

**AUSTRALIAN CUSTOMS SERVICE
Trade Measures Branch
Customs Act 1901 - Part XVB**

Statement of Essential Facts No 47

CONTINUATION INQUIRY:

CANNED PEACHES

**EXPORTED
FROM GREECE**

29 October 2001

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1 PURPOSE OF STATEMENT OF ESSENTIAL FACTS

Where Customs undertakes a formal 155 day inquiry on dumping or countervailing matters, the Customs Act requires that a Statement of Essential Facts (SEF) be published by day 110 of the inquiry period. The SEF comprises the facts on which Customs proposes to base its recommendations to the Minister.

The purpose of a SEF is to allow interested parties the opportunity to comment on the essential facts in relation to an inquiry before a recommendation is made to the Minister.

In preparing its recommendation to the Minister, Customs is required to have regard to any submissions made in response to an SEF that are received within 20 days of the SEF being published. Customs is not obliged to have regard to any submission received after this period if, to do so, would prevent the timely preparation of the report to the Minister.

Submissions in response to the SEF may be lodged (by pre paid post or delivered):

Director (Liaison)
Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA CITY ACT 2601; or

by facsimile on (02) 6275 6990; or

by email to john.w.burke@customs.gov.au

Any submissions to this SEF should also include a non-confidential version for placement on the Public File.

The Public File is available for viewing and copying by all interested parties by contacting the Trade Measures Branch Office Staff by telephone (02) 6275 6057 or by the Internet on dumping@customs.gov.au .

The deadline for submissions to this SEF is 19 November 2001.

3 ABBREVIATIONS

| | |
|-------------|--|
| ABS | Australian Bureau of Statistics |
| ACDN | Australian Customs Dumping Notice |
| ADA | Anti-Dumping Authority |
| Ardmona | Ardmona Foods Limited, Mooroopna, Vic. |
| CFICA | Canned Fruits Industry Council of Australia, Melbourne, Vic. |
| Customs | Australian Customs Service |
| Customs Act | Customs Act 1901 |
| EC | European Commission |
| ECU | European Currency Unit |
| EKE | Greek Cannery Association, Skydra, Greece |
| Drachmas | Greek Drachmas |
| kg | Kilogram |
| SEF | Statement of Essential Facts |
| SPC | S.P.C Operations Limited, Shepparton, Vic. |
| WTO | World Trade Organization |

4 INTRODUCTION

4.1 Inquiry Process

Under section 269TM of the Customs Act, dumping and countervailing duty notices automatically expire five years after the date on which they were published, unless they are revoked earlier.

Section 269ZHB of the Customs Act stipulates that – not later than nine months before an anti-dumping or countervailing measure expires – Customs must announce that the notice is due to expire on a specified day and invite interested parties to apply to Customs within 60 days for the continuation of the measures. If no application for the continuation of the measures is received by Customs within the period allowed in the notice, the measures will automatically expire on the specified date.

If an application for continuation of an anti-dumping or countervailing measure is lodged and it complies with the legislative requirements, Customs must initiate a formal inquiry. Customs then has up to 155 days to inquire and report to the Minister on whether the measures should be continued.

Before recommending the continuation of the measures, Customs must be satisfied that the expiration of the measures would lead (or would be likely to lead) to a continuance of (or recurrence of) the material injury that the anti-dumping or countervailing measures were intended to prevent.

Where the Minister decides to continue anti-dumping or countervailing measures, the notice will remain in force after the specified date for a period of five years (unless the relevant notice is revoked before the end of that period). Similarly, undertakings remain in force for a further five years unless provision is made for their expiry earlier.

4.2 Public notification

Customs announced in a notice in the *Australian Financial Review* of 19 April 2001 that the countervailing measures currently applying to canned peaches from Greece were due to expire on 18 February 2002. The notice invited interested parties to apply, within 60 days from the date of the notice, for continuation of the measures.

On 18 June 2001, an application was received from the Canned Fruits Industry Council of Australia (CFICA), on behalf of the Australian canned fruit producers, for the continuation of the measures for a further five years. Following prima facie examination of the applicant's claims, Customs announced the commencement of an inquiry on 9 July 2001 in the *Australian Financial Review* and in Australian Customs Dumping Notice No 2001/46.

During the inquiry, Customs undertook investigations at the premises of Ardmona Foods Limited (Ardmona) and SPC Operations Limited (SPC). Each of the importers of canned peaches from Greece over the period was contacted to establish the details of the shipments. Customs also received submissions from the European Commission (EC) and the Greek Cannery Association (EKE).

4.3 Goods under inquiry

The goods under inquiry are canned peaches in juice, syrup or water. The notice imposing the measures in February 1992 covered all sizes of cans. The measures do not apply to preserved peaches in drums, plastic tubs, plastic cups or other packaging forms.

The standard measure of quantity for canned peaches is the 'basic carton', which comprises either four dozen 425 gram nett cans or two dozen 825 gram nett cans or their equivalent.

Canned peaches were classified in the *Customs Tariff Act 1975* under Schedule 3 sub-heading 2008.70.00 statistical code 28 up to 30 June 1999. From 1 July 1999 they have been classified under sub-heading 2008.70.00 statistical code 51.

5 THE AUSTRALIAN INDUSTRY AND MARKET

5.1 Like Goods

In the context of a dumping or subsidy inquiry, subsection 269T(1) of the Customs Act defines “like goods” as follows:

“like goods”, in relation to goods under consideration, means goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

From its investigations, Customs confirmed that the Australian industry produces canned peaches in natural juice or in syrup at the respective plants in Victoria. Accordingly, Customs is satisfied that the canned peaches produced in Australia are like goods in terms of subsection 269T(1) of the Customs Act to the canned peaches exported from Greece.

5.2 Industry Structure

Subsection 269T(4) of the Customs Act specifies that the Australian industry consists of the producer or producers of like goods in Australia.

The application stated that Ardmona and SPC accounted for the majority of the total Australian industry production of canned peaches. The application noted that another company, Berri Limited, had recently commenced peach canning operations.

During the investigation, Customs established that Berri Limited supported the application. Berri Limited provided details of its production of packaged peaches which indicated that the company had only commenced production of canned peaches since the 2001 season. As the Customs investigation covered the period from 1996 to 2000, no further data was sought from Berri Limited.

From the information available, Customs is satisfied that the Australian Industry producing canned peaches in the period up to 2000 comprised Ardmona and SPC. Customs noted public announcements in September 2001 that both companies would be merged to form a new entity to be known as SPC Ardmona.

5.3 Production Process

Ardmona and SPC purchase fresh peaches from growers in the Murray River region of Australia. The growers deliver the peaches to the processors on the same day as they are picked. Similarly the processors aim to bring the fresh

peaches to the 'bright can' stage (that is, an unlabelled can) within 24 hours of delivery.

The first process in the factory is to sort the fresh peaches into size and colour, damaged and undamaged stock. Fruit unsuitable for canning is used for juice or pulped for use in other products.

After sorting, the peaches are transported on conveyor belts to a machine which halves and pits the peaches. The peaches are washed with caustic soda to remove the skins. Perfect halves of peaches are canned immediately and the remaining peaches are sliced and diced. The fruit is then put into cans where a 'media' of natural juice, light juice, light syrup, heavy syrup, or other juices and syrups are added. The cans are then sealed and cooked to provide commercial sterility and to maintain the eating texture of the peaches. The cans are then labelled for sale.

Subsections 269T(2) and 269T(3) of the Customs Act specify that for manufactured goods to be regarded as produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- where the goods have been partly manufactured in Australia, then at least one substantial process in the manufacture of the goods must be carried out in Australia.

Customs has examined the operations of the Ardmona and SPC and is satisfied that both companies wholly manufacture and produce canned peaches in Australia.

Customs is also satisfied that canned peaches produced in Australia do not fall within the legislative provisions under subsection 269(T)(4B) relating to close processed agricultural goods. This provision states, among other things, "that processed agricultural goods derived from raw agricultural goods are not to be taken to be close processed agricultural goods unless the Minister is satisfied that: (a) the raw agricultural goods are devoted substantially or completely to the processed agricultural goods.....". Customs notes that the annual fresh peach crop in Australia is neither completely nor substantially destined for use in canned peach production.

5.4 Market Structure

The Australian market for canned peaches is supplied predominately by Australian production. Importations from Greece and other sources have declined from a relatively small proportion of the total Australian market to a negligible amount over the period from 1997 to 2000. Imports from Greece have consistently comprised the majority of imports each year.

Based on the actual sales data obtained from the Australian industry and the import data prepared by the Australian Bureau of Statistics, Customs has estimated the total Australian market volume. The data indicates that the

Australian market for canned peaches has been relatively stable from 1997 to 2000.

6 THE ECONOMIC PERFORMANCE OF THE INDUSTRY

Customs must consider whether the expiration of the countervailing measure is likely to lead to a continuation, or recurrence, of the material injury that the measure was intended to prevent. For this reason, Customs examines in this chapter the economic performance of the Australian canned peach producing industry.

6.1 Applicant's claim

The Australian industry did not claim that it was suffering material injury.

6.2 Economic performance of Australian Industry

Both Ardmona and SPC provided Customs with detailed information on their production and sales of canned peaches during the period 1996 to 2000. Customs verified the data against source documents and records during the investigations with each company.

Customs has not been able to compare the industry performance during 1996 to 2000 with its performance in the previous period of 1992 to 1995 because the data available for the earlier period is restricted to 425 and 825 gram can sizes.

The local industry considered the Australian canned peach market was mature with the product sold under a mixture of proprietary, house and generic brand labels. These reflected the three segments of the Australian canned peach market – the 'premium', the 'middle' and the 'bottom'. Nevertheless, the prices in the three categories were said to be linked with the 'bottom' end market prices being the determinant of prices in the other categories.

Although there has been some market demand in recent years to provide processed peaches in small plastic packs, the local industry advised that sales of peaches in cans remained the predominant form of packing.

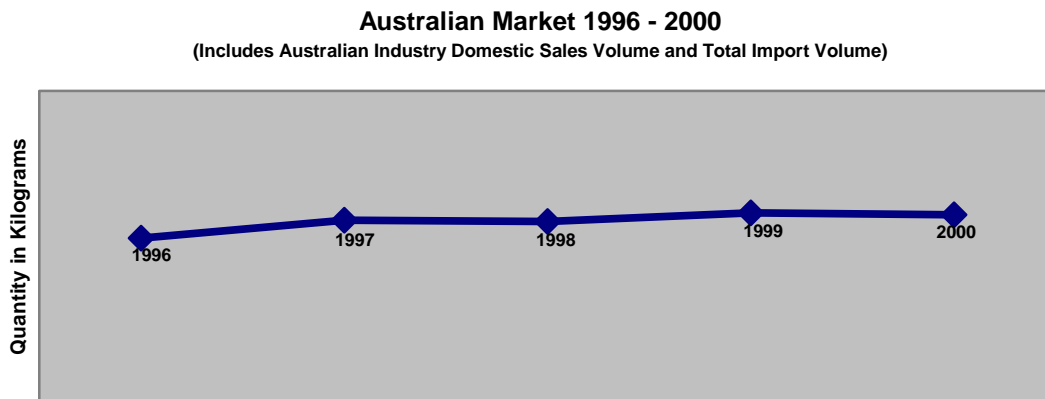
An outline of the Australian industry's performance since measures were last extended in 1996 follows.

6.2.1 Volume Trends

Customs noted that the main can size in terms of volume sold in the Australian market was the 825 gram can which comprised over half the annual sales volume. The next largest volume seller was the 425 gram can

which accounted for about one quarter of the total. The balance of the market for canned peaches consisted of smaller and larger can sizes.

Over the period 1996 to 2000, Customs found that the Australian market for canned peaches remained relatively stable with an increase of around 5 per cent up to 1999. However, in 2000 there was a slight decline in the overall market.



6.2.2 Market Shares

In the period 1996 to 2000 there were only two local producers of canned peaches which together shared almost the total Australian market. While imports of canned peaches held around 5 per cent of the Australian canned peach market in the early years of the investigation period, this declined to a negligible share by the latter years.

The bulk of imports were sourced from Greece.

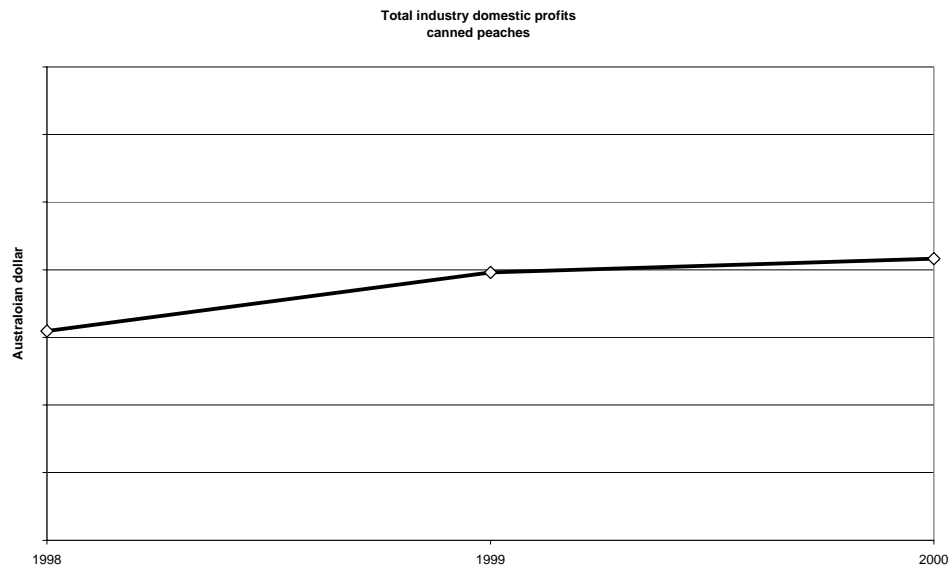
6.2.3 Price Trends

The graph below shows changes in the weighted average unit prices of canned peaches for sales by the Australian industry from 1996 to 2000. There was a price increase in 1997 of about 5 per cent but since then prices have remained relatively static.



6.4.6 Profit

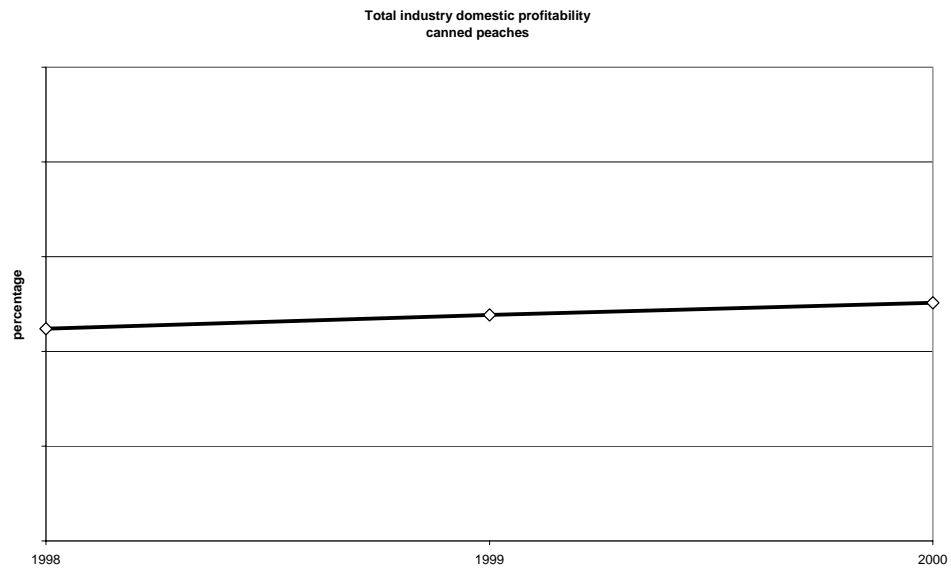
Customs was precluded from assessing the profit and profitability of the Australian industry over the investigation period because of the lack of readily accessible data from one of the two local producers for 1996 and 1997. Based on the shorter period from 1998 to 2000, Customs established that the profit amount for the Australian industry producing canned peaches increased by 8 percentage points. This is shown in the following graph.



6.4.7 Profitability

The Australian industry stated that while the selling prices of canned peaches remained relatively constant over the past three years, it has been able to make productivity gains to steadily improve its returns. This is reflected in the

following graph showing a one percentage point improvement in the profitability of the local industry from 1998 to 2000.



6.4.8 Stock levels

Customs examined stock levels of the Australian industry and found that at the end of each industry financial year (31 December), the stock levels fluctuated between 3 to 6 months of production quantity between 1996 and 2000. This annual stock level amount is a result of the short harvest and production period for canned peaches and the extended sales period.

6.5 Conclusions

Customs analysis of the available data for the period examined has shown that since the continuation of the measures in 1997:

- the Australian industry has increased its sales volume and market share;
- the Australian industry's weighted average selling prices for canned peaches have remained relatively stable;
- the profit and profitability of the Australian industry improved; and
- annual stock levels have remained relatively constant.

On the basis of the available evidence, Customs considers that the Australian canned peach industry is not suffering material injury.

7 CONTINUATION OF SUBSIDY

One of the main issues to be addressed by Customs in this continuation inquiry is whether the expiration of the countervailing measure would lead to a continuation, or recurrence, of the subsidised imports. This chapter examines the information obtained during the inquiry on the subsidy arrangements.

7.1 History of the Measures

A summary of the history of the imposition countervailing duties on canned peaches from Greece is as follows:

- In February 1992, the then Minister for Customs accepted the recommendations of an Anti-Dumping Authority report (No 57 of January 1992) and imposed countervailing duties on canned peaches from Greece and Spain and dumping duties on canned peaches from Greece and China.
- In September 1992, an importer, Jewel Food Stores Pty Ltd, sought a revocation of the countervailing duties on canned peaches from Greece and Spain and of the dumping duties on canned peaches from Greece and China. In its subsequent report (No 88 of December 1992), the ADA recommended to the Minister that he not revoke the measures. The Minister accepted the recommendation.
- In August 1996, the CFICA made an application for the continuation of the measures. In its report (Report No 163 of December 1996) the ADA recommended that the Minister take no action to continue the dumping duties applying to exports from Greece and China and countervailing duties applying to exports from Spain. The Minister accepted the recommendations which in effect left countervailing measures against canned peaches from Greece only.
- The ADA also recommended in report No 163 that the portion of the countervailing duty applicable to the sugar rebate subsidy paid to producers of Greek canned peaches be allowed to lapse. This recommendation was also accepted by the Minister.
- There has been no review since the measures were continued in February 1996.

7.2 EC Subsidy arrangements to 2000/01

As part of its assessment of the subsidy arrangements applying to Greek exports of canned peaches, Customs considered submissions and/or information from the EC, the Greek Cannery Association, the Australian industry and the Department of Foreign Affairs and Trade. Customs also extracted publicly available information on EC regulations via the internet.

During the period of investigation up to 2000/01, the EC system of subsidy arrangements for canned peaches was based on a “production aid” paid to peach processors for the quantity of canned peaches produced. In turn, under contracts between processors and grower organisations, the processors paid to peach growers a price not less than a prescribed minimum purchase price for fresh peaches.

The annual production aids and minimum prices were set by the EC before the start of each marketing year. The respective amounts for the years concerned are shown below:

CANNED PEACHES: EC SUBSIDY ARRANGEMENTS

| | 1997/98 | 1998/1999 | 1999/00 | 2000/01 |
|--|------------------|------------------|----------------|----------------|
| | ECU/100kg | ECU/100kg | €100kg | €100kg |
| Production aid (for processed peaches) | 8.128 | 6.065 | 6.103 | 4.134 |
| Minimum price (for fresh peaches) | 26.755 | 30.768 | 28.368 | 28.368 |

Note: ECU: European Currency Units
 € Eurodollars
 (1ECU=1€)

The EC has attributed the reduced amount of subsidy in 2000/01 to “increases in world raw material prices” (that is, for fresh peaches) and to a decrease in the euro exchange rate. In effect, the margin between the EC prescribed minimum prices and the “world prices” used as a benchmark had reduced.

7.3 EC Subsidy arrangements from 2001/02

In late 2000, the EC revised the subsidy arrangements to apply to the fruit and vegetable common market organisation. These take effect from the 20001/02 marketing year and include changes to the subsidy arrangements for canned peaches.

Under the new arrangements, the EC provides aid to peach growers supplying fresh peaches for the production of preserved peaches in syrup and/or natural fruit juice (which includes canned peaches). This will be based on contracts between the officially recognised grower organisations and those peach processors approved by national authorities.

However, there is provision for contracts between processors and individual growers in 2001/02 to be eligible for the subsidy. These arrangements may

apply for up to 25 per cent of the total quantity contracted by the processor concerned. The contracts are required to stipulate the quantities covered, the supply schedule to the processor, and the price to be paid to the grower organisations (where applicable). The contracts also require the processor to process the products concerned.

The amount of the subsidy to be paid by the grower organisations to the peach growers from 2001/02 has been factored to equate with the subsidy amount paid to peach processors in 2000/01. The EC has based its calculations on a conversion factor of 0.87, that is, 0.87 kg of fresh peaches is required to produce 1 kg of preserved peaches including syrup/juice. From this, the subsidy amount of €4.134 per 100 kg paid to peach processors for canned peaches in 2000/01 has been equated to €4.77 per 100 kg to be paid to peach growers for fresh fruit from 2001/02.

The subsidy amount under the new system has been fixed for the quantity of fresh fruit intended for processing. According to the EC this has meant that the “fixing of a minimum price becomes obsolete”. Therefore there is no prescribed minimum purchase price for fresh peaches under the new system.

Customs also notes that the type of aid provided by the EC to the peach growers constitutes an actionable subsidy under the WTO Agreement on Subsidies and Countervailing measures.

7.3 Assessment of Subsidy Benefit to Processors

7.3.1 EC Submissions

In its submissions, the EC contended that as the processors of canned peaches in Greece no longer received a production aid under the revised subsidy system, there was no basis for continuation of the countervailing duty. The new system was stated to involve sales of fresh fruit under “normal market conditions” with no prescribed minimum prices and that these sales were made in arm’s length transactions.

In support, the EC referred to a recent WTO appellate body finding concerning action by the United States of America in imposing countervailing duties on certain hot rolled lead and bismuth carbon steel products exported from the United Kingdom. Based on the findings in this case, the EC contended that Australia has a legal obligation to demonstrate that the aid to peach growers has been ‘passed through’ to the processors. In other words, Customs must demonstrate that the canners have bought peaches at less than the market price due to subsidisation. A mere presumption of this is insufficient.

7.3.2 Customs Assessment

Customs examined the case cited by the EC and found that while countervailing duties were involved, the case related to a capital injection of funds by the Government to a Government-owned company that was

subsequently privatised in an arms length transaction. The issue then was whether the capital injection (the subsidy) “travelled” when a change in ownership of the legal entity occurred.

As such, Customs questions the relevance of the issues raised in the case cited with those faced in respect to the subsidies for peach processing. No past subsidies are involved and neither is the ownership of any entities an issue.

Nevertheless, Customs acknowledges the need to determine whether a subsidy has been paid, either directly or indirectly, on canned peaches exported from Greece.

In this regard Customs notes that:

- a subsidy will continue to be paid on peaches used for processing for the foreseeable future;
- the amount of the subsidy to be paid from 2001/02 to peach growers has been designed to equate with the subsidy amount paid to the peach processors in 2000/01;
- the contracts between the processors and the grower organisations specify that the fresh peaches purchased must be used for processing;
- the subsidy is not paid on all fresh peach production but is targeted at fruit destined for processing;
- the processors are able to negotiate separately with growers in 2001/02 for up to 25 per cent of their requirements for fresh fruit. This establishes a direct link between the processor and the grower recipient of the subsidy; and
- a market where one party sells goods that benefit from a subsidy amount to another party that is required to process the goods cannot be considered normal. Selling arrangements in such a market would be expected to be distorted by the impact of the subsidy.

Customs also notes that if the subsidy was intended to only benefit the grower, there would be no need for discrimination between the end-uses of the fruit. However, as the aid is only paid to the grower when the fruit is used for processing, it follows that there is intended to be a benefit passed to the end-user – in this case the processor.

In addition, Customs noted a recent report published by the United States Department of Agriculture that stated Greek peach growers will receive \$US 216 per tonne for up to 300,000 tonnes of fresh fruit delivered to processors. Of this, the processors are reported to only pay \$US 174 per tonne to the growers with the remaining \$US 42 being provided by a direct subsidy to the growers. This report suggests there has been little effective change from the previous EC subsidy arrangements for canned peaches and that the processors purchase fresh fruit at less than “market” prices due to the subsidy.

Based on the information available, it seems reasonable to conclude that the subsidy paid to peach growers in Greece continues to benefit the peach

processors in that country. It follows that this benefit is included in the export price of canned peaches from Greece.

7.4 Conclusion

From the above, Customs concludes that a countervailable subsidy continues to be provided by the EC – albeit indirectly – for the processing of peaches. In turn, this provides assistance to the processors of peaches in Greece. As a result, any canned peaches exported to Australia would be at subsidised prices.

8 CUSTOMS ASSESSMENT

Subsection 269ZHF(2) of the Customs Act states that

The CEO must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the CEO is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

It is important to note that the test to be applied by Customs is a positive one. In other words, Customs needs to be satisfied that material injury caused by subsidisation is likely to occur. Customs is not able to recommend that measures continue on the basis that it cannot be satisfied that these events will not occur (ie. a negative test).

The main issue to be addressed by Customs in this continuation inquiry is whether the expiration of the countervailing measures would lead to the recurrence of material injury to the Australian peach canning industry by subsidised imports of canned peaches from Greece.

8.1 Assessment procedure

Under the Australian legislation (and the WTO Subsidies Agreement), there are three issues to be addressed in considering whether the countervailing duty in this case should be continued. These are whether

- there is likely to be a continuation of the subsidisation of the imported goods;
- there is likely to be a recurrence of material injury suffered by the Australian industry; and
- there is a causal link between the subsidised imports and any likely recurrent material injury.

Each of these issues is addressed in the following.

8.2 Continuation of subsidy

In its submission the EC contended that as the subsidy was to be paid to the fruit grower in future, there was no benefit to the fruit processor. In addition the EC claimed that a market price for fresh fruit would operate under the new aid system with no guaranteed minimum purchase price.

Based on the information available and in the absence of any substantive evidence from the EC of the operation of normal price system in a market affected by subsidy payments, Customs has concluded that the peach

canners in Greece benefit indirectly from the payment of a subsidy to the growers.

While the available data shows that the amount of the subsidy has reduced since 1996, Customs notes that the subsidy, which is not insignificant, continues to be paid and will be paid for the foreseeable future.

Conclusion

From the evidence obtained in this inquiry, Customs is satisfied that a countervailable subsidy will continue to be paid for the foreseeable future by the EC for the processing of peaches. Customs is also satisfied that the prices of canned peaches exported from Greece benefit from the subsidy amount.

8.3 Recurrence of material injury

In respect to material injury to the Australian industry, Customs has found that since the last review of the measures in 1996, the Australian industry has consolidated its position. While the Australian industry has not suffered material injury during this period when countervailing measures have been in place, the issue to be addressed is whether there is likely to be a recurrence of material injury if the measures are not continued.

To address this issue, Customs examined the potential for imports of canned peaches from Greece at subsidised prices to occur.

8.3.1 Export prices from Greece

During the investigation, the Australian industry advised Customs of the countries that imported processed peaches from Greece and which were said to have a peach processing industry. These countries were said to be Canada, USA, Brazil, Argentina, Spain, South Africa, Australia, Chile, Uzbekistan and China.

The Australian industry claimed that the Greek prices for exports of canned peaches to these countries were lower than the prices to countries that did not have peach canning facilities. This was said to be part of a pricing strategy used by exporters of canned peaches from Greece to maximise sales volumes.

Customs used data from the TradStat World Trade Statistical Service to analyse weighted average export prices of processed peaches exported from Greece to all countries from 1996 to 2000. The data has been sorted according to whether the importing country has a peach processing industry. For comparative purposes, the export prices for processed peaches from Greece to all countries have also been included.

**Processed Peach Exports from Greece
FOB Weight Average Prices
(\$A/tonne)**

| | 1996 | 1997 | 1998 | 1999 | 2000 |
|---|-------------|-------------|-------------|-------------|-------------|
| Export price to all countries. | 886 | 892 | 1,240 | 1,004 | 921 |
| Export price to countries <u>without</u> peach processing industry | 898 | 890 | 1,212 | 1,011 | 930 |
| Export price to countries <u>with</u> peach processing industry | 806 | 909 | 1,421 | 954 | 884 |
| Difference | 10% | (-)2% | (-)17% | 6% | 5% |

The table above indicates that in 1996, 1999 and 2000, Greek export prices to countries with a processing industry were lower than to other countries by from 5 % to 10%. While this was not the case in 1997 or 1998, a spike in the prices in those two years suggests that abnormal factors played a role at that time.

From this data, it may be deduced that any future exports of canned peaches from Greece to Australia would be at lower prices than to other markets where there is no local processing industry.

8.3.2 Capacity for exports from Greece

Customs notes from its data that exports of canned peaches to Australia from Greece since 1996 have declined from relatively small volumes to negligible amounts by 2000. Customs is aware that Greece is the major exporter processed peaches in the world. This is borne out by the following Table:

**Processed Peach Exports from Greece
(tonnes)**

| | 1996 | 1997 | 1998 | 1999 | 2000 |
|---------------------|-------------|-------------|-------------|-------------|-------------|
| Annual total | 351,320 | 274,192 | 270,640 | 234,497 | 372,953 |

In comparison with the volume exported from Greece, Customs notes that the volume of the canned peach market in Australia in 2000 represented about 5

per cent of the exports from Greece. This indicates that there is a large peach processing production capacity in Greece and that a relatively small volume of exports from Greece would be expected to have a substantial impact in a small market such as Australia.

In its submissions the EC pointed to the relatively small volume of exports of canned peaches from Greece to Australia in recent years. However, in the year 2000, Customs noted that Greece exported canned peaches at subsidised prices to more than 80 countries. This demonstrates a capacity by the Greece peach processing industry to have the flexibility to direct a relatively small volume of exports to Australia in the foreseeable future.

8.3.3 Impact of subsidy

The EC stated in its submissions that the amount of production aid to peach processors in Greece has declined by about 50 per cent in recent years. While the reasons for this apparent decline are not clear, Customs assessed the impact of the subsidy on exports of canned peaches from Greece in 2000.

Based on the stated amount of production aid paid to peach processors, Customs has calculated that the subsidy amount in 2000 represented about six per cent of the weighted average FOB export price for exports of canned peaches to Australia in that year. Nevertheless, this would appear to understate the impact of the subsidy in terms of fresh fruit purchase prices by Greek peach processors. This price advantage would be expected to flow through to lower selling prices overall for exports of canned peaches from Greece.

In a market where price determines volume and market categories, such as occurs at the low end of the Australian canned peach market, imports at subsidised prices would have an advantage. The effect of the advantage would be magnified by the price impact across the overall market. Customs considers that the impact of the subsidy would be sizeable in effect and provide a substantive competitive advantage to exporters of canned peaches from Greece. With the subsequent decline in the Australian dollar rate of exchange against the euro since 2000, that impact would be increased.

Conclusion

In view of the large quantities exported by Greece relative to the Australian market, Customs concludes that there is capacity for Greece to divert canned peaches to the Australian market in relatively substantial quantities in the absence of the current measures.

8.4 Causal Link

In addressing whether there would be a causal link between subsidised imports of canned peaches from Greece and the likelihood of a recurrence of material injury to the Australian industry, Customs examined the known factors involved.

Customs has examined the economic performance of the Australian peach canning industry over the period from 1996 to 2000 and concluded that there is no evidence of material injury. During this period when there were countervailing measures on imports of canned peaches from Greece, there were no other major sources of exports to Australia.

The EC observed in its submissions that the Australian industry has been protected from imports of canned peaches from Greece for a period of ten years and contended it was unlikely that injury would recur due to the recent decline in the level of the production aid. Notwithstanding the period involved (which has reflected the continued existence of subsidy arrangements by the EC), Customs considers that the apparent current level of production aid has the capacity to have a substantial impact on prices in the Australian market.

The Australian canned peach market is typified by a small number of large buyers each in close price competition. The introduction of low priced canned peaches into this market would have an impact in excess of the volume involved as the price effects would have a wide impact. This would adversely affect the profits and profitability of the Australian peach canning industry. This could be expected to result in material injury to the local industry as the price effects flowed across the small Australian market.

The information available indicates that the peach canners on Greece have substantial production capacity with annual sales to over 80 countries. The annual volume of exports of canned peaches from Greece is substantially in excess of the Australian canned peach market size. This means that the diversion of a relatively small volume of the annual total volume of canned peach exports at subsidised prices from Greece to Australia would have a substantial impact on the Australian market.

Conclusion

In the circumstances, Customs is of the view that if the measures were allowed to expire, it would be likely that there would be a recurrence of exports to Australia at subsidised prices which would cause material injury to the Australian industry.

8.5 Conclusions

On the evidence available, Customs considers that

- *exports of canned peaches from Greece continue to be subsidised;*
- *there is likely to be a recurrence of material injury to the Australian peach canning industry in the absence of the current countervailing measures; and*
- *the material injury could be linked with exports of canned peaches at subsidised prices from Greece.*

Accordingly, Customs is inclined to recommend that the countervailing duty currently applying to imports of canned peaches from Greece be continued for a further five years beyond its scheduled expiry date of 18 February 2000.