



NON-CONFIDENTIAL

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**REINVESTIGATION OF CERTAIN FINDINGS BY THE AUSTRALIAN ANTI-DUMPING
COMMISSION IN REPORT NO 654 ON IMPORTS OF PREPARED OR PRESERVED TOMATO
PRODUCTS EXPORTED TO AUSTRALIA FROM ITALY**

**Submission of the European Commission on the Preliminary Reinvestigation Report
("PRR")**

On 15 October 2024, the Australian Anti-Dumping Commission ("ADC") initiated anti-dumping and anti-subsidy investigations concerning imports of prepared or preserved tomatoes originating in, or exported from, Italy, following an application lodged by SPC Operations Pty Ltd ("SPC"). On 12 November 2025, the ADC issued the Statement of Essential Facts (SEF) 654, setting out its preliminary findings, which were subsequently followed by the final determination (REP) 654. On 2 February 2026, the Australian Minister for Industry and Innovation terminated both investigations.

On 2 March 2026, SPC lodged an application with the Anti-Dumping Review Panel ("the Panel") seeking a review of the Minister's decision in Investigation No. 654.

The European Commission ("the Commission") participated as interested party in the reinvestigation and submitted its comments to the Panel.

The Commission appreciates the opportunity to provide comments on the PRR concerning tomatoes, prepared or preserved, exported from Italy to Australia.

It is considered that the PRR represents a substantial and constructive reassessment of the issues identified in the context of the reinvestigation, in particular the conclusion that, although dumped and subsidised imports from Italy were found to have contributed to certain price effects, the ADC **remains not satisfied that such imports caused material injury to the Australian industry**. The evidence and analysis set out in the PRR provide substantial support for maintaining the conclusion reached in the final report 654.

1. REASSESSMENT OF CERTAIN ASPECTS OF THE OTHER INJURY FACTORS

i. Raw material costs

As expressed in the previous submissions made by the Commission, the ADC appropriately distinguished between the underlying cause of the price suppression and any additional price effects of dumping and subsidisation. In particular, SPC's increasing raw material and production costs increased the prices required to maintain margins, while Italian imports remained competitively priced mainly due to the lower production costs of Italian producers.

The ADC nevertheless separately recognised that dumping and subsidisation imposed an additional price constraint and addressed that effect through its counterfactual and materiality analysis.

Accordingly, the reinvestigation confirms the findings reached by the ADC in REP 654, which should therefore be maintained.

ii. Domestic competition

REP 654 found that domestic competition contributed to the material injury suffered by the Australian industry. The PRR reaches the same conclusion, while assessing the impact of increased domestic competition as less significant than previously found.

That approach is consistent with established causation principles, under which injury may result from multiple concurrent factors and each known factor other than the dumped imports must be considered. The PRR appropriately recognises that Simplot's entry had a genuine and measurable effect on SPC's price and volume performance but could not account for the entirety of the injury suffered.

iii. Consumer preferences

REP 654 recognised that price is an important, potentially the most significant, purchasing consideration, while also identifying non-price factors such as flavour, quality, brand and country of origin.

The PRR confirms that these preferences form part of the competitive market context. More importantly, the PRR expressly confirms that 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. Accordingly, the finding is not that consumer preferences caused the injury, but that they remain a relevant factor in assessing the competitive conditions and materiality of injury.

Therefore, the reinvestigation confirms the findings reached by the ADC in REP 654, which should be maintained.

2. REASSESSMENT AND MATERIALITY OF INJURY CAUSED BY DUMPING AND SUBSIDISATION

The reinvestigation also confirms the central conclusion reached in REP 654; while dumping and subsidisation caused some additional price injury, the injury attributable to those effects was not material.

The ADC's counterfactual analysis appropriately isolates the incremental effect of dumping and subsidisation from the underlying competitive advantages of Italian producers and other sources of injury. It establishes that, absent dumping and subsidisation, Italian import prices would have been approximately 3.3% higher on average, or 3.6% when including negligible subsidy margins. Importantly, the ADC treats this as an upper-bound estimate. Italian producers would have retained substantial underlying competitive advantages, while retailer bargaining power would have constrained the extent to which Australian producers could pass any price increases through to customers.

The reinvestigation also does not establish that dumping or subsidisation caused the observed volume injury. Although Italian import volumes increased as Australian industry volumes declined, the ADC found insufficient evidence of a reliable causal relationship between dumped and subsidised prices and that volume decrease. The injury attributable to dumping and subsidisation is therefore restrained to price-related effects.

Those effects were limited in economic significance. The estimated revenue effect was approximately 0.8% to 3.3%, or 0.9% to 3.6% when including negligible subsidy margins. Even on the ADC's maximum price-effect assumption, and assuming full pass-through to customers, the majority of the financial losses suffered by the Australian industry would have remained. This demonstrates that the losses cannot be attributed principally to the price effects of dumping and subsidisation.

The broader price differential further demonstrates the limited significance of dumping and subsidisation. Italian export prices were approximately 13.1% to 23.6% below Australian industry prices. Against this differential, dumping and subsidisation accounted for only approximately 3.3 percentage points at the upper bound. This is significant because it demonstrates that only a relatively small proportion of the overall price advantage enjoyed by Italian exporters was attributable to dumping and subsidisation. Even after removing those effects, Italian imports would have remained approximately 9.4% to 20.4% below Australian industry prices. The substantial majority of the price differential therefore arose from factors other than dumping and subsidisation.

The relevant question is not whether dumping and subsidisation caused any injury, but whether they caused material injury. The PRR correctly distinguishes injury that is not negligible from injury that is material. The absence of a generally applicable numerical threshold does not prevent the ADC from assessing materiality by reference to the nature, extent and significance of the injury in the circumstances of this case.

Viewed in that context, the evidence supports the ADC's conclusion that the incremental **injury was not material**. Dumping and subsidisation caused an identifiable but limited price effect; they were not shown to have caused the observed volume injury; the counterfactual price effect is an upper bound; substantial competitive advantages would have remained; and most of the industry's financial deterioration would have persisted in any event.

Accordingly, the reinvestigation reinforces, rather than alters, the conclusions reached in REP 654. The evidence does not establish the legal requirements necessary for the imposition of

anti-dumping or countervailing duties.

3. CONCLUSION

The Commission therefore submits that:

- the findings and conclusions of REP 654 should be maintained, as confirmed and further supported by the reinvestigation;
- the ADC should maintain the conclusion that, although the effects of dumping and subsidisation were not negligible, the injury attributable to those effects was not material;
- no anti-dumping duty or countervailing duty should be imposed on imports of preserved tomatoes from Italy;
- the Minister's decision not to impose anti-dumping or countervailing duties should be upheld, and the reinvestigation should be concluded consistently with that outcome.