

Canned Peaches from the European Union: Non-Confidential Initiation Report

TR800/R/2002/5

8 January 2003

Introduction

1. Heinz Wattie's Australasia (Heinz Wattie's), comprised of H J Heinz Company Australia Ltd and Heinz Wattie's Ltd has requested that the Chief Executive of the Ministry of Economic Development initiate a review, under section 14(8) of the Dumping and Countervailing Duties Act 1988 (the Act), of the countervailing duty on canned peaches from the European Union.

2. Heinz Wattie's states in its application that it is the only producer of canned peaches in New Zealand. The Ministry is not aware of any other producers of canned peaches in New Zealand. Heinz Wattie's was the only New Zealand producer of canned peaches at the time of the original investigation in 1997.

3. The goods currently subject to countervailing duty are described as follows:

Peaches (halves, slices or pieces) packed in retail sized cans

4. The existing countervailing duty will, in terms of section 14(9) of the Act, cease to be payable on 9 January 2003 unless at that date the goods are subject to a review under section 14(8) of the Act. The application is therefore a request for the continuation of the countervailing duties.

Background

5. Countervailing duties were imposed by the Minister of Commerce on 9 January 1998.

6. On 16 April 2000 the Acting Minister of Commerce reassessed the rate of countervailing duty to set a separate rate of duty for a new exporter. The other rates of duty imposed in 1998 remained unchanged.

7. The current duties are in the form of *ad valorem* percentages. There are separate rates for three Greek exporters and two Spanish exporters. There are also separate rates of duty for "other" Greek exporters, "other" Spanish exporters and "other" exporters from European Union (EU) countries other than Greece and Spain.

Legal Provisions

"Sunset" Provisions

(9) Anti-dumping duty or countervailing duty applying to any goods shall cease to be payable on those goods from the date that is the specified period after-

- (a) The date of the final determination made under section 13 of this Act in relation to those goods; or
 - (b) The date of notice of any reassessment of duty given under subsection (6) of this section, following a review carried out under subsection (8) of this section,-
- whichever is the later, unless, at that date, the goods are subject to review under subsection

(8) of this section.

(9A) In subsection (9), specified period means,-

- (a) in the case of goods of Singaporean origin, 3 years; and
- (b) in the case of goods of any other origin, 5 years.

Reviews

8. Reviews are provided for in section 14(8) of the Act as follows:

(8) 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 or countervailing duty in relation to goods and shall complete that review within 180 days of its initiation.

Reassessments

9. Should a review show that there is a continued need for the imposition of countervailing duties, a reassessment in terms of section 14(6) of the Act may be required. Section 14(6) provides for the reassessment of anti-dumping duties as follows:

(6) The [Chief Executive] may initiate a reassessment of any rate or amount of anti-dumping or countervailing duty determined under subsection (4) of this section, including any elements of any formula used to establish such a rate or amount,-

- (a) On the initiative of the [Chief Executive] ; or
- (b) Where a request for a reassessment is submitted to the [Chief Executive] by an interested party who submits evidence justifying the need for a reassessment; or
- (c) Following the completion of a review carried out under subsection (8) of this section- and the Minister may determine a new rate or amount in accordance with subsection (4) of this section, and, in that event, shall give notice of the new rate or amount.

10. Where, following a review, a reassessment results in lower duty, section 14(10) of the Act provides that a refund may take effect from the date of initiation of the review. However, the Act does not provide for retrospective collection of additional duty if a reassessment results in a higher duty.

Evidence Provided

New Zealand Producers

11. As noted above, Heinz Wattie's is the only known producer of canned peaches in New Zealand and therefore constitutes the New Zealand industry as defined in section 3A of the Act.

Like Goods

12. In the Final Report on the original investigation it is noted that Heinz-Wattie's produced a range of canned peaches in various retail size cans up to a nominal size of three kilograms.

The original investigation found that the canned peaches produced by Heinz-Wattie's, while not alike in all respects because of differences in can sizes, varieties of peaches used and variations in the liquid medium within which the peaches are canned, have characteristics closely resembling the imported canned peaches, and were therefore like goods to the subject goods.

13. In its application Heinz Wattie's said it considers there have been no material changes to the like goods produced in New Zealand or to the subject goods produced in the European Union since the last investigation.

Importers

14. Heinz Wattie's has stated that it is unaware of any substantial sales of European Union canned peaches in New Zealand that are subject to the existing countervailing duties, other than its own imports [Text deleted due to confidentiality] following New Zealand peach crop failures. Heinz Wattie's notes that AC Nielsen data shows the last significant sales volume of other European Union canned peaches on the New Zealand retail market occurred in 1999 with the sale of canned peaches under the [Text deleted due to confidentiality] brand that it understands were imported from [Text deleted due to confidentiality].

15. In its application Heinz Wattie's has listed the following importers who were identified in the original investigation:

Food Marketers (NZ) Ltd
Premier Distributors of NZ Ltd
Benison Trading Ltd

16. Heinz Wattie's said it understands that Food Marketers (NZ) Ltd and Premier Distributors of NZ Ltd continue to import and distribute food products in New Zealand. Heinz Wattie's has noted that imported canned peaches from Europe have also been sold in New Zealand under the "Contel" and "Trident" brands and said it understands that EuroPacific Foods Ltd and Hutchinsons (NZ) Ltd respectively are the current owners of these brands for preserved, dried and cooked fruits and vegetables.

17. Heinz Wattie's said it is aware that other current or potential importers of canned peaches from the European Union are present in New Zealand, including Brooke Holdings Ltd, a current importer of canned peaches from South Africa, and Mediterranean Foods (Wgtn) Ltd, currently importing the Alcurnia brand of canned peaches from Spain.

18. New Zealand Customs data for the year ended 30 November 2002 shows several other companies, in addition to Heinz Wattie's, as importing peaches from the European Union. Because the relevant tariff item and statistical key covers a wider range of product than the subject goods, it is not known if these companies have imported the subject goods, but this will be established during any review. None of the companies identified as importers during the original investigation, or any of the other companies identified by Heinz Wattie's above, are recorded as importers of peaches of European Union origin in the New Zealand Customs data for the year ended 30 November 2002.

Exporters

19. Heinz Wattie's listed in its application the following exporters identified in the original investigation:

Vermion Naoussa	(Greece)
AL.M.ME	(Greece)
Maximino Moreno SA	(Spain)
Pujante Import Export SL	(Spain)

20. Heinz Wattie's said it understands the companies listed above continue to export canned peaches world-wide. Heinz-Wattie's has noted that **[Text deleted due to confidentiality]**. Heinz Wattie's also said that Intercomm Foods SA and Alcurnia Alimentacion SL currently supply Greek and Spanish peaches respectively to the New Zealand market.

21. New Zealand Customs data for the year ended 30 November 2002 shows several other companies, in addition to the company supplying Heinz Wattie's, as exporting peaches from the European Union. Because the relevant tariff item and statistical key covers a wider range of product than the subject goods, it is not known if these companies have exported the subject goods, but this will be established during any review. Only one of the companies (Pujante Import Export SL) identified as an exporter during the original investigation is recorded as an exporter of peaches of European Union origin in the New Zealand Customs data for the year ended 30 November 2002. None of the other companies identified by Heinz Wattie's above (other than **[Text deleted due to confidentiality]**) is recorded as an exporter of peaches in the New Zealand Customs data for the year ended 30 November 2002.

Evidence of Subsidies

European Union Sugar Export Refunds

22. Heinz Wattie's has provided an explanation of the operation of this programme in its application, and supporting documentation, which is summarised below.

23. Exported canned peaches that contain sugar in the form of syrup qualify for a refund which is designed to compensate exporters for the extent to which European Union sugar is priced above world prices. Heinz Wattie's provided a copy of the various European Union regulations that provide for such refunds and specify the amount and explain the basis on which refunds are calculated. Copies of documents relevant to applying the regulations were also provided, including an extract from the European Union tariff classification for white sugar and a list of destination codes for export refunds.

24. Heinz Wattie's has calculated that a 425g can of canned peaches in syrup contains added sugar of **[Text deleted due to confidentiality]**g. On the basis of this calculation and the relevant regulations relating to export refunds, Heinz Wattie's has calculated the amount of subsidy per 425g can at between 0.02 euros (NZ\$0.04) and 0.03 euros (NZ\$0.06).

25. Heinz Wattie's states that these export refund arrangements continue to cause European Union canned peaches to remain "subsidised goods" in terms of the definition in section 3 of the Act. Heinz Wattie's notes that the same principal European Union legislation (Regulation

(EC) No. 2201/1996) that determines the eligibility of canned peaches for such a refund continues to apply.

26. Heinz Wattie's said that the refunds fall within the definition in section 3 of the Act of a "specific subsidy", being a financial benefit that accrues to persons engaged in the processing and export of canned peaches containing sugar. Heinz Wattie's submits that the European Commission, as a foreign government, funds these payments through the competent authorities of the member states.

European Union Processing Aid

27. Heinz Wattie's said that Council Regulation (EC) No. 2201/1996 continues to be the current primary EC Regulation for the European Union common organisation of the markets in processed fruit and vegetable products, as for the original investigation. Heinz Wattie's notes, however, that the aid arrangements for peach and pear processing have been substantially amended since December 2000.

28. Heinz Wattie's has detailed the effects of these changes and has referred to and provided copies of other relevant regulations. The significant changes detailed by Heinz Wattie's are that payments are now made to producers (growers) rather than to the processors, and the establishment of a fixed amount of aid at 47.70 euros per metric tonne during the 2001/2002 marketing year. Heinz Wattie's has noted that this aid is only paid to growers growing peaches intended for processing and therefore a benefit is clearly intended to be passed to the processor as the end user.

29. Heinz Wattie's notes that despite these changes to the scheme, the Australian Customs Service in its recent decision to continue the countervailing duties imposed on canned peaches exported from Greece, concluded that this aid constitutes an actionable subsidy. Heinz Wattie's provided a copy of the Final Report by the Australian Customs Service (completed in December 2001), along with a summary of its findings in relation to this programme.

30. On the basis that one tonne of fresh fruit produces approximately one tonne of processed peach material, Heinz Wattie's has calculated the aid to be 0.02 euros (NZ\$0.04) per 425g can.

31. Heinz Wattie's states that these processing aid arrangements continue to cause European Union canned peaches to remain "subsidised goods" in terms of the definition in section 3 of the Act. Heinz Wattie's said that this aid falls within the definition in section 3 of the Act of a "specific subsidy", being a financial benefit that accrues to persons engaged in the processing of peaches. Heinz Wattie's submits that the European Commission, as a foreign government, funds these payments through the competent authorities of the member states.

National Government Subsidies

32. Heinz Wattie's said it understands that individual European Union countries continue to provide aid in the form of fiscal incentives such as tax credits and reduced interest rate loans to their local peach processing industries. Heinz Wattie's said it has not been able to identify any specific examples of these practices as they are at the national, not European Union level,

but considers that the Ministry as part of its review should also examine any national aid that benefits peach processors.

Continuation of European Union Subsidies

33. Heinz Wattie's has noted that the subject of direct agricultural and related subsidies is currently a live topic within the European Union with the approach of a new trade round and consideration of the level of subsidies to be provided to new member states following enlargement of the European Union.

34. However, Heinz Wattie's referred to an October 2002 article in *The Economist* (a copy of which was provided), which it said shows the likelihood of substantial reform of the common agricultural policy remains slim. Heinz Wattie's said in any event the Commission's Agenda 2000 for agriculture, with many targets set until 2005/2006, will remain policy for the foreseeable future.

Amount of Subsidy

35. Heinz Wattie's has provided export statistics relating to the export of canned peaches from Greece, Italy and Spain for 2001 showing the quantity and FOB value of exports. The statistics are split between exports to other European Union members and exports to countries outside of the European Union.

36. Heinz Wattie's has noted that the majority of subsidised peaches that the European Union exports are from Greece and that exports of subsidised peaches to New Zealand were mostly from Greece prior to the introduction of countervailing duties. Heinz Wattie's said that for this reason it has calculated the amount of the subsidy on the Greece ex-factory export price to other European Union countries.

37. Heinz Wattie's has calculated the average per kilogram FOB export price from Greece for 2001 to other European Union countries and deducted from this amounts for freight from factory to wharf and cost of credit to estimate an ex-factory price per kilogram. Heinz Wattie's has converted the amounts of subsidy per 425g can shown above to amounts per kilogram and then calculated the total of these amounts as a percentage of the estimated ex-factory price per kilogram from Greece. Heinz Wattie's said it was unable to obtain specific evidence of the cost of transport from factory to wharf and therefore used an estimate taken from a letter from [Text deleted due to confidentiality]. A copy of the letter from [Text deleted due to confidentiality] was provided. Heinz Wattie's advised that its estimate of the cost of credit was based on credit of 90 days using the Greek Alpha Bank prime interest rate of six percent plus spread of [Text deleted due to confidentiality] percent as an export risk. A copy of a document showing Alpha Bank's interest rates was provided. These calculations are shown in the table below.

Ex-factory export price from Greece 2001 (euros/kg)	[Text deleted due to confidentiality]
Sugar export refund (euros/kg)	0.07
Peach processing aid (euros/kg)	0.05
Amount of subsidy as a percentage	28%

Evaluation of Evidence of Subsidy

38. The original investigation identified two subsidy programmes against which countervailing duties were imposed, sugar export refunds and European Union aid for peach processors. Heinz Wattie's has provided documented evidence that these two subsidy programmes have continued, with some changes (which have also been documented). Evidence has also been provided that these programmes continue to constitute a "subsidy" and a "specific subsidy" in terms of the Act, and therefore that European Union canned peaches continue to be "subsidised goods" in terms of the Act.

39. Heinz Wattie's has also provided reasonable evidence to show that the amount of the subsidy provided under these programmes continues to be more than *de minimis* in terms of Article 11.9 of the Agreement on Subsidies and Countervailing Measures.

40. It is noted, however, that the calculation of the amount of the sugar export refund has not taken account of the proportion of canned peaches that are packed in media not containing added sugar, such as water and fruit juice. Any review will need to take this into account in calculating the amount of any sugar export refund subsidy in the value of the mix of canned peach product likely to be exported to New Zealand should duties be removed.

41. It is considered that sufficient evidence of a continuation of subsidisation has been provided to justify the initiation of a review.

Evidence of a Recurrence of Material Injury

Import Volumes

42. Heinz Wattie's has noted that canned peaches falling within the description of the goods subject to countervailing duty are not separately identified in the tariff and said it is not able to provide the proportion of imports that are the subject goods. Heinz Wattie's provided import data obtained from Statistics New Zealand for the tariff item and statistical key that covers the subject goods (2008.70.09 00L) for calendar years 1997 to 2001 and for the eight months to August 2002.

43. Heinz Wattie's has noted that many of the importers and exporters previously involved in exporting and importing subsidised canned peaches from the European Union remain active and some new importers have appeared. Heinz Wattie's said it is almost without question that these parties would use the unfair advantage of subsidised export prices to resume importing substantial quantities of canned peaches from the European Union. As an example of the easy availability of European canned peaches, Heinz Wattie's provided a printout from the web site www.foodtrader.com, which lists Greek and Spanish peaches that are available for immediate supply.

44. Heinz Wattie's said that Greece is easily the largest producer of canned peaches within the European Union and provided United States Department of Agriculture reports showing

that annual exports of Greek canned peaches are around 385,000 tonnes, that Italian exports are around 32,000 tonnes and that Spanish exports are around 72,000 tonnes. Heinz Wattie's has compared these exports with the entire annual New Zealand market for retail canned peaches of only [Text deleted due to confidentiality] tonnes. Heinz Wattie's said this means that only [Text deleted due to confidentiality] percent of the export volume from these three countries is sufficient to completely capture the entire New Zealand retail canned peach market.

45. Heinz Wattie's has noted that 2002 was a poor year for the Greek industry with a 35 percent reduction in raw canning peaches due to frost damage. Heinz Wattie's said, however, that the United States Department of Agriculture 2001/2002 report shows Greece as having carry over stocks of 87,000 tonnes, which is more than 13 times the size of the entire New Zealand retail canned peach market.

46. Heinz Wattie's has observed that Argentina and Brazil have notified their decisions to take action against imports of canned peaches, particularly those from Greece, that Australia has decided to continue its countervailing duties and that the United States industry has often complained about subsidised Greek production. Heinz Wattie's also provided a copy of a United States Department of Agriculture report analysing the growth in production of subsidised European Union peaches and their effects on canned peach export markets. Heinz Wattie's submitted that the removal of countervailing duties will have the same adverse effect on the New Zealand market for canned peaches.

Price Undercutting

47. Heinz Wattie's has calculated an estimated wholesale selling price in New Zealand of European Union canned peaches in the absence of countervailing duty, starting with the average 2001 Greek FOB export price to other European Union countries. The average FOB price has been calculated on two tariff items (2008.70.71 and 2008.70.79) which Heinz Wattie's has stated cover the particular subject goods exported to New Zealand in the past. Heinz Wattie's said it selected Greek exports as reflective of all European Union exports for the reasons outlined above under [Amount of Subsidy](#).

48. The amounts of the subsidies calculated as above have been deducted from this average FOB export price. Heinz Wattie's has then added its estimate of the costs and importer's margin incurred after FOB to ex-importer's store. Heinz Wattie's said the costs used in this calculation are based on its own knowledge of sourcing and importing product while the importer's margin is based on its market understanding. On this basis Heinz Wattie's has calculated an ex-store price of NZ\$[Text deleted due to confidentiality] per kilogram.

49. It is noted that no adjustment has been made to increase the price for any dumping margin included in the average export price to other European Union countries. The concurrent application made by Heinz Wattie's for a review of the anti-dumping duty on canned peaches from Greece has provided evidence of large dumping margins. The calculation therefore assumes that the anti-dumping duty will also be removed and the price calculated therefore also includes the estimated impact of the removal of the anti-dumping duty. Any review will need to differentiate between the impact of the removal of the anti-dumping duty and the removal of the countervailing duty, when considering the likely level of price undercutting.

50. Heinz Wattie's has provided details of its average ex-factory wholesale net selling prices for the six months to October 2002 for "Wattie's", "Oak" and housebrand 410g cans. These average prices have been converted into an equivalent price per kilogram for comparison with the price of the European Union product estimated as above. The resulting price comparison and estimated margin of price undercutting is shown in the table below.

Brand	Current Ex-factory Selling Price for 410g Can (per kg)	Estimated Ex-Store Selling Price for EU Product (per kg)	Undercutting (per kg)	Undercutting as % of Heinz Wattie's Price
Wattie's	[\$[Text deleted due to confidentiality]]	[\$[Text deleted due to confidentiality]]	[\$[Text deleted due to confidentiality]]	67%
Oak	[\$[Text deleted due to confidentiality]]	[\$[Text deleted due to confidentiality]]	[\$[Text deleted due to confidentiality]]	54%
Housebrands	[\$[Text deleted due to confidentiality]]	[\$[Text deleted due to confidentiality]]	[\$[Text deleted due to confidentiality]]	48%

Price Depression

51. Heinz Wattie's said its premium brand is the "Wattie's" brand while the "Oak" brand is [Text deleted due to confidentiality]. Heinz Wattie's said it maintains a price differential between the two brands, but the "Wattie's" price can only be maintained if [Text deleted due to confidentiality].

52. Heinz Wattie's said that unsustainable price differences have previously occurred in the past when dumped or subsidised imports have entered the New Zealand market, resulting in such a loss of volume and market share that prices for the "Wattie's" brand were forced downwards. Once a product has suffered price depression, Heinz Wattie's said it is difficult for the price to be increased again as a price expectation is created at the low price.

53. Heinz Wattie's has noted that even with the current remedies in place, some imports of European peaches have caused some depression of selling prices. Heinz Wattie's gave an example of a large importation from Italy in 1999 causing price depression, illustrating the effects on prices at that time with graphs based on AC Nielsen data.

54. Heinz Wattie's has claimed that a similar effect [to what occurred in 1999], although much greater in magnitude and duration, would be likely to occur should subsidised imports be imported. Heinz Wattie's said the viability of its entire canned peach operation would [Text deleted due to confidentiality] should subsidised European Union peaches be imported into New Zealand at the prices estimated under "Price Undercutting" above. Heinz Wattie's said that in this situation it would need to reduce the price of its "Oak" brand 410g can by at least NZ\$[Text deleted due to confidentiality] and its "Wattie's" brand 410g can by at least NZ\$[Text deleted due to confidentiality]. Even at these depressed prices, Heinz Wattie's said the subsidised imports would still substantially undercut its prices with the likely additional loss of market share.

Price Suppression

55. Heinz Wattie's said it undertook significant consumer and trade marketing activities in order to maintain market share and protect the price levels of its products when dumped or subsidised imports last appeared in significant volumes on the New Zealand retail market.

56. Heinz Wattie's said it expects that similar marketing expenses that could not be recovered in the selling price would again be required should these dumped or subsidised imports reappear in the market.

Economic Impact

Actual Financial Results

57. Heinz Wattie's has provided details of its actual financial results relating to its domestic production of canned peaches sold on the New Zealand market, for the financial years 1998/1999 to 2001/2002 and its budget for 2002/2003 (assuming duties remain in place). This data shows sales volume, gross sales revenue, net sales revenue, cost of production, gross profit, selling and administrative expenses and earnings before interest and tax (EBIT).

58. **[Text deleted due to confidentiality]**, Heinz Wattie's is not claiming that its results have been materially affected by dumped imports since duties were imposed. As noted above, Heinz Wattie's has stated that it is unaware of any substantial sales of European Union canned peaches on the New Zealand retail market that are subject to the existing countervailing duties and has noted that the last significant sales volume of European Union canned peaches on the New Zealand retail market occurred in 1999.

Market Share

59. Heinz Wattie's has claimed that if subsidised European Union peaches returned to the market following removal of the duty, they would take at least a similar market share as occurred when these products were last on the New Zealand market. When the initial application for a subsidy investigation was made, Heinz Wattie's has noted that subsidised peaches were mainly restricted to the 820g can market and were not yet available in all supermarket outlets.

60. Heinz Wattie's has observed that in the supermarket key accounts where the subsidised imports were available, they took a **[Text deleted due to confidentiality]** percent share. To support this, Heinz Wattie's has supplied copies of parts of its original application for a subsidy application. If no countervailing duties had been applied, Heinz Wattie's has claimed that it is likely this market share would have been achieved across the full market. Heinz Wattie's has noted that as 820g cans are a much smaller segment of the market than 410g cans, the market impact [if duty was to be removed] in the smaller can size segment would be even greater than in the past.

61. According to AC Nielsen data, Heinz Wattie's said it currently has **[Text deleted due to confidentiality]** percent of the market. Heinz Wattie's said it expects its market share to **[Text deleted due to confidentiality]** over the coming months **[Text deleted due to confidentiality]**.

62. Heinz Wattie's has commented that it is difficult to predict what the effect would be on the various canned peach products currently in the market if subsidised imports returned to the market. Heinz Wattie's said to some extent which products are most affected depends on **[Text deleted due to confidentiality]**.

63. Heinz Wattie's has provided three forecasts of the impact on market share:

- one on the basis that the volume of subsidised imports will be the same as that imported from Greece in 1997 (**[Text deleted due to confidentiality]** tonnes);
- one on the basis that subsidised imports will capture **[Text deleted due to confidentiality]** percent of the market; and
- one that assumes that the subsidised imports will all be for the **[Text deleted due to confidentiality]** market and capture all of Heinz Wattie's **[Text deleted due to confidentiality]** sales.

64. In a commentary on these forecasts, Heinz Wattie's has noted that if subsidised imports succeeded in taking a **[Text deleted due to confidentiality]** percent market share then it could expect to lose sales of **[Text deleted due to confidentiality]** kilograms. Heinz Wattie's has further commented that even where the volume of subsidised imports is assumed to be **[Text deleted due to confidentiality]** tonnes, with the effect spread equally among all products, it would expect to lose sales of approximately **[Text deleted due to confidentiality]** kilograms.

Sales Revenue

65. Heinz Wattie's has provided a forecast of the effect on its revenue should duties be removed, based on the price depression referred to above, but on a per kilogram basis, i.e., the "Wattie's" brand will reduce by **[Text deleted due to confidentiality]** per kilogram and the "Oak" brand will reduce by **[Text deleted due to confidentiality]** per kilogram. The effect on its revenue has been calculated by Heinz Wattie's using its current annual sales volume for these two brands and shows a loss of sales revenue of **[Text deleted due to confidentiality]**.

66. Heinz Wattie's has noted these reduced prices still remain above the estimated selling price of European Union peaches, should duties be removed, of **[Text deleted due to confidentiality]** per kilogram, and assumes that a reduced price difference between the "Wattie's" and "Oak" brands can be maintained. Heinz Wattie's has also noted that this estimated impact on sales revenue is based only on price depression and does not take account of any likely loss of market share.

67. Heinz Wattie's subsequently provided a forecast showing its estimate of the impact of the removal of duties on its actual result for the 2001/2002 financial year and the impact on its budgeted result for the 2002/2003 financial year. These forecasts are in the same format as the actual financial results provided and assume a **[Text deleted due to confidentiality]** percent decrease in volume and a **[Text deleted due to confidentiality]** percent decrease in average price. The forecasts show that if dumped imports had been present during the 2001/2002 financial year sales revenue would have declined by an estimated **[Text deleted due to confidentiality]** (a **[Text deleted due to confidentiality]** percent decline). The estimated impact on the budgeted 2002/2003 results is a decline of sales revenue of **[Text deleted due to confidentiality]** (a **[Text deleted due to confidentiality]** percent decline).

68. The forecasts provided as above are the same as those provided to support Heinz Wattie's application for a review of the anti-dumping duties on canned peaches from Greece and therefore do not differentiate between the impact of the removal of the anti-dumping duties and the removal of the countervailing duties.

Sales Volume

69. The forecasts referred to above subsequently provided by Heinz Wattie's show a decline in sales volume, should duties be removed, relative to Heinz Wattie's actual results for 2001/2002 of **[Text deleted due to confidentiality]** tonnes (a decline of **[Text deleted due to confidentiality]** percent), and relative to its budgeted results for 2002/2003 of **[Text deleted due to confidentiality]** tonnes (a decline of **[Text deleted due to confidentiality]** percent).

Profits

70. Heinz Wattie's said the effect on profits is difficult to determine and is likely to be from a combination of loss of volume from market share loss, loss of sales revenue and an inability to recover increased production costs and higher marketing costs.

71. Heinz Wattie's said the clearest effect on profit is from price depression as it will not be able to immediately change its costs if the achievable revenue for each canned peach product is suddenly reduced. Heinz Wattie's has noted that price depression alone was not the effect in the original investigation and it therefore expects that its profitability would be reduced by more than just the pure price depression effect only.

72. The forecasts referred to above subsequently provided by Heinz Wattie's show a decline in EBIT, should duties be removed, relative to the 2001/2002 and 2002/2003 results respectively of **[Text deleted due to confidentiality]** (a decline of **[Text deleted due to confidentiality]** percent) and **[Text deleted due to confidentiality]** (a decline of **[Text deleted due to confidentiality]** percent).

Other Economic Effects

73. Heinz Wattie's has submitted that the loss of sales volume, sales revenue and profits from the return of subsidised imports will also have significant adverse effects on its return on investments, utilisation of production capacity, cash flow, inventories, employment and growth.

74. Heinz Wattie's has commented that for the review of anti-dumping duty on canned peaches from South Africa [completed in January 2002] it provided to the Ministry confidential details about the likely impact on its achievable return on investment, utilisation of production capacity, cash flow and employment, if duties were to be removed in that case. Heinz Wattie's has claimed these same effects would also occur should the current duties under review be permitted to expire.

75. Heinz Wattie's said the most devastating effect on New Zealand peach growers from the end of duties will be the **[Text deleted due to confidentiality]**. Heinz Wattie's said it **[Text deleted due to confidentiality]** with growers to provide raw peaches **[Text deleted due to confidentiality]** to meet the company's requirements for that year. If duties are removed,

Heinz Wattie's said it will [Text deleted due to confidentiality] at the end of the year [Text deleted due to confidentiality] and its forecast requirements will also be reduced. Heinz Wattie's said the result for growers will be a [Text deleted due to confidentiality] as [Text deleted due to confidentiality]. Heinz Wattie's said [Text deleted due to confidentiality].

76. Heinz Wattie's has noted that it is also currently contemplating [Text deleted due to confidentiality]. Heinz Wattie's said its decision in part will depend on whether it is [Text deleted due to confidentiality]. Heinz Wattie's said it will provide more details to the Ministry in its later submissions.

77. Heinz Wattie's subsequently expanded on its submission concerning other economic effects, should duties be removed, drawing in part on submissions made during the review of anti-dumping duties on canned peaches from South Africa. This is summarised below.

78. Heinz Wattie's said there will be a double impact on cash flow through a loss of revenue and through the cost of carrying unsold inventory. In relation to the cost of carrying inventory, Heinz Wattie's estimates that [Text deleted due to confidentiality] tonnes will remain unsold and has estimated that the impact on cash flow of carrying that inventory to be [Text deleted due to confidentiality]. Heinz Wattie's has estimated the storage cost of carrying this additional inventory to be [Text deleted due to confidentiality] per annum.

79. Heinz Wattie's has noted that during the South African review it was estimated that if sales volume declined by [Text deleted due to confidentiality] percent, [Text deleted due to confidentiality] would [Text deleted due to confidentiality]. Heinz Wattie's said it commented at that time that it is difficult to quantify numbers except to say that [Text deleted due to confidentiality], [Text deleted due to confidentiality] and that there would be reduced hours for approximately [Text deleted due to confidentiality] staff. Heinz Wattie's said the situation of losing [Text deleted due to confidentiality] percent volume due to European Union imports, should duties be removed, remains similar to that described during the South African review.

80. Heinz Wattie's has quantified the impact on growers referred to above. Heinz Wattie's has estimated that in the first processing year following the introduction of imports from the European Union, payments to growers would reduce by [Text deleted due to confidentiality] and thereafter by [Text deleted due to confidentiality] per year.

81. Heinz Wattie's said that as discussed during the South African review, it is difficult to quantify the [Text deleted due to confidentiality] of the return of subsidised imports. Heinz Wattie's said that its business can adapt to varying harvest amounts from year to year within an acceptable range, but if low sales volumes continue it would be difficult to make a business case to retain [Text deleted due to confidentiality]. A reduction [Text deleted due to confidentiality], Heinz Wattie's said, [Text deleted due to confidentiality] the business to a lower level of [Text deleted due to confidentiality], further undermining [Text deleted due to confidentiality].

82. Heinz Wattie's has noted that during the South African review it explained that if dumped canned peaches enter the market the cost of production will increase due to a reduction in volume, prices will be depressed and profitability will decrease. Heinz Wattie's further noted that during that review it [Text deleted due to confidentiality]. Heinz Wattie's also stated that it said during the South African review that [Text deleted due to confidentiality].

83. Heinz Wattie's said it has made [Text deleted due to confidentiality]. Heinz Wattie's said that should subsidised imports return, [Text deleted due to confidentiality].

Other Causes of Injury

Supermarket Purchases

84. Heinz Wattie's has commented that supermarkets in New Zealand have the ability to directly influence prices and levels of supplier promotion and support. Heinz Wattie's said that the market is competitive and price is always an issue for suppliers to supermarkets. However, given a fair choice, Heinz Wattie's said supermarkets prefer to buy locally made product because it reduces the requirement to hold large inventory levels and allows the quick replenishment of stock if demand is greater than expected. Heinz Wattie's also said local supply removes the fluctuations associated with imports, with orders possible of smaller volumes and shorter lead times.

85. Heinz Wattie's has claimed that there is also a premium associated with both the "Wattie's" brand and even the cheaper "Oak" brand as both are recognised as New Zealand made with a high public profile and have a long tradition of superior quality in the New Zealand retail market.

86. Heinz Wattie's said it also provides total brand support for its products, often in conjunction with its supermarket customers, unlike many other imported products available on the New Zealand retail market. For these reasons, Heinz Wattie's said the availability and price of imported product determines the effect of supermarket influence upon it.

House Brands

87. Heinz Wattie's has noted that the growth of supermarket house brands and the negotiation of contracts to supply these products has increased price competition in New Zealand. Heinz Wattie's said sales of house brand products [Text deleted due to confidentiality].

88. Heinz Wattie's has commented that the entire retail market for canned peaches has been relatively stable in terms of size in 2002 as compared with 2001. Heinz Wattie's said that its share of the house brand market is [Text deleted due to confidentiality] although the non-Heinz Wattie's house brand market has [Text deleted due to confidentiality] due to the introduction of the [Text deleted due to confidentiality] supermarket chains. Heinz Wattie's said [Text deleted due to confidentiality].

89. Heinz Wattie's also said its market activity [Text deleted due to confidentiality]. Heinz Wattie's said this situation is expected to [Text deleted due to confidentiality] now that it is able to [Text deleted due to confidentiality] arrangements. Heinz Wattie's has also noted that house brands now have two tiers in the market:: premium house brands such as "Pam's" which compete with other premium brands, and other house brands such as "Budget" which are positioned as price fighters.

Evaluation of the Evidence of Material Injury

90. Heinz Wattie's has not claimed there has been a continuation of material injury since the imposition of anti-dumping duties. In the absence of a continuation of material injury, it is appropriate for Heinz Wattie's to provide evidence of the likelihood of a recurrence of injury should duties be removed.

91. Reasonable evidence has been provided of the capacity of the European Union industry to substantially increase its exports to New Zealand and of the ability of New Zealand importers to import and distribute a significant increase in imports. Reasonable evidence has also been provided of the likely extent of price undercutting, price depression and suppression, should duties be removed. Extensive evidence has been provided of the likely economic impact should duties be removed, showing that material injury is likely to recur.

92. It is considered the evidence that injury may recur if the duty were to be removed is sufficient to justify a review.

93. However, any review will need to examine the likelihood of a recurrence of injury attributable to the removal of the countervailing duty alone, i.e., the likely impact of the removal of countervailing duties will need to be differentiated from the impact of the removal of anti-dumping duties from canned peaches from Greece.

Conclusion

94. The applicant has provided sufficient positive evidence to justify the initiation of a review of the imposition of countervailing duty on canned peaches from the European Union.

Recommendation

95. It is recommended on the basis of the conclusion reached, and in accordance with section 14(8) of the Act, and acting under your delegated authority:

- a. that you formally initiate a review of the imposition of countervailing duty on canned peaches from the European Union; and
- b. that you sign the attached notice of the initiation of the review for publication in the *Gazette*.

Robin Hill

Senior Investigator, Trade Remedies Group
Regulatory and Competition Policy Branch

Agreed

Anne Corrigan, Manager

Trade Remedies Group, Regulatory and Competition Policy Branch