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**MBIE/AD/I/2022/001**  
**DUMPING INVESTIGATION**  
**IMPORTER QUESTIONNAIRE**

**Preserved peaches from China**

**Investigation period: 1 July 2021 to 30 June 2022**

**Response due: 20 January 2023**

**Return completed questionnaire to:**

**[TradeRemedies@mbie.govt.nz](mailto:TradeRemedies@mbie.govt.nz)**

**Trade Remedies**

**Ministry of Business, Innovation and Employment**

**New Zealand**

**December 2022**

## **Background Information**

The Ministry of Business, Innovation and Employment (MBIE) has initiated a dumping investigation into imports of preserved peaches from China. The New Zealand industry producing like goods provided evidence that imports of preserved peaches from China are dumped and causing material injury to the New Zealand industry, which was sufficient to warrant the initiation of an investigation. The investigation includes goods of Chinese origin which are transhipped to New Zealand via third countries.

The application lodged by Heinz Wattie's Limited (HWL) can be found at <https://www.mbie.govt.nz/business-and-employment/business/trade-and-tariffs/trade-remedies/trade-remedy-investigations/>.

This questionnaire is designed to assist your company to provide the necessary information to help us determine the extent, if any, to which exports of preserved peaches originating from China are being dumped and are causing or threatening to cause material injury to the New Zealand industry.

**It is in your best interest to complete the questionnaire, because in the absence of a response the Act provides for decisions to be made on the best information available, which may be that supplied by the New Zealand industry.**

The Trade Remedies team of MBIE is responsible for administering New Zealand's anti-dumping legislation, the Trade (Anti-dumping and Countervailing Duties) Act 1988 (the Act). The Act provides a mechanism for maintaining fair levels of import competition for New Zealand producers when the dumping of imported goods causes material injury or threatens to cause material injury to an established New Zealand industry, or the establishment of a New Zealand industry is being materially retarded by the dumping. The Act reflects New Zealand's obligations under the World Trade Organisation Agreement on the implementation of Article VI of GATT 1994 (the AD Agreement).

### **Goods subject to the investigation**

The goods that are the subject of HWL's application are preserved peaches from China, described as:

*Peaches in preserving liquid, in containers up to and including 5.0kg*

### **Countries of origin**

The country of origin of the subject goods is China.

### **Documentation provided**

Please provide evidence for your responses to this questionnaire, such as copies of invoices to support prices paid or charged. Copies of original documents are satisfactory for questionnaire responses, but original source material, for all documents submitted or relied upon in preparing your submission, should be available at the time of any verification by MBIE.

### **Verification of information provided**

MBIE has an obligation under the AD Agreement to inform firms and the exporting country's authorities of its intention to carry out on-the-spot verification visits.

Important information on the investigation at this time of the COVID-19 pandemic is contained in the following text box.

**COVID-19: RESPONSIBILITIES AND FLEXIBILITY**

**Verification Visits**

MBIE wishes to inform interested parties that, while it normally undertakes onsite verification visits, MBIE is unlikely to be able to carry out such visits during this investigation due to the COVID-19 global health crisis, travel restrictions and the need to protect the health of its staff and the staff of interested parties.

Verification remains an important part of MBIE's approach to satisfying itself of the relevance, accuracy and completeness of information provided by interested parties and on which its findings are based.

While onsite verification is dependent on the COVID-19 situation, MBIE may use other methods such as desktop verification, remote verification by videoconferencing, additional requests for information and cross-checking with other available information to satisfy itself of the accuracy of information. MBIE will advise each interested party of its approach, according to their particular circumstances.

**Provision of Information**

The current situation emphasises the importance of interested parties providing accurate information that is sufficiently detailed and easily checked against company systems and documentation.

To be able to verify your response and link it to your accounting and management records, please submit all relevant Excel worksheets and other extracts from your company's information and accounting systems along with a detailed explanation of how the worksheets were compiled and how to reconcile the figures and data in the worksheets with the figures and data submitted in the questionnaire and appendices.

Please submit Excel spreadsheets in their workable form, complete with formulae and explanatory comments.

Note that MBIE will ensure that all confidential information is securely handled and stored in accordance with strict security guidelines.

**Deadlines for Providing Information**

MBIE recognises that interested parties located in areas affected by COVID-19 may be impacted by health measures preventing or limiting their ability to carry out normal business. This may affect the ability of parties to reply on time to questionnaires and other requests for information.

**Currency**

Please show all amounts in the currency originally denominated. Where any currency conversions are made, please indicate the exchange rate used and its source.

**Translations**

Please supply an English translation of all information that is supplied in any other language. Please note that only information supplied in English will be taken into account in the investigation.

## Confidential information

MBIE is required to ensure that all interested parties have reasonable opportunity to access all non-confidential information used by MBIE in the investigation. Non-confidential information used in the investigation is contained on MBIE's public file for this investigation. Interested parties and members of the public are able to request copies of any documents which have been placed on the public file.

Any information which is by nature commercially confidential (for example, because its disclosure would be of significant advantage to a competitor, or its disclosure would have a significantly adverse effect on the person supplying the information) or which is provided on a confidential basis by you will **upon good cause being shown** be treated as confidential by MBIE.

For any information that you request be treated as confidential please:

- **Provide a non-confidential version** (or a non-confidential summary of the information, or if you claim that the information is not susceptible to such a summary, a statement of the reasons why a summary is not possible).
- A non-confidential version should reproduce the original but have information considered to be confidential be omitted or summarised.
- Provide justification for the information being treated as confidential.

### **Redaction of Confidential Information**

Section 3F of the Act 1988 outlines the meaning of confidential information.

Where confidential text is redacted we ask that you provide a satisfactory non-confidential summary of the information, or reasons why a summary cannot be provided.

As an example, if a party was to indicate:

"We import [300 metric] tonnes monthly from [Our-Suppliers-Name-Ltd]."

Then a satisfactory non-confidential summary could be:

"We import XXXXXXXXXXXX [volume] monthly from XXXXXXXXXXXX [supplier]"

**Please note that section 13F of the Act allows the Chief Executive of MBIE to disregard any information for which a satisfactory non-confidential version (or summary or satisfactory statement of why such a summary cannot be given) is not provided.**

## Dumping

Dumping occurs when an exporter sells goods to New Zealand at a price less than the price it sells them for in the home market.

The price at which goods are sold in the home market is referred to as the "normal value" of those goods. The "export price" is based on the price which the New Zealand importer pays for the goods.

Goods are dumped if their export price is less than their normal value, once adjustments have been made to ensure that the price comparison is fair. The difference between the export price and the normal value is called the dumping margin.

**Dumping is not illegal**, and in fact is a common international commercial practice that can be beneficial to both importing and exporting countries. However, where dumping causes or threatens to cause material injury to a New Zealand industry, anti-dumping duties can be imposed.

### **Anti-dumping duties**

The New Zealand Minister of Commerce and Consumer Affairs (the Minister) may impose final anti-dumping duties only if step 1 of an investigation finds that goods are dumped and have caused, or threaten to cause material injury to the New Zealand industry producing like goods (affirmative determination), and a step 2 public interest investigation finds that it is in the public interest to impose duties on dumped imports. Anti-dumping duties must not exceed the dumping margin and may be less than the margin of dumping if that is sufficient to remove injury to the New Zealand industry.

If step 1 of the investigation finds that the goods are not dumped and have not caused, or threaten to cause material injury to the New Zealand industry producing like goods (negative determination), the Minister will terminate the investigation.

### **Provisional measures**

The New Zealand industry has requested that provisional anti-dumping duties be imposed on imports of preserved peaches from China in accordance with section 16 of the Act.

Provisional anti-dumping duties can be imposed at any time after 60 days from the date of initiation of this investigation, if the Minister has reasonable cause to believe that preserved peaches from China are being dumped, that dumping is causing material injury to the New Zealand industry, and that provisional anti-dumping duties are necessary to prevent material injury to the New Zealand industry during the remainder of the investigation.

The earliest date from which provisional duties could be applied for this case is **19 February 2023**.

**It is important, therefore, that you provide information to MBIE as soon as possible so that your information may be taken into account before a decision is made on whether provisional anti-dumping duties should be applied, and the extent of any provisional anti-dumping duties.**

## Investigation Timetable

<b>Statutory Timeframe</b>	<b>Action</b>
At or after 60 days since the start of the investigation (section 16).	From this point, and if the conditions are met, the Minister can impose provisional measures to prevent further injury to the New Zealand industry during the period of the investigation.
Within 150 days after the start of the step 1 investigation (section 10C(2)).	MBIE must give notified parties written advice of the essential facts and conclusions likely to form the basis for a determination to be made by the Minister at the end of the step 1 investigation.
Within 180 days after the start of the step 1 investigation, but not less than 30 days after the written advice is given by MBIE under section 10C(2) (section 10D(1))	<p>The Minister must make a determination on whether dumped imports are causing or threatening material injury to a New Zealand industry.</p> <p>If the determination is affirmative, then the Minister must determine the rate or amount of duty that will form the basis for a step 2 investigation of whether the imposition of the duties is in the public interest, and direct MBIE to begin the step 2 investigation immediately.</p> <p>If the determination is negative, then the Minister must terminate the investigation.</p>
Within 60 days after the start of the step 2 investigation (section 10G(1)).	MBIE must give notified parties written advice of the preliminary findings likely to form the basis for a determination to be made by the Minister at the end of the step 2 investigation.
Within 90 days after the start of the step 2 investigation, but not less than 30 days after the written advice is given by MBIE under section 10G(1) (section 10H(1))	The Minister must determine whether imposing the duty is in the public interest.

## Submission of information

Your response to this questionnaire, including a non-confidential version and any supporting evidence, should be received by MBIE within 30 calendar days, but earlier if possible. This means that responses should be received no later than **20 January 2023**.

MBIE is working to a statutory deadline for the completion of this investigation, and it is important that responses from interested parties are received by the due dates given. Please see the COVID-19 text box above if you have difficulty meeting the deadline.

### **Important instructions for preparing your response**

- All questions in this importer questionnaire must be completed. If a question is not applicable to your situation, please answer the question with “Not Applicable” and provide an explanation as to why.
- All questions must be answered in English. An English translation must be provided for documents not originally in English.
- Clearly identify all units of measurement (e.g. KG) and currencies (e.g. USD) used. Apply the same measurement consistently throughout your response to the questionnaire and appendices.
- Please provide information in the format and location set out in the attached appendices. Additional categories or columns may be added, for any additional information required to support your submission
- Label all other attachments to your response according to the section of the questionnaire it relates to.
- If you have used formulas to complete spreadsheets, ensure that these formulas maintained in the workbook submitted to support of your response.
- If you cannot present electronic data in the requested format contact Trade Remedies as soon as possible.
- Where possible, electronic data should be emailed. If there are difficulties in attaching data to emails please contact Trade Remedies.

### **Further Information**

If you would like further information on anti-dumping investigations please see our website at <https://www.mbie.govt.nz/business-and-employment/business/trade-and-tariffs/trade-remedies/> where you will find general information. Alternatively please feel free to contact us (see details below).

<b>CONTACT DETAILS</b>
<i>If you any questions regarding this questionnaire or the investigation, please contact the Trade Remedies team using the contact details below:</i>
<b>Trade Remedies</b> <b>Ministry of Business, Innovation and Employment (MBIE)</b> Email: <a href="mailto:traderemedies@mbie.govt.nz">traderemedies@mbie.govt.nz</a>



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**Trade Remedies**

**Ministry of Business, Innovation and Employment**

**New Zealand**

**December 2022**

## IMPORTER QUESTIONNAIRE

**Please note** that throughout this questionnaire references to preserved peaches are references to preserved peaches of the type subject to investigation as defined on page 3.

Where data is requested to be provided on a spreadsheet, use a worksheet in the accompanying Questionnaire Spreadsheet with the corresponding Appendix number to provide the required data.

To help us distinguish your answers from our questions, we would appreciate you highlighting or providing your answers in a colour other than black, e.g. red.

### SECTION 1. General information

1. Please nominate a contact person in your company for the purposes of this investigation:

Name:

Position in the company:

Telephone:

Email address:

2. If you have appointed a representative for the purposes of this investigation, please provide their contact details:

Name:

Address:

Telephone:

Email address:

*Note that in nominating a representative, you are granting authority to MBIE to discuss matters relating to the case with the nominated representative, including your company's confidential information.*

3. Please provide the following details relating to your company:

Business name

Postal address

Street address

Nominated contact person and their telephone, fax and email details

Company website

4. Is your company or parent company publicly listed? If so please identify the stock exchange where it is listed, and principal shareholders. If not, please provide a list of all principal shareholders and the shareholding percentages.
5. Is your company part of a group (e.g. parent company with subsidiaries, common ownership, joint-ventures)? If so please provide a diagram showing the complete ownership structure, and a list of all related companies and their functions.
6. Please identify any branches or subsidiaries in other countries.

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7. Please indicate any entities listed in the responses to questions 5 to 7 that your company makes sales to, or purchases from.
8. What is the overall nature of your company's business? Provide details of the products that your company imports and sells, and market(s) your company sells into. Provide details of any products you manufacture using the imported goods, and the market(s) your company sells into.
9. Please identify the main groups of customers to whom you sell, and whether they use the preserved peaches to produce other goods.
10. Please provide any brochures, pamphlets or booklets advertising your company's business, or in relation to its preserved peaches products.
11. Please describe the stock management strategy that your company employs.
12. Please describe the import strategy adopted by your company.

## **SECTION 2. Product details**

13. Please provide a full description of the types of preserved peaches that your company imported from China in the period **1 July 2021 to 30 June 2022**.
14. Please explain any differences between preserved peaches produced by the New Zealand industry and those imported by your company from China, such as differences in physical characteristics, method of manufacture, function and use, pricing structures, marketing, and distribution channels.
15. Please explain whether or not you consider the New Zealand industry produces like goods to those particular imported goods (if known) and provide reasons for your view.

Reasons should include comments on:

- Physical characteristics, including details of size and dimensions and details of the production methods and technologies utilised to create the product.
- Function and usage of products including details of any known consumer perceptions and expectations, and end usages.
- Pricing structures for the product including details of the level of trade at which the product is priced, costs that are built into its pricing structure and how price is set.
- Marketing and distribution channels used, customers (both actual and targeted), branding and advertising.

## **SECTION 3. Imports by your company**

16. If you have not already done so in response to the Importer Information Sheet, please provide the names and addresses of your suppliers from China of preserved peaches subject to investigation.

**ANY RESPONSE TO QUESTION 16 SHOULD BE SENT IMMEDIATELY IN ORDER FOR THE SUPPLIERS LISTED TO BE GIVEN THE OPPORTUNITY TO PROVIDE A SUBMISSION TO THE INVESTIGATING TEAM.**

17. Does your company have any relationship other than that of a customer with any of the suppliers you have listed? If so, please provide details of that relationship, including its effect on prices between the two companies. (If your company does not deal directly with a Chinese

manufacturer or supplier, please answer the question with respect to your company's supplier(s)).

18. Please give details of your company's imports of preserved peaches from China for the period **1 July 2021 to 30 June 2022** in the format set out in **Appendix 1**.
19. Please provide copies of invoices for all transactions scheduled in **Appendix 1** and any other supporting documentation, including documentation identifying product specifications, such as customs clearance documentation, freight and insurance invoices, procurement contracts and/or test certificates.
20. Please explain the terms of trade offered to your company by its supplier(s). This should cover:
  - a. ordering and invoicing;
  - b. terms of any supply agreements or contracts;
  - c. explanation of how prices are negotiated;
  - d. the basis of your company's purchase price (e.g. FOB, CIF);
  - e. currency of purchase;
  - f. payment terms;
  - g. details of any discounts; and
  - h. any other special terms and conditions your company receives e.g. sales promotion, advertising rebates.
21. Are the prices of preserved peaches paid to your company's supplier(s):
  - a. subject to any direct or indirect reimbursement; or
  - b. influenced by a commercial agreement or relationship; or
  - c. inclusive of any consideration other than price?
22. Please explain what informs your decision to import preserved peaches from China rather than from other countries, including price, quality, distance to market, etc.
23. When importing preserved peaches from China, please explain your rationale for the choice of product or brand other than the price of the product, for instance is it based on the type of packaging, preserving media, quality of the fruit used, customer preferences (please specify) or you can specify any other factors you may have taken into consideration.
24. Has your company re-exported any of the Chinese preserved peaches it has imported? If so, please provide details of the quantity, value and destination of these exports, as well as copies of invoices for the export sales.
25. Please provide details of any forward exchange rate contracts that were entered into for the importation of preserved peaches from China between **1 July 2021 to 30 June 2022**.

#### **SECTION 4. Sales in New Zealand**

26. Please provide comments on your perception of the total New Zealand market for preserved peaches including comments on:
  - a. the make-up of the market;
  - b. any market segmentation (by type or category);
  - c. the major participants in the market and their market shares;
  - d. factors affecting the market;

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- e. any recent changes to the market;
  - f. the main factors influencing demand for preserved peaches in New Zealand; and
  - g. your company's perception of future trends.
27. Please give a full description of your company's marketing, selling and distribution structure for preserved peaches within New Zealand.
  28. Please state the level of trade (e.g. wholesale or retail) at which the majority of your company's sales of preserved peaches are made, noting the percentage of total sales made at that level of trade. Please state on what basis your company distinguishes between the different levels of trade (e.g. quantity, price)?
  29. Please provide the names and addresses of your company's major New Zealand preserved peaches customers under each level of trade and list all sales of preserved peaches to these customers for the period **1 July 2021 to 30 June 2022**, indicating the percentage of total preserved peaches sales each customer accounts for. Please identify whether each customer is a downstream industry or consumer.
  30. Please provide copies of your company's current price list and all other applicable price lists for the period **1 July 2021 to 30 June 2022** for preserved peaches, giving brief reasons for any changes in prices. Please provide information on net selling prices if they vary from list prices and explain why e.g. large discounts caused by intense competition.
  31. Please comment on the extent to which seasonal factors influence the demand for preserved peaches in New Zealand and the months when those factors impact.
    - a. Also provide an explanation on the extent to which other factors such as the COVID-19 pandemic and related effects have impacted the demand for preserved peaches in New Zealand.
    - b. Please clarify whether these impacts were temporary or are still having an effect on the demand for preserved peaches in New Zealand. You can provide any relevant evidence such as invoices showing changes in price or quotes showing a change in the arrangement in freight.
  32. Please comment on your company's perception of the likely effect on the New Zealand market of the imposition of any anti-dumping duty on preserved peaches, including:
    - a. the quantities of your company's imports; and
    - b. the effect on prices in the New Zealand market.

***Cost information required for price comparison with domestic goods***

*In considering whether Chinese preserved peaches has caused material injury to the New Zealand industry, MBIE considers the extent (if any) it has undercut the prices of the New Zealand produced preserved peaches and assesses the reasons for the price undercutting. To do so, MBIE needs to compare prices at the same level of trade, usually being the first point of competition on the New Zealand market, and seeks to ensure that differences in distribution costs do not distort the price undercutting analysis.*

33. Please indicate what your company considers to be the first point of competition with New Zealand manufacturers for sales of preserved peaches in the New Zealand market.

34. Please provide a detailed cost build-up for each type of preserved peaches, in the format of **Appendix 2**, for preserved peaches imported from China during the period **1 July 2021 to 30 June 2022**. Please itemise costs separately and use the format provided in appendix 2.

## **SECTION 5. Threat of material injury**

*If MBIE does not establish material injury, it will assess whether there is a threat of material injury from preserved peaches imported from China. In determining the extent of any threat of material injury, MBIE considers the factors covered in the questions below.*

35. To the best of your knowledge, has your company's supplier of preserved peaches in China indicated its plans and intentions for future exports to New Zealand? If so, what are these plans and intentions?
36. Has there been any change in supply due to the impact of the covid-19 pandemic, if so, do you consider these changes to have been temporary? If you expect them to continue please explain to the best of your knowledge when you expect these changes to end and resume normal operations.
- Have these changes caused you to change suppliers or if the changes persist would they cause you to change suppliers?
  - Would you seek another supplier in China or in another country?
37. What are your company's plans and intentions regarding future imports? Please include comments on:
- perceived growth in imports and market share;
  - estimated import volume figures over the next 12 months;
  - the ability of your company, both financially and of its distribution system, to cope with a substantial increase in imports of preserved peaches.
38. Please list any imports from **31 May 2021** and any forward orders you have placed with your supplier(s) of preserved peaches from China listing size/type, quantity ordered, price paid or payable, and anticipated delivery dates. Please also outline any further contractual arrangements you have with your supplier(s) for future purchases of preserved peaches from China.
39. Please comment on how easy or difficult your company considers it would be for a new importer to enter the New Zealand market, in terms of selling and distributing preserved peaches from China.
40. Please comment on the extent to which your company considers pricing influences demand for the different brands of preserved peaches in New Zealand and provide details of any significant price points that operate.
41. To the best of your knowledge, please comment on the likelihood of substantially increased imports, including:
- Exporters' freely disposable capacity, or imminent substantial increase in capacity.
  - Importers' ability to easily source and distribute substantially increased volumes of dumped imports.
  - The ability of an importer to easily enter the market.

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42. Please provide your company's monthly inventory levels (please specify unit of measurement) of preserved peaches from China for the period **1 July 2021 to 30 June 2022**. Please specify whether inventory levels over the next 12 months are expected to be similar, if not please explain the reasons for the difference.
43. What percentage of your company's annual sales does its current level of inventory represent?
44. If known, please comment on the preserved peaches inventory levels available for export from your company's Chinese supplier(s).
45. Does your company have any contractual arrangements for future sales with any suppliers or exporters of preserved peaches to New Zealand, including forward orders for preserved peaches? If so, please indicate the value and volume of the preserved peaches that your company has arranged to buy, and the intended dates or period of importation for the next six months. Please supply this information in the format set out in **Appendix 3**.

### **SECTION 6. Other causes of injury to the New Zealand industry**

MBIE must also assess factors other than the alleged dumping which may be injuring, or threatening to injure, the New Zealand industry. These factors are addressed in the questions below.

46. Please comment on the volume and prices of goods from all countries other than China.
47. Please comment on any contraction in demand or changes in the patterns of consumption that have occurred in the New Zealand preserved peaches market.
48. Please comment on any restrictive trade practices of, and competition between, overseas supplier(s) and the New Zealand preserved peaches producers.
49. Please comment on developments in technology.
50. Please comment on export performance and productivity of the New Zealand producer.
51. Please comment on any other factors that your company considers may have impacted the profitability and output of the New Zealand industry, such as changes in the regulatory environment, increases in input or distribution costs or changes in end-user preferences. Are there any other factors, such as the impact of the COVID-19 pandemic, which may be affecting the New Zealand industry and the market for preserved peaches?
52. Please provide clarification if you consider the impact of any of these factors to have been temporary. Comment on the expected duration of the effect this factor(s) on the New Zealand injury.

### **SECTION 7. Public Interest Test**

The Act was amended in November 2017 to include a public interest test if the Minister makes an affirmative determination that the goods are being dumped, and material injury to an industry has been or is being caused or is threatened, or the establishment of an industry has been or is being materially retarded, because of the dumping.

*Imposing the duty is defined to be in the public interest unless the cost to downstream industries and consumers of imposing the duty is likely to materially outweigh the benefit to the domestic industry of imposing the duty.*

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In assessing the matters mentioned above, responses to the following questions will be necessary. Please (a) identify downstream industries which use preserved peaches and (b) whether the customers covered by the following questions are downstream industries or consumers.

53. How sensitive are your customers to changes in the price of the good you import? For example, if the price of the good was to increase by X, by how much would your sales decrease?
54. How sensitive are customers to changes in the price of the domestic good?
55. Have your customers previously substituted your product for that produced by the domestic industry, because of the effect of an anti-dumping duty on your price? If so, at roughly what price differential did you feel this effect?
56. Could you please provide data showing: (a) the quantity you have been willing to supply at different prices, and (b) the quantity that your customers have demanded at different prices.
57. By how much does your retail price change when duties are in place? This could be answered as a percentage of the duty, or as an absolute value.
58. Please clarify any factors that may affect your decision to pass on or absorb the effect of the duty through changes to the retail price.
59. Please comment on the extent to which any duties would affect competition in the New Zealand market.