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Non-Confidential: Initiation of Review

Application by Heinz Wattie's Ltd for a Review of the Anti-Dumping Duties on Preserved Peaches from China

Summary

1. This report assesses an application made by Heinz Wattie's Limited (HW) on 8 June 2011 for a review of the anti-dumping duties that currently apply to imports of preserved peaches from China.

2. The report recommends that the Chief Advisor, Trade Rules, Remedies and Tariffs Group, acting under delegated authority from the Chief Executive of the Ministry of Economic Development, should initiate a review.

Background

3. Anti-dumping duties were first imposed on preserved peaches from China in August 2006. The anti-dumping duties that currently apply will expire on 21 August 2011, being 5 years from the date of the final determination, unless a review is initiated prior to this date. Reviews that are initiated prior to the expiry of anti-dumping duties are also known as 'sunset' reviews. If a review is initiated, the duties would remain in place pending the outcome of the review.

4. The description of the preserved peaches that would be subject to any review that is initiated is the same as that which applies to the goods which are subject to anti-dumping duty as described below:

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

5. In the original investigation, in accordance with the methodology applied by the Ministry at that time, the existence of dumping was determined for each container size that was investigated. Some container sizes were found to be not dumped by all of the exporters investigated and another container size was found to be not dumped by one exporter. As a result, while the description of the goods remained as shown above, no anti-dumping duties were imposed on preserved peaches in containers less than 265g in size and greater than 1.91kg in size and no anti-

dumping duties were imposed on preserved peaches in 820g containers exported by Zhejiang Iceman Foods Co. Ltd.

6. The original investigation report stated that the imported subject goods were yellow and white flesh peaches in halves slices or dices, mainly in syrup, ‘light syrup’, mango or peach juice. These were in cans of 410g, 425g (N1M), 820g, 850g (A2.5), 3kg (A10), 4 x 120g plastic pottles, and glass jars. Imports of peaches suspended in jelly were considered not to fall within the description of the subject goods because a jelly is not a liquid under normal serving conditions.

7. Preserved peaches imported from China enter New Zealand under tariff item and statistical key 2008.70.09.00L. (The subject goods are not separately identified as the tariff item includes nectarines.)

8. Preserved peaches originating from China are subject to the following rates of Customs duty:

Normal	5%
AAN	Free
CA	Free
CN & HK	1.4%, 1/2012 Free
MY	Free
TH	Free
TPA	Free

9. The assessment team notes that there were a large number of exporters of preserved peaches from China from 1 June 2010 to 30 May 2011 (the period in which dumping is likely to be assessed in the investigation). The Ministry is likely to follow its normal practice in these circumstances by basing its analysis on a selection of the exporters that represent the largest percentage of the volume of exports that can reasonably be investigated, as permitted by Article 6.10 of the Agreement.

Sunset Reviews

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

11. Any interested party that requests a review of the imposition of anti-dumping duties must submit positive evidence justifying the need for a review[2] and the

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[1] The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-dumping Agreement), Article 11.3, states in part:

> …any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review…if that review has covered both dumping and injury…), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and injury [footnote omitted.]

[2] The Dumping and Countervailing Duties Act 1988, section 14(8), states:

request must be duly substantiated and made by or on behalf of the domestic industry within a reasonable period of time prior to the date of expiry of the duties.

12. The application for a review was submitted by HW on 8 June 2011, which is 73 days prior to the expiry of the anti-dumping duties that it seeks to have considered in the review. The assessment team is satisfied that HW's request for a sunset review was submitted within a reasonable period of time prior to the expiry of the duties.

Consideration of Evidence Presented

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

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

New Zealand Industry and Like Goods

15. The Anti-Dumping Agreement states that a request for a sunset review "must be made by or on behalf of the domestic industry" (Article 11.3). Section 3A[4] of the Act defines an "industry" as the New Zealand producers of like goods and section 3[5] of the Act defines "like goods".

> The [Chief Executive] may, on his or her own initiative, and shall, where requested to do so by an interested party that submits positive evidence justifying the need for a review, initiate a review of the imposition of anti-dumping duty…in relation to goods and shall complete that review within 180 days of its initiation.

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

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

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

16. HW has advised that it continues to produce preserved peaches that are like the subject goods and that its status at the time of the original investigation as sole New Zealand producer of these products has not changed. HW has said that the like goods it produces are halved, sliced or diced peaches suspended in syrup or a 'lite' sucrose-based medium or fruit juice. The peaches are packaged in cans only, in three sizes, 410g, 820g, and 3kg, under the brands Wattie's, Oak and Weight Watchers. In the original investigation cans were considered to be like to other types of packaging (glass, plastic and pottles). HW does not make any package sizes smaller than the 410g can but has done so in the past.

17. The canned fruit salad produced by HW was not considered to be a like good in the original investigation because, while it included peaches, it was a mixture of fruits and so did not have the same physical characteristics as plain peach products and there were considerable differences in appearance, taste and production method compared with canned peaches. The Weight Watchers brand of canned peaches was also not considered to be a like good in the original investigation, because they were marketed by another company as part of a wider product: weight-loss and diet plans, and could be distinguished because of different consumer perceptions. In other cases relating to canned and preserved peaches undertaken since the original investigation into preserved peaches from China was completed, the Ministry has concluded that fruit salad and the Weight Watchers brand are not like goods.

18. On the basis of the findings of the original investigation and the findings of other cases since then, and HW's confirmation that it still produces this product, the assessment team considers that for the purposes of initiating a review there is adequate evidence that HW is producing goods that are like the goods subject to the duty. The assessment team is not aware of any other New Zealand producers of peaches in preserving liquid.

19. The assessment team considers the information outlined above constitutes positive evidence that there is still a domestic "industry" in place in terms of section 3A of the Act, which consists solely of HW, and that the request for the initiation of a review therefore constitutes an application made by the New Zealand domestic industry.

Continuation or Recurrence of Dumping

Export Price

20. HW has stated that it had not been possible to obtain actual export prices from China, so it has estimated export prices from import data from Statistics New Zealand Infoshare for the year ended February 2011 which is included in the application. The export price is based on the average New Zealand dollar (NZD) value for duty calculated from this data.

21. A deduction has been made for inland freight from the factory to the wharf in China and was estimated at 1 percent of the value for duty based on HW's understanding of local freight to wharf costs. This amount is considered reasonable when compared with the amount used in the original investigation.

22. No other export costs have been provided in the estimate of export price.

23. HW has converted the export price from NZD to Chinese Renminbi (RMB) at an exchange rate of 5.02RMB:1NZD (HW did not state the source of the exchange rate). The assessment team has obtained the average interbank NZD RMB exchange rate from the OANDA currency conversion web site[6] which is 4.92RMB:1NZD. The OANDA rate would give a lower export price than that used by HW so the assessment team has accepted the rate provided by HW.

24. There are also likely to be other costs involved in the export of the goods such as port handling charges and clearance fees and the cost of credit. Such costs if relevant would reduce the export price further, increasing any dumping margin found.

25. Using the information above the following export prices have been calculated by HW for the year ended February 2011.

Table 1: Export Price for Peaches (Year Ended February 2011)

Value for Duty (NZD)		2,665,680
Volume (Kg)		1,672,461
VFD/Kg (NZD)		1.59
Convert to RMB (x-rate)	5.02	7.98
Freight to Port (% VFD)	1%	0.08
Ex-Factory RMB/Kg		7.90

Source: Statistics New Zealand Infoshare data

Normal Value

26. HW has provided information, sourced through Euromonitor[7], on Chinese domestic market prices of preserved peaches. The normal value has been calculated from a sample of market retail prices for preserved yellow peaches taken in June 2010. The retail prices were collected from ten supermarket/hypermarket and convenience stores and were based on two types of containers (cans and glass bottles/jars) each price being for a different sized container up to 3000g. The retail price of each container has each been converted into RMB/kg and the average of the ten samples calculated, producing an average retail price per kilogram.

27. A Value Added Tax (VAT) of 17 percent is payable on sales of the goods in China. For domestic sales 17 percent has been subtracted from the retail price to calculate a VAT exclusive price.

28. In comparing the normal value and the export price the tax treatment must be tax neutral. HW has provided information in its application (from a USDA Foreign Agricultural Service Gain Report) to show that there is a VAT rebate of 15 percent

[6] www.oanda.com

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

claimable by the exporter from the Chinese government on export of goods of this type. This means that a net 2 percent tax is paid on exports of preserved peaches and therefore an equivalent 2 percent should be added back to the normal value to preserve tax neutrality.

29. HW estimated a Chinese domestic retail margin of [redacted] percent which it stated was based on its knowledge of the distribution of preserved peaches in New Zealand. The assessment team notes that this rate is based on the New Zealand market and should be treated as indicative only, and that if it is necessary to use retail selling prices in any review, the retail margins in China may need to be adjusted.

30. HW has deducted an amount of 1 percent on the domestic price for freight to customer based on its understanding of local domestic freight costs.

31. An ex-factory normal value has therefore been estimated from the above information by deducting the estimated costs involved in selling on the Chinese domestic market, using a weighted average retail price per kilogram as the base price.

32. The normal value calculation based on the above information was made for a 410g can by HW as follows:

Table 2: Normal Value RMB per Kilogram (year to February 2011)

		RMB/Kg
Retail Price		[redacted]
Less VAT (17%)	17%	[redacted]
Less Retailers Margin	[redacted]%	[redacted]
Less Freight to Customer	1%	[redacted]
Add back VAT re Exports	2%	[redacted]
Ex-factory Price		12.80

Comparison of Export Price and Normal Value

33. A comparison of the export price and normal value are compared in the table below:

Table 3: Comparison of Export Price and Normal Value

Ex-factory Export Price (RMB/Kg)	7.90
Ex-factory Normal Value (RMB/Kg)	12.80
Dumping Margin (RMB/Kg)	4.90
Dumping Margin	62%

34. HW commented that this is a large dumping margin and that there is no evidence to believe that if the current anti-dumping duty is removed that imports from China would not be dumped.

Conclusion on Dumping

35. The assessment team concludes that information provided by HW constitutes positive evidence of a recurrence of dumping should the anti-dumping duties be removed that is sufficient to justify the initiation of a review.

Continuation or Recurrence of Material Injury

36. HW has not made any claims that there has been a continuation of injury as a result of imports of the subject goods since the duties were imposed in 2006. Its application consequently focuses on providing evidence of the likelihood of a recurrence of injury should the duties be removed.

37. HW has noted that the subject goods are not separately identified in the Tariff and it cannot provide the proportion of imports under the relevant tariff item and statistical key (2008.70.09.00L) that represent subject goods. HW has, however, provided import statistics sourced from Statistics NZ for the year ended February 2011 for this tariff item and statistical key which shows that significant volumes of preserved peaches are still being imported from China, representing 30 percent of imports over this period.

38. HW has stated that [redacted]. HW has commented that in times of short supply of peaches from its growers it is compelled to import preserved peaches from [redacted] other sources. HW has noted that its imported preserved peaches are sold at the same price and in the same way as domestically produced product and that its imports do not cause it injury.

39. HW has also commented that many of the importers and exporters previously involved in exporting preserved peaches from China remain active and has submitted that “it is almost without question that these parties would be able to use the unfair advantage of dumped prices to resume further imports of canned peaches into New Zealand.”

40. HW has provided a copy of a “Gain Report” from the US Department of Agriculture on the canned deciduous fruit industry in China dated May 2010. HW has commented that this report shows that the size of preserved peach production in China is about 370,000 tonnes per year and that China therefore “[w]ould have no issues in capturing the entire New Zealand peach market with discretionary stocks of preserved peaches available, i.e. safety and carryover stocks.” (The assessment team notes that the total New Zealand market for preserved peaches is approximately [redacted] to [redacted] tonnes per year.)

41. HW has provided a breakdown of the shares of the New Zealand market by brand taken from AC Nielsen data for the year to April 2011 which shows that HW’s brands held [redacted] percent share of the market. HW has commented that the New Zealand wholesale market for the supply of preserved peaches to distributors and retailers is highly competitive and that there are no long term supply contracts in place for customers and house brand supply contracts are up for constant tender.

HW has stated that all supermarkets stock brands of preserved peaches other than HW brands and it therefore has no exclusive customers in a market that is always open to new sources of supply.

Volume Effects

42. HW has not made any claims that it will lose sales volumes should the duties be removed. As noted below HW's forecasts which are based on the assumption that the duties are removed show no loss of sales volume, rather they are premised on HW [redacted] in order to maintain sales volumes.

Price Effects

Price Undercutting

43. HW has calculated an average value for duty (VFD) per kilogram in NZ dollars for the year ended February 2011 from import data obtained from Statistics NZ for the tariff item and statistical key under which the subject goods are classified (the VFD does not include any anti-dumping duty that has been paid). HW has compared this figure to its average net sales value per kilogram for its Wattie's and Oak brands for the year ended April 2011 (HW's financial year ends in April). This comparison shows a significant amount of price undercutting of both of HW's brands.

44. The VFD, however, represents the price paid for an imported good at the free-on-board (FOB) level. HW has not attempted to adjust this price to the level of trade at which the goods would first compete with HW's product in the New Zealand market, which is normally ex-wharf or ex-importer's store. In the original investigation, the Ministry considered that the relevant level of trade at which the imported preserved peaches should be compared to HW's ex-factory net sales value was the ex-wharf level on the basis that the choice faced by supermarket chains and other importers is whether to purchase from HW or to import.

45. In the most recent review undertaken by the Ministry relating to canned peaches (the anti-dumping duty on canned peaches from Greece) the relevant level of trade for imported goods was considered to be either ex-wharf (where supermarkets import directly) or ex-store (where distributors import). For the purposes of this report, because the importing arrangements are not yet known, the assessment team considers that prices of imported goods should be calculated at both the ex-wharf and ex-store levels for comparison with HW's ex-factory average net sales values.

46. In the absence of any information from HW on the importing costs after FOB to ex-wharf and ex-store, the assessment team has used information from other sources. The cost of overseas freight and insurance is the average cost per kilogram calculated from Customs import data for imports from China under the tariff item and statistical key covering the subject goods for the year ended February 2011. Customs duty has been calculated at the current rate that applies to imports of the subject goods from China (1.4%). Amounts for port handling costs, freight to warehouse, storage costs and importer's margin have been calculated on the basis of the proportion that these costs represented of the average VFD in the 2009 review

of the anti-dumping duty on canned peaches from Greece. Anti-dumping duty has been excluded.

47. The following tables show a comparison of the ex-wharf cost and ex-importer's store price estimated on the basis set out above with HW's ex-factory net sales values.

Price Undercutting Comparison at Ex-wharf

Brand	HW's Ex-factory Prices	Ex-wharf Cost NZD/Kg	Undercutting	Undercutting as % of HW's Price
Wattie's	[redacted]	[redacted]	[redacted]	[redacted]
Oak	[redacted]	[redacted]	[redacted]	[redacted]

Price Undercutting Comparison at Ex-Importer's Store

Brand	HW's Ex-factory Prices	Ex-wharf Cost NZD/Kg	Undercutting	Undercutting as % of HW's Price
Wattie's	[redacted]	[redacted]	[redacted]	[redacted]
Oak	[redacted]	[redacted]	[redacted]	[redacted]

48. The tables show significant price undercutting when the comparison is made at the ex-wharf level. When the comparison is made at the ex-importer's store level, there is still significant price undercutting of the average Wattie's brand selling price but only a relatively small amount of undercutting of the average Oak brand selling price.

Price Depression and Suppression

49. HW has noted that [redacted]. HW said it [redacted]. HW has commented that unsustainable price differences have previously occurred when dumped or subsidised imports have entered the New Zealand market, which has resulted in such a loss of volume and market share for its products that prices for its [redacted] were forced down.

50. HW has submitted that a similar effect would be likely to occur should dumped imports from China be permitted to return to the market and [redacted] should dumped preserved peaches from China be sold in the New Zealand market.

51. HW has noted that on the basis of the average VFD per kilogram for the year ended February 2011 for imports from China, retailers would be able to command

retail price points well below $[redacted] per 410g can which HW said is historically the price retailers have used to drive foot traffic in-store. In support of this contention HW has provided a calculation of an estimated retail price based on the average VFD although it has labelled this price as "ex-wharf". However, as noted above, VFD is equivalent to the FOB price and therefore to calculate the into store cost to a supermarket, overseas insurance and freight, Customs duty and port handling costs need to be added. The assessment team has therefore adjusted HW's calculation by adding these additional costs – the results are shown in the table below.

Into store cost per kg for imports from China	$[redacted]
Into store cost per 410g can	$[redacted]
Retailer's margin @ [redacted]%	$[redacted]
GST @ 15%	$[redacted]
Retail price	$[redacted]

52. The retail price calculated by the assessment team is $0.10 per 410g can higher than the price calculated by HW but is still below the significant $[redacted] price point referred to by HW. HW has noted that if dumped preserved peaches were to be traded at the $[redacted] per 410g can price point in the New Zealand market HW "[w]ill [redacted]."

53. HW has submitted that the significant price undercutting which would result from dumped imports from China returning to the New Zealand market and the consequent depression of its prices means that price suppression would exist as it would be unable to offset the significant undercutting by means of cost savings and price increases elsewhere. HW has submitted that the opposite effect would occur as its cost base would increase due to the loss of market share taken by the dumped peaches from China causing processing costs per tonne to increase.

Economic Effects

Output and Sales

54. HW has not claimed any loss of output or sales volume should the duties be removed. HW has provided a forecast of the loss of sales revenue if dumped imports from China return to the New Zealand market. The forecast is based on the sales volumes of its Oak and Wattie's brands for the year ended April 2011.

55. The forecast assumes that [redacted]. HW has calculated that it would need to [redacted]

[redacted], which would result in a loss of sales revenue amounting to $[redacted].

56. The forecast by HW is, however, based on the amount of price undercutting by the subject goods using an average VFD calculated from NZ Statistics import data. As noted above, this is equivalent to an FOB price and needs to be adjusted to reflect its ex-wharf cost or ex-importer's store price. The assessment team has therefore re-calculated the loss of revenue that would result based on the revised levels of price undercutting and assuming that [redacted]. On this basis, at the ex-wharf level of trade there would be a loss of revenue of $[redacted] and at the ex-importer's store level of trade the loss of revenue would be $[redacted] – the assessment team notes these amounts still represent significant losses of revenue.

Market Share

57. HW has noted that in all previous investigations it has been shown that the entry of dumped peaches has resulted in a loss of market share for HW's brands of canned peaches. HW has not provided any forecast of the loss of market share should the duties be removed. As noted above, HW has not forecast any loss of output or sales volume should the duties be removed.

Profits

58. HW has noted that the forecast loss of sales revenue will directly impact on its profits and this would [redacted]. HW has also submitted that the [redacted]. HW has commented that [redacted]. HW said that [redacted].

59. HW has provided forecast information in the form of profit and loss statements for financial years 2012 and 2013 on the assumption that the duties stay in place and on the assumption they are removed, along with actual profit and loss statements for financial years 2009, 2010 and 2011. HW has, however, noted that the profit and loss statement for the 2011 financial year, that it provided in conjunction with its forecasts based on the assumption that the duties remain in place, has had an adjustment applied to the net sales value to reflect what would have been achieved in the absence of dumped imports from Spain (the Ministry is currently undertaking a dumping investigation into preserved peaches from Spain). The profit and loss statement for the 2011 financial year provided in conjunction with the forecasts based on the assumption that the duties are removed represents the actual results for that year.

60. HW has stated that the forecasts based on the assumption that the duties are removed are based on the loss of sales revenue resulting from the estimated level of price undercutting, as referred to above. A footnote to the profit and loss statements states that for the 2012 financial year this loss of revenue has been calculated from August (the “sunset” expiry date of the duties is 21 August 2011) and that for the 2013 financial year the loss of revenue has been calculated for the full year. The sales volume in the forecast based on the removal of the duties is the same as that in the forecast based on the duties remaining in place for both the 2012 and 2013 financial years. The cost of goods sold is the same in both forecasts for the 2012 financial year but in the 2013 financial year it is [redacted] percent higher in the forecast that assumes the duties are removed.

61. The loss of earnings before interest and tax (EBIT) estimated for the 2012 and 2013 financial years (when compared to the forecasts that assume the duties remain in place) is $[redacted] and $[redacted] respectively. The loss of EBIT when compared with the actual EBIT for the 2011 financial year is $[redacted] and $[redacted] for the 2012 and 2013 financial years respectively. As noted variously above, the price undercutting estimated by HW in the absence of anti-dumping duty (and the consequent loss of sales revenue) is based on an import price calculated at the FOB level. The assessment team notes, however, that if the loss of sales revenue is adjusted downwards to account for a reduced level of price undercutting on the basis calculated above, there is still a significant loss of profits.

Other Economic Effects

62. HW has submitted that “The loss of volume, sales revenue and profits from the return of dumped imports will also have significant adverse effects upon HW’s achievable return on investments, cash flow, inventories, employment, and growth [redacted].” HW has not, however, quantified these effects. The assessment team also notes that while HW has referred to a loss of sales volume in this statement, it has not provided for any loss of sales volume in its forecasts.

1.1.1 Other Causes of Injury

63. HW has made the following comments in relation to factors other than dumped imports from China that may be affecting the New Zealand industry:

- HW is not aware of any material injury being caused through fairly traded competitor branded product.
- There does not appear to be any contraction in demand or changes in the patterns of consumption.
- HW was adversely affected by dumped imports from Spain in the 2011 financial year.
- HW does not believe there is any evidence of developments in technology that are relevant to a consideration of material injury and has noted that its method of processing peaches is similar to that of other processors.

- HW exports a small volume of preserved peaches to Australia and the Pacific Islands and in the 2011 financial year this amounted to [redacted] tonnes to Australia and [redacted] tonnes to the Pacific Islands.

1.1.2 Causal Link

64. HW has noted that a causal link between dumped imports of preserved peaches and material injury was established in the original investigation which also concluded that material injury would occur to the New Zealand industry if anti-dumping duties were not put in place. HW has submitted that with the availability of Chinese preserved peaches for export this causal link still remains in place.

1.1.3 Conclusion on Injury

65. HW has provided evidence of the likely import price into New Zealand of the subject goods in the absence of anti-dumping duty based on the VFD of the goods taken from Statistics NZ import data. While the VFD is equivalent to the FOB price of the goods, when it is adjusted to either an ex-wharf cost or an ex-importer's store price, there is still evidence that there is likely to be significant price undercutting of HW's prices, particularly in relation to the Wattie's brand [redacted].

66. HW has made reasonable assumptions that this level of price undercutting would require [redacted], which would also constitute suppression of its prices and result in losses of sales revenue and profits. Although the calculations made by HW of the losses of revenue and profits are based on price undercutting using FOB prices, when these calculations are adjusted to an appropriate level of trade, there is still evidence that there is likely to be a significant loss of sales revenue and profits. HW has also made a reasonable assumption that the losses of sales revenue and profits will have a significant adverse effect on other relevant economic indicators.

67. The assessment team considers this evidence constitutes positive evidence of a likely recurrence of material injury to the domestic industry should anti-dumping duties be removed that is sufficient, in relation to injury, to justify the initiation of a review.

Conclusion

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

69. The assessment team is satisfied that an application has been made by the domestic industry within a reasonable period of time prior to the expiry of duties that contains positive evidence sufficient to justify the initiation of a review.

Recommendation

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

a. formally initiate a review of the imposition of anti-dumping duty on preserved peaches from China; and

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

Gabrielle Nixon

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Agreed

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