



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

**Anti-Dumping  
Commission**

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**CONTINUATION INQUIRY 488**

**CONTINUATION INQUIRY OF ANTI-DUMPING MEASURES ON  
CERTAIN PREPARED OR PRESERVED TOMATOES  
EXPORTED FROM ITALY**

**VERIFICATION VISIT REPORT - IMPORTER**

**LEO'S IMPORTS AND DISTRIBUTORS PTY LTD**

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED HEREIN  
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT  
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

**November 2018**

# PUBLIC RECORD

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## **1 BACKGROUND**

On 22 June 2018, an application was lodged by SPC Ardmona Operations Limited requesting an inquiry into the continuation of anti-dumping measures in relation to certain prepared or preserved tomatoes (the goods) exported to Australia from Italy.

Public notification of the initiation of the inquiry was published on the Anti-Dumping Commission (Commission) website on 16 July 2018. The background relating to the initiation of this inquiry is contained in Anti-Dumping Notice (ADN) No. 2018/106.

Following the initiation, the Commission wrote to Leo's Imports and Distributors Pty Ltd (Leo's) and other importers of the goods, inviting them to cooperate with the inquiry. Leo's cooperated with the inquiry and completed the importer questionnaire and relevant attachments.

The inquiry period is 1 July 2017 to 30 June 2018.

## **2 AUSTRALIAN SALES**

### **2.1 Verification of sales to audited financial statements**

The verification team was unable to verify the completeness and relevance of sales in accordance with ADN No. 2016/30 due to Leo's financial reporting systems not capturing revenue at the level of detail required by the verification team.

Accordingly, the verification team is unable to ascertain if it is in possession of sales information that is complete and relevant.

### **2.2 Verification of sales to source documents**

The verification team verified the accuracy of Leo's sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

Details of this verification process are contained in the verification work program at **Confidential Attachment 1**.

The verification team did not find any issues with the verification of the sales listing to source documents.

### **2.3 Related party customers**

Leo's disclosed that it was related to one customer. The verification team established that sales to this customer were in accordance with Leo's published price list.

## **3 IMPORTS**

### **3.1 The goods**

Leo's confirmed that it imported prepared or preserved tomatoes from Italy during the inquiry period, which match the description of the goods that are the subject of this application.

### **3.2 Verification of importation and selling costs**

The verification team verified the accuracy of the importation and selling costs by reconciling selected imports to source documents in accordance with ADN No. 2016/30.

Details of the verification are contained within the verification work program as **Confidential Attachment 1**.

The verification team identified one issue with the verification of importation and selling costs to source documents.

#### **3.2.1 Selling, general and administrative expenses**

The verification team noted that the rate applied for selling, general and administrative expenses (SG&A) on the cost to import and sell spreadsheet was marginally different to the SG&A rate calculated using the financial accounts. The verification team amended the cost to import and sell spreadsheet to reflect the rate derived from the financial accounts.

### **3.3 Import listing**

Leo's confirmed that the import listing extracted from the Australian Border Force (ABF) import database is a complete list of imports of the goods over the inquiry period.

The verification team calculated the weighted average Free On Board export price by supplier at **Confidential Appendix 1**.

### **3.4 Forward orders**

The verification team is satisfied that the forward orders listing provided by Leo's is reliable based on the relevant contracts between Leo's and its supplier. The forward orders listing is at **Confidential Appendix 2**.

### **3.5 The importer**

The verification team found that Leo's is:

- named on the commercial invoice from its supplier;
- named as the consignee on the bill of lading;
- declared as the importer on the importation declaration to ABF;
- pays for all the importation charges; and
- arranges delivery from the port.

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The verification team considers Leo's to be the beneficial owner of the goods at the time of importation, and therefore considers Leo's to be the importer.

### 3.6 The exporter

Subject to further inquiries, the verification team considers that the manufacturer and supplier of the goods imported by Leo's to be the exporter of the goods.<sup>1</sup>

### 3.7 Profitability of imports

The verification team was unable to calculate profit for each shipment as the goods imported by Leo's are predominantly received into Leo's warehouses and then sold to a multitude of customers without there being a linkage to the shipment imported.

The verification team has instead calculated profitability by comparing the weighted average into store selling price per kilogram obtained by Leo's over the course of the inquiry period against Leo's fully absorbed per kilogram cost to import and sell.

The verification team was satisfied that Leo's sales of the goods during the inquiry period were profitable.

The profitability assessment is at **Confidential Appendix 3**.

### 3.8 Related party suppliers

The verification team did not find any evidence that suggests that Leo's is related to its supplier of the goods exported from Italy during the inquiry period.

### 3.9 Arms length

In respect of imports of the goods to Australia by Leo's during the inquiry period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly, reimbursed, compensated or otherwise received a benefit for, or in respect of, whole or any part of the price.<sup>2</sup>

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<sup>1</sup> The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

<sup>2</sup> Subsection 269TAA(2) of the *Customs Act 1901*.

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Therefore, subject to further inquiries, the verification team is satisfied that import transactions between Leo's and its supplier are arms length transactions.

## **4 RECOMMENDATIONS**

The verification team is of the opinion that for the goods imported by Leo's from Italy:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by Leo's from its supplier; and
- purchases of the goods by Leo's from its supplier were arms length transactions.

Subject to further inquiries with this exporter, the verification team recommends that the export price for the goods imported by Leo's from Italy can be established under subsection 269TAB(1)(a) of the *Customs Act 1901*, using the invoiced price, less transport and other costs arising after exportation.

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### **5 ATTACHMENTS**

<b>Confidential Appendix 1</b>	Export price
<b>Confidential Appendix 2</b>	Forward orders
<b>Confidential Appendix 3</b>	Profitability of sales
<b>Confidential Attachment 1</b>	Verification Work Program