

**PUBLIC RECORD**



**Australian Government**  
**Anti-Dumping Commission**

**INVESTIGATION**

**ALLEGED DUMPING OF  
PREPARED OR PRESERVED PEACH PRODUCTS  
EXPORTED FROM SOUTH AFRICA**

**VISIT REPORT - IMPORTER**

**GAF FOODS AUSTRALIA PTY 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

**AUGUST 2013**

**PREPARED OR PRESERVED PEACHES – Importer Visit Report –  
GAF FOODS AUSTRALIA PTY LTD**

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### ABBREVIATIONS

\$	Australian dollars
ADN	Australian Dumping Notice
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
C&F	Cost and freight
COGS	Cost of goods sold
Commission	Anti-Dumping Commission
FOB	Free On Board
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Minister	the Minister for Industry
USP	Unsuppressed Selling Price

## 1 BACKGROUND AND PURPOSE

### 1.1 Background

On 17 June 2013, SPC Ardmona Pty Ltd (the applicant) on behalf of the Australian industry manufacturing prepared or preserved peach products (peaches) lodged an application requesting that the then Minister for Home Affairs, now the Minister for Industry (the Minister) publish a dumping duty notice in respect of peaches exported to Australia from South Africa.

The application alleges that peaches have been exported to Australia from South Africa at prices lower than its normal value, and that this dumping has caused material injury to the Australian industry producing peaches.

Following consideration of the application, the Anti-Dumping Commission decided not to reject the application. Public notification of initiation of the investigation was made in the Australian newspaper on 10 July 2013.

Anti-Dumping Notice (ADN) No. 2013/54 provides further details on this investigation and is available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### 1.2 Purpose of visit

The purpose of the visit was to:

- confirm that GAF Foods Australia Pty Ltd (GAF Foods) is the importer of prepared or preserved peach products attributed to it within the import database and obtain information to assist in establishing the identity of the exporter(s) of this prepared or preserved peach products;
- verify information on imports of prepared or preserved peach products to assist in the determination of export prices;
- establish whether the purchases of prepared or preserved peach products 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 prepared or preserved peach products; 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	GAF Foods Australia Pty Ltd [REDACTED]
Dates of visit	8 August 2013

The following were present at various stages of the meetings.

GAF Foods Australia Pty Ltd	[REDACTED]
The Anti-Dumping Commission	Carl Halpin, Supervisor, Operations 3 Rachel Lohan, Supervisor, Operations 3

### 1.4 Investigation process and timeframes

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

- The investigation period is from 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 (9 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.

This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

- 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 under s.269ZHI of *the Customs Act 1901* (the Act).

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.

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### **1.5 Visit report**

We explained to the company that we would prepare a report of our visit (this report) and provide it to the company 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.

## 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 or 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.

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.

### 2.2 Tariff classification

The goods are classified to the following tariff subheading 2008.70.00 in Schedule 3 to the *Customs Tariff Act 1995* with statistical code 51.

The general rate of duty is currently 5 per cent for goods imported from South Africa.

## **3 COMPANY DETAILS**

### **3.1 Commercial Operations**

#### **3.1.1 Organisational structure of the group**

GAF Foods is a fully owned subsidiary of GAF Control, a family business started 50 years ago. GAF Foods was established in [REDACTED] and incorporated [REDACTED].

GAF Foods supplies imported foods to the independent trade and major supermarket chains. GAF Foods provides import, warehouse and distribution services to its customers. GAF Foods explained that peaches accounted for [REDACTED]% of the overall turnover of the business and [REDACTED]% of the profit.

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

GAF Foods advised that their financial year runs from 1 July to 30 June, in line with the standard Australian financial year.

At the verification GAF Foods explained that they operate the Greentree accounting system.

### **3.3 Relationship with suppliers and customers**

#### **3.3.1 Rhodes Food Group**

GAF Foods explained that it started to import peaches from the Rhodes Food Group (Rhodes Food) in 2005. GAF Foods advised it spotted an opportunity in the market to meet the domestic demand for tinned peaches following a poor harvest in the Goulburn Valley and Shepparton regions due to drought conditions and black frost. GAF Foods explained that it did not expect to continue to import peaches beyond the first shipment in 2005.

GAF Foods went on to explain that Rhodes Food had experienced difficulty entering the Australian market and GAF Foods was involved in introducing Rhodes Food to Coles. GAF Foods advised that they continued to import peaches from Rhodes Food to be sold to Coles under its entry level 'Smart Buy' label. GAF Foods advised that the canned peaches are purchased pre-labelled with the Coles Smart Buy label.

During the investigation period GAF Foods sourced all its peaches from Rhodes Food. GAF Foods confirmed that they operated a commercial relationship with Rhodes Food. GAF Foods explained that its relationship with Rhodes Food ended soon after Rhodes Food experienced a management change in the last 12 months. GAF Foods explained that it is no longer importing peaches from Rhodes Food as it lost its 12 month contract with Coles.



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GAF Foods advised that:

- It had no ownership interest in, and no relationship other than an arms length commercial relationship with Rhodes Food; and
- There were no discounts or rebates applicable to purchases of goods from Rhodes Food during the investigation period and that the invoiced price is the actual price paid.

We found no evidence of any discounts or rebates being provided to GAF Foods by Rhodes Food during our verification with GAF Foods.

### 3.3.2 Coles

GAF Foods explained that they had imported peaches from Rhodes Food to sell to Coles since 2005. GAF Foods went on to explain that they dealt with the delivery and shipment side of the importation of the peaches. Coles dealt with the price negotiations and stock volumes. GAF Foods advised that they operated an exclusive relationship with Coles for the supply of their entry level private label Smart Buy branded peaches during the investigation period. GAF Foods explained that private label contracts with Coles are usually for 12 months, however at times can be made for 2 year periods. As mentioned above, GAF Foods explained that it lost its 12 month contract with Coles approximately 6 months ago. GAF Foods advised that following an abnormally large importation, it was still selling its remaining stock volumes of peaches held in its warehouses to Coles.

GAF Foods advised that Coles has since started to import its peaches directly from Rhodes Food.

GAF Foods noted that a [REDACTED] % settlement discount was applicable to sales made to Coles and settled within a 30 day period.

We found no evidence of any relationship, other than a purely commercial one, between GAF Foods and their customer, Coles, of peaches.

### 3.4 Like goods

GAF Foods explained that its imported peaches should be considered 'like' to that produced by the Australian industry, noting no major differences in quality or other attributes between the imported or Australian-made peaches.

GAF Foods explained that the quality of the fruit purchased from Rhodes Food Group to be sold as Coles' entry level Smart Buy label, was of the same type of peach to that produced domestically, and equal to the top quality. GAF Foods purchased 825 gram tinned sliced peaches in standard syrup. GAF Foods explained that its imported fruit was not bruised or damaged in any way, as would be expected of fruit sold under the entry level label. GAF Foods informed that the quality, colour and taste of South African peaches are more similar to Australian produced peaches than Chinese peaches. GAF Foods explained that Chinese peaches are perceived within the Australian market to be of inferior quality.

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### 4 AUSTRALIAN MARKET

#### 4.1 General

GAF Foods explained demand for peaches had remained static over recent years. GAF Foods went on to detail that tinned peaches are viewed within the Australian market as a cheap and easy snack or dessert option for time poor consumers.

GAF Foods noted that the heavy marketing of private label products by supermarkets in recent years had driven strong growth in private label sales in recent years. GAF Foods explained Coles sets the retail price of peaches in the market and that its competitors match these prices in order to maintain competitiveness and retain their market share. GAF Foods explained that, during the investigation period, Coles' retail price for the private label smart buy 825g sliced peaches was \$[REDACTED].

In light of Coles' heavy marketing of private label products, GAF Foods believed that Coles were selling the peaches at a loss. GAF Foods highlighted that over the investigation period they sold the peaches to Coles at \$[REDACTED] per can and believes that Coles internal overheads would result that this product would subsequently be sold at a loss at the retail level for \$[REDACTED].

GAF Foods advised that the retail price for private label peaches had remained static in recent years, whilst the price for peach production had increased year on year in line with higher wages and increased other costs.

GAF Foods expressed that the price of the imported private label product should ideally be 5-10% below the market leader SPC, rather than at its current level of 50%.

#### 4.2 Sales

##### 4.2.1 Ordering and sales process

GAF Foods explained that contracts for private label products sold to Coles were usually for 12 month periods, however on occasions were made for 2 years. Over the investigation period GAF Foods sold peaches to Coles on a 12 month contract.

GAF Foods explained that Coles negotiated prices and quantity directly with Rhodes Food. GAF Foods advised that they were not involved in price negotiations. Despite not being directly involved in the price negotiations with Rhodes Food we confirmed during the verification that GAF Foods are invoiced directly by Rhodes Food and pay Rhodes directly.

GAF Foods sold peaches to Coles 50 weeks of the year. GAF Foods explained that they would receive orders weekly from Coles each Monday for peaches to be dispatched the following day, on Tuesday. GAF Foods explained that stock was purchased out of its warehouses with a 30 day payment term. GAF Foods' warehouse in Victoria serviced South Australia, Victoria and New South Wales. The Queensland warehouse serviced Queensland and New South Wales. Distribution was usually made by road. Sales to Western Australia were occasionally made by rail.

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GAF Foods noted peach sales to Coles attracted a [REDACTED] % discount for payments made within the payment period. The proof of payment documents confirmed that the discount was provided to Coles over the selected sample. GAF Foods explained that the sales did not attract volume rebates or discounts and payment by Coles to GAF Foods was made under free into store terms.

### 4.2.2 Date of sale

At the verification visit GAF Foods confirmed that the price paid by Coles was set under the terms of the contract. This price remained set for the period of the contract. The price remained unchanged over the duration of the investigation period.

### 4.2.3 Sale verification

#### Accuracy – verification to source documents

GAF Foods provided copies of invoices and proof of payment for selected sales in the importer questionnaire response at **confidential attachment 1**. We verified the quantity, value and rebate amounts for each transaction and concluded that the sales data provided was accurate.

We noted that the unit price after rebates was \$ [REDACTED] per can.

#### Completeness - verification to financial statements

GAF Foods provided a report that outlined all sales of different products across its business. The total sales of peaches matched the sum of all peaches sales in the sales spreadsheet provided in the importer questionnaire.

The sum of all sales across all of GAF Foods' products matched the total sales in the profit and loss statement. We are satisfied that the sales data provided is complete.

### 4.2.4 Profitability of sales

We reviewed the documentation for the selected shipments and found that [REDACTED] of the [REDACTED] shipments were profitable, and the average profit over all shipments was [REDACTED] %.

## 5 IMPORTS

### 5.1 Volume of trade

Customs and Border Protection's import database indicated that over the investigation period GAF Foods imported a total of [REDACTED] tonnes of peaches from Rhodes Food.

### 5.2 Forward orders

GAF Foods did not provide forward orders as its contract with Coles had not been renewed and it is no longer importing peaches from South Africa.

### 5.3 Verification of imports

The Commission selected 8 importations listed in the import database for further examination with GAF Foods.

In response to the importer questionnaire, GAF Foods originally provided the details of 16 shipments. The Commission contacted GAF Foods and clarified the 8 shipments required. Subsequently GAF Foods provided the Commission with an updated spreadsheet (**confidential attachment 2**) with the required shipment importation details.

#### 5.3.1 Supplier invoice details

GAF Foods provided details for each of the eight selected shipments. For each shipment the documents included the commercial invoice, packing list, packing declaration, health certificate, certificate of origin and the bill of lading. Payment terms were 30 days from invoice date.

The proofs of payment to Rhodes Food from GAF Foods for each shipment were also provided in the form of bank statements and reconciliation sheets. The visit team was satisfied that the price paid as shown in the importer questionnaire spreadsheet was the actual price paid.

After performing checks between source documents and the import database we are satisfied that the total tonnes and customs value in the import database correspond with the suppliers' invoices.

A copy of the import database download forms **confidential attachment 3**.

#### 5.3.2 Shipment costs

GAF Foods explained that it purchased the peaches on cost and freight (C&F) terms to Melbourne. This was confirmed on the commercial invoices between Rhodes Food and GAF Foods. GAF Foods stated that as Rhodes Food paid the shipping costs, it had used the sea freight costs as found on the import declarations as the overseas freight cost shown in the importer questionnaire.

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### 5.3.3 Importation costs

The importation costs payable by GAF Foods included Port Services Charges, delivery, Customs/AQIS fees, declaration fees and duty. GAF Foods provided importation cost details for each of the selected shipments which were verified to the broker's invoices. A sample of these invoices was selected for proof of payment evidence which was provided during the visit.

As some shipments included both peaches and apricots, we allocated the importation costs across the shipment based on the percentage of that shipment that was comprised of peaches. From the verified importer questionnaire spreadsheet we calculated an average unit importation cost of \$ [REDACTED] per can of peaches.

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

GAF Foods provided a trading profit and loss statement for the FY ending 30 June 2013. We calculated a total SG&A percentage of [REDACTED]% of total sales which included items listed under "Expenses", "Advertising and Promotion" and "Contract Labour". The SG&A percentage was included in the total cost to import and sell the goods.

### 5.5 Export prices for selected shipments

The average total cost to import and sell each can was calculated at \$ [REDACTED] per can CIF. After deducting overseas transport and insurance expenses the visit team calculated that the average FOB price per can was \$ [REDACTED] per can, which equated to \$ [REDACTED] per kg FOB.

## **6 WHO IS THE IMPORTER AND EXPORTER**

### **6.1 Who is the importer?**

We reviewed the documents provided in respect of the selected shipments. We note that GAF Foods:

- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading;
- arranges Customs clearance, logistics and storage of the goods after they are delivered to the Australian port; and
- retains ownership of the goods until they are delivered to Coles Grocery Holding Pty Ltd

We consider GAF Foods to be the beneficial owner of the goods at the time of importation, and therefore the importer.

### **6.2 Who is the exporter?**

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

Subject to further inquiries, we are satisfied that Rhodes Foods can be considered the exporter of peaches imported by GAF Foods. To our knowledge, it is a principle in the country of export, which manufacture the goods and gave up the goods for shipment directly to GAF Foods.

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### 7 ARMS LENGTH

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arm's length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- 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; and
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, 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.

GAF Foods stated that it has no relationship with its customer other than being a buyer and seller in arm's length transactions. It states that it does not receive any reimbursement, rebates or other support from its suppliers in respect of the goods. GAF Foods advised that the invoice price was the price paid. We confirmed this via verification of the selected transactions.

We reviewed the documentation for the selected shipments and found that █ of the █ shipments were profitable, and the average profit over all shipments was █%.

We are satisfied that import transactions between GAF Foods and its supplier are at arm's length in terms of s. 269TAA.

## 8 RECOMMENDATIONS

From our investigations, we are of the opinion that, for the goods imported by GAF Foods from Rhodes Food:

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

Subject to further inquiries with the exporter, we recommend that the export price for peaches imported by GAF Foods from Rhodes Foods can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the FOB level as required.



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### 9 APPENDICES AND ATTACHMENTS

<b>Confidential Attachment 1</b>	Sales Data
<b>Confidential Attachment 2</b>	Import Route Spreadsheet
<b>Confidential Attachment 3</b>	CRE Data
<b>Confidential Attachment 4</b>	Commercial Documents collected during the visit.