

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 OR PRESERVED TOMATOES
EXPORTED FROM ITALY**

VERIFICATION VISIT REPORT - IMPORTER

Grocery Holdings 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

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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's (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 Grocery Holdings Pty Ltd (Coles) and other importers of the goods, inviting them to cooperate with the inquiry. Coles 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 Coles' financial reporting systems not capturing revenue at the level of detail required by the verification team.

Accordingly, the verification team was 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 Coles 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 Coles is related to any of its customers during the inquiry period.

3 IMPORTS

3.1 The goods

Coles 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 the application. The goods imported by Coles 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 Importation costs

The verification team identified discrepancies between the importation costs provided by Coles in the initial questionnaire response and the source documents. During the on site verification, the team verified these costs and revised the spreadsheet.

3.2.2 Selling, general and administration expenses

Coles did not provide the selling, general and administration (SG&A) expense to the verification team. During the verification visit, the team requested the financial data to enable the calculation of the SG&A expense. Following the visit, the team was provided with financial data and calculated the SG&A expense. The verification team considers this to be an appropriate reflection of the actual SG&A costs incurred by Coles.

3.3 Import listing

Coles 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 Coles is reliable based on its understanding of contracts between Coles and its suppliers and an assessment of documents such as commercial invoices. The forward orders listing is at **Confidential Appendix 2**.

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3.5 The importer

The verification team found that Coles 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 Coles to be the beneficial owner of the goods at the time of importation, and therefore considers Coles 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 Coles to be the exporters of the goods.¹

The verification team found that each specific private label imported product is supplied by multiple exporters.

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 Coles sold the goods in Australia at a loss by calculating the amount of profit achieved by Coles for the sale of the selected shipments of the goods over the inquiry period.

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

The verification team found that no selected shipments were unprofitable.

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

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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3.8 Related party suppliers

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

3.9 Arms length

In respect of imports of the goods to Australia by Coles 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 is of the opinion that, for certain transactions, for the goods imported by Coles from Italy:

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

Subject to further inquires with this importer, the verification team recommends that the export price for these goods imported by Coles 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 Coles 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