



**Australian Government**  
**Anti-Dumping Review Panel**

Anti-Dumping Review Panel  
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By EMAIL

Commissioner of the Anti-Dumping Commission  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

Dear Commissioner,

**ADRP Review No. 177 – Prepared or Preserved tomatoes exported from Italy**

The Anti-Dumping Review Panel ('Review Panel') is currently conducting a review of the decision of the Minister for Industry and Innovation and Minister for Science ('Minister') made on 2 February 2026 under s 269TL(1) of the *Customs Act 1901* ('the Act'), applying to Prepared or Preserved Tomatoes exported from Italy.<sup>1</sup>

The Review Panel accepted an application for review from SPC Operations Pty Ltd ('SPC').

As you are aware, I am conducting the review.

In REP 654, it was found that the Commissioner was not satisfied that dumping and subsidisation had been causing or were the cause of material injury to the Australian industry, and that other factors were the primary cause of the injury.

SPC's ground of review is that it was an erroneous decision that dumping was not the cause of material injury to the Australian industry and that other factors were the primary cause of the injury.

In its application for review SPC addressed each of the four main 'other' injury factors to which, when combined, the Commissioner established the above conclusion. In its application for

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<sup>1</sup> See ADN 2026/021.

review, SPC also addressed the ADC 'remedied price' analysis and its relevance to the material injury finding.

Pursuant to s 269ZZL of the Act, I require the following findings in Report 654, relating to SPC's ground of review, be reinvestigated:

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.

I provide below a summary of my reasons for making the request under s 269ZZL of the Act:

### Findings in REP 654

1. The ADC found that certain exporters from Italy exported the goods to Australia at dumped and/or subsidised prices during the investigation period, with dumping margins ranging from 2.2% to 11.1%, with the dumped exports comprising 91% of exports. The subsidy margins for non-cooperative exporters were found to be not negligible, being 1.6%, and comprising 18% of exports. For all other exporters the level of subsidisation was found to be negligible.
2. The ADC found that injury in the investigation period coincided with the export of dumped and/or subsidised goods from Italy, finding that SPC, being the applicant and largest member of the Australian industry, experienced injury during the investigation period in the form of: (i) volume injury (by way of lost sales volume and lost market share); (ii) price injury (by way of price suppression and price depression); (iii) loss of profits and profitability; (iv) lower revenue; (v) reduced ROI; and (vi) reduced capacity utilisation. The ADC also found that there was volume related injury for the entire Australian industry and that the dumped and/or subsidised goods undercut Australian industry prices in every quarter of the investigation period.
3. The ADC made the following finding, based on the evidence before the Commissioner and having assessed other factors in the Australian market for prepared or preserved tomatoes in which the Australian industry competes:

*The Commissioner considers that imports of dumped and/or subsidised goods from Italy have had an effect on SPC's economic condition, but that effect does not amount to **material injury** to the Australian industry, and that **the material injury has been caused by other factors.**<sup>2</sup> [Emphasis added]*

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<sup>2</sup> See REP 654, page 142. The other factors assessed by the ADC to cause material injury were:

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

4. The Commissioner was also not satisfied that the injury to the Australian industry caused by goods exported to Australia from Italy was negligible, and therefore the requirements for termination of sections 269TDA(13) and (14) were not met.

### Scope of Reinvestigation

5. There are two components of SPC's ground of review and the finding referred to above that I require to be reinvestigated, and that are discussed in more detail below:
  - a. 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.
  - b. 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". 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) increase in raw material costs and higher production costs; (iii) an increase in domestic Australian competition; and (iv) consumer preference by some consumers for Italian products.
6. It should be noted that these two components are interrelated and overlap to some extent. The four factors referred to in the second component, when combined, are central to the finding in the first component. Of particular significance, is the 'competitive advantage' factor assessed by the ADC by the levels of undercutting and adjusted to account for dumping and/or subsidisation by the ADC's 'remedied price' analysis. In its s 269ZZJ submission the ADC stated that its "remedied price analysis" was a method of distinguishing the price advantage of imports attributable to dumping, from competitive advantage. In its application for review SPC addressed each of the four 'other' injury factors to which, when combined, the Commissioner established the above conclusion. In my view the ADC's "remedied price analysis" is relevant not only to the discussion of competitive advantage as an "other factor" but also relevant to the other three factors, and therefore also relevant to the assessment of the four referenced 'other factors' in combination.
7. The relevance to this issue of s 269TAE(2A) of the Act is undisputed, that is, that regard must be had to the question as to whether any injury to an industry is being caused by factors other than dumping and/or subsidisation and that such injury must not be attributed to dumping or subsidisation. It is also clear from the Ministerial Direction on Material Injury 2012 ('Material Injury Direction') that dumping or subsidisation need not be the sole cause of injury to the industry. Other guidance or direction from the Material Injury Direction that is relevant and is referred to by both the ADC and SPC is:
  - a. the injury caused by dumping or subsidisation must be material in degree;
  - b. material injury is injury which is not immaterial, insubstantial or insignificant;

- c. there is no threshold amount that is capable of general application, but rather, identifying material injury will depend upon the circumstances of each case and will differ from industry to industry and from time to time.

### **Materiality of dumping and subsidisation causing injury and “remedied price analysis”**

8. It is not disputed by SPC, in its application for review, that the Italian producers have a competitive advantage, as a “single, well-understood economic concept”. I agree with SPC’s submission that competitive advantage does not generally ‘negate causation’ and does not preclude a finding of material injury from dumping and that such circumstances have not prevented the ADC from finding material injury and recommending measures in previous investigations. The ADC does not appear to dispute these submissions and in its s 269ZZJ submission rejects SPC’s contention that it treated competitive advantage as a “complete defence”. The ADC agrees with SPC’s submission that, 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”.<sup>3</sup> It is in fact the ADC’s analytical approach (or lack thereof) to this “additional injury” caused by dumping, that is of most concern to me and is the basis of the reinvestigation. To this end the “remedied price analysis” that underlies the discussion of “Materiality of dumping and subsidisation causing injury” in Chapter 9.9 of REP 654, is most significant.
9. The ADC in its s 269ZZJ submission stated that its “remedied price analysis” was a method of distinguishing the price advantage of imports attributable to dumping, from competitive advantage. I agree that the remedied price analysis is indeed a useful analytical tool to distinguish the injury attributable to dumping from that of competitive advantage (and possibly also from other factors being considered). While SPC stated that this “remedied price” analysis was standard and appropriate, it challenged the ADC’s conclusion from this analysis – that measures should not be imposed.
10. The ADC’s finding regarding the remedied imports analysis was as follows:

*Across all tiers over the investigation period, Italian export prices are 76% to 78% the price of the Australian industry (i.e. they undercut by between 22% to 24%). The weighted average dumping and subsidy margin adds 4% to the price, leaving a gap of 18% to 20% across the investigation period between the price at which Australian industry sold like goods and the remedied (i.e. undumped and unsubsidised) price of Italian exports.<sup>4</sup>*

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<sup>3</sup> See Attachment 2 of SPC’s application for review, page 11 and Paragraph 28 of the ADC’s s 269ZZJ submission, page 8.

<sup>4</sup> See Chapter 9.9.1 of REP 654, page 140. It should be noted, however, that on 14 April 2026, the ADC advised the Secretariat that in the course of preparing its s 269ZZJ submission it had identified a “minor calculation error” in Confidential Attachment 31 “Price undercutting analysis” to REP 654’. A conference was subsequently held under s 269ZZHA, on 23 April 2026 (“the April Conference”) for the purpose of obtaining further information relating to the calculation error identified. During the April

11. In its assessment of the remedied imports analysis, the ADC found that if anti-dumping measures were imposed on those Italian exporters found to be dumping during the investigation period, the Australian industry would continue to be undercut and would continue to experience injury. It was concluded:

*Due to the level of undercutting, even once remedied, ..... the Commissioner cannot be satisfied that dumping and subsidisation are factors causing material injury to the Australian industry.<sup>5</sup>*

12. As stated above, I have concerns about the ADC's analytical approach to the "additional injury" caused by dumping, and with the above-mentioned conclusion. While it is clear from the remedied import analysis which the ADC performed, that there would still be a significant price advantage for the imported product, there does not appear 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. I would expect to see more quantitative and or qualitative analysis and reasoned conclusions backed by evidence and data, rather than the generalised conclusionary statements, without detailed explanation, such as:

- a. the remedied import analysis "indicates that a substantial portion of the price gap is attributable to structural cost advantages (i.e. competitive advantage) and other factors, rather than dumping or subsidisation";
- b. that the dumping and subsidisation are at "relatively modest levels";
- c. and that the effect of the dumped and/or subsidised goods from Italy on SPC's economic condition "does not amount to material injury to the Australian industry, and that the material injury has been caused by other factors".

13. It should be pointed out that the conclusionary statement referred to in the first bullet point of the above paragraph, like an earlier referenced statement, "due to the level of undercutting, even once remedied", focusses on the "substantial" portion of the price gap attributable to competitive advantage, as the main reason for the

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Conference the ADC provided a detailed explanation of the error and how it occurred, as well as the revised Confidential Attachment 31. The ADC identified the above passage at page 140 of REP 654 as being affected by the error, and revised it as follows with revisions indicated by underline and ~~strikethrough~~-text.:

"Across all tiers over the investigation period, Italian export prices are 76% to ~~78%~~ 87% the price of the Australian industry (i.e. they undercut by between ~~22%~~ 13% to 24%). The weighted average dumping and subsidy margin adds 4% to the price, leaving a gap of ~~48%~~ 9% to 20% across the investigation period between the price at which Australian industry sold like goods and the remedied (i.e. undumped and unsubsidised) price of Italian exports."

The ADC confirmed that there are no tables or figures in REP 654 affected by the error, or any other passages in REP 654. The ADC also confirmed that the error does not impact the ADC's undercutting analysis in REP 654 or have any effect on the reviewable decision. See paragraphs 1 to 4 of the Summary of the April Conference and Addendum 1 thereof, for a detailed explanation of the error, as well as Footnote 11 of the ADC's s 269ZZJ submission, and Paragraph 21.

<sup>5</sup> See REP 654, page 141.

conclusion that dumping and subsidisation does not cause material injury. While 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, such a focus appears to detract from the “correct analytical approach ... to assess whether the dumping has caused material injury in its own right”, referred to above, as indicated in the Material Injury Direction. That is, whether the “additional injury” caused by the dumping (and separated from competitive advantage and other factors). This should be the focus of the reinvestigation.

### **Levels of Dumping and Undercutting**

14. In addition, I refer to the reference to the dumping and subsidisation being at “relatively modest levels”,<sup>6</sup> as well as the statement in the ADC’s s 269ZZJ submission, that the Commissioner’s inability 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...”.<sup>7</sup> While based on facts and analysis of data, these statements appear to be very general in nature and the conclusions reached are also not well-reasoned or based on any comprehensive analysis. The size of dumping margins and price undercutting margins are undoubtedly relevant. The ADC pointed out in its s 269ZZJ submission, under s 269TAE(1), that two of the factors which the Commissioner may have regard to in its injury analysis are the size of the dumping margin, and the difference between the price paid for goods produced by the Australian industry and the goods exported to Australia (the undercutting margin). However, in its findings as to whether dumping has caused material injury the ADC has not provided analysis and reasoned explanation, either quantitatively 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” and what was meant by “relatively modest levels” of dumping and its impact on the materiality of injury. In this regard, it is noted, as referred to above, that 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.<sup>8</sup> It is also noted that in Chapter 9.3 of REP 654 dealing with the size of dumping and subsidy margins, as a factor to determine material injury from dumping, there is 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. In the reinvestigation, to the extent that the level of the above negligible dumping margins “informs” the decision on the materiality of injury caused by the dumped imports, the ADC should provide more reasoned explanations for its conclusions, supported by facts, as required by the Material Injury Direction.

### **Injury that is “not negligible” and “material injury”**

15. It is interesting to note that the Commissioner was satisfied that the injury to the Australian industry caused by dumped goods exported to Australia from Italy was “not negligible”, in the finding that the requirements for termination of s 269TDA(13)

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<sup>6</sup> See statement in Paragraph 12b above.

<sup>7</sup> See Paragraph 30 of the ADC’s s 269ZZJ submission, page 8.

<sup>8</sup> See Chapter 9.3 ‘Size of dumping and subsidy margins’ of REP 654, pages 110 – 111.

and (14) were not met. I am certainly not suggesting that a finding of injury being “not negligible” automatically amounts to the injury being considered to be “material”. However, I would expect there to be reasoned analysis by the ADC as to why that same injury that was definitively found **not** to be “negligible” was considered to be not “material”, particularly bearing in the mind that the Material Injury Direction definition of material injury is injury which is not immaterial, insubstantial or insignificant”. It could be argued 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”. There was no further analysis and reasoned explanation as to why that “not negligible” injury did not amount to being material. I would expect that ADC in the reinvestigation 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”. I would also expect there to be some discussion relating to the Material Injury Direction guidance that there is no threshold amount that is capable of general application in regard to the material injury analysis.

### Past ADC Practice

16. Related to the above discussions on the “substantial” portion of the price gap attributable to competitive advantage and the “moderate” levels of dumping, is SPC’s submissions in both its post-SEF 654 submission and in its application for review, that the ADC’s finding **on competitive advantage** is inconsistent with its past practice. SPC submitted that the ADC has repeatedly found material injury in cases where dumping margins are “modest”, where other factors contribute to injury and where undercutting margins substantially exceed dumping margins, and provided examples for comparisons.<sup>9</sup> Notwithstanding the substantial submissions on this issue by SPC in its post-SEF submission, the ADC did not in REP 654 provide further analysis or a reasoned explanation as to why its conclusion in REP 654 differed from past practice. It simply addressed SPC’s submissions on past practice in broad general terms, with specific reference to the finding in Continuation 632 – Railway Wheels exported from China, a recent example of previous ADC practice that SPC had raised.<sup>10</sup> The ADC made only a fleeting reference to the specific facts of Investigation 654 and purported to distinguish it from Investigation 632, “including that the goods are a processed agricultural product (as opposed to a commodity product like railway wheels)”.<sup>11</sup>
17. This puzzling distinction was, however, not elaborated upon or explained in REP 654 leading SPC in its application for review to challenge the ADC’s attempt to distinguish the goods in REP 654 from other product categories on the basis that they are processed agricultural products rather than commodity products. SPC contended that there is no legislative basis for the proposition that competitive advantage operates

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<sup>9</sup> See Document #39 of EPR 654, being SPC’s submission on SEF 654, pages 4, 8 – 9, 10 – 11, 17 - 20. See Attachment 2 of SPC’s application for review, pages 9 – 11.

<sup>10</sup> See REP 654, page 121.

<sup>11</sup> See Chapter 9.8.1 of REP 654, page 121.

differently, or should be treated differently, depending on the nature of the goods under investigation. SPC submitted that the Commission's characterisation of competitive advantage as varying by product category is an error of law and reasoning, contending that if not overturned on merits review, would create an untenable inconsistency in the ADC's decision-making.<sup>12</sup>

18. The ADC in its s 269ZZJ submission denied that it treated competitive advantage in an agricultural product sector as fundamentally different to competitive advantage in other sectors. The ADC stated that the difference in product types referred to in REP 654 was context for why a factor like consumer preference was found to be relevant in this case, and more significant than it may have been for a more commoditised product. The ADC further stated that the nature of the product is also relevant to the finding that the goods existed in a segmented market, emphasising that the guidance of the Material Injury Direction that "identifying material injury will depend upon the circumstances of each case and will differ from industry to industry and from time to time".<sup>13</sup> I do not consider that the ADC's submissions (in retrospect) to be a reasonable explanation for distinguishing REP 654 from past practice (particularly, Investigation 632), in respect of findings **relating to competitive advantage**, which is the context in which it was raised by SPC. While the nature of the product might very well be relevant to "other factors" that might affect the finding on material injury, it does not appear to be relevant to the finding relating to competitive advantage and price undercutting. The ADC is requested in its reinvestigation to address SPC's submissions relating to comparisons of the findings in REP 654 relating to competitive advantage, with the ADC's past practice, and provide a reasoned explanation for any differing conclusions. This would be separate to the analysis relating to a different "other factor" that could impact the injury finding, such as consumer preference.

### Counterfactual Analysis

19. As discussed above, where exporters have a competitive advantage, indicated by a significant price undercutting which contributes to the injury, the "correct analytical approach is to assess whether the dumping has caused material injury in its own right". As also discussed above, the "remedied price analysis" used in REP 654 is an effective method for distinguishing the price advantage of imports attributable to dumping from competitive advantage. However, it has its limitations in taking the analysis further to determine, in a quantitative way, whether the injury attributed to dumping, separate from any injury attributed to competitive advantage, has a material impact on the injury indicators. The weaknesses in the ADC's qualitative analysis and explanations in this regard have been pointed out and discussed above.
20. In REP 654, the ADC briefly considered whether it could examine a "counterfactual situation", to calculate the position of the Australian market and SPC if dumped and/or subsidised imports did not compete in the Australian market, and hence

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<sup>12</sup> See Attachment 2 of SPC's application for review, pages 9 – 11.

<sup>13</sup> See Paragraphs 35 - 41 of the ADC's s 269ZZJ submission, pages 10 - 11.

determine the level of injury caused by such the dumping. The ADC made the following observation relating to a possible counterfactual analysis in REP 654:

*However, given the presence of the other factors in the market causing injury discussed in chapter 9.8, the commission considers any analysis would be only an estimate of little probative value.*<sup>14</sup>

21. SPC in its application for review, strongly disagreed with the conclusion that a counterfactual assessment would have had little probative value and considered it would have been directly relevant to the ADC's causation and materiality findings. SPC submitted that had the ADC undertaken a counterfactual analysis removing the effects of dumping, the outcomes would have revealed a material improvement in the Australian industry's economic condition across all injury indicators. SPC provided details as to how it considered a counterfactual analysis would have revealed a material improvement in the Austrian industry's economic condition across all injury indicators. SPC submitted that the ADC's dismissal of the counterfactual on the basis that it would be "...only an estimate of little probative value..." was untenable given the weight of its own findings and further contended that the existence of other factors causing injury does not render a counterfactual exercise valueless; but instead, it makes it essential.<sup>15</sup>
22. The ADC in its s 269ZZJ submission countered SPC's claims regarding a counterfactual assessment, providing further explanation as to why the presence of other factors would render such a counterfactual analysis of little probative value. The ADC submitted that removing these imports from the Australian market may demonstrate the improvements that SPC suggests, but it would also have largely removed the impact of the non-dumping factors. The ADC further submitted that the ADC's remedied price analysis was a more insightful method of assessing the contribution of dumping to material injury, being essentially a counterfactual scenario showing the impact of a reduction in the price advantage conferred by dumping.<sup>16</sup>
23. I initially considered that SPC claims in its application for review relating to relating to a counterfactual assessment to have some validity, noting the somewhat terse dismissal of such an assessment in REP 654, based on the ADC's consideration that, "given the presence of the other factors in the market causing injury " any analysis "would be only an estimate of little probative value." While the ADC provided further details of such an analysis and expanded on the reasons for its view, in its s 269ZZJ submission, it remains unclear to me as to whether the counterfactual analysis (across all injury indicators), would completely remove the dumped imports (as seems to be indicated by the ADC's submissions), or whether the dumped imports would be remedied by the reduction in the price advantage conferred by dumping, an option referred to by SPC in its application for review. If the latter is a possibility, I would have difficulty with the ADC's explanation that the presence of other factors would render such a counterfactual analysis to be of little probative

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<sup>14</sup> See REP 654, page 141.

<sup>15</sup> See Attachment 2 of SPC's application for review, pages 25 to 26 for more details.

<sup>16</sup> See Paragraphs 62 - 64 of the ADC's s 269ZZJ submission, pages 16 - 17.

value, since the impact of any valid non-dumping factors would be reflected in the remaining price advantage.

24. I note that the particular methods and approach by which the ADC carries out the process of separating and distinguishing the injurious effects of dumped imports from the injurious effects of the other known causal factors are not prescribed by the Act, the Material Injury Direction or the WTO Anti-Dumping Agreement. I cannot direct the ADC to carry out a counterfactual analysis as part of its methodology. However, whatever the approach or method used by the ADC, it should be able to appropriately separate and distinguish the injurious effects of the dumped imports from the injurious effects of the other factors, in order to be able to conclude that the injury ascribed to dumped imports is actually caused by those imports, rather than by any other factor, and then to be able to assess the materiality (or not) of that injury. In the light of the identified weaknesses in the ADC's qualitative analysis and explanations in this regard, the ADC should in its reinvestigation 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.

#### **Increase in raw material costs and higher production costs**

25. In REP 654, the ADC found that both the increase of costs and the inability to pass on the increase are related causes of injury. It further found that if the raw material costs had remained lower, SPC would have been able to maintain a greater margin between its costs and selling price and therefore not have experienced price injury, or not experienced such injury to the same level.<sup>17</sup>
26. I agree with SPC's that the ADC's treatment of the increase in costs and inability to raise prices, as a separate "other factor", rather than treating it as price suppression, (an economic factor of injury), is confusing. I also agree that the ADC's finding that SPC experienced price suppression and then attributed this same injury to raw material cost increases, appear to amount to a "double counting of the same injury with attribution to different causes".<sup>18</sup>
27. In its s 269ZZJ submission the ADC agrees that competition with dumped imports affected SPC's ability to pass on increased costs to its customers, but emphasised the relevance of the distinction made between injury due to dumping and injury due to competitive advantage. This led to the ADC to conclude that the price suppression injury attributable to dumping was not material in degree and that increases in raw material costs acted independently to contribute to reduced profit and profitability.<sup>19</sup>
28. I found the reasoning of the ADC difficult to follow and lacking in analysis, and the conclusions unsupported and confusing. Noting that the ADC itself refers to injury due to competitive advantage, which would also presumably include access to higher costs, it is difficult to understand the ADC's finding that the higher costs of the

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<sup>17</sup> See REP 654, page 122.

<sup>18</sup> See Attachment 2 of SPC's application for review, page 13.

<sup>19</sup> See Paragraphs 42 - 44 of the ADC's s 269ZZJ submission, pages 11 - 12.

Australian producers detracted from the additional injury due to the dumping margin. In this regard I also note that that costs started to decline in the investigation period.

29. The ADC should in its reinvestigation reconsider the increase in costs as an “other factor” causing injury and as 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.

#### **Increase in domestic competition and consumer preferences for Italian origin and flavour**

30. I consider that SPC’s claims and analysis of the ADC’s findings relating to increase in domestic competition as an “other factor”, have validity. I request that the ADC also reassess its analysis and conclusions relating to the increase in domestic competition as an “other factors”, particularly taking 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.

#### **Consumer preferences for Italian origin and flavour**

31. I consider that SPC’s claims and analysis of the ADC’s findings relating to the ADC’s findings relating to consumer preferences as an “other factor” to have validity. I request that the ADC also reassess its analysis and conclusions relating to the consumer preferences as an “other factors”.

#### **Combination of all “other factors”**

32. Once the ADC has reinvestigated its analysis and conclusions relating to 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 its reinvestigation the ADC should also take into consideration the s 269ZZJ submissions of all interested parties.

If you have any issues in relation to the reinvestigation or if you consider that a conference under s 269ZZHA of the Act would assist in obtaining the further information the subject of the reinvestigation, please contact the Secretariat.

Please could you report the result of the reinvestigation on **16 October 2026**.

If you require more time, including time to allow interested parties the opportunity to comment on an aspect of the reinvestigation, please contact the Secretariat.

Thank you for your assistance.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Blumberg', with a stylized, cursive script.

**Leora Blumberg**

Panel Member

Anti-Dumping Review Panel

18 May 2026