Peaches in Preserving Liquid from the People's Republic of China

Non-Confidential Final Review Report

Dumping and Countervailing Duties Act 1988

Ministry of Economic Development

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Trade Rules, Remedies and Tariffs Group
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Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Anti-Dumping Agreement (the)	WTO Agreement on Implementation of Article VI of the GATT 1994
Chic	Chic Foods Co. Ltd/Chic International Trading (Shanghai Pudong New Area) Co., Ltd
Chief Executive	Chief Executive of the Ministry of Economic Development
CIF	Cost, Insurance and Freight
CNY	Chinese Renminbi Yuan
DMFC	DMFC International (NZ) Ltd
EBIT	Earnings Before Interest and Tax
EUR	Euro Dollars
Euromonitor	Euromonitor International
FIS	Free Into Store
FOB	Free on Board
Foodstuffs (Auckland)	Foodstuffs (Auckland) Ltd
Foodstuffs (South Island)	Foodstuffs South Island Ltd
Foodstuffs (Wellington)	Foodstuffs (Wellington) Co-operative Society Ltd
HW	Heinz Wattie's Limited
Linyi City	Linyi City Kanfa Foodstuff Drinkable Co. Ltd (Linyi City)
Ministry (the)	Ministry of Economic Development
NV(VFDE)	Normal Value (Value for Duty Equivalent)
NZCS	New Zealand Customs Service
NZD	New Zealand Dollars
POR(D)	Period of Review (Dumping)
POR(I)	Period of Review (Injury)
PPI	Producer Price Index
Qingdao Huaci	Qingdao Huaci Metal & Porcelain (Industries) Co., Ltd.

Shanghai Reyda	Shanghai Reyda International Co. Ltd
Sino-Everygreen	Sino-Everygreen Foodstuffs Co. Ltd (Sino-Everygreen)
USD	United States dollar
VAT	Value added tax
VFD	Value for Duty
Weifang	Weifang Sunshine Food Co., Ltd.
WTO	World Trade Organisation
Xiamen Wellink	Xiamen Wellink Import & Export Co., Ltd.

1. Executive Summary

Introduction

A review of the anti-dumping duty on preserved peaches from the People's Republic of China (China) was initiated on 7 July 2011, following the receipt of an application for the continuation of the anti-dumping duty from Heinz Wattie's Limited (HW). HW claimed that the removal of the anti-dumping duty would allow imports of preserved peaches from China to be imported and sold at dumped prices thereby causing material injury to the New Zealand industry.

This report considers the likelihood of a continuation or recurrence of dumping, leading to a recurrence of material injury to the domestic industry if the anti-dumping duties are removed.

Preserved Peaches Subject to Review

The goods under review are described as:

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

Dumping

On the basis of the information gathered during the review, the Ministry has concluded that preserved peaches originating from China have been exported to New Zealand at dumped prices with weighted average dumping margins ranging from 37 percent to 87 percent.

The Ministry has concluded that should the duties be removed from the goods under review, it is likely that in the foreseeable future preserved peaches will continue to be imported into New Zealand at dumped prices.

Injury

This review has concentrated on the likelihood of a recurrence of material injury to the domestic industry, should the present anti-dumping duties be removed. The Ministry has concluded that:

- The domestic industry is not currently suffering injury from dumped goods from China.
- Should anti-dumping duties be removed, on the basis of all the information gathered in this review, there is likely to be a recurrence of material injury caused by dumped imports from China, resulting from price effects causing an adverse impact on HW's sales revenue, profits, return on investments, utilization of production capacity, and growth.
- [redacted] material injury would be caused to the New Zealand industry.

Conclusion

The Ministry has concluded that if anti-dumping duties are removed there is a likelihood of a recurrence of dumping and this would likely cause a recurrence of material injury to the New Zealand industry.

2. Introduction

2.1 Proceedings

1. On 21 August 2006, the Minister of Commerce imposed anti-dumping duties on preserved peaches from the People's Republic of China (China) imported into New Zealand, because an investigation had established that the goods were being dumped and by reason thereof were causing material injury to the New Zealand industry.

2. On 7 July 2011, the Chief Executive of the Ministry of Economic Development initiated a review of the continued need for the imposition of the anti-dumping duties, pursuant to s.14(8) of the Dumping and Countervailing Duties Act 1988 ("the Act"), on being satisfied that sufficient evidence had been provided by the applicant Heinz Wattie's Limited (HW) justifying the need for the review.

3. In accordance with Article 11 of the World Trade Organisation (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement), the purpose of the Ministry of Economic Development's (the Ministry) review is to examine whether dumping and injury would be likely to continue or recur if the duties were removed.

4. Interested parties were advised in writing of the initiation of this review and an Interim Report containing the essential facts established in the review and the conclusions reached by the Ministry was released to interested parties for comment on 1 December 2011, with responses due by 15 December 2011. The comments received have been taken into account in this Final Report.

2.2 Reviews

5. In terms of section 14(9)(a) of the Act, anti-dumping duties relating to preserved peaches from China would, in the absence of a review, have ceased to apply as from 21 August 2011. The existing anti-dumping duties will continue to apply pending the outcome of this review and any reassessment that may follow it.

6. The period of review for dumping (POR(D)) is from 1 June 2010 to 31 May 2011, while the period of review into injury (POR(I)) involves an evaluation of the data submitted by HW for the period 1 May 2008 to 30 April 2011 (HW's financial years 2008/09, 2009/10, 2010/2011). The Ministry has also evaluated forecast information provided by the domestic industry for 2011/2012 and 2012/2013 and HW's projections of the impact on its domestic operation should the anti-dumping duties be removed.

7. In this report, unless otherwise stated, years are years ending 30 April and dollar values are in New Zealand dollars (NZD). In tables, column totals may differ from individual figures because of rounding. The term VFD refers to value for duty for New Zealand Customs Service (NZCS) purposes.

2.3 Dumping and Injury for the Purposes of a Review

Ministry's Approach to Sunset Reviews

8. The Ministry carries out sunset reviews on the basis of Article 11 of the Anti-Dumping Agreement. In interpreting Article 11, the Ministry takes guidance from New Zealand legal reports, WTO Panel reports and approaches taken by other WTO member countries.

9. Article 11.3 infers a necessity to clearly demonstrate that, "…the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury" [emphasis added]. Some guidance regarding the interpretation of the phrase "would be likely" has been provided by the New Zealand Court of Appeal which interpreted the phrase to mean 'a real and substantial risk…, a risk that might well eventuate" (Commissioner of Police vs Ombudsman [1988] 1 NZLR 385). Guidance can also be found in WTO jurisprudence e.g. "United States - Sunset Reviews of Anti-dumping Measures on Oil Country Tubular Goods from Argentina"[1]

10. For further guidance on the level of evidence that is required to meet the "would be likely" criteria of Article 11.3 of the Anti-Dumping Agreement, the Ministry also referred to the findings of the WTO panel report, United States Anti-Dumping Duty on Dynamic Random Access Memory Semi-Conductors (DRAMS) from Korea[2], and to the approaches taken by the European Union, United States, Canada and Australia to sunset reviews.

11. The Ministry notes that the consideration of whether duties should be removed does not exist in isolation but is dependent on whether the evidence shows that the expiry of duty would be likely to lead to a continuation or recurrence of dumping and injury. In determining "likelihood", it is considered that regard should be had to the timeframe within which an event may occur. Article 11.3 of the Agreement makes no express reference to the length of time within which a continuation or recurrence of injury has to take place.

12. Mindful of the different factors involved in each case, and taking guidance from the sources referred to above, the Ministry approaches all investigations and reviews on a case-by-case basis. Based on its interpretation of the Anti-Dumping Agreement the Ministry adopts the following general principles in considering injury in sunset reviews:

- The Ministry is required to establish whether the expiry of the anti-dumping duty would be likely to lead to a continuation or recurrence of dumping and injury.

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[1] Report of the Panel – United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina – WT/DS268/R – Circulated 16 July 2004. Report of the Appellate Body – WT/DS268/AB/R – Adopted 17 December 2004.

[2] Report of the Panel – United States – Anti-Dumping Duty on Dynamic Random Access Memory Semi-Conductors (DRAMS) of One Megabit or Above from Korea – WT/DS99/R – Adopted 19 March 1999.

- The test to be applied in respect of the likelihood of a continuation or recurrence of dumping and material injury is a positive one, i.e., the Ministry needs to be satisfied, based on positive evidence, that certain events are likely to occur, and that those events will cause dumping and material injury to the industry to continue or recur in the absence of anti-dumping duties.

- Interpretation of the phrase "would be likely" is guided by a court judgement referring to "a real and substantial risk…, a risk that might well eventuate".

- In considering the likelihood of injury, the Ministry may refer for guidance to provisions in the Anti-Dumping Agreement that may be helpful in assessing that likelihood and those provisions may include, if appropriate, the factors used in Article 3.7 in assessing a threat of injury. The test to be applied, however, is not that for establishing whether there is a threat of injury.

13. In considering whether removal of the duty would be likely to lead to a recurrence of dumping and injury, the Ministry considers what is likely to happen in the foreseeable future. The extent to which the Ministry is able to make judgements on the likelihood of events occurring in the foreseeable future will depend on the circumstances of each case and, therefore, the foreseeable future will range from the imminent to timeframes longer than imminent.

2.4 Grounds for the Review

14. HW provided evidence that material injury will likely recur should preserved peaches be imported from China into New Zealand without the imposition of adequate anti-dumping duties. HW claimed that imports of preserved peaches will be dumped if the anti-dumping duties are removed and that material injury to HW will recur through:

- Price undercutting; price depression; and price suppression,

resulting in:

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

Reassessment of Anti-Dumping Duties

15. If the outcome of this review indicates that anti-dumping duties should continue to be applied, then the rate or amount of duty can be reassessed in accordance with section 14(6) of the Act.

2.5 Interested Parties

New Zealand Industry

16. HW submitted the application for a review. HW is a limited liability company and a subsidiary of H.J. Heinz Company, Pittsburgh, PA, U.S.A. HW is the only New Zealand producer of preserved peaches and therefore in accordance with section 3A of the Act constitutes the New Zealand industry.

Exporters and Importers

Exporters

17. The New Zealand Customs Service (NZCS) data showed that 23 exporters exported preserved peaches to New Zealand over the POR(D).

Selection

18. Due to the number of exporters over the POR(D), the Ministry has limited its analysis to a selection of exporters being the largest percentage of the volume of the exports from China which could reasonably be investigated, as permitted by Article 6.10 of the Anti-Dumping Agreement.

19. The selection of exporters represented 75 percent of the total volume of the exports from China over the POR(D). Following contact with the exporting companies it was found that two of the suppliers listed in NZCS data, Xiamen Wellink Import & Export Co. Ltd (Xiamen Wellink) and Directus International Ltd (Directus) were an exporter, and an agent for the exporter (or importer) respectively. Xiamen Wellink's export volume was manufactured by [redacted] and Directus' export volume was able to be attributed to [redacted]. Directus has been treated for the purposes of establishing export prices as an agent for export sales.

20. From the initial selection the following companies were identified as exporting and/or manufacturing the subject goods during the POR(D). These companies are listed alphabetically in Table 2.1 below.

Table 2.1: Selection of Exporters/Producers

Chic Foods Co. Ltd./Chic International Trading (Shanghai Pudong New Area) Co., Ltd. (Chic)
Linyi City Kangfa Foodstuff Drinkable Co. Ltd. (Linyi City)
Qingdao Huaci Metal & Porcelain (Industries) Co. Ltd. (Qingdao Huaci)
Sino-Everygreen Foodstuff Co. Ltd. (Sino-Everygreen)
Xiamen Wellink Import & Export Co. Ltd. (Xiamen Wellink)
Zhejiang Iceman Foods Co. Ltd. (Zhejiang Iceman)

21. The companies listed in Table 2.1 above were sent exporters' or manufacturers' questionnaires to complete. Chic International and Zhejiang Iceman were the only companies exporting to New Zealand during the POR(D) that were also exporters in the selection in the original investigation.

22. Limited information was received from Qingdao Huaci (through Heze Sanqing Food Co Ltd (Heze Sanqing)). Chic International replied that due to its low export volume and the resources required to respond to the Ministry's questionnaire it would not be responding. No other responses were received.

23. All other manufacturers and exporters outside of the selection that were able to be located were notified of the review and invited to make submissions, but were not requested to fill out the Ministry's questionnaire. An exception was Weifang Sunshine Food Co. Ltd. (Weifang) which was not in the Ministry's selection of exporters but provided a partial response to the questionnaire, as one was forwarded to it by its importer. The Ministry did not consider this response contained sufficient information to allow an individual margin of dumping to be established for this company in terms of Article 6.10.2 of the Anti-Dumping Agreement.

Importers

24. Importers which imported from the exporters in the Ministry's selection during the POR(D) were contacted and requested to fill out the Ministry's questionnaire. These importers are listed alphabetically in Table 2.2 below.

Table 2.2: Importers Importing from the Selected Exporters

DMFC International (NZ) Ltd (DMFC)
Foodstuffs (Auckland) Ltd. (Foodstuffs (Auckland))
Foodstuffs South Island Ltd. (Foodstuffs (South Island))
Foodstuffs (Wellington) Co-operative Society Ltd. (Foodstuffs (Wellington))
Heinz Wattie's Ltd. (HW)

25. All of the importers listed in Table 2.2 were also importers in the original investigation. A full response was received from HW. Partial responses were received from DMFC, Foodstuffs (Auckland), Foodstuffs (South Island), and Foodstuffs (Wellington).

26. Other importers which imported the subject goods during the POR(D) and were also involved in the original investigation were Davis Trading Company Ltd., Hutchinson's (NZ) Ltd., and Wheeler (NZ) Ltd. These companies and the remaining importers which also imported the subject goods during the POR(D) were notified of the review and were invited to make submissions but they were not requested to complete the Ministry's questionnaire. No other submissions were received.

2.6 Imported Goods

27. The goods which are the subject of the anti-dumping duty, hereinafter referred to as preserved peaches are:

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

28. The Working Tariff of New Zealand classifies the subject goods under the following tariff classification:

20.08				**Fruit, nuts and other edible parts of plants otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:**
			[-	Nuts, ground nuts and other seeds, whether or not mixed together]
			[-	Pineapples]
			[-	Citrus fruit]
			[-	Pears]
			[-	Apricots]
			[-	Cherries]
2008.70			**-**	**Peaches, including nectarines**
2008.70.01	00K	kg	-	- Cooked and preserved by freezing, not containing added sugar
2008.70.09	**00L**	**kg**	**-**	**- Other**

29. Imports of preserved peaches classified under the above tariff item and originating from China are currently subject to a preferential Customs duty of 1.4 percent. Imports from a country that is a specified AANZFTA party, Canada, Malaysia, Thailand and a country that is a specified TPA party enter New Zealand free from the imposition of Customs duty. As from 1 January 2012 imports from China and Hong Kong will enter New Zealand free from the imposition of Customs duty. Imports of preserved peaches from all other countries are subject to Customs duty at the normal rate of 5 percent.

2.7 Exchange Rates

30. Article 2.4.1 of the Anti-Dumping Agreement provides as follows:

> When the comparison under paragraph 4 [of Article 2] requires a conversion of currencies, such conversion should be made using the rate of exchange on the date of sale[8], provided that when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used. Fluctuations in exchange rates shall be ignored and in an investigation the authorities shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.

[8] Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale.

31. In the current review, export sales were made in United States dollars (USD) and euro's (EUR). When establishing export prices in Chinese Renminbi Yuan (CNY) the Ministry has used exchange rates sourced from Oanda.com the currency website.

32. At the time this report was prepared exporters had not provided the Ministry with the date of sale of the goods supplied to New Zealand. In the absence of information from exporters the Ministry has had regard to the best available information (as discussed below).

33. Qingdao Huaci provided the dates of its exports to New Zealand and the Ministry has used these dates as the date of sale and applied an exchange rate applicable at that date. In instances where import invoices were provided by importers, the Ministry has used the date of the invoice as the date of sale and applied an exchange rate applicable at that date. For all other transactions the Ministry has used the NZCS date of import as the date of sale and applied an exchange rate applicable at that date.

2.8 Provision of Information

34. The Ministry makes available all non-confidential information to any interested party through its public file system.

35. A verification visit was carried out at HW's premises and a copy of the verification report was provided to HW. A non-confidential version was placed on the Public File.

36. The only information provided by interested parties other than HW, was from Heze Sanqing (through Qingdao Huaci); Weifang; Directus; Foodstuffs (Auckland) which provided limited comments; DMFC; Foodstuffs (South Island) which provided imported volumes and values, and Foodstuffs (Wellington) which provided volumes and values as well as a cost build up to selling price of the subject goods over the POR(D). To the extent that importers and exporters have not provided the necessary information during the review, decisions relating to export prices and normal values have been made having regard to all available information, that is, on the basis of the best information available in accordance with section 6 of the Act and Article 6.8 and Annex II of the Anti-Dumping Agreement.

Section 6 of the Act states that:

> (1) Where the [Chief Executive] is satisfied that sufficient information has not been furnished or is not available to enable the export price of goods to be ascertained under section 4 of this Act, or the normal value of goods to be ascertained under section 5 of this Act, the normal value or export price, as the case may be, shall be such amount as is determined by the [Chief Executive] having regard to all available information.

Article 6.8 of the Anti-Dumping Agreement provides as follows:

> In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available. The provisions of Annex II shall be observed in the application of this paragraph.

37. Details of the information used, in the absence of information from the companies, and the conclusions drawn by the Ministry, are shown in sections four and five of this report.

3. The New Zealand Industry

38. Section 3A of the Act provides the definition of “industry”:

> **3A. Meaning of “industry”—**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.

3.1 Like Goods

39. In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into whether the injury would be likely to continue or recur if the anti-dumping duties were removed or varied, and having identified the subject goods, it is necessary to determine whether there are New Zealand producers of goods which are like those goods in all respects, and if not, whether there are New Zealand producers of other goods which have characteristics closely resembling the subject goods. The subject goods are defined in section 2.6.

40. HW produces a range of styles of canned peaches, for example, sliced, halved or diced, and suspended in syrup; or in a ‘lite’ medium (artificial sweetener in water), or in fruit juice. The peaches are packaged 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. The original investigation excluded fruit salad, peaches in mango jelly and Weight Watchers branded preserved peaches. HW continues to produce preserved peaches only in cans.

41. In the original investigation the Ministry was satisfied that the canned peaches produced by HW in syrup, clear juice and saccharine solution, while not like in all respects, had characteristics closely resembling the subject goods. The Weight Watchers brand was excluded from this conclusion ([redacted]) because of differences in price, branding, labelling, and marketing. The like goods produced by HW were therefore canned peaches in preserving liquid, in container sizes of 410g, 820g and 3kg under the Wattie’s and Oak brands.

42. The Ministry has reviewed whether there has been a change since the original investigation, which would lead to a change in the conclusions reached in the like goods analysis. The Ministry has been provided with no new information that would have it conclude that the like goods analysis should be changed.

43. On this basis the Ministry concludes that HW is still producing like goods to the subject goods being imported from China.

3.2 Imports of Preserved Peaches

44. Table 3.1 below shows the imports of preserved peaches into New Zealand in kilograms (kgs). The figures are from NZCS data that covers the goods imported into New Zealand under the tariff item and statistical key shown in paragraph 28 above. As well as containing the preserved peach imports under review, the tariff item and statistical key 2008.70.09 00L also covers other peach products not under review. Products not under review include peaches in preserving liquid in containers greater than 4.0 kg, pulp, peaches suspended in jelly, puree, sauces, freeze dried peaches, and any nectarine products. These and other products that are not goods subject to the review have been removed from the NZCS data used in the review.

45. HW's imports of peaches have also been removed from the import data to avoid double counting, as HW's imports and the domestically produced peaches are recognised as the New Zealand industry sales of preserved peaches in the Ministry's industry analysis.

46. Table 3.1 below shows the New Zealand import volumes of preserved peaches in years matching HW's financial years ending 30 April 2009 to 2011.

Table 3.1: Imports of Preserved Peaches (Kgs)
(Years ended April)

	2009	2010	2011
China*	[redacted]	[redacted]	[redacted]
Australia	[redacted]	2,163,422	1,213,534
Spain	[redacted]	17,228	347,846
Greece	[redacted]	54,859	87,887
South Africa	[redacted]	1,599,241	2,003,168
Other	[redacted]	71,891	30,196
Total	[redacted]	[redacted]	[redacted]

Note: * Excludes HW's imports and non-subject goods.

47. The figures in Table 3.1 show that import volumes of preserved peaches from China have decreased over the period. Over the same period imports from Australia declined while imports from Greece, South Africa and Spain increased denoting shifts in sources of supply as the total volumes are fairly stable.

48. Almost all of the decrease in imports from China occurred in 2010 when there was little change in imports from Australia or Spain, but a significant increase in imports from South Africa, which suggests a switch in sourcing from China to South Africa. In 2011 there was little change in the volume of imports from China, but a significant decline in imports from Australia, offset by significant increases in imports

from Spain and again from South Africa. The anti-dumping duties were imposed in the later part of 2006 so any impact of the duties would have already been taken into account, so the changes are likely to be in response to changes in the relative cost structures (including exchange rates) of importing from various sources of supply.

3.3 New Zealand Market

49. The following table shows the New Zealand market for preserved peaches in line with HW's financial years from 2009 to 2011. The figures have been derived on the same basis as in Table 3.1. Differences in totals are due to rounding. The HW domestic sales figures of like goods exclude fruit salad and the Weight Watchers brand of preserved peaches.

Table 3.2: New Zealand Market for Preserved Peaches (Kgs)

(Years ending April)

	2009	2010	2011
China*			
Other Imports*			
NZ Industry Sales**			
Total NZ Market			

Note: * Excludes HW's imports; ** Includes HW's Imports other than which were insignificant and are excluded.

50. Table 3.2 above shows that the New Zealand market for preserved peaches has declined slightly over the last three years, reflecting a decline in both imports from China and NZ industry sales. At the same time imports from sources other than China increased (a breakdown of the changes can be seen in Table 3.1 above).

4. Dumping Investigation

51. Dumping is defined in section 3(1) of the Act and occurs when an exporter sells goods to New Zealand at a price lower than they sell the same or similar goods in their country. In essence dumping is price discrimination between an export and domestic market.

4.1 Original Investigation

52. The original investigation concluded, for the year ended 31 December 2005, that 81 percent or 1,470,530 kilograms (kgs) of exports from China were imported at dumped prices, which included dumped imports by HW. Due to the significant number of parties exporting preserved peaches from China at that time, the Ministry limited its investigation to the eight largest exporters, which exported 95 percent of the preserved peaches exported from China over the period of investigation.

4.2 Purpose of Review of Dumping

53. The general principles concerning the Ministry's approach to `sunset´ reviews are set out in section two of this report. A sunset review is intended to determine whether the expiry of the existing anti-dumping duties after five years would likely lead to a continuation or recurrence of dumping and injury and therefore whether there is a continued need for the imposition of anti-dumping duties.

54. In respect of dumping, the Ministry has followed its usual approach of establishing if preserved peaches from China are currently being dumped into New Zealand, the extent of any dumping and then analysing whether there is a likelihood of a continuation or recurrence of dumping, if the anti-dumping duties were to be removed.

4.3 Likelihood of Continuation or Recurrence of Dumping

Introduction

55. In any dumping analysis (whether in an investigation or review), the Ministry normally compares export prices and normal values on a transaction-to-transaction basis. This basis of comparison involves selecting an appropriate domestic transaction value (or when no suitable domestic transactions exist, constructing a domestic transaction value) for comparison with each export transaction value.

Methodology/Review Process

56. Over the POR(D) there were a significant number of exporters identified as having exported preserved peaches to New Zealand. In accordance with Article 6.10 of the Anti-Dumping Agreement the Ministry has consequently limited its examination of exporters to those exporting the largest percentage by volume to New Zealand over the POR(D). This equates to 75 percent of total imports. The Ministry invited the selected exporters to participate in the investigation and provide a questionnaire response. The Ministry received little information from exporters.

No information has been received from exporters about domestic sales in China. Due to the lack of sufficient information from exporters the Ministry considered that it was not feasible to undertake a comparison of prices on a transaction-to-transaction basis and has consequently carried out the comparisons on a weighted average-to-weighted average basis in accordance with Article 2.4.2 of the Anti-Dumping Agreement.

57. Over the POR(D) preserved peaches were exported to New Zealand in different styles and sizes. To meet fair comparison requirements the Ministry has grouped the sales of each exporter into four different size ranges in the same way as was done in the original dumping investigation in 2006. The four different size ranges are <265g (which relates to 120g containers), < 265g to 615g (which largely relates to 410g containers), >615g to 1.91kg (which largely relates to 820g containers) and >1.91kg to <4.0kg (which largely relates to 3kg containers).

58. The Ministry has calculated a weighted average export price and normal value for each group and then multiplied each of these prices by the volume of exports of each group made by the exporter to New Zealand during the POR(D). The resulting total export value from all sizes was subtracted from the resulting total normal value from all sizes and the balance was divided by the total export price to calculate an overall dumping margin for each exporter. If the weighted average export price was lower than the weighted average normal value for a manufacturer, the goods were considered to be dumped.

59. The weighted average export price and normal value have been compared at the ex-factory level, which is the preferred point of comparison under Article 4.2 of the Anti-Dumping Agreement, as a comparison at this point removes any differences in downstream costs from the dumping calculation.

60. To arrive at ex-factory values for each manufacturer or exporter, the Ministry has made a number of deductions from the base normal values and export prices and adjustments have also been made to ensure a fair comparison between sales of preserved peaches for domestic consumption in China and those exported to New Zealand.

61. Because the Ministry was able to identify the manufacturer that supplied [redacted] and [redacted] the Ministry has not calculated a dumping margin for [redacted] and [redacted].

62. The following paragraphs provide a detailed explanation on how export prices and normal values have been established for each of the selected exporters.

Available Information

63. Article 6.8 of the Anti-Dumping Agreement provides that in cases where any interested party refuses or otherwise does not provide necessary information, a determination can be made on the basis of the facts available. This provision is also mirrored in section 6(1) of the Act which provides that, in the absence of information from interested parties export prices and normal values can be determined having regard to all available information.

64. In assessing whether there is a likelihood of a recurrence of dumping if the duties were to be removed, export prices and normal values have been established based on the following sources of information:

- HW's application for the review investigation;
- information provided by exporters and importers;
- verified information from the original investigation; and
- New Zealand Customs import statistics.

4.4 Export Prices

65. Export prices are the prices at which the preserved peaches are exported from the country of export to New Zealand, that are arm's length transactions, adjusted to allow a fair comparison with the prices of preserved peaches sold in the exporting country, as required by section 4 of the Act.

66. The adjustments to allow for fair comparison of prices relate to the costs, charges and expenses incurred in preparing the goods for shipment to New Zealand which are additional to those costs, charges and expenses generally incurred on sales for home consumption in the country of export and costs, charges and expenses resulting from the exporting of goods arising after shipment from the country of export.

67. The following paragraphs provide an analysis of export prices for each of the selected exporters.

Chic Foods Co Ltd

Introduction

68. Export sales of preserved peaches, recorded with NZCS, by Chic Foods Co Ltd and Chic International Trading (Shanghai Pudong New Area) Co., Ltd (Chic) have been treated by the Ministry as being produced by the same manufacturer/exporter. Chic sells its goods directly to New Zealand and over the POR(D) it sold [redacted] kilograms (kgs) of 120g pottles of preserved peaches.

69. Chic was an interested party in the original investigation and a verification visit was undertaken at that time. For the current review Chic advised that it did not wish to participate because of the small volume it exports to New Zealand and the costs involved in providing information of the kind required by the Ministry.

70. In the absence of sufficient information from Chic to enable export prices to be ascertained under Section 4 of the Act, the Ministry has had regard to all available information as provided under Section 6(1) of the Act. The information considered by the Ministry was import statistics from the NZCS, Chic's historical financial data verified in the original dumping investigation and copies of export sales invoices issued by Chic over the POR(D) provided by the importer, [redacted].

71. Section 4 of the Act provides, inter alia, that an export price is the price of goods purchased by an importer in an arm's length transaction. The Ministry established in the original investigation that sales by Chic to New Zealand were made at arm's length and the Ministry is not aware of any information that suggests that this situation has changed. The Ministry therefore considers that export sales by Chic are suitable for establishing export prices.

Base Prices

72. The base prices have been established at the FOB level on the basis of the invoiced amounts. The FOB value was in euros (EUR) and therefore a conversion of currencies to Chinese Renminbi Yuan (CNY) was required. Chic has not provided the Ministry with any information about the date of sale, however, in the original investigation the date the invoice was issued to the New Zealand importer was taken as the date of sale. In the absence of information from Chic for this review the Ministry has converted the EUR FOB value to CNY per kg at the exchange rate that applied on the date of the invoice.

73. The base price is the total FOB value divided by the total volume to derive a per kg value for each shipment that ranges from CNY[redacted] to CNY[redacted] per kg.

Adjustments

74. In the absence of information from Chic the Ministry has examined the adjustments made in the original investigation. The original adjustments related to the cost of inland freight from the factory to the port of export, port charges and clearance fees, and bank charges on export sales. These collective costs equated to [redacted] percent of the base price. The Ministry considers that these costs of exporting goods to New Zealand would have been incurred over the POR(D) and therefore in the absence of information from Chic for this review it has applied the [redacted] percent established in the original investigation to the base price.

75. Total downward adjustments range from CNY[redacted] to CNY[redacted] per kg.

Export Prices

76. From the base prices and adjustments outlined above, the Ministry has calculated a weighted average ex-factory price of CNY[redacted] per kg for the preserved peaches in 120g pottles exported to New Zealand by Chic.

Linyi City Kangfa Foodstuff Drinkable Co. Ltd

Introduction

77. Linyi City is a manufacturer and exporter of preserved peaches to New Zealand. Over the POR(D) Linyi City exported [redacted] kgs of preserved peaches in 740g glass jars and 3kg cans.

78. Linyi City did not complete a questionnaire response. In the absence of sufficient information from Linyi City to enable export prices to be ascertained under Section 4 of the Act, the Ministry had regard to all available information as provided under

Section 6(1) of the Act. The information considered by the Ministry was import statistics data from NZCS, details provided by the importer, [redacted] and other available information.

Export Sales Distribution

79. Linyi City exports its goods directly to New Zealand. [redacted], the importer, advised the Ministry that it purchases its goods from Linyi City on an FOB basis.

80. Section 4 of the Act provides, inter alia, that an export price is the price of goods purchased by an importer in an arm's length transaction. The importer, [redacted] has advised that it is not related to Linyi City. The Ministry considers that export sales to New Zealand have been made at arm's length and therefore it considers that export sales by Linyi City are suitable for establishing export prices.

Base Prices

81. Base prices were established from information supplied by the importer and import statistics data. Details provided by the importer and NZCS data has enabled the Ministry to group export sales by 2 sizes; 740g glass jars and 3.0kg cans of preserved peaches.

82. The FOB amount declared to NZCS was in United States dollars (USD) and therefore a conversion of currencies to CNY was required. No information has been provided about the date of sale and therefore the Ministry has taken the date of import as the date of sale and converted currencies at the rate on that date.

83. The base price is the FOB value taken from NZCS import data converted to CNY and divided by the total volume of each shipment to derive a per unit price of CNY[redacted] to CNY[redacted] per kg.

Adjustments

84. Linyi City did not provide any information on adjustments to base prices. To fill in this information gap the Ministry has had regard to all available information and concluded that the best available information is verified information from the original investigation. Zhejiang Iceman is an interested party in the current review and was also an interested party in the original investigation. The Ministry verified Zhejiang Iceman's information in the original investigation.

85. Export price adjustments to Zhejiang Iceman's export sales in the original investigation related to inland freight from the factory to the port, port and clearance fees, bank charges on export sales and the cost of providing credit to its export customers. The Ministry considers that these costs would also apply to sales by Linyi City. The Ministry has, therefore, calculated the proportion that Zhejiang Iceman's adjustments, excluding the cost of credit, represented of the base price in the original investigation. This proportion equated to [redacted] percent of the base price. The Ministry has applied this percentage to Linyi City's base prices and established adjustments of CNY[redacted] to CNY[redacted] per kg.

86. The Ministry considers it probable that Linyi City would have offered credit to its New Zealand customer over the POR(D). To establish the cost of providing credit the Ministry has used the [redacted] days of credit offered by Zhejiang Iceman in the original investigation. The cost of credit is based on the number of days that credit is extended at the interest rate of a short term loan set by the Bank of China[3] as at the date of sale. The costs of Linyi City providing credit on export sales have been calculated at CNY[redacted] to CNY[redacted] per kg.

87. Total downward adjustments range from CNY[redacted] to CNY[redacted] per kg.

Export Prices

88. From the base prices and adjustments outlined above, the Ministry has calculated a weighted average ex-factory price of CNY[redacted] per kg for preserved peaches in 740g glass jars and CNY[redacted] per kg for preserved peaches in 3kg cans exported to New Zealand by Linyi City.

Qingdao Huaci Metal & Porcelain (Industries Co Ltd)

Introduction

89. Qingdao Huaci is recorded with NZCS as a supplier of preserved peaches. Over the POR(D) Qingdao Huaci exported to New Zealand [redacted] kgs of preserved peaches in 425g and 3kg cans.

90. Qingdao Huaci, under the name of Heze Sanqing provided a limited questionnaire response. Information was provided on organisational structure, the description of goods, manufacturing process and some details on distribution. No pricing or costing information was provided. The reasons given by Qingdao Huaci for not supplying pricing information were the commercial sensitivity of the pricing information and the strong competitive market in which it operates.

91. Qingdao Huaci advised the Ministry that it is the exporting branch of Qingdao Countree Food Co Ltd (Qingdao Countree) and Heze Sanqing is one of the factories owned by Qingdao Countree. For the purposes of establishing export prices the Ministry has treated Qingdao Huaci, Qingdao Countree and Heze Sanqing as one manufacturer/exporter.

92. In the absence of sufficient information to enable export prices to be ascertained under Section 4 of the Act, the Ministry has had regard to all available information as provided under Section 6(1) of the Act. Information considered by the Ministry was import statistics data from NZCS, details provided by the importer, [redacted], and other available information.

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[3] http://weww.icbc.com.cn/ICBCDynamicSite2/e_other/rmbcredit.aspx

Export Sales Distribution

93. Qingdao Huaci advised that when it receives an order from its New Zealand customer it arranges for the goods to be produced and transported to New Zealand. At the time that Chinese Customs clears the goods at the port of export, all shipping documents are sent to the customer and payment is required. The original shipping documents are sent to the New Zealand customer to take delivery of the goods. [redacted] advised that it purchases preserved peaches from Qingdao Huaci on an FOB basis.

94. Section 4 of the Act provides inter alia that an export price is the price of goods purchased by an importer in an arm's length transaction. [redacted] has advised that it is not related to Qingdao Huaci. The Ministry considers that export sales to New Zealand have been made at arm's length and therefore the export sales by Qingdao Huaci are suitable for establishing export prices.

Base Prices

95. Base prices were established from information supplied by the importer and import statistics data. This information has enabled the Ministry to group the export sales into 2 sizes; 410g and 3.0kg cans of preserved peaches.

96. The FOB amount declared to NZCS was in USD and therefore a conversion of currencies to CNY was required. Qingdao Huaci did not provide any information about the dates of sale but did provide details of its export distribution and the date the goods were exported to New Zealand. The Ministry considers that it is reasonable to assume that the material terms of sale were established on the date of export and has taken the date of export as the date of sale. Where it was possible to reconcile the details of each export sale submitted by Qingdao Huaci with the export transactions recorded in NZCS data the Ministry has converted the currency using the exchange rate that applied as at the date of export. In instances where NZCS data did not correspond with information submitted by Qingdao Huaci, the Ministry has converted the currency using the exchange rate that applied on the date that the goods were imported into New Zealand.

97. The base price is the FOB value from NZCS data which has been converted to CNY and divided by the total volume of each shipment to derive a per unit price over all shipments of CNY[redacted] to CNY[redacted] per kg.

Adjustments

98. Qingdao Huaci did not provide any information on adjustments to base prices. To fill in this information gap the Ministry has had regard to all available information and concluded that the best available information is verified information from Zhejiang Iceman in the original investigation. An adjustment has therefore been made of [redacted] percent, on the same basis as that made for Linyi City outlined in paragraph 85 above.

99. Qingdao Huaci provided details of the dates on which it received payment from its New Zealand customer. The Ministry compared NZCS data with this information and calculated that the number of days of credit ranged from [redacted] days. In

instances where this calculation was not possible, the days of credit have been taken as the average of those instances where this calculation was possible. The cost of credit is based on the number of days that credit is extended at the interest rate of a short term loan set by the Bank of China as at the date of sale. The costs of Qingdao Huaci providing credit on export sales have been calculated at CNY[redacted] to CNY[redacted] per kg.

100. Total downward adjustments range from CNY[redacted] to CNY[redacted] per kg.

Export Prices

101. From the base prices and adjustments outlined above, the Ministry has calculated a weighted average ex-factory price of CNY[redacted] per kg for preserved peaches in 410g cans and CNY[redacted] per kg for preserved peaches in 3kg cans exported to New Zealand by Qingdao Huaci.

Sino-Everygreen Foodstuff Co. Ltd

Introduction

102. Sino-Everygreen is a manufacturer and exporter of preserved peaches. Over the POR(D) it exported to New Zealand [redacted] kgs of preserved peaches in 410g and 820g cans.

103. Sino-Everygreen did not provide a questionnaire response. In the absence of sufficient information to enable export prices to be ascertained under Section 4 of the Act, the Ministry has had regard to all available information as provided under Section 6(1) of the Act. Information considered by the Ministry was import statistics from NZCS, details provided by the New Zealand distributor, invoice information from New Zealand importers and other available information.

Export Sales Distribution

104. [redacted], an agent, advised that Sino-Everygreen exports its goods via an exporter, [redacted]. [redacted] is recorded in the NZCS data as the exporter and the Ministry has therefore treated [redacted]'s export sales over the POR(D) as preserved peaches manufactured and exported by Sino-Everygreen.

105. [redacted], the agent, is also recorded with the NZCS data as an exporter/supplier. [redacted] has advised that the preserved peaches it supplies are manufactured by Sino-Everygreen or Zhejiang Iceman. The Ministry asked [redacted] for the name of the manufacturer of each of the entries recorded with NZCS, with [redacted] as the supplier/exporter, however, as at the date of the release of this report no information has been received.

106. In the absence of information from [redacted], the Ministry has examined [redacted]'s export sale transactions recorded with NZCS and matched the data with export sales data relating to Sino-Everygreen and Zhejiang Iceman. Four transactions were found to be goods not subject to the review. For all other

transactions the Ministry was able to identify the Chinese manufacturer based on the similarities of the date of import, export volume and per unit value.

107. Section 4 of the Act provides, inter alia, that an export price is the price of goods purchased by an importer in an arm's length transaction. The Ministry is not aware of any relationship between the manufacturer/exporter and importer and therefore it considers that the export sales by Sino-Everygreen are suitable for establishing export prices.

Base Prices

108. Base prices were established either from invoices supplied by importers or in instances where no invoices were provided, from NZCS import data. The details from the importers invoices enabled the Ministry to group all export sales into 2 sizes; 410g and 820g cans of preserved peaches.

109. The base prices are the FOB value in USD divided by the total volume of each shipment to derive a per unit value over all shipments of USD[redacted] to USD[redacted] per kg.

Adjustments

Agent's Margin

110. Importers advised the Ministry that all purchases of preserved peaches are made through an agent, [redacted]. [redacted][4] is a trading company and its website states in part that it has established sources of supply of goods from around the world and it builds long term relationships with its suppliers and customers.

111. The importers invoices were issued by [redacted] in USD. The Ministry considers that the FOB price would include in part an agent's margin and therefore a downward adjustment for this margin is required.

112. [redacted] did not provide any information concerning its margin. To fill in this information gap the Ministry has had regard to all available information and concluded that the best available information is verified information from the original investigation. In the original investigation a number of importers sourced their preserved peaches from [redacted]. At that time the Ministry was provided with invoices from the Chinese manufacturer and importers that enabled it to determine [redacted]' margin. The Ministry has used the same percentage as established in the original investigation as representative of [redacted]' margin for the current review.

113. The Ministry has made a downward adjustment of [redacted] percent of the FOB value for an agent's margin which equates to USD[redacted] to USD[redacted] per kg.

[4] http://www.[redacted].co.nz/Int_site/default.asp

Conversion of Currency

114. To calculate an ex-factory export price a conversion of USD to CNY is required.

115. Sino-Everygreen did not provide the Ministry with any information about dates of sale. In the absence of information from Sino-Everygreen the Ministry has taken the date of sale as the date of the agent's invoice and therefore it has used the rate of exchange that applied on that date. In instances where no invoice had been provided the Ministry has used the exchange rate that applied on the date the goods were imported into New Zealand.

Exporter's Margin

116. All preserved peaches produced by Sino-Everygreen are exported by [redacted]. The Ministry considers that [redacted]'s selling price would include in part its margin and therefore a downward adjustment for this margin is required.

117. To establish an adjustment for an exporter's margin the Ministry had regard to all available information and concluded the best available information is verified information from the original investigation. In the original investigation a Chinese manufacturer, [redacted] sold its preserved peaches to New Zealand through an independent exporting firm, [redacted]. At that time the Ministry was provided with invoices from [redacted] and [redacted] that enabled it to determine [redacted]' margin. The Ministry has used the same percentage as established for [redacted] in the original investigation as representative of an exporter's margin for the current review.

118. The Ministry has made a downward adjustment of [redacted] percent for an exporter's margin which equates to CNY[redacted] to CNY[redacted] per kg.

Other Adjustments

119. The Ministry considers that it is likely that [redacted]'s margin, discussed above, includes in part recompense for costs incurred in exporting goods to New Zealand, such as transportation from the manufacturer's plant to the port of export and port clearance charges. As the Ministry has already made a downward adjustment that represents an exporter's margin, which would include in part the cost of exporting goods, the Ministry did not consider any additional adjustments were necessary. The cost of providing credit is, however, a cost incurred by the manufacturer and therefore a downward adjustment for the cost of credit is required.

120. The Ministry has not been provided with any information about how long it takes for the exporter to pay Sino-Everygreen. In the absence of information from Sino-Everygreen the Ministry has had regard to all available information. In the original investigation it was established that on average Chinese manufacturers extended [redacted] days of credit to their export customers. A cost of credit adjustment has been made based on [redacted] days credit at the interest rate of a short term loan set by the Bank of China as at the date of sale. The downward costs of credit adjustments range from CNY[redacted] to CNY[redacted] per kg.

Export Prices

121. From the base prices and adjustments outlined above, the Ministry has calculated a weighted average ex-factory price of CNY[redacted] per kg for preserved peaches in 410g cans and CNY[redacted] per kg for preserved peaches in 820g cans exported to New Zealand by Sino-Everygreen.

Zhejiang Iceman Foods Co., Ltd

Introduction

122. Zhejiang Iceman is a manufacturer and exporter of preserved peaches. Over the POR(D) it exported to New Zealand [redacted] kgs of preserved peaches in 410g and 820g cans.

123. Zhejiang Iceman was included in the original investigation and its information was verified. For the current review Zhejiang Iceman did not submit a questionnaire response. In the absence of sufficient information from which to establish export prices according to Section 4 of the Act, the Ministry has had regard to all available information as provided under Section 6(1) of the Act. Information considered by the Ministry was import statistics data from NZCS, details provided by the New Zealand agent, New Zealand importer's information and other available information.

Export Sales Distribution

124. [redacted], an agent for the New Zealand importers, advised the Ministry that Zhejiang Iceman exports its goods via an exporter, [redacted].

125. Section 4 of the Act provides, inter alia, that an export price is the price of goods purchased by an importer in an arm's length transaction. The Ministry established in the original investigation that sales by Zhejiang Iceman were made at arm's length. Although additional parties have been added to the chain of distribution from the original investigation, the Ministry has no information which indicates that export sales are not made at arm's length. It considers, therefore, that export sales by Zhejiang Iceman are suitable for establishing export prices.

Base Prices

126. Base prices were established either from invoices supplied by importers or in instances where no invoices were provided, from NZCS import data. The details from the importers invoices enabled the Ministry to group all export sales into 2 sizes; 410g and 820g cans of preserved peaches.

127. The base prices are the FOB value in USD divided by the total volume of each shipment to derive a per unit value over all shipments at USD[redacted] to USD[redacted] per kg.

Adjustments

Agent's Margin

128. Importers advised the Ministry that all purchases of preserved peaches are made through an agent, [redacted]. The importers invoices were issued by [redacted]. The Ministry considers that the FOB price in USD would include in part an agent's margin and therefore a downward adjustment for this margin is required.

129. [redacted] did not provide the Ministry with any information concerning its margin. To fill in this information gap the Ministry has had regard to all available information and concluded that the best available information is verified information from the original investigation. The Ministry concluded in the original investigation that an agent's margin was [redacted] percent of the FOB value as described above in paragraph 112.

130. The Ministry has made a downward adjustment of [redacted] percent of the FOB value representing an agent's margin which equates to USD[redacted] to USD[redacted] per kg.

Conversion of Currency

131. To calculate an ex-factory export price a conversion of USD to CNY is required.

132. Zhejiang Iceman did not provide the Ministry with any information about dates of sale. In the absence of information from Zhejiang Iceman the Ministry has taken the date of sale as the date of the agent's invoice and therefore it has used the rate of exchange that applied on that date. In instances where no invoice had been provided the Ministry has used the exchange rate that applied on the date the goods were imported into New Zealand.

Exporter's Margin

133. All preserved peaches produced by Zhejiang Iceman are exported by [redacted]. The Ministry considers that [redacted]'s selling price would include in part its margin and therefore a downward adjustment for this margin is required.

134. To establish an adjustment for an exporter's margin the Ministry had regard to all available information and concluded the best available information is verified information from the original investigation. In the original investigation the Ministry determined an exporter's margin, which is discussed above at paragraph 117. The Ministry has used the same percentage as established in the original investigation as representative of an exporter's margin for the current review.

135. The Ministry has made a downward adjustment of [redacted] percent that represents an exporter's margin which equates to CNY[redacted] to CNY[redacted] per kg.

Other Adjustments

136. The Ministry considers it is likely that [redacted]'s margin, discussed above, includes in part recompense for costs incurred in exporting goods to New Zealand, such as transportation from the manufacturer's plant to the port of export and port clearance charges. As the Ministry has already made a downward adjustment that represents an exporter's margin, which would include in part the cost of exporting goods, the Ministry did not consider any additional adjustments were necessary. The cost of providing credit is, however, a cost incurred by the manufacturer and therefore a downward adjustment for the cost of credit is required.

137. In the original investigation Zhejiang Iceman extended credit to its export customers of [redacted] days, however, the export chain of distribution has changed since this time and the number of days of credit extended to the exporter is unknown. In the original investigation it was established that on average Chinese manufacturers extended [redacted] days of credit to their export customers. A cost of credit adjustment has been made based on the average number of [redacted] days credit at the interest rate of a short term loan set by the Bank of China as at the date of sale.

138. The downward cost of credit adjustment is CNY[redacted] per kg.

Export Prices

139. From the base prices and adjustments outlined above, the Ministry has calculated a weighted average ex-factory price of CNY[redacted] per kg for preserved peaches in 410g cans and CNY[redacted] per kg for preserved peaches in 820g cans exported to New Zealand by Zhejiang Iceman.

4.5 Normal Values

Introduction

140. The normal value is usually the price at which the Chinese manufacturers sell preserved peaches in the domestic market in China. The types of sales that can be used to determine normal values are set out in section 5 of the Act, which can generally be described as arm's length sales of like goods in the ordinary course of trade for home consumption in the country of export, in this case China. Where an exporter makes no such sales, sales by other sellers of like goods in China can be used to establish normal values.

141. In the absence of relevant and suitable sales in the ordinary course of trade, normal values can be constructed either: (a) on the basis of the sum of cost of production and, on the assumption that the goods had been sold for home consumption in the ordinary course of trade in China, reasonable amounts for administrative and selling costs and other costs incurred in the sale, and a rate of profit normally realised on sales of goods of the same general category in the Chinese domestic market; or (b) established on the basis of selling prices to a third country.

142. Section 5(3) of the Act requires that in order to effect a fair comparison the normal value and export price shall be compared at the same level of trade, in

respect of sales made at nearly as possible to the same time and with due allowance for differences that affect price comparability.

143. In any investigation, where sufficient information has not been provided by the foreign exporter, or is not available, normal values can be established under section 6(1) of the Act. For the current review, as a result of having no information supplied by Chinese exporters on domestic sales, the Ministry has had to derive normal values having regard to all available information.

Available information

144. HW provided in its application for this review investigation Chinese domestic pricing information that it had commissioned from Euromonitor International (Euromonitor) to establish normal values. Euromonitor is an international market researcher[5] that provides market information specific to a client's needs. The Chinese domestic prices supplied were a selection of retail prices of preserved yellow peaches. These retail prices were collected from 10 supermarket/hypermarket and convenience stores and were based on two types of containers (cans and glass bottles/jars) each price being for a different size of container. Normal values provided by HW were based on the average price of all selected retail sale prices.

145. A Value Added Tax (VAT) of 17 percent is payable on domestic sales of preserved peaches in China. In order to make a fair comparison with export sales HW made a reduction for VAT of 17 percent, and also for a retailer's net margin of [redacted] percent and the cost of freight to customer of 1 percent. A VAT rebate of 15 percent is claimable by the exporter from the Chinese government on exported preserved peaches. This means that effectively a 2 percent tax is paid on exports of preserved peaches and therefore to preserve tax neutrality with export sales, an adjustment to account for this difference in VAT was added back. HW advised that the retailer's margin and cost of inland freight was based on its knowledge of the distribution of preserved peaches in New Zealand.

146. In the original investigation ex-factory normal values were established from domestic sales information provided by some of the Chinese manufacturers. In instances where sufficient information had not been provided or the manufacturers did not sell a like good on the domestic market, ex-factory normal values were established from sales of like goods by another seller on the domestic market in China, as provided in Section 5 of the Act. The domestic selling structure revealed in the original investigation was that manufacturers sell their goods to wholesalers who on-sell the goods to retailers. Base prices, on which normal values were established, were either based on the manufacturer's own information or, in their absence, on sales of like goods by another Chinese manufacturer. Verified sales information demonstrated that domestic sales, for those manufacturers whose information was verified, were made at arm's length, in the ordinary course of trade and therefore the prices were considered suitable for establishing normal values.

[5] www.euromonitor.com

147. The listed prices related to the price of preserved peaches packaged in glass jars in sizes of 360g, 550g, 820g and 1.16kg and cans of 850g and 3kg. In order to effect a fair comparison with export prices, the Ministry reduced the base prices by VAT of 17 percent, the cost of inland freight (as sales were made on a FIS basis), sales commission, costs of production and packaging (as domestic sales were glass jars and export sales were cans) and the cost of providing credit over a [redacted] day period. An upward adjustment was made for the cost of container, labelling and the difference in treatment of VAT to preserve tax neutrality.

148. The Ministry has also undertaken its own research in an attempt to locate domestic pricing information. The Ministry has not found any pricing information on domestic sales of preserved peaches in China.

Analysis of the best Available Information

149. The Ministry has grouped Euromonitor's retailer's prices into three different sizes; 410g, 820g and 3kg (but no pricing information was available on sizes less than 410g). Adjustments were made to these prices on the basis of information from HW and verified information from the original investigation.

150. A deduction was made for 17 percent VAT included in the retail prices. From the VAT exclusive price the Ministry deducted a retailer's net margin of [redacted] percent and the cost of freight to customer of 1 percent as made by HW. HW has been in the canned fruit industry for some years and in the absence of any information the Ministry considers that it is reasonable to make a deduction of [redacted] percent as submitted by HW.

151. Because of the supply chain in China that was verified in the original investigation, the Ministry considers that an additional adjustment for a wholesaler's margin is also required. The Ministry was unable to locate information on Chinese wholesalers' margins. The Ministry did, however, locate gross margins on sales of goods for resale by the retail trade and wholesale trade published by Statistics New Zealand[6] of 26.2 percent and 19.7 percent respectively that applied to the New Zealand market in 2010. These percentages relate to a wider range of industries than supermarkets but they are the only reliable information that the Ministry has found that can be used for the purposes of establishing a wholesalers' margin. To establish a wholesaler's margin the Ministry has calculated the proportion that the wholesale margin represents of the retail margin (75 percent) and applied that proportion to the retailers net margin of [redacted] percent provided by HW. On this basis the Ministry has established a wholesaler's margin of [redacted] percent.

152. Most of Euromonitor's pricing information relates to the sale of preserved peaches in glass bottles/jars while most of the export sales of preserved peaches over the POR(D) were in cans. In the absence of current information on the difference in the cost of cans and glass containers the Ministry has used verified

6 www.stats.govt.nz

information from the original investigation updated by the Chinese Producers' Price Index (PPI). From October 2005 to June 2010 the PPI increased by 60 percent and this has been used to update costs from the original investigation, where appropriate, to calculate a due allowance for the differences between the cost of glass containers and cans.

153. To test the reasonableness of using Euromonitor's adjusted prices to establish normal values over the POR(D), the Ministry has also updated the normal values from the original investigation by the change in the Chinese PPI referred to in paragraph 152.

154. The Ministry notes that the ex-factory normal values established from Euromonitor's pricing information and that calculated from original pricing information updated by the change in China's PPI are similar. The ex-factory normal values derived from Euromonitor are slightly less than the normal values updated by the PPI. The pricing information from Euromonitor was sourced over the POR(D) and the Ministry considers it is likely to be more accurate than pricing information from five years ago that is updated by the PPI. The Ministry is satisfied that the best available information, where it was possible to use it, is the Euromonitor pricing information supplied by HW and therefore it was suitable to derive ex-factory normal values for the Chinese manufacturers/exporters in the review.

155. The following paragraphs discuss normal values of each of the selected exporters.

Chic Foods Co Ltd

Introduction

156. Chic participated in the original investigation and its information was verified. For the current review Chic did not provide a questionnaire response. Over the POR(D) Chic exported to New Zealand only one size of preserved peaches i.e. 120g plastic pottles.

157. In the original investigation it was concluded that Chic sold a like good on its domestic market to the preserved peaches that it exported to New Zealand. Domestic sales were made at arm's length and in the ordinary course of trade for home consumption. The Ministry was satisfied that Chic's domestic sales could be used to establish normal values.

158. In the original investigation ex-factory normal values were based on invoiced prices to a wholesaler as close as possible in time to export sales. Downward adjustments were made for inland freight, as domestic sales were made on a FIS basis, and for differences in physical characteristics of the products compared to those exported to New Zealand. The difference in physical characteristics related to Chic's [redacted] preserved peaches [redacted] 120g plastic pottles for sale on the Chinese domestic market. The Ministry was satisfied [redacted] affected price comparability and therefore a deduction was made from the base price. An upward adjustment was made for the different treatment of VAT between export and domestic sales.

159. As sufficient information has not been furnished by Chic on its domestic sales in China that would enable the normal value of preserved peaches to be ascertained under Section 5 of the Act, the Ministry has, in accordance with section 6(1) of the Act, had regard to all available information.

Normal Values

160. The Euromonitor pricing information was not suitable for deriving ex-factory normal values for Chic as there were no prices available of a similar sized product to that exported to New Zealand. The Ministry considers that the best available information is the normal values from the original investigation. At that time the Ministry considered Chic's domestic sales were suitable for establishing normal values and there is no information to suggest that the Ministry should not apply this pricing information to the current review.

161. To update the pricing information the Ministry has increased the base price by the 60 percent increase in the Chinese PPI referred to in paragraph 152 above. From the base price the Ministry has deducted the costs of inland freight and packaging differences updated by the change in PPI of 60 percent. To preserve tax neutrality an adjustment equivalent to 2 percent of domestic inputs subject to VAT has been added back.

162. The average ex-factory normal value calculated on this basis relating to 120g pottles of preserved peaches was CNY[redacted] per kg.

Linyi City Kangfa Foodstuff Drinkable Co. Ltd.

Introduction

163. Linyi City did not provide a questionnaire response. Over the POR(D) it exported to New Zealand 2 sizes of preserved peaches i.e. 740g glass jars and 3kg cans.

164. As sufficient information has not been furnished by Linyi City on its domestic sales in China to ascertain normal values of preserved peaches under Section 5 of the Act the Ministry has, in accordance with section 6(1) of the Act, had regard to all available information.

Base Prices

165. Base prices were established on the basis of the average retail selling prices of 820g glass jars and 3kg cans of preserved peaches taken from Euromonitor data provided by HW. The base prices exclude the VAT component of 17 percent.

166. The base price for the 820g and 3kg containers is CNY11.43 and CNY6.83 per kg respectively.

Adjustments

167. From the average retail price per kg the Ministry has made downward adjustments for retailers' and wholesalers' margins as well as the cost of freight to customer on the basis set out in paragraphs 150 and 151. An upward adjustment

has been made for VAT due to the difference in treatment between export and domestic sales on the basis set out in paragraph 145 above.

Normal Values

168. The average ex-factory normal value for 740g glass jars and 3kg cans of preserved peaches calculated on the basis set out above was CNY[redacted] and CNY[redacted] per kg respectively.

Qingdao Huaci Metal & Porcelain (Industries Co Ltd)

Introduction

169. Qingdao Huaci provided a limited questionnaire response and advised that it did not supply the domestic market in China with preserved peaches. Over the POR(D) Qingdao Huaci exported to New Zealand 2 sizes of preserved peaches i.e. 425g cans and 3kg cans.

170. As sufficient information had not been furnished by Qingdao Huaci on its domestic sales in China to ascertain normal values of preserved peaches under Section 5 of the Act the Ministry has, in accordance with section 6(1) of the Act, had regard to all available information.

Base Prices

171. Base prices were established on the basis of the average retail selling prices of 410g glass jars and 3kg cans of preserved peaches taken from the Euromonitor data provided by HW. The base price excludes the VAT component of 17 percent.

172. The base price for the 410g and 3kg containers is CNY15.26 and CNY6.83 per kg respectively.

Adjustments

173. From the average retail prices the Ministry has made downward adjustments for retailers' and wholesalers' margins as well as the cost of freight to customer on the basis as set out above in paragraphs 150 and 151. An upward adjustment has been made for VAT, due to the difference in treatment between export and domestic sales on the basis set out above in paragraph 145. Adjustments for differences in physical characteristics have been made on sales of 410g glass jars on the basis set out above in paragraph 152. No adjustment was required on sales of 3kg cans.

Normal Values

174. The average ex-factory normal values for 410g cans and 3kg cans of preserved peaches calculated on the basis set out above was CNY[redacted] and CNY[redacted] per kg.

Sino-Everygreen Foodstuff Co. Ltd.

Introduction

175. Sino-Everygreen did not provide a questionnaire response. Over the POR(D) it exported to New Zealand 2 sizes of preserved peaches i.e. 410g cans and 820g cans.

176. As sufficient information has not been furnished by Sino-Everygreen on its domestic sales in China to ascertain normal values of preserved peaches under Section 5 of the Act the Ministry has, in accordance with section 6(1) of the Act, had regard to all available information.

Base Prices

177. Base prices were established on the basis of the average retail selling prices of 410g glass jars and 820g glass jars of preserved peaches taken from the Euromonitor data provided by HW. The base price excludes the VAT component of 17 percent.

178. The base price for the 410g and 820g containers is CNY15.26 and CNY11.43 per kg respectively.

Adjustments

179. From the average retail prices the Ministry has made downward adjustments for retailers' and wholesalers' margins as well as the cost of freight to customer on the basis as set out above in paragraphs 150 and 151. An upward adjustment has been made for VAT, due to the difference in treatment between export and domestic sales on the basis set out above in paragraph 145. An adjustment for physical characteristic differences has been made, on the basis set out above in paragraph 152, between the costs of glass jars and cans.

Normal Values

180. The average ex-factory normal value for 410g cans and 820g cans of preserved peaches calculated on the basis set out above was CNY[redacted] and CNY[redacted] per kg.

Zhejiang Iceman Foods Co., Ltd.

Introduction

181. Zhejiang Iceman did not provide a questionnaire response. Over the POR(D) it exported to New Zealand 2 sizes of preserved peaches i.e. 410g cans and 820g cans.

182. As sufficient information has not been furnished by Zhejiang Iceman on its domestic sales in China to ascertain normal value of preserved peaches under Section 5 of the Act the Ministry has, in accordance with section 6(1) of the Act, had regard to all available information.

Base Prices

183. Base prices were established on the basis of the average retail selling prices of 410g glass jars and 820g glass jars of preserved peaches taken from the Euromonitor data provided by HW. The base price excludes the VAT component of 17 percent.

184. The base price for the 410g and 820g containers is CNY15.26 and CNY11.43 per kg respectively.

Adjustments

185. From the average retail prices the Ministry has made downward adjustments for retailers' and wholesalers' margins as well as the cost of freight to customer on the basis as set out above in paragraphs 150 and 151. An upward adjustment has been made for VAT, due to the difference in treatment between export and domestic sales on the basis set out above in paragraph 145. An adjustment for physical characteristic differences has been made, on the basis set out above in paragraph 152, between the costs of glass jars and cans.

Normal Values

186. The average ex-factory normal values for 410g cans and 820g cans of preserved peaches calculated on the basis set out above was CNY[redacted] and CNY[redacted] per kg.

Comparison of Export Price and Normal Value

187. The Ministry has calculated a weighted average dumping margin for each Chinese manufacturer/exporter as discussed above.

188. Table 4.1 below shows the dumping margin calculated for each Chinese exporter/manufacturer. The Table includes the volume of dumped imports for the year ended 31 May 2011. The import volume of the selected exporter/manufacturer is based on a combination of information provided by exporters and importers. The import volume from other Chinese exporters is based on import volumes recorded in the NZCS data for year ended 31 May 2011. Import volumes do not include goods that are not subject to the investigation as discussed in paragraph 44 above.

Table 4.1: Dumping Margins and Dumped Import Volume (1 June 2010 to 31 May 2011)

Exporter/Manufacturer	Weighted average dumping margin	Volume of dumped imports (kg)	Volume of non-dumped imports (kg)
Chic Foods Co. Ltd/Chic International Trading	87%	[redacted]	0
Linyi City Kangfa Foodstuff Drinkable Co Ltd	37%	[redacted]	0
Qingdao Huaci Metal & Porcelain (Industries Co Ltd)	47%	[redacted]	0
Sino-Everygreen Foodstuff Co Ltd	71%	[redacted]	0
Zhejiang Iceman Foods Co Ltd	84%	[redacted]	0

Imports from selected Chinese exporters			0
% dumped/not dumped			0%
Imports from other Chinese exporters			0
Total imports from China			0
Imports from other countries			3,541,163
Total volume of imports			
Dumped imports as % of total imports			27%

4.6 Conclusions Relating to Dumping

189. Article 11.3 of the Anti-Dumping Agreement provides that anti-dumping duty is to be terminated unless the authorities determine that the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and injury. The comparison of ex-factory export prices and normal values, based on the best available information, has established that preserved peaches have been dumped over the POR(D). The comparison of export prices and normal values provides positive evidence that in the absence of anti-dumping duty it is likely that preserved peaches will continue to be imported into New Zealand at dumped prices.

5. Injury Investigation

190. The original dumping investigation found that:

- There had been a significant increase in the volume of dumped imports both in absolute terms and relative to HW's total sales and total market consumption.

- There was evidence of price undercutting, price suppression and price depression.

- There was evidence that dumped imports had caused a significant economic impact on the New Zealand industry which was reflected in a reduction in sales revenue; a significant decline in the profit, and a decline in return on investments.

- Factors other than dumped goods were causing injury to the domestic industry, but that dumped imports were a cause of material injury to the industry.

5.1 Injury in a Review

Introduction

191. The basis for considering material injury is set out in section 8(1) of the Act. The Ministry interprets section 8 to mean that injury is to be considered in the context of the impact on the industry arising from the volume of the dumped goods and their effect on prices.

192. Section 8 of the Act also sets out a number of factors and indices which the Chief Executive shall have regard to, although noting that this is without limitation as to the matters the Chief Executive may consider. These factors and indices are considered under the relevant headings below.

193. The demonstration of a causal relationship between the dumped imports and the injury, or threat thereof, must be based on an examination of all relevant evidence and any known factors other than the dumped imports, which are injuring, or threatening to injure, the domestic industry. Any injury caused or threatened by factors other than dumping must not be attributed to the dumped imports.

Likelihood of Continuation or Recurrence of Injury

194. The Ministry's approach to sunset reviews is recorded in section 2.3 above. In considering the likelihood of a continuation or recurrence of injury, the Ministry has applied the general principles set out in that section.

195. The Ministry carries out its injury analysis for reviews on the basis of Article 11 of the Anti-Dumping Agreement and section 8 of the Act. The Ministry interprets these provisions to mean that the likely continuation or recurrence of injury is to be

considered in the context of the likely impact on the industry, arising from the likely volume of the dumped goods and their likely effect on prices.

196. In considering injury in a review, the Ministry examines whether the removal of the duties would be likely to lead to the continuation or recurrence of injury. If it is concluded that dumping and injury would likely continue or recur, the Ministry will undertake a reassessment of the rate or amount of duty under section 14(6) of the Act in order to establish whether the existing duty remains sufficient to remove or prevent injury, or whether a different rate of duty is necessary.

Comment from DMFC in Response to the Interim Report

197. DMFC commented that HW is an established conglomerate in the food industry which is seeking anti-dumping action in order to monopolise the industry so it can reap inflated profits. DMFC also commented that in the past 5 years prices from China have been rising and that peaches from China were no longer being sold at dumped prices, but did not provide any specific evidence to substantiate this assertion. In addition, DMFC observed that competition is necessary and healthy and that HW should not be allowed to control the market.

198. The Ministry notes that the comments and observations by DMFC do not address whether the expiry of the duty is likely to result in a continuation or recurrence of dumping and injury. The Ministry also notes that the original imposition of the duty has not resulted in HW monopolising the New Zealand market for preserved peaches which remains highly competitive with imported product holding a substantial share of the market. The Ministry further notes that the analysis in the dumping section of this report shows that imports of preserved peaches continue to be imported at significant margins of dumping.

5.2 Injury Information Submitted by HW

Financial Information

199. In the present review the Ministry has evaluated the financial data submitted by HW for the period 1 May 2008 to 30 April 2011, which is also referred to as the period of review for injury (POR(I)). This information is in line with HW's financial years and was considerably easier for HW to produce than producing years ending 31 May, which would be needed in order to match the POR(D).

200. HW provided profit and loss (P&L) summaries of its actual domestic sales of preserved peaches for the financial years referred to in the paragraph above.

201. HW used the same method of collating and apportioning costs to the production and sale of canned peaches for the current review as it did for the 2006 original investigation (and has provided for other investigations of preserved peaches).

202. For each year HW's P&L details contained domestic sales volume, list sales revenue, net sales value (NSV), cost of production, gross profit, selling and administration and general expenses, cost of sales, and Earnings Before Interest and Tax (EBIT).

Forecast Financial Information

203. HW provided forecast financial information for the years (ended 30 April) 2012 and 2013 based on the assumption that the anti-dumping duties remain in place, and alternatively, that the anti-dumping duties are removed. Both forecast scenarios are explained below.

204. HW considered that its sales volume [redacted] over the next two years and that historically the New Zealand market had demanded all of the peach products that it had produced. From 2010/11 to 2012/13 HW [redacted] raw peaches equivalent to [redacted] tonnes of finished goods. HW's forecast figures for finished goods for both 2011/12 and 2012/13 of [redacted] tonnes is for finished goods based on its experience and the information it has on the certainty of crop yield and size of the peach crop.

205. HW advised that its budgeting process commences in October and November for the following financial year. HW stated that it sets its budget as a result of considering its historical manufacturing costs and foreseeable cost increases, and sets sales targets and projected cash flows in conjunction with manufacturing considerations.

206. The application for the review was received in June 2011 (at which time the 2011/12 budget, i.e. from 1 May 2011 to 30 April 2012 was in place) but the budget for the 2012/13 year was not yet known with any certainty. At the verification visit to HW by the Ministry in August 2011, HW said that it had only just received approval for its pricing (for the 2012/13 budget year) so not all the information was available for the forecast P&L summary for 2012/13. To forecast the P&L for 2012/13 HW took into account its costs and pricing for 2011/12 (such as its costs of manufacturing and the agreed pricing budget in place) and adjusted these using the more certain information it had on forecast crop yield, movements in pricing and marketing intelligence.

Forecast for 2011/12 (Anti-dumping Duties Remain in Place)

207. HW has forecast that sales volume for 2011/12, if anti-dumping duties remain in place, would [redacted] by [redacted] percent. Based on its forecast of the peach crop HW plans to produce [redacted] tonnes of canned peaches.

208. HW has forecast that its net sales value [redacted] percent in total in 2011/12 (taking into account its forecast for the volume of the peach crop). Gross profit is forecast to [redacted] on a per kg basis in 2011/12, over that of 2010/11. Cost of sales is forecast to [redacted] per kg to that of 2010/11 and EBIT to [redacted] on a per kg basis over that of 2010/11.

Forecast for 2011/12 (if Anti-dumping Duties are Removed)

209. HW has said that with anti-dumping duties removed it would [redacted] if the duties were in place, but in order to do so against lower priced imports [redacted].

210. HW's 2011/12 forecast sales volume figure was based on the assumption that duties would cease to apply in August 2011 (if this review of preserved peaches was not initiated). HW took into account that the majority of sales are normally made from September through to January each year so this would have had a considerable impact on sales and therefore the forecast. HW has noted, however, that the volume of sales forecast (should duties remain) of [redacted] tonnes is [redacted] and that the impact of lower priced imports from China, if duties are removed [redacted].

211. As a consequence of [redacted] should duties be removed, the 2011/12 forecast figures, therefore, incorporate the estimated impact of price undercutting from the presence of lower priced preserved peaches from China entering the New Zealand market from August 2011. HW said that if the duties were removed the net sales value would decline by [redacted] percent in 2011/12. HW said that its [redacted] imported brand products [redacted] as well.

212. HW forecast its net sales values based on its price undercutting analysis of imports from China. It used information from Statistics New Zealand to arrive at an ex-wharf value per kg starting with the CIF value of the goods and added the importation costs known to it, but did not include the applicable anti-dumping duty. The ex-wharf value per kg was compared to the net sales value per kg of the Oak and Wattie's brand like goods. The calculated average price per kg was applied to the projected sales volume between August 2011 and April 2012 resulting in a net sales value for that period. The remaining proportion of the net sales value (from May to August 2011) was added to the calculated net sales value to find a forecast net sales value for 2011/12.

213. The forecast impact of the removal of anti-dumping duty on HW's gross profit and EBIT is that for 2011/12 gross profit would decline by [redacted] percent and EBIT would decline by [redacted] percent. HW would be [redacted]. (The Ministry notes that HW [redacted].) HW said that it would [redacted] for production or general sales and administration under this scenario.

Forecast for 2012/2013 (Anti-dumping Duties Remain in Place)

214. The forecast sales volume for 2012/13, if anti-dumping duties remain in place, is the same as 2011/12. A forecast [redacted] of [redacted] percent in 2012/13 of the level of trade spend is reflected in the forecast net sales value increase of [redacted] percent. This net sales value increase enables HW to recoup forecast cost increases for selling, administration and general expenses of [redacted] percent per annum, and an increase in the cost of goods sold of [redacted] percent per annum. EBIT is forecast to [redacted] 2011/12.

215. HW's forecast for 2012/13 is [redacted] 2011/12, and on the basis of the forecast for [redacted] volume for 2012/13 in line with HW's strategy [redacted], the Ministry considers HW's allowance for price increases and recovery of costs is reasonable.

Forecast for 2012/13 (If the Anti-dumping Duties are Removed)

216. HW has said that with anti-dumping duties removed it [redacted] sales volume [redacted] if the duties were in place, but [redacted] sales volume [redacted] lower priced imports [redacted]. HW said that it would [redacted] under this scenario.

217. HW's forecast for 2012/13 shows the impact of price undercutting from the presence of dumped preserved peaches from China for the full year. HW considered that its net sales value would decline [redacted] percent compared to that forecast for 2011/12 reflecting the full 12 month impact of lower priced imports in the market. In 2012/13 the [redacted] would be followed as in paragraph 211 above, but HW says that [redacted], it would result in [redacted] decline in gross profit and EBIT, [redacted] and there would be [redacted] manufacturing canned peaches.

Ministry's Comments on HW's Injury Scenarios – (If Anti-dumping Duties are Removed)

218. The Ministry has considered a number of factors to assess the reasonableness of the forecasts HW has provided for 2011/12 and 2012/13 should duties be removed.

219. HW's sales are made up of its production volume (which is limited by the size of the peach crop, the size of which has become more predictable over the last few years) and the volume of its imports (other than [redacted] which were insignificant and are excluded). HW said it can sell all the preserved peaches it produces and it has only imported preserved peach products in the last 3 years to supplement its range. In 2010/11 HW's imports [redacted] and these accounted for [redacted] percent of HW's sales volume. HW's sales volume forecast for 2011/12 is between the levels found in 2008/09 and 2010/11 and is on a par with 2009/10 and this seems reasonable as it is in line with previous recent annual volumes. The sales volume forecast for 2012/13 is less easy to predict but as the crop production volume since 2008/09 has been more stable (the Ministry has not received any applications for crop shortfall concessions from HW since 2008) and in the absence of any other information, it seems reasonable that HW has forecast the 2012/13 volume [redacted] forecast for 2011/12.

220. HW has estimated the level of price undercutting to forecast the injurious effects to it, should anti-dumping duties be removed. HW based these figures on the CIF

value of peach imports and added the additional costs of importing known to it. HW is an importer of these products so it has direct access to import cost information (relating to goods from China). HW also provided a response to its importers' questionnaire which included information on import costs. HW's use of its own information to calculate the average price of imported preserved peach imports is considered to be reasonable and so the basis on which the forecasts are made combining the elements of volume and prices are considered to be reasonable.

5.3 Volume Effects

Import Volumes

221. Section 8(2)(a) of the Act provides that the Chief Executive shall have regard to the extent to which there has been or is likely to be a significant increase in the volume of imports of dumped or subsidised goods either in absolute terms or in relation to production or consumption in New Zealand.

222. The import data below has been adjusted as noted at paragraph 44 to exclude products other than preserved peaches of the type under review.

223. Table 5.1 shows the volume of preserved peaches imported into New Zealand from all sources compared with the New Zealand industry's sales volume from 1 May 2008 to 30 April 2011.

Table 5.1: Import Volume (Kgs)
Years ended 30 April

	2008/09	2009/10	2010/11
China*			
Other Sources*			
Total Imports*			
HW's Industry Sales**			
NZ Market			
Change on previous year:			
China*		-	
Other Sources*			
Total Imports*			
HW's Industry Sales**			
NZ Market			
Percentage Change:			
China*		-%	
Other Sources*		%	
Total Imports*		%	

HW's Industry Sales**		[redacted]	[redacted]
NZ Market		[redacted]	[redacted]
Chinese Imports as % of:			
NZ Industry Sales	[redacted]	[redacted]	[redacted]
NZ Market	[redacted]	[redacted]	[redacted]

*Excludes HW's imports and non-subject goods; **Includes HW's imports [redacted] which were insignificant and are excluded.

224. The figures in Table 5.1 show that the volume of imports of preserved peaches from China declined in absolute terms from 2008/09 to 2010/11 by [redacted] percent. Over that period Chinese imports also declined relative to production or consumption in the New Zealand market.

225. Imports from sources other than China increased from 2008/09 to 2010/11 by [redacted] percent, however the total import volume from all sources declined slightly from 2009 to 2011 (by [redacted] percent).

The Effect of Anti-dumping Duties

226. Table 5.1 above shows a decline in the import volume of preserved peaches from China over 2009 to 2011 of [redacted] kg. At the same time imports from other sources increased by [redacted] kg, while the total market declined by [redacted] kg. Table 3.1 shows a breakdown of the import volumes from the largest source countries. The figures show that there have been declines in imports from China and Australia and an increase from Greece, Spain and South Africa. The information suggests that imports from China have become relatively less competitive over the period.

227. The anti-dumping duties were originally imposed on imports of preserved peaches from China in August 2006. The original investigation found that all the preserved peaches were exported in container sizes of 120g, 410g, 820g, and 3kg (or close alternatives). Each exporter did not always export all of the sizes and it was found that the sizes that were dumped were the 410g and 820g containers only. Reference price anti-dumping duties were imposed at the full margin of dumping in the form of normal value (value-for-duty equivalent) (NV(VFDE)) amounts. (An NV(VFDE) represents the un-dumped value of the goods at the FOB level).

228. The NV(VFDE) amounts that were imposed for exporters in the selection (although not all exporters exported all of the sizes) were:

- [redacted] CNY per kg for the 410g size, and
- [redacted] CNY for the 820g size.
- Reference prices for all other exporters were set at 8.02 CNY for the 410g size and 7.54 CNY for the 820g size.

229. The amount of duty payable was the amount that the NV(VFDE) exceeded the New Zealand VFD on import (entered for home consumption). Although the anti-dumping duty did not apply to all sizes, it did apply to the most popular retail sizes of 410g and 820g containers.

230. The following Table 5.2 shows the average value of imports per kg for the period over which anti-dumping duties have been in place (2007 to 2010).

Table 5.2: Average Value per kg of Imports While Anti-dumping Duties in Place

Calendar Years	Average VFD (NZD)	Average Exchange Rate (NZD: CNY)	Average CNY/kg
2007	1.38	5.6071	7.73
2008	1.53	4.98288	7.65
2009	1.73	4.34806	7.51
2010	1.59	4.89216	7.76

231. Table 5.2 shows that the average VFD per kg of the preserved peaches exported to New Zealand over the period that the anti-dumping duties were in place was between 7.51 and 7.76 CNY per kg. These average prices are at levels at which the anti-dumping duties would have had an effect, bearing in mind that they include the average prices of 120g and 3kg which are not subject to the duty. The information on VFD's over the period shows that the average NZD VFD per kg increased by a net 15 percent. (Over the period the NZD increased (22 percent) in value against the USD in which most of the imports are traded.)

232. Table 5.3 shows the amount of anti-dumping paid in each year from 2007 to 2010 compared with the volume imported from China. HW's imports are included in the figures.

Table 5.3: Volume of Imports Compared with Anti-dumping Duty Paid

Calendar Years	Imports: China (kg)	Anti-dumping Duty Paid 410g & 820g ($)	Amount of anti-dumping duty paid per kg imported. ($/kg)
2007	4,891,963	428,280	.09
2008	3,439,739	232,775	.07
2009	3,736,826	311,755	.08
2010	2,737,955	77,061	.03

233. Table 5.3 above shows a significant decline in the average amount of anti-dumping duty collected per kg in 2010 compared with previous years; a significant reduction in the total anti-dumping duty paid, and a significant decline in the volume of imports from China. The decline in the amount of duty paid in 2010 may be related to the increase in the average price of the imports such that no duty is payable (perhaps in the main due to the appreciating NZD:USD exchange rate reflected in the increasing average VFD (in NZD) over the period seen in Table 5.2) and hence indicating a loss of price competitiveness. There may also have been a change in the mix of dutiable to non-dutiable preserved peach products being imported (so that the average amount of duty per kg would show a decline as seen above), or exporters may have been pricing up to the reference price thresholds, or a combination of these.

234. An increase in import prices at or above the reference prices would have the effect seen above of reducing the total amount of anti-dumping duty paid. A change in the mix of products, that is, an increase in volume of non-dutiable 3kg product compared with the volume of sizes subject to duty (410g and 820g) could also reduce the amount of anti-dumping duty paid.

Likely Import Volumes Should Duties be Removed

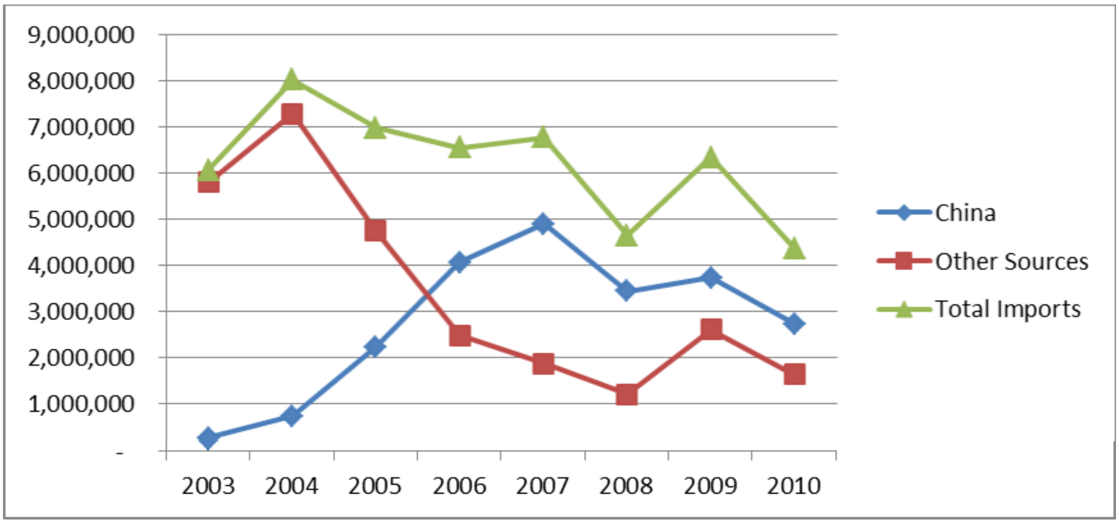
235. The likelihood of a recurrence of significant volumes of dumped imports sufficient to cause material injury to the industry is related to factors such as:

- the volume of imports before and after the imposition of anti-dumping duties;
- the price advantage (in the absence of duties) which such imports may hold;
- the capacity of the Chinese industry to substantially increase its exports to New Zealand;
- the ease of entry into the New Zealand market;
- the ability of importers to handle a significant increase in imports from China;
- the ease of distribution of goods into New Zealand; and
- exchange rates.

Import Volumes Before and After the Imposition of Duties

236. In the original investigation the Ministry analysed import volumes from 2003 to 2006. The Graph 5.1 below illustrates the volume of imports before the original investigation and after the anti-dumping duties were imposed in 2006. (The data includes HW's imports.)

Graph 5.1: Volume of Imports from China Before and After Anti-dumping Duties Imposed, Calendar Years 2003 to 2010, (Kgs)



237. Graph 5.1 shows that there was an increase in the volume imports from China year on year from 2003 to 2007. Provisional anti-dumping duties were introduced in July 2006. Graph 5.1 shows that imports from China declined significantly in absolute terms from 2007 to 2010. Over the same period the volume of total imports also declined significantly, while imports from other sources declined only slightly. The volume from China continued to increase in 2007 even though duties had been imposed the previous year. Importers may have been locked into purchase contracts for 2007 which would explain the continued increase in imports after duties had been imposed. The decline in imports after 2007 is significant in volume and if related to the impact of the duties would indicate that the expiry of the duties may lead to a resurgence of imports from China.

Price Advantage of Imports (in the Absence of Duties)

238. In the absence of duties the prices of preserved peaches imported into New Zealand from China are likely to fall on average depending on the quantum of duty that has been removed. The amount of dumping found in the dumping analysis for the POR(D) was between 37 and 87 percent of the export price. Should the duties be removed the level of price undercutting in 2011/12 would, at the ex-wharf level be [redacted] percent of HW's ex-factory price, and [redacted] percent at the into-store level.

239. If anti-dumping duties are removed it is likely that Chinese imports will significantly increase their price advantage compared to that of the New Zealand industry.

Capacity of the Chinese Industry to Substantially Increase its Exports

240. There has been very little response from exporters as to their intentions to export to New Zealand in the foreseeable future. HW, on the other hand, considers that it has provided positive evidence that the Chinese industry is capable of substantially increasing its exports to New Zealand.

241. In considering the likelihood of imports from China in the future, the Ministry considered a range of information. Two exporters commented on their intentions regarding future exports of preserved peaches to New Zealand.

- Heze Sanqing stated that the costs of raw materials in the Chinese domestic market were increasing and that if the anti-dumping duty remained in place it would become more difficult to export preserved peaches to New Zealand. Qingdao Huaci (the exporting arm of the company) stated that its parent company had three warehouses with a capacity of 7000 to 8000 tonnes and that its sales have been slow so that products are having to be stored for longer periods of time. It noted that it exported to places such as America and Russia.

- Weifang (which gave a limited response to the Ministry but was outside of the selection of exporters) noted that its domestic raw material costs were increasing quickly, so if anti-dumping duties were removed, it would not have much effect on its prices (if it were to absorb its increased costs). Weifang said that it exported to Japan and Europe among other countries and that its prices were based on its costs and the prices in the international market.

242. HW, in its application, provided a copy of the 'Gain Report' which contained "assessments of commodity and trade issues" from staff of the USDA Foreign Agricultural Service. The report commented on the canned deciduous fruit industry in China. It was reported that:

- Canned peach production for the 2010/11 year (June to May) was forecast at 370,000 tonnes (up 10 percent) over the previous year.

- Chinese consumption is growing, as are domestic prices (in particular for peach halves). Chinese domestic prices were rising because of increased domestic demand (10 to 20 percent per year). As a result of rising prices Chinese canneries were shifting their focus from overseas markets to the domestic market.

- Exporters appeared to have the capacity to supply into large markets (USA, Russia, Japan, and Europe) and excess preserved peaches were being stored in the short term. There was potential, therefore, to divert stored stock to other export destinations.

- There had been an increase in the price of labour (one cannery reported a 30 percent rise) and as a result there had been a push towards more mechanisation, and there had been increases in the price of production materials such as tin, sugar and fuel of 5 to 15 percent annually.

- There was pressure to increase Chinese export prices by 5 to 10 percent but customers such as in the US were not accepting of a price increase and would only accept a change to a lower grade product at current prices, rather than a price increase.

- Canned peach exports from China were forecast to be 58,000 tonnes in the 2010 year (June to May).

- Export sales have been slow and stocks in warehouses have been building, but is unclear, whether these circumstances will lead to an increase in the supply available for export, as there appears to be resistance to export price increases (at least in the USA). Chinese export prices increased 1 percent in 2010.

- Export prices only marginally increased in 2010 and that export demand for peaches continued to be flat.

243. Information on the Chinese market suggests that the preserved peach market is very competitive, that costs are rising in China and that sales of the product on export markets are slow. There is also an expanding domestic market supply and a growing demand in China. However, the size of the market is huge compared to that of New Zealand, and stocks have been building because of slow demand on export markets. (HW said that with production of the size of the Chinese exporters, China would have no issues in capturing the entire New Zealand preserved peach market with discretionary stocks i.e. safety and carryover stocks, and that it was of interest that the Chinese producers could not obtain export prices equivalent to domestic prices.) It does not appear that it would be difficult for Chinese exporters to supply significant volumes to New Zealand at short notice.

Ease of Entry into the New Zealand Market

244. HW has stated that many of the importers involved previously in importing preserved peaches remain active in importing, even though they may not currently be importing peaches. HW said that if the anti-dumping duties are removed some of these parties would almost certainly resume importing peaches from China at what it considered to be dumped prices.

Ability of Importers to Handle a Significant Increase in Imports

245. The Ministry does not consider it likely that importers would significantly increase their volume of imports in total, but would likely switch their source of supply to China if any price advantage should arise. Preserved peaches is a mature market in New Zealand and the only practical way to get customers to buy more product is to reduce prices. Preserved peaches are [redacted], so the only reason to increase total imports is if more stock could be moved or domestic production could be replaced by imports. Given the existing importing infrastructure, the Ministry considers that importers have the ability to significantly increase their imported volume of preserved peaches.

Ease of Distribution

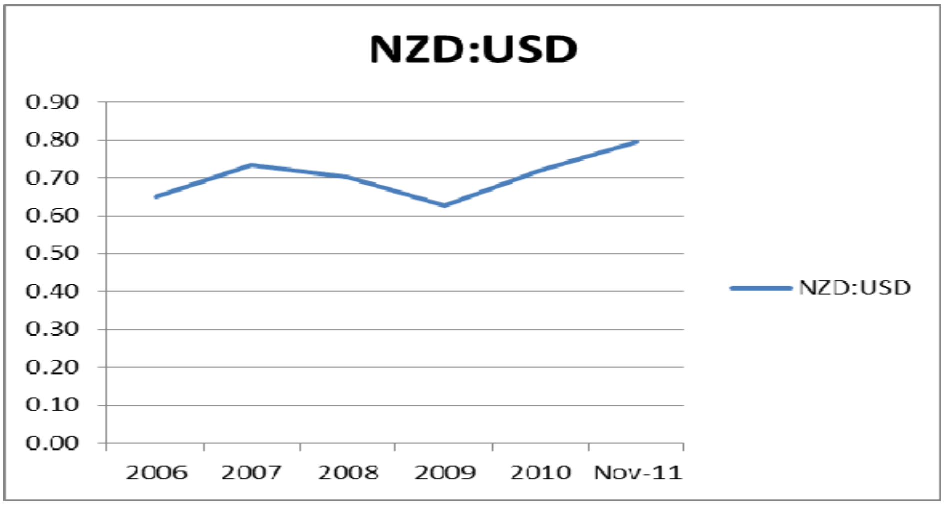
246. There appears to be few, if any, impediments to entering the New Zealand preserved peach market other than the normal logistical requirements, and that little infrastructure is required to achieve this. There are many suppliers of preserved peaches in China and many importers in New Zealand that import other canned products who would likely have the contacts in the New Zealand market to add preserved peaches to the list of products that they supply to domestic customers. Access to some level of a distribution network would be required, but not necessarily at the level of the large supermarket chains, for the successful distribution of the

goods, as an importer could import smaller quantities of preserved peaches and dispose of these on a smaller scale using its existing business contacts.

Exchange Rates

247. The Ministry has considered the likelihood of increased import volumes from China in relation to the appreciation or depreciation of the NZD with respect to the USD. The majority of exports of preserved peaches to New Zealand from China are invoiced in USD. The New Zealand dollar fluctuated in value against the USD over the period the lowest point being in 2009 and has appreciated by 22 percent since then. The exchange rate movement of the NZD:USD is shown in Graph 5.2 below.

Graph 5.2: Movements in the NZD:USD Exchange Rate



248. The anti-dumping duties were imposed in July 2006 but due to contractual arrangements probably did not affect the volume of imports until 2007. The depreciation of the NZD from 2007 to 2009 would have made imports more expensive, but its appreciation since 2009 would have reduced the price of imports in NZD from that date. The exchange rate to November 2011 has continued to appreciate. There has been a decline in imports from China over all of the period 2007 to 2010 (with a small increase from 2008 to 2009, perhaps reflecting a stronger exchange rate) but the observed increase in the New Zealand dollar has not translated into increased imports from 2009 as the volume of imports from China has continued to decline. The evidence relating to the impact of the exchange rates on import volumes is inconclusive.

Conclusions on Likely Import Volume

249. The Ministry considers it likely that import volumes from China will increase following the removal of anti-dumping duties for the following reasons:

- The volume of preserved peaches imported from China decreased significantly after the imposition of anti-dumping duties (although this decline did not occur until 2007) suggesting that any removal of the duties may lead an increase in import volumes.

- The price advantage of Chinese preserved peaches over those of the domestic industry will significantly increase, evidenced by the significant dumping margins, and the amount of price undercutting if duties were removed.

- The price advantage of Chinese preserved peaches is likely to significantly increase over other sources of supply (as shown in Table 5.20 below, where Spain had the lowest prices but anti-dumping duties have since been imposed on imports from Spain), which is likely to cause importers to switch to sourcing from China, significantly increasing the volume.

- Volumes from other sources may decline due to their loss of price competitiveness relative to imports from China (see Table 5.20).

- China has increasing production volumes and appears to have sufficient spare capacity to supply a small market such as New Zealand.

- China appears to have excess stocks available for export because of slow export demand even though the Chinese domestic market demand is increasing.

- New Zealand importers have the ability to import and distribute a significantly increased volume of preserved peaches.

5.4 Price Effects

Price Undercutting

Introduction

250. Section 8(2)(b) of the Act provides that the Chief Executive shall have regard to the extent to which the prices of the dumped or subsidised 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. Where possible (and if sufficient information is available), the level of trade is determined for each importer and therefore the prices may be considered at different points in the supply chain.

Level of Trade

251. The Ministry will normally seek to compare prices at the first point of competition in New Zealand, i.e. the first point of sale in the New Zealand market. This will normally be at the ex-factory and ex-importer's store levels, to ensure that differences in distribution costs and margins do not confuse the impact of dumping. Accordingly, the Ministry's position is generally to compare importers' prices, including relevant selling and administration costs, which involves similar cost elements to those in the New Zealand producer's ex-factory price, but not the cost elements relating to the distribution of goods.

252. The purpose of the price undercutting comparison is to establish whether or not there is price undercutting attributable to dumping. It should be noted that the determination that price undercutting exists is not by itself a determination of the

extent of injury, i.e., the margin of price undercutting is not a measure of the extent of economic impact on the industry. This impact is to be measured in terms of the factors and indices set out in section 8(2)(d) of the Act.

253. HW mainly sells its preserved peaches to two large customers, Progressive Enterprises, and Foodstuffs Ltd and Foodstuffs Own Brands Ltd, which is comprised of three independent co-operatives; Foodstuffs (Auckland), Foodstuffs (Wellington) and Foodstuffs (South Island).

254. In the original investigation HW considered the comparison price point for the purposes of measuring the extent of price undercutting is its ex-factory price compared with an importer's ex-wharf price. The Ministry's examination established that the supermarket chains, in their purchasing decision, compared prices from an overseas supplier, including a procurement agent's margin, with prices of other importers and HW's prices. The Ministry considered, for price undercutting purposes that the appropriate comparison price point was between the importer's ex-wharf price and HW's ex-factory price. For the current review HW has not submitted that this comparison price point should change.

255. In the current review the Ministry has found that all three Foodstuffs co-operatives purchase preserved peaches that originate from China [redacted]. The purchases are made on an FOB basis in USD (that includes the agent's margin) and therefore the Foodstuffs group of companies bear the cost of overseas freight, insurance and NZCS clearance costs and other associated costs.

256. DMFC advised the Ministry that it purchases preserved peaches from China on an FOB basis and "it pays for the customs importing and logistics costs to my customers appointed warehouse". DMFC did not advise who its New Zealand customers were, but it is likely that they would include Progressive Enterprises. The Ministry considers that DMFC acts as an agent and its selling price would include the FOB purchase price plus all costs (including net profit) between FOB and FIS (to its customer's warehouses).

257. The Ministry concludes that there are two levels of trade on which price comparisons should be made, as the Foodstuffs group of companies import preserved peaches originating from China at the FOB price level and DMFC's New Zealand customers purchase their preserved peaches originating from China at an into-store price.

258. For the Foodstuff group of companies the Ministry considers that the extent of price undercutting should be measured by the difference in price between the imported ex-wharf cost including amounts for overseas freight, insurance, port service charges, duty, anti-dumping duty (if applicable), bunker surcharge and finance fees and HW's ex-factory price.

259. For imports by DMFC, the Ministry considers that the extent of price undercutting should be measured by the difference in price between its into customer' store price that includes the amount for overseas freight, insurance, port service charges, duty, anti-dumping duty (if applicable), bunker surcharge and

finance fees, cartage to store, devanning fees, selling and administration costs and net profit and HW's ex-factory price.

Available Information

260. Over the POR(D) there were five importers; DMFC, Foodstuffs (Auckland), Foodstuffs (South Island), Foodstuffs (Wellington) and HW. The Ministry received the following information from New Zealand importers;

- DMFC - a schedule of imports with pricing information at the FOB level and details on its sales distribution;
- Foodstuffs (Auckland) - pricing details and a copy of an invoice that represents its typical purchases of preserved peaches from China;
- Foodstuffs (South Island) - their supplier's name and copies of invoices;
- Foodstuffs (Wellington) – schedule of imports and a cost build up to selling price by can size.
- HW - an importers questionnaire response, which includes its schedule of imports, copies of invoices and cost build up to selling price by case/tray.

Relevant Prices

HW's Ex-Factory Prices

261. HW's financial year ends 30 April and the POR(D) is the year ended 31 May 2011, which is a difference of one month. HW argued that the Ministry should examine its prices for year ended 30 April 2011 rather than year ended 31 May 2011 as the financial year prices were similar and more readily available. Considering that there is only a one month difference, the Ministry accepted that the price effects analysis would be based on HW's prices for the year ended 30 April 2011.

262. The Ministry has calculated an average Net Sales Values (NSV) for three sizes of preserved peaches; 410g, 820g and 3kg and for the product as a whole. The NSV represents HW list selling prices net of all trade spend. Trade spend represents the various forms of promotional expenditure undertaken by HW as part of selling its products (including discounts and rebates), [redacted]. The Ministry considers that the NSV, which is exclusive of trade spend, remains as in previous investigations, an appropriate price from which to calculate the ex-factory price. As HW sells [redacted] the Ministry has [redacted] of NZD[redacted] per kg [redacted] an ex-factory price level.

Imported Prices

263. The Ministry has estimated the importers ex-wharf prices and into-store prices per kg by container size according to NZCS import statistics and information supplied by importers. The ex-wharf and into-store prices have been calculated

from import volumes and values to derive a weighted average price per kg for each size of container and the product as a whole over the POR(D).

264. To establish the import volume for each size of container the Ministry grouped each importer's shipments over the POR(D) by the different size of containers and added up the total volume in kgs. To establish the value according to each size of container, the Ministry has started with the FOB value declared to NZCS, which is supported in some instances by importer's invoice details, and converted it to NZD using the NZCS exchange rate as at the date of import. To this value the Ministry has added the cost of overseas freight and insurance declared to NZCS, Customs duty at the rate of 1.4 percent and where it was applicable the amount of anti-dumping duty paid. The resulting value has been divided by the related volume to establish a per kg amount for each size and the product as a whole that equates to a Cost, Insurance Freight (CIF) value per kg plus duty and if applicable anti-dumping duty.

265. Two importers provided costing information between the price points of FOB value and the invoiced price to customer, which has enabled the Ministry to establish a per kg cost for port clearance fees and other costs (bunker surcharge and bank charges), devanning fees, selling and administration costs and net profit.

266. The weighted average ex-wharf price per kg has been calculated by adding to the CIF value plus duty an amount for port clearance fees, bunker surcharge and bank charges on importing goods and the total value has been weighted according to their respective volumes of imports over the POR(D) to establish a per kg price.

267. The weighted average into-store price per kg has been calculated by adding to the ex-wharf price an amount for cartage to store, devanning fees, selling and administration and net profit and the total value has been weighted according to their respective volumes of imports over the POR(D) to establish a per kg price.

Price Undercutting Comparison

268. The tables below show the level of undercutting when HW's ex-factory prices are compared to the importer's ex-wharf and into-store selling prices calculated for the most equivalent sized container. The undercutting is measured as a percentage of HW's average ex-factory price per kg.

Table 5.4: Price Undercutting Analysis (Price per kg)
(at the ex-wharf level of trade)

	410g	820g	3kg	Product as a whole
- HW's ex-factory average prices				
- Importers ex-wharf average prices				
Amount of Undercutting				
Price undercutting as % of ex-factory prices				

Table 5.5: Price Undercutting Analysis (Price per kg)
(at the into-store level of trade)

	410g	820g	3kg	Product as a whole
- HW's ex-factory average prices	[redacted]	[redacted]	[redacted]	[redacted]
- Importers into-store average prices	[redacted]	[redacted]	[redacted]	[redacted]
Amount of undercutting	[redacted]	[redacted]	[redacted]	[redacted]
Price undercutting as % of ex-factory prices	[redacted]	[redacted]	[redacted]	[redacted]

269. Tables 5.4 and 5.5 illustrates that over the POR the prices of imported preserved peaches have materially undercut HW's ex-factory prices significantly (by more than 10 percent) at the importers ex-wharf and into-store price levels. The examination of price differences has shown that imported preserved peaches had undercut HW's average prices by [redacted] percent at the ex-wharf level of trade and [redacted] percent at the into-store level of trade. The figures show that 100 percent of the imports from China have undercut HW's 2011 average prices.

270. The examination has shown that the price of imported preserved peaches undercut the 820g and 3kg container sizes to a greater extent than the 410g containers. This effect could be attributed to the fact that anti-dumping duty is not payable on imports of 3kg containers but it is payable on 410g containers. Furthermore no anti-dumping duty is payable on 820g container sizes sourced from Zhejiang Iceman and therefore on a per kg basis the extent of price undercutting is reduced.

Likely Price Undercutting if the Anti-Dumping Duties were Removed

271. The Ministry has assessed the likelihood of price undercutting if the anti-dumping duties were removed. For this analysis, the Ministry has made two price comparisons; (1) it has compared HW's ex-factory prices in 2011 with importers prices in the absence of anti-dumping duty; and (2) HW's forecast average ex-factory price for 2012 and 2013 in the absence of anti-dumping duty with the importer's ex-wharf and into-store selling prices in the absence of anti-dumping duty calculated on the basis set out in paragraphs 266 and 267 above. As forecast data considers future pricing the Ministry has removed the customs duty of 1.4 percent as preserved peaches from China will enter New Zealand from 1 January 2012 free from the imposition of Customs duty.

272. The tables below show the level of undercutting when HW's ex-factory and forecast pricing is compared with the importer's ex-wharf and into-store selling prices in the absence of anti-dumping duty.

Table 5.6: Price Undercutting in the Absence of Anti-Dumping Duty (Price per kg at the ex-wharf level of trade)

	2010/11
- HW ex-factory average price	[redacted]
- Importers ex-wharf price	[redacted]
Amount of price undercutting	[redacted]
Price undercutting as % of ex-factory price	[redacted]

Table 5.7: Price Undercutting in the Absence of Anti-Dumping Duty (Price per kg at the into-store level of trade)

	2010/11
- HW ex-factory average price	[redacted]
- Importers into-store price	[redacted]
Amount of price undercutting	[redacted]
Price undercutting as % of ex-factory price	[redacted]

Table 5.8: Likely Price Undercutting in the Absence of Anti-Dumping Duty (Price per kg at the ex-wharf level of trade)

	Product as a whole	
	2011/12	2012/13
- HW forecast ex-factory average prices	[redacted]	[redacted]
- Importers ex-wharf prices	[redacted]	[redacted]
Amount of undercutting	[redacted]	[redacted]
Price undercutting as % of ex-factory price	[redacted]	[redacted]

Table 5.9: Likely Price Undercutting in the Absence of Anti-Dumping Duty (Price per kg at the into-store level of trade)

	Product as a whole	
	2011/12	2012/13
- HW forecast ex-factory average prices	[redacted]	[redacted]
- Importers into-store prices	[redacted]	[redacted]
Amount of undercutting	[redacted]	[redacted]
Price undercutting as % of ex-factory price	[redacted]	[redacted]

273. Tables 5.6 and 5.7 illustrate that in the absence of anti-dumping duty the price of the imported preserved peaches from China would have significantly undercut like goods produced by HW at both levels of trade. Tables 5.8 and 5.9 illustrate that if the current importers selling prices are an indication of what the likely prices are in the near future, in the absence of anti-dumping duties, HW's prices would be significantly undercut by the imports of preserved peaches from China. HW's forecast in 2012 and 2013 that in the absence of anti-dumping duty [redacted] and [redacted] to compete with the lower priced imports from China [redacted]. On the basis of the information collected in the review the Ministry considers that it is likely that there would be a continuation of undercutting of HW's ex-factory prices if the antidumping duties were removed.

Price Depression

274. Section 8(2)(c) of the Act provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers.

275. Price depression occurs when prices are lower than those in a market unaffected by dumping, usually in a previous period and refers to reductions in prices

made by domestic producers in order to deal with competition from prices of dumped goods.

276. In the case of a review, the assumption is made that the existence of a remedy has had the effect of removing injury due to dumping. On this basis, the period covered by the anti-dumping duties meets the general requirement of the conditions of a market unaffected by dumping.

277. In the original investigation it was found that HW had experienced price depression effects at the level of the NSV relating to its domestic production and at the aggregated level of its NSV relating to its total sales, and that these effects were attributable to imports from China. In this review, HW's imports have reduced to being a small percentage of production over the POR(I), and so the total NSV effectively relates to a domestically produced NSV.

278. To establish whether HW has experienced price depression over the POR(I) the Ministry has analysed HW's NSV for each of its financial years from 2008/09 to 2010/11. Table 5.10 below compares the NSV per kg of HW's canned peaches with the base value in financial year 2008/09.

Table 5.10: Price Depression (NZD per kg)

	2008/09	2009/10	2010/11
Ave price (NSV) per kg	[redacted]	[redacted]	[redacted]
As % 2009	[redacted]	[redacted]	[redacted]

279. Table 5.10 shows that over the period, the average selling price per kg for HW's canned peaches increased from 2008/09 to 2009/10 and then declined in 2010/11, but was still at a level above that of base year 2008/09. These figures show that there has been no price depression over the period.

Price Depression Forecast

280. HW also provided forecasts of its average selling prices for 2011/12 and 2012/13 in the presence and absence of anti-dumping duties.

281. HW has submitted that the wholesale market for the supply of preserved peaches to distributors and retailers is very competitive. HW has stated that all supermarkets stock brands of preserved peaches in addition to those supplied by HW. HW said that the house brand supply contracts are put up for constant tender and that there are no long term supply contracts in place, so that the market is always open to new sources of supply.

282. HW said that its [redacted]

[redacted] when dumped (or subsidised) goods have entered the New Zealand market, this would cause such a loss of volume and market share for the HW's products that prices [redacted].

283. The forecast prices have been made on the basis outlined in section 5.2 of this report under "Injury Information Submitted by HW". For the purpose of the forecast HW has made the assumption that it would [redacted] of the Oak and the Wattie's brands.

284. Table 5.11 below shows HW's forecasts of its average prices if anti-dumping duties remain in place, or alternatively if anti-dumping duties are removed.

Table 5.11: Forecast Price Depression (NZD per kg)

	With Anti-dumping Duties		Without Anti-Dumping Duties	
	Forecast 2011/12	Forecast 2012/13	Forecast 2011/12	Forecast 2012/13
Ave Price (NSV) per kg	[redacted]	[redacted]	[redacted]	[redacted]
As % 2009	[redacted]	[redacted]	[redacted]	[redacted]

285. Table 5.11 above shows that if anti-dumping duties remain in place HW forecasts that its average prices will increase. If anti-dumping duties are removed HW forecasts that its average prices will be reduced below that experienced in base year 2008/09.

286. HW has said that should dumped imports from China be allowed to re-enter the New Zealand market it would [redacted] to compete with the dumped imports. HW has forecast that such price decreases would cause a recurrence of price depression, as shown in Table 5.11 above 'Without Anti-Dumping Duties', where the full effect of the decline in prices caused by dumped goods would be felt by HW in 2012/13. HW has forecast that in the absence of duties (on the basis that trade spend and production figures are kept constant in the forecasts) the sales revenue will decline in 2011/12 and again in 2012/13 due to a reduction in NSV. The average prices forecast in the absence of anti-dumping duties are below those achieved in each of the three years from 2008/09 to 2010/11, and are also significantly lower than the prices forecast with anti-dumping duties in place.

287. HW has said that should this situation occur with dumped imports from China entering the market, the [redacted]

Price Suppression

288. Section 8(2)(c) of the Act also provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to prevent price increases for those goods that otherwise would have been likely to have occurred.

289. The Ministry has generally based its assessment of price suppression on positive evidence, in particular the extent to which cost increases have not been recovered in prices. Cost increases not recovered in prices will be reflected in declines in gross profit and EBIT expressed as a percentage of sales revenue. Where cost savings have been made, the lack of any price increase will not normally be regarded as price suppression.

290. In the original investigation the Ministry found that HW's prices had been suppressed in relation to its sales revenue from domestic production. This was evidenced by total costs not being recovered in prices shown as a decline in EBIT per kg as a percentage of sales revenue.

291. The Ministry has considered HW's financial information and forecast information. The following Table 5.12 shows HW's average costs and prices from 2008/09 to 2010/11.

Table 5.12: Price Suppression per Kg (2008/09 to 2010/11)

	2008/09	2009/10	2010/11
Ave. Price (NSV) per kg	[redacted]	[redacted]	[redacted]
Total Cost per kg	[redacted]	[redacted]	[redacted]
Total Cost as % of NSV	[redacted]	[redacted]	[redacted]

292. Table 5.12 shows that the company's average costs as a percentage of sales revenue has fluctuated since 2008/09 and currently represent approximately [redacted] percent of its selling price. While the rise in the percentage in 2010/11 is significant compared with the previous year, there is nevertheless a decline in the ratio of costs to sales revenue over the whole period, indicating that while the anti-dumping duties have been in place there has been no price suppression.

Price Suppression Forecast

293. HW has stated that price suppression would result from competition from dumped imports from China should the duties be removed due to price undercutting and price depression. HW said that it would be unable to recoup cost increases in its prices as price competition from lower priced goods would mean that [redacted].

294. HW provided forecasts for the scenarios where anti-dumping duties remain in place, and if they should be removed. Table 5.13 shows these forecasts.

Table 5.13: Forecast Price Suppression per Kg (20011/12 to 2012/13)

	With Anti-dumping Duties		Without Anti-dumping Duties	
	2011/12	2012/13	2011/12	2012/13
Average Price (NSV) per kg	[redacted]	[redacted]	[redacted]	[redacted]
Total Cost per kg	[redacted]	[redacted]	[redacted]	[redacted]
Total Cost as % of NSV	[redacted]	[redacted]	[redacted]	[redacted]

295. Table 5.13 shows that HW forecasts that if anti-dumping duty remains in place it can increase its prices in line with projected increases in its costs of production and selling and administration expenditure and therefore no price suppression would occur. If anti-dumping duties were to be removed, however, HW forecast that it would be prevented from increasing its prices that would have likely to have occurred and its prices would be significantly suppressed.

Conclusion on Price Effects

296. HW has submitted that if anti-dumping duties were removed and dumped imports from China recommenced, it would suffer material injury from the resulting price undercutting, price depression and price suppression.

297. In its assessment of these price effects the Ministry has considered historical financial information for the years 2008/09 to 2010/11 as well as HW's forecast information for 2011/12 and 2012/13 in scenarios where anti-dumping duties remain in place, or where anti-dumping duties are removed.

298. Over the last three financial years, a period that anti-dumping duties have been in place, from the information available, the Ministry has established that there is price undercutting but no price depression or price suppression.

299. Based on the information available to it, the Ministry has calculated over the POR(D) price undercutting of HW's ex-factory average prices of either [redacted] percent or [redacted] percent by imports of preserved peaches from China. It is forecast that if anti-dumping duties are removed HW [redacted] the lower priced imports, however, if the current imported prices are an indication of future imported prices HW's prices would [redacted] undercut by the prices of imports from China. The Ministry is satisfied on the basis of the evidence gathered in the review, that the expiry of the anti-dumping duty is likely to result in a recurrence of dumped imports from China and prices are likely to [redacted] undercut the New Zealand industry's prices.

300. The Ministry further concludes that in the absence of anti-dumping duties, it is likely that price depression and suppression will recur.

5.5 Economic Impact

301. Section 8(2)(d) of the Act provides that the Chief Executive shall have regard to the economic impact of the dumped or subsidised 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 effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

Output

302. Dumped imports can affect the industry's production volume through increased supply of goods to the market through price competition.

303. HW's output is dependent on the size of the peach crop. HW processes the entire raw peach crop available each year from its contracted New Zealand peach growers, but not all peaches that are sourced from HW's growers are destined to be processed into canned peaches, as they also fulfil its fruit salad production requirements. As the availability of raw peaches fluctuates because of weather and diseases, so too does HW's domestic output.

304. Crop fluctuations have meant that HW, to maintain continuity of supply to its markets and to protect its brand when New Zealand production is unavailable, has imported preserved peaches to supplement its range of products. HW is [redacted]. On this basis, although the peach crop volume has stabilised somewhat and HW's volume of imports has declined [redacted] (in particular from 2009), the fact that production volume depends on the size of the peach crop and the company has to import preserved peaches to maintain continuity of supply means that the company's sales are a more reliable indicator of injury, than output.

305. The Ministry considers that as the above factors strongly influence the level of output, any fluctuations in output are not considered to be a reliable indicator of injury.

Sales Volume and Revenue

306. Movements in sales revenue reflect changes in volumes and prices of goods sold. Dumped imports can affect both of these factors through increased supply of goods to the market and through price competition.

307. In the original investigation sales volume and revenue declined over the period (2003 to 2006), and sales revenue declined more [redacted] than volume as a result of the depression of HW's prices.

Historical Sales Volume and Revenue

308. Table 5.14 shows HW's historical sales volume and sales revenue of preserved peaches for the period 2008/09 to 2010/11.

Table 5.14: Sales Volume (Tonnes) and Sales Revenue (NZD)

	2008/09	2009/10	2010/11
*HW Sales Volume (Tonnes)	[redacted]	[redacted]	[redacted]
As % of 2008/09	[redacted]	[redacted]	[redacted]
Net Sales Revenue	[redacted]	[redacted]	[redacted]
As % of 2008/09	[redacted]	[redacted]	[redacted]

*Includes HW imports; but excludes [redacted] which are insignificant.

309. Table 5.14 above shows that the volume of sales and sales revenue declined in 2009/10 but recovered somewhat in 2010/2011. Over the whole period both sales volume and sales revenue recovered almost to their previous levels. The data indicates that there has been little if any injury occurring to the company over the POR(I) in terms of sales volume or sales revenue.

Forecast Sales Volume and Sales Revenue Without Anti-Dumping Duties

310. In order to compete with the dumped goods, [redacted] and thereby not lose any sales volume in 2011/12 or 2012/13. This means, however, that there will be a loss of net sales value [redacted]. The basis on which HW's calculations for the forecast of net sales value was made is described in paragraph 212.

311. Table 5.15 below shows HW's forecast for the 2011/12 and 2012/13 financial years for sales volume and revenue scenarios in the presence and absence of dumped goods from China.

Table 5.15: Forecast Sales Volume and Revenue (Net Sales Value)

	2011/12		2012/13	
	With Duties	Without Duties	With Duties	Without Duties
Sales Volume (Tonnes)	[redacted]	[redacted]	[redacted]	[redacted]
% change		[redacted]		[redacted]
Net Sales Revenue	[redacted]	[redacted]	[redacted]	[redacted]
% change		[redacted]		[redacted]

312. HW has said that it would [redacted] market share by [redacted] should dumped imports from China re-enter the New Zealand market in the absence of duties. The forecasts show that in 2011/12 without duties in place it will maintain its sales volume, but without duties its net sales revenue will decline. In 2012/13 when there has been a full year's entry of dumped imports, the difference in sales revenue between duties being in place and not being in place [redacted].

313. It should be noted that the decline in net sales revenue forecast between 2010/11 and 2011/12 even if duties remain in place is a reflection of [redacted] for 2011/12 rather than being attributable to imports. With duties in place over the whole period there is a small decline ([redacted] percent) in net revenue forecast which cannot be attributed to dumped imports, but there remains a significant decline in sales revenue in the absence of duties.

Conclusions on Sales Volume and Sales Revenue

314. The Ministry concludes that HW has incurred a small decline in sales volume and revenue over the POR(I). Anti-dumping duties have been in place over this period. While imports from China are [redacted] undercutting HW's prices, this has not resulted in price depression or price suppression, and total import volumes from China have declined. The Ministry therefore concludes that the small decrease in sales volume and revenue are unlikely to be attributable to dumped imports from China.

315. The Ministry notes information on the predicted crop size for 2011/12 was used by HW in its forecasts and that the size of the peach crop has been more stable in the last three years [redacted] so its projection of stable sales volume figures is reasonable.

316. The Ministry also considers that HW's sales revenue projections are reasonable. HW has in the past been able to sell all the preserved peaches it can produce so HW's method of projecting its sales revenue based on average FOB prices of imports in the absence of duties also appears to be reasonable. The Ministry therefore concludes that the expiry of the duty is likely to result in a significant decline in sales revenue.

Market Share

317. The analysis of market share must take account of changes in the growth of the market as a whole. A decline in the share of the market held by the domestic industry in a situation where the market as a whole is growing will not necessarily indicate that injury is being caused to the domestic industry, particularly if the domestic industry's sales are also growing.

318. In the original investigation the market share of domestically produced goods declined over the period (2003 to 2006) but because the production volume was affected by crop volumes, it was considered a better indicator of market share would be HW's sales inclusive of its imports, and on this measure there was no decline in market share.

319. HW's strategy is to [redacted] (A description of HW's pricing strategy can be found at paragraph 211).

320. Table 5.16 below shows HW's sales market share compared with imports from China and other sources.

Table 5.16: New Zealand Market Share

	2008/09	2009/10	2010/11
HW Industry Sales*	[redacted]	[redacted]	[redacted]
Imports China**	[redacted]	[redacted]	[redacted]
Imports Other Sources**	[redacted]	[redacted]	[redacted]
NZ Market	[redacted]	[redacted]	[redacted]
As % of NZ Market			
HW Industry Sales	[redacted]	[redacted]	[redacted]
Imports from China	[redacted]	[redacted]	[redacted]
Other Sources	[redacted]	[redacted]	[redacted]

*Includes HW imports, but excludes [redacted] which are insignificant.
**Excludes HW's imports and non-subject goods.

321. While the New Zealand market has declined slightly over the period that duties have been in place, HW's share of the market, when comparing 2008/09 and 2010/11 has remained the same meaning that its sales have remained at the same level proportionate to the total market.

322. The market share of imports from China also declined over the period while imports from other sources increased their market share by a similar amount. Care must be taken in interpreting the movement in market shares among the groups above as the production of preserved peaches is highly seasonal and because the product's long shelf life lends itself to being stored, so imports in one period could be stored and sold in another period distorting the figures.

Conclusion on Market Share

323. HW has not suffered any loss of market share over all of the POR(I), the decline of [redacted] percentage points in 2009/10 being gained back in 2010/11.

324. If anti-dumping duties are removed, the impact of HW's market share would be minimal in the short term [redacted]. This is because of HW's strategy [redacted].

Profits

325. Changes in net profit reflect changes in prices, sales volumes or costs. Dumped imports can impact on any or all of these. Normally, the extent of any decline in profit will be measured against the level achieved in the period immediately preceding the commencement of dumping.

326. The original investigation concluded that for HW's total sales (which included its imports) although profits fluctuated there was evidence of an increase in profit over

the period. Profit for domestically produced preserved peaches sold in the New Zealand market declined significantly over the period 2003 to 2006 due to the depression and suppression of prices attributed to dumped imports.

327. Table 5.17 below shows details of the company's EBIT from 2008/09 to 2010/11. HW said that its gross profit had been relatively stable over the period.

Table 5.17: Earnings Before Interest and Tax (EBIT)

	2008/09	2009/10	2010/11
EBIT* (NZD)	[redacted]	[redacted]	[redacted]
- Change over period	[redacted]	[redacted]	[redacted]
% change from 2008/09		[redacted]	[redacted]
EBIT per Kg	[redacted]	[redacted]	[redacted]
- Change over period	[redacted]	[redacted]	[redacted]
% change from 2008/09		[redacted]	[redacted]
Net Sales Revenue (NZD)	[redacted]	[redacted]	[redacted]
EBIT as % Sales Revenue	[redacted]	[redacted]	[redacted]

*Includes HW imports, but excludes [redacted] which are insignificant.

328. Table 5.17 shows that HW's total EBIT for preserved peaches has fluctuated [redacted] over the POR(I) (having been [redacted] in 2009/10) but [redacted] in 2008/09 and 2010/11. Over all of the period there was an improvement in total EBIT. EBIT as a percentage of sales revenue and EBIT per kg also fluctuated [redacted] following the same pattern as total EBIT. The [redacted] EBIT in 2009/10 reflects [redacted] lower total costs per kg in that year compared with 2008/09 and 2010/11 (see Table 5.12 above).

Forecast Profits in the Absence of Duties

329. HW has said that should dumped imports from China enter the market it will have to compete [redacted].

330. HW's forecast for 2011/12 incorporated the elements of its budget that had been agreed to for that year, including what HW considered was a fairly accurate assessment of the size of the crop. Its forecast net sales revenue, in the absence of duties, reflects its calculation of the average prices of imported product from China [redacted]. HW has stated that in the absence of duties it would be unable to recoup production and selling and administration cost increases which would require a net sales price increase of [redacted] percent.

331. Table 5.18 shows HW's forecast EBIT for 2011/12 and 2012/13 with and without duties.

Table 5.18: Forecast EBIT With and Without Duties

	With Duties	Without Duties	With Duties	Without Duties
	2011/12	2011/12	2012/13	20112/13
EBIT (NZD)	[redacted]	[redacted]	[redacted]	[redacted]
- Change		[redacted]		[redacted]
% Change		[redacted]		[redacted]
As % Sales Revenue	[redacted]	[redacted]	[redacted]	[redacted]
EBIT per kg	[redacted]	[redacted]	[redacted]	[redacted]
- Change		[redacted]		[redacted]
% Change		[redacted]		[redacted]

332. Table 5.18 above shows that if anti-dumping duties remain in place there will be a [redacted] increase in EBIT in 2011/12 (compared to 2010/11) and [redacted] increase in EBIT in 2012/13 (compared to 2011/12). Should anti-dumping duties be removed HW forecasts that there will be a [redacted] decline in EBIT in both 2011/12 and 2012/13 compared to the preceding year, and also compared to the situation should the duties remain in place.

333. The Ministry considers that this decline in EBIT is likely should HW [redacted] should duties be removed.

334. The Ministry notes that as HW's forecast for 2011/12 assumed that duties would be removed in August if this review was not initiated, the impact of the forecast for 2011/12 is overstated, but HW's forecast for 2012/13 shows the full impact on its EBIT in the absence of duties.

Conclusions on Profit

335. The Ministry concludes that while HW's EBIT has fluctuated significantly over the POR(I) over all of the period, HW has not suffered a loss of EBIT.

336. The Ministry notes that HW's profit is strongly affected by the size of the peach crop in any given year, and that if the crop is small it is more difficult for HW to make a profit. The crop size, however, has not fluctuated significantly over the last two years. HW has said that its forecasting of crop size has improved to the point where it can be more confident of its forecast production volume. HW's conservative forecast production volume (similar to the lowest actual volume in the last three years) is considered by the Ministry to be reasonable.

337. HW has said that the preserved peach business is [redacted], so being competitive on price [redacted]. The Ministry has concluded above that there is likely to be a recurrence of [redacted] volume and price effects and a [redacted] reduction in sales revenue should the duties be removed. HW's forecast in the absence of duties, reflects these impacts and shows a consequent [redacted] loss of profits. Based on this analysis the Ministry concludes that it is likely HW would also suffer a material loss of profit if the duties are removed.

Productivity

338. Productivity is the relationship between the output of goods and the input of resources used to produce them. Changes in productivity are affected by output levels and by the level of capacity utilisation.

339. HW provided details of the number of employees (both permanent and seasonal) engaged in the production of canned peaches, its domestic production volume from 2008/09 to 2010/11 and the total number of employee hours dedicated to the production of canned peaches. This enabled the Ministry to calculate productivity per employee and per hours worked in the production of canned peaches over these years. The table below shows these figures:

Table 5.19: Productivity per Employee and Labour Hours

	2008/09*	2009/10*	2010/11*
Domestic Production (tonnes)	[redacted]	[redacted]	[redacted]
Seasonal staff	[redacted]	[redacted]	[redacted]
Permanent staff	[redacted]	[redacted]	[redacted]
Total staff	[redacted]	[redacted]	[redacted]
Total hours	[redacted]	[redacted]	[redacted]
Production volume per employee	[redacted]	[redacted]	[redacted]
Production volume per hours worked	[redacted]	[redacted]	[redacted]

*These figures also include other peach products.

340. Table 5.19 above shows that productivity per employee and the number of hours worked have fluctuated over the period. The Ministry notes that with fluctuating peach crop volumes, which influence production volumes, the most accurate measure of productivity is production volume per total hours worked related to the peach crop, rather than production volume per employee (as the amount of seasonal labour is variable depending on the total size of the crop, yield and finished tonnage). The calculation of the production volume per hours worked shows that the amount of peach crop produced per hour worked has increased each year, and over the period by [redacted] percent.

Likely Impact of Removal of Duties

341. HW said that imports from China were not having an adverse effect on productivity due to the anti-dumping duties being in place. It said that it [redacted], so that if anti-dumping duties were removed [redacted].

Conclusion

342. The figures show that the production volume per hours worked has increased over the last three years while duties have been in place showing that there has been no adverse effect on productivity. With more stable crop yields forecast by HW

for 2011/12 and 2012/13 it is likely that productivity would not be adversely affected should duties remain in place. Should duties be removed it is also likely that productivity would not be adversely affected [redacted].

Return on Investments

343. Return on investments measures profit against the value of the investment in a business. A decline in return on investments will result from a decline in returns with or without a relative increase in the investment factor being used. Movements in the return on investments affect the ability of the industry to retain and attract new investment.

344. HW said that canned peaches are between [redacted] and [redacted] percent of its business and the assets used to produce peaches are also used to produce a number of different types of product. The company said that it found it difficult to provide any meaningful information on return on investments for only canned peaches.

Likely Impact of Removal of Duties

345. The Ministry considers that a decline in profitability would indicate that there would likely be a corresponding decline in the rate of return on investments. HW provided forecast EBIT figures (see Table 5.18) for situations both with and without duties being in place. Over the last three years while duties have been in place EBIT has improved and EBIT is forecast to continue to improve should the duties remain in place. Should duties be removed, however, EBIT is forecast to decline in 2011/12 and decline significantly in 2012/13.

Conclusion

346. The Ministry concludes that while there is no evidence that the return on investment has been adversely impacted over the POR(I), should duties be removed, there will likely be a decline in return on investment. This would mean [redacted] should HW, in the absence of duties [redacted].

Utilisation of Production Capacity

347. The utilisation of production capacity reflects changes in the level of production, although in some cases it will arise from an increase or decrease in production capacity. In either case, a decline in the utilisation of production capacity will lead to an increase in the unit cost of production, and a consequent loss of profit.

348. In the original investigation the Ministry concluded that there was no injury to utilisation of production capacity that could be attributed to dumped imports, but there did appear to be an underutilisation of domestic production capacity due to the limited availability of raw peaches for like goods production.

349. HW's potential production capacity for peaches (which is the same as that provided in the Spanish peaches case in April 2011) is determined by the availability

of raw peaches from its growers. Currently HW takes and processes every peach [redacted] growers can supply. Theoretically, the peach season could run from the beginning of February to the end of March (a total of 59 days). At [redacted] metric tonnes per day processing capacity, this gives a theoretical production capacity of [redacted] metric tonnes, [redacted]. Table 5.19 shows that the size of the peach crop has increased over the last three years (the crop decreased slightly in 2010/11, but was still well above 2008/09) [redacted]. In summary, the total production capacity of canned peaches is dependent on the quantity of raw peaches available for like goods production each year, competition for the parts of the canning line which are common to other seasonal fruit and also by the storage life of the raw fruit.

Likely Impact of Removal of Duties

350. HW has said that it would [redacted] should the duties be removed [redacted]. HW's utilisation of production capacity would not therefore be affected by dumped imports in the 2011/12 year, but due to the forecast significant decline in prices and consequent economic impact in 2012/13 HW has said [redacted].

Conclusion

351. Due to the range of canned products manufactured by HW and the limitations mentioned above regarding the availability of the raw peaches and the storage life of the raw fruit, the Ministry considers that it is difficult to predict the impact on the utilisation of production capacity for canned peaches if anti-dumping duties are removed.

352. The Ministry concluded in sections 5.3 and 5.4 that there are likely to be price and volume effects if the anti-dumping duties are removed, which would likely cause significant adverse effects on the company's domestic production and sales volume. On this basis the Ministry concludes that HW's utilisation of production capacity would also be adversely affected.

Factors Affecting Domestic Prices

353. HW stated that raw material costs have increased in recent years, most notably the cost of tinplate which has increased in price due to high steel consumption in developing countries. HW considers that up until anti-dumping duties were imposed on preserved peaches from China in 2006, dumped imports from this source made it [redacted] for HW to pass on these cost increases in its selling prices.

Magnitude of the Margin of Dumping

354. The magnitude of the margin of dumping can be a useful indicator of the extent to which injury can be attributed to dumping, particularly when it is compared with the level of price undercutting.

355. HW has noted that when preserved peaches [redacted]. HW said that if the [redacted] product.

356. In the original investigation, it was found that the margin of dumping ranged from no dumping to [redacted] percent and the level of price undercutting ranged from [redacted] to [redacted] percent. It was considered that between [redacted] and [redacted] percent of price undercutting was attributed to the margin of dumping.

357. In the present review the Ministry has concluded that all exports of preserved peaches from China to New Zealand over the POR(D) were dumped at weighted average dumping margins of 37 to 87 percent. The Ministry has established price undercutting between the imported selling prices and like goods produced by HW of between [redacted] and [redacted] percent and therefore it is likely that the price undercutting is wholly attributable to the margin of dumping.

358. The Ministry has concluded that dumping has occurred over the POR(D) and it is likely that dumping will continue. If anti-dumping duties were to be removed and if exporters pricing information over the POR(D) are an indication of future pricing the magnitude of the extent of the margin of dumping will likely be at least the same as over the POR(D) and any level of price undercutting will be attributed to the margin of dumping.

Other Adverse Effects

Cash Flow

359. Cash flow is managed at a corporate level in HW and at H. J. Heinz. Given the seasonal nature of the peach business with an uneven distribution of expenditure and revenue relating to the production and sale of peaches, the company considers that it would not add value to the Ministry's analysis of injury for HW to provide a cash flow analysis relating to peaches. The Ministry agrees with this, and therefore cash flow has not been assessed with respect to the domestic industry's historical injury analysis, or its analysis relating to its forecast of injury.

Inventories

360. Production over a relatively short period, once a year, means that inventory is at its peak soon after production and then declines as the inventory is sold down over the next 12 months. HW stated that inventory levels were not a meaningful indication of injury because the company's policy was to manage its inventory levels to account for fluctuations in peach crop levels.

361. HW has said that it [redacted] to compete with the increased volumes of imports, and the extent to which it does this, the less will be the impact on inventory volumes, with the main impact being on HW's revenue and profits. HW's strategy to compete with Chinese preserved peaches [redacted], in 2011/12 and 2012/13, rather than lose out to the imports on volume, means that HW's inventory levels are less likely to be adversely affected by dumped imports from China during these periods should the duties be removed.

Employment and Wages

362. Table 5.19 under productivity (paragraph 339) shows the number of full-time seasonal and permanent employees that are engaged in the domestic production of canned peaches from 2008/09 to 2010/11.

363. The number of employees engaged in the production of like goods has been steady at [redacted] staff in the 2008/09 to 2010/11 financial years. HW stated that the number of staff required is dependent on the volume of raw peaches that HW is able to source for the production of canned peaches.

364. In its forecast HW stated that should duties remain in place staff numbers were expected to be similar to the current levels.

365. In its forecast where duties are removed, HW has said that staff numbers would remain at current levels for 2011/12 to 2012/13 because HW is [redacted].

366. HW provided information on the total amount it paid in wages each year from 2004/05 to 2010/11, and has advised that its forecasts for 2011/12 and 2012/13 are based on the total wages component being similar to that paid in 2009/10 and 2010/11. Historically the annual average wage per staff member (i.e. seasonal and permanent staff) has increased each year, although the average is partly dependent on the length of time seasonal workers are employed each year. The [redacted] were seasonal workers and depending upon the peach crop HW said it was able to employ seasonal workers on a required basis [redacted]

367. HW processes the entire peach crop each year [redacted] and can access the number of staff it requires to process the crop. There has been little fluctuation in employment numbers over the last three years. There is insufficient evidence to draw any conclusions about whether there has been any adverse impact on wage levels over the POR(I).

368. In respect of the likely impact on employment and wages should the duties be removed, HW stated that the number of employees and the hours worked depend on the total size of the peach crop. HW [redacted] 2012/13 financial year. Should anti-dumping duties be removed, HW intends to [redacted]. HW has projected that this will impact in the near future on its sales [redacted]

[redacted], and therefore, its level of employment and wages are not likely to be adversely affected by dumped imports from China [redacted].

Growth

369. HW said that there had been no impact so far on the ability to grow the seasonal business. HW noted that there had been a stable peach crop [redacted]. HW noted that its peach sales had actually declined since 2006 [redacted] house brand contracts), and it now focused on its own brands and [redacted].

370. HW noted however, that should there be any significant decline in its peach business this would affect its ability to produce other processed fruit and vegetables and increase its fixed costs. HW noted that the stability of the peach production meant that [redacted]

371. The Ministry considers that any detrimental effects on growth will be reflected in other injury indicators such as sales, profit and return on investment. While there is no evidence of an adverse impact on HW's current growth due to dumped imports from China, the Ministry has already concluded that HW's sales revenue, profit and return on investment would likely be adversely affected should anti-dumping duties be removed. The Ministry therefore concludes that there would likely be a subsequent adverse impact on the company's growth should anti-dumping duties be removed.

Ability to Raise Capital, and Investments

372. HW has said that any proposed capital expenditure had to meet a corporate rate of return before it could be approved. HW said that there had been no notable capital expenditure since 2009, but that between 2006 and 2009 (with anti-dumping duties in place) it had invested [redacted] in improvements to the manufacturing process of preserved peaches including investment in [redacted]. Capital expenditure on the peach processing facility and the subsequent investment in [redacted] is not all directly attributable to the production of canned peaches as other products (e.g. fruit salad) are processed through this facility.

373. Should dumped imports from China recur the Ministry considers it is likely that there may be an impact on HW's ability to raise capital and investments, the extent of which would depend on [redacted].

374. There is not enough information to draw any firm conclusions about the impact of the removal of the duty, HW, however, noted that competition from dumped imports would affect its ability to invest in the peach manufacturing operation.

5.6 Other Causes of Injury

375. Sections 8(2)(e) and (f) of the Act provide that the Chief Executive shall have regard to factors other than the dumped goods which have injured, or are injuring, the industry, including—

i. The volume and prices of goods that are not sold at dumped prices; 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. Export performance and productivity of the New Zealand producers; and

vi. The nature and extent of importations of dumped or subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

Non-Dumped Imports

376. Imports that are not dumped also have the potential to cause injury to the New Zealand industry.

377. For the purposes of considering the likelihood of injury to the New Zealand industry from non-dumped imports, HW's imports have been excluded from the volumes of imports under consideration by the Ministry. HW stated that it had been competing successfully with non-dumped goods for a number of years and it is not aware of any material injury that has been caused through fairly traded competitor branded products.

378. In addition to preserved peaches of Chinese origin, there is currently anti-dumping duty payable on preserved peaches from South Africa, Spain and Greece. The goods of South African, Spanish and Greek origin are therefore imported into the commerce of New Zealand at fair prices. However, the imposition of anti-dumping duty on imports of preserved peaches originating from Spain commenced in August 2011, which is after the POR(D) under examination in the current review.

379. To consider the likelihood that HW would suffer injurious effects from the imports of non-dumped goods the Ministry has analysed import volumes over the POR(D) and undertaken a price undercutting analysis between the landed average values of imported goods and HW's ex-factory average price. The landed average values of imported goods are represented by the average New Zealand VFD plus overseas freight, overseas insurance, tariff, and duty and anti-dumping duty (where relevant) calculated on a per kg basis.

Table 5.20 Volume and Prices from China and other Countries per kg (from 1 June 2010 to 31 May 2011)

Country of Origin	Volume imported (kgs)	As % of total imports	Cost, Insurance & Freight plus other expenses/kg	HW's Ave price (NSV) per kg	% of Price Undercutting per kg
Australia	1,126,995	[redacted]	4.45	[redacted]	[redacted]
China*	[redacted]	[redacted]	1.74	[redacted]	[redacted]
Greece	103,635	[redacted]	1.80	[redacted]	[redacted]
Spain	347,846	[redacted]	1.48	[redacted]	[redacted]
South Africa	1,945,368	[redacted]	2.53	[redacted]	[redacted]

* The volumes of imports exclude HW imports.

380. Table 5.20 shows that the largest import volumes, excluding China, over the POR(D) originate from South Africa and Australia. However, the Australian and South African average landed prices are the highest of the major exporting countries and there is no price undercutting or minimal price undercutting. It is unlikely therefore that these prices significantly impact on HW's prices. The import volumes from Spain and Greece are the least of the major exporting countries but the landed prices significantly undercut HW's average prices and may have affected HW's sales. However, the volume of imports from Greece and Spain are not significant and are unlikely to have caused material injury to HW. In addition, as noted above, imports from Spain have been subject to anti-dumping duty since August 2011.

381. Based on the totality of information it is unlikely that import volumes from major exporting countries have caused material injury to HW. If the anti-dumping duties are removed from imports from China, importers may change to sourcing from China and therefore increased import volumes and low prices are likely to cause material injury to HW. If the import volumes and prices continue at the same level in the near future it is unlikely that HW would suffer material injury from non-dumped goods.

Changes in Consumption or Demand

382. Changes in the pattern of consumption or a reduction in demand can also be a potential cause of material injury to the New Zealand industry producing preserved peaches

383. HW said that the market for canned peaches had been [redacted] 2009 and that the forecast sales for 2012 and 2013 [redacted] which reflected the current trading environment. It said that there had been no changes that it was aware of in consumption patterns and that the [redacted].

Restrictive Trade Practices and Competition

384. Restrictive trade practices of overseas or New Zealand producers, such as price ceilings, other statutory measures, or exclusive dealer arrangements, can affect the financial position of New Zealand manufacturers when they are not the

beneficiaries of the restrictions. Competition between overseas and New Zealand producers can be a cause of material injury independent of any dumping. For example the existence of a price war or the constant threat of new competitors to the New Zealand market can cause a fiercely competitive environment where it is difficult for a New Zealand manufacturer to make a positive return.

385. HW has stated that it is not aware of any restrictive trade practices of, or competition between, overseas and New Zealand producers causing injury, other than dumping causing injury.

386. The Ministry has concluded in previous investigations and reviews concerning canned peaches that the supermarkets are able to directly influence pricing levels. Previously HW has said that there had been growth in house brands directly competing with branded lines and putting more pressure on the more traditional brands in the market. HW has stated that there had been a growth in supermarket house brands and the [redacted] these products had been causing increased price competition among suppliers. HW noted that house brands were [redacted] but that some were now competing [redacted] making the whole market highly price competitive. In relation to this review HW has said that it [redacted] and it is concentrating on supporting its own brands [redacted].

387. The Ministry considers that any adverse impact from the competitive pricing behaviour between supermarkets and the domestic industry could not be attributed to the dumping of imports from China, as an anti-dumping remedy has been in place over the POR(I).

Developments in Technology

388. HW stated that there had been no significant changes in technology for a number of years and that it does not believe there is any evidence of a technology development relevant to a consideration of material injury. It said that it continues to produce peaches in cans [redacted]

389. HW noted that China had become more automated and that there had been the introduction into New Zealand of peaches in pottles.

Imports by the Industry

390. The Ministry is required to assess 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.

391. HW has advised that at times of short supply of peaches in New Zealand due for example to disease or weather events, it has been compelled to import canned peaches in order to supplement its domestic production. HW considers that these imports did not cause it any injury. (The Ministry notes that in the original investigation the Ministry found that when HW's imports were included in its total

sales volume and revenue, there was no evidence of material injury being caused to HW.) In this review, over the POR(D) imports by HW from China were minimal including [redacted].

392. The reduction in imports by HW is [redacted] products. HW has in the past been able to sell all the canned peaches it produces to the New Zealand market. As the local production volume (of raw peaches) increases and stabilises as a result of some of the elements of the strategy HW has not needed to import as much product as in the past [redacted]. (HW has noted that there will always be some fluctuation in the volume of raw peaches produced, but hopes to minimise that fluctuation so that canned peach production does not vary by more than [redacted]). The evidence suggests that this approach to managing its sales volume appears to be working so that in the foreseeable future imports are likely to remain at low levels.

Export Performance and Productivity

393. HW said that it had exported a small surplus ([redacted] tonnes) of canned peaches to the Pacific Islands and Australia in each of the last two years. It said that this was in response to the increased peach crop yield that had been achieved and that it expected to be able to export small amounts of canned peaches in future now that the peach crop yield was more stable.

394. The Ministry considers that such a small amount would not have had a negative effect on HW's profitability. Productivity would not be adversely affected either because the exported peaches would have been produced at the same time as the rest of the preserved peach production.

Conclusion on Other Sources of Injury

395. There is some evidence that the highly competitive market for preserved peaches in New Zealand may have impacted on the New Zealand industry's performance in the past. However, this is not unusual as the New Zealand market for preserved peaches is extremely competitive. On the basis of the information sourced in the investigation, the Ministry considers that the highly competitive nature of the New Zealand market has been a consistent factor that will not change in the near future.

396. The Ministry concludes that there continue to be a number of factors which are likely to have been a cause of injury to HW over the POR(I). The Ministry also concludes that these factors will continue to affect HW in the same way whether the anti-dumping duties remain in place or are removed, and therefore can be distinguished from the injurious effects likely to arrive from dumped imports if the anti-dumping duties are removed.

5.7 Conclusions Relating to Injury

397. From information made available during the review, the Ministry has reached the following conclusions:

Volume and Price Effects

- In absolute terms, the volume of imports of preserved peaches from China has declined relative to both production and consumption.

- HW's domestic average prices of preserved peaches have been undercut by imports of preserved peaches from China over the POR(D).

- HW has not experienced price depression or price suppression.

Economic Impact

- There is no evidence of an adverse economic impact from preserved peaches originating in China on HW's output, sales volume and revenue, market share, profit, productivity, return on investments, and utilisation of production capacity.

- The magnitude of the margin of dumping is greater than the extent of price undercutting, indicating that all of the price undercutting can be attributed to dumping.

- There is no evidence of any current injurious effects caused by goods of Chinese origin on HW's cash flow, inventory, employment and wages, growth, or ability to raise capital and investments.

- Factors that have affected domestic prices relate to strong import competition generally and in part relate to imports from Spain which were later found to be dumped in a concurrent investigation.

- Factors other than dumped goods have not impacted significantly on HW's performance.

Likelihood of Injury if Anti-dumping Duties Cease or are Terminated

398. In relation to the likelihood of a recurrence of material injury should anti-dumping duties be removed the Ministry concludes that:

- It is likely that imports of preserved peaches from China would increase significantly, in part due to importers switching from other sources of supply.

- It is likely that the prices of dumped imports from China would undercut the New Zealand industry's prices and is likely that as a result HW's prices will be depressed and suppressed.

- HW's sales volume of preserved peaches will be maintained but as a result of a decline in prices, its net sales revenue will [redacted] decrease.

- There may not be an impact on HW's market share as HW's [redacted]

[redacted].

- It is likely that HW's profits will decline as a consequence of the adverse volume, price and economic impacts set out above, and consequently there is likely to be some impact on return on investments, utilisation of production capacity and growth;

- Productivity, inventories, employment and wages, or ability to raise capital and investments will not be affected initially, [redacted].

- There is insufficient evidence available to come to a conclusion on the likely impact on the industry's cash flow.

Proposed Form and Scope of Anti-Dumping Duty

399. As noted in the Interim Report the Ministry considers that if the review finds that the duties should remain in place, it will initiate a reassessment of the duties following the completion of the review. The reassessment will be based on the information gathered during the review. A separate rate of duty will be applied to those exporters and manufacturers in respect of whom the review has concluded there is likely to be a continuation or recurrence of dumping should the duties be removed.

400. The Ministry is of the view that there should be a single rate of duty for each such exporter and manufacturer that will apply to all of their exports of preserved peaches falling within the description of the goods to which the duty applies, regardless of the container size. The Ministry considers the residual rate of duty should be applied in the same way. If the reassessed duties are applied in this way, they will differ from the current duties which do not apply to preserved peaches in containers less than 265g and greater than 1.91 kg.

401. No comments have been received on this proposed approach.

6. Conclusions

402. On the basis of the information available, it is concluded that the continued imposition of anti-dumping duties is necessary to prevent the continuation or recurrence of material injury to the New Zealand industry producing the subject goods.

7. Appendix One

403. A full copy of the Act and the WTO Agreement on the Implementation of Article VI of the GATT 1994 (the Anti-dumping Agreement) can be found at: http://www.legislation.govt.nz/act/results.aspx?search=ts_act_dumping+and+countervailing_resel&p=1

and

http://www.wto.org/english/docs_e/legal_e/19-pdf