




**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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**TRADE
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COOPERATION
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Galvanised wire from Malaysia non-confidential final reassessment report

Dumping and Countervailing Duties Act 1988

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Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Anti-Dumping Agreement	WTO Agreement on Implementation of Article VI of the GATT 1994
Chief Executive	Chief Executive of the Ministry of Business, Innovation and Employment
CIF	Cost, Insurance and Freight
EBIT	Earnings Before Interest and Tax
FOB	Free on Board
Ministry (the)	Ministry of Business, Innovation and Employment
NZCS	New Zealand Customs Service
VFD	Value for Duty
WTO	World Trade Organisation

Executive summary

Introduction

1. On 16 December 2014, the Ministry of Business, Innovation and Employment (the Ministry) completed a review of the anti-dumping duties which currently apply to imports of galvanised wire from Malaysia. Immediately following the completion of the review, the Ministry initiated this reassessment of the anti-dumping duties to consider the appropriate form and level of duties that should apply.

2. The goods subject to reassessment 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.

2009 review and reassessment

3. Anti-dumping duties have been in place on galvanised wire from Malaysia since 2004, and were last reviewed and reassessed in 2009.

4. The current anti-dumping duty is in the form of a 15% *ad valorem* rate which applies to all Malaysian exporters except for RCI Wire which is exempt from the duty.

2014 review

5. The 2014 review found that Malaysian exporters were likely to resume dumping into the New Zealand market should anti-dumping duties be removed. The review found that a resumption of such exports would likely cause a recurrence of material injury to the New Zealand industry.

2015 duty reassessment

6. The focus of this reassessment is to determine the form and rate that the anti-dumping duty should take. That is, whether it should remain as an *ad valorem* rate, and if so, what the rate should be.

7. The Ministry proposes that the duty should be reassessed to an *ad valorem* rate of 21 percent of the Customs' value for duty. This is the dumping margin (based on the difference between the normal value and an export price based on the weighted average price of galvanised wire exported from Malaysia to all destinations) expressed as a percentage of the Free-On-Board export price.

Date from which duty should apply

8. Reassessed rates normally take effect from the day after the date the Minister determines the reassessed rates of duty (the day after the date of signing the *Gazette* notice) and it is proposed that in this case the reassessed duty should apply from this date.

9. The Ministry received two submissions on the interim reassessment report, one from Pacific Steel, and one from the Malaysian Ministry of International Trade and Industry (MITI).

1. Background to reassessment

1.1 Introduction

10. Dumping is defined in section 3(1) of the Dumping and Countervailing Duties Act 1988 (the Act) and occurs when an exporter sells goods to New Zealand at a lower price than it sells the same or similar goods for in its own country. In essence, dumping is price discrimination between an export and a domestic market. It is not illegal, but injurious dumping can be remedied by the imposition of anti-dumping duties at the border to enable fair competition in the New Zealand market.

11. Dumping does not always cause material injury to the domestic industry. Material injury occurs when dumped goods are imported in sufficient quantity to cause a decline in factors such as output or profits as a result of imports undercutting, depressing or suppressing the domestic industry's prices. Injury may also be caused in a number of other ways. Dumped imports can also threaten to cause material injury.

12. Anti-dumping duties on galvanised wire from Malaysia were first imposed in 2004. These duties were first reviewed and reassessed in 2009. This current reassessment follows a sunset review completed in December 2014.

13. The current duty is a single *ad valorem* rate of 15% which applies to all Malaysian exporters (excluding RCI Wire Sdn. Bhd. which is exempt from anti-dumping duties¹) and is based on export prices and normal values established in the 2009 review. The current duties were due to expire on 17 November 2014 but Pacific Steel, the sole New Zealand producer of galvanised wire, applied for a review of the continued need for the duties prior to their expiry.

14. Pacific Steel claimed the removal of the duty would allow imports of galvanised wire from Malaysia to recommence being sold to New Zealand at dumped prices causing a recurrence of material injury to the New Zealand industry.

15. A review was initiated by the Ministry of Business, Innovation and Employment (the Ministry) on 25 June 2014. The Ministry was satisfied that positive evidence justifying the need for review had been provided by Pacific Steel.

16. The review was completed by the Ministry on 16 December 2014 and found that if the duties were removed it was likely that there would be a resumption of dumped imports which would likely cause a recurrence of material injury to the New Zealand industry.

17. The Act allows the Minister of Commerce to determine a new rate or amount of anti-dumping duty following the completion of a review, including any changes in the formula used to establish the anti-dumping duty. However section 14(6) of the Act first requires that a reassessment of the current form and level of the anti-dumping duties is undertaken.

18. This reassessment was initiated on 16 December 2014. The reassessment addresses whether it is appropriate for the form and the rate of the anti-dumping duty to be changed to reflect the new

¹ RCI Wire is exempt from the duty because it was found not to be dumping in the original investigation.

dumping and injury margins as well as any changes in the pricing and selling arrangements currently employed by importers, as found in the review.

19. The current duties will continue at their present rates until this duty reassessment is completed.

1.2 Imported goods

20. The goods which are the subject of the anti-dumping duty, hereinafter referred to as galvanised wire, or “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.

21. The New Zealand Customs Service has stated that galvanised wire enters under the following tariff classifications:

7217.20.10.05L	7217.20.10.07G	7217.20.10.08E	7217.20.10.09C	7217.20.10.11E
7217.20.10.13A	7217.20.10.15H	7217.20.10.16F	7217.20.10.17D	7217.20.10.18B
7217.20.10.25E	7217.20.10.27A	7217.20.10.28K	7217.20.10.29H	7217.20.10.31K
7217.20.10.33F	7217.20.10.35B	7217.20.10.36L	7217.20.10.37J	7217.20.10.39E
7217.20.90.05D	7217.20.90.07L	7217.20.90.08J	7217.20.90.09G	7217.20.90.11J
7217.20.90.13E	7217.20.90.15A	7217.20.90.16K	7217.20.90.17H	7217.20.90.18F

22. Customs duty of 5 percent is normally payable on imports of galvanised wire. There are, however, two free trade agreements under which Malaysian exporters may export to New Zealand that have different Customs duty rates applicable to galvanised wire. Malaysia is a member of the Association of Southeast Asian Nations (ASEAN), and under the ASEAN-Australia-New Zealand Free Trade Agreement signed in 2009, the tariff for imports of galvanised wire originating from Malaysia phased down to 3 percent in January 2014, and is due to phase to zero in January 2017. Under the New Zealand-Malaysia Free Trade Agreement, the tariff for imports of galvanised wire phases to zero in January 2016.

1.3 Interested parties

New Zealand industry

23. Pacific Steel is the sole manufacturer of galvanised wire in New Zealand and therefore constitutes the New Zealand industry under the Act.

Importers and exporters

24. The review found there were no exports from Malaysia of galvanised wire of the type subject to the duty over the period of investigation.

1.4 Export price, normal value and dumping margin

25. In the 2014 review, export prices were established on the basis of export prices of galvanised wire from Malaysia to both Australia and to all export destinations, in the absence of any exports of galvanised wire from Malaysia to New Zealand. The normal value was based on Pacific Steel’s cost to make and sell galvanised wire, adjusted for differences in costs between New Zealand and Malaysia

and with the addition of an estimated profit margin based on that realised by a Malaysian galvanised wire producer. Dumping margins of 51% and 22% were calculated on the basis of export sales to Australia and to all export destinations respectively.

26. Export prices and normal values were calculated at the ex-factory level, which is the preferred point of comparison under Article 2.4 of the Anti-Dumping Agreement. In calculating the ex-factory values, the Ministry made a number of adjustments to the base normal values and export prices to ensure a fair comparison. As the total export price was lower than the total normal value, the exports were considered to be dumped.

Submission on insufficient information on dumping and injury

27. MITI submitted that the interim reassessment report did not provide sufficient information to enable interested parties to have a clear understanding of the likelihood of recurrence of dumping and material injury to the New Zealand industry.

28. MITI also submitted that the absence of any non-confidential summaries of confidential information provided in the course of review and resulting lack of detailed information has deprived interested parties full opportunity to defend their interests as provided in Article 6.2 of the Anti-Dumping Agreement.

29. MITI further submitted that the decline of export volumes from Malaysia to New Zealand is evidence that Malaysia has lost its market share and competitiveness in New Zealand since anti-dumping duties were imposed. It therefore considers that the likelihood of dumping is a mere assumption and is not a threat to the New Zealand industry.

Ministry's response

30. The Ministry provided information on the likelihood of a recurrence of dumping and material injury in the final review report, which was completed on 16 December 2014 and sent to interested parties (including both MITI and the Malaysian High Commission) on that day.

31. The review report referred to above concluded, for reasons detailed in that report, that if the duty was removed there was likely to be a resumption of imports at dumped prices which were likely to cause material injury to the New Zealand industry. It concluded that anti-dumping duties should remain in place to prevent the recurrence of material injury. This reassessment assesses the form and rate of those duties.

32. The "non-confidential summaries" MITI refers to are included in the Ministry's public file. The public file is available on request to all interested parties and parties were notified of this fact at various times throughout the review. The Ministry also considers that the final review report contained sufficient detail of the information used in the review. MITI had opportunity to comment on an interim version of this report but did not do so.

2. Reassessment of anti-dumping duties

2.1 Methods of imposing duty

33. Anti-dumping duties are intended to remedy injury attributable to dumping, not to punish an exporter or provide a domestic industry with protection beyond the impact of the dumping. For this reason, the duty should only remedy the amount of injury attributable to dumping.

34. Considerations taken into account in deciding an appropriate form of the anti-dumping duty include the ability to ensure the dumping margin is not exceeded, the ability to maintain fairness between parties, predictability of the duties payable, and ease of administration at the border. These considerations are discussed in more detail in Box 1 below.

35. There are three forms of anti-dumping duty:

- the specific duty approach;
- the *ad valorem* rate approach; and
- the reference price approach.

36. A specific duty is a set amount of duty payable per unit imported. It is based on the monetary value of the margin of dumping or the margin of injury.

37. An *ad valorem* duty is based on the margin of dumping or the margin of injury as a percentage of the value for duty.

38. The reference price approach imposes duty based on the difference between the transaction price and a 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.

Box 1: Pros and cons of the three methods of imposing anti-dumping measures

Specific Duty

A specific duty is a set amount payable per defined unit. A specific duty is convenient to apply, impossible to evade by incorrectly stating the value for duty, and the amount of duty payable is clear. However, problems may arise when dealing with a wide range of goods or where exchange rates fluctuate to the extent that margins of dumping will be exceeded without constant reassessments of the specific amount. A specific duty expressed as a monetary amount will operate effectively when prices and exchange rates are consistent and stable enabling the dumping remedy to remain relevant to the margin of dumping.

Ad Valorem Duty

An *ad valorem* rate is a fixed percentage of duty usually applied to the value for duty of the defined goods. *Ad valorem* duty rates can 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. They are appropriate where a large range of

goods exist or where new models appear.

As with other approaches, the possibility exists for collusion between exporter and importer to manipulate invoice values of goods subject to duty, particularly if imported in conjunction with similar goods. Under this approach, a particularly low, and potentially more injurious, export price would result in a lower duty, which may be insufficient to remove injurious dumping. Conversely, a particularly high, and less injurious export price, would attract a higher duty, perhaps higher than is necessary to remove injurious dumping.

Reference Price Duty

A reference price is a set value per unit below which duty is payable. Reference prices are most suitable when dealing with movements in export price and exchange rates (if expressed in the currency of the normal value). They 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.

Reference price duties have the advantage of clearly signalling to 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 injurious dumping.

Reference price duties are claimed to be more easily evaded than other forms of duty by overstating the VFD of the goods. Another drawback is that they are set at a fixed level based on a snapshot of price and cost, which obviously change over time and so may become less accurate. Significant changes which may occur over time in prices and exchange rates can be addressed by a reassessment of reference prices.

Also, reference prices are often not suited to goods where there is a wide range of individual sizes and types of goods sold at significantly different prices. Under these circumstances individual reference price mechanisms may need to be set for each type and size of imported good, which can lead to difficulties with importation and delay the free flow of goods over the border. An alternate approach to resolve the problems that an extensive list of reference prices creates is to place the reference price on an aggregated group of the goods in question. An aggregated group reference price, however, dampens the attractiveness of the transaction-based component of a reference price mechanism as it aggregates individual product types and sizes, becoming a proportionate duty similar to the duties resulting from specific or *ad valorem* methodologies.

2.2 2009 reassessment

39. Historically, the Ministry's preference has been to impose duties through a reference price mechanism where it is practicable to do so, for the reasons set out in Box 1 above. In the 2009 reassessment the duty for galvanised wire was set on an *ad valorem* basis because of a lack of detailed information on export prices and normal values. This meant that a dumping margin could be calculated only for the subject goods as a whole, rather than for each exporter and for each type of wire.

Consideration of the lesser duty

40. Section 14(5) of the Act requires that the Minister has regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry. To this end, in the 2009 reassessment, the Ministry considered whether a duty at less than the margin of dumping would be sufficient to prevent injury to the New Zealand industry caused by dumping. This consideration established that a reassessed duty should be based on the full margin of dumping.

Current rate of duty

41. The current duty is a single *ad valorem* rate of 15% which applies to all Malaysian exporters (excluding RCI Wire Sdn. Bhd. which is exempt from anti-dumping duties).

2.3 Proposed methods of imposing anti-dumping duty

Introduction

42. The Ministry's practice is to consider the suitability of all methods of imposing anti-dumping duties in the circumstances of each dumping investigation.

43. During the 2014 review it was determined that there had been no imports of the subject goods from Malaysia over the period of review for dumping. The 2014 review determined, however, that there was likely to be a recurrence of dumped imports from Malaysia should the duty be removed. It was also determined that if the duties were removed Pacific Steel would likely experience a recurrence of material injury. The basis on which export prices and normal value was determined in the 2014 review in the absence of any imports of the subject goods over the period of investigation is outlined in paragraph 25 above.

44. The amount of an anti-dumping duty levied in respect of an exporter shall not exceed its margin of dumping². The Appellate Body noted in that case that this is the overarching requirement in Article 9.3, i.e. that the anti-dumping duty "shall not exceed the margin of dumping as established under Article 2" (as stated in the Anti-Dumping Agreement). This requirement is an important consideration in the Ministry's decision to impose a particular form of duty and also whether the duty should consist of one aggregated rate for each exporter's entire range of imported goods or if separate rates should be established for categories or product types of imported goods.

Box 2: Ensuring anti-dumping duty is not paid in excess of the margin of dumping

In practice, duty is collected on individual export transactions and it is up to the authorities to ensure that the total amount of anti-dumping duty paid is not greater than the margin of dumping. At a practical level this can have varying results, as shipments usually contain a mix of product types and the prices of each product type in a shipment may vary. Also exchange rates move, sometimes considerably over a comparatively short period, changing the relative costs and prices of the imported goods.

The above issues may arise regardless of the form of duty put in place and, under

² US – Final Anti-Dumping Measures on Stainless Steel from Mexico (WT/D344/AB/R April 2008).

the Act, an importer is able to apply for a refund of anti-dumping duty if fluctuations in prices mean that the amount of anti-dumping duty paid by that importer exceeds the margin of dumping calculated over the imports within a set period of time.

The refunds process covers set periods of 6 months and an application can be made by providing export price and normal value information to support a claim that duty in excess of the dumping margin has been paid.

Proposed form of the anti-dumping duty

45. Box 1 outlines the different types of anti-dumping duty that can be imposed. Currently, anti-dumping duties are in place in the form of a single *ad valorem* rate which applies to all exporters (except for one exporter which is exempt from the duty). The 2014 review found that there were no imports of the subject goods from Malaysia over the period considered for injury and therefore that the New Zealand industry had experienced no injury caused by dumped imports from Malaysia. The current duties could therefore be seen as effective in preventing material injury to the New Zealand by dumped imports from Malaysia.

46. In *US – Final Anti-Dumping Measures on Stainless Steel from Mexico* (WT/DS344/AB/R, April 2008) (at paragraph 121), the WTO Appellate Body commented that “[t]he Anti-Dumping Agreement is neutral as to the different systems for levy and collection of anti-dumping duties.” In terms of the different systems used to levy and collect anti-dumping duties, the Appellate Body also commented (in the same paragraph) that the amount of duties collected on a prospective basis [the system used in New Zealand] is subject to review, such that, while duties are only “collected” in individual export transactions “[w]here the prices are less than the prospective normal value, ... a review can be requested if the prospective normal value has been improperly determined so as to result in collection of anti-dumping duties in excess of the ceiling prescribed in Article 9.3” [Article 9.3 states that “The amount of the anti-dumping duty shall not exceed the margin of dumping as established under Article 2”].

47. The normal requirement that a single dumping margin be calculated for the product as a whole for each exporter therefore does not necessarily prevent reference prices from being established for separate models or categories which make up the product as a whole, provided that the duty collected as a result does not exceed the margin of dumping for the product as a whole for an exporter. As the Appellate Body has noted in the case referred to in the paragraph above, where this does occur an importer is entitled to request a refund. Details of the refund system in New Zealand are outlined in Box 2 above.

48. In the circumstances of this case where there is no detailed pricing information available by type or category of product, it is not possible to set separate rates of duty by product type or category regardless of the form of the duty.

49. In the 2009 review and reassessment there was a similar lack of detailed pricing information for product categories or types. In the final report on the 2009 reassessment of this duty, after noting the price volatility of steel products, the Ministry noted (at paragraph 54) in relation to the use of reference prices that it considered “[i]t is not appropriate in the case of galvanised wire to impose a static reference price which would normally apply for five years and which could quickly become outdated over that period, and which could require frequent reassessments”. In the same 2009 report the Ministry considered that price volatility also made the use of a specific duty problematic and noted the risk that “[t]he duty may not be sufficient over time to remove injury, or alternatively may be greater than the margin of dumping over time”.

50. In relation to the use of an *ad valorem* method of assessing the duty, in the final report on the 2009 reassessment, the Ministry stated (at paragraphs 56 and 57):

An *ad valorem* rate is not affected by changes in prices over the period to which it applies and would be imposed on all imports of galvanised wire from Malaysia. The amount of anti-dumping duty payable, however, would change as prices change. If prices increase or decrease in the circumstances outlined above . . . the amount of anti-dumping duty payable would change as the VFD changes. Any changes to export and domestic sale prices can be assumed to affect the costs in both these markets to a similar degree and therefore price changes in the goods would reflect these changes, and the margin between the prices would remain at a similar level and therefore the duty would remain relevant to the level of dumping. If this is not the case, then interested parties can apply for a reassessment.

When the VFD in NZD increases due to exchange rate changes or increases in the price of steel, the amount of anti-dumping duty increases. If both normal values and export prices change at the same rate, the percentage margin of dumping will remain the same, so the margin of dumping is not exceeded. If a lesser duty is applied by way of an *ad valorem* rate, the same margin of duty will also be applied regardless of changes in the cost of steel.

51. For the reasons outlined in the 2009 reassessment, the Ministry considers it is not feasible to reassess the duty on either a reference price or specific duty basis and that an *ad valorem* duty remains the most appropriate method for assessing the payment of this duty.

2.4 Calculation of proposed anti-dumping duties

Introduction

52. Section 14(5) of the Act requires that the Minister has regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry.

53. To determine whether a lesser duty should apply, the Ministry uses a comparison of the normal value (value for duty equivalent) (NV(VFDE)) amount (that is, the normal value with the addition of relevant costs to free-on-board (FOB) level) with the non-injurious FOB price (NIFOB) (the New Zealand industry's average ex-factory price less the average costs incurred in importing the goods between FOB and the relevant level of trade). If the NIFOB is less than the NV(VFDE) this normally indicates a lesser duty should apply. Because it has been concluded above that the reassessed duty should remain in the form of an *ad valorem* rate, if this comparison shows that a lesser duty should apply, the NIFOB amount will be converted into an *ad valorem* rate.

Calculation of NV(VFDE) amount

54. A NV(VFDE) represents the non-dumped price of imports at the FOB level, that is, the level at which the goods are loaded onto the vessel ready to be exported. A NV(VFDE) starts with the weighted average normal value at the ex-factory level. Any costs incurred to export the goods to the point of being loaded onto the vessel in the exporting country (the free-on board level) are then added. Such costs would normally include inland freight, handling, Customs' clearance costs and any agent's fees that would be taken into account in the New Zealand Customs' value-for-duty (VFD). The resulting value is the NV(VFDE) amount.

55. The Ministry calculated a NV(VFDE) amount on this basis, starting with the ex-factory normal value established in the 2014 review (the basis on which a normal value was established in the 2014 review is outlined in paragraph 25 above). The normal value was adjusted to the FOB level by adding the adjustments used to calculate ex-factory export prices in the 2014 review. These adjustments cover cost of credit, export packaging, inland freight, export documentation, port handling, and wharfage and customs clearance.

56. Table 1 below shows the calculation of the NV(VFDE) amount on the basis described above.

Table 1: Calculation of NV(VFDE) amount

Ex-factory normal value (MYR/tonne)		
Plus costs to FOB (USD/tonne):		
- Cost of credit		
- Export packaging		
- Inland freight		
- Export documentation		
- Port handling		
- Wharfage and customs clearance		
- Total costs to FOB		
- Average USD/MYR exchange rate (1USD = 3.214MYR)*		
Total costs to FOB (MYR/tonne)		
NV(VFDE) (MYR/tonne)		
Average MYR/NZD exchange rate (1MYR = 0.3775NZD)*		
NV(VFDE) (NZD/tonne)		

*Average exchange rate over the period of investigation for dumping, that is, the year ending 30 April 2104

Calculation of NIFOB amount

Calculation of a non-injurious price (NIP)

57. In order to calculate a NIFOB amount it is necessary to first establish a non-injurious price (NIP) for the New Zealand industry, that is, the price at which a domestic producer can sell its goods in the domestic market in the absence of dumped goods. There are a number of methods that can be used to calculate a NIP including:

- the use of current prices (adjusted by price depression incurred during the period of injury, if necessary);
- the current cost of production, plus industry profit taken at a time when the industry was unaffected by dumped imports;
- the use of pre-injury prices scaled up by a relevant index; or
- determining the lowest price non-dumped product in the market.

58. The Ministry normally considers the domestic industry's current ex-factory selling price (exclusive of all discounts and rebates) to be its NIP when an anti-dumping duty is already in place. In other words, the Ministry normally considers that the anti-dumping duties have acted to prevent any injurious dumping occurring and that the industry's prices are at levels achieved in the absence of dumping.

59. In the 2014 review there had been no significant imports of galvanised wire from Malaysia over the period considered for injury and the industry did not claim it had been injured by any such imports. The Ministry therefore considers that Pacific Steel's ex-factory NIP can be based on its average ex-factory selling price.

60. The Ministry has therefore established the NIP on the basis of Pacific Steel's latest financial year, which is the 12 months to 30 June 2014. The NIP is \$ [REDACTED] per tonne and represents Pacific Steel's ex-factory net sales revenue per tonne over this period.

NIFOB calculation

61. A NIFOB is calculated by deducting from the New Zealand industry's NIP the costs for an importer arising between the FOB level of trade and the level of trade at which the domestic industry's products first compete with the importer's products. The Ministry determined in the 2014 review that the relevant level of trade for the imported product is ex-wharf (versus the New Zealand industry's ex-factory price). The NIFOB calculation has therefore been made on the basis of costs between FOB and ex-wharf.

62. In the absence of any imports of the subject goods from Malaysia, the Ministry has estimated the cost of freight and insurance using Customs import data relating to imports of other wire products from Malaysia over the period of investigation for dumping. Port service charges were calculated by updating the cost used in the 2009 review and reassessment for the NIFOB calculation by the increase in the New Zealand producer price index between 2009 and 2014. Customs duty has been calculated at 3 percent, which is the lowest rate available to importers of wire from Malaysia (under the ASEAN-Australia-New Zealand Free Trade Agreement).

63. The following table shows the calculation of the NIFOB on the basis outlined above.

Table 2: Calculation of NIFOB amount (NZD/tonne)

Non-injurious price (NIP)	[REDACTED]
Less costs from FOB to ex-wharf:	
- Freight	[REDACTED]
- Insurance	[REDACTED]
- Port service charges	[REDACTED]
- Customs duty	[REDACTED]
NIFOB	[REDACTED]

2.5 Comparison of NV(VFDE) and NIFOB amounts

64. As noted above, whether a lesser duty should apply is determined by comparing the NV(VFDE) with the NIFOB amount. A lesser duty applies if the NIFOB is lower than the NV(VFDE). The NIFOB amount calculated in Table 2 is higher than the NV(VFDE) amount calculated in Table 1, indicating that the duty should be imposed at the full margin of dumping.

2.6 Proposed reassessed rate of duty

65. On the basis of the information outlined above, the Ministry proposes that the duty be set at a single *ad valorem* percentage rate which equates to the full margin of dumping that was determined in the 2014 review.

66. In the 2014 review the Ministry calculated two dumping margins using the same normal value but using two approaches to determining an export price. Export prices were determined on the basis of the average price of exports of galvanised wire from Malaysia to Australia and from Malaysia to all countries using data obtained from [REDACTED].

67. The Ministry noted in its final report on the 2014 review that because of the similarities between the Australian and New Zealand markets, export prices from Malaysia to Australia were more likely to be indicative of export prices from Malaysia to New Zealand should imports from Malaysia resume following any removal of the duties.

68. The Ministry is, however, conscious of the limitations of the [REDACTED] data, which is at the HS 6 digit level covering “wire of iron or non-alloy steel, zinc plated/coated”. The [REDACTED] data therefore covers a wider range of galvanised wire than that to which the duty applies. The Ministry has consequently re-examined the data collected from [REDACTED] in order to reassess whether exports from Malaysia to Australia are the most appropriate basis on which to establish the rate of duty.

69. Weighted average FOB prices established for Malaysia’s exports to each country for the year to June 2014 show that exports to Australia are priced well below the prices to most other countries. The average FOB price of exports to Australia is only above that of exports to Myanmar. The Australian price is approximately [REDACTED]% less than both the median and the mean for all prices. Australia is the top destination by volume, but the next four largest destinations (United Arab Emirates, Thailand, Oman and China) have FOB export prices well in excess of the price to Australia.

70. The Ministry also notes that the price of exports from Malaysia to other countries that are arguably similar to New Zealand (and Australia), such as those to Canada, the United Kingdom and the United States, are well above the price of exports to Australia.

71. There are exports to New Zealand recorded in the [REDACTED] data, for which the price is [REDACTED] that of the price recorded for exports to Australia. It is likely that the transactions for New Zealand are not subject goods, as Customs data records transactions in the same tariff items that are not subject goods; however this is a large variation between the two prices.

72. The Ministry considers that the [REDACTED] data suggests that the average price of exports from Malaysia to Australia may not be representative of likely export prices from Malaysia to New Zealand. The Ministry considers that a more prudent approach is to base the duty on the weighted average price of exports from Malaysia to all of its export destinations, as the averaging of these prices is more likely to provide a price that is representative of likely prices from Malaysia to New Zealand than an average price to Australia or any other individual export destination. The Ministry notes, however, that as the largest export destination, the price of exports to Australia receives the largest weighting in the calculation of such a weighted average price.

73. The Ministry considers that a single *ad valorem* anti-dumping duty rate should be imposed on imports of Malaysian galvanised wire for all Malaysian exporters (with the exception of RCI Wire). No exporters or manufacturers provided any information during the review, and consequently the

Ministry has used best available information, which is not exporter-specific. This is the same way the duty was set in the 2009 review and reassessment.

74. The table below shows the dumping margin *ad valorem* rate calculation as a percentage of the FOB export price.

Table 3: Duty rate calculation (MYR/tonne)

Normal value	
Export price (MY to all destinations)	
Dumping margin	
FOB price	
Dumping margin as % of FOB	21%

Submission on use of weighted average prices

75. Pacific Steel agrees with the Ministry's use of weighted average prices in this case. It observed however that different product groups may present different circumstances where this methodology may no longer be useful; for example, where dumped goods are a greater or more specific risk of displacement from a particular country to New Zealand.

76. The Ministry agrees with Pacific Steel's observation that this methodology may not always be useful. It assesses any methodology on the circumstances of each case.

Conclusion

77. The Ministry concludes that the reassessed duty should be an *ad valorem* duty, established on the basis outlined above, of 21 percent of the value for duty. This is the dumping margin calculated using an export price based on the weighted average price of Malaysian exports to all sources, calculated as a percentage of the export price adjusted to the FOB level. It is proposed this duty apply to all Malaysian exporters, except for RCI Wire which will continue to be exempt from the duty.

78. Reassessed rates normally take effect from the day after the date the Minister determines the reassessed rates of duty (the day after the date of signing the *Gazette* notice) and it is proposed that in this case the reassessed duty should apply from this date.

2.7 Refunds of anti-dumping duty

79. Section 14(10) of the Act provides that if a reassessment results in a lower duty being imposed the Minister may require the New Zealand Customs Service to refund, with effect from the date of initiation of the review, the difference between the duty paid and the lower duty. However, if the reverse situation applies the shortfall is not required to be paid.

80. The Ministry notes that it is likely that the new rate of duty proposed will not require any refund of excess anti-dumping duty paid, as the proposed rate is higher than the current rate.