



**INVESTIGATION 216**

**ALLEGED DUMPING OF PREPARED OR PRESERVED  
PEACHES**

**EXPORTED FROM SOUTH AFRICA**

**VISIT REPORT - IMPORTER**

**WOOLWORTHS LIMITED**

**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**

**August 2013**

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## ABBREVIATIONS

ADN	Anti-Dumping Notice
Commission	Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
FOB	Free On Board
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
POI	Period of investigation
SEF	Statement of Essential Facts
The Act	<i>Customs Act 1901</i>
The Commissioner	The Commissioner of the Anti-Dumping Commission
The company	Woolworths Limited
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Minister	the Minister for Home Affairs
USP	Unsuppressed Selling Price
SPCA	SPC Ardmona Operations Limited

**PUBLIC FILE****1 BACKGROUND AND PURPOSE****1.1 Background**

On 17 June 2013, an application was lodged by SPC Ardmona Operations Limited (SPCA) requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of prepared or preserved peaches exported to Australia from South Africa.

SPCA alleges the Australian industry has suffered material injury caused by prepared or preserved peaches exported to Australia from South Africa at dumped prices.

The applicant claims the industry has been injured through:

- reduced market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment and loss of economies of scale associated with processing operations;
- reduced sales volumes; and
- reduced capacity utilisation.

Public notification of initiation of the investigation was made on 10 July 2013 in The Australian newspaper and Australian Dumping Notice No. 2013/54.

**1.2 Purpose of visit**

The purpose of the visit was to:

- confirm that Woolworths Ltd (Woolworths) is the importer of the goods attributed to it within the commercial database and obtain information to assist in establishing the identity of the exporter(s) of the goods
- verify information on imports of the goods to assist in the determination of export prices;
- establish whether the purchases of the goods were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for the goods; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

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### 1.3 Meeting details

Company	Woolworths Limited 3 City View Road Pennant Hills NSW 2120
Dates of visit	8 August 2013

The following were present at various stages of the meetings.

Woolworths Ltd	Gary Pepper	Shipping Finance and Administration Manager
	Ian Dunn	
	Sonya Ardron	Category Manager
	Paranee Pinjinda	Business Manager Private Label
	Dino Spinelli	Customs Broker (Woolworths)
	Kevin Shi	Customs Broker (Woolworths)
the Commission	John Bracic	Director Operations 1
	Tom O'Connor	Manager Operations 1
	Julian Stockwell	Ag Director Policy

### 1.4 Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- The investigation period is 1 July 2012 to 30 June 2013.
- The injury analysis period is from 1 January 2009 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (8 September 2013) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

The Commission will not make a PAD until (and if) it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice.

- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 28 October 2013, or such later date as the Minister allows

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under s.269ZHI of the *Customs Act 1901* (the Act)<sup>1</sup>.

The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Minister, and will invite interested parties to respond, within 20 days, to the issues raised therein.

- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Minister.

This final report is due no later than 12 December 2013, unless an extension to the SEF is approved by the Minister.

- We also indicated that given the extensions provided to the exporters, there was a possibility that the Commission would seek an extension of time to the release SEF.

### 1.5 Visit report

We explained to the company that we would prepare a report of our visit (this report) and provide it to Woolworths to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We explained that, in consultation with the company, we would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

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<sup>1</sup> Any reference to legislation is a reference to the *Customs Act 1901* unless otherwise specified

**PUBLIC FILE****2 THE GOODS****2.1 Description**

The goods the subject of the application (the goods) are:

Prepared or preserved peach products either whole (peeled or unpeeled) or in pieces (including halves, slices, diced), with or without added sugar or other sweetening matter or spirit, prepared or preserved in container sizes from 300 grams up to and including 1.5 kilograms.

Goods excluded from this application are:

- individually packed prepared or preserved peach products of less than 300g which are sold for snacking purposes;
- peaches mixed with other fruit types such as pears, apples or nectarines;
- sizes greater than 1.5kg, which are more common in the food service channel; and
- multiple packs of individual packs of prepared or preserved peach products, each less than 300g, which are sold together to aggregate to greater than 300g. Tariff classification.

The goods are currently classified to the tariff subheading 2008.70.00 (statistical code 51) of Schedule 3 to the *Customs Tariff Act 1995*. These goods exported from South Africa are subject to 5% Customs duty.

### 3 COMPANY DETAILS

#### 3.1 Commercial Operations

Woolworths is a well established supermarket retailer in the Australian market. From its 2012 Annual Report Woolworths had a total of [REDACTED] supermarkets and liquor outlets with annual sales [REDACTED]. During the year, Woolworths served an average [REDACTED] million customers each week. With regard to the goods, Woolworths sold [REDACTED] tonnes with a value of \$ [REDACTED].

In addition to the above Woolworths has group sales in the following divisions

- New Zealand Supermarkets
- Petrol
- BIG W
- Consumer Electronics India
- Hotels
- Home Improvement

Total group sales for Woolworths in 2012 was [REDACTED].

#### 3.2 Accounting structure and details of accounting systems

Woolworths' financial year is 1 July to 30 June and its accounts are audited by [REDACTED]. Woolworths provided a copy of its 2012 audited annual report.

#### 3.3 Relationship with suppliers and customers

Woolworths advised that it has neither controls nor owns or partially owns any of the suppliers of the goods.



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## 4 AUSTRALIAN MARKET

### 4.1 Sales

Prior to the visit Woolworths provided a copy of all their domestic sales. We were informed these sales were extracted from its ERP. The sales listed each product sold per week and provided an average weekly price.

We were informed that average weekly price is the price net of promotional spending and other commissions and rebates.

During the investigation period Woolworths sold approximately [REDACTED] of the imported goods. This was entirely made up of Woolworths' own retail brands, with Homebrand representing approximately [REDACTED] and Select the remainder.

From the data the consumer preference was for [REDACTED]

#### 4.1.1 Ordering and sales process

Woolworths purchase goods under its own label and proprietary labels. Proprietary labels are either sourced locally or imported; however, have different terms of trade.

##### Private labels

Woolworths informed us that [REDACTED]

[REDACTED]. The tendering process commences approximately [REDACTED] before the first shipment is due.

Woolworths provided a copy of the tender brief. See **Confidential attachment Sales 1**

The tender contains inter alia, the terms of the sales, volume sought and the type of goods to be supplied. It also stipulates the specifications for the goods. Woolworths has a standard policy of purchasing these goods on an [REDACTED] basis.

We were advised that a supplier must under-go an assessment before it may be considered suitable. Following this assessment the supplier is then on a panel for tendering purposes.

Woolworths advised at the time of seeking tenders it has a [REDACTED]

[REDACTED] This price is based on historical behaviour, current market intelligence, raw material prices, gluts or scarcity of the raw materials and exchange rates for example.

[REDACTED] [Price setting]

In the case of the particular imports of peached products from South Africa, Woolworths advised that it had dealt with [REDACTED]

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### Proprietary labels

We were informed the purchase procedure for proprietary goods is slightly different to the tender process.

[REDACTED] [Supplier arrangements]. During this period, suppliers provide samples and a promotional plan to articulate how the product will be promoted when stocked. The promotional plan is reviewed [REDACTED]

The purchase price is negotiated and a contract agreed [REDACTED]. [REDACTED] Should Woolworths consider the contract not be renewed, the supplier will be given due notice well in advance of the termination date.

#### 4.1.2 Transport

Once the annual contract has been agreed upon the shipping will occur on a needs only basis. Woolworths indicated the shipments are generally fairly regular during the year. However from time to time the targeted volume contracted may exceed sales. Through consultation with the vendor Woolworths will take the excess in the following contract period and adjust the new contract accordingly. Woolworths' preference is to purchase the goods on [REDACTED] with full container loads of the goods or a mixture of different goods from that vendor.

Shipping is directed to the Australian state needing the goods. Once entered for home consumption, the goods are sent to one of many distribution centres in the respective state for deconsolidation for individual supermarket loads.

#### 4.1.3 Quality

##### Private label

Specifically, Woolworths informed us that the Home Brand is a product that must be as good as the products on offer at the Home Brand price point. We were informed quality is determined via a range of measures including laboratory testing, as well as sight, smell and taste testing.

Likewise the Woolworths Select brand must achieve a quality that is comparable to other products at the relevant higher price point. At **Confidential Attachment sales 2** are *Label Specification Briefs* for its Home Brand and Woolworths Select branded products.

##### Proprietary label

These products are supplied to Woolworths following an assessment similar to that undertaken for suppliers tendering for [REDACTED] products. Again, as Home Brand and Woolworths Select brands, the products quality must be equal to the relevant price point.

#### 4.2 Distribution and Selling

Woolworths is a retail business selling grocery and liquor items to the public. We were advised that Woolworths does not act as a wholesaler, however it is aware that small

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businesses do from time to time purchase goods through its supermarkets. Woolworths indicated it can't stop this type of activity, however it does apply purchasing limits to minimise this type of activity.

### 4.2.1 Promotions

From Woolworth's perspective, when the goods are promoted,

[Redacted]  
 [Redacted] [Promotion agreements]. Generally speaking the [Redacted], however from time to time Woolworths may do so for various strategic of commercial reasons.

[Redacted] the supplier and Woolworths negotiate the promotion strategy and determine a spending budget. Given the promotional spend is the equal to the marked down price, Woolworths [Redacted] following an examination of the sales volume achieved.

We were informed the

[Redacted]  
 [Redacted] [Promotion agreements]. It may fall into other promotional activity, for example, in the form of print, television, radio or additional floor space promotions.

For [Redacted] product promotions, Woolworths funds the entire mark down [Redacted]

### 4.2.2 Yield

The overall strategy for Woolworths in this category is to treat the portfolio of different brands and labels as one and seek a particular yield for the portfolio. To achieve this yield various actions may be taken in terms of product mix, buy price, selling prices and margin achieved on each product.

To help achieve the targeted yield, the promotion strategy is an import factor to help determine volume targets and returns.

**PUBLIC FILE****5 IMPORTS****5.1 Volume of trade**

During the investigation period Woolworths imported approximately [REDACTED]. Woolworths indicated that the goods were sourced solely from [REDACTED].

**5.2 Forward orders**

We asked Woolworths to indicate if they had any forward orders with Woolworths indicating that the forward orders outstanding of [REDACTED] are part of the overall annual contract with the supplier. Once the contract is signed Woolworths indicated it is rare for it to go back to the supplier seeking more volume.

Woolworths stated that depending on the year, targeted import volumes may exceed sales. In these circumstances Woolworths may ask the supplier to send the volume in the subsequent contract period and reduce the subsequent volume to be contracted.

**5.3 Verification of imports**

Prior to the visit we asked Woolworths to provide relevant commercial documents for a number of selected shipments. At the visit Woolworths provided copies of the following commercial documents for the various consignments;

- Customs entry
- Evidence of payment
- Commercial invoice
- Bill of lading
- Packing list; and a quarantine statement

We compared the information in these documents to the Customs and Border Protection commercial database and found the information in the database agreed with the source documents. We also noted the goods net weight has been used in the customs declaration.

At the visit, Woolworths advised that two of the select consignments had been incorrectly classified as being of South African origin, when in fact they were imports from Greece. We requested and were provided with the relevant commercial invoices to demonstrate their true origin.

**5.3.1 Shipping and Importation costs**

We asked Woolworths to provide its overseas freight costs together with the into store charges. At **Confidential Attachment IMP 2** are Woolworths overseas freight rates. These rates are based on actual contracted prices for overseas freight from various locations. From this schedule we calculated the average cost for a 20 foot general purpose FCL to range [REDACTED].

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	A\$/kg
Ocean freight	██████
Marine insurance	██████
Into-store expenses	██████
SG&A expenses	██████
Profit	██████

In terms of local delivery, Woolworths advised that it is able to obtain an accurate cost of inland freight from the port to its distribution centres as the carriage and distance is pre-determined. Once the goods are handled in the distribution centre the delivery charge is unknown as the quantity shipped from the distribution centre to the supermarket varies per load. Due to the difficulty of calculating a specific cost for inland transport Woolworths has created a standard rate for all domestic inland transport per container.

Woolworths indicated that the shipping costs are based on tender rates however the costs used for costing purposes are based on standard rates which were only marginally higher than the actuals. We have used the standard rate for local transport and de stuffing and adjusted it to reflect the actual cost recovered.

### 5.4 Selling, general and administrative (SG&A) costs

To determine the selling general and administrative expenses, Woolworths indicated that the best measure is the *Cost of Doing Business* (CODB) presented in the annual report. This CODB includes all costs to import and sell the goods but it is a company-wide measure.

For 2012 the CODB was ██████ See **Attachment SGA 1**. Within the Australian Food and Liquor division, the CODB was ██████ See **Attachment SGA 2**. We consider the later percentage better represents the costs for the sale of the goods.

### 5.5 Profitability

From the selected shipments and other costing information and the average net selling prices supplied we calculated the goods were profitable by ██████

**PUBLIC FILE****6 WHO IS THE IMPORTER AND EXPORTER****6.1 Who is the importer?**

We consider that for export sales of peach products to Australia in the investigation period, Woolworths was the beneficial owner of the goods at the time of importation. We noted that Woolworths:

- negotiated with [REDACTED] with the assistance of their agents, [REDACTED] is named as the consignee on the bills of lading; and
- arrange and pay ocean freight and marine insurance, and all other importation expenses.

We consider Woolworths to be the importer.

**6.2 Who is the exporter?**

We consider [REDACTED] to be the exporter of the goods exported to Australia during the investigation period on the basis that they:

- are the manufacturer of the goods;
- manufactured the goods to the particular requirements of Woolworths; and
- sent the goods for export to Australia and were aware of the identity of the Australian customer.

**PUBLIC FILE****7 ARMS LENGTH**

In respect of imports by Woolworths sourced from [REDACTED], there was no evidence that:

- there is any consideration payable for or in respect of the goods other than their price; or
- the price is 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, will, subsequent to the purchase or sale, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We therefore consider the sale between Woolworths and [REDACTED] to be arm's length transactions.

**PUBLIC FILE****8 GENERAL COMMENTS**

Woolworths did not make any comment with regard to the investigation other than it would assist where it could.



**PUBLIC FILE****9 RECOMMENDATIONS**

From our investigations, we are of the opinion that the goods imported by Woolworths from [REDACTED]

- have been exported to Australia otherwise than by the importer;
- have been purchased by the importer from the exporters; and
- have been purchased by Woolworths at arms length transactions.

We recommend that the export price for goods imported by Woolworths from [REDACTED] can be established under s.269TAB(1)(a) of the Act, using the [REDACTED] invoice price.

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**10 APPENDICES AND ATTACHMENTS**

<b>Confidential Appendix</b>	Cost to import and sell
<b>Confidential Attachment Sales 1</b>	Tender document
<b>Confidential Attachment Sales 2</b>	Label Specifications
<b>Confidential Attachment IMP 1</b>	Commercial documents
<b>Confidential Attachment IMP 2</b>	Overseas Freight rates
<b>Confidential Attachment IMP 3</b>	Inland freight and de stuffing rates
<b>Attachment SGA 1</b>	Extract Annual Report Cost of Doing Business (whole of Woolworths)
<b>Attachment SGA 2</b>	Extract Annual Report Cost of Doing Business (Food and liquor)

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