MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Initiation Memo:

Sunset Review of Anti-dumping Duties on Canned Peaches from South Africa

Trade (Anti-dumping and Countervailing Duties) Act 1988

NON-CONFIDENTIAL

New Zealand Government

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ABBREVIATIONS AND ACRONYMS

The following abbreviations are used in this Report:

Act, the	*Trade (Anti-dumping and Countervailing Duties) Act 1988*
Anti-Dumping Agreement	WTO Agreement on Implementation of Article VI of the GATT 1994
Chief Executive	Chief Executive of the Ministry of Business, Innovation and Employment
CIF	Cost, Insurance and Freight
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Tax
FOB	Free on Board
HWL	Heinz Wattie's Limited
team, the	The members of the Trade and International team of MBIE who investigate dumping and subsidy allegations
kg	Kilogram
Ltd	Limited
MBIE	the Ministry of Business, Innovation and Employment
Minister	The Minister of Commerce and Consumer Affairs
NSV	Net Sales Value
NZD	New Zealand Dollars
Canned peaches	Peaches in preserving liquid, in cans up to and including 3.0kg
Review	A full review of the imposition of anti-dumping duties on canned peaches from South Africa (also known as a "sunset review"), authorised under section 17D of the Trade (Anti-dumping and Countervailing Duties) Act 1988
RND	South African Rand
VAT	Value Added Tax
VFD	Value for Duty
WTO	World Trade Organization

EXECUTIVE SUMMARY

Anti-dumping duties were first imposed on canned peaches from South Africa in 1996.

Anti-dumping duties were first imposed on canned peaches imported from South Africa in August 1996, following an application from Heinz Wattie's Ltd (HWL), the New Zealand industry. Since then, at the application of HWL, the Ministry of Business, Innovation and Employment (MBIE) has conducted reviews of the anti-dumping duties in 2001, 2007 and 2013, resulting in the current duties on canned peaches imported from South Africa.

Duties were last reassessed in December 2014, following a new shipper reassessment where the Minister of Commerce (the Minister) determined that duties should continue at the reassessed rates.

The current duties were due to expire on 28 May 2019, unless subject to a review.

The current duties were due to expire on 28 May 2019, unless subject to a review. Reviews carried out in these circumstances are referred to as sunset reviews.

MBIE received an application for a review of the current duties from HWL.

On 1 April 2019 MBIE received an application from HWL for a review of the current duties on canned peaches from South Africa. HWL claims that if the anti-dumping duties are removed, imports of canned peaches from South Africa would be likely to continue to be dumped and that this will cause a recurrence of material injury to HWL.

The Chief Executive is required to conduct a review under section 17D of the Trade (Anti-dumping and Countervailing Duties) Act 1988 (the Act) if:

a. Requested to do so by an interested party; and
b. The interested party submits positive evidence justifying the need for a review.

In order to justify a review, MBIE expects HWL to provide positive evidence that:

- the removal of the duty on the subject goods would likely result in a continuation or recurrence of dumping; and
- such dumping would likely result in a continuation or recurrence of material injury to the domestic industry.

The standard for MBIE to start (initiate) a review is at section 17D(1) of the Act. This report considers the accuracy and adequacy of the evidence that HWL provided against this standard.

MBIE considers that the standard for initiating a review as outlined in section 17D(1), which speaks of "positive evidence justifying the need for a review" is different from that for a new investigation, as outlined in section 10A(1), which speaks of "sufficient evidence". MBIE also takes guidance from the Appellate Body of the World Trade Organization (WTO) in *US – Hot Rolled Steel from Japan* which states that regarding "positive" evidence, "the evidence must be of an affirmative, objective and verifiable character, and that it must be credible."

To support its claim that dumping would likely continue if the duty is

MBIE is satisfied that HWL has provided positive evidence that dumping would be likely to continue if the duties were removed.

removed, HWL calculated what it considered to be a suitable estimated export price for canned peaches from South Africa and compared it to an estimation of a normal value.

MBIE compared these figures and calculations with information available to it, including figures sourced by the New Zealand Customs Service (Customs) and previous investigations and reviews that MBIE has conducted, and found that the information used by HWL is reasonable.

MBIE is satisfied that HWL has provided positive evidence that canned peaches exported to New Zealand from South Africa were dumped over the year ended 31 January 2019, and therefore dumping would be likely to continue if the duties are removed.

MBIE is satisfied that HWL has provided positive evidence that it will likely suffer material injury if the anti-dumping duty expires.

HWL also claims that it will suffer material injury in the form of price undercutting and loss of sales revenue if the duties are removed. HWL calculates that without duties in place, it will experience price undercutting at 49 per cent for its Wattie's brand and 34 per cent for its Oak brand.

HWL also alleges that a loss of sales revenue would occur if the duties are removed. HWL claims that this will translate directly into a loss of profit.

MBIE assessed the injury information provided by HWL and, while it noted some errors in calculation, the corrected calculations showed price undercutting both in the presence and absence of anti-dumping duties, resulting in lower sales revenue and profits.

HWL claims that there is a causal link between the alleged dumping and any recurrence of injury. It refers to the 2013 review which established a causal link between a potential recurrence of dumping and a recurrence of material injury to HWL.

MBIE is satisfied that HWL has provided positive evidence that it will likely suffer material injury if the anti-dumping duties expire.

This report recommends that the Manager, under delegated authority from the Chief Executive, starts a full review of anti-dumping duties on canned peaches from South Africa.

Following consideration of information that HWL provided in its application for a review, MBIE is satisfied that HWL has provided positive evidence that if the duty is removed, dumping of canned peaches from South Africa would be likely to recur or continue, and will likely cause a recurrence of material injury to the domestic industry (in this case, injury to HWL). Therefore, MBIE has concluded that a full review is justified. A full review will involve investigation and careful analysis of the figures and any underlying assumptions presented in HWL's application.

This report recommends that the Manager, under delegated authority from the Chief Executive, starts a full review of anti-dumping duties on canned peaches from South Africa.

Stage 1 of the review will determine whether the continued imposition of the anti-dumping duty is necessary to offset dumping and material injury to the New Zealand canned peach industry, and whether material injury or threatened material injury would be likely to continue or recur if the duty expired or were otherwise removed or varied.

If, at the end of stage 1 of the review, an affirmative determination is made by the Minister that the continued imposition of the duty is necessary to offset dumping and material injury to an industry, the Minister must:

- Determine the rate or amount of anti-dumping duty that will form the basis for stage 2 of the review

- Direct the Chief Executive to start (initiate) stage 2 of the review, namely investigating whether continuing to impose the duty is in the public interest. Any such investigation will be conducted according to sections 17H to 17J of the Act.

If a negative determination is made, the Minister must terminate the duty.

1. Introduction

1.1 Application

1. Anti-dumping duties were first imposed on canned peaches imported from South Africa in August 1996, following an application from Heinz Wattie's Ltd (HWL), the New Zealand industry. Since then, at the application of HWL, MBIE has conducted reviews of the anti-dumping duties in 2001, 2007 and 2013, resulting in the current duties on South African imports.

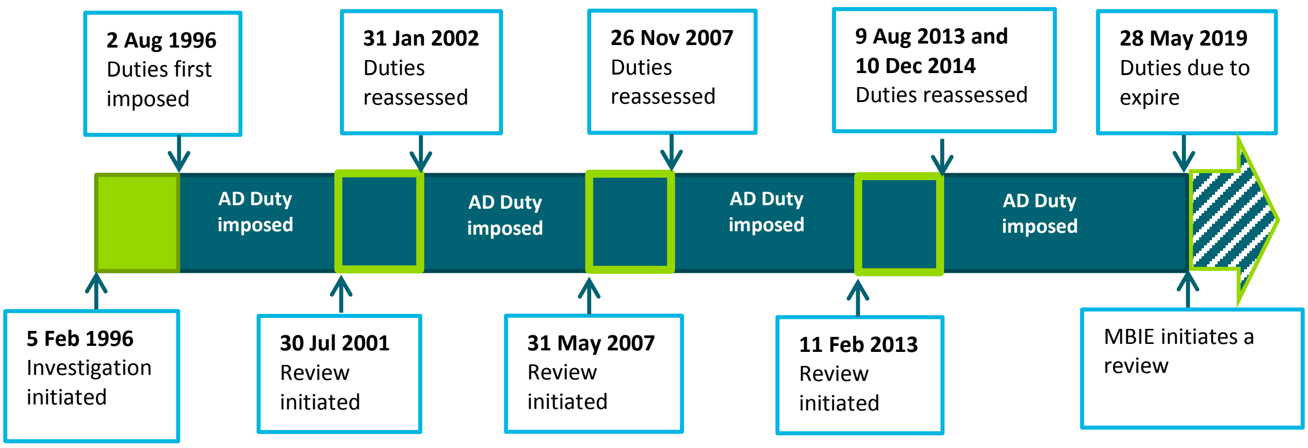
2. Duties were last reassessed in December 2014, following a new shipper reassessment where the Minister of Commerce and Consumer Affairs (the Minister) determined that duties should continue at the reassessed rate.

3. The current duties were due to expire on 28 May 2019, unless subject to a review.[1] Reviews carried out in these circumstances are referred to as sunset reviews.

4. The World Trade Organization (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the AD Agreement) specifies that a domestic industry requesting a review of an anti-dumping duty should submit a duly substantiated request for a review within a reasonable period of time prior to duties expiring.[2]

5. On 1 April 2019 MBIE received an application for a review of the current duties on canned peaches from South Africa from HWL. HWL claims that if the anti-dumping duties are removed, imports of canned peaches from South Africa will continue to be dumped and that this will cause a recurrence of material injury to HWL.

Diagram 1.1: Timeline of anti-dumping duties on canned peaches from South Africa



[1] Article 11.3 of the WTO Anti-dumping Agreement

[2] Article 11.3 of the WTO Anti-dumping Agreement

6. HWL is the only producer of canned peaches in New Zealand. For the purposes of considering this application, MBIE considers HWL to be an interested party.

7. New Zealand implements its obligations under the AD Agreement through the Trade (Anti-dumping and Countervailing Duties) Act (the Act). HWL's application should be assessed under the Act, and specifically part 6 which contains the review provisions.

8. Pursuant to s17D(1) of the Act, if an interested party submits positive evidence justifying the need for a review, then the Chief Executive must start (initiate) a full review of the continued need for the duties.

9. Stage 1 of the review results in a determination by the Minister, within 180 days after the start of the review, of whether the continued imposition of anti-dumping duty is necessary to offset dumping and whether material injury to the New Zealand industry would be likely to continue or recur if the duty expired or were otherwise removed or varied.

10. Stage 2 of the review only proceeds if the Minister makes an affirmative determination in stage 1 of the review, in which case the Minister must determine the rate or amount of anti-dumping duty that will form the basis for stage 2 of the review. The Minister will then direct the Chief Executive to start stage 2 of the review, namely investigating whether continuing to impose the duty is in the public interest. The Minister must make a determination, within 90 days after the start of stage 2 of the review, whether continuing to impose the anti-dumping duty is in the public interest.

11. Upon the initiation of this review, duties will remain during the review. If, following stage 2 of the review, the Minister determines that the duties should continue to be imposed at the new rate, they will apply for another five years.[3] If the Minister determines the duty should be terminated, MBIE will recommend that the Minister of Commerce and Consumer Affairs terminates the duties under section 17Y(1) of the Act.

12. This report assesses the application against the initiation requirements in the Act. The report outlines the basis for determining that HWL has provided positive evidence justifying the initiation of a full review.

[3] Section 13A(1) of the Act.

1.2 Dumping and material injury

13. Dumping is defined in sub-section 3(1) of the Act. Dumping occurs when an exporter sells goods to New Zealand (export price) at a price less than the price charged in its domestic market (normal value). MBIE makes necessary adjustments to ensure that the comparison of these prices is fair, including ensuring that the prices are compared at the same level of trade.

14. HWL claims that continued dumping of canned peaches from South Africa would cause the company material injury through:
    - price undercutting
    - price depression, and
    - price suppression.

15. HWL claims that these price effects would result in:

    b. a decline in output and sales;
    c. a decline in market share;
    d. a decline in profits and return on investments;
    e. decline in utilisation of production capacity; and
    f. adverse effects on cash flow, inventories, employment and growth.

1.3 Investigation Period

16. MBIE recommends that the period used to determine claims of dumping for this review (the period of investigation for dumping) be the year ended 31 December 2018. This period is in accordance with the period for assessing dumping of twelve months recommended by the WTO.[4] For the purposes of considering initiation, MBIE has considered figures provided by HWL in its application which refer to the year ended January 2019.

17. Following initiation, exporters and importers will be directly invited to make submissions and provide responses to questionnaires. Importers will be given 30 days, and exporters and manufacturers will be given 37 days to respond to questionnaires[5]. MBIE allows an additional week for exporters and foreign manufacturers to reply to questionnaires to allow for any translation and postal delays.

18. In reviews MBIE maintains a public file, where non-confidential copies or summaries of all review documents are available on request. Interested parties are entitled to request a copy of the public file at any point during a review.

[4] Recommendation adopted by the WTO Committee on Anti-Dumping Practices on 5 May 2000 (G/ADP/6).
[5] As required by Article 6.1 of the Anti-dumping Agreement.

2. Goods description

2.1 Imported goods

19. The imported goods that are subject of the application (the subject goods) are described as:

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

20. HWL considers the subject goods are classified under the tariff item and statistical keys 2008.70.09.00 of the Tariff of New Zealand. The subject goods are not separately defined as the tariff item also includes preserved nectarines and peaches falling outside of the definition of the subject goods, such as peaches in different container types or sizes.

21. The rate of customs duty that applies to canned peaches from South Africa is the normal rate of duty of 5 per cent.

22. The anti-dumping duty for the suppliers specified in the *Gazette* notice imposing duties is currently imposed through the form of reference prices and for other exporters through an *ad valorem* rate of duty. Where reference prices apply, the duty is payable only when the export price is lower than the reference price. The amount of an anti-dumping duty payable is the difference between the two prices.

23. The reference prices applicable to canned peaches from South Africa are in the form of Normal Value (Value for Duty Equivalent) amounts in South African Rand (RND) which have been set at the level required to remove dumping. Reference prices in the foreign currency ensure that the anti-dumping duties are not larger than the dumping margin (to comply with Section 10E(2) of the Act).

24. Reference prices have been set for individual exporters and other exporters on a per kg basis (see Table 2.1).

Table 2.1: Current Rates of Duty

Canned Peach Grade	**Reference Price (RND per kg)**	
	Langberg & Ashton Foods	**Rhodes Food Group**
Choice Grade	RND [redacted]	RND [redacted]
Standard Grade	RND [redacted]	RND [redacted]
Sub-Standard Grade	RND [redacted]	RND [redacted]
Residual duty (all other exporters)	11 percent of the VFD	

2.2 Like goods

25. Article 11.3 of the Anti-Dumping Agreement states that a request for a review "must be made by or on behalf of the domestic industry". Section 3A of the Act defines the term domestic industry to mean:

    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.

26. Section 3(1) of the Act defines **like goods** in relation to any goods, as:

    c. Other goods that are like those goods in all respects, or

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

27. The goods which HWL produces were confirmed to be "like goods" to the subject goods in the original investigation in 1996. HWL has confirmed that it continues to be the only producer of canned peaches in New Zealand, and that it makes "like goods" to the goods imported from South Africa under the tariff code and statistical key above, as they have the same form, function and usage. Based on the statement by HWL in its application and the evidence from the original investigation, and other investigations into like goods from other origins, MBIE considers that there is sufficient evidence to conclude that the canned peaches produced by HWL are "like goods" to the goods subject to the duty.

3. Interested Parties

3.1 Applicant and New Zealand Industry (HWL)

28. HWL submitted the application on 1 April 2019. HWL is wholly owned by The Kraft Heinz Company, based in the United States.

29. HWL produces canned and preserved peaches at its Hastings plant along with a range of other processed and canned fruits and vegetables.

30. HWL advises that it is the only New Zealand producer of canned peaches, and therefore constitutes the New Zealand industry. MBIE accepts this claim.

3.2 Exporters

31. In the 2013 review, MBIE investigated only one exporter of canned peaches from South Africa (see table 3.1 below). That exporter, which was also a producer, was Langeberg & Ashton Foods Pty Ltd. In 2014, a newly identified exporter, Rhodes Food Group, requested and was given separate reference prices for anti-dumping duty rates after MBIE conducted a new shipper reassessment.

Table 3.1: Identified Exporters from 2013 review

Company name	City
Langeberg & Ashton Foods Pty Ltd	Western Cape

32. A review would establish the extent to which Langeberg & Ashton Foods Pty Ltd and Rhodes Food Group continue to export canned peaches to New Zealand, and whether any new companies are exporting canned peaches from South Africa to New Zealand.

3.3 Importers

33. In the 2013 review, MBIE identified and investigated the following importers of the subject goods.

Table 3.2: Identified Importers from 2013 review

Company name	City
Brooke Holdings Ltd	Auckland, Christchurch
Foodstuffs Own Brands Ltd	Auckland, Wellington, South Island
Progressive Enterprises Ltd	Auckland

34. In its application, HWL states that it imports canned peaches from South Africa in times of short supply. It identifies Foodstuffs Own Brands Limited, Progressive Enterprises Limited and

Brooke Holdings Limited as importers of canned peaches from South Africa, citing information obtained from product labels.

35. A review would establish the extent to which the parties listed in table 3.2 above continue to import canned peaches from South Africa, and whether any new companies are exporting canned peaches from South Africa to New Zealand.

3.4 The Government of South Africa

36. The Government of South Africa is also considered an interested party under the Anti-dumping Agreement[6].

[6] Article 6.11 of the Anti-dumping Agreement.

4. Evidence of continuation or recurrence of dumping

MBIE is satisfied that HWL has provided positive evidence of a likely continuation of dumping of canned peaches from South Africa, sufficient to justify a review.

37. Section 10A(1) of the Act outlines the evidence of dumping that is required in a properly documented application to warrant initiation of a new dumping/subsidy investigation, which includes:

    - evidence of the normal value of the allegedly dumped/subsidised goods
    - evidence of the ex-factory export price of the allegedly dumped/subsidised goods, and
    - evidence that the normal value is higher than the ex-factory export price.

38. MBIE considers these requirements useful in determining whether an application for review contains “positive evidence justifying the need for a review" under section 17D(1) of the Act.

39. The illustration below depicts what the applicant has provided to establish dumping of canned peaches from South Africa. Comparisons are made at the same level of trade, in this case the ex-factory normal value for goods destined for the domestic market in South Africa and the ex-factory export price, for goods destined for New Zealand. Dumping is established when the export price is lower than the normal value.

Illustration depicting dumping margin calculation

4.1 Export Prices

40. HWL calculates what it considers to be the ex-factory export price of RND17.79 per kg for the month of January 2019, which it compares to an ex-factory normal value of RND30.05 per kg for the month of February 2019. HWL concludes that there is a dumping margin of RND12.26 per kg, which is 69 per cent of the ex-factory export price that it calculates.

4.1.1 Base Prices

41. To calculate export prices, HWL has used import statistics sourced from Infoshare[7]. These statistics show the value for duty (VFD), which is effectively the free on-board (FOB) value, for the subject goods for the month ended 31 January 2019.

42. Table 4.1 below shows the volume and VFD amount for canned peaches from South Africa, which HWL sources from Infoshare.

43. MBIE notes that the trade statistics sourced from Infoshare may include importations of peaches in containers other than cans and canned nectarines (as the New Zealand tariff code and statistical key does not discriminate between canned peaches, nectarines or different types and sizes of cans). However, an analysis of the Customs import entries shows that the vast majority of the South African imports are the canned peaches subject to review and for the purposes of initiation of a review, MBIE considers the Infoshare information suitable for justifying the need for a review.

44. The statistics that HWL provides show the total VFD for the month January 2019 was NZD384,593 for 205,192 kg of imports. This equates to an annual average of NZD1.87 per kg for the month January 2019.

Table 4.1: Volume and VFD of peaches and nectarines imported to New Zealand from South Africa, year ended 31 January 2019 - Infoshare

Month	Quantity (kg)	VFD (NZD)	VFD/kg (NZD)
Jan-19	205,192	384,593	1.87

45. To reach a free-on-board (FOB) export price in South African Rand, HWL converted the New Zealand VFD prices to rand. HWL calculated the exchange rate to be RND9.40:NZD, by taking the average exchange rate for the month of January 2019 from www.x-rates.com, a free online currency exchange conversion service. HWL calculates the average FOB export price over January 2019 to be RND17.62 per kg.

4.1.2 Adjustments

46. To ensure that the export price and normal value are compared at the same level of trade, normally at the ex-factory level, the FOB (VFD) values have to be adjusted by deducting the costs incurred after the goods have left the factory, such as freight, until they are in place on-board the ship at the port of export (FOB).

47. HWL back-calculates the ex-factory export price from the FOB export price, as depicted in the illustration below:

[7] Infoshare is a publicly available source of trade statistics from Statistics New Zealand. It is based on data from Customs, and provides statistics to the 10-digit tariff code level: http://www.stats.govt.nz/infoshare/.

Illustration of HWL's calculation to ex-factory export price

Freight to port

48. To calculate the ex-factory export per kg, HWL added one per cent of the FOB, or RND0.18 per kg, to represent the expense of freight from factory to port of export in South Africa.

49. HWL based this figure on [redacted], which HWL notes is [redacted] per tonne, or one per cent (of [redacted]).

50. HWL states that this figure represents a short transit compared to the transit of like goods in South Africa, and that it is likely understated. HWL notes that it has no knowledge of the subject goods freight rates in South Africa.

4.1.3 Ex-factory export price

51. The result of these adjustments by HWL is an ex-factory export price of RND17.79 per kg (for January 2019). These calculations are summarised in Table 4.2 below.

Table 4.2: Calculation of Ex-factory Export Price for year ended January 2019 based on HWL calculations

Calculation	Rate	Amount
VFD/kg (NZD)		1.87
Converted to RND*	9.40	17.62
excl. freight to port	1%	*+0.18*
Ex-factory export price/kg (RND)		17.79

*using the average exchange rate from www.x-rates.com

4.1.4 MBIE's assessment of export price evidence

52. MBIE accepts HWL's calculation of the VFD per kilogram of canned peaches from South Africa for review initiation purposes. MBIE has assessed HWL's claims against data from Customs and considers HWL's claims to be reasonable for estimating base export prices.

53. MBIE considers it reasonable to make currency conversions on a monthly basis (rather than annual) average exchange rates. The trade statistics are freely available online on the New Zealand Statistics Department website at the monthly level, and exchange rates are available for any time interval. Converting the export prices at the lowest time interval gives the most accurate picture of what the importers would have likely paid for the relevant shipments.

54. Adding the one per cent freight cost to the FOB value appears to be a mistake as the one percent figures should have been subtracted to derive the ex-factory export price. In MBIE's calculations below, the ex-factory export price has been derived by deducting the one percent freight costs from the FOB value in order to rectify this mistake and provide a more accurate indication of HWL's estimated ex-factory export price.

55. MBIE considers that HWL's estimate of one per cent adjustment to the New Zealand dollar VFD (FOB) prices to account for freight from factory to port is reasonable. While the inland freight to port cost information available to MBIE indicates that the one percent figure used by HWL is a little low (as explained by HWL), MBIE does not consider it impacts significantly on the quality and accuracy of the export price information provided by HWL. Also, there are likely to be other costs involved in the export of the goods up to the FOB point in South Africa, such as port handling charges and clearance fees. Such costs, if relevant, would reduce the export price further, increasing the corresponding dumping margin.

56. In the 2013 review of anti-dumping duties on canned peaches from South Africa, MBIE concluded that there was an average freight to port cost of around [redacted] per cent of the export price. This figure was based on verified figures from the 2013 sunset review, but provides a reliable indicator of average freight to port costs in South Africa.

57. With the information reasonably available to it, MBIE considers that HWL's claim that freight from factory to port would likely be in the vicinity of one per cent is reasonable. During the review, it will need to assess the freight to port figure carefully.

58. Table 4.3 shows MBIE's calculation of export prices based on these considerations.

Table 4.3: Calculation of Ex-factory Export Price for Jan 2019
MBIE-adjusted

Calculation	Rate	Amount
VFD/kg (NZD)		1.87
Average RND/kg (FOB) *		17.62
excl. freight to port	1%	*-0.18*
Ex-factory export price/kg (RND)		17.44

*using RND:NZD monthly average exchange rates.

59. MBIE notes that the export prices estimated by HWL may be [redacted] canned peaches being imported from South Africa [redacted]. As noted earlier, the current anti-dumping duties are based on reference prices. A review will endeavour to look further into the extent to which current export prices are higher than the reference prices established in 2014, and any reasons why.

60. HWL provided evidence of export prices calculated in two other ways. The first is based on export prices for the year 1 February 2018 to 31 January 2019 based on Infoshare data to give a figure of RND17.32, which after correct deduction of freight costs is RND16.97. Secondly, HWL provided export prices based on invoices from its own imports of canned peaches from South Africa for September/October 2018, coming to a figure of [redacted], which after deduction of freight costs to the port of export, is [redacted]. MBIE notes that these two methods result in even lower export prices than the method based on the

data from January 2019, and so any dumping margin based on these export prices would be even higher than that based on the January 2019 export price.

61. MBIE accepts the use of the January 2019 data for export price (the first method) to be compared with normal values as the most reasonable basis for calculating an export price, since HWL's normal value data is based on February 2019 data as outlined below. MBIE considers this is the most reasonable option for comparison out of the three export prices provided by HWL for the purposes of initiating a review.

62. MBIE will further consider the likelihood that importers have [redacted] canned peaches being imported from South Africa [redacted] in the review. However, for initiation purposes, MBIE accepts HWL's estimated ex-factory export prices based on New Zealand VFD values for South African imports.

4.2 Normal Value

4.2.1 Base Prices

64. To calculate a normal value for canned peaches sold in the South African domestic market, HWL obtained retail selling prices of canned peaches in South Africa as its base prices. It then made adjustments to these to arrive at an ex-factory selling price to compare with the ex-factory export price in its dumping calculations.

65. HWL sourced market prices for a variety of canned peaches sold in South Africa. These prices were sourced through a market research company, Researchandmarkets.net. Through this company, HWL was able to source prices for a variety of canned peach labels from a variety of supermarkets in Cape Town, South Africa. The supermarkets included Checkers, Woolworths, Game, and Pick n Pay and the labels included Koo, Rhodes, House, Koo Lite and Farm Girl.

66. The prices were provided for February 2019. Evidence of these prices was provided through a print-out showing details of the prices, labels, styles (e.g. halves, sliced), can size (410g and 825g cans) and store/supermarket.

67. Using the above information HWL calculated an average combined selling price for 410g and 825g cans ([redacted] per kg). The company stated that this amount was an average price for 410g cans only, however, a check of the prices by MBIE showed that the average was clearly for 410g and 825g cans. As the export prices were calculated for all sizes of subject goods, MBIE considered that the normal value calculation should be based on both the 410g and 825g can sizes for which prices were obtained through Researchandmarkets.net. This allows a fairer representation of the normal value when compared with the export price. The weighted average retail price of these products is [redacted] per kg.

68. The retail prices that HWL provided as evidence of normal values in South Africa are inclusive of 15 percent VAT.

MBIE assessment

69. MBIE notes that the sample of retail prices provided by HWL in Appendix 10.6 of its application includes two cans of peaches in raspberry sauce. MBIE considers that these products fall outside the subject goods description, and therefore they should be excluded from the normal value calculation. After excluding these two products, MBIE has derived a weighted average per kg of [redacted].

4.2.2 Adjustments

Value Added Tax (VAT)

70. Normal values are calculated exclusive of value added tax (VAT). HWL notes that the standard VAT rate in South Africa is 15 per cent which increased from 14 percent in April 2018. MBIE confirmed this rate from the website of the South African Revenue Service.[8]

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[8] https://www.sars.gov.za/TaxTypes/VAT/Pages/default.aspx

Export prices do not incur VAT. To ensure a fair comparison with export prices under Article 2.4 of the Anti-dumping Agreement, HWL deducted the VAT in its normal value calculations to domestic sales but not to export sales.

Retailers' margins

71. HWL deducted an amount equivalent to the estimated [redacted] per cent applied to the VAT-exclusive price for the retailer's margin. HWL claims that this figure is based on its knowledge of the distribution of canned peaches in New Zealand . HWL has not provided any evidence to support its claim that [redacted] per cent is a relevant retail margin for the South African market, or that the New Zealand market displays sufficiently similar characteristics to South Africa to use the same retail margin. MBIE does not have access to such information at this stage, and will investigate this matter further to the extent necessary in the sunset review to determine a representative retail margin.

Freight to customer

72. HWL estimates the cost of freight to customer as [redacted] per cent of net sales value. This percentage reflects the weighted average cost to HWL of freight to all of its New Zealand customers as a proportion of net sales value in 2018.

73. HWL has not provided an explanation as to why New Zealand freight charges are appropriate for establishing normal values in South Africa.

4.2.3 Ex-factory Normal Value

74. HWL calculates that the ex-factory normal value is RND30.05 per kg, based on the adjustments outlined above and calculated for a mixture of 410g cans. However, MBIE has calculated an average normal value for both 410g and 825g can sizes, since this average reflects the one given by HWL. This calculation is outlined in Table 4.4 below.

Table 4.4: HWL Calculation of Normal Value

Calculation	Rate	Amount
Retail price (RND/kg)		[redacted]
Excl VAT	15%	[redacted]
Excl retailers margin	[redacted]	[redacted]
Excl freight to customer	[redacted]	[redacted]
Ex-factory wholesale price (RND/kg)		30.05

4.2.4 MBIE's assessment of Normal Value

Retail prices

75. MBIE notes that the South African retail prices that HWL has sourced are from supermarkets in Cape Town. MBIE notes that retail prices may differ in other regions and cities in South Africa.

76. However for the purposes of initiation of a review, MBIE accepts the retail prices that HWL has provided. The prices reflect sales at a suitable range of stores, for a suitable number of

labels and are in respect of the different types of peach types and can sizes available. While the sales were made in Cape Town only, the main South African canned peach manufacturers are located in the Western Cape region which may have impacted on the limited geographical pricing information provided by HWL or supplied to it by the market research company, Researchmarkets.net. During the review MBIE will to the extent possible, investigate the normal value of canned peaches sold throughout South Africa.

Retailer's margin

77. After having considered all of the information available to it, MBIE considers that [redacted] per cent is likely to be a reasonable adjustment to make to account for retailers' margins for the purposes of initiation of a review. HWL has not allowed for a wholesaler's margin, but it is unclear to what extent wholesalers are involved in the domestic transaction process in South Africa. During the review, MBIE will investigate the extent, if any, to which wholesalers are involved in the domestic sales process and make an adjustment for a wholesaler's margin, accordingly. In any event, if a wholesaler's margin is involved, this would not lower the normal value to below the export price (see export price section above). HWL has also not provided any evidence to support its claim that [redacted] per cent is a relevant retail margin for the South African market, or that the New Zealand market displays sufficiently similar characteristics to South Africa to use the same retail margin. MBIE does not have access to such information at this stage, and will investigate this matter further to the extent necessary in the sunset review to determine a representative retail margin.

Freight to customer

78. MBIE sought alternative information available to it to assess how reasonable HWL's claim is. In the 2013 review of anti-dumping duties on canned peaches from South Africa, MBIE calculated that the freight rate to customers in South Africa was around [redacted] per cent.

79. Using [redacted] per cent instead of [redacted] per cent that HWL claims, an adjustment to normal values in South Africa will result in higher ex-factory normal values, and thus larger dumping margins.

80. As such, MBIE is satisfied that the information that HWL has provided likely over-estimates the cost of freight to customers, thus resulting in a lower normal value to the disadvantage of its review application. MBIE is satisfied with this outcome for the purpose of initiation, but will need to consider the issue more closely during step one of the review.

VAT

81. For the purposes of initiating a review, MBIE considers HWL's approach to accounting for VAT is reasonable.

Conclusion on normal value

82. Considering the South African retail prices and the normal value adjustments that HWL claims, MBIE accepts the normal value information that HWL calculated in its application, as positive evidence for the purposes of initiating a review. MBIE's adjustment of normal value based on the retail price it calculated above is reflected in table 4.5 below.

Table 4.5: MBIE Calculation of Normal Value

Calculation	Rate	Amount
Retail price (RND/kg)		[redacted]
Excl VAT	15%	[redacted]
Excl retailers margin	[redacted]	[redacted]
Excl freight to customer	[redacted]	[redacted]
Ex-factory wholesale price (RND/kg)		30.00

4.3 Dumping Margin

83. Comparing the export price and normal value which HWL calculated gives a dumping margin of RND12.26 per kg, or 69 per cent of the ex-factory export price, as shown in table 4.6 below.

Table 4.6: Dumping Margin
HWL calculations

Calculation	Amount
Ex-factory normal value/kg (RND)	30.05
Ex-factory export price/kg (RND)	17.79
Dumping margin/kg (RND)	12.26
Dumping margin % of export price	69%

84. MBIE has re-calculated the dumping margin based on HWL's data but in light of the revised inland freight adjustments above to get a dumping margin of RND12.56 per kg or 72 per cent of the export price, as shown in table 4.7 below.

Table 4.7: Dumping Margin
MBIE calculations

Calculation	Amount
Ex-factory normal value/kg (RND)	30.00
Ex-factory export price/kg (RND)	17.44
Dumping margin/kg (RND)	12.56
Dumping margin % of export price	72%

85. On the basis of the information in HWL's application, and the considerations outlined above, MBIE is satisfied that HWL has provided positive evidence that dumping is occurring with the duties in place, and is likely to continue in the absence of duties, for the purposes of initiating a review.

4.4 Import Volumes

86. Using Infoshare data, HWL calculates the import volume of canned peaches from South Africa to hold a 65 per cent share of total canned peach imports into New Zealand for the year ending 31 January 2019.

87. HWL compiled import volume figures from Infoshare data for the year ending 31 January 2019. As noted above, canned peaches coming within the subject goods are not separately identified in the Tariff of New Zealand, as the Tariff item (2008.70.09.00) also includes nectarines and peaches in containers outside of the description of the subject goods.

Table 4.8: Import volumes of canned peaches for year ended 31 Jan 2019 - Infoshare

Country of origin	Quantity (kg)	% of Total
Australia	77,447	2%
China, People's Republic of	1,179,895	31%
South Africa	2,465,456	66%
Spain	19,593	0.5%
All other imports	24,862	0.7%
Total	3,767,253	100%

4.4.1 MBIE's assessment of import volumes

88. MBIE considers the publicly available import statistics from Infoshare to be sufficient for the purpose of initiation and concludes that imports of canned peaches from South Africa, under tariff item 2008.70.09.00, hold a 66 per cent share of total imports for the year ended 31 January 2019.

5. Continuation or recurrence of Injury

MBIE concludes that for the purpose of initiation HWL has provided positive evidence that if the duties are removed, HWL will suffer a recurrence of material injury.

89. HWL claims that it will suffer material injury caused by imports of canned peaches originating from South Africa if anti-dumping duties cease to apply. HWL claims that this injury will be through price undercutting, price suppression and price depression, which will result in declines in HWL's sales, market share, output, and profits, and [redacted].

5.1 Volume effects

5.1.1 HWL's claims of volume effects

90. HWL estimates the import volumes of canned peaches from South Africa in comparison to those imported from other countries using Infoshare statistics. HWL calculates that imports of canned peaches from South Africa are 66 per cent of total imports, and [redacted] per cent of the total New Zealand market. Table 5.1 below shows MBIE's calculation over year ended 31 March 2019 based on the information provided in HWL's application at table 1 and 2.

Table 5.1: New Zealand market share by origin year ended 3 March 2019
MBIE calculation, based on HWL's evidence

Country of origin	Quantity (kg)	% of Total imports	% of Total NZ market
Australia	94,200	2%	[redacted]
China	1,164,535	27%	[redacted]
South Africa	2,765,532	66%	[redacted]
Spain	50,755	1%	[redacted]
All other imports	125,029	3%	[redacted]
Total imports	4,200,051	100%	
Sales of NZ domestic production	[redacted]		[redacted]
Total New Zealand market	[redacted]		100%

91. HWL has not provided any estimates of the likely change in import volumes from South Africa should the duty be removed, although it has provided forecasts in Appendix 10.8 of its own sales volumes from 2019 to 2021 if duties are removed, which indicate a loss of sales volume of [redacted].

92. HWL claims that 200 tonnes of additional imports would be enough to cause the price effects that it claims below.

5.1.2 MBIE's assessment of volume effects

93. HWL's forecasts indicate to MBIE that, if anti-dumping duties are removed, HWL will compete on price to maintain its sales volumes and that there will not be significant increases in imports.

94. MBIE notes that South Africa is already contributing a significant portion of supply to the New Zealand canned peach market, and that those exports are small relative to other markets that South Africa supplies. During the review, MBIE will need to consider the extent to which South African exporters would likely increase their supply to New Zealand in the absence of anti-dumping duties.

5.2 Price Effects

5.2.1 Price Undercutting

HWL claims

95. HWL claims that price undercutting is occurring with duties and will continue to exist if anti-dumping duties are removed.

96. For its price undercutting analysis without anti-dumping duties, HWL takes the average global export price for December 2018 of canned peaches from South Africa to represent an export price without duties at RND13.36 per kg. It then coverts this to NZD to reach NZD1.37 per kg, and adds [redacted] the freight and insurance expenses involved in exporting the goods from South Africa to New Zealand. The freight and insurance expenses are the difference between the CIF and VFD per unit values sourced from Infoshare data. The result is an ex-wharf import price of [redacted].

97. HWL compares this ex-wharf import price with its own ex-warehouse net sales value per kg of [redacted] for Wattie's brand and [redacted] for Oak.

98. HWL calculates the level of price undercutting at 49 per cent for its Wattie's brand and 34 per cent for its Oak brand, as shown in table 5.2.

Table 5.2: Price undercutting without duties
HWL calculations

Brand	Net Sales Value /kg (NZD)	South African VFD Import price/kg (NZD)	Undercutting/ kg (NZD)	Undercutting margin as % of net sales value/kg
Wattie's	[redacted]	[redacted]	[redacted]	49%
Oak	[redacted]	[redacted]	[redacted]	34%

99. HWL claims that price undercutting is also occurring with duties in place and has compared the average CIF import price per kilogram of canned peaches from South Africa to New Zealand for the year 1 February 2018 to 31 January 2019 with HWL's net sales value ex-warehouse for the 2018 calendar year to calculate this. HWL calculates the level of price undercutting at 31 per cent for its Wattie's brand and 12 per cent for its Oak brand, as shown in table 5.3.

Table 5.3: Price undercutting with duties
HWL calculations

Brand	Net Sales Value /kg (NZD)	South African VFD Import price/kg (NZD)	Undercutting/ kg (NZD)	Undercutting margin as % of net sales value/kg
Wattie's	[redacted]	[redacted]	[redacted]	31%
Oak	[redacted]	[redacted]	[redacted]	12%

100. HWL claims that it has calculated price undercutting amounts based on a comparison of its 2018 net sales value (NSV) (excluding freight to the customer) against the average ex-wharf price of imported canned peaches from South Africa (with anti-dumping duties in place) for the period 1 February 2018 – 31 January 2019. This is the level of trade which HWL considers the imported and domestically produced products first compete with each other in New Zealand, and which HWL claims has been used in previous investigations for the price undercutting analysis.

101. HWL notes that it maintains a price premium on its Wattie's brand and uses [redacted]. It further notes that it cannot let the price premium [redacted] consumers will resist paying for the more expensive Wattie's product.

MBIE's assessment

102. MBIE notes that HWL in its application erroneously states that there is a normal customs duty rate of 0% on canned peaches from South Africa, when in fact there is a 5% customs duty. MBIE also considers that exports to New Zealand should be excluded from the calculation of the average global export price for December 2018, as the price of exports to New Zealand may be affected by anti-dumping duties. MBIE has made consequential adjustments to HWL's calculations of price undercutting, as shown in the tables below.

Table 5.4: Price undercutting without duties
MBIE calculations

Brand	Net Sales Value /kg (NZD)	South African VFD Import price/kg (NZD)	Undercutting/ kg (NZD)	Undercutting margin as % of net sales value/kg
Wattie's	[redacted]	[redacted]	[redacted]	47%
Oak	[redacted]	[redacted]	[redacted]	32%

Table 5.5: Price undercutting with duties
MBIE calculations

Brand	Net Sales Value /kg (NZD)	South African VFD Import price/kg (NZD)	Undercutting/ kg (NZD)	Undercutting margin as % of net sales value/kg
Wattie's	[redacted]	[redacted]	[redacted]	28%
Oak	[redacted]	[redacted]	[redacted]	8%

103. MBIE has considered HWL's claims and examined Customs data as a cross-check. Looking at Customs data, MBIE notes that [redacted] prices in the calendar year 2018 are above the reference prices, and duties have been collected on less than [redacted] of imports. Therefore, MBIE considers that the [redacted] per kg export price used by HWL and based on CIF import values is indicative of the level of price undercutting with anti-dumping duties in place and may to a large extent also be indicative of the level of price undercutting in the absence of anti-dumping duties.

104. MBIE assumes that the [redacted] per kg import price based on global export prices is what HWL views as indicative of the level of price undercutting in the absence of duties but, in light of the fact that the subject goods are to a [redacted] extent already being priced above the reference prices for anti-dumping, the review will need to examine this matter further.

105. MBIE does not have information on wharfage and devanning charges. MBIE notes that the import price provided by HWL does not include wharfage and devanning charges which are normally included in an ex-wharf landed price into New Zealand, but this does not significantly affect the price undercutting margins calculated.

106. MBIE considers that there is positive evidence to warrant initiation of a review. For the purpose of initiating a review, it is likely that price undercutting will continue and may increase if the current anti-dumping duties are removed.

5.2.2 Price Depression

107. Price depression caused by dumping occurs when prices in a market affected by dumping are, as a result of the dumping, lower than those in the same market unaffected by dumping. In an investigation, price depression is usually calculated by comparing the price in a market affected by dumping to the price in the same market before the dumping occurred. In a sunset review, an assessment needs to be made of whether the removal of anti-dumping duties will likely result in price depression caused by dumping.

HWL's claims

108. In section 7 of its application, HWL discusses how in 2005, the [redacted] brand (supplying Chinese canned peaches) grew to [redacted] per cent share in Pak'n Save South Island in four weeks. HWL considered this to be an example of a situation where dumped imports led to unsustainable price differences forcing its prices downwards. HWL submits that a similar effect would be likely to occur should dumped imports from South Africa be permitted to return to the market without duties.

109. HWL also notes that it is attractive to importers and retailers to command a price of less than NZD1.00 per 410g can of peaches and that in the absence of anti-dumping duties on South African imports this would be achievable for canned peaches from South Africa. HWL uses TradeData[9] international data for December 2018 to illustrate that with the export price of NZD1.37 per kg calculated above, adding an amount for insurance and freight, retailers could retail a 410g can of peaches for NZD0.69 and make a profit.

110. HWL has provided calculations at Appendix 10.8 of its application showing likely price decreases for its canned peaches in 2020 and 2021 if duties are removed and HWL is forced to compete with the dumped imports on price.

MBIE's assessment

111. MBIE understands that retailing a 410g can of peaches for less than NZD1.00 per unit would be attractive to retailers, and that this may be achievable. However, MBIE is aware that HWL's calculations may be somewhat overstated, as the most recent month that HWL uses (December 2018) is also the lowest global export price for the year 2018.

112. For the purposes of initiating a review, MBIE considers that HWL has provided positive evidence of a likely recurrence of price depression in the absence of anti-dumping duties.

5.2.3 Price Suppression

113. Price suppression occurs when firms are unable to increase their prices to account for increasing costs. Price suppression occurs when price increases for the domestic product that would otherwise have occurred are prevented due to dumped imports. Such price increases could be in response to increases in costs, or changes in supply or demand of a product. Cost increases that are not able to be recovered by price increases will be reflected in an increased ratio of costs to sales revenue.

HWL's claims

114. HWL submits that price suppression would recur if the anti-dumping duties are removed because HWL would be unable to offset significant price undercutting by South African imports by means of cost savings and price increases elsewhere. HWL claims that its cost base would increase due to a loss of market share causing increased fixed processing costs per tonne.

115. HWL also considers that if dumping of South African canned peaches were to continue, it would need to [redacted].

116. HWL has provided calculations at Appendix 10.8 of its application showing likely price suppression in 2019, 2020 and 2021 if duties are removed and HWL is forced to compete with the dumped imports on price.

[9] TradeData is an online provider of international trade statistics.

MBIE's assessment

117. HWL has claimed in its application that the absence of anti-dumping duties will lead to a decrease in market share and thus an increase of fixed costs per unit as production volumes decrease and has provided forecast figures for 2019 to 2021 in support of this contention.

118. MBIE has examined the forecast figures provided by HWL and notes that HWL's contribution margin and gross profit per unit is forecast to decline significantly in the absence of anti-dumping duties. The forecasts are based on HWL's assessment of the level of price undercutting shown in Table 5.3 above, which is a significantly greater level of price undercutting than if the removal of anti-dumping duties results in minimal changes to export prices, for example because those prices are currently largely unaffected by anti-dumping duties. Nonetheless, there is still current price undercutting affecting HWL's contribution margin and gross profit per unit and a review will need to consider the extent of any price suppression due to dumping.

119. For the purposes of initiating a review MBIE concludes that HWL has provided positive evidence that if anti-dumping duties are removed it will face a continuation and/or recurrence of price suppression.

5.2.4 MBIE's assessment of price effects

120. MBIE is satisfied that HWL has provided evidence as is reasonably available to it in relation to price undercutting. HWL has highlighted that the current South African imported prices (with anti-dumping duties in place) are undercutting HWL's Oak prices by a small margin.

121. For the purpose of initiating a review, MBIE concludes that HWL has provided positive evidence justifying its claims that it will suffer price undercutting, depression and suppression in the absence of anti-dumping duties.

5.3 Economic Effects

5.3.1 Sales Revenue and Profit

HWL's claims

122. HWL has used the ex-wharf import price of South African peaches as [redacted] per kg from its price undercutting analysis to indicate the ex-wharf import price in the absence of duties.

123. HWL claims that in order to sell its inventory of canned peaches and maintain market share it is reasonable to expect HWL will have to discount its brands by the price undercutting value in order to do this. It claims that the discounted value would be [redacted], which is the difference between its calculated ex-wharf import price without duties and the ex-wharf import price with duties.

124. HWL's calculations are outlined in table 5.6 below, which provide HWL's forecasts if the duties remain in place and if the duties expire. HWL considers the difference in the figures to be the injurious effect of the expiry of the duties on its financial performance.

Table 5.6: Forecast loss of sales revenue for 2020 and 2021 - Wattie's and Oak combined

HWL calculation

	Year ended 31 December (NZD'000)				
	Actual		***Forecast***		
	2017	2018	2019	2020	2021
Sales with AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Sales without AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of Sales Revenue (without duties)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of Sales Revenue index to 2018			[redacted]	[redacted]	[redacted]

125. HWL also claims that it is already suffering material injury to the extent of a loss of sales revenue of 17%. It argues that there has been a 17% increase in VFD per kg of imports of canned peaches from South Africa over the past four years and that the reference prices have become outdated, yet it has not been able to increase its net sales by the same amount, and therefore is suffering injury in the form of a loss of 17% of its net sales value.

126. HWL contends that the loss in sales revenue forecast above means that it will need to incur more trade marketing activity to protect its volume market share, and therefore this loss in sales revenue directly impacts profit, as summarised in the table below.

Table 5.7: Forecast impact on profits for 2020 and 2021 - Wattie's and Oak combined

HWL calculation

	Year ended 31 December (NZD'000)				
	Actual		***Forecast***		
	2017	2018	2019	2020	2021
EBIT with AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
EBIT without AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of EBIT (without duties)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of EBIT index to 2018			[redacted]	[redacted]	[redacted]

127. HWL claims that this loss of sales revenue and profit would make it [redacted].

MBIE's Assessment

128. MBIE considers that HWL will likely only experience any price effects in its sales of canned peaches from the start of the 2020 calendar year, given that duties are set to expire on 28 May 2019 but will continue during the review. As a result, MBIE has made adjustments to HWL's forecasts to reflect this in table 5.8 below.

129. MBIE understands that HWL takes the difference between its calculated global export price from South Africa of [redacted] (which is its estimate of the South African export price to New Zealand in the absence of duties) and the New Zealand CIF import price of NZD1.97 (which is based on the current South African export price to New Zealand) to reach a [redacted] per kg loss if duties are removed. MBIE notes that its own adjustments to the above global export price ([redacted]) and CIF import price ([redacted]), calculated in the price undercutting analysis above, has resulted in a slightly higher loss per kg of [redacted]. This is reflected in table 5.8 below.

Table 5.8: Forecast loss of sales revenue for 2020 and 2021 - Wattie's and Oak combined

MBIE calculation

	Year ended 31 December (NZD'000)				
	Actual		***Forecast***		
	2017	2018	2019	2020	2021
Sales with AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Sales without AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of Sales Revenue (without duties)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of Sales Revenue index to 2018				[redacted]	[redacted]

130. HWL's profit calculations are outlined in table 5.9 below, which provides HWL's forecasts if the duties remain in place and if the duties expire. HWL considers the difference in the figures to be the injurious effect of the expiry of the duties on its profit, or more specifically, on its earnings before interest and tax (EBIT).

Table 5.9: Forecast impact on profits for 2020 and 2021 Wattie's, Oak and Private Label combined

MBIE calculation

	Year ended 31 December (NZD'000)				
	Actual		***Forecast***		
	2017	2018	2019	2020	2021
EBIT with AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
EBIT without AD Duty	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of EBIT	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Loss of EBIT index to 2018				[redacted]	[redacted]

131. For the purpose of initiating a review, MBIE considers that HWL has provided reasonably available positive evidence that price undercutting will result in losses of sales revenue and Earnings Before Interest and Tax (EBIT). MBIE notes that, even if prices in 2018 have not been significantly affected by anti-dumping duties, HWL forecasts it will still suffer declines in sales revenue and profit.

5.3.2 Market Share

HWL's Claims

132. HWL claims that if the anti-dumping duty is removed, HWL would suffer a loss of market share. As evidence, HWL refers to previous investigations, which have indicated that the entry into the New Zealand market of dumped canned peaches has resulted in a loss of market share for HWL canned peaches.

133. HWL claims that in the initial investigation in 2005 into the dumping of canned peaches from China, it was found that the [redacted] brand grew to [redacted] per cent share in Pak n Save South Island over four weeks. HWL submits that this illustrates the increase in market share would recur if the anti-dumping duties are removed.

MBIE's Assessment

134. MBIE notes that while HWL refers to a gain in market share of Chinese dumped peaches, in certain South Island supermarkets in the past, MBIE considers this is not positive evidence of what may happen in the future if anti-dumping duties are removed from South African imports.

135. In respect of the current review application, while HWL provides data for market share by brand, HWL does not provide forecast figures for any loss of market share. HWL does provide forecasts of sales volume that indicate a 2 per cent decline in sales volume [redacted]) but the company does not translate this into loss of market share figures.

136. MBIE considers that HWL has not provided positive evidence of a likely loss in market share if the duties on South African imports are removed. Furthermore, the company has forecasted that any injury to HWL will be mainly through decreased sales revenue and EBIT.

5.3.3 Productivity

137. Productivity is the relationship between goods produced and the inputs required to manufacture them. Productivity is affected by output and capacity utilisation levels.

HWL's Claims

138. HWL claims that removal of anti-dumping duties would result in a reduction in its productivity as the loss of profit (considered above) could mean [redacted] sourced from New Zealand-based growers. HWL submits that it is [redacted] annually.

139. HWL has also speculated that the removal of anti-dumping duties would likely result in [redacted]. HWL has not provided evidence to support this claim beyond the loss of profits that it forecasts as outlined above.

5.3.4 Return on investments

140. Return on investments measures profit against the value of the investment in a business. Changes in the return on investments may impact the ability to retain current investment or attract new investment. Declines in return on investments can result from a decline in profit or an increase in the level of investment within the business.

HWL's Claims

141. HWL states that the "loss of volume, sales revenue and profits from the return of dumped imports [from South Africa] will also have significant adverse effects upon HWL achievable return on investment . . . ."

142. HWL claims that the removal of anti-dumping duties would result in [redacted] which would cause [redacted] meaning a reduction in demand not only for canned peaches products [redacted].

MBIE's Assessment

143. MBIE notes that HWL's claims in relation to other [redacted], including [redacted] are out of scope of the consideration to initiate a review of anti-dumping duties on canned peaches from South Africa. Furthermore, an analysis of the [redacted] due to the removal of anti-dumping duties on South African imports is beyond the scope of a sunset review. Any review need only examine the likelihood of material injury to the company's "like goods" to the imported goods rather than whether or not any injury is likely to extend to [redacted].

144. MBIE notes HWL's claims that the removal of anti-dumping duties will result in lower selling prices, leading to lower profits, as highlighted above. If this situation eventuated, HWL would also suffer a lower return on investments.

5.3.5 Production capacity

145. In its application, HWL notes that production capacity is driven by its growers' crop size in any given year. HWL has also speculated that the removal of anti-dumping duties would likely result in [redacted]. HWL has not provided evidence to support this claim beyond the loss of profits that it forecasts as outlined above.

5.3.6 Other economic effects

146. HWL states that the loss of volume, sales revenue and profits from the return of dumped imports will also have significant adverse effects upon its cash flow, inventories, employment and growth with [redacted]. No figures have been provided in support of these claims.

5.3.7 MBIE's assessment of economic effects

147. For the purposes of initiating a review, MBIE is satisfied that HWL has provided positive evidence to support its claim that, if anti-dumping duties are removed, it will suffer a recurrence of injury through lower sales revenue and EBIT caused by reducing its prices to maintain sales volumes and market share.

5.4 Causal Link

148. HWL states that a causal link was established in the original investigation and that subsequent reviews of anti-dumping duties on imports from other sources have found that the removal of the duty would result in material injury to the New Zealand industry.

149. HWL claims that the high availability of canned peaches from South Africa which could be exported to New Zealand and the continued importation of peaches mean this causal link remains in place, as was determined in the original investigation.

150. HWL also stated that it is not aware of any material injury being caused through fairly traded branded products. The company also stated that there do not appear to be any other factors causing injury to the domestic industry such as a contraction in demand, changes in the pattern of consumption, developments in technology or its own export performance.

151. MBIE considers that the evidence provided by HWL indicating that injury will be likely be caused if anti-dumping duties are removed, is sufficient for purposes of initiation of a review.

6. Conclusion and Recommendations

6.1 Conclusions

152. On the basis of the information available, the team concludes that HWL has provided positive evidence justifying the need for a review of anti-dumping duties on canned peaches from South Africa.

6.2 Recommendations

153. The team recommends on the basis of the conclusions reached and in accordance with section 17D(1), that you:

a. start (initiate) a full review of the anti-dumping duty on canned peaches from South Africa; and

Agree/Disagree

b. sign the attached *Gazette* notice, to give notice to interested parties in accordance with section 17E(2) of the Trade (Anti-dumping and Countervailing Duties) Act 1988.

Jim Robinson
Manager
Trade and International
Science, Innovation and International Branch
Labour, Science and Enterprise
Ministry of Business, Innovation and Employment

…… / …… / ……