

PUBLIC RECORD



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

**Anti-Dumping
Commission**

CONTINUATION INQUIRY 488

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

VERIFICATION VISIT REPORT - IMPORTER

WOOLWORTHS LTD

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

November 2018

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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 (the 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 Woolworths Ltd (Woolworths) and other importers of the goods, inviting them to cooperate with the inquiry. Woolworths 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

Woolworths provided a listing of its Australian sales of the goods over the inquiry period as part of the information requirements of the importer questionnaire. The verification team identified possible inaccuracies in this sales listing, more specifically, that it may have included sales outside the inquiry period and/or may not have included all sales relevant to the inquiry period.

Following the verification visit, Woolworths provided a revised sales listing. The verification team was informed that the revised listing encompassed all sales of the goods relevant to the inquiry period.

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 Woolworths' 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 considers that the verification of sales to source documents in accordance with ADN No. 2016/30 is not applicable, as the manner in which Woolworths generates sales to the end consumer is not supported by source documents.

2.3 Related party customers

The verification team did not find any evidence that suggests that Woolworths is related to any of its customers during the inquiry period.

2.4 Other information

The verification team found that Woolworths had awarded a tender for its private label Australian 400 gram diced tomatoes to Safcol in 2016 for supply from March 2017. SPC Ardmona Operations Limited had previously supplied the product. Woolworths provided evidence of its tender process and the factors which were relevant to its decision.

3 IMPORTS

3.1 The goods

Woolworths confirmed that it imported prepared and preserved tomatoes from Italy during the inquiry period which match the description of the goods that are the subject of the application. The goods imported by Woolworths include diced, chopped, peeled and cherry tomato products in the 400 grams presentation and diced tomatoes in the 800 grams presentation.

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 at **Confidential Attachment 1**.

The verification team identified a number of issues with the verification of importation and selling costs to source documents.

3.2.1 Invoice price for importations

The verification team identified that the commercial invoice value was not apportioned appropriately to take into account promotional price reductions. As such, the verification team revised the value of the commercial invoices for selected shipments.

3.2.2 Selling, general and administration expenses

Woolworths allocated the selling, general and administration (SG&A) expense with reference to the 'Cost of Doing Business' (CODB) margin for the Australian Food division (of the Woolworths Group) as reported in the annual report of the Woolworths Group. The verification team does not consider this to be an accurate reflection of the actual SG&A costs incurred by Woolworths.

The verification team considers that the SG&A expense consolidated for the Woolworths Group and as reported in the audited financial statements for the year ended 24 June 2018 more appropriately reflects SG&A expenses incurred in respect of the goods. Therefore, the verification team has revised the SG&A expense.

3.2.3 Weighted average selling prices

The verification team revised the weighted average selling prices initially provided by Woolworths to reflect the updated sales listing made available following the verification visit, as discussed at section 2 of this report.

3.3 Import listing

Woolworths 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**.

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3.4 Forward orders

The verification team is satisfied that the forward orders listing provided by Woolworths is reliable, based on its understanding of contracts between Woolworths and its suppliers and an assessment of documents such as commercial invoices. The forward orders listing is at **Confidential Appendix 2**.

3.5 The importer

The verification team found that Woolworths is:

- named on the commercial invoice issued by 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.

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

3.6 The exporter

Subject to further inquiries, the verification team considers that the manufacturers and suppliers of the goods imported by Woolworths to be the exporters of the goods.¹

3.7 Profitability of imports

Subsection 269TAA(2)² states that where:

- goods are exported to Australia otherwise than by the importer and are purchased by the importer from the exporter for a particular price; and
- the importer sells those goods in Australia at a loss;

the sale of those goods at a loss may be treated as indicating that the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for the whole or part of the price.

The verification team assessed whether Woolworths sold the goods in Australia at a loss by calculating the amount of profit achieved by Woolworths for the sale of the selected shipments of the goods over the inquiry period.

The verification team calculated profit by using Woolworths' weighted average selling price for the inquiry period to its Australian customers for the specific product and the fully absorbed unit cost to import and sell for each shipment.

¹ 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.

² All legislative references in this report are to the *Customs Act 1901*.

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The verification team found that all selected shipments 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 Woolworths 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 Woolworths 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.³

³ Subsection 269TAA(2)

4 RECOMMENDATIONS

The verification team are of the opinion that, for certain transactions, for the goods imported by Woolworths from Italy:

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

Subject to further inquiries with the relevant exporter(s), the verification team recommends that the export price for these goods imported by Woolworths from Italy can be established under subsection 269TAB(1)(a), using the invoiced price, less transport and other costs arising after exportation.

The verification team are of the opinion that, for all other transactions, for the goods imported by Woolworths from Italy, the export price can be established under subsection 269TAB(1)(c), as the price the Minister determines having regard to all the circumstances of the exportation.

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5 ATTACHMENTS

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