

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

20-21 November 2013

Question: SBT 882-888

Topic: Emergency Safeguards – Factual Safeguards

Written: 28 November 2013

Senator MCKENZIE asked:

SPCA raised various concerns around factual errors in the submissions and raised these at the hearing as well -

882. Incorrect domestic market assessment –(ignoring key retailer such as Aldi in the assessment and ignoring sales to foodservice channel). Why did the Commission ignore the data and thereby reach conclusions on the Australian market on facts it knew to be incomplete?
883. SPCA's data was ignored in assessment and anecdotal evidences were relied upon to draw conclusions. Eg. Labour cost increases were cited as the reason. How did that happen?
884. How could the Commission have possibly reached the conclusion it did on labour costs without having the correct data from SPC Ardmona?
885. Did the commission verify the data provided at the conferences (re production volumes) as being accurate and relevant before taking it as basis for assessment for key findings in the case?
886. Why was the statement made by the South African Fruit and Vegetable Canners' Association (re export , private label strategy) taken as substantiated proof of SPCA's strategy and those submitted by SPCA ignored?
887. Why did the PC not do what the Safeguards Agreement (and Australian inquiries procedures) require it to do?
888. Why did the Productivity Commission ignore the impact of imports on the consumer market when a) SPC Ardmona provided verifiable data to enable the Commission to do this and b) it is required to do so by its own regulations?

Answer:

882. In its research, the Commission has found that ALDI accounts for a small share of the Australian retail grocery market and sources most of its processed fruit from SPC Ardmona. Thus, the inclusion of ALDI would be unlikely to materially affect the Commission's findings.

SPC Ardmona stated at the hearing for the accelerated reports that the food service category was of little significance to it in terms of profitability. The Commission has, however, cited SPC Ardmona's data on the decline of SPC Ardmona's sales to the food service industry in the accelerated report on provisional fruit safeguards to support the finding of serious injury.
883. SPC Ardmona data was drawn on significantly at various places in both reports. On labour costs, SPC Ardmona has made some public statements about its production costs in the past, as well as providing the Commission with some confidential data on its labour productivity.

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All of this evidence was considered for the accelerated reports, and ultimately supported the finding that SPC Ardmona was suffering injury.

884. The Commission reached its conclusions after assessing both publicly available information and data provided on a confidential basis by SPC Ardmona. Where appropriate, publicly available information was used to support the analysis and in the interest of procedural transparency, as required under the WTO Agreement on Safeguards.

885. The fruit conference data has been presented over several years by SPC Ardmona representatives, and was necessary for analysis of longer term industry trends, as well as to verify the confidential information provided by SPC Ardmona. The Commission used that data alongside SPC Ardmona's confidential information.

The Commission requested an explanation from SPC Ardmona regarding some of the conference data at its public hearing and in separate emails, but none was provided.

Nevertheless, the Commission was able to reconcile the two sources of data and this reconciliation is explained in its accelerated and final reports.

886. The quotes by the South African Fruit and Vegetable Canners' Association were supported by private and public statements by the supermarket chains and previous academic research on the topic. Nevertheless, that evidence did not have a material bearing on the Commission's findings.

887. The Commission is keenly aware of its requirements and responsibilities under the WTO Agreement on Safeguards as Australia's designated competent authority. In the safeguards investigations it has undertaken, it has acted consistently with what the Agreement and inquiries procedures require of it.

888. Both safeguards reports include substantial discussion on the presence and impact of imports in the domestic retail market. To conduct its analysis, the Commission utilised data from a range of sources, including the Australian Bureau of Statistics, SPC Ardmona and an independent commercial provider of retail data. The Commission has taken into consideration all of the information provided by SPC Ardmona, including on subcategories of fruit products. However, as indicated in the accelerated reports, the Commission ultimately is required to assess the case for safeguard measures on the product categories specified in the terms of reference.