

**Canned Peaches from
South Africa:
Non-Confidential
Initiation Report**

TR800/R/01/1

30 July 2001

1. Heinz Wattie's Australasia, comprising HJ Heinz Company Australia Limited and Heinz Wattie's Limited (Heinz Wattie's), has requested that the Chief Executive of the Ministry of Economic Development initiate an investigation under section 14(8) of the Dumping and Countervailing Duties Act 1988 (the Act) to review the continued need for the imposition of anti-dumping duties on canned peaches from South Africa.

2. Heinz Wattie's, which previously operated under the name of J Wattie Foods Limited, is the only producer of canned peaches in New Zealand. Heinz Wattie's produces canned peaches under the brand names Wattie's, Oak, Weight Watchers and various other supermarket house brands.

3. The goods to which the request relates are currently subject to anti-dumping duties, which in terms of section 14(9) of the Act will cease to be payable on 2 August 2001 unless, at that date, the goods are subject to a review under section 14(8) of the Act. The application is therefore a request for the continuation of anti-dumping duties on the goods.

Background

History of Anti-Dumping Action

4. The Minister of Commerce first imposed anti-dumping duties on South African canned peaches on 1 August 1996. At that time, specific reference prices in the form of Normal Values (Value for Duty Equivalent) (NV(VFDE)) in \$US/kg were established for all South African suppliers. An *ad valorem* rate of 20 percent, based on the weighted average dumping margin found during the investigation, was calculated for all imports of subject goods other than those for which NV(VFDE) amounts were established. A notice to this effect was published in the *New Zealand Gazette* of 8 August 1996.

5. On 19 December 1996, the Minister of Commerce reassessed the amounts and rates of anti-dumping duties applicable to South African canned peaches, which **[Text deleted due to confidentiality]**. The *ad valorem* rates for other can sizes and product styles were reduced from 20 percent to 12 percent. A notice to this effect was published in the *New Zealand Gazette* of 9 January 1997.

6. On 9 March 1998, the Minister of Commerce carried out a second reassessment of the amounts and rates of anti-dumping duties applicable to South African canned peaches. **[Text deleted due to confidentiality]** and the introduction of a NV (VFDE) for 225gm canned peaches. The *ad valorem* rate for other suppliers of all can sizes and product styles was reduced from 12 percent to 3 percent. A notice to this effect was published in the *New Zealand Gazette* of 19 March 1998.

Legal Provisions

Duties

7. Section 14(9) of the Act provides as follows:

(9) Anti-dumping duty or countervailing duty applying to any goods shall cease to be payable on those goods from the date that is [5 years] after-

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

whichever is the later, unless, at that date, the goods are subject to review under subsection (8) of this section.

Reviews

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

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

Reassessments

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

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

- (a) On the initiative of the Chief Executive ; or
- (b) Where a request for a reassessment is submitted to the Chief Executive by an interested party who submits evidence justifying the need for a reassessment; or
- (c) Following the completion of a review carried out under subsection (8) of this section--

and the Minister may determine a new rate or amount in accordance with subsection (4) of this section, and, in that event, shall give notice of the new rate or amount.

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

Positive Evidence

11. In support of the request for a review, Heinz Wattie's has provided the following information relating to the likelihood of recurrence of the material injury arising from the importation of the dumped goods should the existing anti-dumping duties be removed. The information provided by Heinz Wattie's is summarised below.

Applicant

12. The applicant is Heinz Wattie's, the sole New Zealand producer of canned peaches. Heinz Wattie's is the "industry" as defined in section 3A(a) of the Act and is an interested party in terms of the requirements of section 14(8) of the Act.

New Zealand Production

13. Heinz Wattie's has supplied sales volume and value figures for 1999 to 2001 financial years and has forecast the likely effect of increased volumes of dumped imports on the 2001 financial year should the existing anti-dumping duties be removed. Heinz Wattie's provided information on its annual production of canned peaches for the period 1996 to 2001.

Subject Goods

14. Heinz Wattie's provided a full description of the goods subject to the application and which are currently subject to anti-dumping duties. The goods are described in the current notice imposing anti-dumping duties as:

Canned peaches (halves, slices and pieces) packed in various concentrations of sugar syrup and in can sizes ranging from 110 grams to 3 kilograms (A10)

Like Goods

15. The Ministry had previously examined the goods produced in New Zealand by Heinz Wattie's. This examination was carried out at the time of the original investigation in 1996. The Ministry agreed that the goods produced by Heinz Wattie's, while not alike in all respects, had characteristics closely resembling the imported canned peaches and were therefore like goods to the subject goods.

16. Heinz Wattie's in its application for the review advised the Ministry that there had been no material changes to the like goods currently produced in New Zealand or the subject goods produced in South Africa since the original investigation in 1996.

Country of Origin or Export

17. The goods subject to the current anti-dumping duties originate from South Africa.

Exporters

18. Heinz Wattie's, in its request for a review, provided the names of exporters of canned peaches from South Africa. In the context of a review request and its necessary focus on the likelihood of material injury should anti-dumping duties be removed, the Ministry will consider all exporters (including those listed in the application) of the subject goods from South Africa. Any review would also involve those exporting producers who were specifically investigated in 1996.

19. Heinz Wattie's, in its application, stated that all the exporters who were previously involved in exporting dumped peaches from South Africa to New Zealand remain active as exporters of canned fruits. Information obtained by the Ministry from the New Zealand Customs Service (NZCS) for the period 1 Jan 1996 to 30 June 2001 [**Text deleted due to confidentiality**].

Importers

20. Heinz Wattie's provided the names of importers of canned peaches from South Africa. In the context of a review request and its necessary focus on the likelihood of material injury should anti-dumping duties be removed, the Ministry will consider all importers of the subject goods from South Africa. The Ministry has, in the context of considering the application identified the importer(s) associated with the South African suppliers of canned peaches to New Zealand in the year ended 30 June 2001.

21. Heinz Wattie's, in its application, stated that all the importers who were previously involved in importing dumped peaches from South Africa to New Zealand continue to be in business. Data obtained from the NZCS for the period 1 Jan 1996 to 30 June 2001 suggests that most of the importers investigated in the original dumping investigation [**Text deleted due to confidentiality**].

Normal Values

22. Heinz Wattie's provided estimated normal value figures for the subject goods based on South African suppliers' wholesale prices as at April 2001. Heinz Wattie's also conducted a market survey of retail prices in South Africa for canned peaches, which demonstrates the reasonableness of these prices. Heinz Wattie's also provided an explanation and confirmation of how the price survey was conducted in South Africa. The review request contains a list of domestic retail costs for canned peaches sold by 5 different South African retailers.

Export Price

23. Heinz Wattie's did not provide any information on export prices to New Zealand as the subject goods are no longer sold in New Zealand supermarkets. However, Heinz Wattie's has provided export prices at the ex-factory level for the five largest countries of export (Germany, Great Britain, Hong Kong, Japan and Netherlands) plus Australia as a comparable market to New Zealand. These export prices were based on the South African export statistics prices. Heinz Wattie's made adjustments to these prices according to its knowledge of margins and import costs.

24. The NZCS data shows that there have been imports of canned peaches of various sizes from South Africa in the year ending 30 June 2001.

Comparison of Export Price and Normal Value

25. Heinz Wattie's has calculated dumping margins for Germany, Great Britain, Hong Kong, Japan, Holland and Australia. The dumping margins calculated range from 36 to 158 percent. Heinz Wattie's is of the view that even if adjustments were made to take account of volume

differences between these countries, given the high dumping margins, there would still be evidence of substantial dumping if exports to New Zealand for supermarkets were resumed.

26. The Ministry calculated the export price of canned peaches supplied to New Zealand based on the information provided by the NZCS for the year ended 30 June 2001. Adjustments were made to calculate the estimated export price. On this basis, the dumping margin as a percentage of the export price is estimated to be **[Text deleted due to confidentiality]** percent.

Import Volumes

27. The applicant has provided information, sourced from Statistics New Zealand, on import volumes of canned peaches from South Africa into New Zealand from calendar year 1995 (inclusive) to February 2001. The applicant notes that the last significant sale of South African canned peaches on the New Zealand retail market occurred in **[Text deleted due to confidentiality]**. There have been some sales of South African canned peaches to the food service industry since **[Text deleted due to confidentiality]**.

28. Heinz Wattie's stated that it could lose **[Text deleted due to confidentiality]** percent of its market share if the dumped South African canned peaches returned to the New Zealand market. Heinz Wattie's based this percentage on the original investigation when the South African canned peaches were last on the New Zealand market. Heinz Wattie's has calculated that it would lose sales of **[Text deleted due to confidentiality]** of canned peaches to imported South African peaches.

29. Heinz Wattie's has pointed to marginal build up of stock levels in South Africa due to favourable weather conditions and reduction in export volumes due to difficulties in EU markets. As a result of the stock build up, Heinz Wattie's is of the view that significant quantities of canned peaches are available for exports to markets such as New Zealand.

30. The total import of canned peaches from South Africa for the year ended 31 December 1995 (period before the anti-dumping duties were imposed) was 421,220kgs. The NZCS data shows that approximately **[Text deleted due to confidentiality]** of canned peaches were exported to New Zealand from South Africa for the year ended 30 June 2001 (period of review). Heinz Wattie's predicts that the volume of imports will increase if the anti-dumping duties are removed.

Price Effects

31. The applicant provided information on the likely effects of imports of dumped goods on prices of like goods in New Zealand should the existing anti-dumping duties be removed.

Injury Factors

32. Heinz Wattie's have claimed that consequent on the removal of current anti-dumping duties on the subject goods, imports of the subject goods would increase and the resulting price undercutting would result in price depression and suppression, loss of market share, a

decline in sales volume, a decline in sales revenue and a decline in profit. Information has been provided in support of these claims.

33. Heinz Wattie's has provided information on the other economic effects of removal of current anti-dumping duties. It has stated that the loss of volume, sales revenue and profits will have significant adverse effects upon its cash flow, inventories, employment and growth. Heinz Wattie's has not provided any information on return on investments and utilisation of production capacity. Heinz Wattie's stated that this information will be made available to the Ministry upon its verification visit to the industry.

Other Causes of Injury

34. The applicant has referred to the ability of New Zealand supermarkets to directly influence prices, growth of supermarket house brands and imports from countries other than South Africa as "other causes of injury".

Industry Imports

35. Heinz Wattie's has imported canned peaches to protect Heinz Wattie's market share and consumer goodwill when there is a shortage of supply due to unfavourable weather conditions and disease. Heinz Wattie's, in its application, has claimed that its imports of canned peaches [**Text deleted due to confidentiality**].

Conclusion

36. Heinz Wattie's has provided positive evidence of a need to review the necessity for the continued imposition of anti-dumping duties on canned peaches from South Africa and the likelihood of material injury to the New Zealand industry in the absence of anti-dumping duties.

Recommendation

37. It is recommended that:

- In accordance with section 14(8) of the Act, and acting under delegated authority from the Chief Executive, you formally initiate a review for the continued imposition of anti-dumping duties on canned peaches (as described in paragraph [14](#) above), imported into New Zealand from South Africa.

Should you agree to a review, a draft *Gazette* notice is attached for your signature.