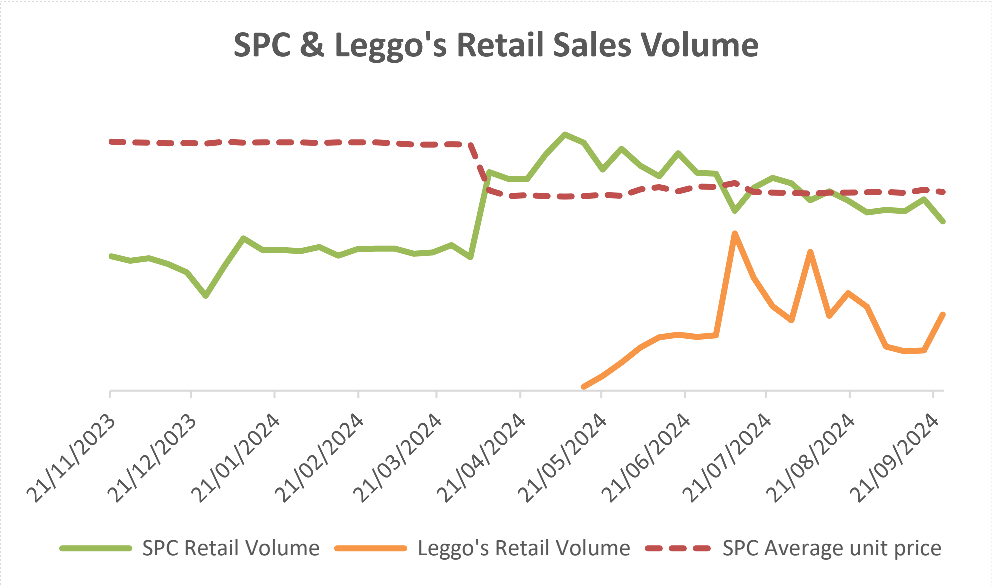

Figure 2: SPC Ardmona & Simplot Leggo's average weekly Woolworths volumes

Frontier Economics' analysis found that domestic competition was a factor, but not a complete explanation, noting that volume falls for SPC Ardmona at Woolworths appeared closely tied to Simplot's entry in the 5 month period. Frontier Economics found that the qualitative evidence was that Leggo's entry created a direct domestic competitive constraint on SPC Ardmona at Woolworths. Frontier Economics also found its analysis supported a broader point that brand-level substitution can be significant in this market. Customers appear to have been responsive to relative price differences between SPC Ardmona and Simplot Leggo's, rather than only to the overall price of the product category.[19]

The commission is satisfied that Simplot's entry likely accounted for a portion of SPC's lost sales volume during the investigation period and drove some of the price depression resulting from Woolworths sales. As an upper-bound estimate, the commission considers that Simplot may have accounted for up to 20% of SPC's lost sales volume during the investigation period. This estimate assumes that every sale made by Simplot displaced a sale that would otherwise have been made by SPC. The commission also analysed the impact of the discounting on SPC's overall profit and profitability. The commission has assessed that the increased discounting impacted SPC's profitability by up to 5%.[20]

The commission further notes that, despite the impact of Simplot, SPC's overall loss of sales through Woolworths in the investigation period exceeded Simplot's total sales volume during the same period. The commission therefore considers that domestic competition explains a portion of SPC's lost sales volume during the investigation period but not the entirety of it.

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[19] Attachment A - Frontier Economics report, pp 33-37.

[20] To calculate the impact, the commission calculated the observed discounting impact on SPC's revenue. Adjustments were made for the likely increased sales volume resulting from the price discounting.

Notwithstanding the revised volume estimates, the commission preliminarily finds that Simplot's entry into the market during the investigation period remained a contributing factor to the adverse price and volume outcomes for some Australian producers, particularly SPC. However, the commission now considers that the significance of this factor is lower than that found in REP 654. The revised analysis indicates that Simplot contributed to SPC's loss of sales volume, price depression, price suppression and increased competitive pressure, but the magnitude of that impact was less than originally estimated in REP 654.

The commission's revised price and volume analysis is in **Confidential Attachment 3 - Revised Leggo's and Ardmona price analysis**.

3.3.3 Consumer preferences

In accordance with the ADRP's request, the commission has re-examined the findings in REP 654 concerning consumer preferences in the context of SPC's claims in its application. On reinvestigation, the commission remains satisfied that consumer preferences constitute a relevant factor when assessing the materiality of injury suffered by the Australian industry caused by dumping and subsidisation.

SPC submitted that the Act and the Ministerial Direction require any other causal factor to be material in degree before it can diminish the causal relationship between dumping and injury. SPC argued that REP 654 contained no qualitative or quantitative evidence demonstrating that consumer preferences for Italian-origin canned tomatoes had materially contributed to the declines in SPC's sales volumes, market share, selling prices or profitability. SPC further submitted that, if price is the primary driver of purchasing decisions, as indicated by both SPC and the major supermarkets, consumer preferences relating to origin and flavour are at most secondary considerations. SPC also argued that the commission's findings concerning consumer preferences were inconsistent with its price and price elasticity analysis.

In support of these claims, SPC relied on a 2023 consumer study it had commissioned. SPC claimed that this study had found that price is the primary driver of consumer purchasing decisions for canned tomatoes, with factors such as can size, format and quality also influencing purchasing behaviour. SPC further claimed that the study found that brand and country of origin are of lesser importance, that consumers frequently switch between products, and that only a minority of consumers regard Italian origin as a key purchasing consideration.

The commission notes that SPC's consumer study, whilst finding that price was the dominant purchase influence for canned tomatoes, consumers also identified a range of non-price considerations as influencing their purchasing decisions, including can size, product format, country of origin, quality of ingredients, brand and taste expectations.[21] These factors were consistently identified as important influences on purchasing decisions, indicating that competition in the canned tomato market extends beyond price alone.

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[21] See p 25 of SPC Consumer Research Study.

SPC's consumer study further found that consumer preferences for particular brands and product attributes influence purchasing behaviour. While a smaller percentage of consumers reported having a preferred brand and consistently purchasing that brand, a more significant percentage reported having a preferred brand but regularly or occasionally purchasing alternative brands.[22] This suggests that consumers are not solely driven by price and that brand preferences continue to play an important role in purchasing decisions, even where consumers are willing to switch between brands.

The survey also found that consumers associate different canned tomato brands with different attributes which would influence purchasing decisions along with price.[23] These findings indicate that consumer purchasing decisions are influenced by perceptions of quality, flavour, origin and brand reputation, in addition to price.

The commission further notes that if this market was entirely driven by price, it would not be possible to have sustained large differences between Italian import and domestic prices.

Accordingly, while price is likely to have been an important driver of competition during the investigation period, consumer preferences relating to flavour, quality, brand reputation and country of origin are also likely to have influenced purchasing decisions. The commission therefore considers that consumer preferences are a relevant other factor that would have affected the performance of the Australian industry independently of any effects arising from dumped or subsidised imports. The commission notes that, under section 269TAE(2A), for the purposes of a material injury determination, any injury caused by a factor other than exportation of the goods must not be attributed to the exportation of those goods.

Frontier Economics' report queried whether the other injury factors, including consumer preference, had changed over the period such that they could explain the observed injury. Frontier Economics observed that, absent evidence of a material change in consumer preferences during the investigation period, these preferences are more appropriately understood as part of the market conditions within which dumping and subsidisation occurred rather than as a separate explanation for the deterioration in Australian industry performance.[24] For the purposes of this inquiry, the commission has not identified any information to indicate that there had been a significant change in consumer preferences during or immediately before the investigation period.[25]

Having had regard to SPC's consumer study and the evidence from the supermarkets referenced in REP 654, the commission continues to find that consumer preferences are a relevant other factor, with some consumers preferring canned tomatoes of an Italian origin based on flavour preferences and origin.

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[22] See p 28 of SPC Consumer Research Study.

[23] See pp 30–31 of SPC Consumer Research Study.

[24] Attachment A - Frontier Economics report, pp 37-38.

[25] ANICAV in its submission to the ADRP stated that Australian consumers progressively changed their habits and now favour Italian products. No evidence was submitted by ANICAV to support that any change occurred during either the investigation period or injury analysis period.

The commission preliminarily finds in relation to consumer preferences that:

- While price is an important factor influencing purchasing decisions, it is not the sole determinant of consumer behaviour. Consumers balance price against non-price preferences when assessing the value offered by competing products.
- Non-price consumer preferences form part of the market context within which the dumping and subsidisation occurred and therefore form part of the context in which injury was experienced by the Australian industry.
- While non-price consumer preferences do not provide a sufficiently independent explanation for the price depression, price suppression, or deterioration in sales volumes and market share experienced by the Australian industry during the investigation period, they remain relevant to the assessment of injury and materiality because they influence competitive outcomes and purchasing decisions within the market.

4 ASSESSMENT OF INJURY CAUSED BY DUMPING AND SUBSIDISATION

4.1 Preliminary finding

For the purposes of assessing the likely degree of injury caused by the dumped and subsidised goods, the commission undertook a 'but for' counterfactual analysis. The ‘but for’ counterfactual analysis compared the state of the industry during the investigation period to the state the industry would likely have been in if there had been no dumping and/or subsidisation of Italian imports.

On reinvestigation, the commission preliminarily finds that:

In relation to sales prices:

- In the absence of Italian imports to Australia being at dumped and subsidised prices, Italian prices in the Australian market would, on a weighted average basis, likely have been on average 3.3% higher.[26]
- In those circumstances, the Australian industry would likely have achieved higher prices in the Australian market. The upper bound of any such price increase would be on average 3.3%[27], reflecting a scenario in which the Australian industry was able to fully pass through the increase in Italian prices.
- Whilst there is a reasonable level of price co-movement between imported and Australian industry prices, the commission does not consider that the Australian industry would have achieved a full pass-through of the increase in Italian prices absent dumping and subsidisation. The Australian canned tomato market is characterised by ongoing competition between suppliers and significant buyer power among major retailers. In addition, the Australian industry's prices remained substantially higher than Italian import prices throughout the investigation period even after removing the impact of dumping and subsidisation. These factors would be expected to constrain the extent to which the Australian industry could increase its prices.
- Accordingly, while the Australian industry would likely have achieved higher prices in the absence of the dumped and subsidised imports, the commission considers that the actual increase would likely have been less than the estimated average upper bound of 3.3%[28] of the remedied Italian price.
- Whilst the commission considers that the pass-through impact would likely be less than full, the commission has calculated full pass through to assess the maximum extent of any price injury that may have occurred from dumped and

[26] Or 3.6% on average higher with negligible subsidy margins included. As noted in chapter 4.5.1 REP 654 assessed a remedied price that included negligible subsidy margins. For the reinvestigation, the commission revised the remedied price calculations to assess both a scenario excluding negligible subsidy margins and a scenario including negligible subsidy margins. The commission considers the non-inclusion approach to be more consistent with the commission’s practices. However, the REP 654 approach has also been retained to enable comparison with the methodology adopted in REP 654

[27] Or 3.6% on average higher with negligible subsidy margins included.

[28] ibid.

subsidised Italian imports. Consideration of less than full pass through is further considered in chapter 5 in the commission's materiality assessment.

- As a result of this analysis, the commission is satisfied that imports of dumped and subsidised goods from Italy caused price injury to Australian industry in the form of price suppression, price depression, reduced revenue, reduced profit and reduced profitability. The materiality of this injury is considered in chapter 5 of this report.

<u>In relation to sales volumes:</u>

- The commission has amended its assessment of the market with respect to sales volumes. On reinvestigation, the commission now preliminarily finds that:
    - The Australian market for the goods was relatively stable over the injury analysis period, aside from a decrease during the year ended September 2023. Overall, the market did not exhibit any material growth or contraction between October 2020 and September 2024.
    - Australian industry sales volumes and market share declined over the injury analysis period, including during the investigation period. In contrast, Italian import volumes and market share increased over the same period, including during the investigation period.
    - The entry of Simplot into the market in May 2024 increased competition between domestic producers. As an upper-bound estimate, the commission preliminarily finds that Simplot's entry may have accounted for up to 20% of the sales volume injury experienced by SPC during the investigation period.
- While the commission has found that Australian industry sales volumes declined during a period in which Italian import volumes increased, the available evidence does not reliably support a conclusion that dumped and subsidised imports contributed to the observed volume injury. Accordingly, for the purposes of the counterfactual assessment, the commission preliminarily considers that the Australian industry would not likely have achieved higher sales volumes in the absence of dumped and subsidised imports from Italy.
- The available evidence indicates that Australian industry and importer prices generally moved together, and the relative price gap between Australian industry and import prices remained broadly stable in the investigation period and narrowed over the injury analysis period. This does not support a price-volume displacement effect.
- Accordingly, the commission preliminarily finds that any injury resulting from dumped and subsidised imports from Italy is likely to have arisen through price effects and that there is insufficient evidence to establish a separate volume displacement effect in the counterfactual assessment resulting from a widening of the relative price gap.
- Therefore, the commission is not satisfied that there is sufficient evidence to establish a causal link between the identified Australian volume injury and the dumped and subsidised prices of Italian imports.
- Noting that the commission has not made a counterfactual finding of volume injury, the commission considers it unnecessary to adjust the counterfactual assessment to account for the elasticity of demand for volume effects. The assessment is confined to the direct price effects of dumping and subsidisation,

and does not depend on assumptions regarding the extent to which changes in prices would have altered sales volumes.

Injury to Australian industry

- The commission is satisfied that imports of dumped and subsidised Italian caused price injury to Australian industry in the form of price suppression, price depression, reduced revenue, reduced profit and reduced profitability.
- The materiality of this injury is considered in chapter 5 of this report.

4.2 Grounds of review and reinvestigation request

4.2.1 Materiality of dumping and subsidisation causing injury and the “remedied price analysis”

In requesting the commission to reinvestigate the material injury finding, the ADRP indicated that the correct analytical approach was to assess whether the dumping and subsidisation had caused material injury in its own right. That is, whether that “additional injury” caused by the dumping and subsidisation, separated from the Italian producers’ competitive advantage and the other injury factors, was material.

The ADRP further noted that:

- It was not disputed by SPC that the Italian producers had a competitive advantage.
- That competitive advantage does not generally ‘negate causation’ and does not preclude a finding of material injury from dumping. Even where exporters have a competitive advantage, there can be “additional injury” caused by dumping, and that the “correct analytical approach is to assess whether the dumping has caused material injury in its own right”. Circumstances of competitive advantage have not prevented the commission from finding material injury and recommending measures in previous investigations.
- The portion of the price gap attributable to competitive advantage may well be a factor that is relevant to the overall analysis that is required. However, such a focus appears to have detracted from the “correct analytical approach … to assess whether the dumping has caused material injury in its own right” in REP 654.
- The remedied price analysis in REP 654 was a useful analytical tool to distinguish the injury attributable to dumping from that of competitive advantage (and possibly also from other factors being considered). However, it has its limitations in taking the analysis further to determine, in a quantitative way, whether the injury attributed to dumping was material.
- There appeared not to be any comprehensive analysis of the “additional injury” caused by dumping, and to what extent the injury would be ameliorated by the imposition of dumping measures. The commission’s analytical approach (or lack thereof) in REP 654 to the identified additional injury caused by the dumping forms the basis of the reinvestigation.
- The expectation was to see more quantitative and/or qualitative analysis and reasoned conclusions backed by evidence and data, rather than the generalised conclusionary statements in REP 654.

The ADRP specified that the ADC should consider alternative methodologies and analytical tools in order to reach a determination, supported by facts and reasoned conclusion, as to whether the “additional injury” caused by the dumped imports is material.

The ADRP further noted that it could not direct the commission to undertake a counterfactual assessment and that methods or approaches are not prescribed by the Act, the Material Injury Direction or the WTO Anti-Dumping Agreement. However, whatever approach was adopted should be able to appropriately separate and distinguish the injurious effects of the dumped imports from the injurious effects of the other factors.

4.3 Reassessment of injury caused by dumped and subsidised goods

For the purposes of assessing the additional injury attributable to dumping and subsidisation the commission undertook a ‘but for’ counterfactual analysis. This analysis compared the condition of the Australian industry during the investigation period with the condition it would likely have experienced in the absence of dumping and subsidisation.

This analysis included assessments both including and excluding de minimis subsidy margins. REP 654 assessed a remedied price that included negligible subsidy margins. For the reinvestigation, the commission revised the remedied price calculations to assess both a scenario excluding negligible subsidy margins and a scenario including negligible subsidy margins. The commission considers the non-inclusion approach to be more consistent with the commission’s practices. However, the REP 654 approach has also been retained to enable comparison with the methodology adopted in REP 654.

This chapter sets out:

- the commission's approach to the counterfactual analysis, including its assessment of market conditions relevant to that analysis (chapter 4.4)
- the counterfactual assessment of price effects (chapter 4.5)
- the counterfactual assessment of volume effects (chapter 4.6) and
- the commission's assessment of the extent of any injury attributable to dumping and subsidisation arising from the counterfactual analysis (chapter 4.7).

4.4 Approach to counterfactual analysis and assessment of market

4.4.1 Basis for completing a counterfactual assessment

REP 654 found that several factors in addition to dumping and subsidisation contributed to the injury experienced by the Australian industry. These factors included the competitive advantages of Italian producers, increasing competition among Australian industry members, rising raw material costs faced by the Australian industry,[29] and a

[29] As noted in chapter 3, the commission now considers the increased raw material costs as being part of Italian producers’ competitive advantage other injury factor.

preference among some consumers for Italian products based on perceived flavour characteristics and country of origin.

Section 269TAE outlines the requirements for determining whether material injury to an Australian industry is caused by dumping and/or subsidisation. The Act envisages that causation is examined through the links between the volume and prices of dumped and/or subsidised goods and their effect on prices in the Australian market and the consequent impact on the Australian industry. The Act does not prescribe any particular causation methodology. Rather, causation involves a holistic evaluation of all available evidence.

The Ministerial Direction on Material Injury[30] specifies that dumping or subsidisation need not be the sole cause of the injury, however, injury caused by other factors must not be attributed to dumping or subsidisation. Section 269TAE(2A) further requires that consideration must be given to whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of the relevant goods.

In light of the Ministerial Direction, the requirements of 269TAE(2A) and the several factors contributing to injury, the commission considers that a comparison of the state of the Australian industry during the investigation period with its state in a prior period is not sufficient, on its own, to identify and isolate the additional injury attributable to dumping and subsidisation. Accordingly, the commission has adopted a 'but for' counterfactual, analytical framework to examine causation and assess the materiality of the injury attributable to the effects of dumping and subsidisation.[31] Under this approach, the commission has compared the state of the Australian industry during the investigation period with the state in which the industry would likely have been if Italian imports had not been exported at dumped and subsidised prices. The assessment has sought to evaluate the impact on both Australian industry's sales prices, sales volumes and any flow through effect on revenue and profit.

As noted earlier, the commission engaged Frontier Economics to review the injury assessment contained in REP 654 and provide advice on potential extensions to the analytical framework adopted in REP 654. Where relevant, this advice has been incorporated into the commission's counterfactual assessment.

4.4.2 Isolating the impact of other injury factors from the counterfactual assessment

The commission considers that the counterfactual methodology provides a reasonable basis for isolating injury attributable to dumping and subsidisation from injury attributable

[30] See Ministerial Direction on Material Injury, published with Australian Customs Services Notice 2012/24 on 1 June 2012.

[31] The commission's Dumping and Subsidy Manual (December 2021) at Chapter 22 (pp 99–103) specifies, in part, that causation may be examined using a 'coincidence' analysis or using a 'but for' counterfactual analytical method and that causation is most commonly examined by using a 'coincidence' analysis. Where no coincidence has been found, or a 'coincidence analysis' has not been possible, the commission may accept an alternate analytical method, such as a 'but for' counterfactual analysis, when examining causation.

to other factors, including Italian producers' competitive advantages, changes in domestic competitive conditions, and consumer preferences. Specifically:

- Competitive advantage inclusive of increasing raw material costs

  The counterfactual analysis assesses the likely state of the Australian industry in the absence of dumping and subsidisation, rather than in the absence of the competitive advantages enjoyed by Italian exporters. Accordingly, the analysis removes only the price advantage arising from exports at dumped and subsidised prices. Any injury attributable to the underlying competitive advantages of Italian exporters is therefore excluded from the assessment of injury caused by dumped and subsidised imports.

  However, the commission recognises that, even in the absence of dumping and subsidisation, Italian exporters would likely have retained a price advantage arising from those competitive advantages. Consequently, while Australian industry prices would likely have increased in the counterfactual scenario, the continuing presence of competitively priced Italian imports would have constrained the extent to which Australian producers could increase prices. This is one reason the commission does not consider that any increase in Italian import prices would have been fully passed through to Australian industry prices.

- Domestic competition

  The commission's analysis indicates that Italian import prices remained below the prices of all Australian industry producers throughout the investigation period. Accordingly, the commission considers that the price advantage associated with dumped and subsidised imports affected all members of the Australian industry. The counterfactual price analysis therefore provides an appropriate basis for assessing the effects of dumped and subsidised imports on the economic condition of the Australian industry as a whole, while distinguishing those effects from competition between domestic producers.

- Consumer preferences

  The commission considers that consumer preferences regarding flavour and origin have been a longstanding feature of the Australian market. No evidence indicates that those preferences changed materially during the investigation period. As a result, consumer preferences are treated as a constant factor in the counterfactual analysis. Any material changes in the performance of the Australian industry are therefore less likely to reflect changes in consumer preferences and more likely to reflect changes in other competitive conditions, including the effects of dumped and subsidised imports.

The commission therefore considers that the counterfactual methodology provides a reasonable basis for assessing the extent to which dumping and subsidisation contributed to the injury experienced by the Australian industry, while excluding injury attributable to other factors.

4.4.3 Assessment of the competitive conditions in the Australian market during the investigation period

Subject to the amendments outlined in Appendix A, the commission has considered the following findings in REP 654 in completing the counterfactual analysis:[32]

Market structure

- Australian industry and imports from Italy supply the vast majority of the Australian market for prepared or preserved tomatoes. A small proportion of the market is supplied by imports from other countries. Italian imports accounted for approximately 77% of the supply into the Australian market during the investigation period. Australian industry accounted for about 21% of the market.[33]
- Italian imports increased in both volume and market share over the injury period, while Australian industry volumes and market share declined.[34]
- The Australian market is segmented by product price tiers (low, mid and premium). The low tier is generally occupied by the supermarket own-brand/private-label products whereas proprietary (manufacturer-branded) products typically occupy the mid and premium tiers. Most sales occur in the mid-tier segment while premium products account for a smaller share of the market. Both Australian industry and Italian imports supply all 3 price tiers.[35]
- Subject to the preliminary findings in this report concerning consumer preferences, Australian-produced and Italian-produced prepared or preserved tomatoes are substitutable products with identical end uses.[36]

Market pricing

The commission compared Australian industry prices with imported Italian prices on a free-into-store (FIS) basis at the wholesale level and found that:

- Italian imports undercut Australian industry prices in every quarter of the investigation period on an all-products basis.[37]
- In the mid-tier segment, Italian products undercut Australian industry prices by 21% to 26% in every quarter.
- In the premium segment, Italian products undercut Australian industry prices in three of the four quarters by 21% to 24%, although Australian industry prices were lower in one quarter due to promotional discounting.

[32] As part of the reinvestigation, the commission reviewed the analysis undertaken in the original investigation relevant to the grounds raised in the ADRP's reinvestigation request. This review resulted in amendments to price undercutting analysis, Australian industry's profit and profitability assessments, and Simplot's sales volume assessments. Details of these amendments are included in Appendix A to this preliminary report.
[33] EPR, document no 47, p 62. Note figures updated. See Appendix A.
[34] EPR, document no 47, p 61. Note figures updated. See Appendix A.
[35] EPR, document no 47, pp 51–55.
[36] EPR, document no 47, p 50.
[37] EPR, document no 47, pp 101–106.

- At the product-specific level, the imported equivalent of SPC's largest-selling model undercut SPC's prices by between 23% and 33% during the investigation period.

The commission also examined retail prices paid by consumers and found that Italian products were consistently priced below Australian products.[38]

It was further noted that much of the low pricing by Italian exporters appeared to be driven by competition amongst Italian suppliers themselves rather than direct competition with Australian producers.[39]

The commission understands that, although Australian and Italian tomatoes are typically purchased through separate tenders and procurement processes, suppliers still compete on price because purchasers consider alternative products available in the market.[40]

Market demand

- Australian supermarkets are the primary customers for prepared or preserved tomatoes, making up 86% of the market. The purchasing decisions of the supermarkets are shaped by considerations of price and supply reliability, as well as the preferences of consumers (i.e. supermarket customers). [41]
- Consumer preferences are driven by a combination of price, flavour preferences and origin. Australian supermarkets advised that Italian tomatoes are generally perceived by consumers as having superior flavour, sweetness and quality. At the same time, there remains a segment of consumers that prefers Australian-made products. The commission found that purchasing decisions represent a balance between these factors, with consumers assessing overall value rather than price alone. [42]
- Overall demand for the goods is relatively inelastic given the goods are considered a staple item. However, within the goods category there is cross elasticity. Analysis of pricing and volume at the retail level identified that the volume of sales increased in response to promotional activities where prices were lowered, indicating that consumer behaviour is responsive to price.[43]
- While price is an important factor, it is not the only factor upon which purchasing decisions are made. Consumers will balance their non-price preferences (flavour and origin) against the price on which products are offered, to determine whether a given product provides 'value' to that consumer.[44]
- Findings in an Australian Competition and Consumer Commission inquiry into Australian supermarkets found promotional funding from suppliers directly contributes to supermarket margins, and supermarkets use their bargaining power to extract such funding, especially when negotiating cost price increases. This

[38] EPR, document no 47, pp 106–108.
[39] EPR, document no 47, pp 96 and 107.
[40] EPR, document no 47, p 59.
[41] EPR, document no 47, p 51.
[42] EPR, document no 47, pp 51, 56.
[43] EPR, document no 47, pp 112–113.
[44] EPR, document no 47, p 132.

reflects the broader power imbalance in supplier relationships, where suppliers may feel pressured to accept unfavourable terms to maintain or access shelf presence.[45]

Market supply

- Australian industry members SPC, Safcol and Simplot supply the Australian market. The entry of Simplot into the market during the investigation period introduced additional domestic competition, contributing to shifting sales volumes and increased competitive pressure within the Australian industry.[46]
- A larger range of Italian exporters supply the Australian market.
- Australian supermarkets manage supply risk when selecting suppliers, typically sourcing supply from a range of Australian industry and Italian suppliers.[47]
- Australian supply is more vulnerable to weather events and flooding. Australian producers possessed unused production capacity and could increase output if customer demand increased. REP 654 found that reduced Australian volumes were driven more by lower demand than by domestic supply constraints.[48]
- Italian producers benefit from significant economies of scale and lower production costs, allowing them to supply products at lower prices than Australian producers, even after adjusting for dumping and subsidisation.[49]

4.5 Counterfactual assessment of price effects

The commission has preliminarily found that a causal link exists between the identified price injury and the prices of dumped and subsidised imports from Italy.

Accordingly, for the purposes of the counterfactual assessment, the commission preliminarily finds that the Australian industry would likely have achieved higher sales prices in the absence of dumping and subsidisation. The commission assessed the prices at which Italian imports would likely have been sold in the Australian market absent dumping and subsidisation, and the extent to which any resulting increase in Italian prices would likely have flowed through to Australian industry prices.

4.5.1 Assessment of likely Italian import prices in the absence of dumping and subsidisation

The commission considers that the remedied price analysis in REP 654 provides a basis for assessing the likely Free into Store (FIS) price of Italian imports in the absence of dumping and subsidisation.

For the purposes of the reinvestigation, the commission amended the remedied price analysis in REP 654. Details of these amendments are included in Appendix A of this report. Under the amended analysis, the commission calculated a remedied Italian price

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45 EPR, document no 47, p 51.
46 The commission's assessment of the impact of Simplot's entry into the market has been reassessed as part of this reinvestigation. This reassessment is discussed at chapter 3.3.2.
47 EPR, document no 47, p 51.
48 EPR, document no 47, pp 51 and 134.
49 EPR, document no 47, pp 51 and 134.

by adjusting export prices to remove the effects of dumping and subsidisation. Specifically, the commission:

- increased the quarterly Italian free-on-board (FOB) export price by the applicable dumping and subsidy margins[50]
- added an amount for import-related costs, based on verified information provided by cooperating importers and exporters
- added an amount for the additional customs duty payable on the uplifted import value.

The commission weighted the remedied prices for cooperating, residual and uncooperative exporters by their respective import volumes during the investigation period to derive a weighted average remedied Italian import price. The effective uplift applied to Italian FIS prices in each quarter of the investigation period is shown in Table 1.

REP 654 assessed a remedied price that included negligible subsidy margins. For the reinvestigation, the commission revised the remedied price calculations to assess both a scenario excluding negligible subsidy margins and a scenario including negligible subsidy margins. The commission considers the non-inclusion approach to be more consistent with the commission's practices. However, the REP 654 approach has also been retained to enable comparison with the methodology adopted in REP 654.

	Dec-23	Mar-24	Jun-24	Sep-24	Average
Excluding negligible subsidy margins	3.2%	3.1%	3.1%	3.7%	3.3%[51]
Including negligible subsidy margins	3.5%	3.4%	3.5%	4.0%	3.6%

Table 1: Italian Import price injury price uplift

The resulting remedied price represents the expected weighted average FIS price at which Italian imports would have been sold in Australia had they not been dumped or subsidised.

[50] For the purposes of determining dumping and subsidy margins, the commission calculates a single dumping margin and subsidy margin for each exporter. Separate margins are not calculated for individual product types or subcategories exported by that exporter. Consistent with this approach, the commission has applied the relevant exporter-specific dumping and subsidy margins when calculating the counterfactual import prices.
The commission further considers that, while products may be sold at different price tiers, the relative pricing differentials between those tiers would likely remain broadly consistent under the counterfactual scenario. Accordingly, applying a uniform uplift across all product tiers preserves the existing price relationships between products while reflecting the estimated effect of removing dumping and subsidisation.
[51] The commission weighted the remedied prices for cooperating, residual and uncooperative exporters by their respective import volumes during the investigation period to derive a weighted average remedied Italian import price. The average for the POI was calculated as a simple average of the quarterly uplift figures.

The commission is satisfied that, in the absence of Italian imports being at dumped and subsidised prices, Italian prices in the Australian market would, on a weighted average basis, likely have been on average 3.3% (or 3.6% with negligible subsidy margins) higher.

4.5.2 Assessment of likely Australian industry prices in the absence of dumped and subsidised imports from Italy

As noted above, in the absence of Italian imports being exported to Australia at dumped and subsidised prices, Italian prices in the Australian market would likely have been on average 3.3%[52] higher on a weighted average basis.

In those circumstances, the commission considers that the Australian industry would likely have achieved higher prices in the Australian market. The upper bound of any such increase would be 3.3%[53], reflecting a scenario in which the Australian industry was able to fully pass through the increase in Italian prices to its customers.

While the Australian industry would likely have achieved higher prices in the absence of the dumped and subsidised imports, the commission considers that the actual increase would likely have been less than the estimated average upper bound of 3.3%[54] of the remedied Italian price.

Analysis

To assess the likely impact of higher Italian prices, Frontier Economics and the commission assessed the prices of Australian industry and importers.

Frontier Economics analysed the log difference between SPC's wholesale prices and the customs values of Italian imports during the investigation period. The findings of Frontier Economics' analysis are detailed in its report at **Attachment A**. Frontier Economics observed that while importers consistently priced below SPC across all customers, the magnitude of that discount remained relatively stable over time. This suggested that price pressure from imports did not intensify materially over the investigation period.[55] Figure 3 reflects Frontier Economics analysis.

52 Or 3.6% including negligible subsidy margins.
53 ibid.
54 ibid.
55 Attachment A - Frontier Economics report, p 30.

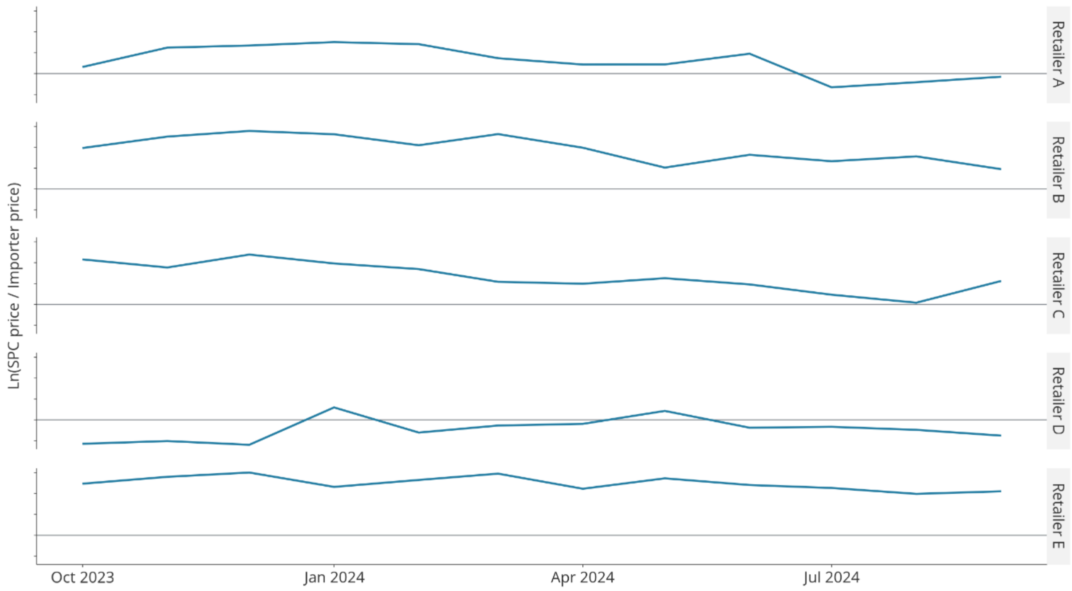

Figure 3 Relative price differential between importers and SPC in log terms by customer[56]

The commission further extended Frontier Economics' analysis using additional SPC sales data and Australian Border Force import customs value amounts covering the full injury analysis period. The commission also further assessed prices using the value of taxable importation (VOTI) amount, which provides a more comparable import benchmark by incorporating relevant costs incurred in bringing the goods to the Australian border.

The extended analysis indicates that SPC's price premium relative to Italian imports narrowed over the injury period. Using the VOTI-based measure, SPC's estimated premium declined from approximately 52% in the year ending September 2021 to 18% in the year ending September 2023, before increasing to approximately 26% in the year ending September 2024. The customs-value measure produces a similar pattern, although at a higher level. The decline was particularly pronounced from late 2022 to mid-2023, but the fitted trend over the full injury period was also downward. The commission considers that this analysis evidences that the relative price difference between Italian import prices and Australian industry prices has narrowed over the longer injury analysis period.

56 Figure 3 is a copy of Figure 9 from Frontier Economics' report.

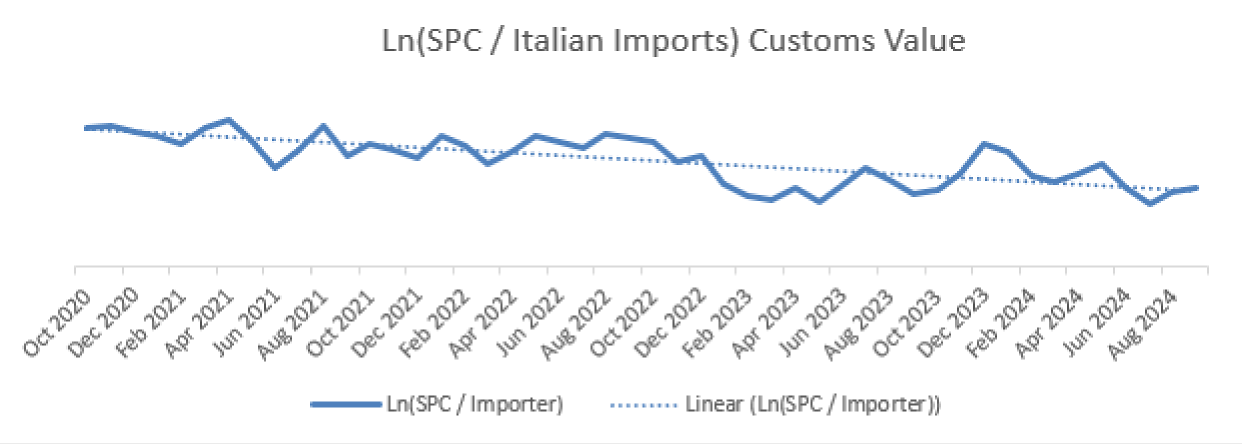

Figure 4: Ln(SPC / Italian Imports) Customs Value

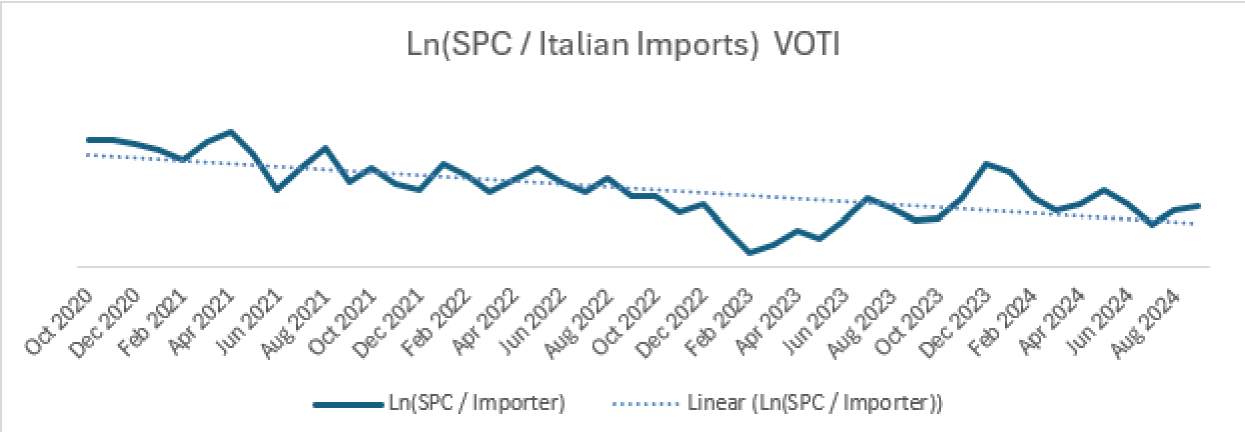

Figure 5: Ln(SPC / Italian Imports) VOTI

The commission also examined this trend on an importer-retailer level. This confirmed that the narrowing was not confined to some retailers. Retailer-specific comparisons show a downward trend for the 4 major retailers, although the magnitude and timing varied between the retailers. This broader pattern reduces the likelihood that the aggregate result was driven solely by changes affecting one retailer.

Whilst the analysis does not establish the specific causes of the narrowing, the reduction in the relative price differential suggests that SPC's prices became closer to import prices over the period between October 2020 to September 2024. Accordingly, while higher Italian prices would likely have enabled SPC to achieve higher prices, the analysis does not support a full pass-through assumption. Rather, it suggests SPC may have needed to narrow its price differential to Italian imports over the injury analysis period.

The estimated 3.3% increase[57] in Italian prices should therefore be regarded as an upper-bound estimate of the likely increase in Australian industry prices.

The commission's calculations supporting its analysis are included in **Confidential Attachment 4 - Frontier Economics analysis extension**.

Noting the commission's finding in REP 654 that Italian suppliers retained a substantial price advantage over Australian producers even after adjusting for dumping and subsidisation, the commission considers that this also indicates that it is unlikely that the Australian industry would have been able to obtain the full benefit of the increase in the remedied price.

The commission further notes that the primary customers of both the Australian industry and Italian exporters are the major Australian supermarket retailers. REP 654 found that these supermarkets possess significant buyer power and that their procurement processes, particularly for own-brand products, place a strong emphasis on minimising procurement costs. As a consequence, suppliers operate in a highly competitive environment when negotiating supply prices. This would likely further constrain the ability of Australian industry to increase prices to the full extent of the counterfactual price assessment.

The European Commission in its submission to the ADRP references that 'the counterfactual analysis in the Statement of Essential Facts (SEF) 654 suggests that absent Italian imports, Australian producers might achieve higher prices, remains speculative and is not supported by observed market behaviour'. [58] The commission's assessment for the reinvestigation indicates that Australian industry would have achieved higher prices absent the dumping and subsidisation of Italian imports. The commission's and Frontier Economics' price analysis had identified a reasonable degree of co-price movement which is indicative that Australian industry's prices would likely increase if Italian prices increased. Further, the commission's analysis in this PRR and in REP 654 identify a range of competitive factors evidencing Italian import prices influence on Australian industry's prices. In combination, this evidence indicates that absent dumping and subsidisation, higher Italian import prices would have enabled Australian industry to achieve higher prices, however, that price increase would not likely be a full pass through.

Consequently, any increase in Australian industry prices would likely have been lower than the 3.3% increase[59] in the remedied Italian prices, reflecting the continued competitive pressure exerted by Italian suppliers and the bargaining strength of major supermarket retailers.

The commission further notes that Frontier Economics' report made a similar assessment, commenting that:

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[57] Or 3.6% including negligible subsidy margins

[58] European Commission, Submission by the European Commission to the Anti-Dumping Review Panel, 10 April 2026, p 8. The ANICAV makes a similar claim in its submission to the ADRP (see section 3.6 of ANICAV's submission).

[59] Or 3.6% including negligible subsidy margins.

> *"The extent to which the remedied price feeds through to SPC's price depends on whether SPC can raise its own selling price to retailers by a corresponding amount. Because SPC sells to a small number of large retailers, those buyers have bargaining power and may resist part of any such increase, so SPC may recover less than the full margin in its wholesale prices. Some pass-through into SPC's wholesale prices would nonetheless be expected. The effect on SPC's prices, and in turn on its volumes and profitability, is therefore likely to be smaller…."*[60]

Whilst the commission considers that any pass-through of increased Italian import prices would likely be less than full, the commission has calculated full pass-through for the purposes of its injury analysis. This approach enables the commission to assess the maximum potential extent of any price injury that may have resulted from dumped and subsidised imports. Accordingly, the resulting estimates should be regarded as representing an upper-bound assessment of potential price effects. In assessing the materiality of any price injury, the commission has taken into consideration the likely less than full pass through. This is discussed in chapter 5.

4.6 Counterfactual assessment of volume effects

The commission has preliminarily found that a correlation exists between the decline in Australian industry sales volumes and the increase in Italian import volumes. However, there is insufficient evidence to establish a causal link between the volume injury experienced by the Australian industry and the identified dumping and/or subsidisation of goods imported from Italy.

Accordingly, for the purposes of the counterfactual assessment, the commission preliminarily finds that the Australian industry would not likely have achieved higher sales volumes in the absence of dumped and subsidised imports from Italy.

4.6.1 Revised sales volume and market share findings

The commission revised the volume analysis contained in REP 654 following a reassessment of Simplot's sales volumes. Further details regarding the reassessment of Simplot's sales volumes and its impact on the volume analysis are set out in chapter 3.3.2 and Appendix A of this report.

The analysis below reflects the commission's revised assessment of volume trends over the injury analysis period.

<u>Sales volume</u>

Aside from a decline in the year ended September 2023, the size of the Australian market for the goods remained relatively stable throughout the injury analysis period and did not exhibit any sustained growth or contraction. Over the same period, Australian industry sales volumes declined, while imports from Italy increased. Although import volumes from

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60 Attachment A - Frontier Economics report, p 40.

other countries increased in the investigation period, they remained immaterial in volume terms. These trends are illustrated in Figure 6 and Table 2.

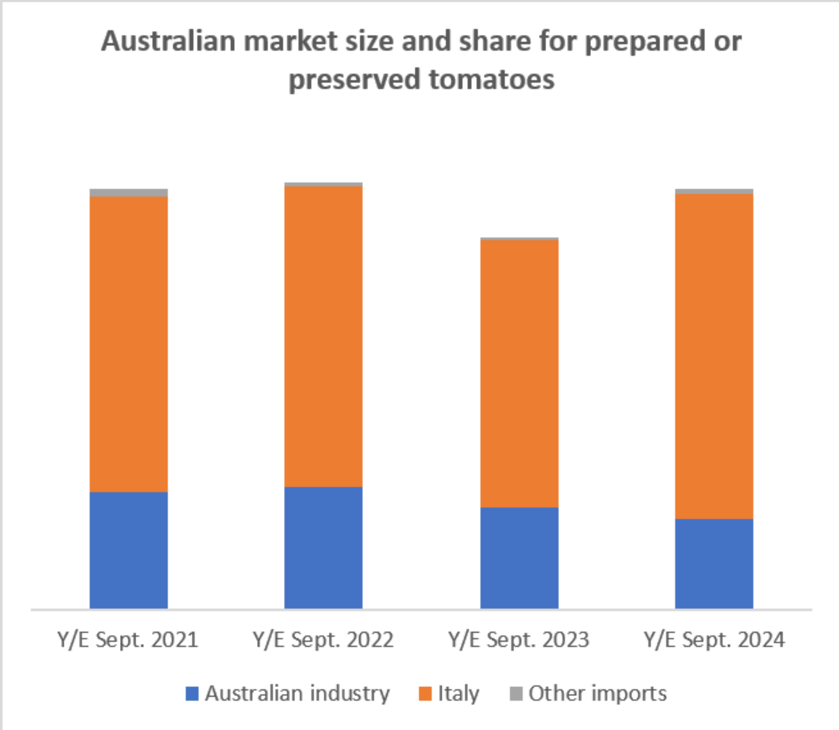

Figure 6: Australian market size for prepared or preserved tomatoes

	Y/E Sept 2021	Y/E Sept 2022	Y/E Sept 2023	Y/E Sept 2024
Australian market	*100*	102	89	100
Australian industry	100	104	87	76
Italian imports	100	102	90	110
Other imports	100	41	52	82

Table 2 Australian market size for prepared or preserved tomatoes

Market share

In relation to market share, Australian industry's share of the market declined over the injury analysis period, while Italian imports increased their market share. Throughout the investigation period, Italian imports held a larger share of the market than the Australian industry. Imports from other countries accounted for only an immaterial share of the market over the injury analysis period. These trends are reflected in Table 3.

	Y/E Sept 2021	Y/E Sept 2022	Y/E Sept 2023	Y/E Sept 2024
Australian industry	28%	29%	27%	21%
Italian imports	70%	70%	71%	77%
Other imports	2%	1%	1%	1%
Total market	100%	100%	100%	100%

Table 3: **Australian market size for prepared or preserved tomatoes**

Proportion of imports dumped

As noted in REP 654, imports from exporters found to have dumped goods accounted for approximately 91% of total imports during the investigation period. Figure 7 shows that, since October 2020, both the volume and market share of Australian industry sales and undumped imports have declined. Conversely, the volume and market share of imports from exporters found to have exported dumped and subsidised goods from Italy to Australia increased over the same period. The increase in dumped and subsidised imports was therefore associated with a corresponding reduction in the market presence of both Australian industry sales and undumped imports.[61]

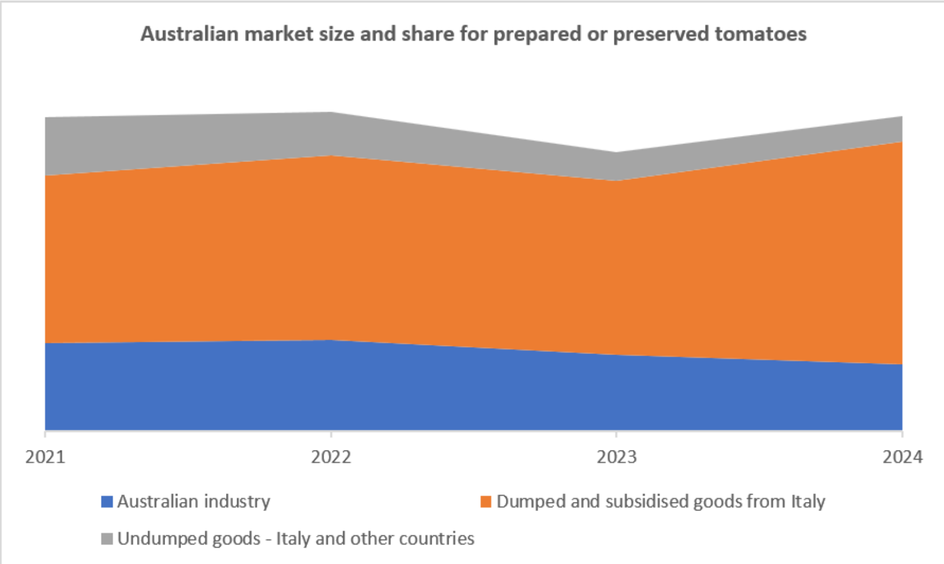

Figure 7: *Revised* Australian market size and share for prepared or preserved tomatoes, year ending September

4.6.2 Causal link between volume injury and dumped and subsidised import prices not established

While the commission has identified a correlation between the decline in Australian industry sales volumes and the increase in imports from Italy, it is not preliminarily satisfied that the available evidence establishes a causal link between the reduction in Australian industry sales volumes and the identified dumping and subsidisation of exports from Italy.

The commission preliminarily finds that there is no clear evidence of a price-volume mechanism between Italian import prices and Australian industry prices over the period analysed that would explain the decline in Australian industry sales volumes observed during the investigation period. The analysis by Frontier Economics and the extensions to that analysis completed by the commission suggests that any injury caused by dumping and subsidisation is more likely to have arisen through price effects than through a separate volume-displacement effect.

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[61] The commission cannot confirm whether goods from these entities were dumped or subsidised prior to the investigation period.

Accordingly, the commission preliminarily finds that there is insufficient evidence to conclude that the identified dumping and subsidisation contributed to the volume injury experienced by the Australian industry during the investigation period.

For the purposes of the counterfactual assessment, the commission therefore preliminarily finds that the Australian industry would not likely have achieved higher sales volumes in the absence of dumped and subsidised imports from Italy.

Commission's assessment

REP 654 observed that the goods are a staple item and, as such, changes in the overall market price of the goods were unlikely to result in significant changes in the total volume of prepared or preserved tomatoes consumed.[62] However, within the market for the goods, the commission considers that consumers exhibit some degree of price responsiveness, notwithstanding that demand is not perfectly elastic.

As also noted in REP 654, the commission's analysis of retail pricing and sales volumes indicated that sales volumes generally increased during promotional periods in which prices were reduced. This suggests that consumer purchasing behaviour is responsive to price and that relative price differences may influence the allocation of sales between competing products and suppliers.[63]

Frontier Economics similarly observed that it is important to distinguish between the price elasticity of demand for the product category as a whole and the elasticity of substitution between competing brands or origins. While overall demand for prepared or preserved tomatoes may be relatively insensitive to price, switching between SPC, other domestic brands and Italian imports may be considerably more responsive to relatively small differences in price. Frontier Economics further observed that, where imported and domestic products are regarded as close substitutes, even a relatively small dumping-related price advantage may result in a materially larger loss of sales volume for domestic producers. However, Frontier Economics also noted that higher elasticities would ordinarily be expected to result in greater price matching, rather than producers accepting the decline of sales volumes.[64]

The commission considers that the existence of price responsiveness does not, of itself, establish that the identified dumping and subsidisation caused the decline in Australian industry sales volumes observed during the investigation period. Rather, it is necessary to examine whether movements in prices of Italian imports and Australian industry products were consistent with the dumping and subsidisation causing a volume-displacement effect.

Frontier Economics advised that relative-price testing could assist in distinguishing a volume-displacement mechanism from a price-suppression mechanism. In particular, Frontier Economics observed that where domestic and import prices moved in parallel, that may point more naturally to a price suppression mechanism, in which import prices

[62] EPR 654, document no 47, p 112.
[63] ibid.
[64] Attachment A - Frontier Economics report, p 28.

constrain domestic prices.[65] Frontier Economics also noted that it would be expected that higher elasticities would be associated with greater price matching – that is, rather than accept the volume decline, a firm would rationally lower prices to match the dumped price.[66] The commission notes that Frontier Economics' assessment is broadly consistent with the commission's understanding of the price and volume negotiations with the major retailers where Australian industry will seek to balance negotiations on both price with the contracted supply volume.[67]

Frontier Economics examined price indices (volume weighted) for SPC and the importers, separated by customer (Aldi, Woolworths, Coles, Metcash and Other) across the investigation period.[68] They observed that:

- SPC and importer price indices for 3 of the retailers generally moved together over time. This suggested that changes in import prices were matched by changes in domestic prices (or vice versa) and that relative price was not a strong independent driver of switching or a separate price-based transmission mechanism for volume injury to SPC.
- This relationship was less apparent for 2 of the retailers where the series exhibited greater short-term divergence.[69]

As noted earlier, the commission extended Frontier Economics' analysis. The commission's extension of Frontier Economics' analysis identified a similar but overall negative relationship over the full injury period. The narrowing in the relative price indicated that SPC and import prices became more closely aligned over the longer timeframe of the injury analysis period. In isolation, this does not identify the underlying cause of the change. The observed convergence could reflect SPC prices declining relative to imports, Italian import prices increasing relative to SPC, or a combination of both factors. Relative-price movements alone therefore provide limited evidence regarding the source or intensity of competitive pressure in the Australian market. However, the commission considers that the relative-price evidence does not provide strong support for a volume-displacement mechanism. If declining Australian industry sales volumes were being driven by an increasing price advantage of Italian imports, the commission would ordinarily expect to observe a widening relative price differential over time, with Italian imports becoming progressively cheaper relative to SPC. However, the evidence shows that the relative price differential remained broadly stable in the investigation period and narrowed over the injury analysis period.[70]

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[65] Attachment A - Frontier Economics report, p 28.
[66] Attachment A - Frontier Economics report, p 27.
[67] See verification work program for SPC and the file note of discussions with Safcol concerning price negotiations. A file note of the meeting with Safcol is at Confidential Attachment 1.
[68] The commission further notes that Frontier Economics sought to extend its analysis by regressing SPC's prices directly on importer prices. While the results were ultimately inconclusive, Frontier Economics noted that this may reflect the limited amount of available data rather than the absence of a relationship. See Attachment A - Frontier Economics report, p 30.
[69] See Attachment A - Frontier Economics report, p 29.
[70] Whilst the differential analysis does not establish the drivers for the narrowing price differential, it is consistent with a weakening in SPC's ability to maintain a price premium over Italian imports; however, it does not support a volume injury caused by imports.

The commission’s further analysis is included in **Confidential Attachment 4 - Frontier Economics analysis extension**.

4.6.3 Impact of price counterfactual findings on volume counterfactual assessment

As the commission has not found that dumping and subsidisation caused volume injury, it is unnecessary to adjust the counterfactual assessment for the elasticity of demand on the volume assessment. Any change in sales volumes resulting from higher import prices would not alter the commission's assessment of the price injury attributable to dumping and subsidisation. As the commission has not found that volume injury forms part of the material injury attributable to dumping and subsidisation, incorporating assumptions regarding these potential volume responses would not materially alter the commission's assessment of the price injury caused by dumped and subsidised imports. Accordingly, the commission considers that no adjustment for demand elasticity is required when assessing the volume effects.

4.7 Assessment of the extent of any injury attributable to dumping and subsidisation arising from the counterfactual analysis

As noted above, the commission is satisfied that there is a causal link between the price injury and the dumped and subsidised imports. However, the commission is not satisfied that there is sufficient evidence to establish a causal link between the dumped and subsidised import prices and the observed Australian industry volume injury.

For the purposes of assessing the counterfactual impact of the price injury on the Australian industry, the commission applied the Italian import price uplift specified in Table 1 to the reported revenue of Australian industry members SPC and Safcol. In the case of SPC, the uplift was applied on a quarterly basis using the available quarterly financial data. For Safcol, the uplift was applied on an annual basis using the average uplift value specified in Table 1, as its financial information for the investigation period was reported on an annual basis.

The resulting increase in counterfactual revenue was then flowed through to the commission's assessment of SPC's and Safcol's profit and profitability during the investigation period. This enabled the commission to assess the maximum potential improvement in the Australian industry's financial performance that may have occurred in the absence of the identified price effects from the dumped and subsidised imports.

Figures 8 and 9 below reflect the commission’s assessment of actual and maximal counterfactual position of SPC and Safcol in relation to profit.

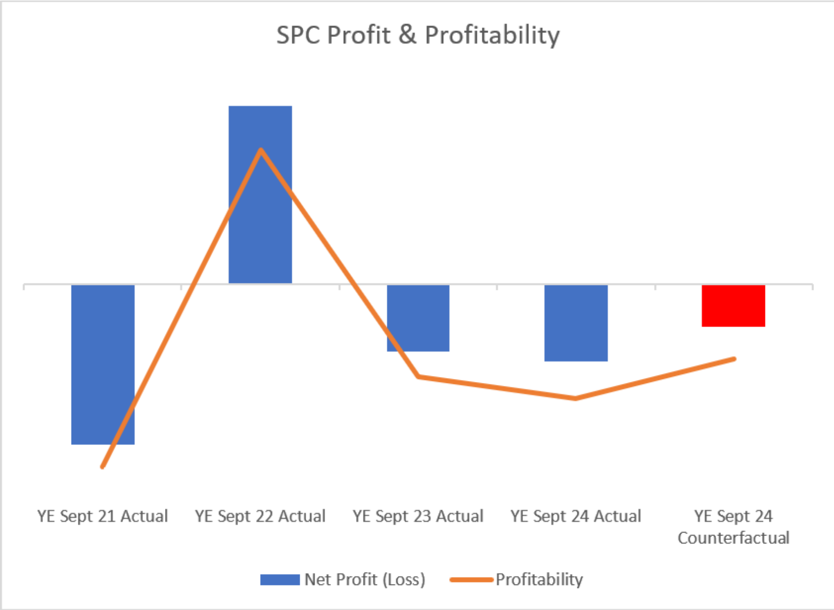

Figure 8: SPC counterfactual versus actual profit and profitability

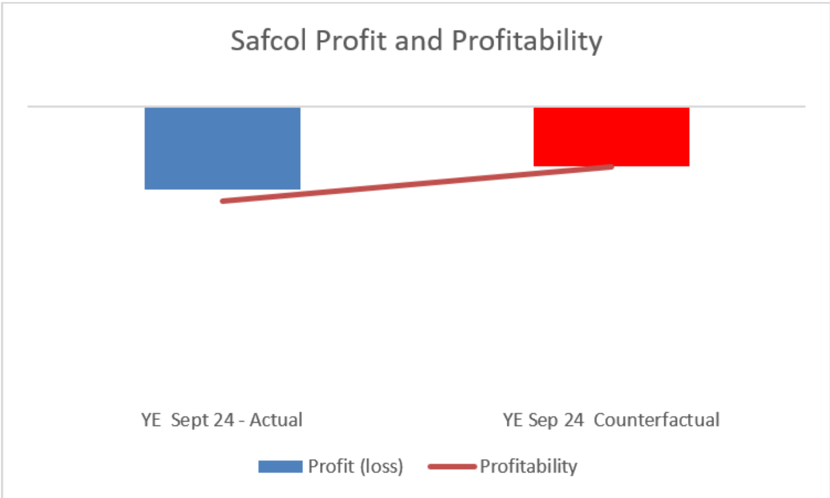

Figure 9: Safcol counterfactual versus actual profit and profitability

Further details of the assessment are contained in **Confidential Attachment 5 - SPC counterfactual assessment** and **Confidential Attachment 6 - Safcol counterfactual assessment**.

As noted above, while the commission considers that any pass-through of increased Italian import prices would likely have been less than complete, it has calculated a full pass-through for the purposes of its injury analysis. This approach enables the commission to assess the maximum extent of any price injury that may have resulted from dumped and subsidised imports. Accordingly, the resulting estimates should be regarded as an upper-bound assessment of the potential price effects attributable to dumping and subsidisation.

The commission has further considered the upper-bound nature of this assessment when assessing the likely materiality of the injury identified through the counterfactual analysis. In the materiality assessment, the commission considers the likely case of less than full pass through to Australian industry prices. The commission's assessment of the materiality of that injury is set out in chapter 5 of this PRR.

5 MATERIALITY OF INJURY CAUSED BY DUMPING AND SUBSIDISATION

5.1 Preliminary finding

On reinvestigation, the Commissioner preliminarily remains not satisfied that dumping and subsidisation have been causing, or are the cause of, material injury to the Australian industry.

The Commissioner’s conclusions on the materiality of injury are informed by the following findings:

- The commission has preliminarily found that dumped and subsidised imports from Italy caused price injury, including price suppression, price depression, reduced revenue, reduced profit and reduced profitability, but did not cause volume injury to the Australian industry.
- Following reinvestigation, the commission continues to find that Italian producers' underlying competitive advantages, including lower raw material and production costs, remained a material cause of price suppression and depression independent of dumping and subsidisation.
- The commission considers that the dumping and subsidy margins identified in this investigation were relatively modest or low.
- Consistent with the relatively modest margins, the counterfactual analysis indicates that Australian industry prices could have, as an upper bound, been on average 3.3% higher[71] in the absence of dumping and subsidisation.
- The counterfactual results represent an upper-bound estimate of the injury attributable to dumping and subsidisation due to retailer negotiating power and continuing competitive advantage of Italian producers absent dumping and subsidisation. These factors would have continued to suppress Australian industry prices absent dumping and subsidisation.
- The commission considers a counterfactual price increase between 25% and 100% of the counterfactual price in the absence of dumping and subsidisation provides a reasonable range in which to assess the materiality of price injury. The range reflects varying degrees of pass-through. The lower end recognises constraints on Australian producers' ability to raise prices due to retailer bargaining power and the ongoing competitive advantages of Italian exporters, while the upper end assumes Australian producers could capture more of the price advantage removed by eliminating dumping and subsidisation.
- The commission has assessed the materiality of injury based on price increases in this range.
- The Commissioner is preliminarily still not satisfied that the injury to the Australian industry caused by goods exported to Australia from Italy is material. In reaching this preliminary view, the commission has considered the relatively modest dumping and subsidy margins, the limited incremental price effects attributable to dumping and subsidisation, the absence of sufficient evidence to establish a causal link to volume injury, the modest impact on Australian industry revenue, and

[71] Or 3.6% higher with negligible subsidy margins.

the limited contribution of dumping and subsidisation to the overall financial injury experienced by the Australian industry when compared with the fluctuations observed in SPC's economic performance during the injury analysis period and the relative degree of injury caused by the competitive advantage of Italian producers. Collectively, these considerations indicate that the injury attributable to dumping and subsidisation did not constitute material injury.
- The Commissioner further preliminarily remains not satisfied that the injury to the Australian industry caused by goods exported to Australia from Italy is negligible.

5.2 Grounds of review and reinvestigation request

In requesting the commission to reinvestigate the material injury finding, the ADRP indicated that the correct analytical approach was to assess whether the dumping and subsidisation had caused material injury in its own right. That is, whether that "additional injury" caused by the dumping and subsidisation, separated from the Italian producers' competitive advantage and the other injury factors, was material.

The ADRP further requested that once the ADC has reinvestigated all of the four "other factors" separately, the ADC should consider its reinvestigated findings in combination, to determine if the additional injury caused by the dumping is material. In making this determination the ADRP noted that:

- Regard must be had to whether any injury is being caused by factors other than dumping/subsidisation. Such injury must not be attributed to dumping or subsidisation.
- Dumping/ subsidisation need not be the sole cause of injury.
- Material injury is injury which is not immaterial, insubstantial or insignificant.
- There is no threshold amount of injury that is capable of general application, but rather, will depend upon the circumstances.

In assessing the materiality of the injury, the ADRP further requested that the commission re-examine its assessments concerning the levels of dumping, the degree of undercutting and its explanation for bridging the gap between a finding of "not negligible" and a finding of "not material". These aspects of the ADRP's request are discussed in more detail below.

The ADRP also requested the commission to address SPC's submissions relating to comparisons of the findings in REP 654 relating to comparative advantage, with the ADC's past practice, and provide a reasoned explanation for any differing conclusions.

5.2.1 Levels of dumping and undercutting

The ADRP requested that, to the extent that the level of dumping above negligible dumping margins "informs" the decision on the materiality of injury caused by the dumped imports, the commission should provide more reasoned explanations for its conclusions, supported by facts, as required by the Material Injury Direction. The ADRP noted that:

- The dumping margins ranged from 2.2% to 11.1%, with the dumped exports comprising 91% of exports and the exports at the 11% margins comprising 18% of the exports.

- The commission in REP 654 had not provided analysis and reasoned explanation, either quantitively or qualitatively, of the way in which the inability of the Commissioner to be satisfied that dumping in itself had caused material injury, was "informed by the level of the dumping margins relative to the margin of undercutting" and what was meant by "relatively modest levels" of dumping and its impact on the materiality of injury.
- The statements in REP 654 concerning the level of dumping relative to the degree of undercutting appeared to be very general in nature and the conclusions reached were also not well-reasoned or based on any comprehensive analysis.
- Chapter 9.3 of REP 654 dealing with the size of dumping and subsidy margins, as a factor to determine material injury from dumping, provided no description of the levels of the dumping margins (such as, low, moderate or high), other than they are "above negligible levels", which is the requirement necessary to impose a duty.

5.2.2 Injury that is "not negligible" and "material injury"

The ADRP indicated that it expected the commission to:

- provide the necessary analysis (whether qualitative or quantitative) and reasoned explanation for bridging the gap between a finding of "not negligible" (appearing to be similar in meaning to the Material Injury Direction's phrasing of "not immaterial, insubstantial or insignificant") and a finding of "not material".
- Some discussion relating to the Material Injury Direction guidance that there is no threshold amount that is capable of general application regarding the material injury analysis.

The ADRP further noted that it was not suggesting that a finding of injury being "not negligible" automatically amounts to the injury being "material" and that it was arguable that the "not negligible" injury finding related to s 269TDA(13) and (14) overcame the first hurdle (and admittedly low bar) of not being considered "immaterial, insubstantial or insignificant", as specified in the Material Injury Direction.

5.3 Materiality of the injury

5.3.1 Injury assessment framework

Under sections 269TG and 269TJ, one of the matters of which the Minister must be satisfied before publishing dumping duty or countervailing duty notices is that dumping and/or subsidisation has caused material injury to the Australian industry.

Section 269TAE sets out the framework for determining whether material injury to an Australian industry has been caused by dumping and/or subsidisation. In particular, section 269TAE(1) identifies a range of factors that may be considered in assessing injury, including import volumes, market share, prices, price effects and the economic condition of the Australian industry.

Section 269TAE(2A) further requires consideration of whether any injury has been caused by factors other than the dumped or subsidised imports. Such factors may include, but are not limited to, changes in demand, changes in patterns of consumption, competition between producers, technological developments, and the export performance or productivity of the Australian industry. Any injury attributable to these other factors must not be attributed to dumped or subsidised imports.

In assessing material injury, the Commissioner also has regard to the Material Injury Direction.

The commission has considered the requirements of section 269TAE and the Material Injury Direction in assessing whether the injury attributable to the dumped and subsidised imports from Italy was material.

5.3.2 Commission's past practices

SPC submitted in its application to the ADRP that the commission's findings in REP 654 were inconsistent with past practice. SPC claimed that the commission has previously found material injury and imposed measures even where exporters enjoyed structural competitive advantages, such as economies of scale and lower production costs. SPC cited the Railway Wheels 632 Continuation Inquiry as an example where competitive advantages were recognised but did not prevent a finding of material injury.

SPC also stated that the commission has historically imposed measures where remedied import prices would still undercut Australian industry prices. Referring to several steel investigations[72], SPC submitted that past cases focused on whether dumping contributed materially to injury, rather than whether anti-dumping measures would eliminate all remaining price undercutting. On this basis, SPC argued that REP 654 departed from established commission practice in its assessment of causation and materiality.

The commission notes that neither the Act, the Material Injury Direction, nor the WTO Anti-Dumping Agreement prescribe a particular methodology for assessing injury. The commission's assessment must be undertaken having regard to the specific facts and circumstances of each investigation. The Ministerial Direction specifies that:

- there is no threshold amount that is capable of general application regarding the material injury analysis and identifying material injury will depend on the case circumstances
- identifying material injury will depend on the circumstances of each case and will differ from industry to industry and from time to time.

The commission considers that the market for the goods subject to this reinvestigation exhibits characteristics that differ materially from those of the steel markets in the cases referenced in SPC's ADRP application. As a result, direct comparisons with those cases are of limited assistance in identifying the factors relevant to, and the appropriate approach for, assessing the materiality of injury in this reinvestigation.

As outlined in chapter 4, the commission has undertaken a counterfactual assessment to identify the injury attributable to dumping and subsidisation. The materiality of that injury is considered further in this chapter.

[72] SPC referred to Investigations 550, 558 and 655.

5.3.3 Causation analysis and assessment of the degree of injury

As discussed in chapter 4, the commission has preliminarily found that dumped and subsidised imports from Italy caused price injury to the Australian industry. In particular, the commission found that dumping and subsidisation contributed to price suppression, price depression, reduced revenue, reduced profit and reduced profitability.

However, the commission has preliminarily found that there is insufficient evidence to establish that dumped and subsidised imports caused volume injury to the Australian industry.

Accordingly, this chapter assesses whether the price injury attributable to dumping and subsidisation was material.

5.3.4 The levels of dumping and subsidisation

The commission considers the magnitude of dumping margins to be a relevant factor in assessing material injury, as it indicates the extent to which dumping may have influenced import prices and competitive conditions in the Australian market. However, the size of the dumping margins is not, of itself, determinative of whether the injury caused by dumping and subsidisation was material.

On reinvestigation, the commission preliminarily finds that the relatively low[73] dumping and subsidy margins identified in this investigation are reflected in the commission's counterfactual assessment of the extent of injury attributable to dumping and subsidisation.

Findings in REP 654

REP 654 found that the dumping margins for all cooperative Italian exporters, except La Doria, were above negligible levels, while subsidy margins were below negligible levels for all cooperative exporters. The commission found that dumping and subsidisation enabled Italian exporters to sell the goods in Australia at lower prices than would otherwise have been the case. However, even after adjusting import prices to remove the effects of dumping and subsidisation, Italian imports continued to significantly undercut Australian industry prices. The commission also found that approximately 91% of imports from Italy were dumped during the investigation period, with dumping margins ranging from 2.2% to 11.1%. By contrast, countervailable subsidy margins were negligible for all exporters other than non-cooperative entities, which accounted for 18% of imports and had a subsidy margin of 1.6%.

REP 654 further commented, in the context of the remedied price analysis, that dumping and subsidisation were '…at relatively modest levels'.

Reinvestigation analysis

The commission considers that the magnitude of the dumping margins is a relevant consideration in assessing material injury because it provides an indication of the extent to which dumping may have affected import prices and competitive conditions in the

[73] Referred to as relatively modest in REP 654

Australian market. However, the commission does not consider that the size of the dumping margins, viewed in isolation, determines whether the injury caused by dumping and subsidisation was material.

The commission considers the dumping margins in this investigation to be relatively low. The weighted average dumping margin identified in this investigation was 4.6%, and the weighted average combined dumping and subsidy margin was 5.2%. These margins are lower than those identified in the previous investigation concerning tomatoes, prepared or preserved exported from Italy (Investigation 217[74]) where the weighted average dumping margin was 9.6%.

The commission notes that the impact of a particular dumping margin cannot be assessed in the abstract. Whether a dumping margin is ultimately associated with material injury will depend on the conditions prevailing in the relevant market. Accordingly, margins of a similar magnitude may have materially different competitive effects across different markets. The commission does not regard the magnitude of the dumping margins as determinative of material injury. Rather, the size of the dumping margin is an indicator of the extent to which dumping may have affected prices in the Australian market. The materiality of any resulting injury is assessed through analysis of the effects of dumping and subsidisation on the Australian industry, including their effect on prices, sales volumes, revenue, profit, profitability and other relevant economic indicators.

Nevertheless, the commission notes that the relatively modest or low dumping and subsidy margins identified in this investigation are reflected in its counterfactual assessment of injury. As discussed in chapter 4, the commission's counterfactual analysis indicates that Australian industry prices would, as an upper-bound estimate, have been approximately 3.3% on average higher[75] in the absence of dumping and subsidisation. However, the commission considers that any actual increase in Australian industry prices would likely have been less than this amount, having regard to the competitive conditions prevailing in the market during the investigation period.

Accordingly, while the commission has had regard to the magnitude of the dumping margins, its assessment of materiality is principally informed by the extent of the injury attributable to dumping and subsidisation identified through the price effects, counterfactual assessment and economic impact analyses.

5.3.5 Other injury factors

Following reinvestigation, the commission preliminarily finds that lower raw material and production costs are part of the broader competitive advantages enjoyed by Italian producers and continue to be a material cause of price suppression and depression independent of dumping and subsidisation. While increased domestic competition contributed to some discounting and volume shifts within the Australian industry, its role was less significant than previously assessed, and consumer preferences did not

[74] EPR 217, item no 91.
[75] Or 3.6% with negligible subsidy margins.

materially change during the investigation period such that they could independently explain the deterioration in industry performance.

The commission further finds that its counterfactual analysis appropriately isolates the incremental price effects of dumping and subsidisation from these other factors. However, because Italian imports would have remained price competitive even after removing the effects of dumping and subsidisation, the estimated price effects identified by the counterfactual represent an upper-bound measure of injury. The commission therefore considers that the actual injury attributable to dumping and subsidisation is likely to be less than the maximum price effects identified in the counterfactual analysis, which is relevant to its assessment of material injury.

REP 654 findings

REP 654 considered a broad range of other factors that may have caused injury to the Australian industry. REP 654 found, that of the other factors examined, injury to Australian industry was also caused by:

- the competitive advantage of Italian imports over Australian produced like goods, even after accounting for dumping and/or subsidisation
- an increase in raw material costs and higher production costs for the Australian industry
- an increase in domestic Australian competition
- a preference by some consumers for Italian products over Australian products, based on flavour preferences and origin.

Reinvestigation of other factors

As discussed in chapter 3, the commission has, as requested, reinvestigated its findings on the injury factors concerning increased raw material costs, increased domestic competition and consumer preferences. In summary, the commission has preliminarily found that:

- SPC's increasing raw material and production costs are more appropriately captured within the competitive advantage injury factor and that the competitive advantages enjoyed by Italian producers, including lower raw material and production costs, remain a material cause of the price suppression and depression identified in REP 654 independent of dumping and subsidisation.

- While increased domestic competition contributed to discounting and shifts in sales volumes within the domestic industry, its contribution to the injury experienced by the Australian industry was less significant than assessed in REP 654.

- Consumer preferences remain a relevant factor in assessing the materiality of injury caused by dumping and subsidisation. However, the commission has not identified any evidence that those preferences changed materially during the investigation period and therefore does not consider them to provide an independent explanation for the deterioration in Australian industry sales prices, sales volumes and market share during the investigation period.

Non-attribution of injury from other injury factors

Section 269TAE(2A) states that the Minister must consider whether any injury to an industry is being caused or threatened by a factor other than the exportation of the goods. If so, the Minister must not attribute such injury to the exportation of the goods. The Ministerial Direction further specifies that injury caused by other factors must not be attributed to dumping or subsidisation.

In assessing the materiality of injury, the commission considers that the counterfactual methodology provides a reasonable basis for isolating the price effects attributable to dumping and subsidisation from those attributable to these other factors. This is because:

- The counterfactual analysis assesses the likely condition of the Australian industry in the absence of the additional price advantage arising from dumping and subsidisation, rather than in the absence of the underlying competitive advantages enjoyed by Italian producers. Accordingly, the analysis removes only the effects of dumped and subsidised pricing and does not remove Italian producers' competitive advantage, including those advantages associated with lower raw material and production costs.
- The analysis is confined to examining the incremental price effects arising from dumping and subsidisation. After adjusting for dumping and subsidisation, Italian import prices have remained below the prices of all Australian industry producers throughout the investigation period. Accordingly, the effects of domestic competition are also separate from the price injury counterfactual analysis, as the analysis focuses on the effect of the lower dumped and subsidised import prices rather than price competition between Australian producers, whose prices are higher.
- Consumer preferences are treated as a constant factor in the counterfactual assessment, given there is no evidence that those preferences changed materially during the investigation period.

Reinvestigation evaluation of other factors in the context of the materiality assessment

The commission notes that, even after adjusting for dumping and subsidisation, Italian import prices would have remained below the prices of all Australian industry producers throughout the investigation period. The continuing price advantage enjoyed by Italian producers would therefore have continued to exert downward pressure on Australian industry prices through normal competitive processes.

Consequently, the commission preliminarily finds that the price effects identified through the counterfactual analysis represent an upper-bound estimate of the injury attributable to dumping and subsidisation. Even in the absence of dumping and subsidisation, Italian exporters would likely have continued to exert downward pressure on Australian industry prices resulting from their underlying competitive advantages. The commission therefore considers that the continuing price constraint arising from those competitive advantages, together with the significant buyer power that retailers have, would have limited the extent to which Australian producers could have increased prices in the counterfactual scenario.[76] Accordingly, while the counterfactual analysis indicates that Australian industry prices could have been up to 3.3% on average higher[77], the commission considers that the actual price effect attributable to dumping and subsidisation would likely have been less than this upper-bound estimate. This finding is relevant to the commission's assessment of whether the injury attributable to dumping and subsidisation was material.

5.3.6 Assessment of whether the injury is negligible

On reinvestigation, the Commissioner preliminarily continues to consider that imports of undumped/unsubsidised and dumped/or subsidised goods from Italy have had an impact on the economic condition of the Australian industry. But the Commissioner is preliminarily still not satisfied that the injury to the Australian industry caused by goods exported to Australia from Italy is negligible.

<u>Findings in REP 654</u>

In REP 654 the Commissioner examined whether the statutory requirements for termination under sections 269TDA(13) and 269TDA(14) had been satisfied.[78]

REP 654 further examined the distinction between material injury and negligible injury, noting that the Act did not define material injury or negligible injury. REP 654 noted that the Material Injury Direction provided guidance to the Commissioner on material injury. The Commissioner considered negligible injury to be injury that exists, but at a level which is otherwise insignificant.[79]

In considering this issue, the Commissioner assessed whether the effects of Italian imports on the Australian industry were sufficient to warrant termination of the dumping and countervailing investigations. The Commissioner was not satisfied that the injury caused by Italian imports was negligible and concluded that the requirements for termination under sections 269TDA(13) and (14) had not been met.

In reaching this conclusion, the Commissioner considered that the impact of dumped and/or subsidised imports from Italy on the economic condition of Australian industry was not negligible or of no effect but is nonetheless not material. The commission also considered the sizes of the subsidy and dumping margins in respect of this finding.

<u>Reinvestigation analysis</u>

In REP 654, the Commissioner was not satisfied that injury caused by exports of the goods was negligible. The Commissioner was also not satisfied that the injury caused by dumping and subsidisation was material. To terminate an investigation for negligible injury under section 269TDA(13) or (14), the Commissioner must be positively satisfied that the injury caused by exports of the goods is negligible. Where the evidence before the Commissioner is such that they are not satisfied that injury caused by dumping and

[76] See chapter 4.
[77] Or 3.6% with negligible subsidy margins included.
[78] See REP 654 section 9.10, p 142.
[79] See REP 654, p 17.

subsidisation is material, it does not necessarily follow that the Commissioner would be positively satisfied that the injury caused by exports of the goods is negligible.

The position in REP 654 reflected the Commissioner's level of satisfaction on the state of the evidence and analysis as at REP 654 — the Commissioner was not sufficiently satisfied either that the injury caused by dumping and subsidisation was material, or that injury caused by exports of the goods was negligible.

On reinvestigation, the Commissioner continues not to be satisfied that the injury caused by dumping and subsidisation was material. After further analysis discussed below, the Commissioner does not retract the conclusion in REP 654 that they could not be satisfied that the injury caused by the exports was negligible.

On reinvestigation, the commission continues to find that the identified injury is not negligible for the purposes of sections 269TDA(13) and 269TDA(14) of the Act. Accordingly, the commission is not satisfied that the statutory requirements for termination of the dumping and countervailing investigations have been met.

Consistent with the Material Injury Direction, the commission's assessment of materiality is not determined by reference to any generally applicable threshold. Rather, materiality depends on the particular facts and circumstances of each investigation, including the nature, extent and significance of the injury attributable to dumped and subsidised imports.

In considering whether the injury in this case was negligible, the commission notes that the dumping margins for De Clemente, IMCA, Mutti and residual exporters ranged from 2.2% to 11.1%, exceeding the statutory negligible threshold of 2%. Similarly, the subsidy margin for non-cooperative exporters was 1.6%, exceeding the negligible threshold of 1%. The volume of exports by non-cooperative exporters was also above the negligible volume threshold of 3% of total Australian import volume.

Consequently, the Commissioner is still preliminarily not satisfied that the injury to the Australian industry caused by goods exported to Australia from Italy is negligible.

5.3.7 Assessment of whether the injury is material

On reinvestigation the commission preliminarily remains not satisfied that injury caused by the imports of the goods from Italy at dumped and subsidised prices is material.

Subject to receiving submissions with further supporting evidence from interested parties, the commission therefore considers that the injury identified was not of sufficient magnitude to constitute material injury.

Ministerial Direction

The Act does not define material injury. However, the Material Injury Direction provides guidance on material injury. The Material Injury Direction provides that dumped or subsidised goods need not be the sole cause of the injury, but the injury they cause must be material in degree. It also includes the following key points:

- Identification of material injury should be based on facts and not on assertions unsupported by facts.

- It must be shown that the industry is suffering injury and that the injury caused by dumping or subsidisation is material in degree.
- Material injury is injury which is not immaterial, insubstantial or insignificant.
- The injury must be greater than that likely to occur in the normal ebb and flow of business.
- That there is no threshold amount that is capable of general application regarding the material injury analysis and identifying material injury will depend on the case circumstances.
- Identifying material injury will depend on the circumstances of each case and will differ from industry to industry and from time to time.
- A decline in growth may be as relevant as the movement from growth to decline.
- Injury caused by other factors must not be attributed to dumping or subsidisation, however dumping or subsidisation need not be the sole cause of injury to the industry.
- It is important to consider regional injury, the greater impact of injury during periods of economic downturn and reduced rates of growth as an element of injury.

Counterfactual assessment of injury

As discussed in chapter 4, the commission's counterfactual assessment concluded that dumped and subsidised imports from Italy caused price injury to the Australian industry but there was insufficient evidence to support that they caused volume injury during the investigation period. This analysis found that Australian industry prices would have been higher in the absence of dumping and subsidisation. However, for the reasons discussed, the commission considers that the price effects identified by the counterfactual analysis represent an upper-bound estimate of the injury attributable to dumping and subsidisation.

The commission assessed the effect of these higher counterfactual prices on the financial performance of participating Australian industry producers, SPC and Safcol. This analysis indicated that Australian industry revenue would have been higher, and that losses would have been less, during the investigation period in the absence of dumped and subsidised pricing.

While the counterfactual analysis in chapter 4 identified the maximum extent to which Australian industry prices, revenue and profitability may have improved in the absence of dumping and subsidisation, the commission considers that any actual improvement would likely have been less than this upper-bound estimate.

The commission considers that a range of between 25% and 100% pass-through provides a reasonable range within which SPC's and Safcol's prices may have increased in the absence of dumping and subsidisation. The lower end of this range recognises that price increases achieved by Australian producers are constrained by a range of market factors, including the negotiating power of the major retailers and the continued competitive advantages enjoyed by Italian exporters even after the effects of dumping and subsidisation are removed. Conversely, the upper end of the range reflects a scenario in which Australian producers are able to fully or largely capture the price increase associated with the removal of the price advantage created by dumping and subsidisation.

The commission considers that it is unlikely that pass-through would have been either zero or greater than 100%. A zero pass-through assumption would imply that the removal of dumping and subsidisation had no effect on Australian industry pricing, while a pass-through rate above 100% would imply that Australian producers were able to increase prices by more than the import prices absent dumping and subsidisation. The commission therefore considers that a range of 25% to 100% appropriately captures the likely range of outcomes and provides a reasonable basis for assessing the extent of injury attributable to dumping and subsidisation.

Accordingly, in assessing materiality, the commission has placed greater weight on the likelihood that the injury attributable to dumping and subsidisation was less than the upper-bound outcomes identified by the counterfactual analysis. For the purposes of assessing materiality, the commission has assessed that:

- For SPC:
  - The likely revenue effect of the dumping and subsidisation was in the range of 0.8% and 3.3%, or between 0.9% and 3.6% if negligible subsidy margins are included.
  - The likely impact of the dumping and subsidisation on profitability was between 11.5% and 46%, or between 12.6% and 50.5% if negligible subsidy margins are included.
- For Safcol:
  - The likely revenue effect of the dumping and subsidisation was in the range of 0.8% and 3.3%, or between 0.9% and 3.6% if negligible subsidy margins are included.
  - The likely impact of the dumping and subsidisation on profitability was between 7.4% and 29.5%, or between 8.1% and 32.2% if negligible subsidy margins are included.

This reduces the significance of the injury attributable to dumped and subsidised pricing and reinforces the commission’s preliminary view that any injury identified through the counterfactual assessment was not material.

<u>Injury was limited to a small reduction in revenue</u>

The commission notes that the revenue effects identified by the counterfactual analysis were limited in magnitude. Revenue would have been reduced by between approximately 0.8 per cent to 3.5 per cent depending on the degree of pass through. This consideration weighs against a finding that the injury was material.

<u>Injury did not extend beyond price effects</u>

The commission considers it significant that, while its counterfactual assessment identified price injury, it did not identify sufficient evidence to support a finding that dumping and subsidisation caused volume injury. The commission was therefore not satisfied that Australian industry sales volumes or market share would have been materially different in the absence of dumping and subsidisation. This limits both the nature and extent of the injury attributable to dumping and subsidisation, with the identified injury confined to price effects rather than extending to both price and volume effects. The commission considers this relevant to its assessment of materiality and weighs against a finding that the injury caused by dumping and subsidisation was material.

Competitive advantage and the advantage from dumping and subsidisation

The commission considers that the magnitude of the dumping and subsidy margins and their impact on the import prices is a relevant factor in assessing the materiality of injury because it provides an indication of the extent to which dumping and subsidisation contributed to the observed price effects in the market on Australian Industry.

Information before the commission indicates that, across all tiers during the investigation period, Italian export prices were approximately 76.4 to 86.9% of Australian industry prices, representing price undercutting of around 13.1% to 23.6%. By comparison, the dumping and subsidy margins accounted, as an upper bound, for an average 3.3 percentage points[80] of that price differential.[81]

This is relevant as it explains only a relatively small proportion of the overall price advantage enjoyed by Italian exporters is due to dumping and subsidisation. Even after removing the effects of dumping and subsidisation, Italian imports would have remained priced approximately 9.4% and 20.4% (or 9.1% to 20.1% with negligible subsidy margins included) below Australian industry prices. This suggests that the substantial majority of the observed price gap arose from factors other than dumping and subsidisation, including the competitive advantages enjoyed by Italian producers.

In the commission's view, these circumstances indicate that the incremental price advantage attributable to dumping and subsidisation was limited when considered in the context of the much larger underlying competitive price differential present in the market. Accordingly, while dumping and subsidisation contributed to the price injury identified in the counterfactual analysis, the commission considers that the magnitude of that contribution was relatively small when considered in the context of the broader competitive advantage of Italian producers and weighs against a finding that the resulting injury was material.

Injury compared to variations in Australian industry economic performance

The commission assessed the materiality of the injury attributable to dumping and subsidisation in the context of the Australian industry's overall financial performance during the injury analysis period. This assessment considered the magnitude of the injury identified through the counterfactual analysis against the observed fluctuations in the industry's financial performance over time.

For the purposes of this assessment, the commission relied on data provided by SPC, noting that SPC is the largest member of the Australian industry and the only producer that provided relevant financial data across the entire injury analysis period.

[80] Or 3.6 with negligible subsidy margins included.
[81] See Appendix A for explanation of the inclusion and exclusion of the negligible subsidy margins.

The analysis showed that SPC's profitability varied substantially from year to year over the injury analysis period (see figure 8, p 42).[82] Assuming full pass through, the estimated injury effect from dumping and subsidisation is 18% of the average annual variation in profit over the injury analysis period.[83] This would be less with lower levels of price pass through. The commission considers this comparison is relevant because it provides an indication of the significance of the injury attributable to dumping and subsidisation relative to the normal commercial variability experienced by SPC.[84]

While the counterfactual analysis identified some improvement in profitability in the absence of dumping and subsidisation, the magnitude of that improvement is modest when viewed against the broader fluctuations in SPC's financial performance over the injury analysis period. The commission considers that changes of a similar or greater magnitude occurred as part of the industry's normal year-to-year commercial experience and were associated with a range of market and business conditions unrelated to dumping and subsidisation.

Accordingly, when assessed in the context of SPC's overall profitability performance and the normal variability experienced over the injury analysis period, the commission is not satisfied that the injury attributable to dumped and subsidised imports was of sufficient magnitude to be material. This consideration therefore weighs against a finding that dumping and subsidisation caused material injury to the Australian industry.

Degree or share of injury during the investigation period

The commission also notes that the improvement in financial performance attributable to dumping and subsidisation was limited in scale relative to the overall financial position of both SPC and Safcol during the investigation period. The counterfactual analysis indicated that, depending on the degree of pass-through assumed, losses would have been reduced by between 11 and 49 per cent for SPC and between 7 and 31 per cent for Safcol.[85] While these outcomes demonstrate that dumping and subsidisation contributed to the losses experienced by the Australian industry, they also indicate that a majority of those losses remained attributable to other factors. Even under the upper-bound scenario, half of SPC's losses and around two-thirds of Safcol's losses would have persisted. The commission considers this relevant to its assessment of materiality because it provides an indication of the proportion of the financial injury experienced by the Australian industry that is attributable to dumping and subsidisation.

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82 Profit and profitability were assessed based on net revenue less COGS, selling costs, distribution costs and administration costs. The commission's profit and profitability assessment does not include an amount for opportunity costs.

83 Or 20% with negligible subsidy margins included.

84 The commission notes that Frontier Economics undertook a similar assessment and concluded that the estimated effect was relatively small relative to changes observed in earlier years and fell within SPC's ordinary range of annual variation. The commission further notes that this conclusion was reached on the assumption of full pass-through, which represents the upper bound of the likely effect attributable to dumping and subsidisation and included an amount for opportunity cost. See Attachment A - Frontier Economics report, p 43.

85 The commission notes that Frontier Economics undertook a similar analysis, finding that the effect was moderate. The commission notes that Frontier Economics' assessment was based on full pass through and an evaluation involving opportunity cost. The commission's assessment is based on a finding that the price pass through effect would be less full pass through. Attachment A - Frontier Economics report, p 43.

The commission considers that the counterfactual analysis demonstrates that the injury attributable to dumping and subsidisation represented only a portion of the overall deterioration in the industry's financial performance. Even under assumptions most favourable to the Australian industry, the estimated improvements in prices, revenue and profitability did not materially alter the industry's overall financial condition during the investigation period. Rather, the analysis indicates that factors other than dumping and subsidisation accounted for a substantial proportion of the financial losses experienced by the Australian industry.

In reaching this view, the commission has not relied on whether either producer would have become profitable or remained loss-making in the absence of dumping and subsidisation.[86] Rather, the commission has had regard to the scale of the estimated improvement relative to the overall financial condition of the Australian industry and considers that the injury attributable to dumping and subsidisation did not materially alter that position.

It is noted that Australian industry was also found in REP 654 to have experienced injury resulting from a reduced return on investment (ROI). Consistent with the profitability assessments in this report, the commission preliminarily considers that the effect of the dumped and subsidised imports on SPC's ROI was not material.[87] [88]

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[86] The commission notes that Frontier Economics also proposed assessing materiality, in part, by considering whether the injury attributable to dumping and subsidisation caused profits to become losses, deepened existing losses, or materially reduced returns on investment or capacity utilisation. To any limited extent that this approach could be construed as implying that a return to profitability is a relevant benchmark for assessing materiality, the Commissioner typically does not consider this to be a basis for the assessment. Materiality is not determined by whether the removal of the injury would have restored the Australian industry to profitability, but by an assessment of the significance of the injury attributable to dumping and subsidisation in the circumstances of the case. Attachment A - Frontier Economics report, p 43.

[87] Frontier Economics in its ROI assessment also considered opportunity cost. The commission assessed the impact on ROI consistent with the approach in REP 654 by not considering opportunity cost as part of this assessment.

[88] Relevant data was not provided by Safcol to enable an assessment of its ROI.

6 ATTACHMENTS

Attachment A	Frontier Economics report
Appendix A	Amendments to analysis in REP 654
Confidential Attachment 1	File note of meeting with Safcol
Confidential Attachment 2	Revised estimate of Simplot sales volume
Confidential Attachment 3	Revised Leggo's and Ardmona price analysis
Confidential Attachment 4	Frontier Economics analysis extension
Confidential Attachment 5	SPC counterfactual assessment
Confidential Attachment 6	Safcol counterfactual assessment
Confidential Attachment 7	Revised remedied price analysis
Confidential Attachment 8	Revised SPC profit and profitability assessment
Confidential Attachment 9	Revised Safcol profit and profitability assessment
Confidential Attachment 10	Revised Australian market assessment

APPENDIX A AMENDMENTS TO ANALYSIS IN REP 654

As part of the reinvestigation, the commission reviewed the analysis undertaken in the original investigation relevant to the grounds raised in the ADRP's reinvestigation request. This review resulted in amendments to the price undercutting analysis, Australian industry's profit and profitability assessments, and Simplot's sales volume assessments.

Details of these amendments and their effect on the commission's findings are set out below.

A.1 Undercutting analysis

The commission modified the approach to determining the remedied FIS price for Italian imports absent dumping and subsidisation. The modifications made were:

- The uplift was recalculated based on the FOB import price as the base rather than the FIS import price used in REP 654. This amendment ensured that the uplift was calculated consistently with the methodology applied in determining the dumping margins during the investigation.
- An additional amount was included in the uplift to account for the additional general customs duty that would be payable on the remedied price.
- A range of other minor calculation issues were resolved.

Noting that REP 654 assessed a remedied price that included negligible subsidy margins, the commission revised the remedied price calculations to assess both a scenario excluding negligible subsidy margins and a scenario including negligible subsidy margins. The commission considers the non-inclusion approach to be more consistent with the commission's practices. However, the REP 654 approach has also been retained to enable comparison with the methodology adopted in REP 654.

The overall effect of these adjustments was to reduce the remedied prices compared to those calculated in REP 654. Following the application of these adjustments, the prices of Italian exports ranged between 76.4% and 86.9% of the Australian industry's prices, indicating undercutting of between 13.1% and 23.6%.[89]

The weighted average dumping and subsidy margin increased FIS import prices by between 3.1% and 3.7% (or 3.4% to 4% with negligible subsidy margins) in deriving the remedied price. Notwithstanding this adjustment, a price gap of between 9.4% and 20.4% (or 9.1% to 20.1% with negligible subsidy margins) remained throughout the investigation period between the prices at which the Australian industry sold like goods and the remedied (that is, undumped and unsubsidised) prices of Italian exports.

The price gap due to the dumping and subsidisation by quarter is detailed in Table 5.

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[89] These remain unchanged from REP 654 (following correction of an error, see ADRP conference notes dated 23 April 2024) which found that the prices of Italian exports ranged between 76% and 87% of the Australian industry's prices, indicating undercutting of between 13% and 24%.

Australian industry gap due to dumping and subsidisation	Dec-23	Mar-24	Jun-24	Sep-24
REP 654 before reinvestigation amendments	3.9%	3.9%	3.7%	3.9%
PRR 654 after reinvestigation amendments - excluding negligible subsidy margins	3.2%	3.1%	3.1%	3.7%
PRR 654 after reinvestigation amendments - including negligible subsidy margins	3.5%	3.4%	3.5%	4.0%

Table 4: Australian industry injury ICD & IDD gap (all tiers)

Figure 10 illustrates the separate components of the price gap after amending the remedied price.

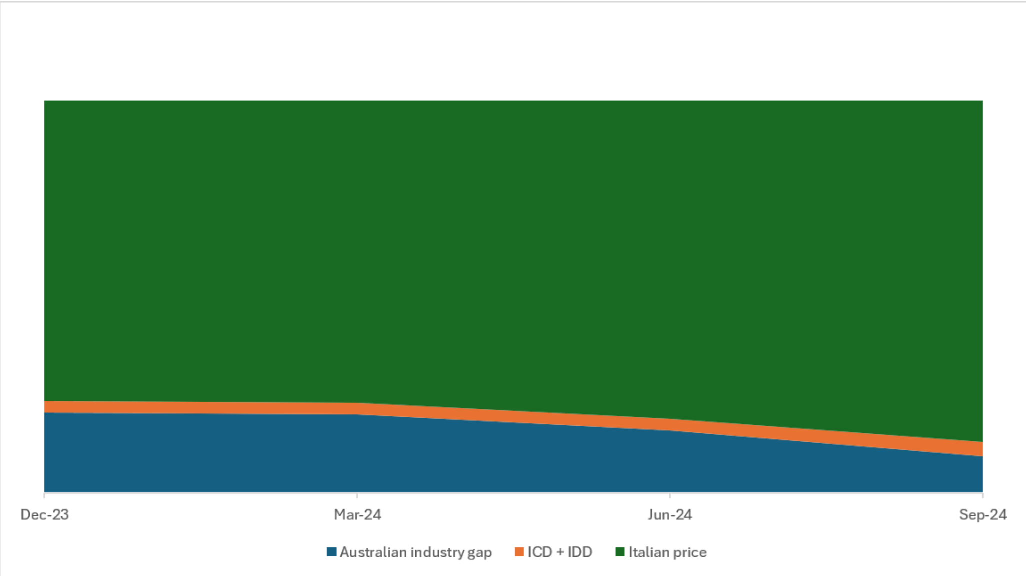


Figure 10: Australian industry injury gap (all tiers)

The commission's amended remedied price analysis is included in **Confidential Attachment 7 - Amended remedied price analysis**.

A.2 Profitability assessments for SPC and Safcol

REP 654 found that due to the effects of inventory movements on SPC's cost to make and sell (CTMS)[90], the annualised profit and profitability data compiled was not a reliable indicator of SPC's profit and profitability during the investigation period.[91] To facilitate the assessment of the materiality of any injury caused by the dumped and subsidised imports, the commission sought further clarification from SPC concerning its profitability during the investigation period.

[90] The CTMS data was provided as part of SPC's application and further updated during the verification of SPC's data.
[91] REP 654, p 100.

Following clarification, the commission modified the CTMS profit calculation methodology to reflect the fact that the manufacturing costs provided by SPC reflected a cost of goods sold (COGS) rather than a cost of goods manufactured (COGM) amount.

The revised profit and profitability assessment for SPC is reflected in Figure 11.

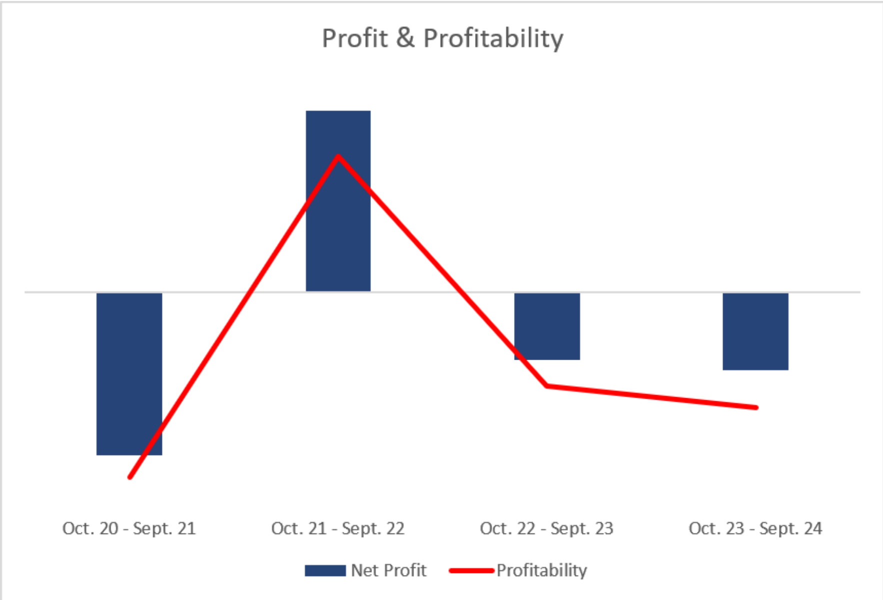


Figure 11: Revised SPC profit and profitability

Safcol's response to the Australian industry questionnaire in the original investigation was incomplete with respect to providing its fixed manufacturing costs and selling, general and administrative (SG&A) expenses. During the reinvestigation the commission sought further information from Safcol regarding these costs. Based on this information the commission was able to assess the profit and profitability of Safcol during the investigation period.

The revised data provided by SPC and Safcol are included in **Confidential Attachment 8 - Revised SPC profit and profitability assessment**, and **Confidential Attachment 9 - Revised Safcol profit and profitability assessment**.

A.3 Simplot's sales volumes during the investigation period

As noted in REP 654, Simplot did not cooperate with the investigation. To assess the impact of Simplot's entry into the market during the POI the commission, in part, relied on data provided by Calispa concerning Simplot's sales volumes.[92] It was identified during the reinvestigation that the data submitted by Calispa incorrectly calculated Simplot's sales volumes. Consequently, the commission has revised its estimate of Simplot's sales volumes after correcting this error.[93] As a result of these revisions, Simplot's estimated

[92] See REP 654, chapter 9.8.3.

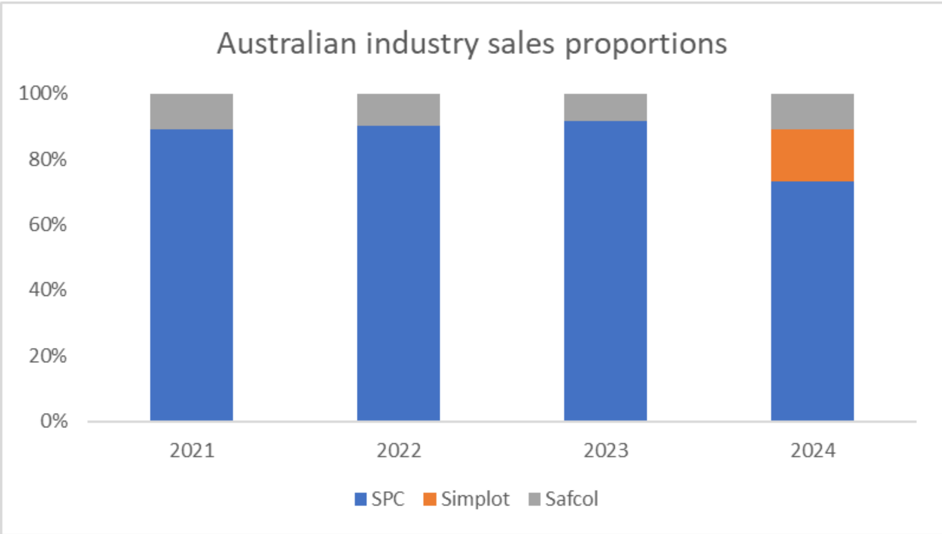
[93] The commission also sought to confirm the sales volumes again with Simplot and Woolworths. Simplot did not respond to the commission's enquires with further information. At the time of the publication of this PRR, the commission was still in discussions with Woolworths. To further validate the revised calculations, the commission further compared the revised calculations with other market intelligence provided by SPC. This

sales volumes are assessed as being 22% of the volume assessed in REP 654. The commission's reassessment of Simplot's sales volumes is contained in **Confidential Attachment 2 – Revised estimate of Simplot sales volume**.

The commission has revised the relevant aspects of the analysis in REP 654 following reassessment of Simplot's sales of the goods. These amendments have been incorporated in the commission's preliminary reinvestigation findings. Details of the amendments made to the analysis in REP 654 are outlined below. The commission's revised assessment of the Australian market is in **Confidential Attachment 10 – Revised Australian market assessment.**

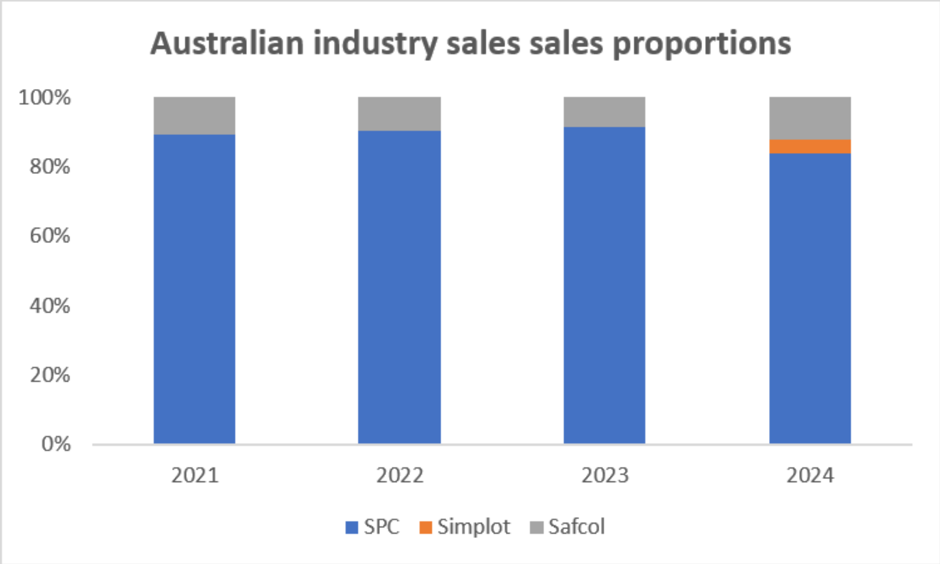
CHAPTER 4: THE AUSTRALIAN INDUSTRY

Section 4.3 - Figure 1, page 47



Original Figure 1: Proportion of sales of Australian produced like goods over the injury period

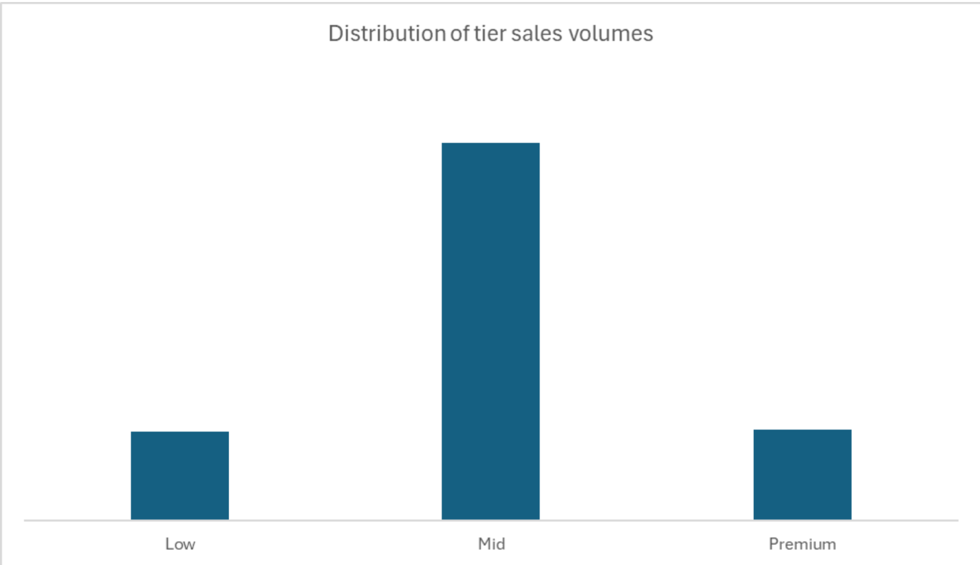
comparison identified that the commission's revised calculations were consistent with SPC's market intelligence where there was cross over in the dates examined.



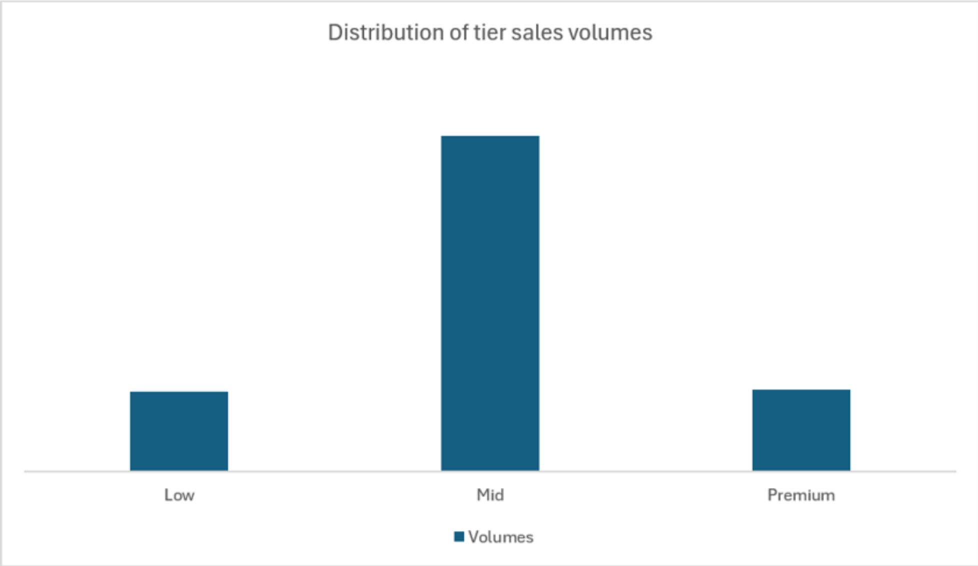
Revised Figure 1: Proportion of sales of Australian produced like goods over the injury period

CHAPTER 5: AUSTRALIAN MARKET

Section 5.4.2 - Figure 3, page 53

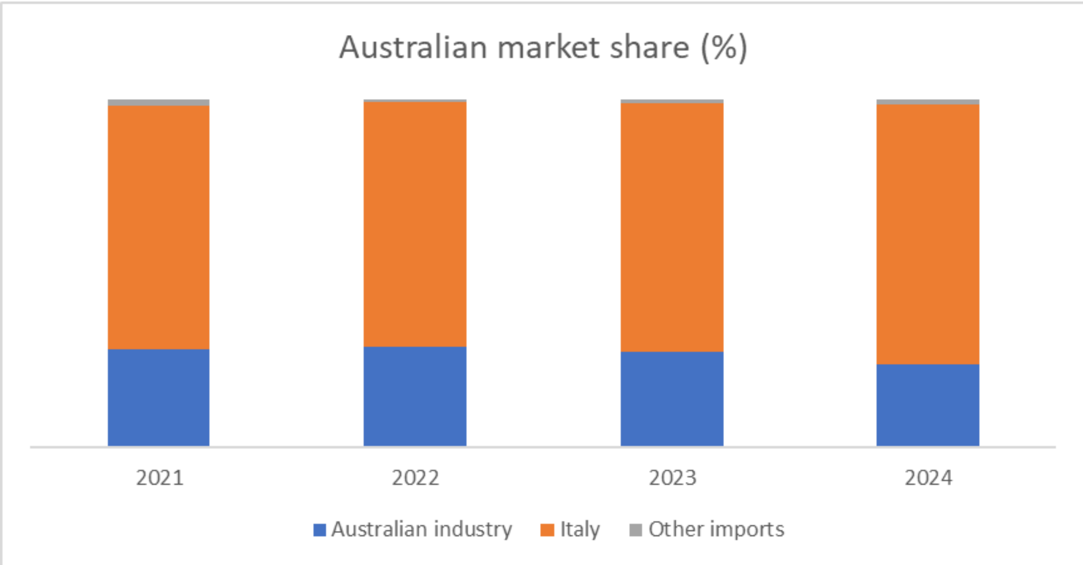


Original Figure 3: Sales volumes by tier



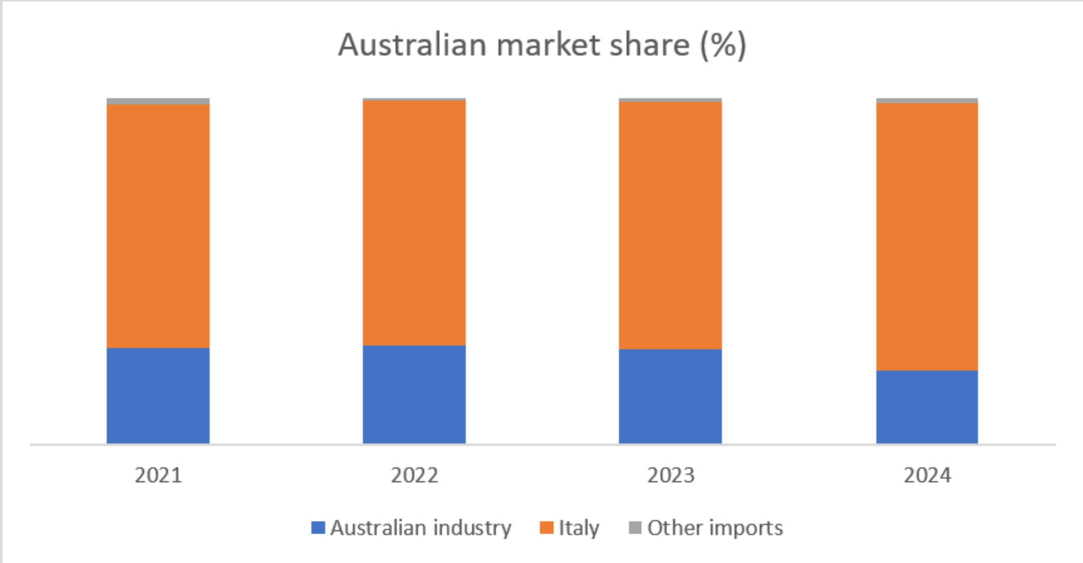
Revised Figure 3: Sales volumes by tier

Section 5.4.3 - Figure 4, page 54



Original Figure 4: Australian market share[94]

[94] Year ending 30 September.



Revised Figure 4: Australian market share[95]

Section 5.4.4 - Table 8, page 55

	Oct 2020–Sept 2021	Oct 2021–Sept 2022	Oct 2022–Sept 2023	Oct 2023–Sept 2024
Volume	100	102	89	103

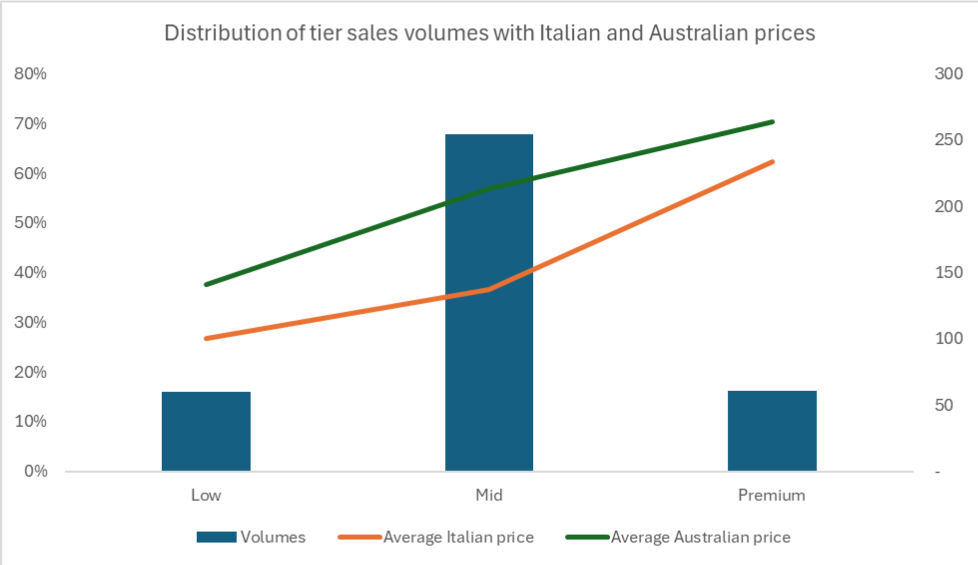
Original Table 8: index of the size of the Australian market, compared to Oct 2020–September 2021

	Oct 2020–Sept 2021	Oct 2021–Sept 2022	Oct 2022–Sept 2023	Oct 2023–Sept 2024
Volume	100	102	89	***100***

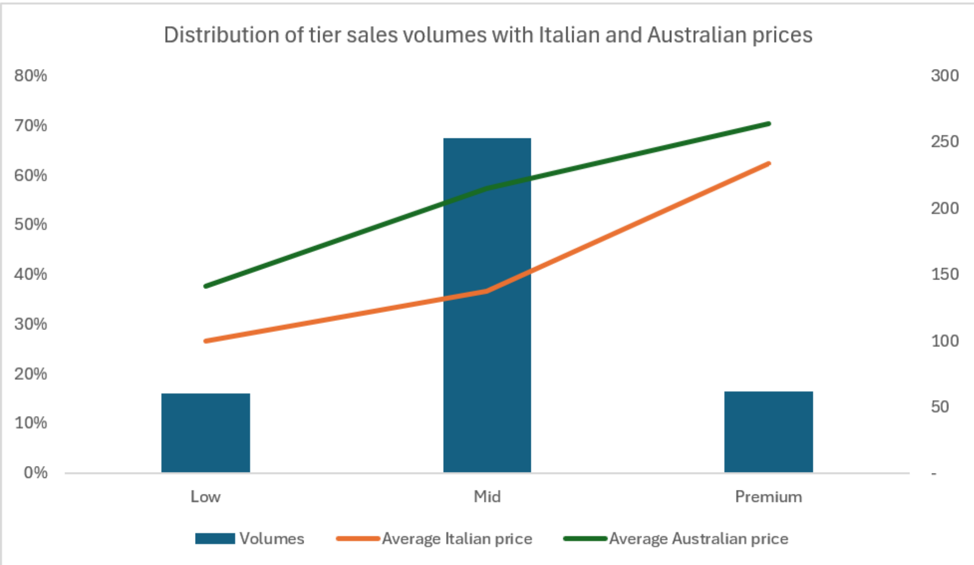
Revised Table 8: index of the size of the Australian market, compared to Oct 2020–September 2021

[95] Year ending 30 September.

Section 5.4.4 - Figure 5, page 57

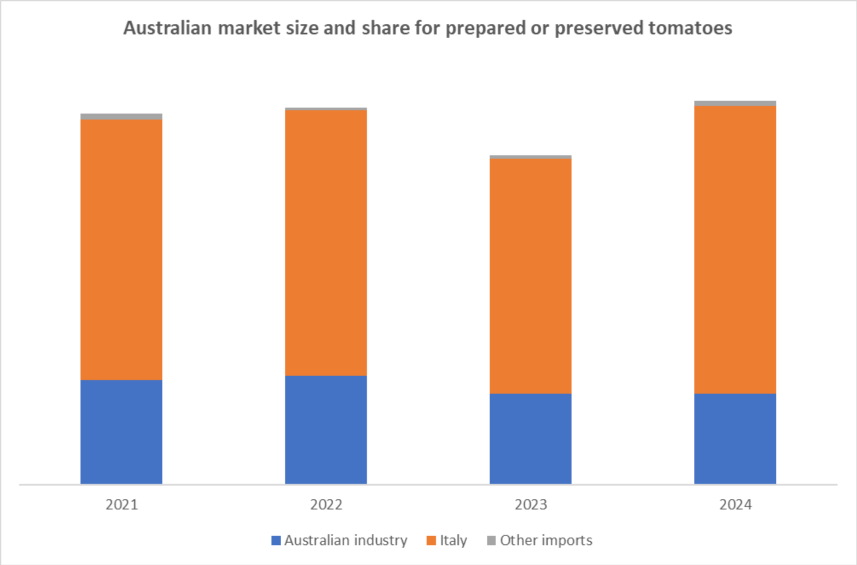


Original Figure 5: Distribution of sales volumes by tier, compared to Italian and Australian prices

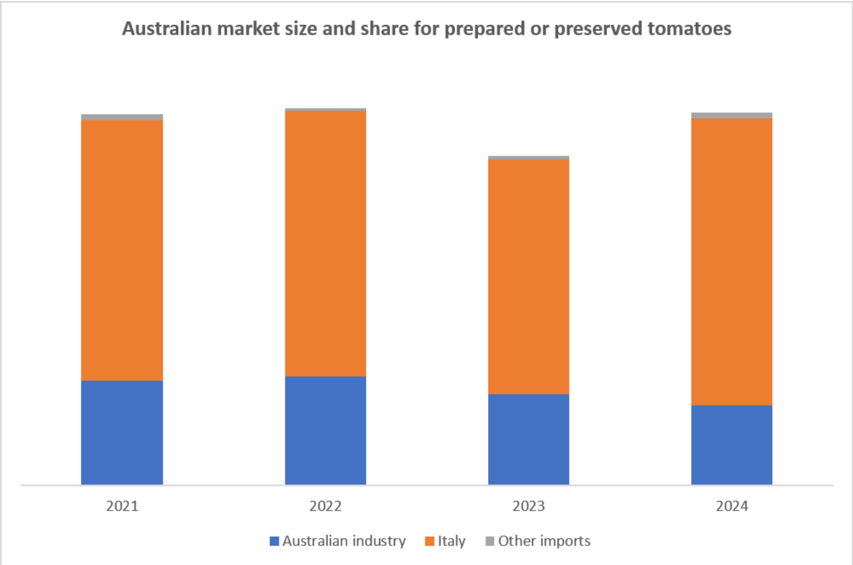


Revised Figure 5: Distribution of sales volumes by tier, compared to Italian and Australian prices

Section 5.6 - Figure 7, page 61



Original Figure 7: Australian market size and share, by source. Year ending 30 September.



Revised Figure 7: Australian market size and share, by source. Year ending 30 September.

Section 5.6 - Table 9, page 61

	Oct 2020–Sept 2021	Oct 2021–Sept 2022	Oct 2022–Sept 2023	Oct 2023–Sept 2024
Australian market	100	102	89	103
Australian industry	100	104	87	87
Italian imports	100	102	90	110

Original Table 9: Index of the size of the Australian market, Australian industry's sales volumes and Italian import volumes, compared to Oct 2020–September 2021

	Oct 2020–Sept 2021	Oct 2021–Sept 2022	Oct 2022–Sept 2023	Oct 2023–Sept 2024
Australian market	100	102	89	***100***
Australian industry	100	104	87	***76***
Italian imports	100	102	90	110

Revised Table 9: Index of the size of the Australian market, Australian industry's sales volumes and Italian import volumes, compared to Oct 2020–September 2021

CHAPTER 8: ECONOMIC CONDITION OF INDUSTRY

Section 8.1 - Finding, page 96

Original analysis

"The commission did not have sufficient data to determine specific injury experienced by other Australian industry members. However, overall Australian industry sales volumes fell over the injury period, and were 13% lower in the year prior to the investigation period, and 20% lower in the investigation period, compared to the beginning of the injury period, indicating volume related injury for the entire Australian industry."

Revised analysis

The commission did not have sufficient data to determine specific injury experienced by other Australian industry members. However, overall Australian industry sales volumes fell over the injury period, and were 13% lower in the year prior to the investigation period, and ***24***% lower in the investigation period, compared to the beginning of the injury period, indicating volume related injury for the entire Australian industry.

Section 8.3.2 - Table 29, page 97

	Oct 2020–Sept 2021	Oct 2021–Sept 2022	Oct 2022–Sept 2023	Oct 2023–Sept 2024
SPC	100	106	89	72
All Australian industry	100	104	87	87

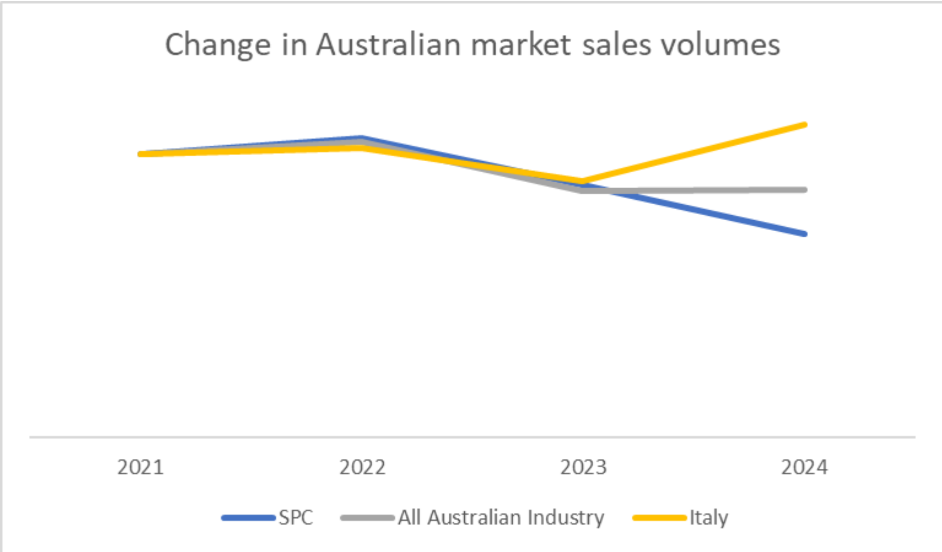
Original Table 29: Index of Australian industry sales, compared to Oct 2020–September 2021

	Oct 2020–Sept 2021	Oct 2021–Sept 2022	Oct 2022–Sept 2023	Oct 2023–Sept 2024
SPC	100	106	89	72
All Australian industry	100	104	87	***76***

Revised Table 29: Index of Australian industry sales, compared to Oct 2020–September 2021

CHAPTER 9: MATERIAL INJURY FROM DUMPING AND SUBSIDISATION

Section 9.5 - Figure 22, page 115



Original Figure 22: Change in sales volumes, year ending September[96]

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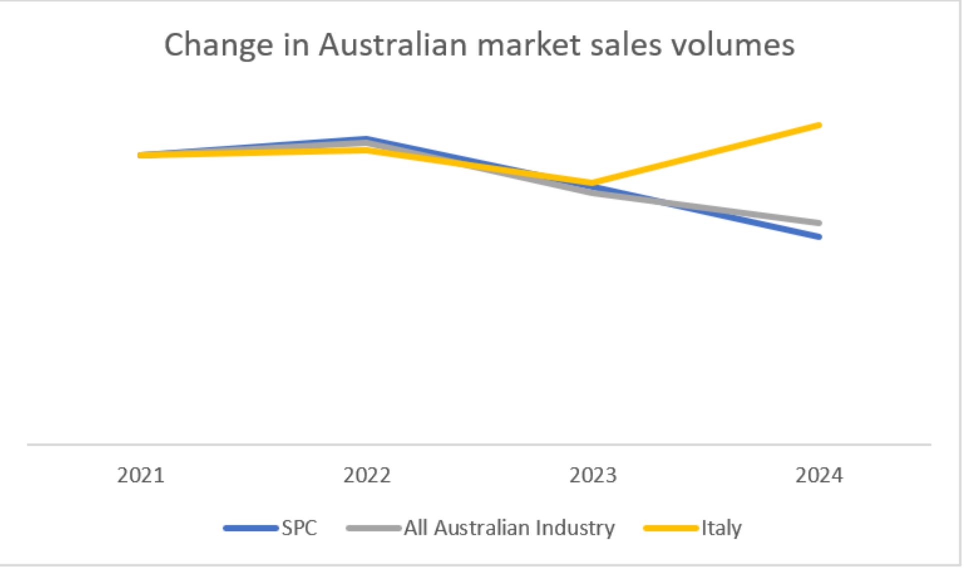
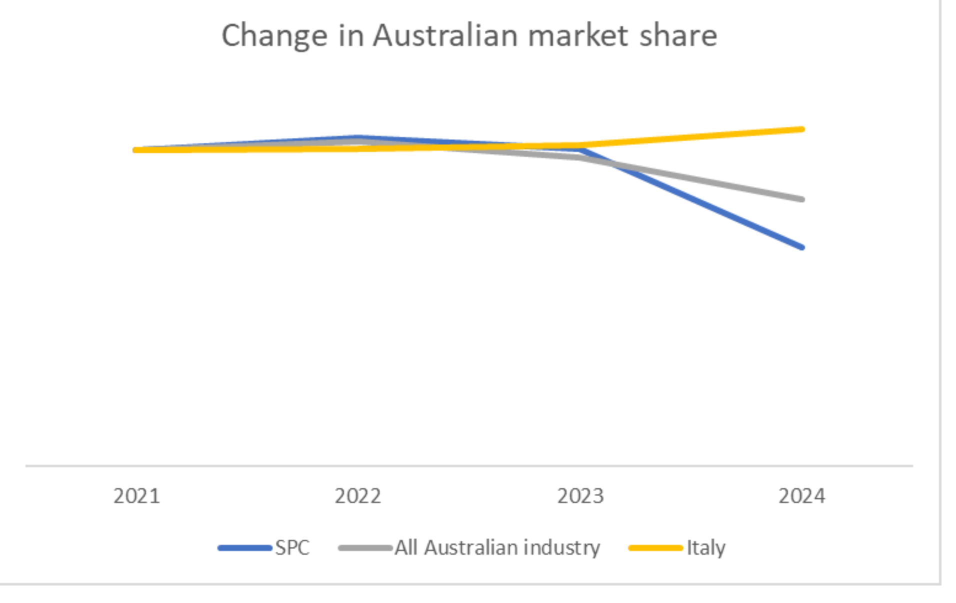
[96] Sales volumes by imports from other countries are not included because they represented <2% of the Australian market for prepared or preserved tomatoes throughout the injury period.



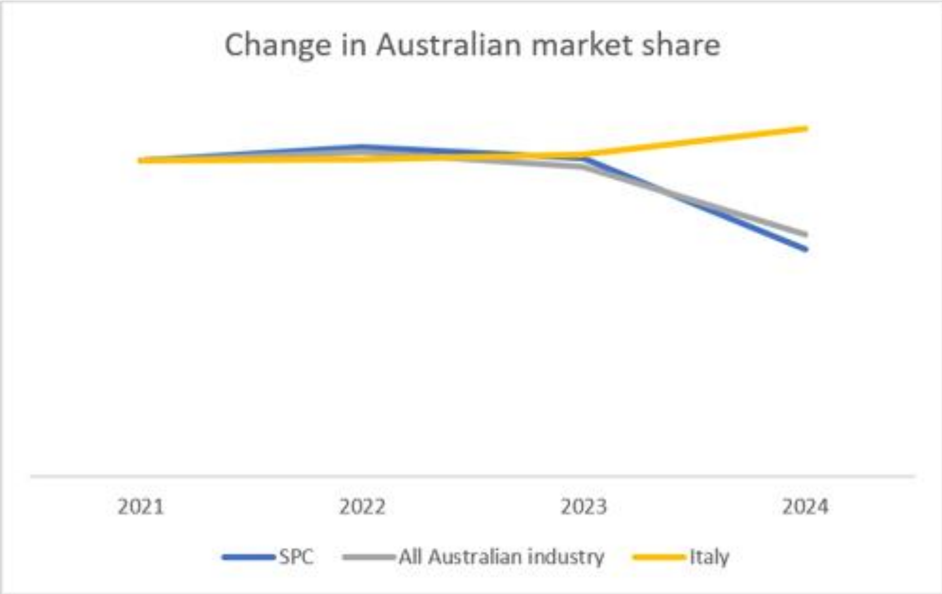
Revised Figure 22: Change in sales volumes, year ending September[97]

Section 9.5 - Figure 23, page 116



Original Figure 23: Change in Australian market share, year ending September[98]

[97] Sales volumes by imports from other countries are not included because they represented <2% of the Australian market for prepared or preserved tomatoes throughout the injury period.
[98] Sales volumes by imports from other countries are not included because they represented <2% of the Australian market for prepared or preserved tomatoes throughout the injury period.



Revised Figure 23: Change in Australian market share, year ending September[99]

Section 9.5 - Volume effects, page 116

Original analysis

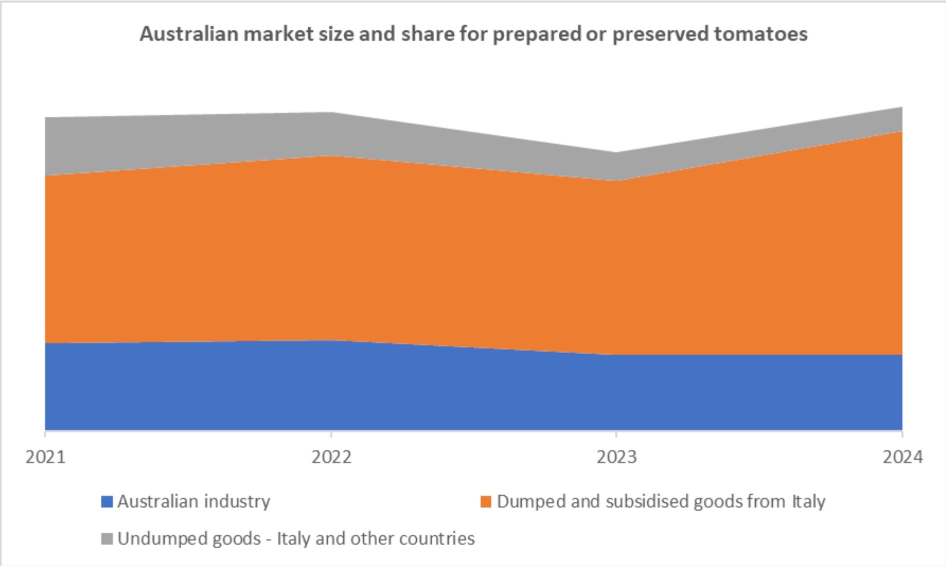
"Since October 2020, SPC sales volume has fallen by 28% and its market share by 30%. The Australian industry as a whole has fallen 13% by volume and 15% by market share. Over the same time period, Italian imports have increased by 10% in volume terms, and 7% by market share. Volume from all sources fell in the year ending September 2023, but while the Australian industry levels did not recover and remained lower further declined in the investigation period, Italian import volumes and market share increased to levels above those in October 2020."

Revised analysis

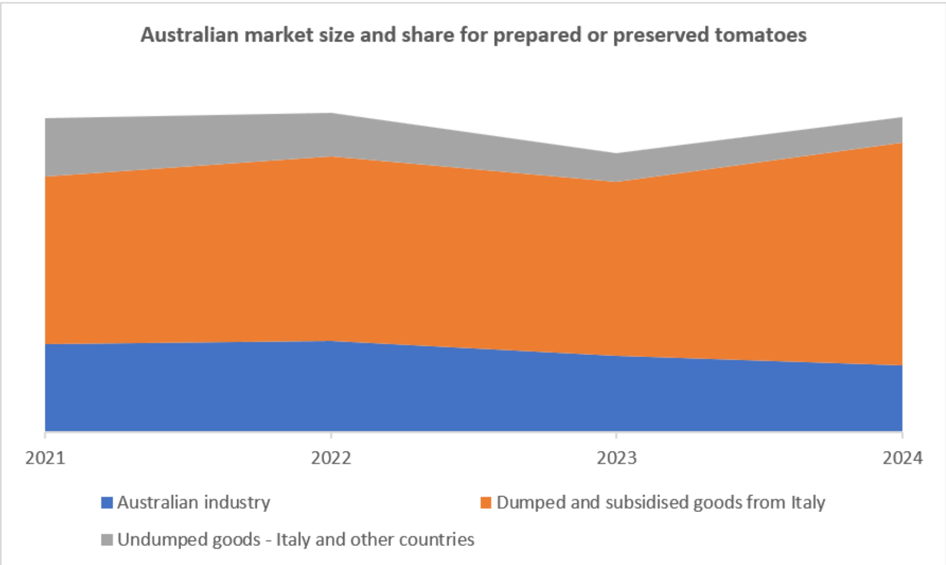
Since October 2020, SPC sales volume has fallen by 28% and its market share by ***28.4***%. The Australian industry as a whole has fallen ***23.5***% by volume and ***23.7***% by market share. Over the same time period, Italian imports have increased by ***10.2***% in volume terms, and ***9.9***% by market share. Volume from all sources fell in the year ending September 2023, but while the Australian industry levels did not recover and remained lower further declined in the investigation period, Italian import volumes and market share increased to levels above those in October 2020.

[99] Sales volumes by imports from other countries are not included because they represented <2% of the Australian market for prepared or preserved tomatoes throughout the injury period.

Section 9.5 - Figure 24, page 117

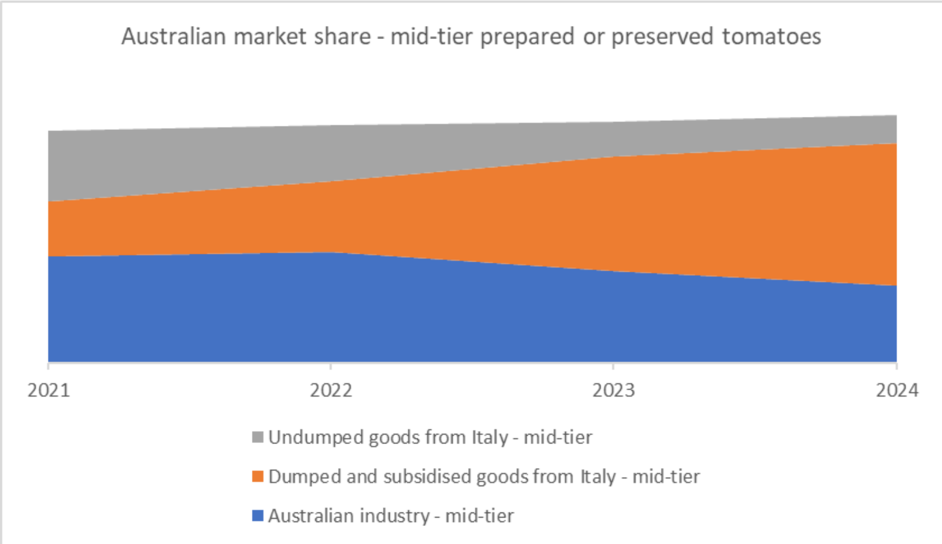


Original Figure 24: Australian market size and share for prepared or preserved tomatoes, year ending September

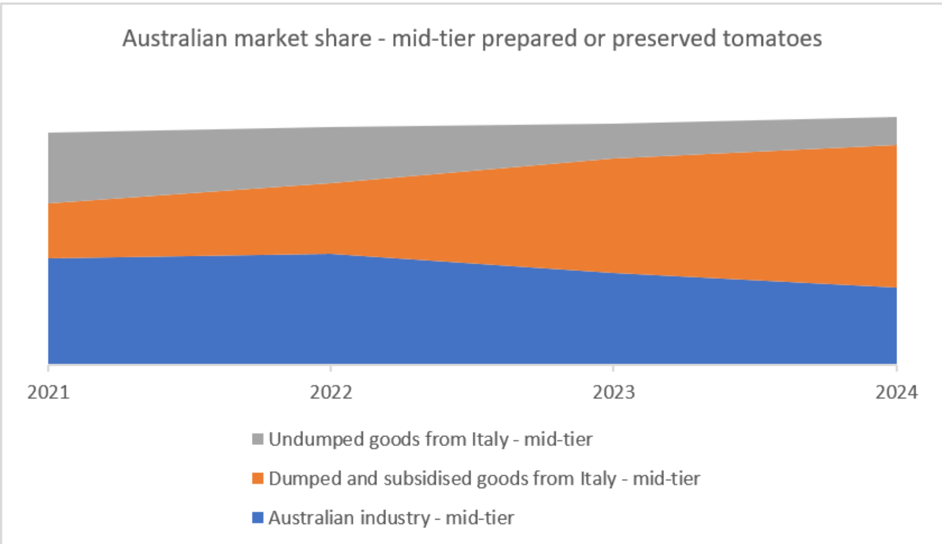


Revised Figure 24: Australian market size and share for prepared or preserved tomatoes, year ending September

Section 9.5 - Figure 25, page 118



Original Figure 25: Australian market size and share for prepared or preserved tomatoes, mid-tier, year ending September



Revised Figure 25: Australian market size and share for prepared or preserved tomatoes, mid-tier, year ending September

Section 9.5 - Volume effects, page 118

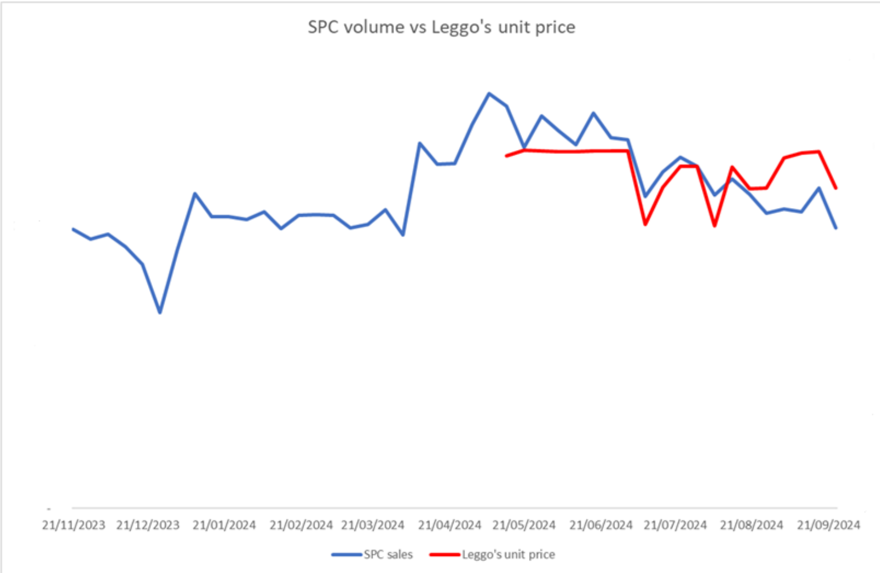
<u>Original analysis</u>

"Between October 2020 and September 2024, the market for mid-tier prepared or preserved tomatoes increased by 14 %. Australian industry made up approximately 46% and Italian exports approximately 54% of the total market at the beginning of the period, ending at 35% and 64% respectively in the investigation period. Of this 64%, 54% was dumped, with the remaining 10% of the Australian mid-tier market consisting of undumped goods from Italy."

Revised analysis

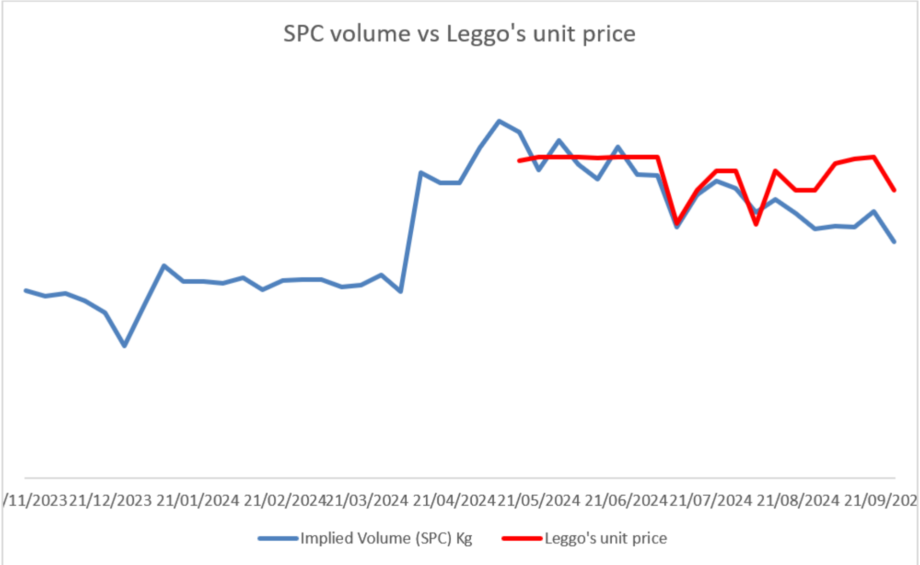
Between October 2020 and September 2024, the market for mid-tier prepared or preserved tomatoes increased by ***8***%. Australian industry made up approximately 46% and Italian exports approximately 54% of the total market at the beginning of the period, ending at ***32***% and ***68***% respectively in the investigation period. Of this ***68***%, ***57***% was dumped, with the remaining ***11***% of the Australian mid-tier market consisting of undumped goods from Italy.

Section 9.8.3 - Calispa submission – Figure 28, page 124



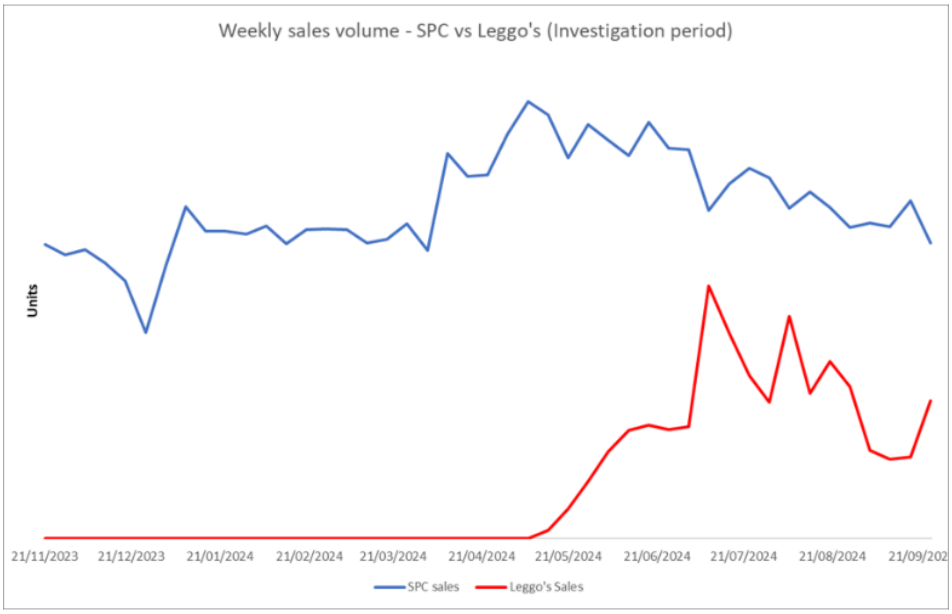
Original Figure 28: Weekly SPC sales volumes and Leggo's unit price[100]

[100] Based on Woolworths sales data provided by Calispa. See Confidential Attachment 2 – SPC and Leggo's sales data in REP 654



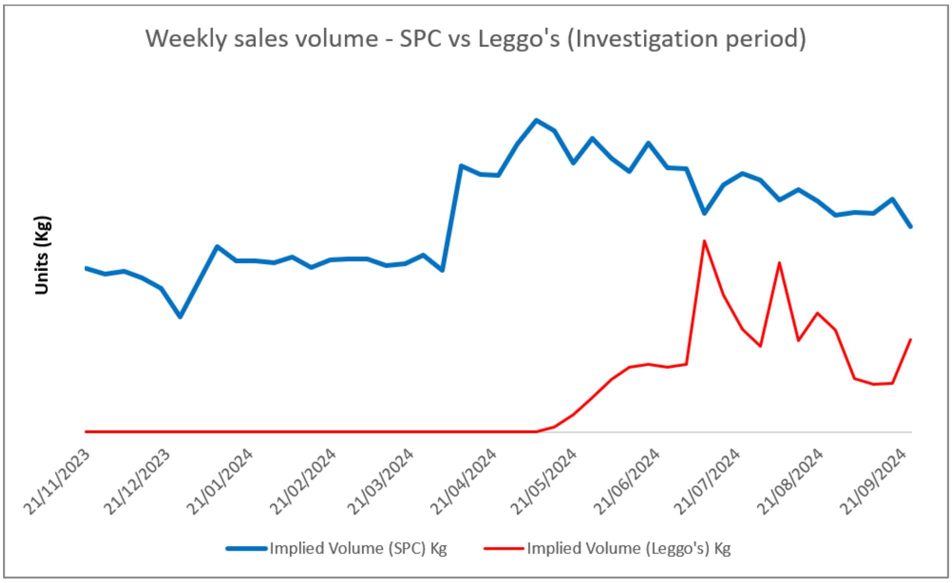
Revised Figure 28: Weekly SPC sales volumes and Leggo's unit price[101]

Section 9.8.3 - Calispa submission, Figure 29, page 125



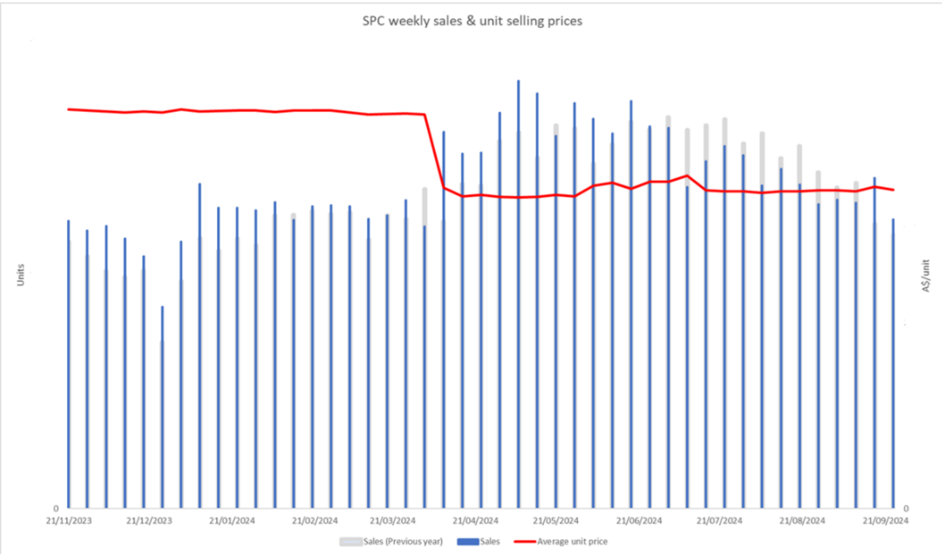
Original Figure 29: Weekly Woolworths SPC sales volumes for SPC and Leggo's[102]

[101] Based on Woolworths sales data provided by Calispa. See Confidential Attachment 2 – SPC and Leggo's sales data in REP 654
[102] ibid.



Revised Figure 29: Weekly Woolworths SPC sales volumes for SPC and Leggo's[103]

Section 9.8.3 - Calispa submission, Figure 30, page 126



Original Figure 30: Weekly Woolworths SPC sales volumes for SPC compared to the previous year[104]

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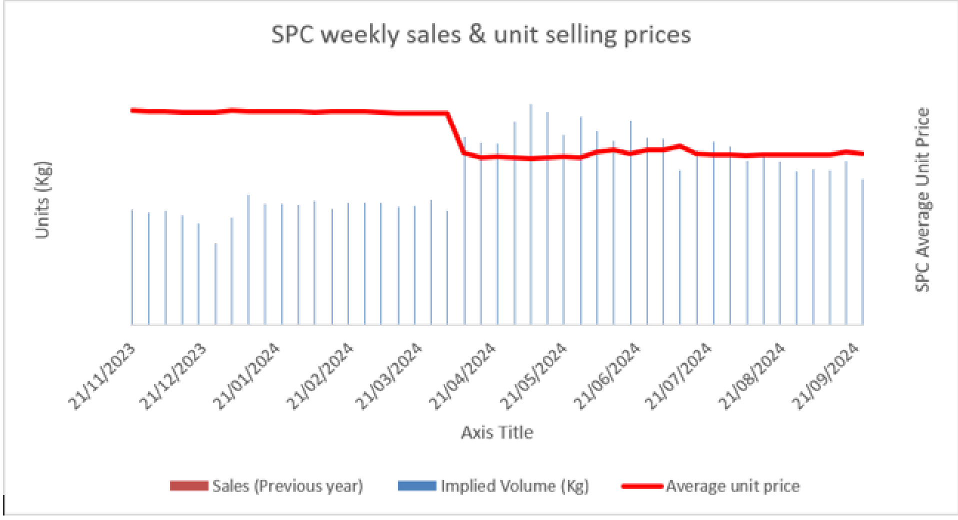
103 ibid.
104 ibid.

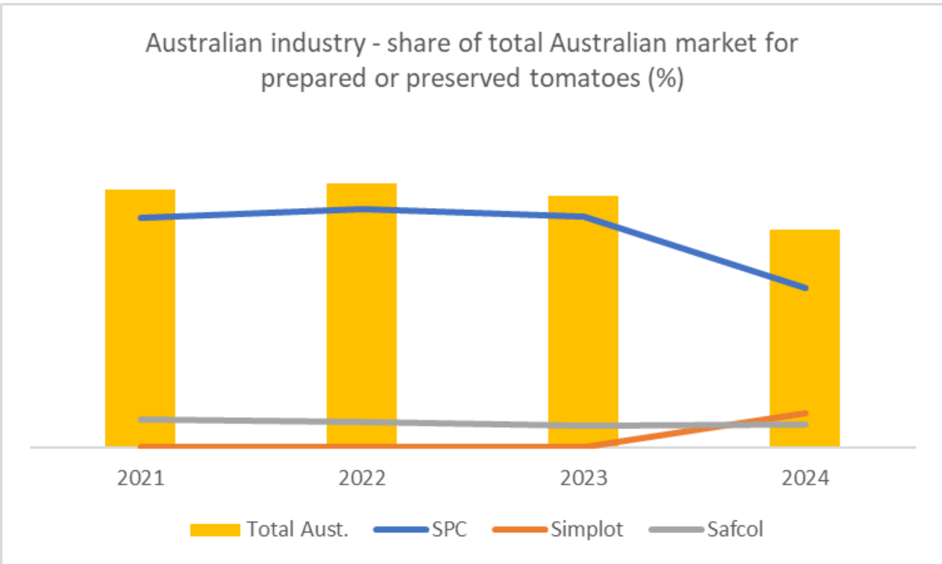


Revised Figure 30: Weekly Woolworths SPC sales volumes for SPC compared to the previous year[105]

In the revised Figure 30 the commission is no longer able to determine the prior year's sales volumes using the data provided by Calispa given that average unit pricing is not included for that prior year.

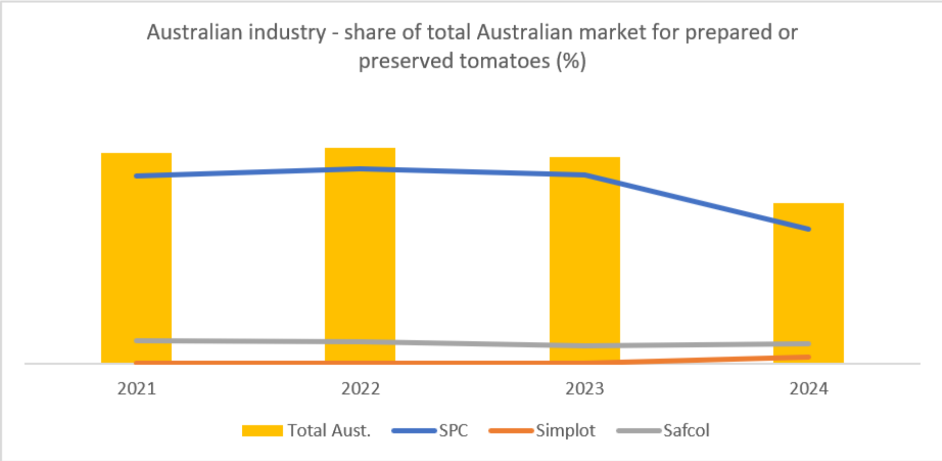
It is further noted that the following claim by Calispa can no longer be substantiated due to the error in Calispa's calculations: '*Calispa observed that after the investigation period, if SPC's weekly sales are overlayed with its unit selling price, '…it is evidence that in those weeks where SPC sales exceeded the previous years, this was a direct result of discounted selling prices'.*[106]

Section 9.8.3 - Competition between Australian suppliers, Figure 33, page 129



[105] ibid.
[106] REP 654, p 126.

Original Figure 33: Share of the Australian market for prepared or preserved tomatoes, by Australian industry member and all the Australian market, year ending September[107]



Revised Figure 33: Share of the Australian market for prepared or preserved tomatoes, by Australian industry member and all the Australian market, year ending September[108]

Section 9.8.3 - Competition between Australian suppliers, page 129

<u>Original statement</u>

The entry of Simplot into the market in the investigation period coincided with the fall in market share of SPC and Safcol, and is roughly equal to SPC's fall over the investigation period.

<u>Revised statement</u>

The entry of Simplot into the market in the investigation period coincided with the fall in market share of SPC, and is approximately equal ~~to~~ 20% of SPC's fall in volume over the investigation period.

Section 9.8.3 - Competition between Australian suppliers, page 129

<u>Original analysis</u>

Total Australian sales volumes remained flat between the period October 2023 to September 2024 and the investigation period. Within Australian industry, SPC's sales volume fell 19%, which was broadly taken up by increases in sales by Safcol of 27% (from a much lower base than SPC) and the entry of Simplot, which was starting from zero sales.

This is in the context of an Australian market which increased 16% over the same period, and where Italian imports increased 22%.

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[107] Confidential Attachment 1 – Australian market in REP 654.
[108] Confidential Attachment 1 – Australian market in REP 654.

In light of the above, the Commissioner is satisfied that the increase in domestic competition with the introduction of Simplot into the Australian market, has contributed to the injury experienced by the Australian industry, with increased competition between Australian products leading to increased discounting and shifting sales volumes, particularly by SPC, which has lost volume while Simplot has gained.

Revised analysis

Total Australian sales volumes fell by 12% between the period October 2023 to September 2024 and the investigation period. Within Australian industry, SPC's sales volume fell 19%, which was in part taken up by increases in sales by Safcol of 27% (from a much lower base than SPC) and the entry of Simplot, which was starting from zero sales. The increased Safcol and Simplot sales roughly accounted for a third of the 19% fall in sales by SPC.

This is in the context of an Australian market which increased 13% over the same period, and where Italian imports increased 22%.

In light of the above, the Commissioner is satisfied that the increase in domestic competition with the introduction of Simplot into the Australian market, has contributed to the injury experienced by the Australian industry, with increased competition between Australian products leading to increased discounting and shifting sales volumes, particularly by SPC, which has lost volume while Simplot has gained. Whilst the Australian industry has lost sales volume during the investigation period, SPC volume loss is only partially accounted for by the increased sales by Simplot and Safcol. The Australian industry as a whole has lost sales volume.