

## **Trade (Dumping and Countervailing Duties) Act 1988**

# **APPLICATION FOR A REVIEW OF ANTI-DUMPING DUTIES AGAINST PRESERVED PEACHES FROM SPAIN**

June 2021

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## 1. Introduction

### Executive Summary

This application concerns the review of existing anti-dumping duties on imports of dumped preserved peaches originating from Spain and the recurrence of material injury to the New Zealand industry from those dumped imports should duties cease to apply.

Heinz Wattie's Limited ("HWL") is the only producer of preserved peaches in New Zealand (under the brand names Wattie's, Oak and Weight Watchers).

Imports of preserved peaches covered by the existing anti-dumping duties are still sold in New Zealand. These preserved peaches from Spain appear to be still dumped, albeit at lower margins than exports to other global markets, which poses the greater threat to the New Zealand industry.

Material injury to HWL from imports of preserved peaches originating from Spain will recur, should anti-dumping duties cease to apply. This is due to the notional level of dumping as well as the capacity of preserved peach producers in Spain to export to New Zealand as well as the sensitive New Zealand market for preserved peaches.

The material injury caused to HWL from the return of dumped imports to New Zealand will be in the form of price undercutting, price suppression and price depression. The economic effects will be a decline in sales, market share, output, profits and a [REDACTED] and the supporting horticultural industry. [HWL business strategy]

### Grounds for Application

HWL applies for the initiation of a review of the existing anti-dumping duties upon canned peaches from Spain pursuant to section 17D of the Trade (Dumping and Countervailing Duties) Act 1988 (the "Act").

This application is made on the grounds that if existing anti-dumping duties cease to be payable then imports of dumped preserved peaches from Spain will cause a recurrence of material injury to the New Zealand preserved peach industry represented by HWL through:

- price undercutting;
- price depression; and
- price suppression,

resulting in:

- a decline in output and sales,
- a decline in market share,
- a decline in profits and return on investments,
- a decline in utilization of production capacity; and
- adverse effects upon cash flow, inventories, employment, and growth.

The consequential effects would have a detrimental economic impact on the Hawkes Bay growers along with the supporting horticultural industry.

In support of these claims HWL tenders this submission and evidence as justification for a review for continuation of the anti-dumping duty.

## 2. Interested Parties

### The Applicant

The applicant is Heinz Wattie's Limited ("HWL") which is the only producer of preserved peaches in New Zealand, under the brand names Wattie's, Oak and Weightwatchers.

The application is made on behalf of the sole New Zealand producer of preserved peaches.

Heinz Wattie's Limited  
Private Bag 99920  
Newmarket  
Auckland

Telephone: 09 308 5000

Contact: [REDACTED] [contact details]  
Email: [REDACTED] [contact details]

Heinz Wattie's Limited is a subsidiary of the Kraft Heinz Company, USA.

Any queries in regard to this application should be directed to Simon Crampton. For the purposes of the review Heinz Wattie's Limited is being represented by Simon Crampton, an independent consultant.

[REDACTED]  
[REDACTED] [contact details]

### Importers

HWL is aware that there have been a limited number of recent imports from Spain. HWL presumes Mediterranean Group Ltd is still an importer given they sell Spanish canned peaches in New Zealand. HWL is unaware of other importers. In the original investigation in 2011 the importers were:

- James Crisp Ltd.
- Mediterranean Group Ltd.
- On Trays Ltd.
- Sabato Ltd.

In the 2016 sunset review the following additional importer was identified:

- Neil Cropper and Co Ltd.

### Exporters

HWL currently has no knowledge of all companies in Spain who are exporting to New Zealand. Interested parties who are importers would be able to provide this information in a review. Information on all importers is available from Custom's confidential data base which the Ministry has access to.

The names of the producers and exporters identified in the initial 2011 review were:

- (a) Alcurnia Alimentacion, S.L.;
- (b) Conservas el Navarrico;

- (c) Conservas y Frutas, S.A.;
- (d) Euroaliment, S.L.;
- (e) Halcon Foods, S.A; and
- (f) Leo's Imports & Distributors Pty Ltd.

In the 2016 sunset review the following additional producers and exporters were identified:

- (a) Pedro Guillen Gomariz, SL
- (b) SPAI SRL

### 3. Like Goods

The imported goods are described as:

*Peaches in preserving liquid, in containers up to and including 4.0kg*

HWL produces, as part of its product range, a range of styles of preserved peaches (halves, slices and dices), packed in various media (such as syrup, fruit juice and lite) in various can sizes.

The goods are currently classified under Tariff Item No. 2008.70.09 and Statistical Key 00L of the Tariff of New Zealand. The full definition of the subject goods is contained in New Zealand Customs Service Instructions reference E/009/CS016/001 for the purpose of the current anti-dumping duties.

The normal duty rate for the goods for Spain is 5%.

#### Like Goods Considerations

In identifying like goods, the applicant has used the Ministry's framework in order to determine what goods produced in New Zealand are like goods to the allegedly dumped imports.

- (a) Physical characteristics. This covers appearance, size and dimensions, composition, production methods and technology.
- (b) Function / usage. This covers consumer perceptions / expectations, end uses, and will lead to any conclusions on the issue of substitutability where relevant.
- (c) Pricing structures.
- (d) Marketing. This covers distribution channels, customers and advertising.
- (e) Other. This can include tariff classification if applicable, and any other matters which could be applicable in the circumstances.

#### Physical Characteristics

The applicant produces preserved peaches either in the form of halves, slices or pieces. The processed peaches are packed in cans. These preserved peaches are very similar to preserved peaches imported from Spain previously which continue to be exported from Spain to global markets in significant volume.

#### Function and Usage

The applicant produces preserved peaches for retail and food service sale in New Zealand. These preserved peaches have the same function and application as imported preserved peaches.

#### Pricing

The preserved peaches produced by the applicant compete at the same price point as the imported preserved peaches. This level of competition is HWL wholesale price versus the imported ex-wharf cost of imports as has been established in previous investigations.

### **Marketing Issues**

The distribution channels, customers and means of advertising are similar for the New Zealand produced preserved peaches and imported preserved peaches from Spain.

### **Other**

The canned peaches produced by HWL, if imported into New Zealand, would be classified under the same tariff item and statistical key in the Customs tariff. (Tariff item 2008.70.09.00)

### **Conclusions Relating to Like Goods**

In summary, the preserved peaches manufactured in New Zealand by the applicant have the same or similar physical characteristics, method of manufacture, function and usage, pricing, marketing and tariff classification. There is sufficient evidence for the purposes of review that preserved peaches produced by HWL have characteristics that very closely resemble the subject goods, and therefore are like goods to the subject goods.

HWL is the only New Zealand manufacturer of preserved peaches in cans. With the positive evidence provided in this application the requirements of Section 17(D)1 of the Act have been met.

#### 4. Imports of Canned Peaches

Preserved peaches with the description of the subject goods are not separately identified in the Tariff of New Zealand. HWL is unable to provide the proportion of the import figures that are the subject goods of the relevant statistical key due to other imports. In addition, HWL has been unable to determine whether anti-dumping duty has been paid on imports of canned peaches. The Ministry has access to the customs database for answers to these questions.

The import figures in Table 1 below have been compiled from Statistics New Zealand (Infoshare) data.

**Table 1: Imports under Tariff Item 2008.70.09.00 Year End March 2021**

Country	Quantity (KG)	Cost including insurance and freight	Value for duty (VFD)	VFD/KG
Australia	27,955	109,161	106,842	3.82
Bulgaria	412	1,958	1,892	4.59
China	1,668,241	3,420,393	3,249,640	1.95
Greece	105,231	163,890	150,181	1.43
India	20	119	119	5.95
Italy	6,720	17,193	12,529	1.86
Japan	56	1,023	993	17.73
Korea	2,436	9,893	9,484	3.89
North Macedonia	1,800	7,174	6,834	3.80
Romania	32	197	156	4.88
South Africa	2,267,020	4,824,225	4,619,675	2.04
Spain	33,352	75,041	69,775	2.09
Taiwan	10,992	67,107	63,870	5.81
United Kingdom	28	525	485	17.32
United States	5	24	21	4.20
Total	4,124,300	8,697,923	8,292,496	2.01

Source : Statistics New Zealand Infoshare Data

HWL endeavours to source New Zealand grown fruit for its preserved peach operation with the strategy to [REDACTED]

[REDACTED]. [business strategy]

In times of short supply, HWL is compelled to import preserved peaches which may be subject to trade remedies.

HWL preserved peach imports, apart from country of origin declarations, are labelled the same as the New Zealand products and are sold at the same regular price. The sale of these products in the New Zealand market protects the market share, shelf space and consumer goodwill for New Zealand preserved peaches in a time of shortage and does not cause injury to HWL.

HWL understands that many of the importers previously and currently involved in importing preserved peaches to New Zealand remain active. If anti-dumping duties are removed from the subject goods it is almost without question that these parties would be able to use the unfair advantage of dumped prices to increase imports of canned peaches into New Zealand from Spain.

HWL has been able to identify that some of the recent imports are being sold by Mediterranean Group Ltd through their specialist, niche outlets<sup>1</sup>. The Ministry with access to customs data would be able to identify additional importers, their products and which channels they are being sold through.

Anti-dumping duties are in place currently for Greece, Spain and South Africa to prevent dumping and material injury to the New Zealand industry.

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<sup>1</sup> <https://www.mediterraneanfoods.co.nz/product/peach-halves-in-syrup/>

## 5. NEW ZEALAND MARKET

The New Zealand retail market for preserved peaches is made up of New Zealand production and imports as set out in Table 2. The IRI scan data used to construct this is available in Appendix 10.1.

As sales closely follow production and / or imports, no allowance has been made for stock in trade.

The New Zealand wholesale market for the supply of preserved peaches to distributors and retailers is highly competitive. There are no long-term supply contracts in place for customers and house brand supply contracts are up for constant tender. All supermarkets stock brands of preserved peaches other than those supplied from HWL. HWL therefore has no exclusive customers with the market always open to new sources of supply.

Because of the different levels of trade (CIF, FOB, ex-factory) an estimate of the wholesale market value has not been made. A more accurate indication of the wholesale market will be available when importers' sales values are obtained.

There are 3 distinct levels of trade:

- ex manufacturer, eg HWL
- ex importer direct to customer
- direct to supermarket

**Table 2: Market Share by Brand**

Brand	Tonnes	Share
Watties	█	█
Pams	█	█
Oak	█	█
Homebrand	█	█
Value	█	█
Select	█	█
Goulburn Valley	█	█
Weight Watchers	█	█
Budget	█	█
Gilmours	█	█
Grand Total	█	█

Source: Confidential Appendix 10.1: IRI scan data MAT 25<sup>th</sup> April 2021 [confidential IRI data]

## 6. Evidence Of Dumping

### Export Prices

HWL obtained data through Infoshare for imports of preserved peaches from Spain to New Zealand by month for year end March 2021. From this data an estimated export price has been able to be calculated in Table 3 below.

**Table 3: Infoshare Export Price March 2021**

Value for duty (VFD)		69,775
Volume (KG)		33,352
VFD/KG		2.09
Currency Conversion (Euro)	0.5747	1.20
Freight to port	1%	0.01
ex-Factory Euro/KG		1.19

Source: Appendix 10.2 Statistics NZ (Infoshare), Appendix 10.7

The exchange rate has been found from [www.x-rates.com](http://www.x-rates.com) for the year ending March 2021, available as Appendix 10.7.

An allowance of 1% has been made for freight to port. This allowance has been made [REDACTED]. *[basis for adjustment]* This is a very short transit compared to the likely transit of the like goods in Spain and is most likely significantly understated due to this. HWL has no knowledge of like goods freight rates in Spain.

Additionally, HWL has been able to obtain export volumes and value from Spain to other global markets. The source of this data is TradeData International Pty Ltd. This data summarises all peach exports from Spain. The data is in USD and an average exchange rate has been found from [www.x-rates.com](http://www.x-rates.com) for the period March 2020 through February 2021 and taking the average for the year. Using this data gives an export price as below.

**Table 4: Global Export Price Year End February 2021**

Value for duty (USD)		[REDACTED]
Volume (KG)		[REDACTED]
VFD/KG		1.25
Currency Conversion (Euro)	0.8634	1.08
Freight to port	1%	0.01
ex-Factory Euro/KG		1.07

Source: Appendix 10.3 TradeData, Appendix 10.7 *[confidential International trade data analysis]*

In the 2016 review and 2019 reconsideration the Ministry analysed exports to all countries of a similar export market size to New Zealand. This was all non-EU countries where the export volume was between 20 to 200 tonnes. This analysis is in Table 5 below.

**Table 5: Non-EU Export Price Year End February 2021 ( Volume 20 to 200 Tonnes)**

Value for duty (Euro)		■
Volume (KGs)		■
VFD/KG		1.16
Freight to port	1%	0.01
ex-Factory Euro/KG		1.14

Source: Appendix 10.8 TradeData, Appendix 10.7 [confidential International trade data analysis]

Even though HWL has replicated the analysis of the Ministry from the previous review by analysing export countries where the volume is between 20 to 200 tonnes, HWL does not agree in this approach and that rather, exports to all countries provides a truer indication of the export price should dumping increase. This is because there is no visibility of the mix of products to this smaller subset, for example how to distinguish the proportion of 410G and 820G exported and therefore the larger sample to all export countries is more robust and indicative of the likely export price. To reinforce this point there are 20 countries in this range and the export price per kilogram varies significantly from 0.63 to 1.84 Euro/KG. What can be understood from the data is that the exports to Gambia at 0.63 Euro/KG were in pack sizes less than 1KG and therefore retail size cans. The data for these 20 countries is available as Appendix 10.8. For this reason the global export price in Table 4 is used in the injury analysis.

### Normal Value

HWL has sourced market prices for preserved yellow peaches in Spain from April 2021. The method applied to source this was to get a list of supermarkets in Spain via Wikipedia, [https://en.wikipedia.org/wiki/List\\_of\\_supermarket\\_chains\\_in\\_Spain](https://en.wikipedia.org/wiki/List_of_supermarket_chains_in_Spain), and then google the retailers for their online prices. This information is available as confidential Appendix 10.4.

In the 2016 review and 2019 reconsideration a notional normal value was calculated as an average of all retail prices. The notional normal value calculation is shown below in Table 6.

**Table 6: Notional Normal Value April 2021**

Retail Price Euro/KG		■
excl. VAT	10.0%	■
excl. Retailers Margin	■	■
Freight to Customer	■	■
ex-Factory Wholesale/KG		2.11

Source: Confidential Appendix 10.4 [confidential financial data]

The ■% [figure] retail margin has been based on HWL's knowledge of the margin and distribution of preserved peaches in New Zealand.

There is a VAT of 10%.

An allowance of ■% [figure] has been made for freight to customer. This allowance has been made on HWL's understanding of local freight charges.

Additionally in the 2016 review and 2019 reconsideration a normal value was calculated for brands that are sold on the domestic market in Spain and also exported to New Zealand. For this review HWL has been able to identify that the Alcornia brand is still sold in both markets. A normal value for Alcornia is shown below in Table 7. HWL is not aware of any

other brands selling in NZ. The Ministry with access to customs data will be able to determine what exporters and importers are still active.

**Table 7: Normal Value Alcurnia April 2021**

Retail Price Euro/KG		█
excl. VAT	█	█
excl. Retailers Margin	█	█
Freight to Customer	█	█
ex-Factory Wholesale/KG		1.30

Source: Confidential Appendix 10.4 [confidential financial data]

### Dumping

A comparison of the notional export price and notional normal value based on exports to non-EU countries where the export volume is in the range of 20 to 200 tonnes for the last 12 months from World Tradedata and a notional normal value as per Table 6 is shown below in Table 8. Comparing the export price and normal value gives a dumping margin of 0.97 Euro/KG or 85%.

**Table 8: Dumping Margin Non-EU Export Price Year End February 2021 (Volume 20 to 200 Tonnes)**

Normal Value (Euro)		2.11
Export Price (Euro)		1.14
Dumping Margin		0.97
Dumping Margin as % Export Price		85%

Source: Table 5, Table 6

If the TradeData export price to all export markets is used the dumping margin increases to 1.04 Euro/KG or 97% as can be seen in Table 9 below.

**Table 9: Dumping Margin Non-EU Export Price Year End February 2021**

Normal Value (Euro)		2.11
Export Price (Euro)		1.07
Dumping Margin		1.04
Dumping Margin as % Export Price		97%

Source: Table 4, Table 6

For Alcurnia, the export price has been derived from the Infoshare data given they export to New Zealand and the normal value calculated as per Table 7. For Alcurnia the dumping margin calculated as per Table 10 below is 0.11 Euro/KG or 9%. It should be noted that this needs to be treated with caution as the applicant was only able to find one single retail price in Spain which is significantly lower than that used in 2016 review and 2019 reconsideration where the average was 2.13 Euro/KG versus █ Euro/KG as used in Table 7.

**Table 10: Dumping Margin January 2020**

Normal Value (Euro)		1.30
Export Price (Euro)		1.19
Dumping Margin		0.11
Dumping Margin as % Export Price		9%

Source: Table 3, Table 7

The notional calculations demonstrate that there are significant dumping margins. The evidence supports the argument that if anti-dumping duties on exports of preserved peaches from Spain to New Zealand were removed, then preserved peaches from Spain would be dumped in New Zealand at a higher dumping margin than Alcurnia presently.

## 7. Evidence of Recurrence Of Material Injury

### Price Undercutting

In Confidential Appendix 10.5 is HWL forecast with duties in place. From HWL 2021 annual operating plan (budget), the net sales and volume, the net sales value ex-warehouse per kilogram has been calculated in Table 11 below with freight to customer subtracted. This is then compared with the global TradeData export price for year end February 2021 with freight, insurance and other on costs added as the difference between free on board and delivered ex-wharf including costs, insurance and freight from the infoshare data. 5% standard import duty has also been allowed for. This then allows a comparison of the NZ industry's ex-warehouse price with an ex-wharf price for the imported product from Spain. This is the level of trade that has been established in previous investigations.

**Table 11: Price Undercutting NZD**

	Net Cost per KG	Import Cost per KG	Undercutting per KG	Undercutting %
Wattie's	█	█	█	█
Oak	█	█	█	█

Source: Appendix 10.2, Confidential Appendix 10.3 & 10.5 [confidential financial data]

This margin of undercutting is significant and there is no evidence to believe that if anti-dumping duties are removed that this level of undercutting will not exist. The level of price undercutting analysed is HWL ex-factory price compared to the imported price ex-wharf.

For the existing imports, Alcurnia brand the level of price undercutting is in Table 12 below. It should be noted though that Alcurnia's imports and subsequent sales on the NZ market do not cause material injury to the HWL currently. This is due to their distribution being through a premium niche retailer which positions itself on a provenance, Mediterranean positioning.

**Table 12: Price Undercutting NZD**

	Net Cost per KG	Import Cost per KG	Undercutting per KG	Undercutting %
Wattie's	█	█	█	█
Oak	█	█	█	█

Source: Appendix 10.2, Confidential Appendix 10.5 [confidential financial data]

For the purposes of further analysis the level of price undercutting using the TradaData import price of \$█/KG [figure] will be used given exports to all countries. The reason for using this import price is that the NZ market volume is well in excess of 200 tonnes as per the analysis by the Ministry in the 2019 reconsideration looking at exports to countries of volumes between 20 and 200 tonnes. There is no reason to believe that if anti-dumping duties are not re-imposed that imports of dumped canned peaches from Spain will arrive in a volume greater than 200 tonnes. However HWL acknowledges as it has been previously demonstrated it only takes a relatively small volume in the order of 100 to 300 tonnes to cause material injury to the NZ industry.

To maintain the relative premium that Wattie's maintains in the injury analysis that follows, rather than the Oak actual undercutting margin of \$█ [figure] be used for Wattie's, actually █% [figure] of the Wattie's NSV will be used to maintain the relative percentage premium Wattie's maintains in the market.

## Price Depression

HWL's premium brand is the Wattie's brand [REDACTED]. HWL endeavours [REDACTED]. The Wattie's brand has [REDACTED].  
[REDACTED].  
[REDACTED].  
*[confidential brand and business strategy]*

Evidence of the Wattie's premium is available in Confidential Appendix 10.1, IRI market data. The Wattie's price can only [REDACTED] [REDACTED] *[business strategy]* such a price differential that consumers resist paying the Wattie's price. Unsustainable price differences have previously occurred in the past when dumped or subsidized imports have entered the New Zealand market. This resulted in such a loss of volume and market share for HWL products that prices for this premium range were forced downwards. Evidence of this market share loss has been presented in the last two initiation investigations; China 2005 where the [REDACTED] brand grew to [REDACTED]% share in Pak n Save South Island over 4 weeks and likewise for the Spain 2010 investigation where the [REDACTED] brand grew to [REDACTED]% share in Pak n Save Wellington over 4 weeks. *[HWL insights into NZ market]*

A similar effect would be likely to occur should dumped imports from Spain be permitted to return to the market. In fact, [REDACTED] [REDACTED] of the supporting horticultural [REDACTED] should dumped preserved peaches from Spain be sold in the New Zealand market through the significant volume retail channels of Countdown and Foodstuffs. *[forecast injury]*

## Price Suppression

The effects of dumped preserved peaches from Spain returning to the NZ market of price undercutting causing price depression would mean that price suppression would exist with HWL being unable to offset the significant undercutting by means of cost savings and price increases elsewhere. In fact the opposite effect would occur with HWL's cost base increasing either due to:

- Market share being taken by dumped imports of preserved peaches from Spain causing processing costs per tonne to increase if HWL was to consider processing less than the entire peach crop. This would be because if market share transferred to dumped imports the quantity of canned peaches that HWL would be required to produce would reduce and the fixed costs (being the same) of running the canned peach business would be spread across this reduced volume representing an increase in cost per tonne or;
- HWL defending its market share by increasing its trade marketing activity through promotional spend to compete on price with the dumped imports to retain market share.

In summary, should dumped peaches from Spain reappear on the New Zealand market HWL would either need to consider [REDACTED]. Either way injury will have occurred. *[forecast injury]*

## Loss of market share

In previous investigations, it has been shown that the entry of dumped peaches has resulted in a loss of market share for HWL branded peaches. Evidence of this market share loss has been presented in the last two initiation investigations; China 2005 where the [REDACTED] brand grew to [REDACTED]% share in Pak n Save South Island over 4 weeks and likewise

for the Spain 2011 investigation where the [REDACTED] brand grew to [REDACTED]% share in Pak n Save Wellington over 4 weeks. It should be reiterated that in these cases the volume was in the region of 100-300 tonnes, a volume that is relatively small for a country the size of Spain. *[HWL insights into NZ market]*

It is highly likely that if dumped imports from Spain were to be sold in New Zealand, HWL will lose market share unless it increases its consumer and trade marketing activity, thereby causing injury.

**Loss of sales revenue**

Using TradeData data, the import price of peaches ex-wharf is \$[REDACTED]/KG *[figure]* NZD from the price undercutting analysis. In order for HWL to sell its inventory of canned peaches and maintain market share it is reasonable to expect HWL will have [REDACTED] of [REDACTED] of [REDACTED]% *[figure]* in order to do this. A summary of this injury is available in Table 13. *[forecast assumption]*

**Table 13: Forecast Loss of Sales Revenue**

(\$,000)	2019	2020	2021	2022	2023
Sales with AD Duty	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Sales without AD Duty	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Loss of Sales Revenue				[REDACTED]	[REDACTED]
Loss of Sales Revenue Indexed to 2021 AOP				[REDACTED]	[REDACTED]

Source: Confidential Appendix 10.5 & 10.6 *[confidential financial data]*

This forecast is based on the assumption that upon duty removal, imports of canned peaches from Spain will increase. Given HWL will have existing stocks to sell, as well as commitments to crop, it will need to compete at the new depressed price level through increasing promotional discounts (trade marketing) with customers to pass onto consumers. This loss of sales revenue through price discounting passes to HWL's profit line.

With duties in place, the assumption is made that HWL will offset cost increases. A CPI rate of 1.5% is used.

A forecast reflecting this loss is available in Confidential Appendix 10.6. In Confidential Appendix 10.5 is a forecast with anti-dumping duties in place as a comparison. It is assumed injury would be for years 2022 and 2023 given the review is likely to not be completed until late 2021 which is when importers may review the competitive landscape and change source of supply or alternatively, a new importer may look to take advantage as was the case in 2010 when a new entrant, [REDACTED] with the [REDACTED] brand entered the market. *[competitor name and brand]*

**Profits**

The loss in sales revenue above reflects that HWL will need to incur more trade marketing activity to protect its volume market share. Therefore this loss in sales revenue directly impacts profit. A summary of this loss in profit is available in Table 14 below.



In short, it would appear based on this evidence of actual exports and availability of canned peaches from Spain that the same conditions exist as they did in 2010 when James Crisp took advantage of the situation, importing dumped product at a very low export and corresponding import price being:

- Product is available to purchase as demonstrated by the Ferda quote on Alibaba.
- Export sales to countries such as Gambia, Chile and Egypt appear to be joblots in quantities significant enough to cause the New Zealand industry material injury.
- Discretionary, safety stocks of inventory, for an exporting industry the size of Spain, being 65,000 tonnes would cause material injury if some of those stocks were re-directed to New Zealand in the absence of anti-dumping duties.

If anti-dumping duties were not in place and if one of these joblots was to be dumped in New Zealand the dumping margin increases significantly as per the analysis below. The weighted export price for the four countries above is in Table 15 below.

**Table 15: Weighted Ecuador, Gambia, Chile, Egypt Export Price**

Value for duty (Euro)		
Volume (KGs)		
VFD/KG		0.74
Freight to port	1%	0.01
ex-Factory Euro/KG		0.73

Source: TradeData

This increases the dumping margin significantly as per Table 16 below.

**Table 16: Joblot Dumping Margin**

Normal Value (Euro)		2.11
Export Price (Euro)		0.73
Dumping Margin		1.38
Dumping Margin as % Export Price		189%

Source: Table 15, Table 6

In turn the level of price undercutting increases as Table 17 below.

**Table 17: Joblot Price Undercutting**

	Net Cost per KG		Undercutting per KG	Undercutting %
Wattie's				
Oak				

Source: Table 15, Appendix 10.2 and Confidential Appendix 10.5 [confidential financial data]

Resulting in increased loss of revenue as per Table 18 below.



[REDACTED]  
[REDACTED]. This in turn could cause further injury to other areas of HWL's agricultural operations in New Zealand. *[forecast injury effects]*

It should be noted that HWL views the industry positively and continues to invest in its canned peach processing operation and is this year installing a new colour sorter at a cost of \$ [REDACTED] *[figure]* million and also replacing all its peach pitters with new equipment, which while leased, will incur an installation cost to HWL of \$ [REDACTED] *[figure]* million. This investment is also a reflection of the level playing field the existing remedy has created.

### **Production Capacity**

As mentioned in previous investigations, HWL's production capacity is constrained by the crop its contracted orchardists can deliver. If anti-dumping duties are removed and material injury does occur, there will [REDACTED]  
[REDACTED]. *[forecast injury effects]*

[REDACTED]  
[REDACTED]. The peach varieties they grow are [REDACTED]  
[REDACTED]. *[forecast injury effects]*

### **Other economic effects**

The loss of volume, sales revenue and profits from the return of dumped imports will also have significant adverse effects upon HWL's achievable return on investments, cash flow, inventories, employment and growth with [REDACTED]. *[forecast injury effects]*

Under the forecasted scenario of removal of duties leading to [REDACTED]  
[REDACTED] the impact would be:

- [REDACTED] for the processing of canned peaches
- Decreased cash flow with an [REDACTED] as has been articulated earlier in the application.
- Commitments to crop (raw material inventory) that HWL will need to [REDACTED]  
[REDACTED], either way the value of that stock has diminished based on the lower returns through removal of duties.
- Employment [REDACTED].
- Reduced investment in ancillary services such engineers, transport companies, packaging industry etc

*[forecast injury effects]*

### **Causal Link**

The causal link between dumped imports of preserved peaches and material injury has been established in the original investigation. It was found in the original investigation that should anti-dumping duties not be put in place, material injury would occur to the New Zealand industry. With the availability of preserved peaches from Spain for export, evidence that these canned peaches exported are dumped as well as the continued importation of canned peaches which appear to be dumped, this causal link still remains in place as was determined in the original investigation, and for the reasons set out in this application.

## **8. Other Factors Affecting the Industry**

### **Volume and Prices of Goods not Sold at Dumped Prices**

HWL is not aware of any material injury being caused through fairly traded competitor branded products.

### **Contraction in Demand or Changes in the Patterns of Consumption**

There does not appear to be any contraction in demand or changes in the patterns of consumption.

### **Restrictive Trade Practices of; and Competition Between, Overseas and New Zealand Producers**

HWL is not aware of any further restrictive trade practices that is currently affecting the New Zealand industry.

### **Developments in Technology**

HWL does not believe that there is any evidence of a technology development relevant to the consideration of material injury.

HWL is of the understanding that its method of processing peaches is similar to that of other processors.

### **Export Performance and Productivity of the New Zealand Producer**

HWL exports a small volume of preserved peaches to the Pacific Islands. These exports are negligible representing less than █% [figure] of HWL's canned peach sales.

## 9. Confirmation of Application

I apply, on behalf of Heinz Wattie's Limited, for the initiation of a sunset review of the anti-dumping duties applicable to *Peaches in preserving liquid, in containers up to and including 4.0kg* from Spain.

In support of this application I attach positive evidence of :

- i. The likelihood of dumping, should anti-dumping duties be removed;
- ii. The likely recurrence of material injury to the industry from the removal of duties; and
- iii. The causal link between dumped goods and the likely recurrence of injury from the removal of duties.

Heinz Wattie's Limited makes this application as the New Zealand industry producing, for domestic consumption, like goods to those subject to the application.

Signed



Name            Simon Crampton

Date             8<sup>th</sup> June 2021

## **10. APPENDICES**

1. Confidential IRI Retail Market Data
2. Statistics New Zealand Infoshare Data
3. Confidential TradeData International Pty. Ltd. Export Data
4. Spain Domestic Peach Prices
5. Confidential Heinz Wattie's Financials – Forecast
6. Confidential Heinz Wattie's Financials - Injury Forecast
7. Exchange Rates
8. Confidential Spain Export Markets 20-200 Tonnes in Volume
9. Alibaba Spain Canned Peach Offer

Appendix 10.2 – Statistics NZ Infoshare Data

Harmonised Trade - Imports (Monthly)			
Spain			
Fruit; peaches, including nectarines, prepared or preserved in ways n.e.c. in heading no. 2007 and 2008, whether or not containing added sugar, other sweetening matter or spirit			
	Quantity	Cost including insurance and freight	Value for duty
2020M04	0	0	0
2020M05	0	0	0
2020M06	0	0	0
2020M07	0	0	0
2020M08	0	0	0
2020M09	0	0	0
2020M10	0	0	0
2020M11	16,646	39,308	35,607
2020M12	16,706	35,733	34,168
2021M01	0	0	0
2021M02	0	0	0
2021M03	0	0	0
	33,352	75,041	69,775
		2.25	2.09
		0.16	
<b>Table information:</b>			
Units:			
Cost including insurance and freight: Dollars, Magnitude = Units (in 1s)			
Quantity: Number, Magnitude = Units (in 1s)			
Value for duty: Dollars, Magnitude = Units (in 1s)			
<b>Footnotes:</b>			
Quantity unit:			
Code 2008700900: Kgms			
Data is provisional for the three most recently released months.			
Aggregated Harmonised System (HS) codes may include confidential 10 digit codes, in which case the summed data will exclude the confidential value(s).			
All dollar values are in New Zealand dollars unless otherwise stated.			
For more information, please see <a href="http://www.stats.govt.nz/trade">www.stats.govt.nz/trade</a>			
<b>Symbols:</b>			
.. figure not available			
C: Confidential			
E: Early Estimate			
P: Provisional			
R: Revised			
S: Suppressed			
N: No applicable data can be displayed			
Status flags are not displayed			
<b>Table reference:</b>			
TIM001C			
<b>Last updated:</b>			
Cost including insurance and freight: 29 April 2021 10:45am			
Quantity: 29 April 2021 10:45am			
Value for duty: 29 April 2021 10:45am			
Source: Statistics New Zealand			
Contact: Information Centre			
Telephone: 0508 525 525			
Email: <a href="mailto:info@stats.govt.nz">info@stats.govt.nz</a>			

Appendix 10.4 – Spain Domestic Peach Prices

- Excel spreadsheet with links also provided.

Retailer	Product	Size (KG)	Cost (Euro)	Euro/KG
Hipercor	Aliada peach halves drained 480G	0.82	1.39	1.70
Hipercor	Rombo D'Oro peach halves drained 240G	0.41	1.69	4.12
Hipercor	Hero peach halves drained 480G	0.82	2.15	2.62
Hipercor	Hero peach halves drained 240G	0.41	2.05	5.00
Hipercor	Rombo D'Oro peach halves drained 480G	0.82	4.19	5.11
AlCampo	Producto Alcampo peach halves drained 480G	0.82	1.31	1.60
AlCampo	Hero peach halves drained 480G	0.82	2.04	2.49
AlCampo	Producto Economico Alcampo peach halves drained 480G	0.82	1.25	1.52
AlCampo	Mensajero peach halves drained 240G	0.41	0.93	2.27
AlCampo	Producto Alcampo peach halves drained 240G	0.41	0.89	2.17
AlCampo	Producto Alcampo peach halves drained sweetener 480G	0.82	1.88	2.29
AlCampo	Escamez peach halves drained 480G	0.82	1.29	1.57
AlCampo	Del Monte peach halves drained 235G	0.41	1.04	2.54
Supercor	El Corte Inglis peach halves drained 480g	0.82	1.95	2.38
Supercor	El Corte Inglis Selection peach halves drained 240g	0.41	0.95	2.32
Supercor	Alcurnia peach halves drained 480g	0.82	1.39	1.70
Supercor	Aliada peach halves drained 480G	0.82	1.39	1.70
Supercor	Hero peach halves drained 480G	0.82	2.15	2.62
Supercor	Hero peach halves drained 240G	0.41	2.05	5.00
Supercor	Rombo D'Oro peach halves drained 240G	0.41	1.69	4.12
Supercor	Rombo D'Oro peach halves drained 480G	0.82	4.19	5.11
Supercor	Helios peach halves drained 480G	0.82	2.95	3.60
Supercor	Milafruit peach halves drained 480G	0.82	1.30	1.59
Supercor	Milafruit peach halves drained 480G diet	0.82	2.15	2.62
Consum	Consum peach halves drained 480G	0.82	1.39	1.70
Consum	Consum peach halves drained 240G	0.41	0.89	2.17
Consum	Sol Archena peach halves drained 480G	0.82	1.49	1.82
Consum	Consum peach halves drained 480G without sugar	0.82	1.55	1.89
Eroski	Eroski peach halves drained 480G	0.82	1.39	1.70
Eroski	Helios peach halves drained 480G	0.82	2.89	3.52
Eroski	Del Monte peach halves drained 235G	0.41	2.25	5.49
Eroski	Golden peach halves drained 480G	0.82	1.75	2.13
				2.75

Appendix 10.7 – Exchange Rates

	NZD:Euro		NZD:USD		USD:Euro	
Jan-20	0.5960		0.6620		0.9003	
Feb-20	0.5860		0.6398		0.9159	
Mar-20	0.5464		0.6049		0.9034	
Apr-20	0.5523		0.6004		0.9199	
May-20	0.5571		0.6083		0.9158	
Jun-20	0.5723		0.6438		0.8889	
Jul-20	0.5753		0.6581		0.8742	
Aug-20	0.5583		0.6601		0.8457	
Sep-20	0.5656		0.6670		0.8479	
Oct-20	0.5640		0.6638		0.8497	
Nov-20	0.5792		0.6857		0.8448	
Dec-20	0.5831		0.7092		0.8222	
Jan-21	0.5910		0.7192		0.8217	
Feb-21	0.5987	0.5703	0.7241	0.6621	0.8267	0.8634
Mar-21	0.5995	0.5747	0.7140		0.8396	
Apr-21	0.5954		0.7115		0.8367	

10.9 Alibaba Canned Peach Offer 24<sup>th</sup> May 2021

The image displays two screenshots of the Alibaba.com website, showing product listings for 'PEACH (HALVES) IN SYRUP'.

**Top Screenshot:** Product listing for 'PEACH (HALVES) IN SYRUP 800 GR. IFS CERTIFICATION'. The product image shows a can of 'FERBA' brand peaches. The price is \$881.28 for quantities of >=1 Pallets. The lead time table is as follows:

Quantity(Pallets)	1 - 30	>30
Est. Time(days)	1	To be negotiated

Shipping: Support Sea freight - Land freight. Payments: This supplier also supports D/P payments.

**Bottom Screenshot:** Product listing for 'PEACH (HALVES) IN SYRUP 2,5 KG. IFS CERTIFICATION'. The product image shows a can of 'FERBA' brand peaches. The price is \$810.00 for quantities of >=1 Pallets. The lead time table is as follows:

Quantity(Pallets)	1 - 30	>30
Est. Time(days)	1	To be negotiated

Shipping: Support Sea freight - Land freight. Payments: This supplier also supports D/P payments.