



**the dti**

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## **SAFEGUARD INVESTIGATION OF CANNED PROCESSED FRUIT PRODUCTS FROM AUSTRALIA**

### **COMMENTS BY THE SOUTH AFRICAN GOVERNMENT**

#### **INTRODUCTION**

The South African government raises its concern with regard to the safeguard investigation which was initiated on the 21<sup>st</sup> June 2013 and would hereby like to submit comments in this regard.

It is noted that the WTO was only notified on 2 July 2013 of the initiation of the Safeguard by Australia and we don't think that this can be regarded as immediate notification as required by the WTO Safeguard Agreement.

SA would further like to place on record that the information supplied by Productivity Commission for initiation purposes in the Issues Paper is inadequate for interested parties to defend their interests.

#### **SOUTH AFRICAN AGRO-PROCESSING SECTOR**

World-class infrastructure, counter-seasonality to foreign markets, biodiversity and competitive input costs make South Africa a big player on the world's markets in the Agro-processing sector. This sector spans the processing of different products including

Lefapha la Dikgwebisano le Diintaseteri • Lefapha la Kgwebo le Indasteri • uMnyango wezoHwebo neZimboni • Muhasho wa zwa Mbambadzo na Indasiteri • Departement van Handel en Nywerheid • Kgoro ya Kgwebo le Indasteri • Ndzawulo ya to Mabindzu na Tiindastri • LiTiko leTekuhweba netiMboni • ISebe lezoRhwebo noShishino • UmNyango wezokuRhwebelana namaBubulo

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freshwater aquaculture and mariculture, exotic and indigenous meats, nuts, herbs and fruit. It also involves the production and export of deciduous fruit; production of wines for the local and export market; confectionary manufacturing and export; and the processing of other range of products.

The Agro-processing sector is the third largest contributor to GDP within the manufacturing sector, after chemicals and metals (Statistics SA, 2012). Agro-processing has particularly strong linkages both up- and downstream. The sector links to agriculture across a wide variety of farming models and products; while downstream the sector's products are marketed across wholesale and retail chains, as well as through restaurants, pubs, shebeens/taverns and fast-food franchises.

According to the South African Industrial Policy Action Plan, the food-processing sector is the largest manufacturing sector in employment terms, with about 171 000 employees. This increases to more than a million jobs if agriculture is included.

## **COMMENTS TO THE ALLEGATIONS IN THE ISSUE PAPER, THE INITIATION NOTICE AND THE INVESTIGATION PROCESS**

### **APPLICANT**

SPC and Ardmona merged in 2002. Only 1 canner remains in Australia operating 3 factories in Victoria. In 2005, SPC Ardmona was acquired by Coca Cola Amatil which is Australian owned beverage manufacturer and the sole bottler of Coca Cola products in Australia, New Zealand and Indonesia. The Coca Cola Company (US) is the largest shareholder. Approximately 210 growers supply canning fruit to SPC Ardmona. Supplier rationalization has resulted in 30% reduction in the number of canning fruit growers since 2006. The average canning grower now derives 40% of total business farm gate income from canning fruit (up from 35%) and the balance of income is from fresh market varieties. Production Capacity reduced substantially between 2007 and 2011 which resulted in the categories of canning apricot hectares being reduced by 41%, canning

peach hectares reduced by 15% and canning pear hectares reduced by 15%<sup>1</sup>. Crops have been further reduced due a series of bad seasons resulting from frost, hail, drought, heat, and rain. It is evident that the domestic conditions such as extended droughts and substantial increased grower costs are posing challenges to the performance and efficiency of the Applicant in the Australian market.

## SA EXPORTS TO AUSTRALIA

South Africa is a major supplier of canned fruit to the Australian market.

HS Codes In value	Products	2009	2010	2011	2012	Share of exports (2008 - 2012)
200870	Peaches,	24.170	32.973	32.083	40.205	5.4%
200850	Apricots,	15.059	18.641	14.341	19.339	8.4%
200899	Fruit & Edible Plant Parts,	5.437	7.853	9.972	5.515	4.7%
200840	Pears,	3.572	7.405	2.621	2.663	1.5%
200830	Citrus Fruit	0.000	0.000	0.000	0.000	0%
200892	Fruit Mixtures,	13.964	25.954	31.568	0.000*	7.0%

Source: Global Trade Atlas 2013

The tariffs of the concerned processed fruit are relatively low on the Australian market, a safeguard measure could therefore have a negative impact on South African exports. The applied tariff for all fruits are at 5% with the exception of citrus fruit (HS code: 200830) and mixtures (HS code 200897) where the tariff is at zero. The WTO bound rate for all the concerned fruit is at 8%.

<sup>1</sup> Canned Fruits Industry Council of Australia (CFICA). A presentation made by Simon Wills at the 11th World Canned Deciduous Fruit Conference in Litochoro, Greece (May 30 – June 02, 2012).

**Performance of export volumes from all over the world from 2008 to 2012**

<b>H: 20083000 (Citrus fruit)</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
SA exports	0	135	5 057	0	0
Other exports	967 398	517 988	671 425	1 955 715	1 599 425
Total exports	967 398	518 123	676 482	1 955 715	1 599 425
% change SA exports	0%	0.026%	0.75%	0%	0%

Source: South African Revenue Services

The information in the table above indicates that the volume of the SA exports of citrus fruit as percentage of total exports increase from 2009 to 2010. There were no exports from SA to Australia during 2011 and 2012. Since South African exports have a share of less than 3% of total exports, South Africa should be excluded from the application of any possible safeguard on citrus fruit under tariff heading 20083000 .

<b>H:200840 (Pears)</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
SA exports	729 799	246 133	753 271	327 440	404 905
Other exports	1 011 683	936 040	1 154 391	1 546 917	1 459 394
Total exports	1 741 482	1 182 173	1 907662	1874357	1864299
% change SA exports	41.9%	20.8%	39.5%	17.5%	21.7%

Source: South African Revenue Services

The information in the table above indicates that the volume of the SA exports of Pears as a percentage of total exports decreased from 2008 to 2012, even though there was an increase in 2010.

<b>H:20085000 (Apricot)</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
SA exports	1 083 630	767 073	773 957	2 117 536	1 488 796
Other exports	4 495 103	3 404 072	3 762 526	6 829 105	3 554 634
Total exports	2 533503	2 285 879	2 209119	4 920083	4 297144
% change SA exports	42.7%	33.6%	35.4%	43%	34.6%

Source: South African Revenue Services

The information in the table above indicates that the volume of SA exports of Apricot as a percentage of total exports increased from 2008 to 2012, but there was a decrease in 2009 to 2010. Although the exports from South Africa increased from 2008 to 2012, the information shows that the exports in 2012 substantially decreased from the volume exported in 2011.

<b>H:20087000 (Peaches, including Nectarines)</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
SA exports	3 074 073	2 401 096	3 884 028	4 456 607	5 368 543
Other exports	4 494 895	3 402 921	3 762 166	6 759 701	3 523 394
Total exports	7 568968	5 804017	7 646 194	11 216308	8 891937
% change SA exports	40.6%	41.3%	50.7%	39.7%	60.4%

Source: South African Revenue Services

The information in the table above indicates that the volume of the SA exports of peaches as a percentage of total exports increased from 2008 to 2012.

H:200892 (Fruit mixtures)	2008	2009	2010	2011	2012
SA exports	693 332	432 275	1 998 459	2 675 944	2 432 933
Other exports	5 366 225	5 460 141	5 291 622	7 102 538	5 150 385
Total exports	6 059557	5892416	7 290 081	9778482	7583318
% change SA exports	11.4%	7.3%	27.4%	27.4%	32.1%

Source: South African Revenue Services

The information in the table above indicates that the volume of the SA exports of Fruit mixtures as a percentage of total exports increased from 2008 to 2012, although there was a decline in 2009. Although the exports from South Africa increased from 2008 to 2012, the information shows that the exports in 2012 decreased from the volume exported in 2011.

H:200899 (Other)	2008	2009	2010	2011	2012
SA exports	582 182	688 688	725 086	1 036 964	712 732
Other exports	16 626 282	17 092 741	18 299 935	29 906 059	27 495 818
Total exports	17208464	17781429	19025021	30943023	28208550
% change SA exports	3.3%	3.8%	3.8%	3.4%	2.5%

Source: South African Revenue Services

The information in the table above indicates that the volume of the SA exports of other Fruit as a percentage of total exports decreased from 2008 to 2012. Since South African exports have a share of less than 3% of total exports, South Africa should be excluded from the application of a possible safeguard on other fruits under tariff heading 200899..

## SERIOUS INJURY DETERMINATION

The products subject to the safeguard investigation incorporates the following processed fruit products of the Australian customs tariff:

- 2008.30.00 citrus fruit,
- 2008.40.00 pears,
- 2008.50.00 apricot,
- 2008.70.00 peaches, including nectarines,
- 2008.97.00 mixtures,
- 2008.99.00 other.

Prior to the announcement of the inquiry, SPC Ardmona had made public statements about the challenges facing the company. This was mentioned in the Issues Paper under the title "Background to the inquiry" on page 4.

It seems that other factors than imports have caused the injury suffered by SPC Ardmona. The key pressures facing the Australian manufacturers in this regard are expected to continue unabated over the coming decade. The challenges include the following:

### Weather Conditions

Extreme weather conditions are a regular occurrence in Australia and have a major impact on production of canned fruit in Australia:

The last few years where characterised by extreme weather conditions in Australia as quoted in the Australian 2011 WTO Trade Policy Review: *"Over the last decade, drought has dominated Australian weather. Between 2007 and 2009, the south eastern states of Victoria and New South Wales endured three years of drought that broke only when La Niña rains drenched the region in late 2010. A very strong La Nina event in 2010, followed by another La Nina event in 2011, brought the highest two year Australian-average rainfall total on record. Many rainfall records were broken during this period. In the longer term, it is likely that the wet years of 2010 and 2011 were only a*

*short interruption in the drier conditions we've observed in south east Australia over the past 40 years."*

### Flooding

The flooding reduced Australia's supply of fresh fruit and vegetables, given that 14% of the nation's produce is sourced from many flood-affected areas. Floods and consistent rainfall across food producing regions have resulted in widespread loss, damage and disrupted harvest for fruit<sup>2</sup>. Seemingly as a result of these weather conditions, Australian production of deciduous fruit for canned purposes declined substantially over this period<sup>3</sup>, causing an increase in imports. If a longer period is considered, the decline in Australian production is even more profound.

- Peaches decreased from 46791 ton in 2007/08 to 31786 ton in 2011/12
- Pears decreased from 39917 ton in 2007/08 to 25 963 ton in 2011/12
- Apricots decreased from 6 769 ton in 2007/08 to 4 169 ton in 2011/12

### Cost of Production

According to various industry reports, production costs, including cost of labor, water and electricity, of all types of canned fruit have continued to increase. The production cost increases have been mentioned by all Australian representatives at recent World Canned Fruit Conferences.

The relative cost position of Australian manufacturers is forecast to remain significantly higher than lowest cost regional competitors, with on average a 22% cost differential. Energy prices in Australia are forecast to increase by 8% between 2011 and 2012 and then 42% between 2012 and 2013 in part due to the introduction of a carbon tax.

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<sup>2</sup> IBISWorld, Special Report, (2011), [WWW.IBISWORLD.COM.AU](http://WWW.IBISWORLD.COM.AU).

<sup>3</sup>Source: Simon Mills, 11<sup>th</sup> World Canned Deciduous Fruit Conference, Greece



Global commodity prices are expected to remain high and continue to experience high levels of volatility. This will maintain margin pressure for local food and grocery manufacturers as they struggle to pass on rising input costs.<sup>4</sup>

All canning fruit growers in Australia are reliant on the availability of irrigation water. The irrigation water is supplied by a government controlled channel system and the allocation thereof is regulated.

Recent changes to legislation have increased costs of orchard labour and therefore factory labour costs continue to rise. The AUD 23.40 basic rate in 2012 plus leave accruals, insurance, superannuation, shift and overtime allowances increases the full cost to approximately AUD 33.00 per hour. There is therefore reliance on international backpackers to supplement numbers at harvest<sup>5</sup>.

#### Exchange Rate

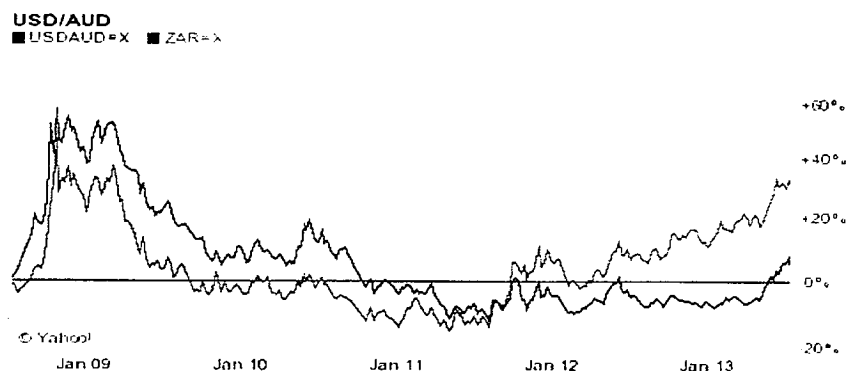
The appreciating Australian dollar is sighted as one of the reasons for the safeguard investigation. The Australian dollar is expected to remain high against the currencies of its major trading partners. It should be noted however, that the South African Rand follows the same general trend as the Australian dollar and the exchange rate would therefore not contribute to an improved competitive position on the Australian market.

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<sup>4</sup> The 2020: *Industry at Crossroads* report was produced in November, 2011 by the Australian Food and Grocery Council (AFGC) and A.T. Kearney Australia.

<sup>5</sup> Canned Fruits Industry Council of Australia (CFICA). A presentation made by Simon Wills at the 11th World Canned Deciduous Fruit Conference in Litochoro, Greece (May 30 – June 02, 2012).

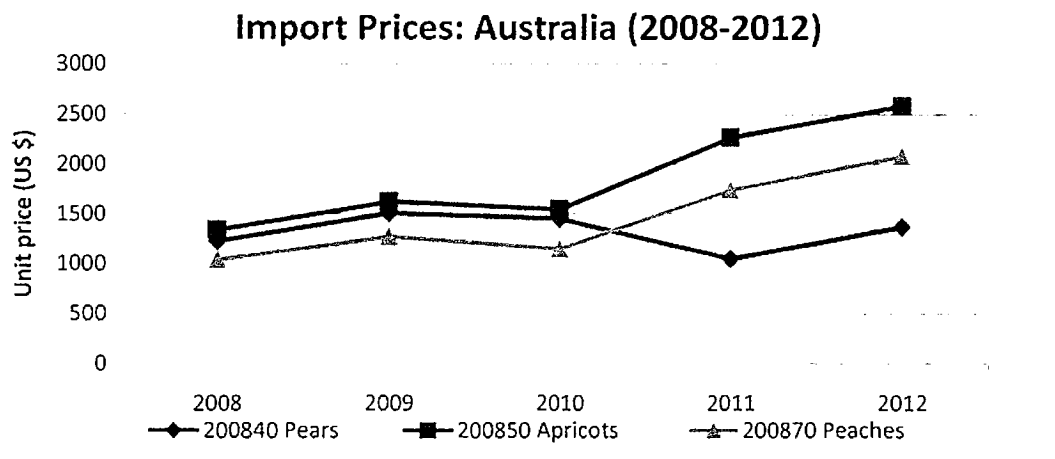
### Graph 1: Comparison – Australian \$ & South African Rand against US \$



Source: Yahoo Finance

### Import Prices

Imports of the concerned fruit by Australia has increased substantially in recent years, however, prices have remained high. Graph 2 gives an indication of average Australian import prices as derived from the UN Comtrade data basis.



### Australia retail environment

Over the last five years, the market leaders in the retail sector have consolidated their supplier base to one to two preferred suppliers in many categories (in addition to their

own private label or owned brands). This has enabled them to set commercial terms, more tightly integrate with suppliers and restructure their supply chain. The strength of Coles and Woolworth's market position gives them a superior negotiating position and anecdotally many food and grocery manufacturers (particularly in more commodity type categories) now see themselves largely as price takers'. The retail market is expected to remain highly concentrated, with Coles and Woolworths forecast to have a combined supermarket share of over 80% in many categories. However, some multi-national companies who manufacture globally-branded products have commented in interviews that the major retailers have used the threat of parallel imports to push back on wholesale prices. This is more evident and successful in categories where the consumer may have no perceived affinity (from a taste perspective) with the locally manufactured product. Private label is forecast to grow strongly and could potentially account for 40-50% of total supermarket sales by 2020, consistent with developments in more mature markets<sup>6</sup>.

#### Unforeseen developments

Article XIX and the Agreement on Safeguards must be read together. In this regard Article XIX of GATT requires that the increased imports are as a result of unforeseen developments. It is noted that the Australian authorities did not give information in this regard when the said investigation was initiated.

#### CONCLUSION

The agro processing sector in South Africa, which is a significant component of the agriculture sector as a whole has a central role to play in building a strong economy and, in the process, reducing inequalities by increasing incomes and employment opportunities for the poor, while nurturing SA's inheritance of natural resources. Should

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<sup>6</sup> Canned Fruits Industry Council of Australia (CFICA). A presentation made by Simon Wills at the 11th World Canned Deciduous Fruit Conference in Litochoro, Greece (May 30 – June 02, 2012).

safeguard measures be put in place, this valuable sector will be compromised especially with regard to employment.

One of the important conditions for the imposition of a safeguard measure is increased imports. In this regard the WTO jurisprudence requires a specific type of increase in imports. The WTO appellate Body (AB) has decided that "*the competent authorities are required to consider trends in imports over the period of investigation rather than just comparing the end points*" (**Appellate Body report, Argentina Footwear (EC), Paragraph 129**). Additionally the AB has also indicated that "*the increase in imports must have been recent enough, sudden enough, sharp enough, and significant enough, both quantitatively and qualitatively, to cause or threaten to cause serious injury.*" (**Appellate Body report, Argentina Footwear (EC), Paragraph 131.**)

In the current investigation the Australian authorities contrary to the Appellate Body decision above, in considering trends in imports have compared end points rather than trends by comparing the increase in imports from July 2007 to June 2012. The Productivity Commission should explain how the trend in increase in imports, in line with the AB decision above, is determined regarding imports classifiable under the tariff heading 2008.97.00 (Imports of mixtures), as there were imports prior to July 2011.

Furthermore, the data for the imports is up to June 2012, whereas the investigation was initiated a year later on 21 June 2013 and this is also not in conformity with the requirement of WTO legislation that the increase, amongst others should be recent enough.

SA reserves its rights to submit further information as this investigation progresses and also when sufficient information is submitted in the Accelerated Report.