Non-Confidential: Initiation of Review

Application by Heinz Wattie's Limited for a Review of the Anti-dumping Duties on Canned Peaches from Greece

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Summary

1. Heinz Watttie's Limited (HWL) is a subsidiary of H.J. Heinz Company, a United States company. HWL made an application on 19 September 2014 for the continuation of the anti-dumping duty on canned peaches imported from Greece. HWL produces canned and preserved peaches at its Hastings plant along with a range of other processed and canned fruits and vegetables.

2. The current anti-dumping duty will expire on 18 November 2014 being 5 years from the date the duties were reassessed following the last full review. Reviews that are initiated prior to the expiry of anti-dumping duties are also known as 'sunset' reviews. If a review is initiated, the current duties would remain in place pending the outcome of the review. Should the review find that the duty should remain in place, it will continue to be imposed for 5 years beginning from the day after new rates are established. Those rates will be established as a result of a reassessment of the current rates following a sunset review (if the sunset review finds that a continuation of the duties is warranted).

3. The Dumping and Countervailing Duties Act 1988 (the Act) provides that the Chief Executive shall initiate a review of the imposition of anti-dumping duty where requested to do so by an interested party that submits positive evidence justifying the need for a review.

4. The Assessment Team considers that positive evidence sufficient to justify the initiation of a review has been provided. This report therefore recommends that the Principal Advisor, Trade and Regulatory Cooperation, Trade and International Environment Branch, acting under delegated authority from the Chief Executive of the Ministry of Business, Innovation and Employment, initiate a review.

Background

5. Anti-dumping duties were first imposed on canned peaches from Greece in March 1998. These duties have been reassessed twice since their implementation following full reviews and reassessments. The last full review and reassessment was completed in July 2009 and November 2009 respectively. As a result of the November 2009 reassessment reference price anti-dumping duty rates were set for a range of different can sizes applying to all exporters of canned peaches from Greece.

6. An anti-dumping duty expires 5 years from the date it was last reassessed following a review (a five-yearly review of a duty is known as a 'sunset' review). If a sunset review is initiated before the expiry date of the duty on 18 November, the duty remains in place pending the outcome of the review.

7. The goods that will be subject to review if it is initiated are described as:

   "Peaches (halves, slices or pieces) packed in retail size cans."

8. Canned peaches imported from Greece enter New Zealand under tariff item and statistical key 2008.70.09.00L. The subject goods are not separately identified as the tariff item includes nectarines and preserved peaches in types of containers other than cans.

9. Canned peaches originating from Greece are subject to the normal rate of Customs duty of 5 percent.

Sunset reviews

10. A sunset review requires an investigation to determine whether the expiry of the anti-dumping duty would likely lead to a continuation or recurrence of dumping and injury[1].

11. Any interested party that requests a review of the imposition of anti-dumping duties must, in terms of the Act, submit positive evidence justifying the need for a review[2]. In terms of the Anti-Dumping Agreement an application must be duly substantiated and made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of the duties.

12. The application for a review was received on 19 September 2014 which is well within the time required before the expiry of the duties on 18 November 2014.

Consideration of the evidence presented

13. The Assessment Team interprets the requirement of section 14(8) of the Dumping and Countervailing Duties Act 1988 for an interested party to submit "positive evidence justifying the need for a review" as being a requirement for positive evidence, but not evidence to the same extent as that required under section 10(2) of the Act in respect of new investigations. This interpretation is supported by the international jurisprudence relating to the WTO Anti-Dumping Agreement[3] and the WTO Agreement on Subsidies and Countervailing Measures[4], which has evidentiary provisions that are very closely aligned with those of the Anti-Dumping Agreement.

14. The Assessment Team considers, therefore, that while an application for the initiation of a sunset review may cover the information outlined in section 10(2) of the Act and paragraph 2 of Article 5 of the Anti-Dumping Agreement, it is not necessary that all of these matters are addressed or addressed in full for an application to constitute "positive evidence justifying the need for a review" and to be duly substantiated.

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[1] The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement), Article 11.3, states in part: "…any definitive anti-dumping duty shall be terminated

[2] The Dumping and Countervailing Duties Act 1988, section 14(8), states: "The [Chief Executive] may, on his or her own initiative, and shall, where requested to do so by an interested party that submits positive evidence justifying the need for a review, initiate a review of the imposition of anti-dumping duty… in relation to goods and shall complete that review within 180 days of its initiation."

[3] World Trade Organisation Dispute Settlement Panel United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan WT/DS244/R 14 August 2003 (paragraph 7.27).

[4] World Trade Organisation Dispute Settlement Panel United States – Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany WT/DS213/R 3 July2002 (paragraph 8.42).

New Zealand industry and like goods

15. The Anti-Dumping Agreement states that a request for a sunset review "must be made by or on behalf of the domestic industry" (Article 11.3). Section 3A of the Act[5] defines an "industry" as the New Zealand producers of like goods and section 3 of the Act[6] defines "like goods".

16. HWL has advised that it continues to produce canned peaches which are 'like' to the subject goods imported from Greece and that it remains the only New Zealand producer of canned peaches. The Assessment Team is not aware of any other New Zealand producer of canned peaches. Based on the statement by HWL in its application and the evidence from the original investigation and previous reviews the Assessment Team considers that there is sufficient evidence to conclude that the canned peaches produced by HWL are a like good to the goods subject to the duty.

17. The Assessment Team considers that the information available constitutes sufficient evidence that there is a domestic "industry" in terms of section 3A of the Act, which consists solely of HWL and HWL therefore has standing to make the application.

Continuation or recurrence of dumping

Export price

18. HWL has provided [redacted] in which it is noted that a producer of canned peaches in Greece has confirmed an FOB price of [redacted] A10 (3kg) size cans, which is equivalent to [redacted] euros per kilogram. Although requested to do so by the Assessment Team, HWL did not provide a copy of the [redacted] on the grounds that it is confidential.

19. HWL has noted that the price per kilogram of a 3kg can is normally lower than a retail pack. HWL said that no adjustment has been made for this difference as it does not have accurate information to allow it to do so. HWL has noted that ". . . because of the indicative dumping margin any differences in the price per kg is not expected to significantly affect the estimated dumping margin." The Assessment Team understands this to mean that because the size of the estimated dumping margin is so large, any adjustment for such a difference will still show a significant dumping margin.

Adjustments to Export Price

20. The Act requires that adjustments are made to the export price for costs, charges and expenses incurred in preparing the goods for shipment to New Zealand that are additional to those which are generally incurred on sales in the domestic market of the country of export, and any other costs, charges and expenses resulting from the exporting of the good or arising after shipment from the country of export.

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[5] For the purposes of this Act, the term "industry", in relation to any goods, means- (a) The New Zealand producers of like goods; or (b) Such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods.

[6] Like goods, in relation to any goods, means- (a) Other goods that are like those goods in all respects; or (b) In the absence of goods referred to in paragraph (a) of this definition, goods which have characteristics closely resembling those goods.

21. HWL has estimated the cost of inland freight (from the factory to the wharf in Greece) at [redacted] percent, based on its understanding of local freight to port charges. No other export costs were included in the estimate of export price.

22. The table below shows HWL calculation of an ex-factory export price on the basis outlined above:

Quoted FOB price per kg (euros)		[redacted]
Freight to Port ([redacted] % VFD)	[redacted]%	[redacted]
Ex-Factory Export Price (euros/kg)		[redacted]

Assessment Team's Consideration of the Export Price Evidence

Base Export price

23. The Assessment Team has considered the evidence provided in relation to export prices, bearing in mind the Assessment Team's interpretation of the evidentiary requirement for the initiation of a review outlined in paragraphs 13 and 14 above.

24. In the absence of any actual invoice prices for canned peaches exported to New Zealand from Greece, the Assessment Team considers that the approach taken by HWL of obtaining a quote from a Greek exporter of canned peaches is reasonable. As noted above, HWL did not provide a copy of the quote from a Greek producer of canned peaches but rather [redacted] in which it is noted that this producer had confirmed an FOB price for 3kg cans of peaches.

25. Because of this, the Assessment Team has referred to the export price established in the 2009 review which was based on an export sale to New Zealand of peaches in 3kg cans on an ex-factory basis. The ex-factory export price established on this basis was [redacted] euros per kilogram. This price has been updated by the increase in the consumer price index in Greece from 2009 to September 2014 of 8.29 percent which yields a price of [redacted] euros per kilogram. This price is well below the ex-factory price provided by HWL in its application. The Assessment Team notes that while there are many factors other than the increase in the consumer price index which can affect the price of canned peaches the export price from the last review adjusted by the consumer price index does indicate that the export price provided by HWL is likely to be realistic. The Assessment Team therefore considers it constitutes positive evidence sufficient to substantiate an export price for the purpose of initiating a review.

26. The Assessment Team notes that 3kg cans of peaches are considered to be 'retail size cans' and therefore fall within the definition of the subject goods. The Assessment Team agrees with HWL, based on its experience with other investigations and reviews relating to canned peaches, that any difference in the price per kilogram between 3kg cans and the can sizes to which the normal value evidence relates will not significantly affect the calculation of whether the peaches are dumped.

Adjustment to Export Price

27. To calculate the ex-factory price in Greece, HWL made a deduction for internal freight from the factory to the port of [redacted] percent of the FOB price ([redacted] EUR). HWL noted that this allowance has been made on the basis of its understanding of local freight to port charges.

28. In the 2008 sunset review Final Report, the sale price of the transaction used to calculate an export price was already at the ex-factory level of trade, therefore, it was not necessary to make any further adjustments to obtain an ex-factory price. In the 2003 sunset review and reassessment of the duty, inland freight and terminal handling charges (THC) in Greece were estimated to be [redacted] EUR per kilogram. The Assessment Team considers that HWL's adjustment of [redacted] percent of the FOB price is a reasonable estimate for inland freight when compared to the information used in the 2003 review.

29. The Assessment Team is satisfied that sufficient evidence has been provided by HWL of the costs between FOB and ex-factory, as outlined above.

30. In addition to the inland freight costs the Assessment Team notes there are likely to be other costs involved in the export of the goods up to the FOB point such as port handling charges and clearance fees and the cost of credit. However, such costs, if relevant, would reduce the export price further, increasing any dumping margin found.

Normal value

31. HWL provided information for Greek domestic market prices of canned peaches sourced through Euromonitor[7]. The sample market prices relate to 4 prices from 4 different supermarkets for canned peaches in 820g, 650g, 420g and 825g cans. The Euromonitor report shows the price per container and the price per kilogram. The Euromonitor report is dated February 2013. HWL advised that it understands that the prices were observed on a day in February 2013 by a representative from Euromonitor.

32. From this data HWL has calculated a simple average of the 4 prices to arrive at an average retail price of [redacted] euros per kilogram. HWL advised that as the Euromonitor report does not include quantities, it was not possible to calculate a weighted average price.

Adjustments to the Normal Value

33. The tax treatment must be tax neutral when comparing the normal value and the export price. The supermarket prices in the Euromonitor data are inclusive of VAT so HWL has made a deduction of 13 percent for VAT. The Assessment Team notes that the VAT rate of 13 percent is a reduced rate, which applies to foodstuffs in Greece.

34. HWL has estimated an amount for a retailer's margin calculated as [redacted] percent of the ex-factory wholesale price. HWL said the amount of the retail margin is based on its knowledge of the distribution of preserved peaches in New Zealand. HWL said that it " . . . does not have detailed information on supermarket margins in Greece relative to margins in New Zealand."

35. HWL also deducted an amount for the cost of inland freight to the domestic customer. HWL estimated that inland freight would be [redacted] percent on the wholesale purchase price based on its understanding of local domestic freight costs.

36. The following table shows the calculation of the normal value (all amounts in euros) provided by HWL in its application.

[7] Information from its website shows that Euromonitor International is an independent company which has a worldwide network of analysts able to provide tailored detailed research in consumer markets.

Average retail selling price	[redacted]
Less:	
- VAT (13%)	[redacted]
- Retailer's margin ([redacted]%)	[redacted]
- Freight to customers ([redacted]%)	[redacted]
Ex-factory price	[redacted]

Assessment Team's Consideration of the Normal Value Evidence

37. The Assessment Team notes that the price of one of the products on which the normal value is based is significantly higher than the other 3 prices. This product is recorded in the Euromonitor data as "[redacted]". HWL said it does not know why the price of this product is significantly higher than the other prices, but commented that the ". . . assumption is that "[redacted]" indicates [redacted]". The Assessment Team considers it is likely that this is [redacted] product. HWL has calculated an average retail price from the Euromonitor report by taking a simple average of the 4 prices. An equal weighting has therefore been given to the significantly higher price of the probable [redacted] product which is likely to be sold in much lower quantities than [redacted] canned peaches.

38. Because of the above considerations, to check the reasonableness of the average retail price estimated by HWL, the Assessment Team referred to the normal value established in the 2009 review of this duty. In that review the normal value was based on the average retail price of 2 purchases of 425g cans of peaches and was [redacted] euros per kilogram. The Assessment Team has adjusted this price by the increase in the Greek consumer price index from 2009 to February 2013 (the date at which the retail prices in the Euromonitor report were obtained) of 7.1 percent. The average retail price from the 2009 review increased by this yields a price of [redacted] euros per kilogram, which is significantly lower than the average retail price calculated by HWL in its application of [redacted] euros per kilogram.

39. The Assessment Team has also calculated an average retail selling price by taking a simple average of the prices of the 3 products excluding the price of the probable [redacted] product. The average retail price calculated on this basis is [redacted] euros per kilogram.

40. The above considerations indicate that the normal value estimated by HWL in its application is likely to be too high. The Assessment Team considers that the most reasonable basis on which to estimate an average retail price is to take the average of the prices of the 3 products from the Euromonitor report excluding the probable [redacted] product, i.e. [redacted] euros per kilogram.

41. The Assessment Team notes that the prices in the Euromonitor report were obtained in February 2013 and are therefore significantly out of date. The Greek consumer price index has increased by a further 1.19 percent between February 2013 and September 2014. It is therefore likely that the retail price of canned peaches has also increased since February 2013. A normal value based on an average retail price of [redacted] euros per kilogram still shows that Greek canned peaches are likely to be dumped by a significant margin, so any increase in the price of canned peaches since February 2013 will only increase the dumping margin.

42. In considering the adjustment made by HWL for a retailer's margin, the Assessment Team referred to industry benchmarks published by the New Zealand Inland Revenue Department[8] on supermarkets and grocery stores relating to 2011/12 (the most recent information available). This information shows that for those with a large turnover, the median gross margin was 18 percent, which is similar to the [redacted] percent margin used by HWL. The Assessment Team notes that in the 2009 review where normal values were also based on retail selling prices, a deduction of [redacted] percent for a retailer's margin was made, using an estimate by HWL based on its knowledge of the New Zealand retail market.

43. The Assessment Team was not able to locate any information on supermarket margins in Greece. The Assessment Team notes that as the supermarket margin rate used by HWL is based on its knowledge of the New Zealand market it should be treated as indicative only, and that if it is necessary to use retail selling prices in any review, the retail margin may need to be adjusted.

44. The Assessment Team queried HWL about the necessity to make a deduction for freight to customer as this cost would normally be encompassed by the gross margin and would therefore not require a separate deduction to be made for the cost of freight. HWL said that they consider that a deduction for freight is required as they have assumed [redacted]. The Assessment Team considers it likely that a separate deduction for freight is not required but notes that this is small adjustment which does not have a material impact on the amount of the normal value.

45. On the basis of the above considerations, the following table shows the Assessment Team's estimate of the normal value.

Average retail selling price	[redacted]
Less:	
- VAT (13%)	[redacted]
- Retailer's margin ([redacted]%)	[redacted]
- Freight to customers ([redacted]%)	[redacted]
Ex-factory price	[redacted]

Comparison of export price and normal value

46. The table below shows the comparison of export price and normal value and the resulting dumping margin, calculated by HWL on the basis of the evidence in its application.

Ex-Factory Export Price (euros/kg)	Ex-factory Normal Value (euros/kg)	Dumping Margin (euros/kg)	DM as % of EP
[redacted]	[redacted]	[redacted]	194%

[8] http://www.ird.govt.nz/industry-benchmarks/bm-find-your-benchmark/benchmarks-g4110-supermarket.html

47. The following table shows a comparison of the export price and normal value and the resulting dumping margin, taking into account the changes that the Assessment Team considers should be made.

Ex-Factory Export Price (euros/kg)	Ex-factory Normal Value (euros/kg)	Dumping Margin (euros/kg)	DM as % of EP
[redacted]	[redacted]	[redacted]	87%

Conclusion on dumping

48. HWL has provided reasonable evidence that if there is a resumption of canned peach exports from Greece to New Zealand, they are likely to be at dumped prices.

49. The Assessment Team concludes that information provided by HWL constitutes positive evidence of a likelihood of a recurrence of dumping into New Zealand if the current anti-dumping duties were removed.

Continuation or recurrence of material injury

50. HWL has provided forecasts for its 2015 and 2016 financial years (which end in December), for its domestic canned peach operation, which are based on the assumption that the duty will be removed. These forecasts show sales volume, sales revenue, cost of goods sold, gross profit, selling and administration expenses and earnings before interest and tax (EBIT). HWL has also provided a forecast for its 2014 financial year showing the same information as the forecasts for 2015 and 2016. HWL has advised that the 2014 forecast includes actual data for the first 4 months and forecast data thereafter and is based on the assumption the duties will remain in place for all of that year. HWL has also provided its actual results for the 2012 and 2013 financial years showing the same information as that in the forecasts.

Volume Effects

51. In its initial application HWL did not provide any estimates of the likely increase in import volumes from Greece should the duty be removed. The forecasts provided by HWL for the 2014, 2015 and 2016 financial years all show the same forecasts sales volume which is [redacted] below the sales volume achieved in 2013. As the forecast for 2014 is based on the assumption that the duty remains in place for all of 2014 while those for 2015 and 2016 are based on the assumption that the duty is removed, the Assessment Team asked HWL if any of this reduction in sales volume reflected its estimate of an increase in imports from Greece should the duty be removed.

52. HWL advised that the forecast decrease in sales volume is ". . . [redacted]" and is based on [redacted]. In response to a query about likely import volumes from Greece should the duty be removed, HWL said ". . . peaches from Greece would be [redacted], therefore this is where we would expect all imports to come from." HWL did not provide any estimate of what it considered import volumes from Greece would be if the duty is removed. Given that HWL's forecasts in the absence of the duty do not provide for any loss of sales volume attributable to imports from Greece, it is not clear from the comment by HWL quoted above whether HWL considers there is likely to be any increase

in import volumes should the duty be removed. Any review will need to clarify with HWL what view it has on the likely volume effects of removing the duty.

53. In response to a query about the capacity of the canned peach industry in Greece to substantially increase its exports to New Zealand, HWL provided a copy of a recent article taken from the internet site of New Greek TV[9] which notes that exports of peaches from Greece in 2014 amounted to 141,000 tons compared to 112,000 tons the previous year. This article also refers to the Russia-Ukraine crisis as adding pressure on peach prices and to moves to reduce bureaucratic barriers in Greece to exporting.

Price Effects

Price undercutting

54. HWL has estimated an ex-wharf price of imports of canned peaches from Greece by adding to the FOB export price provided on the basis outlined above amounts for sea freight and insurance and for customs clearance, freight to store and devanning.

55. HWL has based the adjustment for sea freight and insurance on the difference between the CIF and FOB values recorded in statistical data relating to imports from Greece over the year ended December 2013 under the tariff item and statistical key under which the subject goods are classified. The Assessment Team checked the calculation of this amount against Customs import data. As noted above, while these imports do not relate to canned peaches of the type subject to the duty, the Assessment Team considers these imports provide a reasonable basis on which to estimate sea freight and insurance costs.

56. The application did not contain an explanation of the basis on which the adjustment for Customs clearance, freight to store and devanning was estimated. To check the reasonableness of this amount, the Assessment Team referred to information provided by an importer in respect of these costs in the 2013 review of the anti-dumping duty on canned peaches from South Africa. These costs were similar to the cost estimated by HWL in this case so the Assessment Team considers the cost estimated by HWL to be reasonable. The Assessment Team notes that the adjustment estimated by HWL in its application includes freight to store. HWL stated in its application that the cost estimated through the addition of this adjustment is an ex-wharf cost which would normally be exclusive of freight to store. However, excluding freight to store would only increase the margin of price undercutting and is only a very small amount and does not have any significant impact on the price undercutting analysis.

57. In the last review the Ministry concluded that as canned peaches from Greece could be imported by supermarkets or distributors, the relevant level of trade was ex-wharf (for imports by supermarkets) and ex-store (for imports by distributors). The Assessment Team considers, based on the situation with other reviews relating to canned and preserved peaches, that should imports of canned peaches from Greece resume, it is likely that imports will be made by both supermarkets and distributors with the majority of the imports likely to be made by supermarkets. The Assessment Team considers that it is therefore reasonable that

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[9] http://www.newgreektv.com/index.php/greece/item/10671-greek-peach-exports-increase-despite-russian-ban

the ex-wharf level of trade should be used to assess the extent of any likely price undercutting.

58. HWL has compared its forecast net selling prices for its Wattie's and Oak brands for the year ended December 2014 with the estimated ex-wharf costs of canned peaches from Greece, as shown in the following table.

Brand	HWL's net sales value/kg	Ex-wharf cost of imports from Greece per kg	Undercutting (per kg)	Undercutting as % of HWL's price
Wattie's	[redacted]	[redacted]	[redacted]	[redacted]
Oak	[redacted]	[redacted]	[redacted]	[redacted]

59. The table shows significant price undercutting by imports from Greece.

60. The Assessment Team notes that HWL's actual net selling prices for the 2013 financial year would also be significantly undercut by the estimated ex-wharf cost of imports from Greece.

Price depression

61. HWL said that [redacted]. HWL said, however, that the price of [redacted].

62. HWL commented that unsustainable price differences have previously occurred when dumped and/or subsidised imports have entered the New Zealand market, which resulted in such a loss of volume and market share for Watties products that prices for this premium range were forced down. HWL has submitted that a similar effect would be likely to occur should dumped imports from Greece be permitted to return to the market. HWL further submitted that [redacted] should dumped canned peaches from Greece be sold in the New Zealand market.

63. HWL said that at the dumped ex-wharf import cost it has estimated canned peaches could be imported from Greece, importers and retailers would be able to command retail price points well below NZD1.00 per 410g can. To illustrate this point HWL provided a calculation based on its estimated ex-wharf cost of an estimated retail price of [redacted] per 410g can. HWL said that [redacted]. HWL has submitted therefore that if dumped canned peaches from Greece were to be traded at this price point in the New Zealand market, it [redacted].

64. The Assessment Team notes that the forecasts provided by HWL for the 2015 and 2016 financial years show a significant depression of prices compared with the price forecast for the 2014 financial year and with the actual prices for the 2012 and 2013 financial years, which is consistent with the estimated level of price undercutting.

Price suppression

65. HWL has submitted that price undercutting by dumped canned peaches from Greece would also cause price suppression as it would be unable to offset the significant undercutting by means of cost savings and price increases elsewhere. HWL said that its [redacted]. HWL said this price suppression is illustrated in its forecasts for the 2015 and 2016 financial years, which show a significant suppression of prices compared with the actual results in 2012 and 2013 and the forecast for 2014.

Economic effects

Sales revenue and volume

66. HWL has referred to its forecasts for the 2015 and 2016 financial years which show a significant reduction in sales revenue per kilogram. HWL said that these forecasts are based on its forecast sales volume for the 2014 financial year and on the assumption that it would as a minimum have to [redacted].

67. As noted above under price depression, the Assessment Team considers that the price depression is consistent with the estimated price undercutting. The Assessment Team also notes that the sales volume forecast for the 2015 and 2016 financial years is the same as that forecast for the 2014 financial year and therefore assumes HWL will not lose any sales volume should the duty be removed. As noted above under "Volume Effects", any review will need to clarify with HWL what view it has on the likely volume effects of removing the duty and consider what impact any such effects are likely to have on HWL's sales volume. The Assessment Team further notes that as well as a reduction in sales revenue per kilogram, the forecasts also show a significant reduction in total net sales revenue for the 2015 and 2016 financial years.

Market share

68. HWL has commented that it has been shown in all previous investigations that entry of dumped peaches has resulted in HWL losing market share. HWL submitted that at the price point retailers could achieve the peach market would grow as new consumers entered the category. HWL said its initial strategy would be ". . . [redacted]."

Profits

69. HWL said that the loss in sales revenue referred to above would impact directly on its profit and that in addition it would [redacted]. HW has submitted that such a loss of sales revenue and profits would result in [redacted]. HWL said that [redacted]. HWL has commented that [redacted].

70. HWL has also stated this loss of profits is understated as [redacted]. At the low prices at which canned peaches from Greece could be sourced, HWL said it could be foreseen that retailers would source other brands from Greece and use these brands as loss leaders to drive foot traffic. According to HWL, this [redacted].

Return on investments

71. HWL has noted that it has provided EBIT figures, both historical and the forecasts based on the removal of the duty. HWL has submitted that returns would diminish post the 2016 financial year with [redacted] and “. . . [redacted].” HWL has argued that [redacted].

72. As noted under “other economic effects” below, HWL has stated the removal of the duty will also have an adverse impact on its return on investments.

Utilisation of production capacity

73. HWL said that, as mentioned in previous investigations, its production capacity is constrained by the crop its orchardists can deliver. HWL has submitted that if the duty is removed and material injury does occur, [redacted]. HWL has submitted that this [redacted].

Other economic effects

74. HWL has submitted that the loss of volume, sales revenue and profits from a recurrence of dumped imports if the duties were removed would also have significant adverse effects on HWL’s achievable return on investments, cash flow, inventories, employment and growth [redacted]. HWL did not quantify these effects.

Causal link

75. HWL has noted that a causal link between the dumped imports and material injury to the New Zealand industry was established in the original investigation and that subsequent reviews had found the removal of the duty would result in material injury to the New Zealand industry. HWL has submitted that with the availability of canned peaches from Greece for export this causal link still remains in place as was determined in the original investigation.

Conclusion on injury

76. HWL has provided reasonable evidence of the likely import price to New Zealand of canned peaches from Greece if the anti-dumping duties were removed. The information shows that the estimated import price of canned peaches would be able to undercut HWL’s average selling price leading to price depression and price suppression. HWL has made reasonable assumptions that the level of price undercutting and price suppression would have an adverse effect on its profits, return on investments, utilisation of production capacity, cash flow,

inventories, employment and growth. The Assessment Team considers that this information constitutes positive evidence of a likely recurrence of material injury if anti-dumping duties were removed, sufficient to justify the initiation of a review.

77. The Assessment Team notes that material injury can only be assessed in relation to the New Zealand industry which produces goods that are "like" the goods to which the duty applies. As outlined above under "New Zealand industry and like goods", this is that part of HWL's operation which produces canned peaches for sale on the New Zealand domestic market. The impact of the removal of the duty on [redacted], and on [redacted], cannot therefore be taken into account.

Conclusion

78. In order for a review to be initiated the Act requires a request by an interested party that submits positive evidence justifying the need for a review. The Anti-Dumping Agreement requires that a duly substantiated request must be made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of the anti-dumping duties, and that the expiry would likely lead to a continuation or recurrence of dumping and injury.

79. The Assessment Team is satisfied that an application has been made within a reasonable period of time prior to the expiry of the duties and that it contains positive evidence sufficient to justify the initiation of a review.

Recommendation

80. It is recommended in accordance with the section 14(8) of the Act and acting under delegated authority, that you:

    a. Formally initiate a review of the imposition of the anti-dumping duty on canned peaches from Greece; and

    b. Sign the attached notice of the initiation of the review for publication in the *New Zealand Gazette*

Amy Van Ossenbruggen	Mike Andrews
Policy Advisor	Senior Policy Advisor
Trade and Regulatory Co-operation	Trade and Regulatory Co-operation

Agreed/ ~~Not Agreed~~

Robin Hill
Principal Advisor
Trade and Regulatory Cooperation
Trade and International Environment Branch