



Australian Government
**Department of Industry,
Innovation and Science**

Anti-Dumping Commission

Application for the
continuation of a dumping
and/or
countervailing notice
or
continuation of an undertaking

ANTI-DUMPING COMMISSION
Form B600

APPLICATION UNDER SECTION 269ZHC OF THE *CUSTOMS ACT 1901* FOR
THE CONTINUATION OF A DUMPING AND/OR COUNTERVAILING DUTY
NOTICE OR CONTINUATION OF AN UNDERTAKING

I hereby request, in accordance with section 269ZHC of the *Customs Act 1901* (the Act)
that the Minister:

- ☒ continue a dumping duty notice, or
- ☐ continue a countervailing duty notice, or
- ☐ continue the undertaking given under the Act by

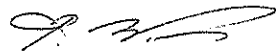
SPC Ardmona Operations Limited (SPC)
(Name of company or organisation)

in respect of the goods the subject of this application.

I believe that the information contained in this application:

- provides reasonable grounds for continuation of the anti-dumping measure; and
- is complete and correct to the best of my knowledge and belief.

Signature:



Name: **Reg Weine**

Position: **Managing Director**

Company: **SPC**

ABN: **60 004 077 105**

Date **22 June 2018**

1. Applicant

Name SPC Ardmona Operations Limited

Address Level 1, 678 Victoria Street Richmond, Vic 3121
Australia

2. Contact Persons

SPC contact

Name Reg Weine
Position Managing Director
Telephone +61 (3)9861 8902
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Email reg.weine@spc.com.au

SPC's representative

Name Jules Croft
Business Trade and Customs Consultant
Address PO Box 46128
Auckland 1147
Telephone +64 21 503932

Email Jules.Croft@xtra.co.nz

A copy of the authorisation for SPC's representative is attached. All correspondence should be directed to SPC and our representative.

3. Other interested parties

Australian industry

Until 2015 SPC was the only manufacturer of the goods in Australia. Kagome is an Australian processor of bulk tomatoes (in packs exceeding 1.14l).

Exporters

Not all exporters from Italy are known to SPC. This information is commercially sensitive and difficult to obtain, and the accuracy of some of the anecdotal information is in doubt. The following information is from the Dumping Commodity Register for Tomatoes.

Feger Di Gerardo Ferraioli S.p.A. supplied directly or through FJ Tytherleigh Italia S.R.L.; or Leo's Imports and Distributors

Conserve Italia Soc. Coop Agr supplied directly or through FJ Tytherleigh Italia S.R.L.; or Conga Foods Pty Ltd; or Foreign Trade Centre Pty Ltd; or Global Procurement Pty Ltd; or Pastificio Attilio Mastromauro S.R.L

AR Industrie Alimentari S.p.A

Mutti S.p.A.

Princes Industrie Alimentari S.R.L. supplied directly or through Conga Foods Pty Ltd or Princes Foods B V

Della Peruta Vincenzo S.p.A

Confidential contact details for the above exporters will be held by the ADC and the Department of Immigration and Border Protection.

End Users

Canned tomatoes are supplied to supermarkets/food service and food distributors.

4. Reasons for seeking continuation

Will the dumping continue or recur?

The anti-dumping measures were initially imposed by public notice (a dumping duty notice) on 16 April 2014 by the then Parliamentary Secretary to the Minister for Industry following consideration of the Anti-Dumping Commission Report No.217. The dumping duty notice is due to expire on 16 April 2019. Worldwide supplies of canned tomatoes are mostly provided by Italy.

With more than 77% of the quantities used in this category in 2016/2017, the Italian industry has stayed well ahead of its main rival, Spain (7.8%) and the world's 3rd ranking exporter, the United States (4%).¹

The supply of tomatoes to the major supermarkets dominates the supply of preserved tomatoes in Australia. If measures do not continue then it is highly likely that exporters will use the reduction in the cost of exporting to Australia to maximize the price advantage of dumped tomatoes.

Anti-dumping actions by other countries

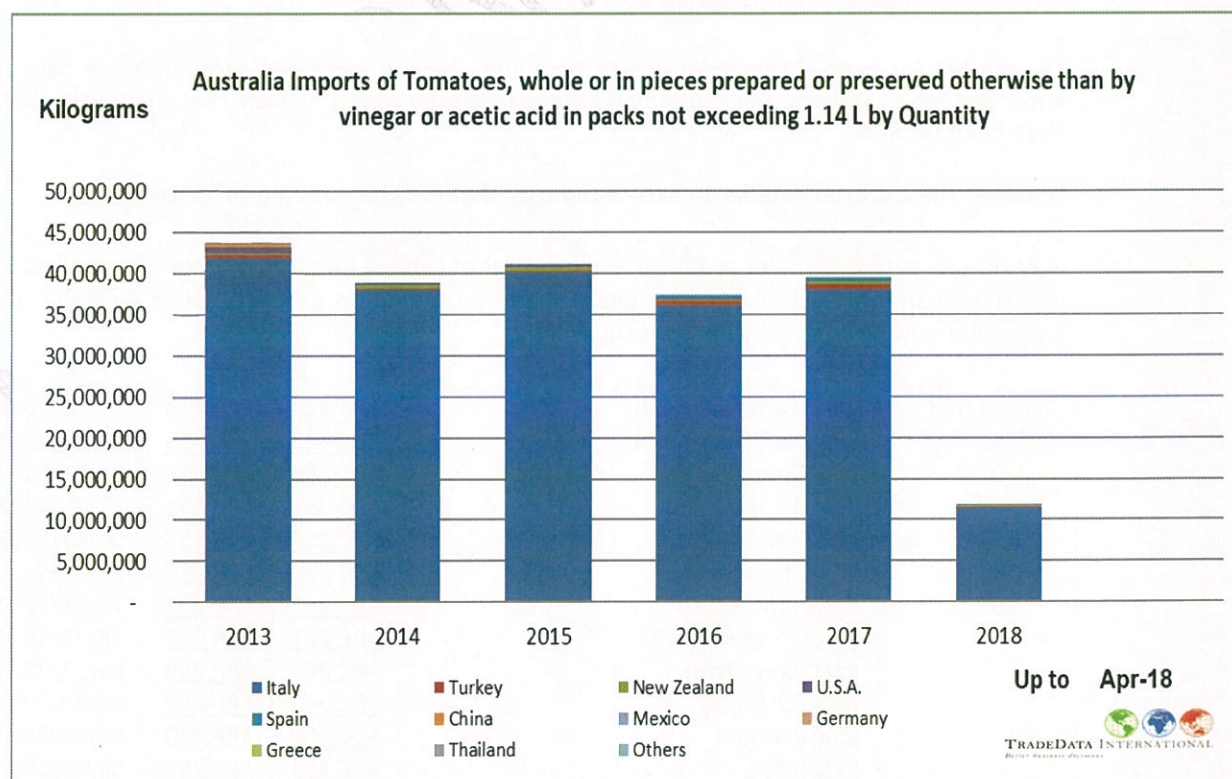
Relevant Evidence as to the current normal values in the export country

SPC has not been able to obtain reliable information on which to calculate a normal value. Even if this information was available, an export price could not be reliably obtained because of the existence of the variable factors in the measures. Report 349 and 354 (April 2017) reviewed the measures for all exporters, excluding Feger and La Doria. The review period was 1 April 2015 to 31 March 2016. The review found that dumping was still present for most exporters.

Evidence of dumping is not specifically required in Form B600 (The Application Notice) perhaps recognising the difficulties of obtaining reliable information

Whether imports have continued following imposition of the measure and estimates of export price

Imports have continued following the imposition of measures as shown below.



¹ <http://www.tomatonews.com/en/architecture-of-trade-2016-2017-canned-tomato-trade> 2 397.html

Source: Confidential attachment TradeData

Italy continues to be dominant in the supply of tomatoes to Australia with the other global exporters Spain and the USA recording small volumes.

Calendar	Imports into Australia KG's					Jan-Apr2018
	2013	2014	2015	2016	2017	
Italy	41888071	37986512	40137785	36006162	38039053	11460745
Turkey	353297	250223	116202	598969	600898	158474
Spain				206343	432573	6083
United States	646251	74247	207408	170890	34614	17833
Other	761800	471308	608576	258100	304074	100633
Total	43649420	38782290	41069972	37240464	39411213	11743767

It has not been possible to calculate meaningful estimates of export prices because of the affect of the variable component of the measures and the product mix of the imports (diced, crushed, flavoured, unflavoured, whole, pieces, pack sizes). Export prices will be in the confidential contracts between the exporters and resellers in Australia. These are confidential to the relevant parties. In negotiations with customers SPC is aware of the range of prices that other suppliers offer to supermarkets.

Confidential TradeData attachment shows the CIF unit values for imports from Italy (Tab Market Segments). In the same attachment FOB unit values are shown in Tab Average Prices. For the reasons stated this data is not particularly useful.

Whether the exporter has retained distribution links in Australia

The market for canned tomatoes is a mature one. Canned tomatoes continue to remain an important food category. The continuing volumes of imports demonstrate that distribution links have been retained.

Whether the exporter retains an excess capacity that may be directed to Australia

Italy continues to be a major producer and exporter of canned tomatoes. There continues to be capacity to supply Australian customers. Exporters continue to be attracted to Australia. The request for new exporter reviews is evidence of this.

Accelerated review	Italy (La Vera Napoli)	ADC 443	EPR 443	19/02/2018
	Italy (La Vera Napoli)	ADC 425	EPR 425	21/08/2017
	Italy (Brunella)	ADC 398	EPR 398	06/07/2017
	Italy (Le Specialita')	ADC 351	EPR 351	22/08/2016
	Italy (FPD)	ADC 357	EPR 357	01/07/2016
	Italy (Davia)	ADC 278	EPR 278	27/03/2015
	Italy (PMC S.R.L)	ADC 262	EPR 262	17/11/2014
	Italy (Le Specialita')	ADC 261	EPR 261	28/11/2014
	Italy (Consorzio)	ADC 268	EPR 268	06/11/2014
	Italy (Coppola)	ADC 260	EPR 260	06/10/2014
	Italy (Calispa)	ADC 250	EPR 250	05/09/2014
	Italy (FPD)	ADC 251	EPR 251	01/09/2014
	Italy (Davia)	ADC 246	EPR 246	31/07/2014
	Italy (Conserve Dora SRL)	ADC 252	EPR 252	25/07/2014

Will the material injury recur?

Applicants must provide evidence that in the absence of the measures the dumped or subsidised goods would cause, or be likely to cause, material injury to the Australian industry producing the goods in question. In considering this question applicants should provide information on key indicators such as profitability, price streams, and marketshare.

What will happen if measures are removed?

In REP 217 the Commission concluded that canned tomatoes are very price sensitive.²
The Commission also concluded:

The Commission considers that purchases of Italian imports at dumped prices have allowed retailers to maintain their reduced shelf prices for generic private label products and provide for a margin of undercutting that is greater than what it otherwise would have been in the absence of dumping.³

If measures are removed, then exporters will be able to offer supermarkets canned tomatoes at prices that will increase the current undercutting of SPC's current prices.

Currently SPC's prices are undercut by imports of tomatoes subject to measures. Partial evidence of this is found in retail survey data. SPC conservatively estimates it is highly likely retail prices in 2019 could reduce [REDACTED] in 2019 if measures are not continued. SPC will need to offer Australian canned tomatoes [REDACTED] as in YTD 2018. This will result in SPC reducing its in store price offering for Australian tomatoes. This is demonstrated in the following chart

(Confidential survey and SPC's own projections)

Source: Confidential attachment Canned Tomato Brief Tab Retail Market

The reduction in SPC's selling price to its customers will materially affect its revenue and profit.

The application should provide:

- *Information on market trends for the goods in question for the last three years, addressing in particular:*
 - *Volume and value of imports and sources of imports;*
 - *Sales and market shares of all suppliers;*
 - *Performance of the local industry, showing key indicators such as profits, price trends, investment, and employment.*

Volume of imports

² REP 217 page 58

³ REP 217 page 58-59

In the following market volume comparison imports were obtained for the January-April 2018 period. To align these imports with the January-May period for SPC's sales, the four months of January-April imports were divided by 4 and multiplied by five to get an estimated volume for January-May 2018 imports (EJan-May2018). Confidential attachment Working Trade Data shows imports sourced from the ABS.

Imports from Italy are significant. It is highly likely that Italian exporters will continue to export similar volumes beyond April 2019.

Import volumes are shown in the following table. Market values have not been shown, as individual and total values are not able to be meaningfully compared with SPC's values because of different levels of trade and product types.

Table and chart showing SPC's market volumes are confidential.

As stated above, the tomato market is price sensitive. Any decline in the price of imported tomatoes from Italy, should measures discontinue, would see an increase in volume exports in 2019.

Italy's volume market share is likely to increase in the absence of measures. Volume share is shown in the following table. In 2015 Italy's volume market share in [REDACTED]

Table showing SPC's volume share is confidential.

Italy's annual volume market share [REDACTED] but the effect on the Australian domestic market has been negligible.

SPC's annual volume market share has shown a slight [REDACTED] since 2015. New market initiatives have contributed to this [REDACTED] share. However, the volume of imports from Italy is at a level where on price alone SPC's efforts to grow market share would not be successful. If prices for imported canned tomatoes reduced because of measures being discontinued, it is highly likely that SPC's volume market share would decline.

Performance of the local industry

Prior to 2014 and the [REDACTED] investment commitment by CCA and the Victorian Government, SPC's financial performance was [REDACTED] volumes year on year. With [REDACTED]

[REDACTED] Confidential commercial comments on SPC's business.

The decision to invest [REDACTED] in a new tomato manufacturing plant was based in part on the [REDACTED] as the impact of dumped tomato imports had been a major constraint on realising an acceptable return on past investments. Confidential commercial comments on SPC's business.

During 2014, SPC began considering the purchase of a new tomato processing plant to be installed in the Shepparton factory and the closure of the existing tomato processing line at Mooroopna as part of a company-wide review of its manufacturing footprint and asset base. SPC's existing plant was not, as some competitors noted, using outdated technology.

[REDACTED] Confidential commercial comments on tender. This indicates that SPC's plant, while near the end of its useful life, still used the same equipment and processing technology as a new processing line and was fit for purpose.

In 2015 tomatoes were processed in Shepparton and there have been ongoing benefits from this. Costs have been reduced, and with investments in the selling and distribution of tomatoes, SPC has continued to actively meet the competition from imports. As a result of the SPC business continuing to face challenging market conditions and competition from cheaper imported products putting pressure on the business profitability, CCA carried out the required impairment testing, which led to recognition of impairment charges in the 2017 reporting period.

[REDACTED] Confidential commercial comments on customers. The contracts SPC has with its key accounts is important to the tomato business. If dumping duties are not continued in 2019 it is highly likely that SPC's revenues and profits will decline.

Profits

The factory at Mooroopna was closed in 2015 and sold in 2016. SPC's costs improved in 2016 due to sale of assets and international business. Costs [REDACTED] from the previous year. Profitability has [REDACTED] in the January-May period. However, the reduction in revenues if duties are discontinued suggests that it is highly likely that profits and profitability will reduce in 2019 leading to a recurrence of material injury.

Chart showing EBIT and profitability confidential.

Source A6

Price Trends

In 2018 SPC's [REDACTED] from 2017. In the first 5 months of 2018, SPC's average selling price has been [REDACTED]. If duties are discontinued it is highly likely that the average selling price will not be able to cover costs in 2019. This will affect profits and future investment.

Chart showing average selling price and cost to make and sell is confidential.

Source A6

Investment

The new tomato processing plant was commissioned in 2016 with production in the 2017 season. This significant investment has allowed SPC to improve the cost to make and sell canned tomatoes manufactured in Australia. The return on this investment is essential to maintain the viability of the business. It is highly likely that if measures are discontinued, the investment return will be negative and material injury will recur.

Employment and Productivity

Employment has remained relatively stable. Productivity gains have been made with the new processing line. If duties are discontinued and revenues fall, it is highly likely that employment and productivity will be adversely affected.

Likelihood of Material Injury

Given the penetration of imports in the market it would be expected that any reduction in the average selling price per tonne following the removal of duties would have an adverse impact on SPC's profitability. To illustrate this, it is assumed that SPC must react to a small reduction in the average selling price per tonne in order to maintain volumes and customer confidence. This will be evident in order to retain key accounts. For example, the effect of [REDACTED] price reduction in the average selling price per tonne is significant at both the gross margin and EBIT level.

Chart showing impact of price reduction on SPC's business is confidential.

Dumping measures

The goods are currently classified to tariff subheading 2002.10.00 statistical code 60 in Schedule 3 of the *Customs Tariff Act 1995*.

Measures are in place against exporters from Italy excluding La Doria S.p.A.
Notice of the measures was given on 16 April 2014 in Anti-Dumping Notice No. 2014/32.