



Trade (Anti-dumping and Countervailing Duties) Act 1988

Galvanised Wire from Malaysia

2020 Full Review

Stage 1 Final Report

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ABBREVIATIONS AND ACRONYMS

The following abbreviations are used in this report:

ACSR	Aluminium conductor steel-reinforced cable
Act, the	Trade (Anti-dumping and Countervailing Duties) Act 1988
AD Agreement, the (or Anti-Dumping Agreement)	WTO Agreement on Implementation of Article VI of the GATT 1994
AGA	American Galvanizers Association (AGA)
AM Wire	AM Wire Pte Ltd
Aspac Alliance	Aspac Alliance Steel Sdn. Bhd.
Bekaert Malaysia	Bekaert Shah Alam Sdn. Bhd./Bekaert Ipoh Sdn. Bhd.
chief executive	Chief executive of the Ministry of Business, Innovation and Employment
Chin Herr	Chin Herr Industries (M) Sdn. Bhd.
CIF	Cost, Insurance and Freight
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Tax
EFC Report	Essential Facts and Conclusions Report
Euro Corporation	Euro Corporation Limited
FY	The financial year ended or ending 30 June
FOB	Free on Board
GIW	Galvanised iron wire
kg	Kilogram
Ltd	Limited
MBIE	the Ministry of Business, Innovation and Employment
Minister	the Minister of Commerce and Consumer Affairs
MT	Metric ton/tonne
MYR	Malaysian ringgit
Nexans	Nexans New Zealand Limited
NIFOB	Non-Injurious FOB
NV(VFDE)	Normal Value (Value for Duty Equivalent)
NZD	New Zealand Dollars
Pacific Steel	Pacific Steel (NZ) Limited
Paul Industries	J & F Holdings NZ Limited trading as Paul Industries
POR(D)	Period of review for dumping assessment, the year ended 31 December 2019
POR(I)	Period of review for injury assessment, 1 January 2016 to 31 December 2019 for actual injury and out to 31 December 2021 for forecast injury

RCI Wire	RCI Wire Sdn. Bhd.
Review	A full review of the imposition of anti-dumping duties on galvanised wire from Malaysia (also known as a “sunset review”), authorised under section 17D of the Trade (Anti-dumping and Countervailing Duties) Act 1988
Sdn. Bhd.	Sendirian Berhad, denoting a private limited company in Malaysia
Southern Wire	Southern Wire Industries (Malaysia) Sdn. Bhd.
Stage 1 Final Report	The Final Report for Stage 1 of the review
Stats NZ	Statistics New Zealand
subject goods	Imported goods that are the subject of the application
Tiger Steel	Tiger Steel NZ Ltd
team, the	The members of the Trade and International team of MBIE who investigate dumping and subsidy allegations
TT	Telegraphic transfer
USD	United States dollars
VFD	Value for Duty
Visy Recycling	Visy Recycling MRFs (NZ) Ltd
Wei Dat	Wei Dat Steel Wire Sdn. Bhd.
WTO	World Trade Organization

EXECUTIVE SUMMARY

MBIE initiated a full review of galvanised wire from Malaysia on 24 March 2020.

The purpose of the review is to establish if dumping and injury are likely to continue or recur if anti-dumping duties are removed.

Where it is determined that the continuation of anti-dumping duties is necessary to prevent the recurrence or continuation of injury to the New Zealand industry, a public interest investigation must be undertaken to establish whether the continuation of anti-dumping duties is in the public interest.

Anti-dumping duties were originally imposed in 2004, and this is the third sunset review on these goods.

The subject goods are galvanised steel wire of high, medium and low tensile strength between (and including) 2mm and 4.5mm in diameter, excluding armouring wire.

Pacific Steel (NZ) Limited, the

A **full review** of the anti-dumping duties that currently apply to imports of galvanised wire from Malaysia was initiated by the Ministry of Business, Innovation and Employment (MBIE) on 24 March 2020.

The **purpose** of the full review, carried out under sections 17C-17K of the Trade (Anti-dumping and Countervailing Duties) Act 1988 (the Act), is to investigate whether the continued imposition of the anti-dumping duty is necessary to offset dumping and whether material injury or threatened material injury to the industry would be likely to continue or recur if the duty expired or were otherwise removed or varied.

This Stage 1 Final Report meets the requirement of section 17F(5) of the Act which requires the chief executive of MBIE to report the findings of a full review stage 1 to the Minister of Commerce and Consumer Affairs (the Minister).

Where a full review stage 1 leads to a determination by the Minister that the continued imposition of anti-dumping duties is necessary to offset dumping and that material injury to an industry would be likely to recur or continue if the duties expired, then the Minister must:

- determine the rate or amount of anti-dumping duty that will form the basis for a full review stage 2, and
- direct MBIE to undertake a full review stage 2 to investigate whether continuing to impose an anti-dumping duty is in the public interest.

Anti-dumping duties on galvanised wire imported from Malaysia have been in place since May 2004. Subsequent proceedings include a reassessment of the duties in 2005 and reviews and reassessments of the anti-dumping duties in 2009 and 2014-15, resulting in the current duties on galvanised wire imported from Malaysia. The current duties were due to expire on 26 March 2020, unless subject to a review. Reviews carried out in these circumstances are referred to as sunset reviews.

The **goods under review** are:

Galvanised steel wire of high, medium and low tensile strength between (and including) 2mm and 4.5mm in diameter, excluding armouring wire.

MBIE confirms that the description of the subject goods includes wire with zinc and zinc-aluminium coatings but does not include PVC coated galvanised wire.

The review was initiated following an application by Pacific Steel

New Zealand industry producing galvanised wire, requested the review.

(NZ) Limited (Pacific Steel), the sole New Zealand producer of galvanised wire, and the **New Zealand industry** for the purposes of the review.

MBIE has used information from Pacific Steel, Malaysian manufacturers, intermediaries, New Zealand importers, and from its own research.

To undertake the review, MBIE has used information provided by Pacific Steel in its application, as well as information provided by Malaysian manufacturers, trade intermediaries, and New Zealand importers in their responses to questionnaires.

A verification visit was made to Pacific Steel, but not to Malaysian manufacturers due to the international public health crisis.

MBIE has also used information from its own research.

The period of review for dumping is calendar year 2019. MBIE identified five importers and three suppliers of the subject goods during this time period.

The period of review to assess dumping (POR(D)) is 1 January 2019 to 31 December 2019.

For this time period, MBIE identified five importers: Euro Corporation Limited (Euro Corporation), Nexans New Zealand Ltd (Nexans), J & F Holdings NZ Ltd, trading as Paul Industries (Paul Industries), Tiger Steel NZ Ltd (Tiger Steel), and Visy Recycling MRFs (NZ) Ltd (Visy Recycling), and three suppliers: Bekaert Ipoh Sdn. Bhd. (Bekaert Malaysia), Chin Herr Industries (M) Sdn. Bhd. (Chin Herr) and Wei Dat Steel Wire Sdn. Bhd. (Wei Dat).

MBIE has established export prices and normal values for the subject goods, and made a fair comparison between them, with due allowance being made for differences which affect price comparability.

MBIE's investigation of **dumping** has used the information available to establish export prices and normal values, and to identify any differences that might affect price comparability.

Chin Herr did not provide information on its sales for home consumption in Malaysia. Therefore MBIE considered available information on domestic sales in Malaysia from another Malaysian producer. MBIE had difficulty matching Chin Herr's exported products with those sold domestically by the other Malaysian producer, so MBIE made the comparison for Chin Herr on a weighted average-to-weighted average basis. Fair comparison adjustments were made where relevant and where information was available.

For Wei Dat, the comparison was made on a transaction-to-transaction basis for goods of the same coating type and similar dimensions at as close to the same date of sale as those goods exported to New Zealand. Base prices were established using Wei Dat's domestic sales for normal values, and export sales data, including invoices, for export prices. Base prices and the adjustments made to ensure a fair comparison were verified by MBIE.

MBIE did not carry out an analysis of dumping of the imports by Bekaert because Bekaert has now closed its operations so any analysis of dumping would not help in the assessment of whether removal of the anti-dumping duty is likely to lead to a continuation or recurrence of dumping and injury.

MBIE found that imports from Chin Herr in 2019 were dumped, with a dumping margin of 19 per cent. Wei Dat's imports were not dumped.

MBIE has concluded that the removal of anti-dumping duties is likely to lead to a continuation of dumping.

MBIE's investigation of the likelihood of material injury recurring or continuing is based on an objective examination of positive evidence available to MBIE, and in the context of an assessment of likelihood.

MBIE's judgement of the likelihood of events occurring in the foreseeable future is based on the circumstances of the case.

MBIE examines the injury factors identified in section 8 of the Act.

MBIE has required Pacific Steel to provide projections or forecasts in the light of past performance and projected future performance in the presence or absence of anti-dumping duties.

MBIE has concluded that in the absence of anti-dumping duties the dumping of galvanised wire will result in the continuation and recurrence of material injury.

MBIE has proposed ad valorem

MBIE found that imports from Chin Herr in 2019 were dumped. The dumping margin was 19 per cent. Wei Dat's imports were not dumped.

Dumped goods were a significant proportion of total import volumes from Malaysia.

From the information available MBIE established that there is continued dumping of some of the exports of galvanised wire from Malaysia and has **concluded** that the removal of anti-dumping duties on galvanised wire from Malaysia is likely to lead to a continuation of dumping by one of the Malaysian producers.

In investigating the likelihood that **material injury** will continue or recur if anti-dumping duties are removed, MBIE has considered what is likely to happen in the foreseeable future. MBIE makes an objective examination of the positive evidence available in the context of an assessment of likelihood.

The extent to which MBIE is able to make judgements on the likelihood of events occurring in the **foreseeable future** depends on the circumstances of each case and, therefore, the foreseeable future will range from the imminent to longer timeframes.

In examining injury, MBIE assesses likelihood in the context of the **injury factors** identified in section 8 of the Act, including volume and price effects, and the consequent impact on the domestic industry. Injury caused by factors other than the dumping of the subject goods must not be attributed to the dumping.

To gauge the extent to which the removal of the anti-dumping duties will likely cause material injury to the domestic industry in the foreseeable future, MBIE generally requires the domestic industry to provide **projections or forecasts** of the injury it considers it will suffer as a result of the removal of the duties. MBIE examines these projections in light of the company's past performance (with the duties in place to prevent injurious dumping) and projected future performance (both with the presence and absence of duties) in order to assist it in making a determination of the likelihood of recurrence of injury.

MBIE has examined the information provided by Pacific Steel, and has **concluded** that if the anti-dumping duties are not in place, a significant proportion of imports of galvanised wire from Malaysia are likely to be dumped resulting in the continuation and recurrence of material injury to the domestic industry.

MBIE has reviewed the form and rate of **anti-dumping duties** that

rates of anti-dumping duties based on the rate necessary to prevent the continuation or recurrence of material injury.

MBIE's Stage 1 conclusion is that anti-dumping duties are necessary to prevent the continuation or recurrence of material injury to the New Zealand industry.

MBIE released an EFC Report on 20 August providing the essential facts and conclusions likely to form the basis for the final determination on the full review stage 1 of the investigation. Comments on the EFC Report were received from Pacific Steel and Euro Corporation.

This Stage 1 Final Report provides the basis for the Minister to determine whether continued imposition of the duty is necessary to offset dumping, and whether material injury or threatened material injury to an industry, would be likely to continue or recur.

If the Minister's determination is affirmative, then a full review stage 2 will be started to investigate whether the imposition of anti-dumping duty at the rate or amount determined by the Minister is in the public interest.

would be necessary to prevent the continuation or recurrence of material injury and proposes that duties at an *ad valorem* rate should be set for Chin Herr at the margin of dumping established in the review. MBIE proposes that no duty should apply to exports from Wei Dat as these exports are not dumped. Rates for any other suppliers will be at the rate determined for Chin Herr.

In summary, MBIE's Stage 1 **conclusions** are that, on the basis of the information available, the continued imposition of anti-dumping duties is necessary to prevent the continuation of dumping and the continuation or recurrence of material injury to the New Zealand industry producing like goods to the subject goods.

MBIE released an Essential Facts and Conclusions Report (EFC Report) to interested parties on 20 August 2020. The EFC Report is provided under section 17F(2) of the Act in order to provide notified parties with written advice of the essential facts and conclusions that are likely to form the basis for a determination to be made by the Minister under section 17G of the Act. Interested parties were provided with 10 working days to comment on the EFC Report.

Comments were received from Pacific Steel and Euro Corporation. MBIE has responded to the comments made in Annex 1.

This **Final Report for Stage 1 of the full review (Stage 1 Final Report)** is provided under section 17G(1) of the Act, and provides the basis for the Minister to determine whether continued imposition of the duty is necessary to offset dumping, and whether material injury or threatened material injury to an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied.

If the Minister makes an affirmative determination on stage 1, then the Minister must determine the rate or amount of anti-dumping duty that will form the basis for a full review stage 2, and must direct the chief executive to immediately start a full review stage 2.

A full review stage 2 requires an investigation of whether continuing to impose an anti-dumping duty at the rate or amount determined is in the public interest.

1. Introduction

1.1 Purpose

1. In accordance with section 17C of the Act, the purpose of a full review is to investigate, in relation to an anti-dumping duty, whether continued imposition of the duty is necessary to offset dumping; and material injury would be likely to continue or recur if the duty expired or were otherwise removed or varied.

1.2 Proceedings

2. On 13 December 2019, the chief executive of MBIE received a properly documented application from Pacific Steel for a review of the anti-dumping duties applicable to imports of galvanised wire from Malaysia.
3. On 24 March 2020, the chief executive initiated a full review of the continued need for the imposition of the anti-dumping duties, pursuant to section 17D of the Act, on the basis of positive evidence submitted by Pacific Steel justifying the need for the review.
4. On 20 August 2020, MBIE released an EFC Report to interested parties. The EFC Report was provided under section 17F(2) of the Act in order to provide notified parties with written advice of the essential facts and conclusions that would likely form the basis for a determination to be made by the Minister under section 17G of the Act. Interested parties were provided with 10 working days to comment on the EFC Report. Comments were received from Pacific Steel and Euro Corporation. Wei Dat advised it had no further comments. MBIE's response to the comments made is in **Annex 1**.
5. Section 17F(5) of the Act requires the chief executive to report the findings of full review stage 1 to the Minister. This report fulfils that requirement.

Previous Proceedings

6. Anti-dumping duties were first imposed on galvanised wire imported from Malaysia in May 2004, following an application from Pacific Steel, the New Zealand industry. Since then, at the application of Pacific Steel, MBIE or its predecessor, the Ministry of Economic Development, has conducted a reassessment of the duties in 2005 and reviews and reassessments of the anti-dumping duties in 2009 and 2014-15, resulting in the current duties on Malaysian imports.
7. The Minister determined a new rate of anti-dumping duty on 25 March 2015. This current amount of anti-dumping duty is an *ad valorem* rate of 21 per cent applying to all imports of the subject goods from Malaysia (excluding those from RCI Wire Sdn. Bhd. (RCI Wire) on the basis of the Customs value for duty (VFD) of the subject goods when imported into New Zealand.

1.3 Full Reviews

New Zealand Legislation

8. In terms of section 13A(1)(c) of the Act, the anti-dumping duties relating to galvanised wire from Malaysia, in the absence of a review, would have ceased to apply from 26

- March 2020. The existing anti-dumping duties will continue to apply pending the outcome of this current review.
9. MBIE is undertaking a sunset review under the provisions of Part 6 of the Act. Section 17C of the Act sets out the purpose of a full review as follows:
- The purpose of a full review is to investigate, in relation to an anti-dumping or a countervailing duty, whether—*
- (a) continued imposition of the duty is necessary to offset dumping or subsidisation; and*
- (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied.*
10. Section 17F of the Act provides that, at stage 1, the chief executive must undertake an investigation of these matters, and goes on to require that the chief executive must, within 150 days of starting a full review stage 1, give the notified parties written advice of the essential facts and conclusions that are likely to form the basis for a determination under section 17G(1) of the Act. Section 17F also requires that the chief executive report the findings of a full review stage 1 to the Minister.
11. Section 17G of the Act provides that within 180 days after the start of the full review stage 1 (but no less than 30 days after the written advice is given by the chief executive under section 17F(2)) the Minister must determine whether (a) continued imposition of the duty is necessary to offset dumping or subsidisation; and whether (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied. If this determination is in the affirmative, the Minister must determine the rate or amount of anti-dumping duty, in accordance with section 10E of the Act, that will form the basis for a stage 2 review into whether continuing to impose an anti-dumping duty at the rate determined is in the public interest and direct the chief executive to immediately start full review stage 2.

WTO Anti-Dumping Agreement

12. The World Trade Organization (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the AD Agreement) sets out the rights and obligations of WTO Members when undertaking reviews of anti-dumping duties.
13. In applying the provisions of section 17F of the Act, MBIE has had regard to the provisions of Article 11.3 of the AD Agreement relating to sunset reviews. In interpreting Article 11.3, MBIE takes guidance from New Zealand legal reports, WTO Panel and Appellate Body findings and approaches taken by other WTO member countries.
14. Article 11.3 requires that a duty be terminated 5 years after it was imposed or last reviewed unless an investigating authority determines in a review that "... the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury."

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”.¹

15. Guidance can also be found in WTO dispute settlement findings, e.g. *US — Oil Country Tubular Goods Sunset Reviews*,² and *US — DRAMS*.³ In *US — Oil Country Tubular Goods Sunset Reviews*, the Appellate Body stated (at paragraph 308):

[W]e agree with Argentina that, in US – Corrosion-Resistant Steel Sunset Review, the Appellate Body equated ‘likely’, as it is used in Article 11.3, with ‘probable’. In that case the Appellate Body stated (at paragraph 111), “. . . an affirmative likelihood determination may be made only if the evidence demonstrates that dumping would be probable if the duty were terminated – and not simply if the evidence suggests that such result might be possible or plausible.” We also agree with Argentina that this interpretation of ‘likely’ as ‘probable’ is authoritative in relation to injury as well, given that the term ‘likely’ in Article 11.3 applies equally to dumping and injury.

16. The Appellate Body also noted in *US — Oil Country Tubular Goods Sunset Reviews* (at paragraph 340) that an investigating authority’s likelihood determinations under Article 11.3 must be based on “positive evidence” and quoted with approval the following statement by the Appellate Body in *US – Hot Rolled Steel*:

*The term “positive evidence” relates . . . to the quality of the evidence that authorities may rely upon in making a determination. The word “positive” means... that the evidence must be of an affirmative, objective and verifiable character and must be credible.*⁴

Methodology

17. MBIE 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 continued imposition of the duty is necessary to offset dumping, and whether material injury to an industry would be likely to continue or recur if the duty expired or were otherwise removed or varied. In determining “likelihood”, MBIE considers that regard should be had to the timeframe within which an event may occur. Neither section 17F of the Act nor Article 11.3 of the AD Agreement make express reference to the length of time within which a continuation or recurrence of injury has to take place.
18. Mindful of the particular factors relating to this review, and taking guidance from the sources referred to above, MBIE approaches all investigations and reviews on a case-by-case basis. Based on its interpretation of the Act and the AD Agreement, and in light of

¹ *Commissioner of Police v Ombudsman* [1988] 1 NZLR 385.

² *US — Oil Country Tubular Goods Sunset Reviews*, Report of the Panel, WT/DS268/R, Report of the Appellate Body, WT/DS268/AB/R.

³ *US — DRAMS*, Report of the Panel, WT/DS99/R.

⁴ *US — Hot Rolled Steel*, Report of the Appellate Body, WT/DS184/AB/R.

the situation of this reconsideration, MBIE adopts the following general principles in considering dumping and injury in sunset reviews:

- The legal requirement is for MBIE to investigate whether the continued imposition of an anti-dumping duty is necessary to offset dumping, and whether material injury to an industry would be likely to continue or recur if the duty expired or was otherwise removed or varied.
- In order to investigate whether a duty is necessary to offset dumping, MBIE establishes whether there is current dumping, and whether dumping is likely to continue or recur.
- The investigation of current dumping is based on the provisions of the Act relating to the determinations of export price (section 4), normal value (section 5) and the ascertainment of export price and normal value when sufficient information has not been furnished or is not available (section 6).
- When determining whether dumping is likely to continue or recur MBIE needs to be satisfied that, based on positive evidence, certain events are likely to occur, and that those events mean that dumping is likely to continue or recur.
- The investigation of the material injury to an industry is based on the matters set out in section 8 of the Act
- When determining whether the expiry or removal of the anti-dumping duty would be likely to lead to a continuation or recurrence of injury, MBIE needs to be satisfied, based on positive evidence, that material injury to the industry is likely to continue or recur if the anti-dumping duties expire or are otherwise removed or varied.
- Interpretation of the phrase “would be likely” is guided by a New Zealand Court of Appeal judgment⁵ referring to “a real and substantial risk..., a risk that might well eventuate” and by relevant WTO dispute settlement findings.
- In considering whether removal of the duty would be likely to lead to a recurrence of dumping and injury, MBIE considers what is likely to happen in the foreseeable future. The extent to which MBIE 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 longer timeframes.
- To gauge the extent to which the removal of the anti-dumping duties will likely cause material injury to the domestic industry in the foreseeable future, MBIE generally requires the domestic industry to provide projections or forecasts of the injury it considers it will suffer as a result of the removal of the duties. MBIE examines these projections in light of the company’s past performance (with the duties in place to prevent injurious dumping) and projected future performance

⁵ *Commissioner of Police v Ombudsman* [1988] 1 NZLR 385

(both with the presence and absence of duties) in order to assist it in making a determination of the likelihood of recurrence of injury.

1.4 Grounds for the Review

19. In its application for a review, Pacific Steel provided evidence to support its contention that it will suffer a recurrence of material injury if the current anti-dumping duties are removed due to the likely recurrence of dumped imports of galvanised wire from Malaysia. Pacific Steel claimed that imports of Malaysian galvanised wire will recommence and be dumped if the anti-dumping duties are removed and that material injury to the company 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 productivity and utilisation of production capacity; and
- negative effects on cash flow and growth.

1.5 Review Stages

Full Review

20. The purpose of a full review is to investigate whether the continued imposition of a duty is necessary to offset dumping and whether material injury to an industry would be likely to continue or recur if the duty expired or were otherwise removed or varied. At the end of stage 1 of a full review, the Minister must make a determination of whether the continued imposition of the duty is necessary to offset dumping and whether material injury to an industry is likely to continue or recur if the duty expired or were otherwise removed or varied.

Determination of Anti-Dumping Duties

21. Where the outcome of a review indicates that anti-dumping duties should continue to be applied, then in accordance with section 17G(2)(a) of the Act the Minister must determine the rate or amount of duty that will form the basis for a stage 2 public interest review.

Public Interest Investigation

22. Where the outcome of a stage 1 review indicates that anti-dumping duties should continue to be applied, then in accordance with section 17G(2)(b) of the Act the Minister must direct the chief executive to immediately start a stage 2 public interest investigation, as provided for in sections 17H to 17K of the Act. 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.

23. Upon the initiation of a 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. If the Minister determines that the duties should not be continued, the Minister must terminate the imposition of the duty under section 17Y(1) of the Act.

1.6 Treatment of Information

Availability of information

24. The foundation of MBIE's approach to the gathering and assessment of information is the relevant provisions of the Act and the AD Agreement, assisted by the interpretation of the AD Agreement provided in WTO dispute settlement proceedings.
25. Sections 4 and 5 of the Act set out the bases for establishing export prices and normal values for the purposes of determining the existence and extent of dumping, while section 6 of the Act provides as follows:

Where the chief executive is satisfied that sufficient information has not been furnished or is not available to enable the export price of the goods to be ascertained under section 4, or the normal value of goods to be ascertained under section 5, 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.

For the purposes of subsection (1), the chief executive may disregard any information that the chief executive considers to be unreliable.

26. Articles 6.6 and 6.8 of the AD Agreement provide as follows:

6.6 Except in circumstances provided for in paragraph 8, the authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based.

...

6.8 In cases in which any interested Member or 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.

27. Annex II to the AD Agreement sets out the basis on which investigating authorities can use the best information available in terms of Article 6.8. Article 11 of the AD Agreement, which addresses reviews, provides in Article 11.4, that "The provisions of Article 6 regarding evidence and procedure shall apply to any review carried out under this Article." Information relating to those parties who have not provided information is based on the facts available that MBIE considers reliable according to the provisions of the Act and the AD Agreement.
28. In an investigation or review MBIE seeks and obtains information directly relevant to that proceeding, and satisfies itself as to the accuracy of the information provided. Such information includes questionnaire responses from interested parties; laws, regulations and other official documents; relevant WTO documents, such as notifications; Customs and statistical data; and other relevant data such as exchange rates, interest rates and

- prices. MBIE can use verification visits and the review of evidence available to substantiate the information provided by interested parties and to assess its reliability.
29. Where MBIE is not satisfied as to the accuracy of the information provided, or where information is not available, other information can be used as “facts available”. The use of “facts available”, including secondary information, is limited to instances where information is not available because an interested party refuses access to, or otherwise does not provide the necessary information within a reasonable period or significantly impedes the investigation or review. In such circumstances, the normal value and export price are to be ascertained having regard to all available information. MBIE is required by the AD Agreement to take due account of any difficulties experienced by interested parties, in particular small companies, in supplying information requested.
30. In considering “facts available” MBIE can take into account information, such as the application (in relation to dumping); information from previous MBIE investigations or reviews; information from investigations or reviews undertaken by counterpart authorities in other jurisdictions; and information from reports and publications covering matters related to the subject matter of the investigation or review. In using information, MBIE undertakes a process of reasoning and evaluating which “facts available” constitute reasonable replacements for missing information that can be considered reliable. In this context, MBIE notes that information that is not based on positive evidence but relies on inferences and assumptions may not be considered to be reliable.

Protection of information

31. Confidential information is defined in section 3F(5) of the Act:
- In this section, confidential information means information about which the submitter of the information has shown a good reason for the chief executive to believe 1 or more of the following:*
- (a) that making the information available would give a significant competitive advantage to a competitor of the submitter of confidential information:*
 - (b) that making the information available would have a significantly adverse effect on—*
 - (i) the submitter of confidential information; or*
 - (ii) the person from whom the information was acquired by the submitter of the information; or*
 - (iii) any person to whom the information relates:*
 - (c) that the information should be treated as confidential for reasons other than the reasons described in paragraphs (a) and (b).*
32. A recent report from the WTO Appellate Body noted:
- Under Article 6.5, an investigating authority is required to assess objectively whether the request for confidential treatment has been sufficiently substantiated such that "good cause" has been shown. The fact that the investigating authority*

*has conducted this objective assessment must be discernible from its published report or related supporting documents.*⁶

33. The Appellate Body also upheld the Panel's findings with regard to summaries of confidential information:
- In the present dispute, the Panel found that, "[i]n the complete absence of data, and with no narrative summary with respect to the deleted information, the 'Disclosed' versions of the three communications identified by Japan cannot be said to contain a summary in sufficient detail to 'permit a reasonable understanding of the substance of the information submitted in confidence'."*⁷
34. In seeking information from interested parties, MBIE points out that where a party requests that information be treated as confidential it should provide a non-confidential version, or a non-confidential summary of the information, or if the information is not susceptible to summarisation, an explanation of the reasons why not, and provide justification for the information being treated as confidential. MBIE points out to parties that section 3F of the Act allows the chief executive to disregard any information for which a satisfactory non-confidential version (or summary or satisfactory statement of why such a summary cannot be given) is not provided.⁸
35. Section 3F(1) of the Act provides that an interested party may ask the chief executive to provide copies of information relevant to trade remedy proceedings, but this provision does not apply to confidential information, or information that would be likely to be withheld if it was requested under the Official Information Act 1982.
36. MBIE has made available all non-confidential information via the public file for this review. Any interested party has been able to request both a list of the documents on this file and copies of the documents on it.
37. In this Stage 1 Final Report, detailed information relating to the calculation of the dumping margins has been included in Confidential Annexes for each of the Malaysian producers. The information is considered to be confidential for the reasons set out in section 3F(5) of the Act. In particular, MBIE is satisfied that documentation relating to transactions, such as invoices, information relating to costs and prices, information relating to commercial relationships, and non-public financial information, will generally come within the meaning of confidential information. Much of this information is not susceptible of summarisation except in broad descriptive terms.
38. Information relating to the domestic industry and the analysis of injury is considered to be confidential, and in this Stage 1 Final Report the analysis is presented as a summary of information analysed, with tables and charts used to assist in the summarisation of the

⁶ Korea – Pneumatic Valves, WT/DS504/AB/R, at paragraph 6.29.

⁷ Ibid, at paragraph 6.31.

⁸ The AD Agreement adds the proviso, "unless it can be determined to their satisfaction from appropriate sources that the information is correct," and adds the footnote, "Members agree that requests for confidentiality should not be arbitrarily rejected."

material. The domestic industry's application and the verification report of the visit to the applicant's premises include non-confidential summaries of the information provided.

Verification of information

39. MBIE visited Pacific Steel to verify the information it provided.
40. Due to the COVID-19 public health crisis, MBIE officials were unable to travel to the premises of the Malaysian producers. MBIE has therefore carried out a desktop verification of information.
41. A desktop verification involves considering the information provided for consistency and accuracy, checking the information against other available information, and requesting further information or explanation where necessary.
42. On-site verifications are neither the only nor the prescribed method of verifying information under the Act or the Agreement. Article 6.7 provides for on-site visits as an option for the investigating authority to fulfill its obligation under Article 6.6 to "satisfy itself as to the accuracy of the information supplied by interested parties on which findings are based⁹."

1.7 Report Details

43. The POR(D) is 1 January 2019 to 31 December 2019. This period is in accordance with the period for assessing dumping of twelve months recommended by the WTO and is the most recent such period to the 5-year sunset date for the duties.
44. The period of review for assessing injury (POR(I)) is 1 January 2016 to 31 December 2019 and out to 31 December 2021 for forecast injury. Pacific Steel provided forecast information for financial years 2020 and 2021, in terms of the impact on its domestic operation, for the scenarios where duties are imposed to meet the margin of price undercutting, and where duties are not imposed. It should be noted that in a review, involving as it does the consideration of the likelihood of the continuation or recurrence of dumping and injury, MBIE has regard to any dumping that may have been occurring prior to the POR(D). MBIE also takes account of forecasts of both dumping and injury based on past experience and future scenarios.
45. In this report, unless otherwise stated, years are calendar years, while financial years (FY) are years ending 30 June and, unless otherwise stated, dollar values are New Zealand dollars (NZD). In figures, column totals may differ from individual figures due to rounding. The term VFD refers to value for duty for New Zealand Customs Service (Customs) purposes.
46. All volumes are expressed on a metric ton/tonne (MT) basis unless otherwise stated. Exports to New Zealand are generally invoiced in US dollars (USD), while domestic sales were in Malaysian ringgit (MYR). The exchange rates used are those relating to specific

⁹ Panel Report, *Argentina – Ceramic Tile*, Footnote 65

transactions, where available, or the Customs exchange rates for the relevant time or shipment, or the rate that MBIE considers most appropriate in the circumstances.

2. Subject Goods and New Zealand Industry

2.1 Subject Goods

47. The imported goods that are the subject of the review (the subject goods) are described as:

Galvanised steel wire of high, medium and low tensile strength between (and including) 2mm and 4.5mm in diameter, excluding armouring wire.

48. In previous reviews, Pacific Steel agreed that the description of subject goods does not include PVC coated galvanised wire.

Tariff Description

49. The subject goods are currently subject to the following classifications in the New Zealand Customs Tariff (shaded lines are excluded). Note that some statistical keys include goods that are outside the subject goods description (indicated by “Ex” – added by MBIE in the Tariff Item column in Figure 2.1).
50. Imports of the subject goods are currently subject to a Free rate of Customs duty if they qualify for preferential entry under the New Zealand Malaysia Free Trade Agreement or the ASEAN Australia New Zealand Free Trade Agreement. The Normal rate of Customs duty is 5 per cent.

Figure 2.1: Tariff Classification¹⁰

Tariff item	Stat Key	Unit	Description	Duty %	Pref.
72.17			Wire of iron or non-alloy steel:		
7217.10.00			– Not plated or coated, whether or not polished		
			– Plated or coated with zinc:		
7217.20.10			– – Containing by weight less than 0.6 % carbon	5	Free *See Below CA Free CPT 4 1/2019 3 1/2020 2 1/2021 1 1/2022 Free KR 1 1/2019 Free
			. . . Containing by weight less than 0.25 % carbon:		
			. . . . Fencing wire:	
			. . . . . Less than 1.6mm in diameter:	
	01H	kg	. . . . . Coils, not exceeding 50 kg	
	03D	kg	. . . . . Other	
			. . . . . 1.6 mm or more, but less than 2.5 mm in diameter:	
Ex	05L	kg	. . . . . Coils, not exceeding 50 kg	
Ex	07G	kg	. . . . . Other	
			. . . . . 2.5 mm or more, but less than 4 mm in diameter:	
	08E	kg	. . . . . Coils, not exceeding 50 kg	
	09C	kg	. . . . . Other	
			. . . . . 4 mm or more in diameter:	
Ex	11E	kg	. . . . . Coils, not exceeding 50 kg	
Ex	13A	kg	. . . . . Other	

¹⁰ Extract from the NZ Customs Working Tariff Document, Section XV: Base metals and articles of base metals
<https://www.customs.govt.nz/globalassets/documents/tariff-documents/working-tariff-document-2018/section-xv-1-july-2019.pdf>

			.... Other:		
	14K	kg	..... Less than 1.6 mm in diameter		
Ex	15H	kg	..... 1.6 mm or more, but less than 2.5 mm in diameter		
	16F	kg	..... 2.5 mm or more, but less than 3.55 mm in diameter		
	17D	kg	..... 3.55 mm or more, but less than 4.5 mm in diameter		
Ex	18B	kg	..... 4.5 mm or more, but less than 5.5 mm in diameter		
	19L	kg	..... 5.5 mm or more in diameter		
			... Other:		
			.... Fencing wire:		
			..... Less than 1.6 mm in diameter:		
	21B	kg	..... Coils, not exceeding 50 kg		
	23J	kg	..... Other		
			..... 1.6 mm or more, but less than 2.5 mm in diameter:		
Ex	25E	kg	..... Coils, not exceeding 50 kg		
Ex	27A.	kg	..... Other		
			..... 2.5 mm or more, but less than 4 mm in diameter:		
	28K	kg	..... Coils, not exceeding 50 kg		
	29H	kg	..... Other		
			..... 4 mm or more in diameter:		
Ex	31K	kg	..... Coils, not exceeding 50 kg		
Ex	33F	kg	..... Other		
			.... Other:		
	34D	kg	..... Less than 1.6 mm in diameter		
Ex	35B	kg	..... 1.6 mm or more, but less than 2.5 mm in diameter		
	36L	kg	..... 2.5 mm or more, but less than 3.55 mm in diameter		
	37J	kg	..... 3.55 mm or more, but less than 4.5 mm in diameter		
Ex	39E	kg	..... 4.5 mm or more in diameter		
7217.20.90			-- Other	5	Free
			... Fencing wire:		*See
			.... Less than 1.6 mm in diameter:		Below
	01A	kg	..... Coils, not exceeding 50 kg		CA Free
	03H	kg	..... Other		CPT 4
			.... 1.6 mm or more, but less than 2.5 mm in diameter:		1/2019 3
Ex	05D	kg	..... Coils, not exceeding 50 kg		1/2020 2
Ex	07L	kg	..... Other		1/2021 1
			.... 2.5 mm or more, but less than 4 mm in diameter:		1/2022
	08J	kg	..... Coils, not exceeding 50 kg		Free
	09G	kg	..... Other		KR 1
			.... 4 mm or more in diameter:		1/2019
Ex	11J	kg	..... Coils, not exceeding 50 kg		Free
Ex	13E	kg	..... Other		
			... Other:		
	14C	kg	.... Less than 1.6 mm in diameter		
Ex	15A	kg	.... 1.6 mm or more, but less than 2.5 mm in diameter		
	16K	kg	.... 2.5 mm or more, but less than 3.55 mm in diameter		
	17H	kg	.... 3.55 mm or more, but less than 4.5 mm in diameter		
Ex	18F	kg	.... 4.5 mm or more in diameter		
* Unless otherwise indicated, AAN, AU, CN, CPT, HK, KR, LLDC, MY, Pac, SG, TH, TPA and TW rates in the Preferential Tariff are Free.					

51. MBIE notes that these tariff items and statistical keys are the same as those in the notice of the current anti-dumping duty rate on galvanised wire from Malaysia, which classification is provided for convenience and Customs purposes only, the written description being dispositive.

Issues Relating to Subject Goods

52. MBIE notes that a review considers whether there is a continued need for the imposition of anti-dumping duties on goods which have already been described as subject to the duties (section 17F of the Act). In the case of a review, the meaning of the description of the goods can be clarified (but the scope may not be extended or reduced) and the review considers those goods on which the duties have been imposed in its dumping, injury and causality assessments.

The term 'galvanised'

53. The scope of the description of subject goods was questioned by an interested party, on the grounds that, "in normal parlance" to "the public and many parts of the industry", 'galvanised wire' means wire that is 100% zinc coated.
54. MBIE notes that the Standard AS/NZS 4534:2006 covers both zinc coating and zinc/aluminium-alloy coating, although each is defined separately within the Standard.
55. MBIE observes that on the websites of Bekaert,¹¹ Chin Herr,¹² and Wei Dat¹³ a distinction does not appear to be made between galvanised wire and zinc-aluminium coated wire, although such a distinction is implied on the website of Pacific Steel when it refers to heavily coated zinc-aluminium wire lasting much longer than "galvanised wire with the same coating thickness"¹⁴.
56. Online research by MBIE shows that while the term 'galvanised' referred once to coating of steel only with zinc, given developments in coatings it may now also be used to refer to coatings of zinc (primarily) combined with other metals. In particular, the following references support this understanding:
- The Galvanizing Association of New Zealand, in describing the galvanizing of fabricated articles, explains that the "formation of the galvanized coating on the steel surface is a metallurgical reaction, where the zinc and steel combine to form a series of hard intermetallic layers. The outer layer is, typically, 100% zinc which covers the surface after withdrawal from the molten zinc bath"¹⁵ (emphasis added).
 - Training materials for the American Galvanizers Association (AGA) state that "[h]ot-dip galvanizing is the process of immersing iron or steel in a bath of molten zinc to produce a corrosion resistant, multi-layered coating of zinc-iron alloy and zinc metal."¹⁶ The material states that, while "hot-dip galvanizing has been

¹¹ https://www.bekaert.com/en/~/_link.aspx?_id=8F1A33702985492F9767F409DA4A9235&_z=z#coating-technologies

¹² <https://www.chinherr.com/products.html>

¹³ <https://www.weidat.com/galvanised-steel-wire.html>

¹⁴ <https://www.pacificsteel.co.nz/products/wiremark-fencing-wire/high-tensil/>

¹⁵ <https://www.galvanizing.org.nz/docs/20016GANZBrochureHR.pdf>

¹⁶ <https://galvanizeit.org/inspection-course/galvanizing-process>

utilized to protect steel for generations, the galvanizing process continues to evolve with new technologies and creative chemistries.”

- Further AGA material confirms that the development of galvanizing may involve the addition of other metals to the zinc used in coating. “The galvanizing kettle contains zinc . . . at least 98% pure. Sometimes other metals may be added to the kettle to promote certain desirable properties in the galvanized coating.”¹⁷
57. On the basis of its research, MBIE is satisfied that the term “galvanised” refers to both steel wire coated with zinc and with zinc-aluminium. Zinc-aluminium coated wire is therefore clearly included within the scope of the description of the subject goods.
58. MBIE considers that while “galvanised” may have traditionally been used to refer to the application of a 100% zinc coating, the development of galvanising has resulted also in the usage of the term “galvanised” for the application of coatings that are predominantly zinc but include other metals such as aluminium. MBIE uses the term “galvanised” in this sense.
59. A concern raised with MBIE was that some parties may not have become involved in the review as a result of a lack of clarity about the goods subject to the review. MBIE notes that it is able to correlate responses from interested parties with information from Customs on import entries, so any misunderstandings about the scope of the subject goods will be apparent and MBIE will be, and has been, able to provide clarification for certain parties. In most cases, interested parties have understood the scope of the goods subject to the review without needing clarification.

Tariff classification

60. An interested party also noted that many of the products in the tariff codes include goods that are in sizes and grades that Pacific Steel does not make.
61. MBIE agrees that some of the New Zealand tariff items and statistical keys do not align with the dimensions in the description of subject goods. However MBIE points out that the Gazette notice for initiation of the review stated that the tariff “classification is provided for convenience and New Zealand Customs Service purposes only, the written description being dispositive.”

MBIE’s Conclusion on Subject Goods

62. MBIE concludes that the scope of the subject goods, as defined in the application for the review:
- includes wire between (and including) 2mm and 4.5mm in diameter
 - includes wire with zinc and zinc-aluminium coatings
 - excludes armouring wire and PVC coated wire.

¹⁷ <https://galvanizeit.org/inspection-course/galvanizing-process/galvanizing>

63. MBIE notes that the description of the subject goods for purposes of the review may not be amended during these proceedings, but that anti-dumping duties may exclude specific goods, such as those covered by tariff concessions.

2.2 Imports of Subject Goods

64. Some tariff items and statistical keys covered by the subject goods are currently subject to data suppression. Statistics New Zealand (Stats NZ) operates the International Merchandise Trade Statistics confidentiality policy, which sets out the policy for preventing disclosure of confidential information in published international trade statistics. Detailed international trade statistics are normally published without prior checking for disclosure. If an exporter and/or importer requests suppression, aggregated data that identifies individual trade transactions, can, at the discretion of the Government Statistician, be suppressed in future publicly available tables. When such a request is received, Stats NZ will verify the alleged identification risk. If Stats NZ concludes that a risk of identification exists, either directly or by deduction, then it will amalgamate the relevant items with other trade transactions to prevent disclosure.
65. Figure 2.3 shows the tariff items and statistical keys covered by the subject goods which are currently subject to data suppression.

Figure 2.3: Data Suppression¹⁸

Tariff Item and Statistical Key	Description
7217.20.10.16	Iron or non-alloy steel; wire, plated or coated with zinc, containing by weight less than 0.25% of carbon, (not fencing wire), 2.5mm or more but less than 3.55mm in diameter
7217.20.10.17	Iron or non-alloy steel; wire, plated or coated with zinc, containing by weight less than 0.25% of carbon, (not fencing wire), 3.55mm or more but less than 4.5mm in diameter
7217.20.10.35	Wire of iron or non-alloy steel, plated or coated with zinc 1.6-2.5mm diameter
7217.20.10.36	Wire of iron or non-alloy steel, plated or coated with zinc 2.5-3.55mm diameter
7217.20.10.37	Wire of iron or non-alloy steel, plated or coated with zinc 3.55-4.5mm diameter

66. MBIE has analysed import data from Customs and has estimated the import volumes of subject goods over the past four calendar years, 2016 to 2019. The analysis shows that, in the presence of anti-dumping duties, imports of the subject goods have remained at

¹⁸ Extracted from http://archive.stats.govt.nz/about_us/legisln-policies-protocols/trade-confidentiality/confidential-items-imports.aspx

relatively low levels in both absolute terms and relative to production and consumption in New Zealand.

67. Imports from Malaysia also made up a very small percentage of total imports of the subject goods in 2019, the POR(D). However, the provisions of Article 5.8 of the AD Agreement relating to the termination of an investigation where imports are negligible (less than 3 per cent of total imports) do not apply to sunset reviews.

68. **Confidential Attachment 1** sets out MBIE's analysis of import volumes.

2.3 Like Goods and New Zealand Industry

69. Section 3A of the Act provides that for the purposes of the 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.

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

- a. other goods that are like those goods in all respects, or
- b. in the absence of goods referred to in paragraph (a), goods which have characteristics closely resembling those goods.

2.3.1 Like Goods

70. To establish the existence and extent of the New Zealand industry for the purposes of an investigation into injury, 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, or have characteristics which closely resemble the subject goods.

71. The scope of the subject goods is defined in section 2.1 above. MBIE notes that it was agreed with Pacific Steel in the 2009 review that PVC coated galvanised wire could be excluded from the description of the goods subject to duty. This is because PVC coated galvanised wire was produced by a significantly longer process, as after galvanising, the PVC coating had to be applied. Pacific Steel said that this made PVC coated wire more expensive to produce than galvanised wire, and this product does not compete with galvanised wire in the New Zealand market. Pacific Steel also said that PVC coated wire is usually imported in small quantities, for specialist applications such as chain links, and usually contains a lower gauge wire, most but not all being 1.6mm in diameter, which was outside of the range of the subject goods description. Pacific Steel had not seen this good as a threat to the galvanised wire market, and stated it was not causing injury to the industry.

72. Pacific Steel manufactures drawn and coated wire, reinforcing steel bar and coil, and wire rod.

73. The goods which Pacific Steel produces were confirmed to be "like goods" to the subject goods in the original investigation in 2004. Pacific Steel has confirmed that it continues to

be the only producer of galvanised wire in New Zealand, that there are no other goods produced in New Zealand with the same form, function and usage, and that Pacific Steel makes “like goods” to the subject goods imported from Malaysia.

74. In the 2014 *Review of Galvanised Wire from Malaysia*, it was noted that:
- Pacific Steel produces galvanised wire in diameters of 1.60mm to 5.00mm. All wires are produced in a range of tensile strengths and coating weights.
 - The difference in wire diameters is not necessarily the main determinant of its tensile strength, as different wire diameters can have the same breaking strain due to different carbon composition. The percentage of carbon contained in the steel is the main contributor to the tensile strength of the galvanised wire. Other factors which affect the strength of the wire are its diameter and whether the rod from which it has been drawn contains alloying elements such as vanadium.
 - All galvanised wire currently produced by Pacific Steel is coated with a mix of zinc and aluminium. Galvanised wire is principally used for agricultural fencing, vineyard trellises or is manufactured into woven fence products. Zinc-aluminium coated galvanised wire is used primarily for fencing. The added aluminium in the zinc coating provides extra protection from corrosion.
75. The information available to MBIE indicates that the goods produced by the New Zealand industry are not “like [the subject] goods in all respects”. The information indicates that there are differences in coatings (both composition and thickness), tensility and in the composition of the steel wire itself (such as vanadium content), depending on which subject goods are being compared with Pacific Steel’s galvanised wire.
76. In the absence of goods that are like in all respects, MBIE therefore considers whether the New Zealand industry produces “goods which have characteristics closely resembling” the imported subject goods.
77. In considering whether domestic goods are like or have characteristics closely resembling the imported subject goods, MBIE considers physical characteristics, function and usage, pricing structures, marketing, and any other relevant considerations.

Submissions on Like Goods

Manufacture of galvanised wire

78. During the review claims were made that Pacific Steel does not make galvanised wire, as that term is understood by many to apply only to wire with a 100% zinc coating. As explained above in the section on subject goods, MBIE considers it reasonably understood that galvanised wire refers to wire with a zinc coating, regardless of whether it is 100% zinc or predominantly zinc combined with other metals such as aluminium.

Range of manufacture

79. Paul Industries claimed that Pacific Steel manufactures only a limited range of products, namely wire from 2.0mm to 4.0mm in diameter, of low, medium and high tensile and galvanised 95/5 zinc-aluminium wire and the review and “investigation should be limited to what may be necessary to protect these products.”

80. Pacific Steel's website indicates that Pacific Steel produces the following 95/5 zinc-aluminium wire
- high tensile sizes 1.6 to 4.0mm
 - medium tensile sizes 2.0 to 3.15mm
 - low tensile sizes 2.0 to 5.0mm.
81. MBIE verified sales information for 2019 which showed that Pacific Steel made sales of all of these types and dimensions of galvanised wire, except for medium tensile galvanised wire greater than 2.5mm. MBIE is satisfied that Pacific Steel makes galvanised steel wire from 1.6mm to 5mm.

Wire coatings

82. A claim was also made by Paul Industries that imported wire galvanised 90/10 zinc-aluminium is different from and of higher quality than Pacific Steel's product and sells into a premium market. All galvanised wire currently produced by Pacific Steel is coated with a mix of 95 percent zinc and 5 percent aluminium.

Physical properties

83. Paul Industries' imports include 100% zinc galvanised wire for welding into mesh. Paul Industries claimed that galvanising with other coatings cannot be welded and that the imposition of a duty on such wire was harmful to its interests and users of safety mesh with no benefit to Pacific Steel. Pacific Steel provided information in support of the capability of 95/5 zinc-aluminium coated galvanised wire to be welded into mesh.

MBIE's comments on like goods

84. MBIE examined submissions from interested parties and makes the following comments on the various factors usually used in assessing whether like goods are made by an industry in New Zealand.

Physical characteristics

85. There are some differences between Pacific Steel's galvanised wire and Malaysian galvanised wire in respect of the coating, affecting the level of protection from corrosion, and there may be some differences in respect of the composition of the steel wire, affecting tensile strength. The differences in coating and steel composition represent a spectrum across galvanised steel wire types.
86. Paul Industries stated that it imports 90/10 zinc aluminium wire "due to no one producing this specification in the NZ market and with harsh coastal conditions this outperforms" the 95/5 zinc-aluminium wire. Pacific Steel claimed that 95/5 zinc-aluminium wire had superior corrosion resistance to 90/10 zinc-aluminium wire based on in-situ atmospheric testing, challenging the salt spray testing that might lead to claims of superior corrosion resistance for 90/10 zinc-aluminium wire.
87. MBIE understands there may be some differences in appearance or finish between the New Zealand-produced and some imported wire but is not aware of any significant differences.

Production methods and technology

88. MBIE understands that there will be some differences in production processes of galvanised wire between plants, but there is no significant difference in the basic production methods used by Pacific Steel and foreign producers.
89. MBIE notes that Standards such as AS/NZS 4534:2006 and AS 2423-2002 encompass both zinc and zinc-aluminium coated wire.

Function and usage

90. The New Zealand and imported galvanised wire has similar functions and uses overall. Differences in protection levels and tensility influence how the wire is used in practice.

Pricing structures

91. MBIE understands from parties' submissions that there are different price levels for 100% zinc galvanised wire, 95/5 zinc-aluminium and 90/10 zinc-aluminium wire.
92. Paul Industries claims that the 90/10 zinc-aluminium wire it imports from Malaysia "is a premium wire product compared to" Pacific Steel's 95/5 zinc-aluminium and that its "price point is higher than Pacific Steel, due to the quality of the wire." Paul Industries provided a price list for a particular merchant reseller. MBIE compared Pacific Steel's ex-factory price with Paul Industries' prices exclusive of GST. The analysis indicates that there is a price premium for Paul Industries products, although the analysis could not take account of all relevant differences between the products and between the prices of products.
93. The information available indicates that there are different price levels for the main three categories of wire (100% zinc, 90/5 zinc-aluminium, and 90/10 zinc-aluminium) but these differences on their own do not indicate they are not like goods.

Marketing and distribution

94. MBIE considers that marketing and distribution of locally-produced and imported wire is reasonably similar.

Substitutability and commercial interchangeability

95. Pacific Steel states that 90/10 zinc aluminium wire is "fully substitutable for, and directly commercially competitive with, and are like, and thus cause injury to sales in New Zealand of 95/5 [zinc-aluminium] goods. Evidence provided by Pacific Steel, including Paul Industries' brochures, indicates that 95/5 zinc-aluminium wire is interchangeable with 90/10 zinc-aluminium wire, namely similar promotional material, same Standard and same use.
96. Paul Industries, on the other hand, states that Pacific Steel's "product is not substitutable for our product which we sell to the premium market because it is better suited and lasts longer in the harsher climatic conditions existing in New Zealand."
97. While Pacific Steel and Paul Industries disagree on the question of substitutability, MBIE has no substantiated information to indicate that there are circumstances in which galvanised wire with different coatings from that produced by the New Zealand industry

has specific applications that would exclude the use of galvanised steel wire produced in New Zealand.

Competition and price interconnectivity

98. On the basis of the information available, MBIE considers that the imposition of a significant duty on only 95/5 zinc-aluminium wire would likely result in some purchasers switching to imported wire with other coatings.

MBIE's Conclusion on Like Goods

99. MBIE notes that where the New Zealand industry does not produce goods that are like the imported goods in all respects, which is the case in this review, the Act requires MBIE to consider whether the goods “have characteristics closely resembling” the imported goods.
100. On the basis of the information available, MBIE concludes that the galvanised wire produced by Pacific Steel has characteristics that closely resemble the imported subject goods as described for this review. In particular, MBIE considers that Pacific Steel makes like goods to 100% zinc galvanised wire and 95/5 zinc-aluminium wire and 90/10 zinc-aluminium wire.
101. In response to queries raised by interested parties, MBIE is satisfied specifically that Pacific Steel produces like goods to:
- wire greater than 4.0mm and including 4.5mm in diameter, because Pacific Steel produces wire from 1.6 to 5.0mm in various tensile strengths
 - 90/10 zinc-aluminium wire, because Pacific Steel produces 95/5 zinc-aluminium wire which has similar physical characteristics, is largely substitutable and interchangeable and can be used for similar purposes
 - galvanised wire with a 100% zinc coating (including high carbon, heavy galvanised and coat hanger wire), because Pacific Steel produces wire that, while zinc aluminium coated, is similar to 100% zinc coated wire because it has similar physical characteristics, is interchangeable and can be used for similar purposes, even though its price is higher.

2.3.2 New Zealand Industry

102. The application for review was submitted by Pacific Steel, which is owned by New Zealand Steel Holdings Limited, which is ultimately owned by an Australian company, BlueScope Steel.
103. Pacific Steel remains the sole manufacturer of galvanised wire in New Zealand.
104. MBIE is satisfied in terms of section 3A of the Act that Pacific Steel is the only New Zealand producer of like goods and that Pacific Steel therefore constitutes the New Zealand industry for the purpose of this review.

3. Interested Parties

3.1 Legal Requirements

105. Interested parties are those parties who have an interest in the review and may provide information to defend their interests.
106. Section 3 of the Act defines “notified parties” as including the Government of the country of export; exporters and importers known to have an interest in the goods; and the applicant in relation to the goods. Section 3E of the Act sets out the provisions relating to the giving of notice and written advice to notified parties.
107. Section 17F(2) requires that within 150 days from starting a full review stage 1, notified parties are to be given written advice of the essential facts and conclusions that are likely to form the basis for a determination to be made by the Minister under section 17(G)(1).
108. Section 17F(3) provides that the chief executive must give interested parties a reasonable opportunity to present evidence.
109. Article 6.11 of the AD Agreement describes interested parties who shall be included, covering the same parties as those referred to in the Act as “notified parties,” but adding trade associations of importers, exporters or domestic industry. Article 6.12 provides opportunities for some other parties, such as industrial users of the product under investigation and representative consumer organisations, to participate in an investigation or review.

3.2 New Zealand Industry

110. As set out in section 2.3.2, Pacific Steel constitutes the New Zealand industry.
111. In addition to the information provided in its application for the review, Pacific Steel was asked to provide some further information.
112. A verification visit was carried out at Pacific Steel’s premises to verify the information supplied by it in its application for a review and in its response to MBIE’s requests for further information. A copy of the verification report relating to the company visit was provided to the company and a non-confidential version is available on the public file.
113. Pacific Steel made a further submission on 22 July 2020 in response to matters raised by interested parties.

3.3 Malaysian Producers

114. MBIE identified three Malaysian manufacturers whose galvanised wire was exported to New Zealand over the POR(D) – Bekaert Malaysia, Chin Herr and Wei Dat. Information was requested by MBIE from all of these suppliers.
115. In **Confidential Attachment 2** MBIE has named the importers involved in importing the subject goods from these Malaysian suppliers to the New Zealand market.
116. MBIE has also identified the suppliers from the initial investigation and subsequent reviews in the Confidential Attachment, noting that the description in the Act of notified

parties refers to “exporters . . . known by the chief executive to have an interest” in the goods subject to duties.

Bekaert Malaysia

117. Bekaert Malaysia advised in April that it was in the midst of closing its galvanised wire factory in Ipoh, Malaysia.¹⁹
118. AM Wire Pte Ltd (AM Wire) advised that it is the exclusive agent for “NV Bekaert of Belgium”, including Bekaert Malaysia for wire exports to New Zealand.
119. Bekaert Malaysia did not cooperate with the review because it was closing its Malaysian wire manufacturing plant. MBIE used information from Customs, and information provided by AM Wire and the New Zealand importer to identify the goods exported by Bekaert Malaysia.
120. During the POR(D) Bekaert Malaysia exported a limited range of diameters of galvanised wire to its New Zealand customer.

Chin Herr

121. Chin Herr is a wholly owned subsidiary of Chin Well Holdings Berhad, which is listed on the Kuala Lumpur Stock Exchange’s main board.
122. Chin Herr provided a partial response to MBIE’s Foreign Manufacturer Questionnaire and did not reply to a deficiency letter seeking further information.
123. Information and invoices on Chin Herr’s export sales to New Zealand was provided by the New Zealand customer.
124. During the POR(D) Chin Herr exported galvanised wire across a range of diameters to its New Zealand customer.
125. Although the information provided by Chin Herr was not complete, MBIE verified the limited information it submitted through desktop verification.²⁰ MBIE generated a verification report for Chin Herr where it assessed the information provided by the company. The company was provided with an opportunity to review and comment on the verification report, but Chin Herr did not reply to MBIE.

Wei Dat

126. Wei Dat was established in 1982 and is a manufacturer of steel wires and wire meshes.
127. Wei Dat was initially launched as a steel wire mesh factory, but has expanded its range of goods produced. Wei Dat offers a product range including low/high carbon steel wire and galvanised steel wire (Wei Dat), pre-stressed concrete strand and pre-stressed concrete wire (Wei Dat PC) and steel wire mesh, precision mesh, and welded fences (Wei Dat Mesh).

¹⁹ <https://www.thestar.com.my/business/business-news/2019/11/15/bekaert-to-close-plants-in-kentucky-ipoh>

128. Wei Dat responded to a foreign manufacturer questionnaire and was sent a deficiency letter requesting information that had not been included in its questionnaire response. Wei Dat replied to this letter on 5 June 2020 and on 1 July 2020 provided further clarification and information in response to MBIE requests.
129. During the POR(D) Wei Dat exported galvanised wire of a range of diameters to its domestic customers.
130. MBIE carried out a desktop verification of the information provided by Wei Dat. MBIE prepared a verification report for Wei Dat where it assessed the information provided by the company, and the company then reviewed this report and provided some additional information.

Previous Malaysian Suppliers

131. When import duties were first imposed on galvanised wire in 2004, subject goods originating from RCI Wire were excluded from anti-dumping duties, because no dumping was found for that company. The exclusion also applied in the 2009 and 2015 reassessments following reviews of the duties. Although Customs data indicates that this company has not exported galvanised wire to New Zealand for several years, MBIE attempted unsuccessfully to contact it.
132. MBIE also requested information from Aspac Alliance Steel Sdn. Bhd. (Aspac Alliance), but did not receive a substantive reply. Aspac Alliance advised that it is a trading house acting on behalf of one of the Malaysian producers, which is supported by information on its website.²¹ Aspac Alliance did not appear in Customs data or questionnaire responses as a supplier or an intermediary for export transactions in the POR(D).

3.4 Importers

133. MBIE identified five importers from Customs data and invited them to respond to Importer Questionnaires. The importers were Euro Corporation, Nexans, Paul Industries, Tiger Steel, and Visy Recycling.
134. MBIE has also identified the importers from the initial investigation and subsequent reviews in Confidential Attachment 2, but did not receive any responses from these parties.

Euro Corporation

135. Euro Corporation's Summit Steel & Wire (Summit) division manufactures and distributes foundation, fencing and fastening products.²²
136. Euro Corporation processes the bulk wire feedstock imported by Summit into finished wire product. A portion of this finished wire product is then distributed within New Zealand to domestic retail outlets. Several of these are rural focussed retailers, and

²¹ https://www.aspacsteel.com/ASPAC_Brochure_2012.pdf

²² <http://www.eurocorp.co.nz/divisions-and-businesses/summit>

others are construction focussed reseller businesses. Euro Corporation stated that another portion is also exported, and Summit is recognized as a world leader in farm fencing products.

137. Euro Corporation stated that its domestic sales are on a wholesale basis, and the retail outlets in turn sell the products mainly into rural businesses (agriculture, viticulture, horticulture) and for security fencing. Euro Corporation also sells small volumes of re-packaged imported wire feedstock to chain link manufacturers, barbed wire manufacturers, and coil spring manufacturers.

Nexans

138. Nexans imported galvanised wire from Malaysia in the POR(D). Nexans provided Customs documentation for its importations, but it did not cooperate any further with questionnaire responses or requests for further information.
139. Nexans advised MBIE that it would not cooperate any further in the full review, and would not provide a completed importer questionnaire.

Paul Industries

140. Paul Industries is a family business operating for nearly 50 years. It is an importer of raw wire in 1000kg – 1500kg coils, which it uses to manufacture various wire fencing products.
141. Paul Industries does not trade or on sell large wire coils in New Zealand. It has over 15 different wire manufacturing machines operating in the factory, producing various wire fencing products, along with staples, wire ties and barbed wire. Paul industries stated that it manufactures 90% of the product it sells to distributors.

Tiger Steel

142. Tiger Steel is a steel supply specialist supplying customers throughout New Zealand. Tiger Steel imported a limited range of diamters of galvanised wire from Malaysia which it advised was purchased at a cost that was above that of Pacific Steel's prices.

Visy Recycling

143. Visy Recycling is part of the Visy Group. In 2019 Visy Recycling established a logistics business unit in New Zealand which from August 2019 has handled Visy Group imports into New Zealand. Imports from the Malaysian supplier are made through Visy Trading and Visy Boxes & More before reaching Visy Recycling. Visy Recycling is an end-user of galvanised wire.

3.5 The Government of Malaysia

144. The Government of Malaysia is a notified party under section 3(1) of the Act, and is considered an interested party under the AD Agreement²³. Malaysia is a signatory to several trade agreements with New Zealand, namely:

- New Zealand – Malaysia Free Trade Agreement
- ASEAN-Australia-New Zealand Free Trade Agreement
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

²³ Article 6.11 of the AD Agreement.

4. Review of Dumping

4.1 Dumping

4.1.1 Purpose

145. As set out in section 1.3, the legal requirement is for MBIE to investigate whether the continued imposition of an anti-dumping duty is necessary to offset dumping, and whether material injury to an industry would be likely to continue or recur if the duty expired or was otherwise removed or varied.
146. In order to investigate whether a duty is necessary to offset dumping, MBIE establishes whether there is current dumping, and whether dumping is likely to continue or recur.
147. The investigation of current dumping is based on the provisions of the Act relating to the determinations of export price (section 4), normal value (section 5) and the ascertainment of export price and normal value when sufficient information has not been furnished or is not available (section 6).
148. When determining whether dumping is likely to continue or recur, MBIE needs to be satisfied that, based on positive evidence, certain events are likely to occur, and that those events mean that dumping is likely to continue or recur.

4.1.2 Current Dumping

149. Section 3(1) of the Act states:
- “Dumping”, in relation to goods, means the situation where the export price of goods imported into New Zealand or intended to be imported into New Zealand is less than the normal value of the goods as determined in accordance with the provisions of this Act, and “dumped” has a corresponding meaning.*
150. A review of dumping establishes the export price in accordance with section 4 of the Act, and the normal value in section 5 of the Act, with adjustments made to ensure that there is a fair comparison, in order to determine the existence and extent of any dumping, and whether there is a likelihood that dumping will continue or recur.
151. **Export prices** are determined in accordance with section 4 of the Act. Export prices are the prices at which galvanised wire is exported from Malaysia to New Zealand, that are arm’s length transactions.
152. In accordance with section 4(1)(a) of the Act, deductions are made from transaction prices where appropriate to cover costs, charges and expenses incurred in preparing the goods for shipment to New Zealand that are additional to those costs, charges, and expenses generally incurred on sales for home consumption in the country of export, and any other costs, charges and expenses resulting from the exportation of the goods, or arising after shipment from the country of export.
153. **Normal values** are determined in accordance with section 5 of the Act. The normal value is usually the price at which the galvanised wire manufacturers sell galvanised wire in their domestic market. The types of sales that can be used to determine normal values

- 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.
154. Footnote 2 to Article 2.2 of the AD Agreement provides that sales of the like product destined for consumption in the domestic market of the exporting country shall normally be considered a sufficient quantity for the determination of the normal value if such sales constitute 5 per cent or more of the sales of the product under consideration to the importing Member, provided that a lower ratio should be acceptable where the evidence demonstrates that domestic sales at such lower ratio are nonetheless of sufficient magnitude to provide for a proper comparison.
155. Section 5(6) of the Act provides that where sales of the like product in the domestic market of the exporting country or sales to a third country have been made for an extended period of time and in respect of a substantial quantity of like goods at prices below the cost of production plus administrative, selling and general costs they shall be deemed to be not in the ordinary course of trade. Article 2.2.1 of the AD Agreement provides that sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price and may be disregarded in determining normal value only if the authorities determine that such sales are made within an extended period of time (normally one year but in no case less than six months) in substantial quantities (not less than 20 per cent of the volume sold in transactions under consideration for the determination of the normal value) and are at prices which do not provide for the recovery of all costs within a reasonable period of time. If prices which are below per unit costs at the time of sale are above weighted average per unit costs for the period of review, such prices shall be considered to provide for recovery of costs within a reasonable period of time.
156. Export prices and normal values are compared at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. In making the comparison, due allowance is to be made, as appropriate, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability.
157. Article 2.4.2 of the AD Agreement requires that the existence of margins of dumping shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions or by a comparison of normal value and export prices on a transaction-to-transaction basis. MBIE determines which comparison method it will use based on the circumstances of each case.
158. For the current review, MBIE has been able to use a transaction-to-transaction approach for Wei Dat in light of the limited number of transactions involved and the nature of the goods traded. In the absence of information from Chin Herr on its sales for home consumption in Malaysia and the difficulty of matching Chin Herr's exported products

with those sold domestically by another Malaysian producer, the comparison for Chin Herr was made on a weighted average-to-weighted average basis.

159. The general principles concerning MBIE's approach to sunset reviews are set out in section 1 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.
160. In respect of dumping, MBIE has followed its usual approach of establishing if galvanised wire from Malaysia is 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.

4.2 Previous Proceedings

161. Anti-dumping duties have been applied to imports of galvanised wire from Malaysia since May 2004.
162. The original duties were based on Normal Value (Value for Duty Equivalent) (NV(VFDE)) reference amounts for subject goods from two suppliers (Southern Wire Industries (Malaysia) Sdn. Bhd. (Southern Wire) and Aspac Alliance) and for all other suppliers an *ad valorem* rate of 9 per cent of the Customs VFD was set.
163. The levels of anti-dumping duties were reassessed in 2005, resulting in reference price duties for the subject goods imported from Southern Wire and SMI Wire Sdn. Bhd. and an *ad valorem* duty of 11 per cent for subject goods from all other suppliers.
164. A review was carried out in 2009 that resulted in duties set at an *ad valorem* rate of 15 per cent for all imports of the subject goods from Malaysia (excluding those from RCI Wire, on which there was no duty).
165. The most recent review, carried out in 2014/2015, resulted in the current duties. The current rate of duty is an *ad valorem* rate of 21 percent applying to all imports of the subject goods from Malaysia (excluding those from RCI Wire).

4.3 Current Dumping

Information Used

166. MBIE based its analysis of dumping on the information provided by Wei Dat, Chin Herr, and their importers through their questionnaire responses and, in the case of the Malaysian manufacturers, desktop verification. MBIE notes that the information provided by Chin Herr was incomplete. The analysis also took into account information provided by those importers that provided questionnaire responses.
167. MBIE did not carry out an analysis of dumping of the imports by Bekaert, as Bekaert has now closed its operations. Analysis of whether Bekaert was dumping during the POR(D) would not provide any additional insight into whether removal of the anti-dumping duty is likely to lead to a continuation or recurrence of dumping and injury, which is the focus

of the review. Because Bekaert has closed its plant in Malaysia it cannot contribute to a continuation or recurrence of dumping and injury in the future.

168. MBIE is satisfied that the information provided by importers and the Malaysian producers and verified by MBIE is reliable, and provides a reliable basis for determining export prices and normal values.

4.4 Bekaert Malaysia

169. As previously mentioned, MBIE did not carry out an analysis of dumping of the imports by Bekaert Malaysia, as Bekaert Malaysia has now closed its operations.

4.5 Chin Herr

170. The detailed considerations relating to Chin Herr for the establishment of export prices and normal values, and any due allowances made to ensure a fair comparison, are at **Confidential Attachment 3**.

4.5.1 Export Price

171. The information used for establishing export prices was verified by MBIE and found to be accurate and reliable.

Base Prices

172. In the current review, MBIE was satisfied that on the basis of the information available, subject goods were exported to New Zealand by Chin Herr in arm's length transactions, and that prices charged to the New Zealand importer provided base prices for the calculation of export prices.

Adjustments

173. Adjustments to the base price were made as necessary for costs to bring values back to the ex-factory level, additional costs of preparation for export (section 4(1)(a)(i) of the Act), and other costs resulting from exportation (section 4(1)(a)(ii) of the Act).
174. For Chin Herr, adjustments were made where necessary for ocean freight and insurance, handling, packing, loading, ancillary and inland transportation costs. In the absence of information from Chin Herr, MBIE used information from another Malaysian exporter to estimate all costs incurred between ex-factory and the time of export.
175. MBIE made a cost of credit adjustment based on invoice and payment information provided by its New Zealand importer and publicly available interest rates.

Export Price

176. MBIE calculated a weighted average export price for Chin Herr's sales to New Zealand during the POR(D).

4.5.2 Normal Value

177. Chin Herr makes significant sales of galvanised wire for home consumption in Malaysia but did not provide information on those sales and prices to allow normal values to be ascertained under section 5 of the Act.

178. In the absence of information on Chin Herr's domestic sales prices, MBIE ascertained normal values under section 6 of the Act, whereby the normal value "shall be such amount as is determined by the chief executive having regard to all available information."

Base Prices

179. In the absence of information on Chin Herr's domestic sales prices, MBIE used information available on arm's length sales made in the ordinary course of trade by another seller of like goods in Malaysia.
180. The information on domestic sales used by MBIE was for sales of 95/5 zinc-aluminium galvanised wire and sales of 100% zinc galvanised iron wire (GIW). Chin Herr's export sales were of 100% zinc light galvanised wire and 90/10 zinc-aluminium galvanised wire. MBIE had no information on sales for home consumption in Malaysia of 90/10 zinc-aluminium galvanised wire.

Adjustments

181. The normal values for the other Malaysian seller reflect adjustments made to establish an ex-factory value and took into account, where possible, any adjustments required to ensure a fair comparison with Chin Herr's export prices.
182. MBIE does not have information that would allow it to calculate an adjustment to the normal values of another seller in Malaysia to ensure a fair comparison due to any physical differences between the 95/5 zinc-aluminium wire sold in Malaysia by another seller and the 90/10 zinc-aluminium wire exported by Chin Herr to New Zealand. Nor is there any indication of a physical difference between the 100% zinc galvanised wire exported to New Zealand and that sold by the other seller for home consumption in Malaysia to warrant a physical difference adjustment.

Normal Value

183. MBIE calculated a weighted average normal value for the like goods sold for home consumption in Malaysia.
184. When reviewing the information available in order to finalise this report, MBIE was able to exclude from its calculations sales of some zinc-aluminium wire of diameters outside of the goods under review. MBIE excluded those sales when revising its calculation of the weighted average normal value.

4.5.3 Dumping Margin

185. In the absence of information on Chin Herr's domestic sales, MBIE was unable to identify suitable matches between export transactions and domestic transactions to allow a transaction-to-transaction comparison of export prices and normal values.
186. MBIE has therefore compared the export prices and normal values established for Chin Herr on a weighted average-to-weighted average basis, with adjustments made in each case, where possible and appropriate, for differences affecting price comparability and to ensure a fair comparison, and with appropriate exchange rates used.

187. MBIE has established that exports of galvanised wire from Chin Herr are dumped. The weighted average dumping margin is 19 per cent of the export price. This figure differs from the 16.5 per cent figure in the EFC Report because of the exclusion of non-subject goods from the zinc-aluminium wire figures MBIE used in its calculation.

4.6 Wei Dat

188. The detailed considerations relating to Wei Dat for the establishment of export prices and normal values, and any due allowances made to ensure a fair comparison are at **Confidential Attachment 4**.

4.6.1 Export Price

189. The information used for establishing export prices was verified by MBIE and found to be accurate and reliable.

Base Prices

190. In the current review, MBIE was satisfied that on the basis of the information available, subject goods were exported to New Zealand by Wei Dat in arm's length transactions, and that prices charged to New Zealand importers provided base prices for the calculation of export prices.

Adjustments

191. Adjustments to the base price were made as necessary for costs to bring values back to the ex-factory level, additional costs of preparation for export (section 4(1)(a)(i) of the Act), and other costs resulting from exportation (section 4(1)(a)(ii) of the Act).
192. For Wei Dat, adjustments were made where necessary for ocean freight and insurance, handling, packing, loading, ancillary and inland transportation costs, and cost of credit.

4.6.2 Normal Value

193. The information used for establishing normal values was verified by MBIE and found to be accurate and reliable.

Base Prices

194. In determining whether Wei Dat's domestic sales were in the ordinary course of trade, MBIE checked whether sales were profitable. Wei Dat provided its annual statements for 2017, 2018 and 2019. MBIE notes that for all those years, Wei Dat made a gross profit (defined as revenue minus cost of sales and other direct expenses). MBIE recognizes that this gross profit is for the company as a whole, and does not necessarily reflect a profit made for galvanised wire. Wei Dat provided additional information to confirm that sales of galvanised wire on the Malaysian domestic market were not sold at a loss.
195. As there were extensive sales of like goods in the ordinary course of trade made by Wei Dat to its domestic customers, MBIE is satisfied that the construction of normal values is not necessary.
196. MBIE has established that the volume of sales used in the determination of normal value constitutes more than 5 per cent of the volume of the export sales being investigated.

197. On the basis of the information provided by Wei Dat, MBIE was able to confirm that Wei Dat makes no domestic sales to any party that is related in terms of section 3(4) of the Act.
198. MBIE has established normal values on a transaction basis using sales in the ordinary course of trade made by Wei Dat on the Malaysian domestic market. MBIE compared wire of the same coating type (e.g. either 100% zinc with 100% zinc or 95/5 with 95/5 zinc-aluminium wire), of similar diameter and at the closest time available when making its comparisons. When selecting a domestic customer, MBIE took account of the availability of transactions of the same type of wire, of similar dimensions and at as close as possible to the same date of sale as those goods. Information available indicated that this customer was not related to Wei Dat and there was no evidence to indicate that the transactions were not at arm's length.

Adjustments

199. Adjustments to the base price, in order to effect a fair comparison with export prices, were made where necessary, to compare the normal values and export prices at the same level of trade, in respect of sales made at as nearly as possible the same time, and with due allowances made as appropriate for any differences in terms and conditions of sales, taxation, quantities, and physical characteristics, and any other differences which affect price comparability.
200. For Wei Dat, adjustments were made for cost of credit, and for physical differences relating to the coating thickness of goods produced for sale in Malaysia, and those for sale in New Zealand.
201. The thickness of the coating on the galvanised wire sold by Wei Dat in Malaysia was greater than that on Wei Dat's exports to New Zealand. Wei Dat provided the cost of alloy ingot and an illustrative calculation to allow MBIE to make physical difference adjustments based on the minimum coating mass. Wei Dat explained the need for physical difference adjustments by reference to the minimum coating mass requirements in standard EN 10244-2:2009 of Class B for New Zealand and Class A for the Malaysian domestic market. To confirm the need for adjustments, MBIE examined the minimum coating mass requirements under standard EN 10244-2:2009 for the Malaysian market, AS/NZS 4534:2006 for the New Zealand market, and available purchase orders and test certificates.
202. MBIE notes that there is a sales tax regime in Malaysia²⁴ whereby sales tax is charged by registered manufacturers of taxable goods. MBIE was satisfied that the domestic price information used for establishing normal values was exclusive of sales tax, so no adjustments were needed to be made for differences in taxation.

²⁴ PWC Malaysia <https://www.pwc.com/my/en/services/tax/indirect-tax/sales-tax.html>

4.6.3 Dumping Margin

203. MBIE has compared the export price and normal value established for Wei Dat on a transaction-to-transaction basis, with adjustments made in each case for differences affecting price comparability and to ensure a fair comparison, and with appropriate exchange rates used.
204. In selecting the goods sold domestically most like the goods exported by Wei Dat to its New Zealand customers, MBIE considered the relationship that Wei Dat has with its domestic customers in order to identify the best comparison.
205. Wei Dat suggested three of its domestic customers that could be considered of similar business magnitude with its New Zealand customers. MBIE examined Wei Dat’s sales to these customers in order to identify which domestic sales are most like its export sales. MBIE has outlined in **Confidential Attachment 4** its assessment, and which domestic customer has been chosen for a comparison.
206. MBIE has established that during the POR(D), the export prices for each transaction sold by Wei Dat to its New Zealand customers were higher than the normal values established. MBIE has therefore concluded that Wei Dat’s exports of galvanised wire were not dumped to any of its customers in the POR(D).

4.7 Findings Relating to Current Dumping

207. MBIE has found the following dumping margins:

Figure 4.1: Dumping Margins

Malaysian Producer	Dumping Margin
Chin Herr	19%
Wei Dat	No dumping

4.8 Likelihood of Continuation or Recurrence of Dumping

208. MBIE has reviewed the likelihood that dumping will continue or recur on the basis set out in section 1.3, in the light of the information provided and verified, where possible, during the review. In particular, when determining whether dumping is likely to continue or recur MBIE needs to be satisfied that, based on positive evidence, certain events are likely to occur, and that those events mean that dumping is likely to continue or recur.
209. The events that MBIE needs to consider in order to determine the likelihood that dumping will continue or recur, include:
- whether dumping is currently occurring and the magnitude and the scope of the dumping in terms of the goods affected
 - recent behaviour in terms of pricing in the context of the existing reference prices and the payment of anti-dumping duties

- the commercial arrangements governing the pricing of exports to New Zealand from Malaysia
- possible developments in the market in Malaysia, which could affect the normal values of the goods and their availability for export to New Zealand.

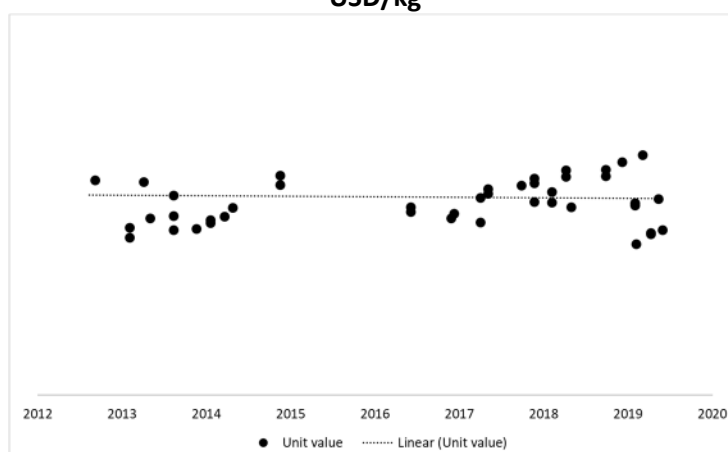
4.8.1 Current Dumping

210. MBIE has determined that Wei Dat's exports of galvanised wire from Malaysia to New Zealand are not dumped. However, MBIE has found that Chin Herr's exports of galvanised wire from Malaysia to New Zealand were dumped during the POR(D).
211. MBIE concludes that current dumping by Chin Herr at the level established is an indication that it is likely that in the absence of any anti-dumping duties, dumping will continue. While Chin Herr's New Zealand importer described its shipments in 2019 as being for testing purposes, there is no indication that the prices of galvanised wire in these shipments were at a lower price than would be usual in the absence of anti-dumping duties and Chin Herr has not indicated that its pricing to New Zealand will change if anti-dumping duties were to be removed.

4.8.2 Price Behaviour

212. MBIE has reviewed the pricing of imports of the subject goods from Malaysia by using Customs data from the period 2013-2019 to identify trends in pricing behaviour. It should be noted that the data used in this analysis provide broad indications only.
213. Figure 4.1 indicates that prices have not significantly varied since 2012 (as indicated by the dotted trend line), and there have been 22 shipments since 2012 that have paid an anti-dumping duty. As mentioned in section 4.2, an *ad valorem* rate of 15 per cent was set for all imports of the subject goods from Malaysia in 2009, and this rate was later replaced with an *ad valorem* rate of 21 per cent in the most recent review in 2014/2015.

Figure 4.1: Price behaviour
USD/kg



4.8.3 Commercial Arrangements

214. Prices for exports to New Zealand are set by negotiation. One importer indicated that the pricing sourced from Malaysia was competitive against other suppliers to New Zealand, but this importer was not aware of an anti-dumping duty, which resulted in a significant

loss made on the order. The other importers were aware of the anti-dumping duty, but it is not clear whether the pricing offered by the Malaysian suppliers took account of the anti-dumping duty.

- 215. MBIE notes that one of the importers, has only sourced wire for product quality testing and trial from Malaysia. This suggests to MBIE that the prices for the trial lots over the POR(D) may not be reflective of likely prices, should a long-term relationship be established.
- 216. MBIE considers that prices have been set through negotiation between Malaysian suppliers and New Zealand importers. The prices over the POR(D) do not appear to be any different from previous years, but MBIE notes that the previous years examined in Figure 4.1 above also had duties in place.
- 217. The conclusion is that the commercial nature of the price negotiations affecting exports of the subject goods to New Zealand means that if anti-dumping duties are not in place, goods from Chin Herr are likely to continue to be dumped. However, as prices from Wei Dat during the POR(D) were not dumped, it is unlikely that the removal of duties will lead to dumping of goods from Wei Dat.

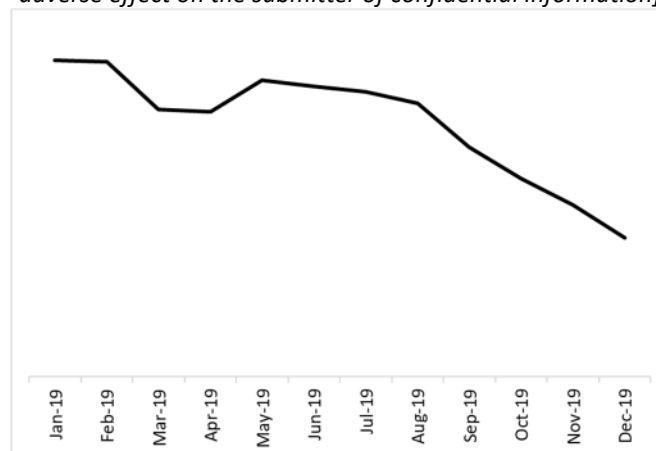
4.8.4 Malaysian Market

Costs and sales at a loss

- 218. Normal values in Malaysia are also part of the equation in a dumping determination. The normal value levels established by MBIE for comparison with Chin Herr’s export prices are higher than its export prices, but the normal values established for Wei Dat are lower than its export prices.
- 219. Wei Dat provided a confidential worksheet outlining the costing of wire rod, the main input cost for wire. The data provided indicated that the cost of wire rod decreased in the course of calendar year 2019. The trend is presented in the figure below.

Figure 4.2: Wei Dat Wire Rod Cost

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



- 220. Finished wire production costs were generally consistent across 2019. MBIE’s assessment is that there may be a reduction in costs in the near term, although there is no evidence

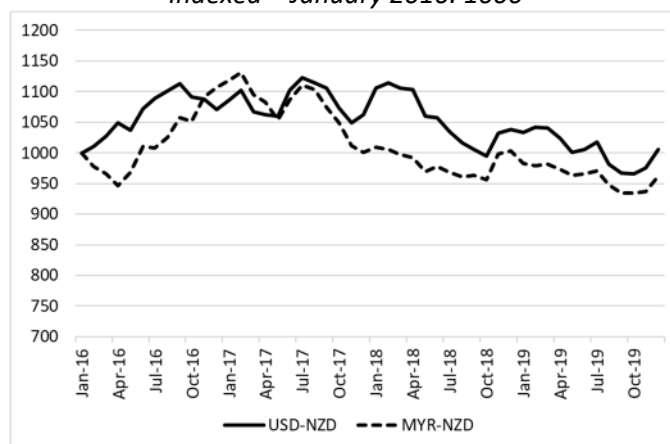
to believe that this reduction in the cost of wire rod has been passed on to consumers, as the prices offered by Wei Dat have not decreased in calendar year 2019. However, if the decrease in cost of wire rod was passed on to customers, it is likely that it will be passed on to all customers; both domestic and international.

- 221. MBIE concludes that it is unlikely that a change in the cost of wire rod would result in a change of the margin of dumping for Wei Dat.
- 222. As discussed earlier, the Malaysian producers did not appear to make sales at a loss during the POR(D). As costs of production appear to have decreased in the course of the POR(D), MBIE has no reason to believe that sales may be made at a loss in the near future.

Exchange rates

- 223. A further consideration in assessing the likelihood of an increase in import volumes of the subject goods from Malaysia is the movement of the NZD against the USD (the currency in which imports from Malaysia are invoiced) and MYR.

Figure 4.3: Monthly Exchange Rates (January 2016-December 2019)
Indexed – January 2016: 1000



- 224. The chart shows indexed monthly exchange rates for USD/NZD and MYR/NZD, for January 2016 to December 2019.
- 225. The analysis indicates that during calendar year 2016, both the USD and the MYR increased in value against the NZD. The USD held relatively constant from December 2016 to January 2018, but decreased in value from January 2018 through to October 2019. The MYR also decreased in value against the NZD during July 2017 and December 2019.

Product availability

- 226. Another factor in relation to the Malaysian market is the availability of subject goods. As far as MBIE is aware, the COVID-19 public health crisis has not had an effect on the availability of galvanised wire.
- 227. MBIE does not consider that product availability will be a significant indicator of the extent to which dumping of galvanised wire exported to New Zealand is likely to continue or recur.

Conclusion

228. MBIE concludes that any significant reduction in costs or increased returns to Malaysian producers may be present in the near future but it is unlikely that a change in the cost of wire rod or finished wire production would result in a change of the margin of dumping. MBIE also concludes that exchange rate movements tended to favour an increase in exports during the POR(D), and that it is unlikely that there will be increased product availability in Malaysia that will put downwards pressure on prices.

4.8.5 Conclusions

229. MBIE has assessed the likelihood that there will be a continuation or recurrence of dumping if anti-dumping duties are not continued. There is currently no dumping of the subject goods from Wei Dat, but there is dumping from Chin Herr.
230. In light of Wei Dat's commercial arrangements for pricing of imports and conditions in the Malaysian market, MBIE considers that it is unlikely that there will be any significant changes to normal values and export prices which would cause a recurrence of dumping of goods exported by Wei Dat.
231. However, in light of Chin Herr's margin of dumping in 2019 and indications that its strategy will not change, MBIE considers that it is likely that there will be a continuation of dumping of goods exported by Chin Herr.

4.9 Conclusions Relating to Dumping

232. MBIE has established that there is current dumping of exports of galvanised wire from Chin Herr and has concluded that dumping of galvanised wire from this Malaysian producer is likely to continue if the anti-dumping duty is removed.
233. MBIE has established that there is no dumping of exports of galvanised wire from Wei Dat in Malaysia, and has concluded that it is not likely that the removal of anti-dumping duties will lead to a recurrence of dumping of galvanised wire from this producer in Malaysia.

5. Review of Injury

5.1 Basis for consideration of likelihood of injury

5.1.1 Legal basis and methodology

234. As set out in section 1.3, the legal requirement is for MBIE to investigate whether the continued imposition of an anti-dumping duty is necessary to offset dumping, and whether material injury to an industry would be likely to continue or recur if the duty expired or was otherwise removed or varied.
235. The investigation of the material injury to an industry is based on the matters set out in section 8 of the Act.
236. When determining whether the expiry or removal of the anti-dumping duty would be likely to lead to a continuation or recurrence of injury, MBIE needs to be satisfied, based on positive evidence, that material injury to the industry is likely to continue or recur if the anti-dumping duties expire or are otherwise removed or varied.

New Zealand Legislation

237. *[Clerical error]*
238. The basis for considering material injury is set out in section 8(1) of the Act:
- (1) In determining for the purposes of this Act whether or not any material injury to an industry has been or is being caused or is threatened or whether or not the establishment of an industry has been or is being materially retarded by means of the dumping or subsidisation of goods imported or intended to be imported into New Zealand from another country, the chief executive shall examine—*
- (a) The volume of imports of the dumped or subsidised goods; and*
- (b) The effect of the dumped or subsidised goods on prices in New Zealand for like goods; and*
- (c) The consequent impact of the dumped or subsidised goods on the relevant New Zealand industry.*
239. The Act goes on to set 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 set out in section 8(2)(a) to (d) of the Act include:
- The extent to which there has been or is likely to be a significant increase in the volume of dumped goods, either in absolute terms or relative to production or consumption;
 - The extent to which the prices of dumped goods represent significant price undercutting in relation to prices in New Zealand;

- The extent to which the effect of the dumped goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have occurred;
- The economic impact of the dumped goods on the industry, including actual or potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; factors affecting domestic prices; the magnitude of the margin of dumping; and actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

240. In addition, the chief executive must have regard to factors other than dumped imports which may be injuring the industry, since in accordance with Article 3.5 of the AD Agreement, it must be demonstrated that the dumped imports are, through the effects of dumping, causing material injury. These factors, set out in section 8(2)(e) of the Act, include the volumes and prices of non-dumped imports of the goods; contraction in demand or changes in the patterns of consumption; trade restrictive practices of and competition between the foreign and domestic producers; developments in technology; and the export performance and productivity of the domestic industry.

241. The chief executive is also required by section 8(2)(f) of the Act to have regard to the nature and extent of importations of dumped goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importation.

242. In accordance with section 8(3) of the Act, the chief executive may disregard any information that the chief executive considers to be unreliable.

Anti-Dumping Agreement

243. Reviews are addressed in Article 11 of the AD Agreement, and require findings by the investigating authority as to whether or not the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The relationship between Article 11 on reviews and Article 3 of the AD Agreement which addresses injury in an investigation, has been the subject of dispute settlement in the WTO.

244. In *US — Oil Country Tubular Goods Sunset Reviews*, the Appellate Body upheld a Panel's finding that the obligations set out in Article 3 (in relation to the determination of injury) do not apply to likelihood-of-injury determinations in sunset reviews.²⁵ However, the Appellate Body also noted that this was not to say that in a sunset review determination, an investigating authority is never required to examine any of the factors listed in Article 3. The Appellate Body considered that certain of the analyses mandated by Article 3 and necessarily relevant to the original investigation may prove to be probative, or possibly even required, in order for an investigating authority in a sunset review to arrive at a reasoned conclusion. The Appellate Body stated that, in this respect, it was of the view

²⁵ WTO document WT/DS268/AB/R, paragraph 285.

that the fundamental requirement of Article 3.1 that an injury determination be based on “positive evidence” and an “objective examination” would be equally relevant to a likelihood determination under Article 11.3. It seemed to the Appellate Body that factors such as the volume, price effects, and the impact on the domestic industry of dumped imports, taking into account the conditions of competition, may be relevant to varying degrees in a given likelihood-of-injury determination.

245. An investigating authority may also, in its own judgement, consider other factors contained in Article 3 when making a likelihood-of-injury determination, but that determination results from the requirements of Article 11.3, not Article 3, and must rest on a “sufficient factual basis” that allows the agency to draw “reasoned and adequate conclusions.”²⁶

5.1.2 MBIE Approach

246. Bearing in mind the views of the Appellate Body, as outlined above, MBIE notes that with regard to an injury determination, section 8(2) of the Act 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 that may be considered. These factors and indices are considered under the relevant headings below.

247. Furthermore, the demonstration of a causal relationship between dumped imports and any current or likely injury must be based on an examination of all relevant evidence and any known factors other than the dumped imports which are causing injury, or are likely to cause injury to the domestic industry. Any injury, or likely continuation or recurrence of injury, caused by factors other than dumping must not be attributed to the dumped imports.

5.2 Previous Review

248. The last sunset review commencing in June 2014 found that:

- Imports of galvanised wire from Malaysia would hold a price advantage over Pacific Steel’s goods. Imports from other sources would also hold a price advantage, though to a lesser amount than the Malaysian goods. MBIE considered that this was a situation that was likely to continue.
- Imports of galvanised wire from Malaysia still held a price advantage even after the payment of the anti-dumping duty.
- Malaysian manufacturers had the capacity to supply the New Zealand market, and it appeared likely that they were increasing capacity to expand their export operations. It was not clear whether the market situation in Malaysia still incentivised exports, or whether intended export destinations included New Zealand, or just the region in general.

²⁶ Ibid, paragraph 284.

- There did not appear to be any significant barriers to entry, distribution, or the ability of importers to handle an increase in exports.
- It appeared unlikely that the exchange rate had a significant effect on the decision to import galvanised wire from Malaysia, since the NZD:USD had appreciated significantly and there had been no corresponding increase in imports from Malaysia, while this increase had occurred for other countries also using USD.

249. On the basis of these considerations, MBIE concluded that if the anti-dumping duties were to be removed, material injury to the industry due to dumped imports of galvanised wire from Malaysia was likely to recur.

5.3 Injury Information Submitted by Pacific Steel

250. Pacific Steel provided financial information for the purpose of the injury analysis. The information provided was for the company's financial years ending on 30 June. At MBIE's request, Pacific Steel provided updated information in six-month periods which enabled MBIE to assess the information in calendar years to be consistent with the designated POR(D) which is the year ended 31 December 2019.

251. As there are anti-dumping duties in place it would not be expected that the industry would currently be suffering material injury from dumped goods. The focus of the injury analysis is therefore on the likelihood of material injury recurring if the duties were removed.

252. In assessing the likelihood of a recurrence or continuation of material injury, MBIE has taken into account the information provided by Pacific Steel regarding its forecasts for volume and price effects attributable to dumped imports. With regard to the levels of price undercutting to be used in assessing those effects, MBIE has used the outcome of its own calculations of price undercutting, based on information provided by the Malaysian producers.

253. The Pacific Steel forecasts did not reflect any impacts from the COVID-19 pandemic.

5.4 Volume Effects

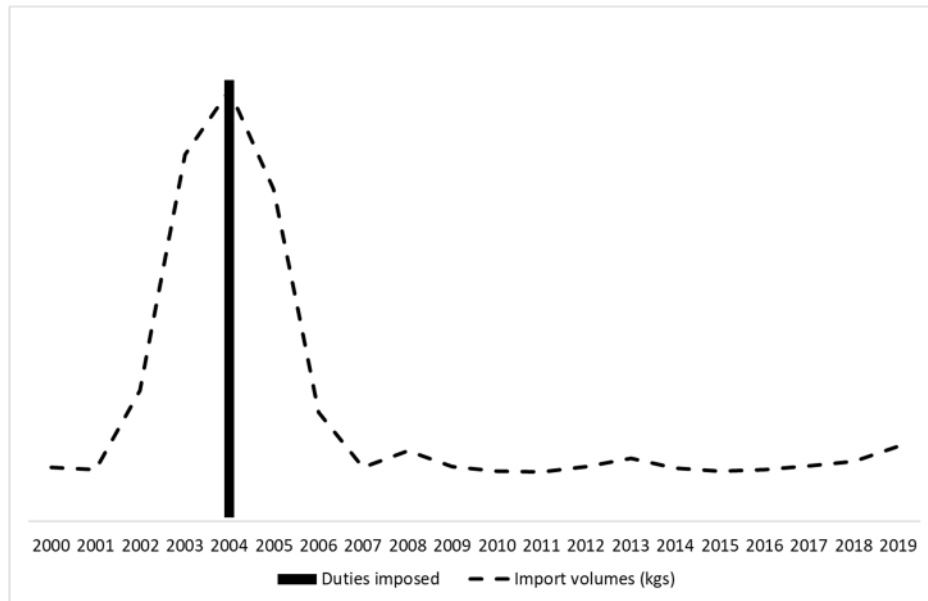
254. Section 8(2)(a) of the Act provides that the chief executive shall have regard to the extent to which there has been or is likely to be a significant increase in the volume of imports of dumped or subsidised goods either in absolute terms or in relation to production or consumption in New Zealand.

255. As noted in Section 2.2, the tariff item covering the subject goods also includes products outside the definition of the goods subject to review. MBIE has therefore, where possible, removed from the data any goods not obviously covered by the subject goods description.

5.4.1 Import Volumes

256. Figure 5.1 shows import volumes of Malaysian galvanised wire into New Zealand from 1 January 2000 to 31 December 2019, in absolute terms.

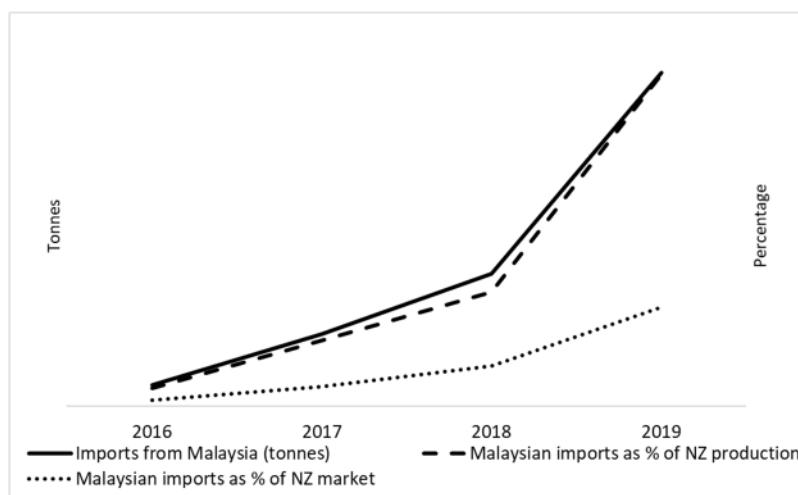
Figure 5.1: Import volumes of galvanised wire from Malaysia, 2000-2019
[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



257. Figure 5.1 shows that import volumes from Malaysia have remained at a relatively low level since 2007, which is significantly lower than the volumes imported prior to the imposition of the anti-dumping duties in May 2004. However, MBIE notes that there has been an increase in import volumes in 2019, relative to the volumes from 2016. This is indicated in Figure 5.2, which shows that import volumes of galvanised wire from Malaysia into New Zealand in 2019 are higher than in 2016 in volume, and higher than in 2016 relative to both production and consumption in New Zealand.

Figure 5.2: Import volumes, 2016-2019

[Y axis values deleted, dual X axes does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



5.4.2 Likely Import Volumes

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

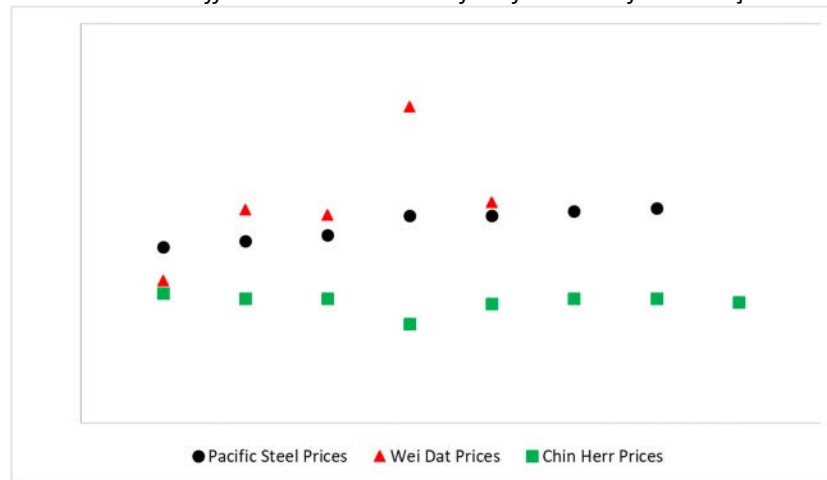
- the price advantage (in the absence of duties) which such imports may hold
- the capacity and intent of the Malaysian galvanised wire industry to substantially increase its exports to New Zealand
- the ease of entry into the New Zealand market
- the ability and intent of importers to handle a significant increase in imports from Malaysia
- exchange rates
- evidence from previous behaviour.

Price advantage held by the imported products

259. An indication of the price advantage of subject goods from Malaysia over Pacific Steel goods has been assessed by comparing the landed value of all imports (including cost, ocean freight, insurance, landing costs, and Customs duty, but excluding anti-dumping duty), with a weighted average (per product type) of the ex-factory values provided by Pacific Steel. It should be noted that this comparison does not take account of the difference in product types, and is indicative only.

Figure 5.3: Price Comparisons

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



- 260. This analysis shows that imports from Chin Herr appear to hold a price advantage over domestic production, but imports from Wei Dat for the most part do not. A more detailed analysis of price undercutting is summarised in section 5.5.1.
- 261. Paul Industries states in relation to anti-dumping duties that it “...will continue to sell [its] premium wire at the same price.. Any savings made would not be passed on to the customers but absorbed as margin in the business.”

Capacity and intent of the Malaysian industry

Pacific Steel’s comments

- 262. In its application for a sunset review, Pacific Steel claimed that dumped imports would recommence because, *inter alia*, the Malaysian industry has surplus capacity, Malaysian producers have “intent, desire and support”, and the Malaysian government supports increased exports.
- 263. In its application, Pacific Steel pointed to articles and publications showing evidence of surplus capacity and low plant utilisation. These mentioned the need by Malaysian businesses to export more, boost competitiveness of the iron and steel industry, encourage cooperation collaboration and pooling of resources and a targeted increase in exports in 2019 and beyond. According to Pacific Steel in its application, this evidence pointed to the Malaysian industry’s organisation and intent to export.
- 264. As evidence of Malaysian government support, Pacific Steel referred to the Malaysian government’s Mid-Term Review of the Eleventh Malaysia Plan for 2016-2020 which includes a strategy of increasing the number of exporters, exploring new markets, increasing the internationalisation of Malaysian firms, particularly SMEs, and penetrating the global market through e-commerce activities.
- 265. While in both cases evidence has been provided indicating intentions and capacity to export steel, the evidence does not refer specifically to exports of galvanised wire to New Zealand, except for one Malaysian producer of wire who refers specifically to New

Zealand as an export market, and three producers of wire who identify Oceania and the Pacific as export markets.

266. MBIE notes that, while in its application for this review Pacific Steel provided evidence indicating capacity underutilisation in Malaysia and surplus capacity in the Malaysian industry producing steel, Pacific Steel did not explain how surplus capacity for steel in general is likely to affect exports of galvanised wire from Malaysia to New Zealand.

Malaysian producers' comments

267. Chin Herr stated that it intends to maintain its current strategy on exports of galvanised wire to NZ and aims to increase its selling volume in the next 12 months .
268. The company stated that its strategy will not change even if the anti-dumping duty is lifted. The figures provided by Chin Herr for subject goods for both current and planned sales volumes to New Zealand are much higher than the actual sales shown in Customs data that were confirmed with the New Zealand importer.

MBIE's conclusion

269. MBIE concludes that Chin Herr's imports are likely to increase significantly regardless of whether the anti-dumping duty remains or is removed. MBIE considers that Wei Dat is likely to maintain the volume of its sales to New Zealand, and since its exports are not dumped, may increase its sales to New Zealand, whether or not the anti-dumping duty is removed.

Ease of entry into the New Zealand market

Pacific Steel's comments

270. In its application for the sunset review, Pacific Steel claimed that dumped imports would recommence because, *inter alia*, Malaysian producers are familiar with trade to New Zealand and standards and there is ease of entry and distribution in the New Zealand market.
271. Pacific Steel referred to MBIE's 2014 Final Report on the review of anti-dumping duties on galvanised wire from Malaysia where MBIE concluded that Malaysian manufacturers could enter the New Zealand market since the importers could handle an increase in exports, the distribution system in New Zealand could accommodate an increase in imports and there are no significant barriers to entry or to distribution in the New Zealand market.
272. Pacific Steel considered that past Malaysian conduct is evidence of proven access for Malaysian galvanised wire imports and well-developed distribution channels giving widespread access to the New Zealand market. Pacific Steel stated that it does not have any evidence suggesting that MBIE's conclusion is not still correct. Pacific Steel has considered wider steel industry events since 2014 and other information to support this conclusion.

Importers' comments

273. New Zealand importers stated that entry into the New Zealand market is not easy because the new entrant would have to ensure high product and packaging standards, face a small and competitive market, low demand for manufacturing wire in large coils and a complicated import process that has considerable lead time.

MBIE's conclusion

274. MBIE concludes that it may be relatively difficult for new entrants to establish themselves in the New Zealand market but it will be easy for established exporters and importers to increase their volumes and product range due to established relationships and understanding of import procedures.

The ability and intent of importers to manage an increase in imports*Pacific Steel's comments*

275. In its application for the sunset review, Pacific Steel claimed that dumped imports would recommence because, *inter alia*, importers can cater for increased imports and the New Zealand market is attractive.
276. Pacific Steel referred to evidence of the ability of importers to distribute Malaysian imports in paragraph 158 of MBIE's 2014 Final Report on the review of anti-dumping duties on galvanised wire from Malaysia and paragraph 150.
277. These stated that the Ministry considers that importers of galvanised wire have the ability to cater for increased imports of galvanised wire from Malaysia. The Ministry notes that there are no significant changes in the importing infrastructure.
278. Pacific Steel agreed with these conclusions and considers that many of the importers who were importing from Malaysia remain active and are aware of the potential expiry of the anti-dumping duties. Pacific Steel stated that it did not have any evidence suggesting that MBIE's 2014 conclusion was not still correct. Pacific Steel has considered wider steel industry events since 2014 and other information to support this conclusion.
279. MBIE considers that the absence of evidence to the contrary of conclusions reached by MBIE in 2014 is not positive evidence of the situation in 2020.

Importers' comments

280. MBIE received confidential information from some importers regarding their intentions to import.

MBIE's Conclusion

281. MBIE concludes that if the anti-dumping duties are removed most of the New Zealand importers are likely to increase their purchases of galvanised wire from Malaysia.

Exchange rates

282. A further consideration in assessing the likelihood of an increase in import volumes of the subject goods from Malaysia is the movement of the NZD against the USD, which is the currency in which imports from Malaysia are invoiced.

283. As shown in Figure 4.3, the USD increased in value against the NZD in 2016. The value then held relatively constant from December 2016 to January 2018, but decreased in value from January 2018 through to October 2019.
284. MBIE notes that this reduction in the value of the USD in 2019 (in comparison to earlier years) would have had the effect of increasing the purchasing power of New Zealand importers, as the NZD is worth more. This results in imports being more attractive. It is possible to conclude that exchange rate movements involving the NZD could affect the level of imports.

Evidence from previous behaviour

Pacific Steel's Comments

285. In its application for the sunset review, Pacific Steel claimed that dumped imports would recommence because, *inter alia*, past conduct indicates that Malaysian producers are capable of exporting. Pacific Steel referred to their past conduct, capability and familiarity with selling to the New Zealand market which is peripherally maintained by Malaysia's current supply of rebar to New Zealand. Anti-dumping duties have been in place since May 2004 on imports of galvanised wire from Malaysia
286. Pacific Steel claimed that there is no evidence to contradict MBIE's conclusions in paragraph 158 of MBIE's December 2014 Final Report on the review of anti-dumping duties on galvanised wire from Malaysia. Pacific Steel referred particularly to the fact that imports of galvanised wire from Malaysia will hold an unfair price advantage over Pacific Steel's goods, Malaysian manufacturers have the capacity to supply the New Zealand market, it is likely that they will increase capacity to expand their export operations, there are no significant barriers to entry, distribution, or the ability of importers to handle an increase in exports and Malaysian suppliers are familiar with trade to New Zealand.

Malaysian producers' comments

287. Malaysian producers have identified, in the current review, the capability to increase their supply and to adapt their products to the New Zealand market.

Importers' comments

288. Importers have identified that in the absence of anti-dumping duties they would opt for Malaysian supply of galvanised wire or increase their volume. This is an indication that their past behaviour was significantly influenced by the presence of anti-dumping duties, such that imports from Malaysia can be reasonably expected to increase should they be removed.

MBIE's Conclusion

289. MBIE has observed that in the past, as shown in Figure 5.1, imports of galvanised wire are highly responsive to the initial imposition of anti-dumping duties. Since their introduction in 2004, the import volumes dropped significantly in a period of 3 years and maintained a nearly zero growth rate, although MBIE notes an increase for calendar year 2019.

290. MBIE concludes that past behavior of both exporters and importers indicates that the imposition of anti-dumping duties suppressed imports from Malaysia, which indicates that should anti-dumping duties be removed import volumes from Malaysia can be expected to increase. The extent of any increase is likely to depend on the availability of alternative supplies from other countries, as well as the price response from Pacific Steel.

5.4.3 Conclusion on Import Volumes

291. MBIE notes that prices of some imports from Malaysia have been below Pacific Steel's price in the New Zealand market, even when priced to remove the dumping margin established in previous proceedings.
292. MBIE concludes that the removal of anti-dumping duties is likely to see an increase in imports from Malaysia, with the extent of any increase being dependent on the level of competition from imports from other sources.

5.5 Price Effects

293. Section 8(1)(b) of the Act provides that the chief executive shall examine the effect of the dumped goods on prices in New Zealand for like goods. Section 8(2) of the Act goes on to identify price undercutting, price depression and price suppression as matters the chief executive shall have regard to.
294. MBIE notes that when considering a review of anti-dumping duties that are already in place, consideration needs to be given to the likely price effects in the absence of anti-dumping duties.

5.5.1 Price Undercutting

295. The purpose of the price undercutting comparison is to establish whether or not there is price undercutting attributable to dumping. The determination that price undercutting exists is not by itself a determination of the extent of injury, that is, the margin of price undercutting is not a measure of the extent of the economic impact on the industry. Any impact is measured in terms of the factors and indices set out in section 8(2)(d) of the Act.
296. 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.
297. MBIE 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-wharf or ex-importer's store levels, to ensure that differences in distribution costs and margins do not confuse the impact of dumping.
298. In its application for the sunset review, Pacific Steel calculated a Free on Board (FOB) import value per tonne for FY2019, converted to NZD, based on information from TradeMap data for Malaysian exports to Australia (given the suppression of import data and Pacific Steel's assumption that there were no imports from Malaysia). Pacific Steel

then added the estimated cost of freight to New Zealand and costs at the port of destination to arrive at an estimated NZD ex-wharf price in New Zealand for galvanised wire from Malaysia. Pacific Steel compared this ex-wharf price with its own ex-factory price and found significant price undercutting by imports of galvanised wire from Malaysia. Pacific Steel based its economic forecasts on a proportion of this price undercutting and a proportion of loss of volume.

299. MBIE has been able to use actual data from exporters and importers to establish price comparisons which provide a proper basis for assessing the existence and extent of any price undercutting. The analysis of the effect of price undercutting, in terms of price depression and price suppression, and the consequent economic impact of the price effects, is based on weighted averages.
300. For the purposes of establishing price undercutting margins for imports from Chin Herr, the Malaysian producer found to be dumping, MBIE has calculated the ex-wharf equivalent prices for each import transaction over the calendar year 2019. The analysis has not added the current anti-dumping duty. MBIE has then calculated a weighted average ex-wharf price. On this basis, the weighted average level of price undercutting for imports from Chin Herr was broadly similar to the current level of anti-dumping duty.
301. As outlined in Section 4, MBIE found that during the POR(D), exports by Wei Dat were not dumped. MBIE has nonetheless assessed whether these non-dumped goods from Wei Dat undercut Pacific Steel, MBIE has established Wei Dat's prices from invoice data, with additional amounts where necessary for overseas freight and insurance, port clearance and Customs charges. No Customs duty is payable, and the analysis has not added the current anti-dumping duty which is being paid on imports from Wei Dat. On the basis of this assessment MBIE found that most of the shipments from Wei Dat were not undercutting Pacific Steel, but to the extent that there was some undercutting, notes that this could not be attributable to dumping.
302. MBIE notes that with the addition of the current 21 per cent anti-dumping duty, there is no price undercutting by Wei Dat, but there is still some price undercutting from Chin Herr.

5.5.2 Price Depression

303. 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.
304. 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, and refers to reductions in prices by domestic producers in order to deal with competition from dumped goods.
305. In a review, 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

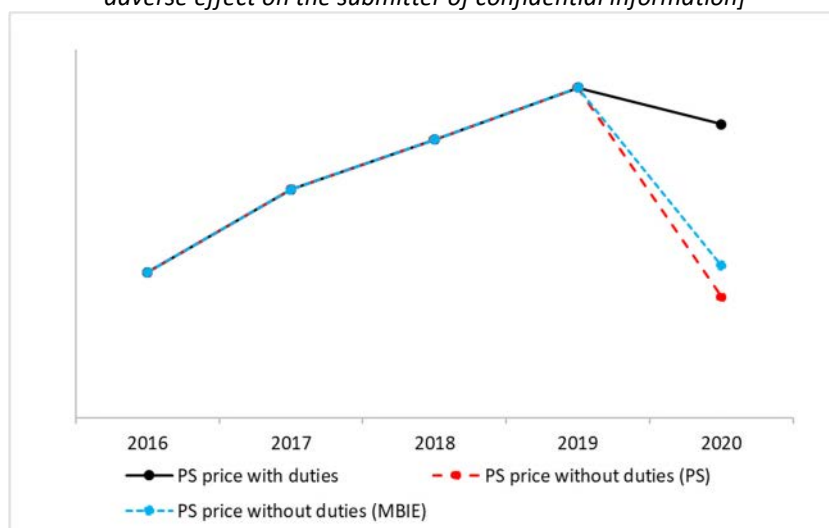
sunset review, an assessment needs to be made of whether the removal of anti-dumping duties will likely result in price depression caused by dumping.

Likely impact of the removal of anti-dumping duties

- 306. Anti-dumping duty is currently imposed in the form of an *ad valorem* rate. Anti-dumping duty is payable on every shipment under this method of duty collection and there is no incentive for exporters to increase their prices so that New Zealand importers are not paying anti-dumping duty. It would be expected that importers will pass on the cost of the anti-dumping duty in increased prices to their domestic customers.
- 307. In its application Pacific Steel considered that, if there are no anti-dumping duties on imports from Malaysia, this would provide an incentive for importers to lower their prices. Pacific Steel said that, in order to compete with the lower-priced imports, it would need to lower its prices. Pacific Steel presented a scenario where it would match a proportion of the estimated price undercutting per MT while also competing with increased import volumes from Malaysia, if anti-dumping duties were to be removed. On this basis, Pacific Steel provided sales revenue per MT figures (selling prices) for each of the years 2017 to 2019 and forecast figures for 2020, indicating significant declines in selling prices in 2020 in the absence of anti-dumping duties.
- 308. The chart below details Pacific Steel’s historical selling prices between 2017 and 2019 and its forecast selling price, in the absence of duties, for 2020. The chart also details what MBIE has calculated Pacific Steel’s forecast selling price will likely be, in the absence of anti-dumping duties, for 2020.

**Figure 5.4: Price Depression
(Ave. price per kg)**

[Y axis values withheld, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



- 309. The data shows that Pacific Steel’s prices have gradually increased since 2016 and are projected to decline slightly if duties continue. However, Pacific Steel has projected its prices will decline significantly in the absence of anti-dumping duties. The data using

MBIE's price undercutting analysis indicates that, in the absence of duties, Pacific Steel's prices would decline in 2020 but somewhat less than the extent projected by Pacific Steel. On the basis of the information collected, MBIE concludes that if anti-dumping duties are removed Pacific Steel will face a recurrence of price depression.

5.5.3 Price Suppression

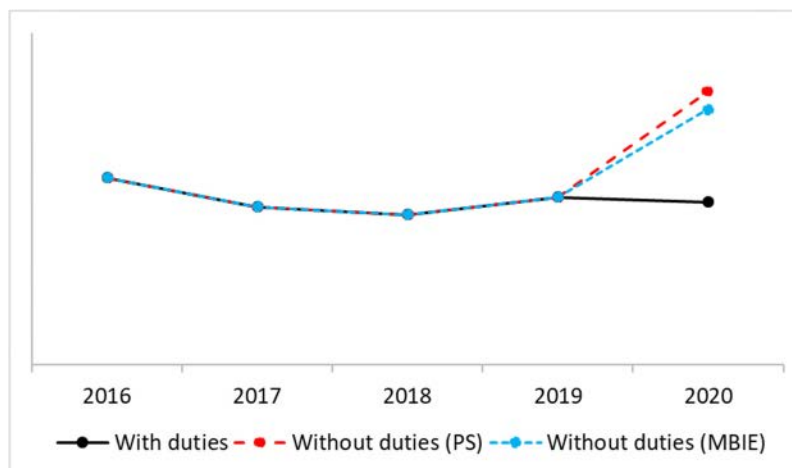
310. Section 8(2)(c) of the Act also provides that the chief executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to prevent price increases for those goods that otherwise would have been likely to have occurred.
311. Price suppression 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.
312. Cost increases that are not able to be recovered by price increases will be reflected in an increased ratio of costs to sales revenue. Where cost savings have been made, the lack of any price increase will not normally be regarded as price suppression.

Likely impact of the removal of anti-dumping duties

313. In its application, Pacific Steel claimed that, in the absence of anti-dumping duties, its loss of volume to the dumped imports would result in price suppression as the average production cost increases as fewer tonnes are made. Pacific Steel noted that the increased costs will not be able to be recovered in the New Zealand market because of competition from the Malaysian imports. Pacific Steel provided forecast figures for 2020 in support of this claim.
314. Pacific Steel based its forecasts for 2020, in the absence of anti-dumping duties, on the scenario where it would match a proportion of the estimated price undercutting by Malaysian imports while also competing with increased import volumes from Malaysia, if anti-dumping duties were to be removed. As noted above, MBIE has used information sourced from exporters and importers to calculate what it considers is a more accurate level of price undercutting, in the absence of anti-dumping duties, and has used this information to gauge whether Pacific Steel would likely suffer price suppression in the absence of anti-dumping duties.
315. The graph below details Pacific Steel's historical production costs as a percentage of revenue between 2017 - 2019 and its forecast figures for 2020, in the absence of duties. The graph also details what MBIE has calculated Pacific Steel's likely production costs as a percentage of revenue to be, in the absence of anti-dumping duties, for 2020:

**Figure 5.5: Price Suppression
(Production costs as % of revenue)**

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



316. The data shows that Pacific Steel’s production costs as a proportion of revenue fluctuated from 2016 to 2018, but increased in 2019, indicating that cost increases have not been recovered in prices. Costs as a percentage of revenue are expected to remain reasonably stable in 2020, with duties in place. In the absence of anti-dumping duties, however, Pacific Steel has projected that its production costs in proportion to its sales revenue will increase significantly.
317. The data using MBIE’s price undercutting analysis indicates that, in the absence of duties, Pacific Steel’s costs as a percentage of revenue would decline in 2020 but somewhat less than the extent projected by Pacific Steel. MBIE concludes that if anti-dumping duties are removed Pacific Steel will not be able to recover increases in costs and will face a recurrence of price suppression.

5.5.4 Conclusion on Price Effects

318. In considering the effect of the dumped goods on prices in New Zealand for like goods, MBIE has established that:
- Without anti-dumping duties in place, there would be price undercutting by Chin Herr but only limited price undercutting by Wei Dat whose exports are not dumped;
 - In the absence of effective anti-dumping duties, prices for domestic like goods are likely to decline in response to price decreases of the imported goods.
 - If anti-dumping duties are not continued at levels that remove the effect of price undercutting, it is likely that there will be price suppression in that Pacific Steel will not be able to recover increases in costs.
319. MBIE’s overall conclusion regarding price effects is that the continued dumping of some of the subject goods from Malaysia is likely to result in continued price undercutting, with

consequent price depression and price suppression. This likelihood is dependent on the extent to which prices for imports from Malaysia also undercut prices of imports from other countries.

5.6 Economic Impact

320. 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—

- Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and
- Factors affecting domestic prices; and
- The magnitude of the margin of dumping; and
- Actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

321. Pacific Steel provided financial information for 2016 to 2019 and forecasts for 2020 with duties in place and in the absence of duties. Pacific Steel based its forecasts for 2020, in the absence of anti-dumping duties, on the basis of the scenario where it would match a proportion of the estimated price undercutting by Malaysian imports while also competing with increased import volumes from Malaysia, if anti-dumping duties were to be removed.

5.6.1 Output

322. The Act and the AD Agreement require that impacts on output be considered as an injury factor. Dumped imports can affect the industry's production volume through increased supply of goods to the market through price competition.

Likely impact of the removal of anti-dumping duties

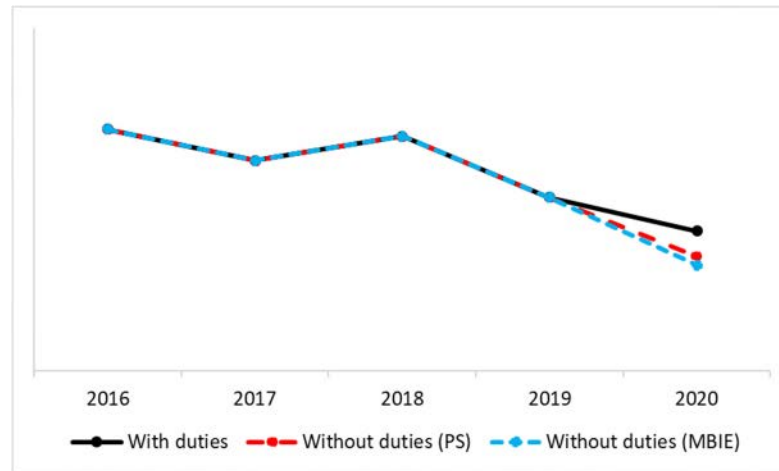
323. In its application, Pacific Steel forecast less production of galvanised wire in 2020 in both scenarios (i.e. if anti-dumping duties remain and if they are removed) although the volume decline was significantly more evident in the scenario should duties be removed. The production volume forecast, in the absence of anti-dumping duties, is based on the scenario where it would match a proportion of the estimated price undercutting by Malaysian imports in order to maintain sales and therefore production volumes.²⁷

324. The chart below details Pacific Steel's historical production volumes between 2016 - 2019 and its projected amount for 2020, in the absence of duties. The chart also details what MBIE has calculated Pacific Steel's production volume will likely be, in the absence of anti-dumping duties, for 2020:

²⁷ In this context, production volume equates to output. Output is Pacific Steel's total production of galvanised wire, including exports. On the other hand, volume and revenue amounts relate only to domestic sales of galvanised wire.

Figure 5.6: Output

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



325. The data shows that Pacific Steel’s production volume has decreased over the last four years and is expected to continue to decline in 2020, even with duties in place. On the basis of both Pacific Steel’s and MBIE’s forecast production decreases, MBIE concludes that, if anti-dumping duties are removed, the company will likely suffer continuing production volume decreases.

5.6.2 Sales Volume and Revenue

326. The Act and the AD Agreement require that impacts on sales be considered as an injury factor. 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.

Likely impact of the removal of anti-dumping duties

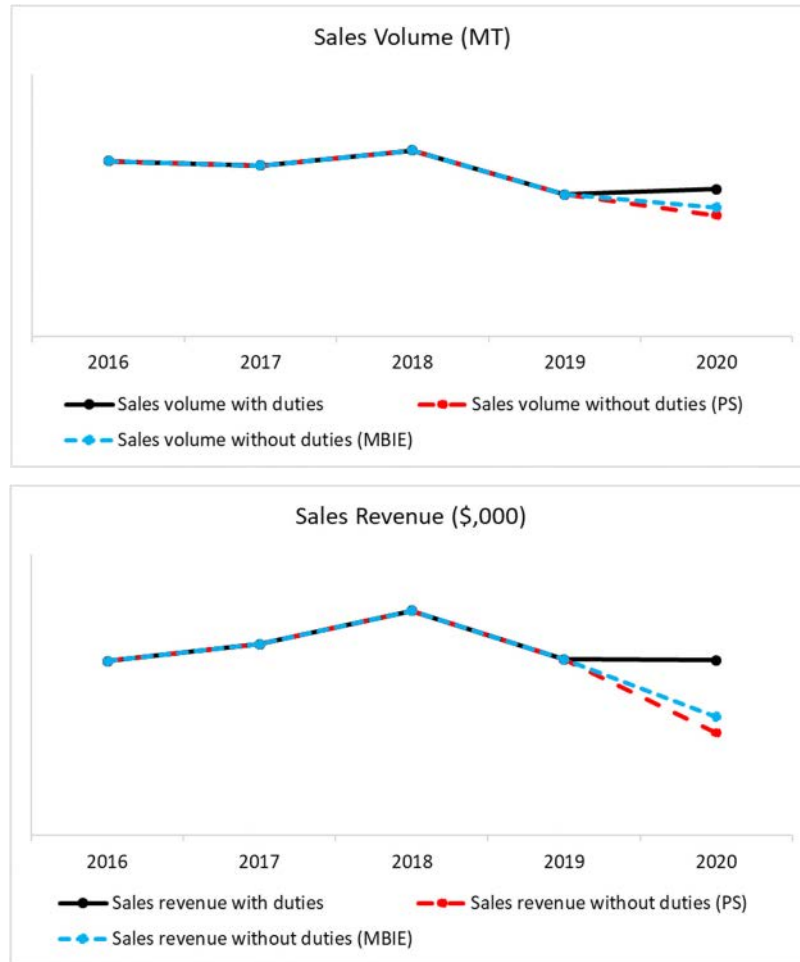
327. In its application, Pacific Steel forecast that it would achieve lower domestic sales of galvanised wire in FY2020 in both scenarios (i.e. if anti-dumping duties remain and if they are removed) although the declines were significantly more evident in the scenario should duties be removed. The forecasts are based on the scenario where it would match a proportion of the estimated price undercutting by Malaysian imports while also competing with increased import volumes from Malaysia, if anti-dumping duties were removed.

328. MBIE has been able to use actual volume and pricing data from exporters and importers, and from Pacific Steel, to more accurately assess likely sales volume and revenue decreases by Pacific Steel, in the absence of anti-dumping duties.

329. The charts below detail Pacific Steel’s historical sales volume and revenue amounts between 2016 and 2019 and its projected amounts for 2020, in the absence of duties. The charts also detail what MBIE has calculated Pacific Steel’s sales volume and revenue will likely be, in the absence of anti-dumping duties, for 2020:

Figure 5.7: Domestic Sales and Revenue

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



330. The data shows that Pacific Steel’s sales volume and revenue amounts increased in 2017 and 2018, but over the entire 2016-2019 period sales volume declined while sales revenue returned to 2016 levels. Sales volume and revenue is expected to level out in 2020, with duties in place. If the duties are removed, however, Pacific Steel forecasts that, while its sales volume would remain stable, its sales revenue would decrease significantly. The data using MBIE’s pricing and volume analysis also indicates that, in the absence of duties, Pacific Steel’s sales volume and revenue would decline in 2020 but somewhat less than the extent projected by Pacific Steel.
331. On the basis of the information collected, MBIE concludes that, if anti-dumping duties are removed, the company will likely suffer significant sales volume and revenue declines. However, in light of the findings regarding the limited volumes of dumped imports and the limited price effects that can be attributed to them, it cannot be concluded that dumping will contribute entirely to the projected sales volumes and revenue declines.

5.6.3 Market Share

332. The Act and the AD Agreement require that impact on market share be considered as an injury factor. 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.
333. In its application, Pacific Steel provided market share information which showed that, even with anti-dumping duties in place on imports from Malaysia, the company's market share in respect of its domestic sales of galvanised wire decreased from 2017 to 2019.
334. The chart below details Pacific Steel's historical market share figures between 2016 and 2019:

Figure 5.8: Forecast Market Share, %

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335. Information from Customs data shows that the domestic industry's market share declined over the POR(I) as a whole. It increased in 2018, primarily because of the decline in imports from Australia, while the decrease in 2019 appears to have resulted from the increase in other imports (such as Indonesia). The share held by imports from Malaysia increased by less than 1 percentage point in 2016-2019, considerably less than the decrease in the market share held by the domestic industry over the same period. Changes in the total market size have mainly reflected changes in the levels of imports from Australia while the decline in the share of domestic sales is not attributable in whole to any increase in the total market.

Likely impact of the removal of anti-dumping duties

336. The data shows that Pacific Steel's market share has decreased over the last four years but the company expects it to level out in 2020, with duties in place. With no duties in place, Pacific Steel claim that its market share will decline significantly. MBIE concludes that, if the duties are removed, the company will likely suffer market share declines in line with the volume losses likely to occur (see above). However, any market share losses

will also be affected by volumes of goods imported from other sources such as Australia, Canada, China and Indonesia. In this respect, MBIE notes that a separate investigation is currently ongoing into the alleged dumping of galvanised wire from China and Indonesia, the results of which will likely impact import volumes from these sources.

5.6.4 Profits

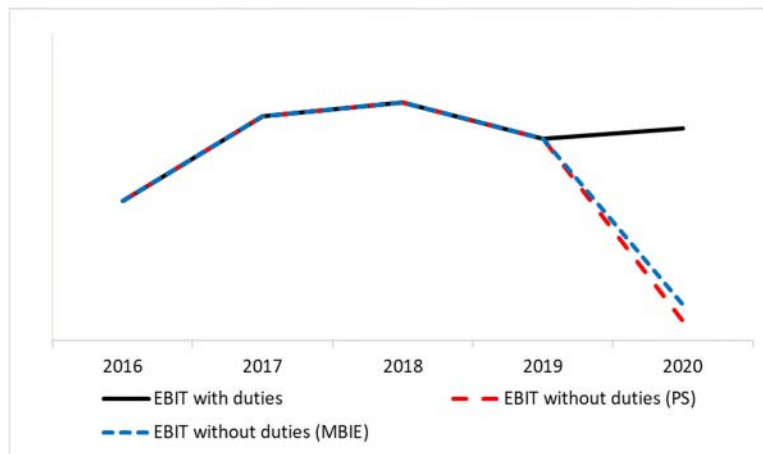
337. The Act and the AD Agreement require that impacts on profits be considered as an injury factor. Dumped imports can affect gross profit and net profit via the impact on sales prices and volumes. Changes in net profit reflect changes in prices, sales volumes or costs. Dumped imports can impact on any or all of these.
338. Information provided by Pacific Steel shows that, even with anti-dumping duties in place on imports from Malaysia, the company's profits have been adversely affected in respect of its domestic sales of galvanised wire over the last four years.

Likely impact of the removal of anti-dumping duties

339. In its application, Pacific Steel forecast that it would continue to achieve losses on its domestic sales of galvanised wire in FY2020 in both scenarios (i.e. if anti-dumping duties remain and if they are removed) although the declines were significantly more evident in the scenario should duties be removed. The forecasts are based on the scenario where it would match a proportion of the estimated price undercutting by Malaysian imports while also competing with increased import volumes from Malaysia, if anti-dumping duties were to be removed.
340. As noted above, MBIE has used information sourced from exporters and importers to calculate what it considers is a more accurate level of price undercutting, in the absence of anti-dumping duties, and has used this information to gauge whether Pacific Steel would likely suffer EBIT declines in the absence of anti-dumping duties to the extent projected by Pacific Steel.
341. The chart below details Pacific Steel's historical EBIT (Earnings before Interest and tax) figures between 2016 and 2019 and its forecast amounts for 2020, in the absence of duties. The chart also details what MBIE has calculated Pacific Steel's EBIT will likely be, in the absence of anti-dumping duties, for 2020:

Figure 5.9: EBIT

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342. The data shows that the current anti-dumping duty, if maintained, should lead to improvements in net profit to approximately those levels incurred in 2017 and 2018. The data also indicates, in the absence of anti-dumping duties, EBIT is likely to reduce further when compared to 2017 and 2018 levels. However, in light of the findings regarding the limited volumes of dumped imports and the limited price effects that can be attributed to them, it cannot be concluded that any EBIT declines will be entirely attributable to the dumping of goods from Malaysia.

5.6.5 Productivity

343. The Act and the AD Agreement require that impacts on productivity be considered as an injury factor. 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 production capacity utilisation.

Likely impact of the removal of anti-dumping duties

344. In its application, Pacific Steel claimed that cessation of anti-dumping duties would result in a significant decline in productivity measured as revenue per employee, due to a loss of volume and a price decline.

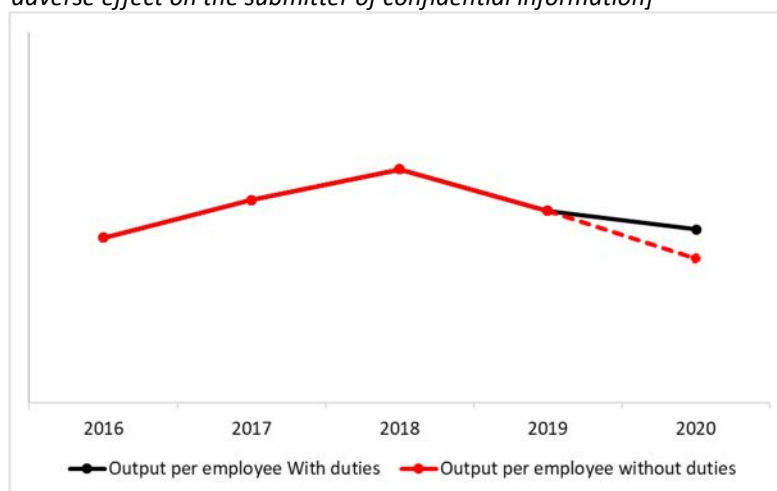
345. Pacific Steel provided figures for productivity by volume and value (per employee) for both bright wire and galvanised wire production combined as workers were not assigned to the production of each product separately. The figures were based on total bright wire and galvanised wire production (including exports), for FY2013-2019, divided by the total number of employees. Budgeted and forecast figures (for FY2020) were also provided, based on the scenarios should duties remain and should they be removed. Pacific Steel also provided information on productivity per shift. Pacific Steel explained that the wire mill currently runs a certain number of shifts over a 24-hour period, culminating in a total number of shifts per week. In order to calculate galvanised wire

production per shift, the figure for galvanised production in a given day was divided by the number of shifts per day, to yield figures for galvanised production per shift.

346. The chart below shows productivity figures for galvanised wire per employee (MT produced per year) and per shift, based on the shift structure described above, between 2016 - 2019 and Pacific Steel’s forecast figures for 2020, in the absence of duties:

**Figure 5.10: Productivity
Production per Employee (MT/year)**

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



347. The data shows that productivity (predominantly, output per employee) increased from 2016 to 2018 but declined in 2019 reflecting the decline in sales volume in 2019. Output per shift is expected to remain static if the duties remain in place or they are removed. Pacific Steel has projected that, in 2020, its output per employee will continue to decline if the duties are removed. However, as this would continue a downward trend since 2018 (when duties were in place), it cannot be concluded that continuing productivity declines will be entirely attributable to the dumping of goods from Malaysia.

5.6.6 Return on Investments

348. The Act and the AD Agreement require that impacts on the return on investments be considered as an injury factor. Return on investments (ROI) measures profit against the value of the investment in a business. Movements in the ROI affect the ability of the industry to retain and attract new investment. Declines in ROI can result from a decline in profit or an increase in the level of investment within the business. ROI is normally expressed as EBIT as a percentage of assets or shareholders’ funds employed in the production of like goods.

Likely impact of the removal of anti-dumping duties

349. Pacific Steel considers that it will suffer an economic impact in the form of diminished return on investments (ROI) should the duties be removed but that the injury attributable to ROI is commensurate with the profit (EBIT) effects. The company pointed to figures it

provided on the likely effect on EBIT, should the duties be removed, which it claims indicate that ROI is likely to decline significantly if the duties are removed.

350. Pacific Steel provided information on average assets for all bright wire production over the POR(I), as well as on EBIT (discussed above). In order to derive a ROI figure for galvanised wire only, MBIE has apportioned an average assets amount to galvanised wire production based on the percentage that galvanised wire volumes represented of bright wire volumes each year. Pacific Steel has noted that the change in ownership of Pacific Steel in 2014 and consequent changes in accounting provisions has affected the relevance of information from previous periods relating to return on investments.
351. MBIE considers that due to the changes in relevant accounting provisions there is no consistent data that would allow a ready assessment of the economic impact of the dumping on ROI over time, and that generally the effects on ROI will arise from effects on profits and profitability. As such, MBIE considers it more useful to focus on the more fundamental economic aspect of the wire mill reflected in EBIT trends (see commentary and conclusions above under “Profits”).

5.6.7 Utilisation of Production Capacity

352. The Act and the AD Agreement require that impacts on utilisation of production capacity be considered as an injury factor. 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 due to increased fixed overheads per unit, and a consequent loss of profit, unless offsetting savings are found elsewhere.
353. During the verification visit to Pacific Steel’s premises, the company provided information on its production capacity, noting that available capacity had remained reasonably static since 2009, and that the level of production capacity utilisation was a theoretical concept since the product mix and frequency of changes to produce different sizes or types of galvanised wire affected capacity utilisation. Pacific Steel explained that the wire mill currently runs a number of shifts per week and provided its annual production capacity for bright wire annually, noting that only a certain amount of bright wire is made into galvanised wire.
354. The information provided by Pacific Steel shows that use of galvanised wire production capacity declined slightly between 2016 and 2017, increased in 2018, and declined in 2019.

Likely impact of the removal of anti-dumping duties

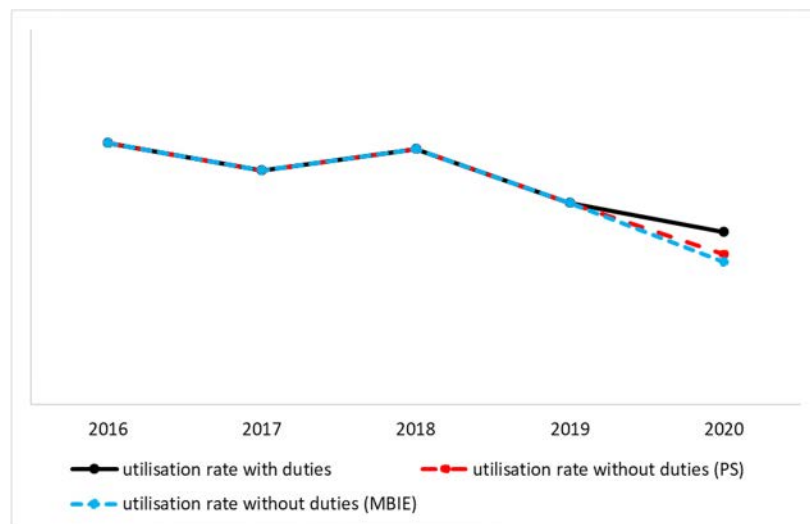
355. Pacific Steel claims a significant impact on utilisation of production capacity, if anti-dumping duties are removed. The drop in utilisation of capacity would result from a decrease in production volume for galvanised wire directly linked to a decrease in sales volumes. The decreased sales figures were based on the scenario that the company

would be competing with increased import volumes from Malaysia, if anti-dumping duties were to be removed.

356. The chart below details Pacific Steel’s production capacity utilisation rate from 2016 - 2019) and its forecast figures for 2020, both in the absence of duties and with duties in place. The figures have been derived by comparing the company’s production volumes and production capacity for galvanised wire for each of the years examined. The chart also details what MBIE has calculated Pacific Steel’s utilisation rate will likely be, in the absence of anti-dumping duties, for 2020. As noted above, MBIE has used information sourced from exporters and importers to calculate what it considers is a more accurate import volume from Malaysia, in the absence of anti-dumping duties, and has used this information to gauge Pacific Steel’s capacity utilisation declines in the absence of anti-dumping duties:

Figure 5.11: Capacity Utilisation

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



357. The data shows that, over the last four years, Pacific Steel’s production capacity utilisation rate has been gradually declining. Pacific Steel has projected that, in 2020, its capacity utilisation rate will decline further if the duties remain in place but this decline will be more pronounced if the duties are removed.
358. On the basis of both MBIE and Pacific Steel’s forecast capacity utilisation rate figures, MBIE concludes that, if anti-dumping duties are removed, the company will likely suffer a significant decline in its production capacity utilisation rate. However, as this would continue a downward trend since 2018 (when duties were in place), it cannot be concluded that continuing capacity utilisation declines will be entirely attributable to the dumping of goods from Malaysia.

5.6.8 Factors Affecting Domestic Prices

359. The Act and the AD Agreement require that factors affecting domestic prices are considered when assessing the economic impact of dumped goods on the industry. MBIE examines this factor in the context of the economic impact of dumped goods on the industry.
360. Pacific Steel has not made any claims regarding factors affecting domestic prices other than those relating to price effects of dumped imports and their consequent impact on the factors outlined above.
361. MBIE notes that a relevant factor affecting domestic prices is Pacific Steel's import parity pricing process, which takes into account feedback on prices of imports and international prices, in establishing prices for its customers. To the extent that these prices are affected by dumping, they will have an impact on the prices for goods sold by the domestic industry.

5.6.9 Magnitude of the Margin of Dumping

362. The Act and the AD Agreement require that the impact of the magnitude of the margin of dumping be considered as an injury factor. 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.
363. For the POR(D), MBIE has found no dumping for Wei Dat's exports and for Chin Herr a dumping margin of 19 per cent with a margin of price undercutting at a higher percentage.

Likely impact of the removal of anti-dumping duties

364. The analysis of the likelihood of a continuation or recurrence of dumping is set out in section 4.8, with the conclusion in section 4.9 that it is likely that the removal of anti-dumping duties will lead to a continuation or recurrence of dumping of galvanised wire from Malaysia. MBIE's analysis of the volume effects of dumping is set out in section 5.4, and MBIE's conclusion is that the removal of anti-dumping duties is likely to see an increase in imports from Malaysia.
365. MBIE's analysis of the price effects of the dumping, set out in section 5.5, is that the continued dumping of the subject goods from Malaysia is likely to result in continued price undercutting, with consequent price depression and price suppression.
366. The effect of the magnitude of the margin of dumping by Chin Herr is that it permits price undercutting of like goods produced by the domestic industry in some cases. The level of price undercutting by Chin Herr is slightly more than the current level of anti-dumping duties, and significantly above the dumping margin for Chin Herr established in this review. If the goods were imported at an undumped level there would still be a significant level of price undercutting.
367. MBIE concludes that, if anti-dumping duties are removed, the magnitude of the margin of dumping will contribute to the injurious effect of the dumped goods.

5.6.10 Cash Flow

368. Cash flow is the total amount of money being transferred into and out of a business, especially as it affects liquidity, and provides an indication of the ability of producers to self-finance their activities.
369. Information provided by Pacific Steel regarding the impact on cash flow was verified by MBIE, however, cash flow is not measured separately for the galvanised wire part of the wire mill business. Net cash flow based on EBITDA²⁸ plus CAPEX²⁹ less Working Capital Movement³⁰ was identified and indicated a negative effect.
370. In its application, Pacific Steel pointed to a likely significant loss of revenue due to lower prices and sales volumes which may affect cash flow. MBIE considers that if duties are removed and this results in significant import volumes of galvanised wire from Malaysia resuming, cash flow would likely decline, since similar effects are likely to be seen on profits and return on investments in this situation. Therefore, to the extent that the effect of dumped imports are likely to cause adverse effects on profits, in the absence of anti-dumping duties, actual negative effects on cash flow can also be attributed in part to the dumping of imports from Malaysia.

5.6.11 Inventories

371. Pacific Steel provided information, verified by MBIE, that indicated that inventories had increased in 2019, and were significantly above the levels of previous years in the POI in both absolute terms and relative to production. This is despite the fact that most of Pacific Steel's production is made to order. MBIE notes that in earlier years inventory levels were similar to or above the 2019 level, so this may not have any significance, and in fact, in its application Pacific Steel did not claim any adverse impact on inventories if the current anti-dumping duties were removed.

5.6.12 Employment and wages

372. Both employment and wages include all wire staff (that is, it is not limited to production of galvanised wire only). Staff are involved across the wire mill, so it is not possible to pinpoint employment and wage amounts to galvanised wire.
373. Pacific Steel provided information on employment and wages which was verified by MBIE. The company provided evidence of the numbers employed in the production of galvanised wire, showing that there has been a decline in employment over the last four years, with possible consequences for total wages.

²⁸ EBITDA - Earnings before interest, taxation, depreciation and amortisation.

²⁹ CAPEX - Capital expenditure.

³⁰ Working Capital Movement – Sum of changes in provision for debtors, stocks, creditors and other current assets.

374. MBIE concludes that, to the extent that any decline in employment numbers and wage levels has resulted from profitability pressure from dumped imports, dumped imports from Malaysia will have a negative effect on employment and wages, if the duties are removed.

5.6.13 Growth

375. In its application, Pacific Steel observed that the price undercutting by dumped imports adversely affects growth. Pacific Steel suggested that the availability of remedies for unfairly-traded goods is a very important part of the global and New Zealand domestic economy, and full recourse should be available to local businesses if they are to compete on a level playing field in New Zealand against international competitors. On this basis, Pacific Steel considers that the cessation of anti-dumping duties on Malaysian imports would challenge the availability of investment capital for its wire mill.
376. MBIE considers that any detrimental effects on Pacific Steel's growth would be reflected in other injury indicators such as sales, profits and return on investment. As noted above, MBIE considers that these factors are likely to be adversely affected if anti-dumping duties are not continued. However, in light of the findings regarding the limited volumes of dumped imports and the limited price effects that can be attributed to them, it cannot be concluded that sales, profit and ROI declines will be entirely attributable to the dumping of goods from Malaysia.

5.6.14 Ability to Raise Capital

377. Pacific Steel did not provide specific information on its ability to raise capital other than to comment that Malaysian duty would challenge the availability of investment capital for its wire mill.
378. MBIE is unable to draw any conclusion on this factor including whether or not dumped imports from Malaysia, in the absence of duties, will have a negative effect on the ability to raise capital.

5.6.15 Investments

379. Pacific Steel did not provide specific information on its ability to raise investments other than to comment that commerce chooses where to place investment capital, and any visible risk to a fairly traded environment from trade measures being unavailable negatively would inform a commercial enterprise investment decision.
380. MBIE is unable to draw any conclusion on this factor including whether or not dumped imports from Malaysia, in the absence of duties, will have a negative effect on the ability to make investments.

5.7 Other Causes of Injury

381. Under the Act, the chief executive must have regard to factors other than dumped imports which may be injuring the industry, since in accordance with the AD Agreement, it must be demonstrated that the dumped imports are, through the effects of dumping,

causing material injury, and injury caused by other known factors must not be attributed to the dumped imports.

382. Section 8(2)(e) 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—

- The volume and prices of goods that are not sold at dumped prices; and
- Contraction in demand or changes in the patterns of consumption; and
- Restrictive trade practices of, and competition between, overseas and New Zealand producers; and
- Developments in technology; and
- Export performance and productivity of the New Zealand producers.

383. The chief executive is also required by section 8(2)(f) of the Act to have regard to the nature and extent of importations of dumped goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importation.

384. Article 3.5 of the AD Agreement provides as follows:

It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

385. MBIE assesses below the information available on factors other than the dumped goods that have injured or may injure the industry.

5.7.1 Imports from other sources

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

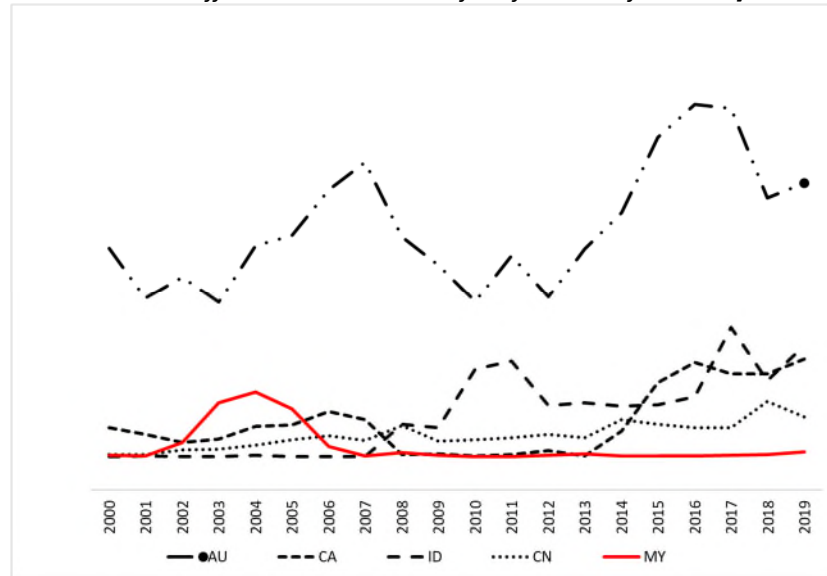
387. In its application, Pacific Steel claimed that if anti-dumping duties cease and exports of Malaysian goods recur, Malaysian imports will hold a price advantage that will be injurious to the New Zealand industry.

388. MBIE has used Customs data to analyse the levels of imports from the main supplying countries and other sources for all of the subject goods. The information may cover some goods which do not compete directly with the goods produced by Pacific Steel. The information, which is contained in Confidential Attachment 1, indicates that imports from

sources other than Malaysia were primarily from Australia, Canada, Indonesia and China, with much smaller volumes from other sources. Figure 5.12 indicates the relative imports from each of these major sources and from Malaysia.

Figure 5.12: Comparative Imports – MT

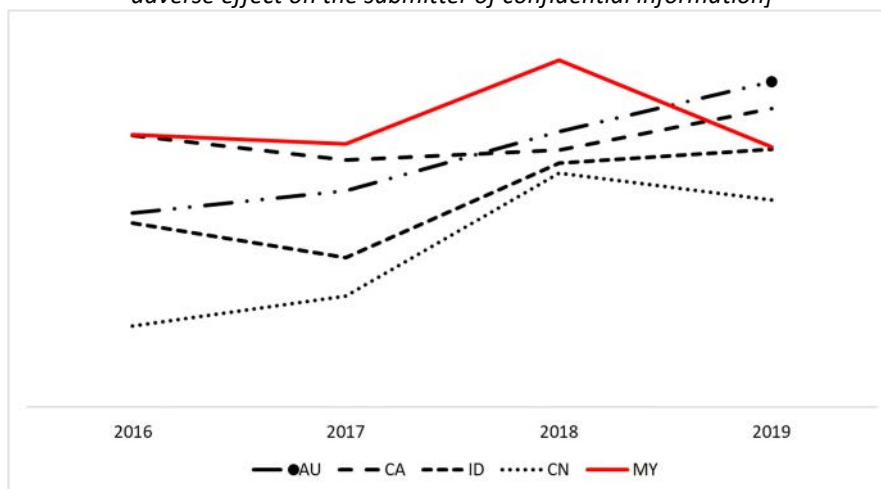
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389. MBIE also assessed the average price per tonne from 2016 to 2019 for imports of like goods from the sources outlined above. MBIE notes that that the average price per tonne is lowest for China, followed by Indonesia. For 2019, Malaysia was the third lowest price, but in 2018, it was the highest. MBIE notes that a separate investigation is currently ongoing into the alleged dumping of galvanised wire from China and Indonesia, and any injury attributable to these sources should not be attributed to dumped imports from Malaysia.

Figure 5.13: Comparative Imports – Price per tonne

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



390. MBIE is satisfied that information on the prices and volumes of imports other than the allegedly dumped goods does not provide a basis for changing the conclusions reached in section 5 of this Stage 1 Final Report.

5.7.2 Changes in consumption and demand

391. 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. In its application, Pacific Steel noted that the agriculture and viticulture industries, the main consumers of galvanised wire in New Zealand, are profitable and growing. Pacific Steel referred to a September 2019 New Zealand Ministry of Primary Industries report entitled Situation and Outlook for Primary Industries 2019 which indicates export revenue growth. Pacific Steel considers that market fundamentals do not suggest significant risk, which MBIE understands to mean that there is no evidence that there is likely to be a contraction in demand or changes in the patterns of consumption that would likely cause injury to the New Zealand industry.

392. MBIE notes that this review was initiated shortly after COVID-19 was declared a pandemic. The forecast information provided by Pacific Steel has not reflected the effects of the pandemic, and MBIE’s assessment has been based on this information. However, MBIE notes that there may be effects on the market as a result of the pandemic.

393. Euro Corporation commented that COVID-19 could have a large impact for finished wire products, although it noted that this is currently unknown. Tiger Steel indicated that a decrease in demand is highly likely in the next few years as wire is less price competitive with a comparable product such as steel tubing, which it stated is now very common in orchards, and is replacing steel wire. Paul industries indicated that the market is stable.

394. MBIE agrees with Euro Corporation that the uncertainty surrounding the COVID-19 pandemic makes it difficult to know whether there will be an impact on consumption and demand of galvanised wire, something echoed by Pacific Steel.

395. MBIE considers that there is currently no evidence of any changes in consumption and demand, but considers that it is a possibility in the short term, should COVID-19 effects be felt in this sector.

5.7.3 Restrictive trade practices of, and competition between, overseas and New Zealand producers

396. MBIE notes that in New Zealand competition is regulated by the Commerce Commission. MBIE is nevertheless required under section 8(2)(e)(iii) of the Act to assess restrictive trade practices of, and competition between, overseas and New Zealand producers as factors other than the dumped goods that may have injured or are injuring the industry.
397. Interested parties have raised concerns about competition in the New Zealand market, noting that Pacific Steel is a monopoly producer, and that the market structure and distribution channels in New Zealand can affect the ability of wire product manufacturers to participate in the market. MBIE notes, however, that these effects are not causes of injury to the domestic industry.
398. MBIE also notes that in 2014, the New Zealand Commerce Commission gave clearance to the proposed acquisition of Pacific Steel by New Zealand Steel Limited as it was satisfied that it would not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand. MBIE is aware that the main issue facing the Commerce Commission was the effect on competition as a result of the acquisition of a long products manufacturer by a flat products manufacturer, and recalls that in its considerations, the Commerce Commission discussed the New Zealand markets for various steel products and the availability of imports from a range of sources, and was satisfied that competition could be maintained through access to imports.
399. MBIE is satisfied that any adverse effects to the New Zealand industry arising from trade practices or competition in the New Zealand market have not been attributed to dumped imports.

5.7.4 Developments in technology

400. Pacific Steel noted in its application that it did not have any information suggesting that developments in technology by its overseas competitors have been a cause of injury to the domestic industry. The technological changes that Pacific Steel has made to its business in recent years are an improvement to its production rather than a cause, or likely cause, of injury. Pacific Steel considers that its production method is similar to that of other manufacturers.
401. Euro Corporation stated that it had visited Pacific Steel Wire's operations, and a number of competing mills overseas including its Malaysian producer. Euro Corporation considers that the international mills generally have much higher volumes, and are likely to benefit from efficiencies of scale. It also considers that equipment and technology is generally more advanced, as are the factory operating systems. Euro Corporation stated that its Malaysian supplier has new state of the art equipment and processes.

402. The Malaysian producers have not made any reference to any significant effects relating to advanced technology, which might be of relevance to this consideration.
403. MBIE is therefore satisfied that there has not been any significant change in technology that could contribute to or cause material injury to the domestic industry.

5.7.5 Export performance and productivity of New Zealand producers

404. Export performance and productivity of the New Zealand industry can be a cause of injury if its export performance is at the expense of its domestic performance. Historically, Pacific Steel has exported small volumes of galvanised wire to Australia and the Pacific, usually to help export customers at short notice, since small production runs are inefficient. The company stated that lately it has not been exporting the subject goods.
405. MBIE does not consider that Pacific Steel's export performance has been a cause of injury, or is likely to cause injury in the foreseeable future.

5.8 Imports by the New Zealand Industry

406. Pacific Steel advised that it has not recently imported galvanised wire and does not intend to. MBIE has found no evidence in Customs import data of recent imports by Pacific Steel.

5.9 Causal Link

407. In its application, Pacific Steel stated that a causal link between the dumped imports of galvanised wire has been established in the prior investigations on the subject goods and that it is not aware of any reason why the causal link will not remain valid if dumped Malaysian subject goods enter the New Zealand market. Pacific Steel considered it has provided evidence that, if anti-dumping duties were to be removed, the dumped goods would likely hold a price advantage over imports from all other sources and the New Zealand industry.
408. MBIE considers that the demonstration of a causal relationship between dumped imports and any current or likely injury must be based on an examination of all relevant evidence and any known factors other than the dumped imports which are causing injury, or are likely to cause injury to the domestic industry. Any injury, or likely continuation or recurrence of injury, caused by factors other than dumping must not be attributed to the dumped imports.
409. The assessment of the injury factors in this section includes discussion of the causal relationships of allegedly dumped imports on volume and price effects and their consequent impact on the domestic industry, as assessed by MBIE during the review.
410. MBIE concludes that the dumped imports from Chin Herr are likely to cause a recurrence of injury to Pacific Steel. Although imports from Wei Dat may be a cause of injury to Pacific Steel, this injury is not attributable to dumping.

5.10 Conclusions on the Continuation or Recurrence of Injury

411. MBIE has examined the information provided by interested parties, and has concluded that if anti-dumping duties are not in place, a significant proportion of imports of galvanised wire from Malaysia are likely to be dumped, resulting in the continuation and recurrence of material injury to the domestic industry.

6. Rate or Amount of Anti-dumping Duty

6.1 Legal Basis

412. Section 17G(2)(a) of the Act requires that if the Minister makes an affirmative determination under section 17G(1) of the Act that the continued imposition of anti-dumping duty is necessary to offset dumping and that material injury to an industry would be likely to continue or recur if the duty expired or were otherwise removed or varied, then the Minister must determine the rate or amount of anti-dumping duty, in accordance with section 10E of the Act, that will form the basis for full review stage 2.

413. Section 10E(1) of the Act provides as follows:

- (1) *The Minister may, in respect of dumped or subsidised goods,—*
 - (a) *determine different rates or amounts of duty for named exporters;*
 - (b) *determine a residual rate or amount of duty for all other exporters from the same country as a named exporter.*
- (2) *The Minister must, in determining the rate or amount of the duty, have regard to—*
 - (a) *the desirability of ensuring that the rate or amount is not greater than is necessary to—*
 - (i) *prevent the material injury or a recurrence of the material injury; or*
 - (ii) *remove the threat of material injury to an industry; or*
 - (iii) *prevent the material retardation to the establishment of an industry; and*
 - (b) *New Zealand's obligations as a party to the WTO Agreement.*
- (3) *The rate or amount must not exceed,—*
 - (a) *in the case of dumped goods, the difference between the export price of the goods and their normal value; and*
 - (b) *in the case of subsidised goods, the amount of the subsidy on the goods.*

414. In this part of the Stage 1 Final Report, MBIE outlines the conclusions reached on the proposed form and rate of anti-dumping duties, as a basis for interested parties to make submissions on this matter.

6.2 Dumping and Injury

415. MBIE has established that there is dumping of exports of galvanised wire from Malaysia by Chin Herr but not by Wei Dat, and has concluded that it is likely that the removal of the anti-dumping duty will lead to a continuation of dumping of galvanised wire from Malaysia. MBIE has therefore concluded that the continued imposition of anti-dumping duties is necessary.

416. MBIE notes that imports of galvanised wire from Wei Dat are not dumped and it is not likely that the removal of the duty will lead to a recurrence of dumping from this supplier.

6.3 Form of Anti-dumping Duty

417. An anti-dumping duty may take one of three main forms:

- *ad valorem* duty rate
- a specific duty
- reference prices.

Ad valorem duty rates

418. An *ad valorem* duty is a duty based on the margin of dumping or the margin of injury (if the margin of injury is less than the margin of dumping), and is expressed as a percentage of the VFD of the goods.
419. *Ad valorem* duty rates can usually be provided to all parties, and therefore are transparent. They are also convenient to apply and are unlikely to be substantially affected by exchange rate movements.
420. *Ad valorem* rates of duty can be evaded if invoice values of goods subject to duty are manipulated, particularly if imported in conjunction with similar goods which are not subject to anti-dumping duties. MBIE considers that the likelihood of invoice manipulation is low for the subject goods.

Specific duties

421. A specific duty is a set amount per unit of products based on the monetary value of a margin of dumping. It has the advantages of being convenient to apply, impossible to evade by incorrectly stating the value for duty, and clearly indicates to the importer the amount of duty payable.
422. However, a specific duty can operate effectively only when prices and exchange rates are consistent and stable, otherwise duty amounts could be collected that are either greater than or less than required to remove either injury or dumping.
423. MBIE considers that specific duty amounts are not the best way of applying duties in the circumstances of the current case, because there is a history of exchange rate and pricing changes.

Reference prices

424. A reference price approach imposes duty based on the difference between the transaction price and a benchmark price. Where the transaction price is lower than the benchmark price, the amount of the difference is the duty payable. A reference price can be based on either a domestic price (in the exporting country) or the New Zealand domestic industry's non-injurious price (a lesser duty).
425. Reference price duties have the advantage of clearly signalling to particular exporters and importers what non-dumped or non-injurious prices are. Additionally they are collected only when goods are priced below the reference price. Therefore, duty is only collected to the extent necessary to remove either injury or dumping.
426. Reference prices are most suitable when dealing with movements in export price and exchange rates (if expressed in the currency of the normal value). A Normal Value (Value for Duty Equivalent) (NV(VFDE)) is set in the currency of the normal value, but Non-Injurious FOBs (NIFOBs) are expressed in the currency of the importing country.
427. Reference prices usually remain confidential to parties other than the particular importer due to the use of confidential information in their calculation, except NIFOB amounts

may be released to the domestic industry because they are based on the domestic industry's unsuppressed selling prices in the absence of price undercutting.

428. Reference prices are particularly useful for dealing with situations where a lesser duty is applicable, that is, a duty set at less than the margin of dumping but at a level that would still not be injurious to the industry.
429. The reference prices approach does however have several disadvantages. It is claimed that duties are more easily evaded than other forms of duty, by overstating the VFD of the goods. They are set at a fixed level based on a snapshot of prices and costs, which usually changes over time and becomes less accurate. While significant changes which may occur over time in prices and exchange rates can be addressed by a reassessment of reference prices, the duties may not be functioning effectively for some time before the duties are reassessed.
430. Reference prices may also be less transparent, as they may be set using confidential information from the domestic industry or exporters which require the amounts to be suppressed as confidential.

6.4 Previous Imposition of Duties

431. As explained in section 4.2 above, anti-dumping duties have been imposed on galvanised wire imported from Malaysia as follows:
- 2004 - Normal Value (Value for Duty Equivalent) reference amounts for subject goods from two suppliers (Southern Wire and Aspac Alliance) and an *ad valorem* rate of 9 per cent for subject goods from all other suppliers.
 - 2005 - Normal Value (Value for Duty Equivalent) reference amounts for subject goods imported from Southern Wire and SMI Wire Sdn. Bhd. and an *ad valorem* duty of 11 per cent for subject goods from all other suppliers.
 - 2009 - an *ad valorem* rate of 15 per cent for all imports of the subject goods from Malaysia (excluding those from RCI Wire)
 - 2015 - an *ad valorem* rate of duty of 21 per cent, with no duty payable by RCI Wire.

6.5 Proposed Rates or Amounts of Anti-dumping Duties

432. For exports from Chin Herr, MBIE calculated the weighted average ex-wharf value. The ex-wharf value was still below Pacific Steel's weighted average ex-factory price. In these circumstances the imposition of an anti-dumping duty at the full margin of dumping is appropriate. Such a duty will offset the dumping but will not remove any price undercutting that is not due to dumping.
433. No dumping has been found for exports from Wei Dat, so it is proposed that no anti-dumping duty will apply to exports from that supplier.

434. For subject goods imported from other Malaysian producers, MBIE proposes that the rate of anti-dumping duty should be at the margin of dumping found for the dumped goods from Malaysia.
435. MBIE proposes therefore that anti-dumping duties should be determined as follows:

Malaysian producer	Goods	Duty
Chin Herr	All subject goods	19%
Wei Dat	All subject goods	No duty
All other producers	All subject goods	19%

7. Conclusion

436. On the basis of the information available, MBIE's conclusions on the matters it is required to investigate in a full review stage 1 are:

- that the continued imposition of anti-dumping duties on the subject goods is necessary to offset dumping, and
- that material injury to an industry would be likely to continue or recur if the duty on the subject goods expired or were otherwise removed or varied.

8. Recommendations

It is recommended that with regard to the imposition of anti-dumping duty on imports of galvanised steel wire from Malaysia:

- a. that the Minister make an affirmative determination under section 17G(1) of the Act that the continued imposition of the duty is necessary to offset dumping; and that material injury to an industry would be likely to continue or recur if the duty expired or were otherwise removed or varied;
- b. that the Minister determine, in accordance with section 17G(2)(a) of the Act, that the rate of anti-dumping duty in accordance with section 10E that will form the basis for full review stage 2 should be on the basis of the rates applying to the subject goods as set out below:

Malaysian producer	Duty
Chin Herr	19%
Wei Dat	No duty
All other producers	19%

- c. that the Minister direct, in accordance with section 17G(2)(b) of the Act, that the chief executive immediately start a full review stage 2 under sections 17H, 17I and 17J of the Act.

Adam Dubas
Acting Manager, Trade and International
Science, Skills and Innovation
Labour, Science and Enterprise

ANNEX 1: COMMENTS RECEIVED ON THE EFC REPORT

Comments on the EFC Report were received from:

- A. Euro Corporation
- B. Pacific Steel

A. Euro Corporation	
A1 Like Goods	
<p>Euro Corporation stated that it has an issue with the conclusion that Pacific Steel is producing like goods or goods with characteristics closely resembling the imported goods.</p> <p>Euro Corporation stated that its experience is that it cannot actually procure the full range of these goods from Pacific Steel and it therefore relies on imported goods (from various sources) for its New Zealand operations.</p>	<p>MBIE has outlined in section 2.3.1 above how it reached a conclusion that the New Zealand industry produces “goods which have characteristics closely resembling” the imported subject goods. Euro Corporation has provided no additional evidence which would require MBIE to reconsider its conclusion.</p> <p>MBIE has identified in section 2.3.1 above the goods made and sold by Pacific Steel and notes that a New Zealand industry has to produce like goods to the imported subject goods, but does not have to produce the full range of the subject goods.</p>
B. Pacific Steel	
B1 Information from Wei Dat	
<p>Pacific Steel refers to Wei Dat replying to a number of MBIE’s questions as “Not applicable” and considers MBIE is required to satisfy itself of the accuracy of information provided, especially given foreign verification visits cannot be undertaken due to the COVID-19 crisis.</p> <p>The questionnaire responses Pacific Steel refers to relate to:</p> <ul style="list-style-type: none"> • whether domestic businesses have any corporate affiliation to Wei 	<p>MBIE notes that an investigation is dynamic. Questions asked at the beginning of an investigation may become more or less significant as the investigation unfolds, may even become irrelevant or may be answered in part or whole by information from other sources. The requirement is that MBIE should have regard to all available information in making determinations on export price and normal value.</p>

<p>Dat</p> <ul style="list-style-type: none">• whether Wei Dat incurred additional sales expenses or after sales costs on domestic sales• description of the Malaysian domestic market for galvanized wire• whether there are factors causing Malaysian producers to stockpile galvanized wire inventory	<p>However, in light of Pacific Steel’s comments, MBIE sought further information from Wei Dat.</p> <p><u>Whether domestic businesses have any corporate affiliation to Wei Dat</u></p> <p>On the basis of the information provided by Wei Dat regarding its links with DFL Industries and Trading Sdn. Bhd., MBIE was able to confirm that Wei Dat makes no domestic sales to any party that is related in terms of section 3(4) of the Act.</p> <p>MBIE’s research and Wei Dat’s responses support a conclusion that the domestic customer used in assessing normal values for Wei Dat is not related to Wei Dat. MBIE notes that the domestic customer it used was not DFL Industries & Trading.</p> <p><u>Whether Wei Dat incurred additional sales expenses or after sales costs on domestic sales</u></p> <p>Wei Dat’s response to a request for further information confirms that there are no such additional expenses or costs. MBIE notes that it would be in Wei Dat’s interest to declare additional sales expenses on its domestic market, as any such additional expenses could result in a deduction which would lower normal values and also any dumping margins.</p> <p><u>The description of the Malaysian domestic market for galvanized wire</u></p> <p>MBIE considers that this description would be helpful but the other information available to MBIE did not indicate that there were factors that would cause MBIE to reconsider its approach to assessing normal values.</p> <p><u>Whether there are factors causing Malaysian producers to stockpile galvanized wire inventory</u></p> <p>The capacity that Malaysian producers have for exporting galvanised wire and the relatively small size of the New Zealand market is already sufficient information for purposes of this investigation.</p>
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<p>Pacific Steel raised questions about the consistency of statements in the EFC Report about Wei Dat's exports and domestic sales.</p>	<p>In this Stage 1 Final Report, MBIE has amended the relevant paragraph by deleting the second sentence, but confirms that "MBIE has established that the volume of sales used in the determination of normal value constitutes more than 5 per cent of the volume of the export sales being investigated."</p> <p>MBIE confirms that figures provided by Wei Dat show that most of its production is exported, yet a large but lesser proportion of sales is made on the domestic market in Malaysia.</p>
<p>Pacific Steel does not agree that Wei Dat cooperated fully, but rather substantially, given several of MBIE's questions were not answered.</p>	<p>MBIE considers that Wei Dat is a cooperating party because it responded to its questionnaire and to its follow-up questions. A conclusion on the extent of cooperation is for MBIE to make based on the totality of its exchanges with the party concerned.</p>
<p>B2 Normal values for Wei Dat</p>	
<p>Pacific Steel queried whether EFC para 198 was correct, namely whether the volume of sales used in the determination of normal value were more than 5 per cent of the volume of the export sales being investigated.</p>	<p>MBIE confirms that "MBIE has established that the volume of sales used in the determination of normal value constitutes more than 5 per cent of the volume of the export sales being investigated."</p>
<p>Pacific Steel questioned MBIE's transaction-to-transaction model matching and adjustments for Wei Dat's normal values, particularly</p> <ul style="list-style-type: none"> • Whether dimensions were the only consideration • Whether the imported goods are of the relevant New Zealand standard, namely AS/NZS 4534:2006 • How standards were used in making adjustments and what direct material cost component was used • There should be an upward adjustment to normal values due to cost differences between the Malaysian domestic standard and meeting the full New Zealand standard. 	<p>MBIE clarifies these matters in the order presented by Pacific Steel:</p> <ul style="list-style-type: none"> • MBIE compared wire of the same coating type (e.g. either 100% zinc with 100% zinc or 95/5 with 95/5 zinc-aluminium wire), of similar diameter and at the closest time available when making its comparisons. When selecting a domestic customer, MBIE took account of the availability of transactions of the same type of wire, of similar dimensions and at as close to the same date of sale as those goods. • There is evidence for some of these imports that the standards NZS 3471:1974 and AS/NZS4534 applied. • MBIE compared the minimum coating mass requirements under

	<p>standard EN 10244-2:2009 with those for AS/NZS 4534:2006 and examined available purchase orders and test certificates to confirm Wei Dat’s assertion that thicker coating masses are sold on the Malaysian market.</p> <ul style="list-style-type: none"> • Wei Dat provided the cost for alloy ingot and a calculation for estimating the cost difference. MBIE considers that sales prices would be higher by the cost of any additional alloy content to reach the minimum coating mass, not the testing certificate value which if higher would not influence price beyond a buyer’s minimum expectation. • MBIE made a downward adjustment to normal values reflecting the higher cost of coating for sales on the Malaysian market compared with sales to New Zealand.
<p>Pacific Steel questioned EFC para 183 which states that MBIE has no information on sales for home consumption in Malaysia of 90/10 zinc aluminium galvanised wire.</p>	<p>Information provided on domestic sales, namely by Wei Dat, does not include information on 90/10 zinc-aluminium galvanised wire as it does not sell wire with that coating on the Malaysian domestic market.</p>
<p>Pacific Steel asks MBIE to verify whether Wei Dat’s sales were made at a loss, considering it unsatisfactory for MBIE to refer to overall gross profitability and that it “has no reason to believe that Wei Dat’s domestic sales over the POR(D) were not made at a profit.”</p>	<p>MBIE notes that, in addition to galvanised wire, Wei Dat makes other products such as wire mesh netting and related products and nails which will be reflected in overall gross profitability.</p> <p>In response to further questions from MBIE, Wei Dat provided costs per unit for materials, direct labour, manufacturing overheads, financing, packaging, and selling and administration expenses and explanations of their calculations. This information was in respect of domestic sales of Malaysian wire only and confirmed that domestic sales were made at a profit.</p>
<p>Pacific Steel noted that EFC 2020 stated “as outlined above no adjustments were necessary for taxation” and that there was no “outlined above”.</p>	<p>MBIE has added text on taxation in this Stage 1 Final Report to clarify the matters raised.</p>

B3 Information	
Pacific Steel referred to EFC paragraph 33 requesting a qualification that certain information may be disregarded “unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.”	MBIE has added clarification by way of a footnote to clarify that the AD Agreement has an additional provision compared with section 3F(4) of the Act.
Pacific Steel questions why the Standard AS 2423-2002 is referred to at paragraph 89.	AS 2423-2002 is referred to by interested parties in respect of the wire imported from Malaysia.
Pacific Steel asks for the names of interested parties to be referred to in order to alleviate reader burden.	MBIE referred to generic descriptions such as “an importer” in many cases to ensure no connection can be made between suppliers and purchasers and to protect confidential information. MBIE has inserted some names after reviewing non-confidential versions of information provided by parties.
Pacific Steel requested illumination on how MBIE verified information where stated in the EFC Report, particularly Wei Dat’s information.	MBIE refers mainly to information verified as described in verification reports. In EFC paragraph 208 MBIE noted it “has reviewed the likelihood that dumping will continue or recur on the basis set out in section 1.3, in the light of the information provided and verified during the review. MBIE has added “where possible after “verified”.
Pacific Steel considers that it is hindered in its review of the EFC Report because MBIE has not named the Malaysian producer whose sales were used to assess normal values for Chin Herr.	MBIE has not named the Malaysian producer because in the context to do so could give a significant advantage to a competitor and have a significantly adverse effect on the submitter of confidential information.
Pacific Steel requests clarity about the dutiable goods.	MBIE notes that it has clarified that 90/10 zinc-aluminium wire is a subject good and therefore anti-dumping duties would apply to that wire, unless a tariff concession were to indicate that duties should not be applied to a particular type of that wire.
B4 Likely increase in Malaysian imports	
Pacific Steel considers that there is a very high likelihood of increased	MBIE considers that a reasonable expectation of increased imports in the

<p>imports from Malaysia based on importers' statements about opting for Malaysian supply or increasing their imports from Malaysia. Pacific Steel considers that MBIE understates the likelihood of increased imports by stating that "imports from Malaysia can be reasonably expected to increase".</p>	<p>absence of anti-dumping duties adequately explains the situation. A "very high likelihood" implies that there is also some probability that there will not be increased imports from Malaysia.</p>
<p>Pacific Steel seeks the basis for MBIE's conclusion in EFC paragraph 228 that "it is unlikely that there will be increased product availability in Malaysia that will put downwards pressure on prices."</p>	<p>MBIE noted that exchange rate movements favoured an increase in exports in 2019, meaning that increased product availability in Malaysia is unlikely and therefore domestic prices and normal values are unlikely to decrease and lower any dumping margins that are found.</p>
<p>Pacific Steel considers that EFC para 273 is incorrect as no importer stated that "entry into the New Zealand market is not easy."</p>	<p>MBIE notes that there were several comments from importers which support a comment that "New Zealand importers considered that entry into the New Zealand market is not easy"</p>

CONFIDENTIAL ATTACHMENT 1: TRADE DATA

The information in this Confidential Attachment includes trade data subject to suppression orders by Stats NZ because release of the data could identify individual transactions and commercial publication of commercially sensitive information would damage the businesses of importers or exporters.

CONFIDENTIAL ATTACHMENT 2: EXPORTERS AND IMPORTERS

The information in this Confidential Attachment is derived from Customs data which identifies suppliers and importers of specific transactions of subject goods. The information is confidential because making the information available would have a significantly adverse effect on the exporters and importers to whom the information relates.

CONFIDENTIAL ATTACHMENT 3: DUMPING ANALYSIS - CHIN HERR

The information in this Confidential Attachment is derived from commercial-in-confidence information from Chin Herr and from other sources. The information is confidential because making the information available would have a significantly adverse effect on the parties to whom the information relates, and in some cases is subject to an obligation to maintain confidentiality. Section 4 of this Stage 1 Final Report provides a summary of this confidential information to the extent that information is capable of summary.

CONFIDENTIAL ATTACHMENT 4: DUMPING ANALYSIS - WEI DAT

The information in this Confidential Attachment is derived from commercial-in-confidence information from Wei Dat and from other sources. The information is confidential because making the information available would have a significantly adverse effect on the parties to whom the information relates, and in some cases is subject to an obligation to maintain confidentiality. Section 4 of this Stage 1 Final Report provides a summary of this confidential information to the extent that information is capable of summary.