MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

TRADE AND SUPPLY CHAINS

Trade (Anti-dumping and Countervailing Duties) Act 1988

Initiation Report: Application for Anti-Dumping Duties

Preserved Peaches from China

MBIE/AD/I/2025/002

NON-CONFIDENTIAL

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JULY 2025

New Zealand Government

1. INITIATION REPORT

DATE	14 July 2025
TO	James Hartley – General Manager, Communications, Infrastructure and Trade
PREPARED BY	Trade Remedies Team
SUBJECT	**APPLICATION FOR START OF DUMPING INVESTIGATION UNDER THE TRADE (ANTI-DUMPING AND COUNTERVAILING DUTIES) ACT 1988**

RECOMMENDATIONS

You have been delegated authority from the Chief Executive of MBIE to start investigations under the Trade (Anti-dumping and Countervailing Duties) Act 1988. Based on the statutory requirements for starting an investigation, MBIE's Trade Remedies team recommends that you:

- **Note** that the Trade Remedies team, having assessed an application for an investigation into dumping of imports of preserved peaches from the People's Republic of China (China), considers that there is sufficient evidence that the subject goods are being dumped and that material injury to a New Zealand industry is being caused because of the alleged dumping, to justify starting an investigation.

  Noted

- **Agree** to start an investigation of dumping under section 10A(1) of the Act on the basis that you:
  - **Agree** that there is sufficient evidence in HWL's application, per section 10A(1)(a) of the Act, to justify investigating whether imports of preserved peaches from China are being dumped, and the alleged dumping has caused or is causing material injury to the New Zealand industry; and

    Agree/Disagree

  - **Agree** that HWL's application is supported by the required proportion of New Zealand producers of like goods, per section 10A(1)(b) of the Act.

    Agree/Disagree

- **Note** that MBIE will advise interested parties, including the Government China per section 10A(2) of the Act, of the decision to start an investigation.

  Noted

James Hartley
General Manager, Communications, Infrastructure and Trade

14 July 2025

Contents

Abbreviations and Acronyms

Term	Meaning
2019 Sunset Review	A sunset review in 2017 of the anti-dumping duty on preserved peaches from China
2019 China Reconsideration	A reconsideration by MBIE in 2019 of the decision in the 2017 sunset review to terminate anti-dumping duty on preserved peaches from China
Act, the	The Trade (Anti-dumping and Countervailing Duties) Act 1988
AD Agreement, the	Agreement on Implementation of Article VI of the GATT 1994, part of WTO Agreement
Customs NZ	New Zealand Customs Service
CNY	Chinese yuan
GATT 1994	General Agreement on Tariffs and Trade 1994
Harmonised System or HS	The Harmonised Commodity Description and Coding System of tariff nomenclature, administered by the World Customs Organization
HWL	Heinz Wattie's Limited
kg	Kilogram
MBIE	Ministry of Business, Innovation and Employment
MT	Metric ton (tonne)
NZ	New Zealand
NZD	New Zealand dollar
POI(D)	Period of investigation for dumping
POI(I)	Period of investigation for injury
Stats NZ	Statistics New Zealand
USD	United States dollar
VAT	Value Added Tax
VFD	Value For Duty
WTO	World Trade Organization
WTO Agreement	Marrakesh Agreement Establishing the World Trade Organization

2. Context

2.1 Summary

1. The purpose of this report is to:
    - assess an application from Heinz Wattie's Limited (HWL) requesting that the Chief Executive of the Ministry for Business, Innovation and Employment (MBIE) initiate an investigation, under the Trade (Anti-Dumping and Countervailing Duties) Act 1988 (the Act), into the alleged dumping of preserved peaches from the People's Republic of China (China); and
    - provide a recommendation as to whether to start such an investigation.
2. Section 10A(1) of the Act provides that the Chief Executive must start an investigation if satisfied from the evidence in the application that:
    - there is sufficient evidence to justify investigating whether goods imported or intended to be imported into New Zealand are being dumped or subsidised; and whether the alleged dumping or subsidisation has caused, is causing, or threatens to cause material injury to New Zealand producers of like goods (the New Zealand industry); and
    - the application is supported by the required proportion of New Zealand producers of like goods.
3. The Trade Remedies Team has examined the evidence provided by HWL in its application and considers that, based on the evidence provided by HWL, there is sufficient evidence to justify investigating whether preserved peaches from China are being dumped. On this basis they recommend that you decide to initiate an investigation.

2.2 Process

4. On 2 December 2024 HWL submitted an application, pursuant to section 10 of the Act, seeking the initiation of an investigation into the alleged dumping of preserved peaches from China.
5. HWL alleges that preserved peach imports from China are being dumped, causing significant material injury to New Zealand's domestic industry for preserved peaches. HWL also seeks the imposition of provisional measures given the alleged magnitude of the material injury.
6. On 20 December 2024, MBIE accepted HWL's application as being properly documented in accordance with the requirements of section 10 of the Act. In coming to this conclusion, MBIE was satisfied that:
    - it had received an application in writing that included evidence of alleged dumping and material injury to the New Zealand industry caused by that alleged dumping as required under section 10(2) of the Act; and
    - the application included as much of the information required by section 10(3) of the Act as was reasonably available to the applicant.
7. MBIE then proceeded to assess the sufficiency of the evidence in the application, and level of industry support for the application, to determine if an investigation was justified as is required by section 10A(1) of the Act.

2.3 Previous proceedings

China

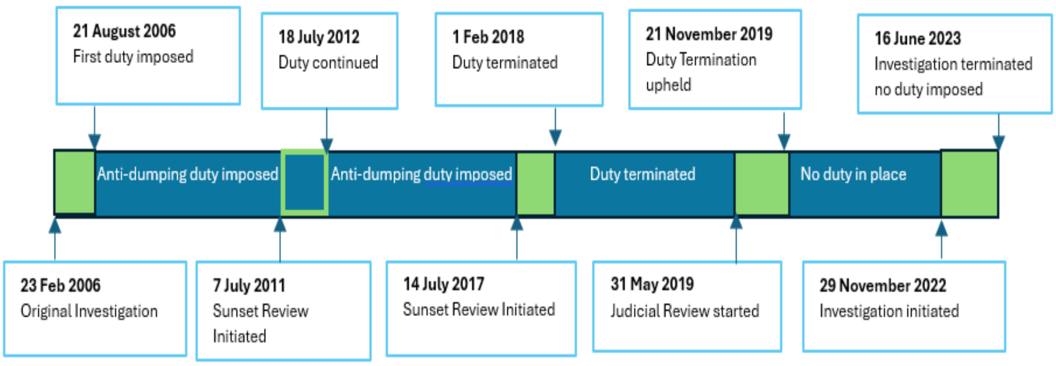
8. An anti-dumping duty on preserved peaches from China was first imposed in 2006. The duty was reviewed in a sunset review in 2011 and continued for a further 5 years. In July 2017, MBIE initiated a second sunset review. Duties were terminated in February 2018 on the basis that there was unlikely to be a continuation or recurrence of injury caused by dumping following the removal of duties.

9. HWL challenged the February 2018 determination to terminate the duties through a judicial review. Following agreement between the parties, the High Court quashed the determination to terminate the duties and directed MBIE to undertake a reconsideration of the sunset review. In November 2019, following this reconsideration, the anti-dumping duty was again terminated on the basis that the imposition of anti-dumping duties is not necessary to prevent a continuation and recurrence of dumping and a recurrence of material injury attributable to dumping to the New Zealand industry producing the subject goods.

10. In 2022, HWL again applied for anti-dumping duties to be imposed on Chinese imports. MBIE conducted an investigation and found that the imported preserved peaches were dumped by an overall weighted average dumping margin of 4.3 percent. However, MBIE also found that the dumped imports were not injuring the domestic industry. The investigation was concluded in June 2023. No anti-dumping duties were imposed.

11. **Figure 1** below depicts the timeline in relation to the above.

Figure 1: Past anti-dumping duties on preserved peaches from China



Other countries

12. Since the mid-1990s, various anti-dumping duties have been applied to canned or preserved peaches from South Africa, Greece and Spain as the result of MBIE investigations initiated after receipt of applications from HWL. Currently, there are anti-dumping duties in place in respect of imports of canned peaches from South Africa and Greece, and preserved peaches from Spain.

2.4 Legal requirements

Purpose of the Act

13. Section 1A of the Act provides:

    The purpose of this Act is to enable New Zealand to apply anti-dumping and countervailing duties in accordance with its obligations as a party to the WTO Agreement. Anti-dumping and countervailing duties are intended to prevent material injury or the threat of material injury to an industry, or the establishment of an industry being materially retarded, due to dumped or subsidised goods being imported into New Zealand.

14. Because the purpose of the Act is to enable New Zealand to comply with its obligations as a party to the WTO Agreement,[1] MBIE has regard to the WTO Agreement, including the WTO Agreement on the Implementation of Article VI of GATT 1994 (AD Agreement), in interpreting the Act.

Criteria for starting an investigation

15. Section 10A(1) of the Act provides that:

    The chief executive must start an investigation if the chief executive is satisfied from the evidence in the application that—

    (a) there is sufficient evidence to justify investigating whether—

    (i) goods imported or intended to be imported into New Zealand are being dumped or subsidised; and

    (ii) the alleged dumping or subsidisation—

    (A) has caused, is causing, or threatens to cause material injury to the industry; or

    (B) has caused or is causing the establishment of the industry to be materially retarded; and

    (b) the collective output of those New Zealand producers who have, in writing, expressed support for the application constitutes—

    (i) 25% or more of the total New Zealand production of like goods produced for domestic consumption (as assessed during the most recent representative period of not less than 6 months); and

    (ii) more than 50% of the total production of like goods produced for domestic consumption (assessed as referred to in subparagraph (i)) by those New Zealand producers who have, in writing, expressed support for or opposition to the application.

'Sufficient' evidence

16. In considering the sufficiency of the evidence provided, MBIE has considered whether the evidence in HWL's application, in its totality, justifies investigating the matters in section 10A(1)(a)(i) and (ii). This assessment proceeds on the basis that the application includes as much of the required evidence as is reasonably available to the applicant.

17. In undertaking this analysis, MBIE has regard to the articles in the AD Agreement:

    5.2 An application…shall include evidence of (a) dumping, (b) injury … and (c) a causal link between the dumped import and the alleged injury. Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph.

    5.3 The authorities shall examine the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiation of an investigation.

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[1] Marrakesh Agreement Establishing the World Trade Organization.

18. In order to ensure that the application is not based on simple assertion, unsubstantiated by relevant evidence, MBIE has examined the supporting evidence for export prices and normal values in the application and assessed whether that evidence does, in fact, support the values established by HWL. In doing so, MBIE has:

- Undertaken limited checks of the adequacy and accuracy of underlying evidence (data) using information it has available as contemplated by the AD agreement in order to form a view as to its sufficiency, for example to identify any significant deviations in the Applicant's data
- Assessed the adequacy and accuracy of HWL's treatment of that data (i.e. HWL's calculations), using information that is presented in HWL's application.

2.5 Report details

19. In this report, unless otherwise stated, years are years ending 30 September and dollar values are New Zealand dollars (NZD). Other currencies used are US dollars (USD) and Chinese Yuan (CNY). In tables, column totals may differ from the sum of individual figures because of rounding. All volumes are expressed on a metric ton (MT) basis unless otherwise stated. The exchange rates used are the New Zealand Customs Service (Customs NZ) exchange rates, or the rate provided by the applicant, or whichever other rate MBIE considers most appropriate in the circumstances, as indicated in the text.

3. Subject goods, Like Goods and the New Zealand Industry

3.1 Subject goods

20. 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

21. The subject goods are currently classified under Tariff Item No. 2008.70.09 and Statistical Key 00L in the New Zealand Customs Tariff, defined as "Fruit; peaches, including nectarines, prepared or preserved in ways, not elsewhere classified, in heading number 2007 and 2008, whether or not containing added sugar, other sweetening matter or spirit".

22. The tariff classification is provided for convenience and Customs purposes only, the written description being dispositive.

3.2 Import data

Application

23. HWL has identified China as the source of the subject goods and has provided import data from the Infoshare database of Statistics New Zealand (Stats NZ). In its application HWL noted that it is unable to provide the proportion of the import figures that are the subject goods of the relevant statistical key due to other imports but that the Ministry has access to the Customs database to answer this question.

24. **Table 1** below (contained in page 9 of the application) sets out Infoshare import data for all countries supplying preserved peaches, with the percentage share of the volume of imports. This data indicates that China is New Zealand's second largest destination of preserved peaches.

Table 1 (application): Imports under tariff item 2008.70.09.00 year-end September 2024

Country	Quantity (kg)	Cost including insurance and freight	Value for duty (VFD)	VFD/KG	% share of imports
Australia	201,360	754,689	734,530	3.65	3.60
Canada	1,089	3,480	3,480	3.20	0.02
China	2,524,937	6,179,664	5,927,026	2.35	45.20
Greece	61,355	195,735	177,898	2.90	1.10
Italy	242	2,552	2,368	9.79	0.00
Japan	16	293	286	17.88	0.00
Korea	595	3,170	3,083	5.18	0.01
North Macedonia	696	3,979	3,705	5.32	0.01
South Africa	2,700,998	9,386,125	9,163,659	3.39	48.35
Spain	82,694	304,429	284,843	3.44	1.48
Taiwan	12,278	98,542	95,627	7.79	0.22
Total	5,586,260	16,932,658	16,396,505	2.94	100

Source: Infoshare statistics (HWL provided)

25. MBIE acknowledges HWL's inability to provide the proportion of (Infoshare) import figures that constitute the subject goods. MBIE also notes that preserved peaches coming within the subject goods are not separately identified in the Tariff of New Zealand (based on which Infoshare data is filtered), as the relevant Tariff item also includes non-subject goods such as nectarines and peaches in container sizes outside of the description of the subject goods. MBIE considers that the use of Infoshare data may raise an issue affecting the accuracy and adequacy of the data, and hence its sufficiency as evidence. MBIE does however receive regular, more disaggregated, data from Customs NZ specifically covering the tariff item under which the *subject goods* are imported.

26. To assess the adequacy and accuracy, and therefore the sufficiency of HWL's import data, MBIE checked this data against Customs import data to determine whether there were significant differences in the volumes of subject goods. MBIE's confirmation exercise showed that Chinese imports are above negligible levels, as shown in HWL's Infoshare data, and actual import volumes of subject goods from China and other countries are similar to those shown through the Infoshare data in HWL's application. This indicated that the evidence provided by HWL was suitably adequate and accurate to be sufficient evidence for the purposes of the section 10A(1) assessment.

3.3 Like goods and New Zealand industry

27. As noted at paragraph 15, MBIE must assess whether the application is made with a specified level of support from New Zealand producers of like goods to the subject goods (section 10A(1)(b)).

28. Section 3(1) of the Act provides that 'like goods', in relation to any goods, means—

    (a) other goods that are like those goods in all respects; or

    (b) in the absence of goods referred to in paragraph (a), goods which have characteristics closely resembling those goods.

Application

29. The application identifies the applicant as HWL, which is a subsidiary of the Kraft Heinz Company, USA. HWL is the only producer of preserved peaches in New Zealand, which it markets under the brand names Wattie's and Oak.

30. In its application HWL states that it produces 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, as part of its product range.

31. In support of its claim that it produces like goods to the subject goods, HWL made the following submissions:

    - Physical characteristics: HWL produces preserved peaches in the form of halves, slices or pieces, packed in cans with a preserving liquid. It states that these preserved peaches are very similar, if not identical, to the subject goods imported from China.

    - Functions and Usage: HWL produces preserved peaches for retail and food service sale in New Zealand. It states that these have the same function and application as the subject goods, i.e., for consumption from a retail purchase or consumed through a hospitality channel such as a hotel.

    - Pricing: HWL claims that its preserved peaches compete at the same price point as the imported subject goods. HWL states that this level of trade is HWL's wholesale price versus the imported ex-wharf cost of the subject goods as has been established in previous investigations.

- Marketing: HWL considered that the distribution channels (retail and foodservice), customers and means of advertising for the subject goods are similar to those for its preserved peaches.
- Other: HWL noted that its preserved peaches, if imported into New Zealand, would be classified under the same tariff item, No. 2008.70.09 and Statistical Key 00L, as the subject goods.

32. In conclusion HWL stated that the like goods manufactured in New Zealand by the application have the same or very similar physical characteristics, method of manufacture, function and usage, pricing marketing and tariff classification. HWL submits that there is sufficient evidence that the like goods it produces have characteristics which very closely resemble the subject goods and are therefore like goods to the subject goods.
33. HWL advised that there are no other producers of preserved peaches in New Zealand.

MBIE's assessment of HWL's claims regarding like goods

34. MBIE notes that in relation to **pricing** as a factor in considering the likeness of goods, the relevance of prices is not limited to the comparison point used in the assessment of dumping or injury. Rather, it will generally reflect the pricing point for the goods as sold to the ultimate customers. MBIE considers HWL's other claims relating to why it produces like goods to be valid.
35. On the basis of the entirety of the information provided by the applicant MBIE considers that:
    - HWL produces like goods to the subject goods.
    - The application made by HWL was made with the specified level of support from the New Zealand industry producing like goods on the basis that HWL, as the sole producer of preserved peaches in New Zealand:
        - produces over 25% of the total New Zealand production of like goods produced for domestic consumption; and
        - produces more than 50% of the total production of like goods produced for domestic consumption by producers who have expressed support for this application.
36. Consequently, officials are satisfied that the application meets the requirements of section 10A(1)(b) of the Act regarding the level of support for the application from New Zealand producers of like goods.

4. Evidence of Dumping

4.1 Introduction

37. You are required to consider whether HWL's application contains sufficient evidence to justify starting an investigation into whether the subject goods are being dumped (section 10A(1)(a)(i)).

38. Section 3(1) of the Act provides that dumping, in relation to goods, means the situation where the export price of goods imported into New Zealand or intended to be imported into New Zealand is less than the normal value of the goods as determined in accordance with the provisions of the Act, and dumped has a corresponding meaning.

4.2 Evidence of dumping

39. The application provided evidence relating to export prices and normal value relating to the period from 1 October 2023 to 30 September 2024. This evidence is set out and analysed below.

4.3 Export prices

40. Section 4 of the Act sets out how export price is to be determined. Section 4 provides that the export price shall be the price paid by the importer other than any additional costs, charges and expenses incurred in preparing the goods for shipment to New Zealand, and any other costs, charges and expenses arising after the shipment. The specific determination process differs depending on whether or not the purchase of the goods by the importer was an arm's length transaction, and whether or not the purchaser is known.

Application

41. HWL calculated export prices in China using two approaches:

    - **First approach (Estimated ex-factory export price of CNY 10.17/kg, per CONFIDENTIAL Table 3 below)**: HWL used Infoshare data for import values (NZD) and volumes (kg) for the one-year period October 2023 until September 2024 to calculate a free-on-board (FOB) export price for the subject goods. These imports span the full range of subject goods exported to New Zealand from China, including preserved peaches in cans and other containers such as plastic cups and containers.

    - **Second approach (Estimated ex-factory export price of [redacted], per CONFIDENTIAL Table 4 below):** HWL used its own import data (which it sources when required) for import values (USD) and volumes. These imports were of preserved peaches in cans only.

42. In both cases, HWL used exchange rates from www.x-rates.com for the year ending September 2024 to convert the Value For Duty (VFD) amount from NZD or USD to Chinese Yuan (CNY).

43. In both cases, an adjustment was also made to account for inland freight costs based on available industry data. HWL noted that this estimate was based on a distance from New Zealand factory to New Zealand port that is likely to be shorter than the transit distance of like goods to the Chinese ports. HWL considers that this leads to a significant underestimation of the amount adjusted for inland freight.

CONFIDENTIAL Table 3: Export price calculated using HWL's first approach

Table 3: Infoshare Export Price Year End September 2024

Value for duty (VFD - NZD)		5,927,026
Volume (KG)		2,524,937
VFD/KG		2.35
Currency Conversion (Yuan)	4.376	10.27
Freight to port	1%	0.10
ex-Factory Yuan/KG		10.17

Source: Appendix 10.2 Statistics NZ (Infoshare), Appendix 10.3

CONFIDENTIAL Table 4: Export price calculated using HWL's second approach

Table 4: HWL Export Price August 2024

Value for duty (VFD-USD)		[redacted]
Volume (KG)		[redacted]
VFD/KG		[redacted]
Currency Conversion (USD)	7.151	[redacted]
Freight to port	1%	[redacted]
ex-Factory Yuan/KG		[redacted]

Source: Appendix 10.3, HWL

MBIE's assessment of export prices

44. MBIE considers that the **first** approach used by HWL more accurately represents an export price of the subject goods imported from China, than the second approach. This is because, like the normal value calculated by HWL (see below), the first approach to calculating an export price includes the full range of subject goods exported to New Zealand from China, including preserved peaches in cans and other containers such as plastic cups and containers. The second approach used by HWL to calculate an export price is based on its own imports from China which are preserved peaches in cans only. This is likely to reflect a lower export price than if HWL imported a full range of subject goods from China, such as preserved peaches in containers such as plastic cups and tubs, and it presented an export price on that basis.

45. In order to check the sufficiency of the evidence used by HWL to calculate a weighted average export price using the first approach, MBIE has assessed the accuracy and adequacy of the evidence.[2] This included assessing the base FOB export price and the estimated adjustments made to this base price to derive an ex-factory export price. Taking into consideration the discussion in section 2.4 above, MBIE used Customs NZ data to assess the accuracy of the information provided by HWL. Customs NZ data provides a more accurate indication of average values of imports of subject goods from China, than the Infoshare data which includes non-subject goods, which form the base prices of imports over the year to September 2024. MBIE calculated a base FOB export price based on Customs NZ data and found it was similar to the base price calculated by HWL using all imports from China over the same one-year period October 2023-September 2024.

46. MBIE agrees with HWL that the inland freight rates used by HWL to adjust the weighted average export price to the ex-factory level may not accurately reflect the actual rates in China due to the distance estimated by HWL being shorter than the actual distance from the factory to the port in China. This difference likely over-estimates the ex-factory export price but MBIE considers that it will not have a significant effect on the resulting dumping margins, for the purpose of assessing

[2] As noted in paragraph 16 above, article 5.3 of the WTO Anti-dumping Agreement states: "The authorities shall examine the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiation of an investigation."

whether or not there is sufficient evidence to justify an investigation.

47. HWL made adjustments to the base prices only for inland freight in China, using actual costs derived from its knowledge of the New Zealand market, but information that may shed light on other adjustments, such as for port handling charges and clearance fees in China, was not provided. However, MBIE considers that such information may not have been reasonably available to HWL. As such, MBIE is satisfied with HWL's inland freight adjustments on the basis that these have been calculated using as much information as was reasonably available to it.

48. MBIE is satisfied that the ex-factory export price of 10.17 CNY/kg in HWL's application, using the first approach outlined above, is sufficient evidence of an export price for the purpose of starting an investigation on the basis that:

- HWL's FOB price export price for the subject goods is adequate and accurate
- HWL's currency conversion approach is adequate and accurate
- HWL's inland freight adjustments, while likely overestimated, will not have a significant effect on the presence of a corresponding dumping margins (i.e. export prices are likely to decrease, and therefore dumping margins are likely to increase given the overestimation).

4.4 Normal values

49. Section 5 of the Act sets out how normal values are to be determined for the purpose of the Act. Section 5(1) provides:

Subject to this section, for the purposes of this Act, the normal value of any goods imported or intended to be imported into New Zealand shall be the price paid for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

50. Section 5(2) provides for provides for normal values to be based on constructed values or on prices to third countries in the following circumstances:

Where the chief executive is satisfied that the normal value of goods imported or intended to be imported into New Zealand cannot be determined under subsection (1) because—

(a) there is an absence of sales that would be relevant for the purpose of determining a price under that subsection; or

(b) the situation in the relevant market is such that sales in that market that would otherwise be relevant for the purpose of determining a price under subsection (1) are not suitable for use in determining such a price; or

(c) like goods are not sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions by the exporter and it is not practicable to obtain within a reasonable time information in relation to sales by other sellers of like goods that would be relevant for the purpose of determining a price under subsection (1),—

the chief executive may determine that the normal value, for the purposes of this Act, shall be either—

(d) the sum of—

(i) such amount as is determined by the chief executive to be the cost of production or manufacture of the goods in the country of export; and

(ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export,—

(A) such amounts as the chief executive determines would be reasonable amounts for administrative and selling costs, delivery charges, and other charges incurred in the sale; and

(B) an amount calculated in accordance with such rate as the chief executive determines would be the rate of profit on that sale having regard to the rate of profit normally realised on sales of goods (where such sales exist) of the same general category in the domestic market of the country of export of the goods; or

(e) the price that is representative of the price paid for similar quantities of like goods sold at arm's length in the ordinary course of trade in the country of export for export to a third country.

Application

51. HWL has provided evidence of prices in China in the form of prices for subject goods available from online retailers in China. These prices were for canned peach halves of sizes (weight) ranging from 200g to 5kg. Information on these products was obtained from three online retailers and covered four brands. HWL calculated a normal value in China using two approaches:

    - **First approach (ex-factory normal value of CNY 19.30/kg per CONFIDENTIAL Table 5 below)**: HWL calculated a normal value for a Chinese manufacturer selling directly to a retailer. The company made adjustments for a retailer's margin and inland freight to customer. The adjustments for the retailer's margin was based on HWL's knowledge of the margin and distribution costs for preserved peaches sold in New Zealand. HWL calculated a percentage retail margin on preserved peaches, based on its own prices to retailers and the average New Zealand retail price of canned peaches which was sourced from IRI Retail data. HWL provided data and calculations in support of its retail margin.

    - **Second approach (ex-factory normal value of CNY 12.95/kg per CONFIDENTIAL Table 6 below):** HWL made adjustments for a retailer margin, a wholesaler (distributor) margin, and for inland freight charges. The basis for the distributor margin used by HWL was obtained from MBIE's 2019 Reconsideration (referred to in Section 2.3 above) where the distributor supply chain model was analysed, and an appropriate estimate of this margin was established.

52. Under both approaches, HWL proposed an adjustment for inland freight to customer on the basis of its understanding of freight charges in the New Zealand market. The company supported its estimate of the adjustment required for inland freight with a weighted average calculation of freight rates to customers in the North and South Islands of New Zealand from which it was able to calculate a percentage figure (i.e. the freight cost as a percentage of selling price).

53. Under both approaches, HWL considered the adjustment for VAT of 13 percent a nil deduction as HWL understood there to be an export rebate on VAT. Therefore, HWL did not make a downward adjustment to the normal value base price for the 13 percent VAT.

CONFIDENTIAL Table 5: Normal Value calculated using HWL's first approach

Table 5: Notional Normal Value November 2024

Retail Price Yuan/KG		[redacted]
excl. VAT	0.0%	[redacted]
excl. Retail Margin	[redacted]	[redacted]
Freight to Customer	[redacted]	[redacted]
ex-Factory Wholesale/KG		19.30

Source: Confidential Appendix 10.4, HWL

CONFIDENTIAL Table 6: Normal Value calculated using HWL's second approach

Table 6: Normal Value December 2024 Distributor\Wholesaler

Retail Price Yuan/KG		[redacted]
excl. VAT	0.0%	[redacted]
excl. Retailers Margin	25.0%	[redacted]
excl. Distributor Margin	45.0%	[redacted]
Freight to Customer	[redacted]	[redacted]
ex-Factory Wholesale/KG		12.95

Source: Appendix 10.4, 2019 Reconsideration

MBIE's assessment of normal values

54. MBIE can accept evidence of online retail prices as base prices for the calculation of normal value including the use of three online retailers supplied by HWL as the basis for its assessment of normal values. At this point MBIE does not have any evidence indicating the extent to which the three sources provided by HWL are representative of domestic prices in China but accepts that this is information reasonably available to the applicant for the purposes of estimating a normal value.

55. Further review of the evidence provided by HWL indicated that a discount of CNY20/kg off the retail price was available. HWL did not account for this discount in its calculation of its base prices for establishing normal values. In order to assess the reliability of HWL's normal values, MBIE adjusted the base prices by this discount and calculated a new, lower weighted average base price of [redacted] for the purpose of establishing a weighted average normal value.

56. MBIE considers that HWL's treatment of VAT in calculating the normal values was not correct since the retail price in the domestic market includes the VAT, and any adjustment for exemption of export sales from VAT is to be applied at a different point in the calculation of dumping margins. The result of HWL's approach is an overestimated normal value for both approaches presented in the application.

57. MBIE considers that the **second** approach used by HWL to calculate normal value is likely to be more reflective of the costs incurred by Chinese businesses during the ordinary course of trade, than the first approach, by including an adjustment for a distribution (wholesale) margin. While HWL used a distributor margin established in the 2019 Reconsideration to calculate the normal value using this approach, rather than the more recent 2023 Investigation of dumping into Chinese preserved peaches, MBIE considers the distributor margin used by HWL to be sufficient for the purpose of calculating a normal value under this method. MBIE also notes that the combined retailer/distributor margin (70 percent) used by HWL in second approach, is within the range referenced in the 2023 Investigation of dumping into Chinese preserved peaches (i.e., a combined retailer/distributor margin of 70-85 percent).

58. To assess the sufficiency of HWL's ex-factory normal values under both approaches, MBIE calculated a retail selling price using the online retails selling prices provided by HWL but excluding the CNY20/kg discount referred to above, and also deducted the cost of the VAT of 13 per cent from the retail selling price. MBIE considers that this is necessary to establish the VAT exclusive base price, and ensures that the normal value and export price are properly comparable, in that neither include VAT. It is also consistent with how the VAT has been treated in previous dumping investigations involving China. This exercise found that MBIE's assessment/check of HWL's ex-factory normal values under the first and second methods showed values lower than the ex-factory normal values calculated by HWL.

59. However, MBIE is satisfied that the ex-factory normal values provided in HWL's application, using the **first** and **second** approaches outlined above are, on balance, sufficient evidence of normal values for the purpose of starting an investigation on the basis that:

- HWL has provided sufficient evidence of online retail prices.
- HWL has provided sufficient evidence of VAT, distributor and retail margins and an inland freight adjustment.
- While adjustments for the CNY 20/kg discount and VAT meant that the normal values needed to be amended, it is still possible, solely on the basis of underlying evidence provided by HWL, to accurately and adequately, and therefore sufficiently, calculate normal values for the purposes of a section 10A(1) assessment.

4.5 Dumping margins

60. MBIE compared dumping margins calculated using a) the application's export prices and normal values; and b) the amended export prices and normal values following MBIE's checks to determine whether there was a significant difference in dumping margins identified using HWL's initial calculations, and the amended calculations following MBIE's assessment (i.e. a situation where both sets of calculations resulted in positive dumping margins, but the latter in a lesser margin).
61. This exercise confirmed the positive dumping margins identified under both of HWL's approaches, which MBIE considers to be sufficient evidence of dumping provided in HWL's application.

4.6 Conclusions on evidence of dumping

62. In considering the requirements of section 10A(1)(a)(i) of the Act, and the evidence in HWL's application as a whole, the Trade Remedies Team is satisfied that there is sufficient evidence of dumping of imports of the subject goods from China in HWL's application to justify starting an investigation.

5. Evidence of Material Injury Caused by Dumping

5.1 Legal requirements

63. MBIE is required to consider whether HWL's application contains sufficient evidence to justify investigating whether dumping of the subject goods has caused or is causing material injury to the New Zealand industry (section 10A(1)(a)(ii)(A) of the Act).

64. Section 8 of the Act defines 'material injury'. Section 8(1) sets out the test for material injury, stating:

In determining for the purposes of this Act whether or not any material injury to an industry has been or is being caused or is threatened…by means of the dumping…of goods imported or intended to be imported into New Zealand from another country, the chief executive shall examine—

(a) the volume of imports of the dumped or subsidised goods; and

(b) the effect of the dumped or subsidised goods on prices in New Zealand for like goods; and

(c) the consequent impact of the dumped or subsidised goods on the relevant New Zealand industry.

65. Section 8(2) states:

Without limiting the generality of subsection (1), and without limiting the matters that the chief executive may consider, the chief executive shall have regard to the following matters:

(a) the extent to which there has been or is likely to be a significant increase in the volume of imports of dumped…goods either in absolute terms or in relation to production or consumption in New Zealand:

(b) the extent to which the prices of the dumped…goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers:

(c) the extent to which the effect of the dumped…goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have been likely to have occurred:

(d) the economic impact of the dumped…goods on the industry, including—

(i) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and

(ii) factors affecting domestic prices; and

(iii) the magnitude of the margin of dumping; and

(iv) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments:

(e) factors other than the dumped…goods that have injured, or are injuring, the industry, including—

(i) the volume and prices of goods that are not sold at dumped prices or that are not subsidised; and

(ii) contraction in demand or changes in the patterns of consumption; and

(iii) restrictive trade practices of, and competition between, overseas and New Zealand producers; and

(iv) developments in technology; and

(v) the export performance and productivity of the New Zealand producers:

(f) the nature and extent of importations of dumped…goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such

importations.

66. The material injury analysis is normally assessed by comparing data for an injury factor against data in a period unaffected by dumping (a coincidence analysis). This approach takes account of the clear wording in section 8(2)(d) of the Act (economic impact of the dumped goods on the industry) which refers to "actual and potential decline" in a series of factors, but also considers the trend experienced over the period for the factors concerned, and is not simply a binary comparison of the beginning and end points of the period investigated. In considering the extent of the effect of dumped imports in contributing to an "actual or potential decline," the analysis can also be undertaken on the basis of the position that the industry would have been in but for the dumping, requiring inferences to be drawn as to the counterfactual situation.

67. The evidence provided in HWL's application is assessed below against each of factors set out above in order to reach an overall conclusion as to whether there is sufficient evidence that there is material injury being caused to the New Zealand industry by the alleged dumping.

5.2 Evidence of material injury as a result of dumping

68. MBIE notes that HWL's application is made on the basis that New Zealand's preserved peach industry is suffering current injury as a result of alleged dumping. In assessing an application requesting the initiation of an anti-dumping investigation on the basis of current injury, MBIE is required to determine whether there is sufficient evidence of current injury, which in this case is based for the most part on information from 2020 to 2024. MBIE's evaluation of the effect of the alleged dumping on the relevant injury factors alleged in the application is therefore based on an assessment of whether there is sufficient evidence of an actual decline or other impact on those factors.

5.3 Import volume effects

69. Section 8(2)(a) of the Act provides that the chief executive shall have regard to:

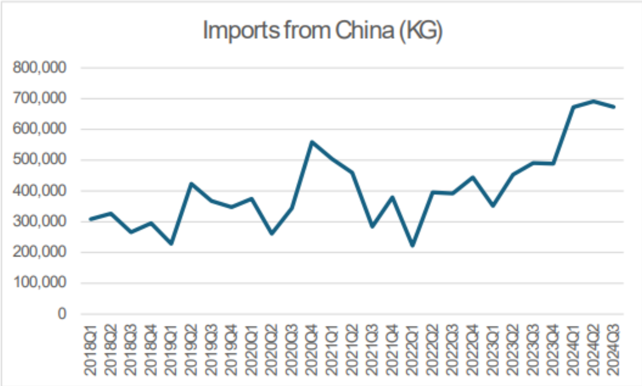
    (a) the extent to which there has been or is likely to be a significant increase in the volume of imports of dumped…goods either in absolute terms or in relation to production or consumption in New Zealand.

Application

70. In its application HWL states that there has been significant increase in imports of the subject goods from China since the company last applied for an investigation against Chinese imports in 2021. HWL stated that the increase, particularly in 2024, has been significant and that it has caused material injury to HWL.

71. HWL draws on import data from Infoshare (Statistics NZ) to support its position, showing import volumes from China and all other countries (for the year ended September 2024) and import volumes from China (since 2018) in a separate table and graph. The company provided the following graph (**Graph 1** in the application) showing imports from China since the start of 2018.

Graph 1 (application): Import Volumes from China (kg)



Source: Infoshare Statistics NZ

MBIE's assessment of import volumes

72. As set out in section 3 above, Infoshare data is categorised by Tariff line, and the relevant Tariff item includes non-subject goods such as nectarines, and peaches in container sizes outside the subject goods description. Therefore, to evaluate the adequacy and accuracy of HWL's evidence, MBIE has compared trends present in HWL's evidence to trends present in Customs NZ data which MBIE already held, and which only capture the subject goods. This comparative exercise showed that while there are some differences in the values, the overall volume and value trend in the Infoshare data and Customs data is similar.

73. The evidence indicates that over the 2021-2024 period, imports from China have fluctuated but the overall trend is an increase (see Figure 2 below). Figure 2 below clearly shows the increased imports from China since HWL's 2023 February-March domestic production period.[3] However, much of this increase can be attributable to Cyclone Gabrielle which struck in February 2023. The increase in imports from China post Cyclone Gabrielle would be expected to offset HWL's decreased domestic production resulting from the damage to peach crop caused by the cyclone. The data shows that HWL itself was a significant importer of Chinese preserved peaches post Cyclone Gabrielle especially in the third quarter of 2024 (July – September 2024).

Figure 2 (MBIE): Imports trend from China (MT)

[redacted]

Source: NZ Customs

[3] New Zealand grown peaches are picked unripe in February/March for processing as soon as possible after harvest. Processing typically is undertaken over a 7-week period from the start of February with an aim to finish processing and harvesting before the end of March. HWL's financial year is the calendar year so processing is in the first quarter of the company's financial year.

Conclusions relating to import volumes

74. MBIE is satisfied that there is sufficient evidence in HWL's application to show that imports of the subject goods from China have increased significantly since the beginning of 2018 including since the New Zealand industry last applied for an investigation against Chinese imports in 2022. The data also shows that imports from China increased post Cyclone Gabrielle, which struck in February 2023, which would be expected bearing in mind the impact of Cyclone Gabrielle on domestic production. While domestic production capability has since returned to normal, the data shows that Chinese import volumes have continued to increase and are now the highest they have been for a number of years.

5.4 Price effects

75. Sections 8(2)(b) and (c) of the Act provide that the chief executive shall have regard to the extent to which prices of the dumped goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers, and the extent to which the effect of the dumped goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have been likely to have occurred (price suppression).

5.4.1 Price undercutting

76. Price undercutting refers to a situation where prices of allegedly dumped product are sold on the New Zealand market at lower prices than like goods produced by the New Zealand industry.

77. Prices are compared at the point that the imported goods first compete with the goods made in New Zealand, generally at the ex-wharf level. Price undercutting is not in itself a determinant of the existence or extent of injury.

78. The extent to which price undercutting by dumped imports must occur before it should be considered significant is assessed on a case-by-case basis taking into account the degree of undercutting and the volume of imports where price undercutting has occurred relative to total dumped imports, as well as the timing and frequency of price undercutting.

Application

79. To calculate the level of price undercutting, HWL has compared the import price of the subject goods (using Infoshare data) with the price of like goods (Wattie's and Oak brands) produced in New Zealand. HWL undertook this comparison at an ex-warehouse (for like goods) to ex-wharf (for imports) level (**Table 10** of the application). The ex-warehouse price was calculated as HWL's net sales value per kg for the Oak and Wattie's brands respectively where an allowance of [redacted] percent has been deducted for inland freight from factory to customer. The ex-wharf import price was calculated as the average per kg ex-wharf import value, including overseas insurance and freight, sourced from Infoshare data for imports from China over a one-year period.

80. The evidence provided by HWL indicates that price undercutting is occurring across both the Oak and Wattie's brand at the year-end September 2024.

MBIE's assessment of price undercutting

81. To evaluate the adequacy and accuracy of HWL's evidence MBIE has checked whether there are significant differences in the outcome when comparing with HWL's price undercutting levels for all goods using Infoshare data for subject goods with price undercutting levels using Customs data for subject goods. Such differences, if present, could raise concerns about the adequacy and accuracy, and therefore the sufficiency of the evidence in HWL's application.

82. For the purpose of this confirmation exercise, MBIE undertook this comparison at the ex-warehouse (for like goods) versus the ex-wharf (for subject goods) level. The ex-warehouse price was calculated as HWL's net sales value per kg for the Oak and Wattie's brands respectively, using HWL's data. The ex-wharf import price was calculated based on Customs NZ import data for subject goods at the ex-wharf level.

83. Price undercutting levels using Customs data were slightly higher than the levels identified by HWL using Infoshare data, across the Oak and Wattie's brands.

84. MBIE therefore considers that HWL has provided sufficient evidence to show the existence of price undercutting and, MBIE considers that there is sufficient evidence that the price undercutting can be attributed to the alleged dumping of subject goods from China.

5.4.2 Price depression

85. Price depression occurs where prices achieved by the New Zealand manufacturers are lower than those achieved in a period unaffected by allegedly dumped goods. MBIE does not have any quantitative guidelines about the extent to which price depression must occur before it should be considered significant.

86. Where the evidence indicates that the price at the end of the period is lower than prices at previous points, even if there has been an increase in the interim, this may still allow a finding that there has been price depression compared with the period prior to the commencement of the dumping. Where the evidence indicates no price depression, for example where there is no declining trend in prices, then it would be difficult to attribute price depression to any cause, including dumped goods.

Application

87. In its application, HWL provided yearly average net sales values for the period 2021-2024 These average net sales values were detailed in Table 12 and **Graph 3** of the application (see below). HWL provided the data in September years (October – September).

Graph 3: Price Depression

[redacted]

88. HWL stated that its average net sales value (price per kg), for both its Wattie's and Oak brands, increased over the 2023 September year (Oct 22-Sept 23) due to having less stock on hand to promote because of the effects of Cyclone Gabrielle. The result was that its average net sales value (price per kg) increased over this period. However, with more stock on hand to promote the following year (the 2024 September year), its average net sales value (price per kg) for both its brands decreased in 2024. The data shows that HWL's average net sales value (price per kg) has

increased for both Wattie's and Oak brands over the four-year period the company provided data for (i.e. year-end September 2021 to year-end September 2024). On this basis, HWL stated that it is not making an injury claim in regards to price depression.

MBIE's assessment of price depression

89. MBIE's analysis of the evidence for Oak and Wattie's brand prices, confirms that there was price depression from 2023-2024, however, this was likely due to the large increase in selling price in 2023 due to the effects of Cyclone Gabrielle in February 2023. An analysis of the evidence confirms that there has been no price depression for the period 2021-2024. The average net sales values provided by HWL show that there has been an increase in the average price per kilogram for both Wattie's and Oak brands over the September 2021 to September 2024 period. On this basis, MBIE considers that HWL has not provided any evidence of price depression attributable to the alleged dumping.

5.4.3 Price suppression

90. Price suppression occurs when New Zealand producers are unable to increase prices to recover increased costs. The measure of price suppression can take into account the extent to which cost increases which otherwise would be reflected in prices, have not taken place. Price increases may be in response to increases in costs, or changes in supply or demand of a product. Cost increases that are not able to be recovered by price increases will be reflected in an increased ratio of costs to sales revenue.

Application

91. HWL states (at page 18 of the application) that the effects of the dumped imports from China along with price undercutting has caused price suppression with the company being unable to offset cost increases by means of cost savings and price increases elsewhere.

92. HWL provided a table (**Table 13** in the application) which highlighted its gross margin and cost of production (for both Wattie's and Oak brands) expressed as a percentage of sales revenue for the last four years. According to HWL, the data indicates a declining gross margin in the face of increasing costs where HWL has not been able to increase prices sufficiently to maintain gross margin in the face of dumped preserved peach imports from China.

93. The data was replicated in a graph (**Graph 4** of the application – see below) which highlighted a trend of increasing costs of production against a backdrop of a trend of declining gross margin. HWL provided the data in September years (October – September).

Graph 4: Price Suppression

[redacted]

94. HWL claims the trend of increasing costs of production over the last four years against a backdrop of declining gross margins is evidence of price suppression particularly if the rapid deterioration in the last 12-month period is considered. On this basis, HWL claims significant material injury in terms of price suppression.

MBIE's assessment of price suppression

95. The information provided by HWL shows that costs increased slightly as a percentage of sales value over the entire period that HWL provided data for (i.e. over the September 2021 to September 2024 period) but especially in 2024. On this basis, MBIE considers that HWL has provided sufficient evidence of price suppression and MBIE considers that there is sufficient evidence that the price suppression can be attributed to the alleged dumping of subject goods from China.

Conclusions relating to price effects

96. MBIE is satisfied that on the basis of the information in HWL's application:
    - HWL has provided sufficient evidence to show the existence of price undercutting.
    - HWL has not provided any evidence of price depression if the data over the entire four-year period is considered but notes the company is not making an injury claim in regards to price depression.
    - HWL has provided sufficient evidence of price suppression if the data over the entire four-year period is considered but particularly if the last 12-month period is considered.
97. In light of the above, and the conclusion reached on the sufficiency of the evidence regarding dumping, MBIE considers that there is sufficient evidence to justify investigating whether these price effects can be attributed to the alleged dumping of subject goods from China.

5.5 Economic impact of dumping

98. Section 8(2)(d) of the Act provides that the chief executive shall have regard to the economic impact of the dumped goods on the industry, including—

(i) *actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and*

(ii) *factors affecting domestic prices; and*

(iii) *the magnitude of the margin of dumping; and*

(iv) *actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.*

99. In its application, HWL states that alleged dumping of the subject goods has resulted in:

- an actual decline in sales volume and revenue;
- an actual decline in market share; and
- an actual decline in profits.

5.5.1 Actual decline in sales volume and revenue

Application

100. HWL states, at page 19 of its application, that the its sales revenue has declined which is attributable the dumping. HWL sets out a summary of its loss of sales revenue in Table 14 and **Graph 5** of its application (see below). HWL provided data in September years (October – September).

Graph 5: Sales Revenue

[redacted]

101. HWL stated that Graph 5 shows a decline in sales revenue as a trend. The company stated that while the sales decline in 2023 is partially attributable to the impact of Cyclone Gabrielle, the fact that the retail channel market share recovered in the early part of 2024 demonstrates that the significant contributor to a loss of sales revenue in 2024 has been the increase in volume of preserved peaches from China.

102. HWL stated that part of the sales loss in the last 12 months is attributable to Cyclone Gabrielle but what is evident when looking at the quarterly view is that since the 2024 production season (Feb-March) its domestic sales have been significantly lower in terms of volume and value compared to previous years quarters which HWL claims is due to the dumped preserved peaches from China. In terms of its domestic sales volume for 2024 quarters two (April-June) and three (July-September), HWL noted that its sales are only [redacted]‘percent of 2022 and [redacted]‘percent of 2021

demonstrating that there has been significant loss of sales attributable to the dumped preserved peaches from China. HWL stated that this nets off the effect of Cyclone Gabrielle on its sales and represents a significant loss of sales revenue over the period.

MBIE's assessment of sales volume and revenue

103. In its assessment of the application, MBIE has considered the evidence provided by HWL on its loss of sales volume and revenue in relation to section 8(2)(d)(i) of the Act.

104. The evidence clearly shows that HWL has incurred a significant decrease in sales volume and revenue, for both Wattie's and Oak brands, since 2021 and in particular in 2024. Much of the 2023 decline can be put down to the production shortfall due to the impact that Cyclone Gabrielle had on HWL's 2023 peach harvest and canning operation. The subsequent recovery in the peach crop has resulted in a corresponding recovery in HWL's domestic sales of canned peaches, in 2024, but it is below the level experienced in previous years and prior to Cyclone Gabrielle, suggesting that there are factors other than Cyclone Gabrielle that have resulted in HWL's lower than expected 2024 sales. In light of the conclusions reached regarding dumping, MBIE considers that there is sufficient evidence that the decline in sales volume and revenue can be attributed to the alleged dumping of subject goods from China.

5.5.2 Actual Decline in Market Share

Application

105. With regards to market share, as set out at pages 15 and 16 of its application, HWL provided a Graph (**Graph 2** below) showing quarterly retail brand market share movements, of its Wattie's and Oak brands, since the first quarter of 2020 using IRI Retail data. During this period there were two distinct weather events that impacted domestic production and therefore HWL's market share of canned peaches. These events were Cyclone Dovi in February 2022 and, as noted previously, the more disastrous cyclone Gabrielle in February 2023.

Graph 2: HWL Retail Brand Share

[redacted]

Source: IRI Scan Data

106. HWL claims, as shown by the above data, that *post-Cyclone Gabrielle (Feb 2023)*, it was able to continue to sell domestically-produced Wattie's brand canned peaches until carryover stocks and 2023 production was exhausted. At the same time, HWL imported limited quantities of Oak branded product to protect the shelf space and supply retailers and consumers with product.

107. HWL stated that, post the 2024 harvest and production season (Feb-March), its market share (both Wattie's and Oak brands) increased to pre-cyclone Gabrielle levels (reaching [redacted] percent in the quarter ending June 2024). Since then however, HWL claims its market share has decreased to [redacted] percent in the quarter ending November 2024. The company claims that this recent loss in market share is attributable to product from China.

108. The total New Zealand preserved peach market also includes the food service channel where HWL notes there is limited data available to be able to calculate its size, growth and share by brand. HWL estimates that its share of the food service channel has continued to decline as a result of having to compete with dumped preserved peaches from China. HWL claims that it is particularly difficult to compete in the food service channel as brand does not play as important a role as it does in the retail channel.

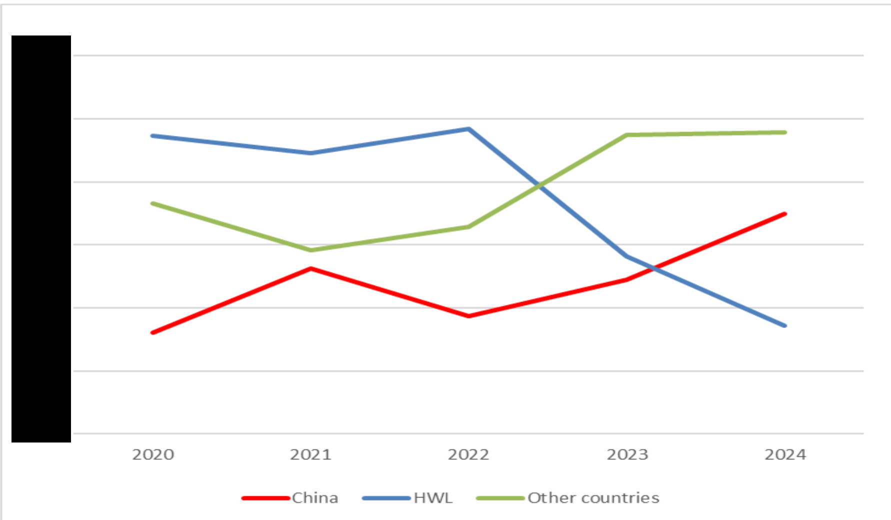
MBIE's assessment of market share

109. HWL states that due to high competition with Chinese peaches HWL lost significant market share in 2024 on preserved peaches and claims significant material injury resulting from market share loss.

110. **Graph 2** of HWL's application shows a decline in retail market share of both Wattie's and Oak brands since 2020, with the decline in 2022 and 2023 coinciding with the after-effects of Cyclone Dovi and Cyclone Gabrielle and a corresponding increase in imports from China (see section 5.3 above). The data clearly shows that these two weather-related shocks (cyclone Dovi in February 2022 and Cyclone Gabriele in February 2023) impacted HWL's domestic production of preserved peaches and its market share in the retail channel which fell significantly after these events. This would be expected, however, as the both events would have impacted the domestic peach crop available for processing into canned peaches.

111. To evaluate the adequacy and accuracy of HWL's evidence on its market share, MBIE has checked whether there are significant differences between the market share evidence provided by HWL using IRI Retail data and market share trends shown through Customs NZ data. Such differences, if present, could raise concerns about the adequacy and accuracy, and therefore the sufficiency of the evidence in HWL's application. The Customs NZ data relates to imports of subject goods from China and other countries as well as HWL's sales of domestically-produced canned peaches. MBIE's analysis accounts for market share changes in *both* the retail and service channels because it is based on Customs NZ data and HWL's domestic sales to both channels. **Figure 4** below presents this data in June years from 2020-2024:

Figure 4 (MBIE): Market share (June years)
2020 – 2024, Percentage



112. The evidence sourced by MBIE shows that HWL has experienced a decline in its market share in both the retail and service channels since 2020 but especially since 2022. The information shows that this decline is attributed to increases in imports of subject goods from China as well as from other sources. As noted elsewhere in this report, this would be expected due to the impact of Cyclone Gabrielle on HWL's 2023 peach harvest and canning operation and the need for imports to fulfil the domestic market requirements post cyclone Gabrielle.

113. The information provided by HWL, and assessed by MBIE using Customs NZ data, suggests a degree of coincidence between the loss of market share by HWL and the increase in market share of Chinese imports which leads MBIE to consider that that HWL's loss of market share is in part attributed to the imports from China. However, the continuing decline in HWL's market share in 2024 also reflects the increase in the share of other countries rather than that of China. MBIE considers that there is sufficient evidence that the decline in HWL's market share can be at least partially attributed to the alleged dumping of subject goods from China.

5.5.3 Actual decline in profit

Application

114. HWL states, at page 20 of the application, that the loss in sales revenue directly coupled with the effects of price suppression has had a significant impact on its profits (EBIT, or Earnings Before Interest and Tax). HWL sets out a summary of its decline in profits in Table 15 and **Graph 6** of the application (see below). HWL provided data in September years (October – September).

Graph 6: EBIT

[redacted]

115. HWL claims that the profit data clearly shows significant material injury in the last 12 months, particularly the last 6 months since the 2024 production season where HWL has been unable to lift prices to offset rising costs. Due to this HWL is making a claim of significant material injury for a loss of profit due to dumped preserved peaches from China.

MBIE's assessment of profit

116. MBIE is satisfied that HWL's application contains evidence that the company has incurred a decline in profits. MBIE considers that there is sufficient evidence that the decline in profit can be attributed to the alleged dumping of subject goods from China.

5.5.4 Other factors and indices regarding the economic impact on the industry listed in Section 8(2)(d) of the Act

Application

117. HWL noted in its application that with regard **to productivity**, imports of preserved peaches from China are not having an injurious effect on HWL's productivity. This reflects the fact that HWL sources all available peach raw material available for processing in Hawkes Bay and converts this into preserved peaches. The company noted that it has commitments to contracted growers to take their crop for 2025 through 2026.

118. HWL noted in its application that with regard to **return on investments**, it views the industry positively and continues to invest in its canned preserved peach processing operation and installed a new colour sorter at a cost of [redacted] for the 2022 production season. The company has also replaced all its peach pitters with new equipment. on the basis that existing trade remedies provide a level playing field. HWL has also stated that its ability to make such investments is affected by the levels of profit it can achieve, but has not provided any supporting information.

119. HWL noted in its application that its **production capacity** is constrained by the crop its contracted orchardists can deliver and that it sources all the raw material the orchardists can deliver for conversion into canned preserved peaches.

120. In terms of its **cash flow**, **inventories**, and **employment and wages**, HWL stated that these injury factors are not good indicators of injury, that it is not making an injury claim in relation to these factors, or that there are currently no adverse effects on these injury factors.

121. In terms of its **ability to raise capital and investment** in the industry, HWL stated that it has invested significant capital due to its favourable view of the industry moving forward and that it will continue to invest in the industry as long as there is a trade remedies system in place to defend local industries from dumped imports.

122. In terms of **factors affecting domestic prices** and the **magnitude of the margin of dumping**, HWL has not taken a position with regards to these factors, nor has the company provided evidence with regards to these factors.

MBIE's assessment of other factors and indices

123. In its assessment of the application, MBIE attempts to address all of the factors and indices set out in section 8(2)(d) of the Act, but its overall conclusion will only take account of those factors and indices on which evidence has been provided by the applicant. MBIE notes that HWL has made some general comments concerning certain injury factors and indicators including productivity, return on investment, cash flow, inventories and employment etc. MBIE notes that, in respect of the other factors and indices set out in section 8(2)(d), either no position or no evidence has been provided with regard to the factor. In these cases HWL has stated in its application that it does not considers those injury factors to be good indicators of injury, HWL is not making an injury claim in relation to the factor, or that there are currently no adverse effects on the injury factor. While acknowledging HWL's view from a contextual perspective, MBIE does not consider these relevant to a decision regarding the sufficiency of evidence that *is* provided in HWL's application.

5.5.5 Factors other than dumping that cause injury

124. Section 8(2)(e) of the Act provides that the chief executive shall have regard to factors other than the dumped goods that have injured, or are injuring, the industry, including—

(i) The volume and prices of goods that are not sold at dumped prices or that are not subsidised

(ii) Contraction in demand or changes in the patterns of consumption

(iii) Restrictive trade practices of, and competition between, overseas and New Zealand producers

(iv) Developments in technology

(v) The export performance and productivity of the New Zealand producers

Application

125. In its application, HWL states that it is not aware of any material injury being caused through fairly traded competitor branded products, that there does not appear to be any contraction in demand or changes in consumption patterns, that it is not aware of any further restrictive trade practices that are currently affecting the New Zealand industry, that it does not believe there is any evidence of a technology development relevant to the consideration of material injury, noting that its method of processing peaches is very similar to that of other processors.

126. HWL also noted in its application that it only exports a small volume of the peaches that it produces, suggesting therefore that its export performance and productivity do not have an effect on its domestic production performance.

MBIE's assessment of factors other than dumping causing injury

127. In its assessment of the application, MBIE attempts to address all of the factors and indices set out in section 8(2)(e) of the Act but its overall conclusion will only take account of those matters on which evidence has been provided by the applicant.

Non-dumped imports

128. This factor requires an assessment of the extent to which prices of imports from other sources might be affecting HWL. In its application HWL stated that it was not aware of any material injury being caused through fairly traded competitor branded products. MBIE understands this to mean that to the extent that imports from other countries are being sold at non-dumped prices, including where there are already anti-dumping duties imposed on those imports to ensure they are being traded fairly, HWL considers that it is not being injured by these imports.

129. The import data provided by HWL in its application shows that South Africa is the largest source of imports of preserved peaches but that the average FOB price is higher than the average FOB price of the Chinese imports. This fact and the fact that there are anti-dumping duties currently in place on imports from South Africa as well as on imports from Spain and Greece (two other historically high volume sources of canned peaches into New Zealand) suggests that any injury attributed to the allegedly dumped imports from China is not also attributable to imports of the subject goods from other sources. .

Changes in demand or patterns of consumption

130. HWL has not provided evidence of injury to the New Zealand industry arising from changes in demand or in patterns of consumption.

Restrictive trade practices and competition

131. MBIE has no evidence of any injury to the New Zealand industry arising from restrictive trade practices or competition issues.

Developments in technology

132. MBIE has no evidence of any injury to the New Zealand industry arising from developments in technology that could be injuring the New Zealand industry.

Export performance and productivity

133. HWL exports only negligible amounts of the preserved peaches that it produces, and therefore that these exports are unlikely to be having an effect on the company's domestic production performance.

Conclusions relating to other factors

134. MBIE considers that on the basis of the evidence reviewed, any injury to the New Zealand industry caused by factors other than the alleged dumping has not been attributed to the alleged dumping of imports of subject goods from China.

5.5.6 Imports of dumped goods by the New Zealand industry

135. Section 8(2)(f) of the Act provides that the chief executive shall have regard to the nature and extent of importations of dumped goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importations.

Application

136. In its application, HWL stated that it imports preserved peaches in times of short supply, due to adverse weather events for example, noting that it endeavours to source New Zealand grown fruit for its preserved peach operation with the strategy [redacted] Any surplus is packed off under the Oak brand. HWL stated that the sale of HWL's preserved peach imports, which are labelled the same way and sold at the same price as the New Zealand products, 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.

MBIE's assessment of imports by the industry

137. Import data provided by HWL in its application shows that the company imported subject goods from China during 2024 and in quantities which reflects its stated strategy which is [redacted] and will only import preserved peaches in times of short supply, due to adverse weather events for example.

5.5.7 Other matters

138. The chief executive is not limited to the generality of section 8(1) of the Act or the matters listed under section 8(2) when making a determination of whether or not material injury to an industry has been caused or threatened. The chief executive is also able to consider the existence of any additional factors relevant to the application of sections 8(1) and 8(2) of the Act. MBIE uses this to include ensuring that sufficient evidence has been provided showing that the material injury to the New Zealand industry is caused by dumping (causal link).

Application

139. In its application HWL refers to comments it made in relation to the impacts on its operation due to Cyclone Dovi in February 2022 and Cyclone Gabrielle in February 2023 (refer Market Share section above). Most significantly, HWL noted that its market share fell in 2023 due to Cyclone Gabrielle but it regained lost ground post the 2024 harvest and production season for canned

peaches. Since then, however, HWL claims that its market share has decreased which it attributes to product from China.

MBIE's assessment of other matters to be considered

140. Market share data provided by HWL in its application shows that the company's market share in the retail sector was affected by the impact of Cyclone Dovi (February 2022) and Cyclone Gabrielle (February 2023) on the domestic production of canned peaches. Chinese imports were consequently required to fill the gap between domestic canned peach production and market demand. This raises the question of whether the effects of the two cyclones discussed in HWL's application are being attributed to the alleged dumping of subject goods from China.

141. However, the information in HWL's application also shows that HWL was able to regain lost market share following the 2024 harvest and canned peach production period, following which its market share decreased again. This decrease is particularly in respect of HWL's OAK brand, which competes directly with Chinese imports, and corresponds with an increase in import volumes from China. MBIE is therefore of the view that the effects of Cyclone Gabrielle are not being attributed to the alleged dumping of the subject goods from China.

142. MBIE therefore remains satisfied that there is sufficient evidence in HWL's application to show a causal link between material injury and the alleged dumping of the subject goods.

5.6 Conclusion on evidence of material injury

143. In considering the requirements of section 10A(1)(a)(ii) of the Act, MBIE has reviewed the evidence of whether alleged dumping of imports of the subject goods from China is causing material injury to the New Zealand industry, and concludes that:

- There is sufficient evidence that imports of the subject goods from China have increased in absolute terms.
- With regard to price effects, there is sufficient evidence of price undercutting and price suppression attributable to the alleged dumping of the subject goods given the conclusions reached regarding dumping.
- In relation to the economic impact of dumped goods there is sufficient evidence to indicate that HWL has incurred declines in sales volume, sales revenue, market share and profit, and that the declines in these injury factors can be attributed to the alleged dumping of subject goods.
- There is no evidence that any injury to the New Zealand industry caused by factors other than the alleged dumping has been attributed to the alleged dumping of imports of subject goods from China.
- There is no evidence that any injury attributable to imports by the New Zealand industry has been attributed to the dumped goods.
- There is no evidence that the effects of Cyclone Dovi and Cyclone Gabrielle are being attributed to the alleged dumping of the subject goods from China.

144. In light of the above conclusions, and considering the requirements of section 10Aof the Act, officials are satisfied that HWL's application contains sufficient evidence of material injury in HWL's application to justify starting an investigation.

6. Conclusions

6.1 Sufficiency of evidence – section 10A(1)(a)

145. MBIE's overall conclusion is that, on the basis of the information provided in the application there is sufficient evidence of to meet the requirements of section 10A(1)(a) of the Act on the basis that:

- **There is sufficient evidence that the subject goods are being dumped:**
  - **Export price:** There is sufficient evidence to support the ex-factory export price calculated using the first approach (base values using Infoshare data) in HWL's application as:
    - there is sufficient evidence of import values in the Application under the first approach as there are no significant deviations between the Infoshare data and Customs data used to check); and
    - HWL's inland freight adjustments, while likely overestimated, will not have a significant effect on the presence of a corresponding dumping margin.
  - **Normal value:** There is sufficient evidence to support the normal values in HWL's application calculated using both approaches noting:
    - there is sufficient evidence of Chinese retail prices;
    - there is sufficient evidence of VAT, distributor and retail margins and an inland freight adjustment; and
    - while HWL failed to deduct a 13 percent VAT from the retail price and a 20 Yuan discount offered by the retailer, there remains sufficient evidence of dumping even after this discount is accounted for in the normal value calculations.
  - **Dumping margins:** There is sufficient evidence in the Application to support the presence of dumping margins.
- **There is sufficient evidence of material injury to the domestic industry being caused by the alleged dumping of subject goods on the basis that:**
  - **Import volumes:** There is sufficient evidence of an increase in imports of the subject goods.
  - **Price effects:** There is sufficient evidence of price undercutting and price suppression attributable to the alleged dumping of the subject goods.
  - **Economic factors:** There is sufficient evidence that HWL has incurred declines in sales volume, sales revenue, market share and profit, which can be attributed to the alleged dumping of subject goods.
  - **Factors other than dumping causing injury:** There is no evidence that any injury to the New Zealand industry caused by factors other than the alleged dumping has been attributed to the alleged dumping of the subject goods.

6.2 Support from New Zealand producers – section 10A(1)(b)

146. MBIE accepts that HWL, as the only New Zealand producer of preserved peaches, constitutes the New Zealand industry for the purposes of this application and that the requisite industry support for the application exists.