

*Ministry of* **Economic  
Development**



*M a n a t ū   Ō h a n g a*

# **Non-confidential Initiation Report**

## **Wire Nails from The People's Republic of China**

**Dumping and Countervailing Duties Act 1988**

**Dumping Application**

Ministry of Economic Development

November 2010

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# Abbreviations

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The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Agreement	World Trade Organisation Agreement on Implementation of Article VI of the General Agreement Tariffs and Trade 1994
Arrownail	Arrownail Industries Ltd
CIF	Cost-Insurance-Freight
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Tax
FOB	Free on Board
Kgs	Kilograms
Ltd	Limited
Ministry	Ministry of Economic Development of New Zealand
Oanda	<a href="http://www.oanda.com">www.oanda.com</a> (Exchange Rate Data)
Statistics	Statistics New Zealand
VFD	Value for Duty
Wireplus	Wireplus Limited
WTO	World Trade Organisation

# 1. Executive Summary

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## Introduction

1. On 7 October 2010 the Ministry of Economic Development (the Ministry) accepted a properly documented application for a dumping investigation from Wireplus Limited. Pursuant to section 10 of the Dumping and Countervailing Duties Act 1988 (the Act), this report assesses the accuracy and adequacy of the evidence provided to determine whether there is sufficient evidence to justify the initiation of an investigation.

## Goods Subject to the Application

2. The imported goods covered by the application are:

*“Wire nails, bright (plain) and galvanised (coated), of various lengths and diameter (other than collated or for collation)”*

## Dumping

3. The Ministry is satisfied that Wireplus has provided sufficient evidence of dumping for the purpose of initiating an investigation. The dumping margins expressed as a percentage of export price range from 0 percent to 25 percent.

## Injury

4. There is evidence that import volumes of the subject goods have increased significantly in absolute terms and relative to production and consumption in New Zealand. There is also evidence that the New Zealand industry's prices have been undercut by the subject goods and that the New Zealand industry's prices have been depressed. Consequent on these volume and price effects there is evidence of an adverse economic impact reflected in declines in sales volume, sales revenue and profits.
5. The application did not contain any information relating to the industry's cash flow, productivity, utilisation of production capacity, inventory, employment and wages, growth and ability to raise capital and investments. The Ministry notes that this information will be sought from the industry during any investigation.
6. While there are several other factors which may have caused to injury to the New Zealand industry, the Ministry is satisfied Wireplus has provided sufficient evidence showing that imports of the subject goods have caused material injury to the New Zealand industry for the purpose of initiating an investigation.

## Conclusion

7. The Ministry is satisfied, based on the information reasonably available to Wireplus, that sufficient evidence of dumping causing material injury has been provided for the purpose of initiating an investigation.

## **Recommendation**

8. This report recommends that the Chief Executive of the Ministry initiate an investigation to determine both the existence and effect of any alleged dumping of wire nails from the People's Republic of China.

## 2. Introduction

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### 2.1 Application

9. On 7 October 2010 the Ministry of Economic Development (the Ministry) accepted a properly documented application from Wireplus Limited (Wireplus), alleging that dumped imports of wire nails from the People's Republic of China (China) have caused and are causing material injury to the New Zealand industry.
10. In accordance with section 10 of the Dumping and Countervailing Duties Act 1988 (the Act), the Ministry's Chief Executive may initiate an investigation to determine both the existence and effect of any alleged dumping of any goods on being satisfied that sufficient evidence has been provided that the goods are being dumped and, by reason thereof, material injury to an industry has been or is being caused.
11. The New Zealand legal case *Kerry (NZ) Ltd v Taylor*<sup>1</sup> determined that in order to initiate an investigation, there must be evidence beyond a mere assertion and of a nature and extent that indicate a likelihood of dumping and material injury, requiring investigation. The Court stated the application should be assessed with due scepticism, bearing in mind the commercial context, but emphasised that the assessment is one of sufficiency of evidence, not of dumping and material injury.
12. This report assesses the present application against the requirements of the Act to determine if adequate evidence has been presented to justify the initiation of an anti-dumping investigation.
13. Dumping is defined in sub-section 3(1) of the Act and is essentially price discrimination between markets. Dumping occurs when an exporter sells goods to New Zealand (export price) at a price less than the price charged in its domestic market (normal value). Adjustments are made to ensure that the comparison of these prices is fair.

### 2.2 Report Details

14. In this report years are ended 31 December and values are in New Zealand Dollars (NZD) unless stated otherwise. In tables, column totals may differ from individual figures, or those in the application document, due to rounding.

### 2.3 Investigation Period

15. This report recommends that an investigation be initiated. Due to its timing it is recommended that the period used to determine claims of dumping (the period of investigation) be the year ended 30 September 2010. This period is in

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<sup>1</sup> (1991) 2 PRNZ 393

accordance with New Zealand's preferred period for assessing dumping of twelve months<sup>2</sup>.

16. It should be noted that the inclusion of any information in this report does not indicate that the Ministry necessarily accepts that information or any conclusions arising from it. Any final determination of whether or not goods are dumped and causing injury can be made only after a full investigation has been carried out in accordance with the Act and the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Agreement).

## 2.4 Date for Submissions

17. Importers, exporters and manufacturers will be directly invited to make submissions and provide responses to questionnaires. Importers will be given 30 days, and exporters and manufacturers will be given 37 days, to respond to questionnaires. In order that all views can be considered in the Ministry's report on the essential facts and conclusions of this case, it is recommended that all submissions are made by no later than **14 April 2011**. Submissions can be made to the Trade Rules, Remedies and Tariffs Group, Ministry of Economic Development, P O Box 1473, Wellington 6011, New Zealand, or at email at [traderem.med.govt.nz](mailto:traderem.med.govt.nz).

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<sup>2</sup> Recommendation adopted by the World Trade Organisation Committee on Anti-Dumping Practices on 5 May 2000 (G/ADP/6)



### 3. Interested Parties

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#### 3.1 Basis for the Application

18. The application for an anti-dumping investigation was made by Wireplus. Wireplus is one company of the United Industries Limited group of companies which is privately owned and made up of nine companies servicing the New Zealand construction industry.

19. Wireplus said it also manufactures reinforcing mesh and distributes reinforcing steel and steel products to the New Zealand market. Wireplus has a manufacturing facility in Auckland and it has branches in Hastings, New Plymouth, Wellington and Christchurch.

20. Wireplus said it was aware of only one other domestic producer of wire nails in New Zealand, Arrownail Industries Limited (Arrownail) of Christchurch. Wireplus stated that Arrownail supports the application for an investigation, although did not provide confirmation of this in writing. Wireplus did however, provide copies of emails to and from Arrownail dated in August 2010 which contained information regarding its level of production and the possibility of a factory visit as part of any investigation.

21. Wireplus claims that as a result of imports of the subject goods, material injury is resulting from:

- increased import volumes of the subject goods;
- price depression, and
- price undercutting;

that has resulted in:

- decrease in sales volume;
- decrease in sales revenue;
- decrease in market share; and a
- decrease in profits.

22. Wireplus has stated in its application that the injury commenced in its 2007 financial year and became material in that financial year.

#### 3.2 Tariff Classification: Imported Goods

23. The goods covered by the application, which are referred to as the subject goods, are described as:

*“Wire nails, bright (plain) and galvanised (coated), of various lengths and diameter (other than collated or for collation)”*

24. Wireplus stated that the subject goods enter under the following Tariff Item and Statistical Key:

**Table 3.1: Tariff Classification**

73.17 7317.00			<b>Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading 83.05) and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper:</b>		
			<b>– Nails, hook-nails, corrugated nails:</b>		
7317.00.01	00K	kg	<b>-- Peculiar to use in footwear; escutcheon pins</b>		
7317.00.09			<b>-- Other</b>		
			<b>. . . Made from wire, whether plain or coated:</b>		
	01J	kg	<b>. . . . Collated or for collation</b>		
	09D	kg	<b>. . . . Other</b>		
	19A	kg	<b>. . . Made from other materials</b>		

25. The Normal Tariff rate for Tariff Item and Statistical Key 7317.00.09.09D is 5 percent. There is a Preferential Tariff for China of 2.8 percent, phasing down to 1.4 percent on 1 January 2011, and to Free on 1 January 2012.

26. The Tariff Item and Statistical Key cover a broader range of goods than the subject goods. Wireplus stated that the allegedly dumped goods could be entering New Zealand incorrectly under the Tariff Item and Statistical Keys 7317.00.09.01J and 7317.00.09.00D19A.

### 3.3 Interested Parties

#### Exporters

27. Wireplus identified one Chinese manufacturer ITW Paslode, which it believed was exporting the subject goods to New Zealand. Wireplus said that there were numerous other producers and exporters of wire nails in China.

28. The Ministry was not able to identify this exporter in the Customs data however there are a number of suppliers listed in the data which could be sourcing from ITW Paslode.

29. As noted in paragraph 26 above, the Tariff Item and Statistical Key under which the subject goods enter New Zealand covers a broader range of products than the subject goods and some of the suppliers in the Custom's data may not be supplying the subject goods.

30. The Customs' data shows that in the year ended 30 September 2010 that there were 56 firms supplying goods entered under the wire nail tariff item and statistical key. The 56 firms are listed in alphabetical order in the following table.

**Table 3.2: Exporters/Suppliers**

Airco Fasteners Pty Ltd	QEP Aust Pty Limited
Aulucky International Co Ltd	Qingdao Ant Hardware Manufacturing Co Ltd
Beijing Building Materials Import & Export Corp	Qingdao Shunxishun Trading Ltd Co
Beijing Longtime Rich Tech Development	Quzhou Monsoon Trade Co Ltd
Crown Impex (HK) Ltd	Shanghai Baonong Hardware Factory
DTA Australia) Pty Ltd	Shanghai Hua Shen Imp & Exp Co Ltd
Eastern Link International Trading Co Ltd	Shanghai Puying Architecture Hardware Co Ltd
Eternal Sky International	Shanxi Tianli Enterprise Co Ltd
Faithful Engineering Products Co Ltd	Shanxi Tianli Industries Co Ltd
Farrier Product Distribution Inc	Shenzhen Hongding Trading Ltd Co
Femax Group Ltd	Shenzhen Kang Hui Feng Industry Development Co Ltd
Global Power Fastening Products Ltd	Shenzhen Liheli Trading Co Ltd
Hangzhou Jinwei Ind Co Ltd	Siic Shanghai International Trade Group Co Ltd
Hebei Jinsidun Trade Co Ltd	Spear & Jackson (Australia) Pty Ltd
Hebei Yongwei Metal Produce Co Ltd	Tallahesse Pty Ltd
Hengshui Dingly Industrial And Commercial Co	The Stanley Works Pty Ltd
Hilti Aktiengesellschaft	Tianjin Lianjin Investment Co Ltd
H-Lift International Pty Ltd	Trigo Enterprises Ltd
Inno International	Ufs International (China) Co Ltd
ITW Proline	Uncle Bill's (Aust) Pty Ltd
Jade Trend Ltd	Uncle Bills Ltd
JHC (International) Ltd	Warwick Fabrics (Australia) Pty Ltd
Jiangsu Guo Tai International Group Co	Wenzhou Excellent Hardware Apparatus Packing Co Ltd
Jianguo Yang	Yiwu Times Import & Export Co
Macsim Fastenings Systems	Yiwu Yongye Foreign Trading Co Ltd
Nanjing Yue Chang Hardware Co Ltd	Zhangjiagang Lianfeng Metals Products Co Ltd
Permastik Pty Ltd	Zhejiang Yiwu C New Industry
Powers Fasteners	Zuzhou CIP International Group Co Ltd

31. Customs data shows that over the period of investigation goods classified under Tariff Item and Statistical Key 7317.00.09 which originate in China may in some cases be exported to New Zealand from a third country. Any investigation may

need to identify, where those exports are the subject goods, the relevant manufacturer in China and establish whether the exporter that appears in the Customs data is a manufacturer or solely an exporter. Whether there are any intermediary sales in the supply chain between the original manufacturer in China and the exporter that shipped the subject goods to New Zealand, will also need to be established.

## Importers

32. The Customs' data shows that in the year to 30 September 2010 32 firms' imported goods classified under Tariff Item and Statistical Key 7317.00.09 which originated in China. The 47 firms are listed in alphabetical order in the following table.

**Table 3.3: Importers**

2 Boys Trading Ltd	Lina Yang
A & J Brasting Ltd	Lincoln Park Markets Limited
Allied Fastenings Ltd	Lok Lok Enterprises Limited
Amalgamated Hardware Merchants	Macsim Fastenings (NZ) Pty Limited
Asphalt Shingle Co Ltd	Maneline (NZ) Limited
Award Concepts Ltd	N.Z. Nail Industries Limited
B & C Fashion Limited	Paramount Merchandise Co Ltd
BBI Holdings Ltd	Powers Fasteners (NZ) Ltd
Charles Parsons NZ Ltd	QEP Co NZ Ltd
CMI Limited	Shanghai Zu Li Industrial Trading Company (NZ) Limited
Delta Tools	Spear & Jackson (New Zealand) Ltd
DTA New Zealand - Tile Accessories Limited T/A	Specialized Construction Products Ltd
Earlybird Imports Ltd	Stanley Tools NZ Ltd
Ecko Staples & Nails Ltd	Steel & Tube Holdings Limited
Euro Corporation Ltd	The Oceania Jade Company Ltd
Evergreen Company Ltd	The Pallet Company Ltd
Frankie & Johnnie Limited	The Warehouse Limited
Gallagher Group Ltd	Timbalok Fasteners (NZ) Limited
Gibson Peter Arthur	Uncle Bills (New Zealand) Ltd
Global Imports & Exports Ltd	Usha International Ltd
Hilti (New Zealand)	Warwick Fabrics Limited
International Machinery Co Limited	Wireco NZ Limited
ITW Construction Systems Group - ITW New Zealand Limited (A Division Of)	Yuzhong Metal Craft Limited
Kiwibranz Ltd	

## Selection of Exporters

33. Due to the number of exporters identified above, an investigation would need to restrict its analysis to a selection of exporters. Article 6.10 of the Agreement states that a sample may be limited to the largest percentage of the volume of exports that can reasonably be investigated. It is proposed that any investigation uses the selection shown in Table 3.4 below, which represents 93 percent of the volume of the subject goods exported to New Zealand from China for the year ended 30 September 2010. The companies are listed in alphabetical order.

**Table 3.4: Selection of Exporters/Suppliers**

Beijing Building Materials Import & Export Corp
Beijing Longtime Rich Tech Development
Femax Group Ltd
Nanjing Yue Chang Hardware Co Ltd
Shanghai Baonong Hardware Factory
Shanghai Puying Architecture Hardware Co Ltd
Shanxi Tianli Enterprise Co Ltd
Shanxi Tianli Industries Co Ltd
Siic Shanghai International Trade Group Co Ltd
Tianjin Lianjin Investment Co Ltd
Zhangjiagang Lianfeng Metals Products Co Ltd
Zuzhou CIP International Group Co Ltd

34. The firms importing from these exporters are listed in alphabetical order in Table 3.5 below.

**Table 3.5: Importers Supplied by Selected Exporters**

BBI Holdings Limited
Ecko Staples & Nails Ltd
Euro Corporation Limited
Gallagher Electronics Ltd
Global Imports & Exports Ltd
ITW Construction Systems Group - ITW New Zealand Limited (a division of)
Kiwibranz Ltd
N.Z. Nail Industries Limited
Steel & Tube Holdings Limited
The Pallet Company Ltd
Timbalok Fasteners (NZ) Limited

35. Questionnaires will also be sent to the importers in Table 3.5 above for information on the imported goods.

### 3.4 Imported Goods Description

36. The subject goods were defined in section 3.2 of this report as:

*“Wire nails, bright (plain) and galvanised (coated), of various lengths and diameter (other than collated or for collation)”*

37. Wireplus stated in the application that it did not import wire nails. Wireplus noted that bright and galvanised nails can be imported in bulk, for example, but not limited to 25kg boxes or in retail packs of various sizes. Wireplus said that there are a number of duty concessions which apply to nails, but none of which apply to the subject goods.

### 3.5 New Zealand Production of “Like Goods”

#### Wire Nails

38. Wireplus stated that it produces bright and galvanised nails for the New Zealand domestic market and that it has exported only a very small volume to the Pacific Islands. The bright and galvanised nails are manufactured from New Zealand sourced wire rod and produced in a range of different lengths, diameters and with a range of different head types. They are packaged for sale by weight in a range of different volumes and packaging.

39. Wireplus stated it also manufactures nails made of silicon bronze, aluminium and stainless steel.

#### Like Goods Analysis

40. Section 3 of the Act provides that like goods are goods that are either like the imported goods in all respects or have characteristics that closely resemble those goods. To determine whether the goods produced in New Zealand are like goods to the imported wire nails from China, the Ministry considers physical characteristics, function and usage, pricing structures, marketing and any other relevant considerations, with no one of these factors being necessarily determinative. The Ministry’s consideration of each of these factors is discussed below.

#### Physical Characteristics

41. Assessing the physical characteristics involves looking at the appearance, size and dimensions, composition of the product and the production methods and technology utilised to create it.

#### Appearance

42. Wireplus stated that locally manufactured galvanised nails will after a short duration, become quite dull in their galvanising appearance when compared to imported galvanised nails which tend to hold their shiny appearance and therefore look visually superior. Wireplus says that its galvanised nails look duller than the

imports because of their thicker zinc and silicon coating gained in the 'Hot Dip' galvanising process.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

43. Wireplus also manufacture silicon bronze, aluminium, and stainless steel nails. No information was provided about any differences in their appearance.

### **Size and Dimensions**

44. Wireplus manufactures wire nails used in a number of different applications. They are packaged for sale in 25 kilogram wooden boxes, 5 kilogram plastic buckets, 1 kilogram plastic buckets and 500 gram plastic bags. Wireplus stated that the pack sizes are similar to the imported nails except for the imported 500 gram pack which is presented in a blister pack or other type of packaging.

45. Wireplus stated that the nails it manufactures range in length from 19mm to 150mm and in diameter from 2mm to 6mm. The nails are manufactured with various types of head. Wireplus' range of nails are available in the following types:

Galvanised Jolt Head

Bright Jolt Head

Galvanised Flat Head

Bright Flat Head

Galvanised Clouts

Stainless Steel Flat Head

Stainless Steel Rose Head

Stainless Steel Jolt Head

Stainless Steel Product Nail

Bracket Nail Flat Head Galvanised

Black Coated Flat Head

Sureseal Galvanised

Panel Pins Zinc Plated

Gold Passivated Annular Grooved

Spring Heads Plain-Twisted

Hardiplank Nails

Hardiflex Nails

Annular-Grooved Decking Nail

Twisted Nails (Bright or Galvanised)

46. No information has been provided about the size and dimensions of the imported nails from China other than to say that they compete directly with the bright and galvanised nails produced by Wireplus. The tariff item under which the subject goods are imported does not distinguish the size or dimensions of the imports.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

47. Wireplus stated the information about the size and dimensions of all the nails they produce are on its website and provided a list of its nail sub-categories. The size and dimensions of these nails are within the parameters specified in paragraph 45 above.

### **Composition of Product and Production Method**

48. Wireplus said that the nails are manufactured by drawing the wire from steel rod (locally manufactured by Pacific Steel). Wireplus said that the nails produced are similar to the imported product. Wireplus makes bright and galvanised nails for the building and contracting industries. Galvanised nails are produced using the 'hot dip' method by coating bright nails with zinc to the quality of the Australian/New Zealand Standard (AS/NZ 4680:2006). This galvanising process is out-sourced to another company in the Auckland area (Galvanizing Services Limited).

49. Wireplus's nails are galvanised by spinning in a centrifuge. Wireplus said that there is a minimum amount of zinc needed to coat the nails, but the minimum is hard to achieve as the "cooking" time means that full coverage inevitably gives more than the minimum coating (40 plus microns unless done in a high temperature kettle). (Wireplus said that the Chinese imports are not done this way.) Wireplus said that small nails pick up far more zinc than large nails because of the surface area and clumping in the basket used to hold the nails, which restricts the movement of free zinc. An average coating mass of 250gms per metre squared is applied to items of 8mm or less that are centrifuged. Wireplus said that the coating mass is double the standard requirement in order to safeguard the galvanising company from any problems.

50. Wireplus said that a lot of overseas manufacturers have their nails galvanised by what is commonly referred to as a 'mechanically galvanised' process, a far cheaper but inferior galvanising method, however, Wireplus did not specifically state that China is using this method.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

51. No information was provided about the method of manufacture. The raw material composition, however, is different to the subject goods and Wireplus confirmed that the raw material used to manufacture these nails was several times more expensive than that of the subject goods.



## Function and Usage

52. Function and usage covers consumer perceptions, and expectations, and end use, which can assist in reaching conclusions regarding substitutability where relevant.
53. Wireplus said that wire nails are manufactured for the building construction and contracting industries and distributed through selected merchants. Wireplus explained a number of commonly used terms for various types of nails. Some of these were 'finishing nails' which contain more steel for strength and have annular grooves and are used in external applications such as decks etc.; 'framing nails' are used in internal applications, and are generally not visible, and 'product nails' is a generic term and consists mainly of galvanised nails.
54. Wireplus said that the wire nails it manufactures have the same function and end use application as the imported nails.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

55. When asked about the other nails that it manufactures, Wireplus said that they were specialist nails used in specific circumstances. For example silicon bronze nails are used in some decking. The Ministry notes that these types of nails can be used in most applications where the subject goods are used, but are not normally. Wireplus said that generally they were not even considered as an option, so they were rarely used when bright or galvanised nails could be used instead, unless they had been specified by the customer.

## Pricing Structures

56. Some goods are differentiated by the level at which they are priced to end users, by the costs that are built into the pricing structure, or the way in which prices are set.
57. Wireplus said that the wire nails it manufactures compete at the same price points as the imported nails. Wireplus did not provide specific price point comparisons of nails in the New Zealand market, but did provide average prices of bright and galvanised nails at the average ex-factory level of trade versus the ex-importer store level of trade. This information indicated that the imported nails were selling on average at lower prices (galvanised nails at **xxxx** percent, and bright nails at **xxxx** percent) than those sold by Wireplus.
58. Wireplus said that it has not been able to compete on price with the imported nails from China. Wireplus said that it purchases the steel from which it makes its nails on a fluid steel commodity market, as do the Chinese producers, but it cannot compete on galvanising costs even though the base material for galvanising is zinc which is also sold on commodity markets. Wireplus said it could be competitive on packaging costs, but it was constrained by the non-differentiation of pack size costs, particularly in the trade reseller distribution channels. Wireplus said it believed that the higher labour costs associated with the smaller pack sizes is not being recovered or reflected in the Chinese (nail)

prices. It also said that Chinese prices do not reflect the extent of the overheads which Wireplus incurs in higher energy costs, occupational health and safety (OSH) requirements and environmental costs.

59. The Ministry notes that the value of the New Zealand dollar against the USD has recently increased, reducing the price of the subject goods in New Zealand dollars, which may make import prices even more competitive.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

60. Wireplus stated that the cost to manufacture silicon bronze nails is between NZDxxxx to NZDxxxx per kilogram and stainless steel nails cost a similar amount to make. These costs are several times more than the average cost to make bright and galvanised wire nails and this is reflected in their different pricing structure in the market compared to bright and galvanised nails.

## **Marketing**

61. Marketing considerations include: the distribution channels used; customers (both actual and targeted); branding and advertising.

62. Wireplus said that the nail market in New Zealand consists of collated nails (used in nail guns) and non-collated nails. It said that no nails are collated in New Zealand. It said that the market demand for nails fluctuates with economic activity and that the market size in 2009 was 20 percent lower than 2008 due to the economic downturn. It estimated that of the non-collated nail market, 72 percent is represented by galvanised nails with the balance being bright nails.

63. Wireplus said that the distribution channels, customers and means of advertising are similar for the New Zealand produced nails as for the imported nails. Wireplus said that the majority of the imported nails are sold to retailers and trade resellers and to 'Business to Business' customers. Wireplus said that it markets nails for the building and contracting industries through selected merchants. It did not comment on branding or advertising.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

64. Wireplus said that the other nails it manufactures belong to a small specialised market niche and only account in total for between xxxx and xxxx percent of its production. There is no special marketing in place for them but they are considered to be a high quality product and their high cost of manufacture puts these nails into a different pricing structure and segment of the market to galvanised and bright nails.

## **Customers and Distribution Channels**

65. Wireplus said that distribution channels, customers and means of advertising for the New Zealand produced nails are similar to the imported nails from China. The majority of the imported nails are sold to retailers/trade resellers (PlaceMakers, ITM, Carters, Bunnings, Mitre 10 and Buildlink) and to business customers such as pallet manufacturers.

66. Wireplus said that there had been significant structural change in the New Zealand market in the past 2 to 3 years such that virtually all nails are now sold by trade resellers and retailers, which in many instances deliver directly to customers. Wireplus said that the companies named above (paragraph 65) are strongly focused on 'trade supply' and have been very aggressive in the market in this regard. Traditionally Wireplus sold to builders and building groups directly but now the trade resellers are offering total service packages to these customers and forcing manufacturers to use this route to market. Wireplus said that many of the trade resellers also have pre-nailing departments which supply framing to builders. Wireplus estimated that the trade resellers hold **xxxx** percent of the market for nails packaged in various configurations, although they specifically demand smaller pack sizes.
67. Wireplus said that PlaceMakers, Bunnings and Carters have centralised buying functions and put requests for proposals to the market (RFP's) periodically. It said that these companies usually go to the market when they know they can get a product more cheaply than from their existing supplier. It said that ITM and Buildlink are 'buying groups'. This is where a buyer gets signed up as a preferred supplier and then must call on all stores and sell to the owner operator who may or may not then purchase a product. It said that PlaceMakers, in some instances, also operates like this.
68. Wireplus said that it has not been able to compete on price. As a consequence it has been excluded from most of the retail market and has been forced to focus on the smaller market segment of 'business to business' such as to pallet manufacturers. This is a higher value market segment which enables Wireplus to maintain margins but volumes have been dramatically declining. Wireplus said that this market segment is of higher value because it requires better quality nails and New Zealand nails are of better quality than the Chinese imports.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

69. The distribution channels for silicon bronze, aluminium and stainless steel nails are the same as for other nails. The customers could be the same but these nails are usually used in specific circumstances for a high quality finish that has been specified for the job.

## **Other**

### ***Tariff Classification***

70. Wireplus stated that the wire nails it produces, if they were imported into New Zealand, would be classified under the same Tariff Item and Statistical key in the New Zealand Customs' Tariff (Tariff Item 7313.00.09.09D) as the subject goods.
71. Wireplus also manufactures a range of other nails, e.g. nails of stainless steel, aluminium and silicon bronze, and has stated that the application does not cover those goods. Wireplus indicated that its production volume of these other nails is very small. These other types appear to fall under the same tariff item and statistical key as bright and galvanised nails. The Ministry notes that there is a

tariff concession for stainless steel nails that is of long standing and was therefore probably in place before Wireplus commenced manufacturing these nails.

72. There may be other manufacturers of these 'other' types of nails in New Zealand, and it will be considered as part of any investigation whether or not these goods should be treated as like goods.

### **Conclusion Relating to Like Goods**

73. Wireplus has provided information regarding the subject goods and compared the characteristics of the subject goods with those domestically produced. The Ministry has considered the physical characteristics, function and usage, pricing, marketing and tariff classification.

74. The subject goods and the domestically produced goods are similar in appearance, although for the galvanised nails there may be some colour variation depending on the thickness of the zinc protective layer as a result of differences in the galvanising process. The subject goods are sold in mostly the same package weights as the domestically produced goods. The sizes and dimensions of the subject goods have not been specified but compete directly and are likely to be similar to the domestically manufactured goods. The function and usage of the subject goods and domestically produced goods are the same as they have the same applications are used in the same situations. The nails are made to compete at the same price points in the market.

75. The physical characteristics of the subject goods and the domestically produced nails are similar, but galvanised wire nails may differ in some respects in the production process in the amount of zinc applied resulting in a longer life nail. However, overall the Ministry does not consider that these differences are significant enough to outweigh the numerous attributes which are the same or similar between the imported and domestically produced wire nails.

76. The Ministry concludes that there is sufficient evidence for the purposes of initiation that the galvanised and bright wire nails produced by Wireplus, while not like in all respects, have characteristics that closely resemble the imported wire nails and are therefore like goods to the subject goods.

### ***Silicon Bronze, Aluminium, and Stainless Steel Nails***

77. A small percentage of Wireplus' production volume is of silicon bronze, aluminium and stainless steel nails, but these nails although similar in a number of respects as outlined above, are made of different raw materials; are considerably more expensive to produce; are in a different price bracket; are used in specific applications and are rarely substituted for the subject goods. The information available indicates that they do not compete with the subject goods and sales of the like goods do not impact on their sales.

78. On the information available, the Ministry concludes that silicon bronze, aluminium and stainless steel nails are not like goods to the subject goods.

### **3.6 New Zealand Industry**

79. The requirements of section 10 of the Act must be met before an investigation can be initiated. This includes a requirement that an application is supported by New Zealand manufacturers representing at least 25 per cent of the production of like goods. In addition at least half of the New Zealand manufacturers (by production volume) that have provided written support for or opposition to the application must be in support of the application.
80. The application was submitted by Wireplus and it said that it knows of only one other domestic producer of like goods to the subject goods, Arrowndail Industries Ltd. The Ministry has not been able to identify any other producers of bright and galvanised nails other than Arrowndail Industries Ltd.
81. Wireplus stated that Arrowndail supports the application and Arrowndail has provided some information to Wireplus on its production. The figures indicate that Wireplus on its own meets the 'standing' criteria required under section 10(3) of the Act.



## 4. Evidence of Dumping

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82. Section 10 of the Act outlines the evidence of dumping which is required in a properly documented application for an investigation. The Ministry uses sections 4 and 5 of the Act, which set out in detail the export price and normal value information that must be examined in an investigation to establish if dumping exists, as guidance to determine whether sufficient evidence of dumping has been provided in terms of section 10.

### 4.1 Export Prices

83. Wireplus provided a range of export price information. Wireplus provided information from Statistics New Zealand relating to average and estimated export prices. These export prices were calculated using average value for duty (VFD) statistics and from New Zealand market selling prices taken back to ex-factory prices in China by making relevant adjustments to derive the estimated export prices. Wireplus said it was not able to obtain actual commercial invoices relating to imported wire nails. Wireplus also provided constructed export prices, and gave examples of recent prices 'obtained through regular market intelligence'.

84. The following paragraphs describe the average and estimated export prices and the relevant adjustments made.

#### Export Price Information from Statistics New Zealand

85. Based on information Wireplus obtained from Statistics New Zealand, it calculated the average VFD per kilogram for wire nail imports for the period January to December 2009, and from January to July 2010. An adjustment was made for a deduction of 1 percent of the VFD for the cost of freight from the factory to the Chinese port. The amount deducted for freight was Wireplus' estimate and it noted that it had not made a deduction for a buyer's commission as this may not be part of the VFD amount. The information provided is set out in the following table.

**Table 4.1: Export Prices: Average Import Values - VFD per Kilogram**

	<b>Jan to Dec 2009</b>	<b>Jan to Jul 2010</b>
Quantity Kg (China)	2,055,626	1,628,306
VFD	4,717,724	3,330,170
VFD/Kg	2.30	2.05
Convert @ Exchange Rate NZD:RMB (4.31,4.81)	9.91	9.86
Less Freight (1%)	0.10	0.10
<b>Ex-factory RMB/Kg</b>	<b>9.81</b>	<b>9.76</b>
<b>Ex-factory NZD/Kg</b>	<b>2.28</b>	<b>2.03</b>

Source: Statistics New Zealand, Customs Exchange Rates (average calendar year 2009, and January to July 2010).

## Export Price from Retail Prices

86. Wireplus also constructed export prices by working back to an ex-factory export price from the price at the first point of resale in New Zealand. Wireplus used as a starting point retail prices as at August 2010 from PlaceMakers, Carters and Mitre 10 Mega as reproduced in the following table.

**Table 4.2: Retail Prices for Wire Nails (GST Inclusive)**

Size	Bright		Galvanised		Galvanised	
	5Kg	per Kg	5Kg	per Kg	15 Kg	per Kg
100 x 4.00	22.95	4.59	31.29	6.26	89.89	5.99
90 x 3.50	22.95	4.59	31.29	6.26		
75 x 3.15	22.95	4.59	31.29	6.26	89.89	5.99

Source: Store Visits

87. The Ministry notes that the examples of retail prices indicate that the retail outlets (at least in the larger stores) compete with each other on at least some of the range of bright and galvanised nails at specific price points and keep abreast of competitors pricing.

88. Wireplus has used the retail prices from Table 4.2 above as base prices and estimated ex-factory export prices by deducting the following amounts as set out below.

**Table 4.3: Export Prices: Estimated from Retail Prices in New Zealand**

	Galvanised (NZD per Kg)	Bright (NZD per Kg)
<b>Price at first point of resale in New Zealand (Aug 2010)</b>	5.99	4.59
<b>Less (as applicable):</b>		
GST on retail price (12.5%)	0.67	0.51
Retailer's margin (XXXX%)	XXXX	XXXX
Retailers rebate (XXXX%)	XXXX	XXXX
<b>Estimated Cost into Retailers Store</b>	<b>XXXX</b>	<b>XXXX</b>
<b>Less (as applicable):</b>		
Cartage to retailer's store	XXXX	XXXX
Importer's margin (XXXX%)	XXXX	XXXX
Cartage to importer's store ex-wharf	XXXX	XXXX
Import duty (2.8%)	XXXX	XXXX
Overseas freight	XXXX	XXXX
<b>Estimated FOB Price in Country of Origin</b>	<b>XXXX</b>	<b>XXXX</b>
<b>Less (as applicable):</b>		
Agent's brokers margin (if applicable) }		
Wharfage/handling costs } (1%)	XXXX	XXXX
Cartage from factory to wharf }		



Estimated ex-factory Price in Country of Origin/Export (Deductive Export Price)	XXXX	XXXX
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## **Adjustments**

### *GST on Retail Price*

89. The amount of Goods and Services Tax (GST) for August 2010 is 12.5 percent of the retail price. (The subsequent increase of New Zealand GST to 15 percent did not occur until 1 October 2010).

### *Retailer's Margin*

90. Wireplus estimated a retailer's margin of **XXXX** percent of the selling price. Wireplus said that this rate is an average based on Wireplus' experience of sales in the building industry. The Ministry considers that Wireplus' estimate is reasonable with regard to the Ministry's knowledge of margins in respect of other goods.

### *Retailer's Rebate*

91. Wireplus estimated a retailers' rebate of **XXXX** percent on the average selling price. Wireplus said that this rate is based on Wireplus' experience of sales in the New Zealand market. The Ministry considers that Wireplus' estimate is reasonable with regard to the Ministry's knowledge of margins in respect of other goods.

### *Cartage from Importer's to Retailer's Store*

92. Wireplus provided for the cost of cartage from the importer's store to the retailer's store on the basis of weight in the amount of **XXXX** cents per kilogram. This equates to between **XXXX** and **XXXX** percent of the FOB price of the goods. Wireplus said that this rate is based on Wireplus' experience of freighting goods around the Auckland area. The Ministry considers that Wireplus's estimate is reasonable with regard to the Ministry's knowledge of margins in respect of other goods.

### *Importers' Margin*

93. Wireplus estimated an importer's margin of **XXXX** percent of the costs incurred in importing the goods. (The margin was calculated on the sum of the FOB price, overseas freight, import duty, and cartage to importers store). Wireplus said that this amount was based on its knowledge of the costs in the building industry and the activities of other companies in the Group of companies (of which it is one). The Ministry considers that Wireplus' estimate is reasonable with regard to the Ministry's knowledge of margins in respect of other goods.

### *Import Duty*

94. Wireplus has made an adjustment for import duty of 2.8 percent of the estimated VFD price of the goods which is the Customs' tariff applying in August 2010 to goods under this tariff item imported from China.

### *Overseas Freight*

95. Wireplus made an adjustment for overseas freight costs of NZDxxxx per kilogram of the FOB price. No explanation was provided to support this amount.

96. From the Customs data the Ministry calculated the average cost of overseas freight and insurance for the tariff item for the year to September 2010 which was NZDxxxx per kilogram. The Ministry considers that Wireplus' estimate is reasonable compared to the average cost of freighting similar goods during the period.

### *Country of Export Costs*

97. Wireplus made a combined adjustment of 1 percent of the FOB selling price for an export agent or brokers margin, wharfage and handling costs and cartage from the factory to the wharf. Wireplus said that this was an estimate of the costs. The Ministry does not have any additional information regarding these costs in relation to wire nails, but this amount appears to be too low. (In the Ministry's experience a margin of xxxx percent on the FOB price for an agent/broker not including wharfage, handling and cartage taken into account, is more realistic). The Ministry considers that Wireplus's estimate appears to be very understated, but a higher rate used would only increase the amount of dumping found.

### **Other Export Prices**

98. Wireplus also stated that it had obtained **[Text deleted due to confidentiality]** (in July 2010) other quoted prices for galvanised nails from a mid-tier Chinese supplier of USDxxxx per tonne which equated to an FOB price of NZDxxxx or NZDxxxx per kg (at an exchange rate USD:NZD of 0.70), and for bright nails of USDxxxx per tonne (FOB NZDxxxx per tonne, or NZDxxxx per kg).

99. The circumstances in which these quotes were obtained **[Text deleted due to confidentiality]** and the actual dates or quantities to which the quotes relate have not been provided. The Ministry notes that the prices are very low compared to the August 2010 prices provided by Wireplus. The Ministry considers that the information provided is not sufficiently reliable and so has not used it in its consideration of dumping margins.

### **Export Price Calculation**

100. The resulting export prices are set out in Table 4.4 below.

**Table 4.4: Export Prices**

	Average Import VFD		Galvanised		Bright	
	RMB/Kg	NZD/Kg	RMB/Kg	NZD/Kg	RMB/Kg	NZD/Kg
January to December 2009	9.81	2.28	-	-	-	-
January to July 2010	9.76	2.03	-	-	-	-
Deductive Export Price - August 2010 Retail Prices			XXXX	XXXX	XXXX	XXXX

\* The exchange rate used by Wireplus for the August 2010 figures is NZD:RMB 4.81. (The Ministry notes that the average exchange rate for the month of August was 4.82, which is sufficiently close to that used.)

## 4.2 Normal Values

101. Wireplus said it commissioned independent research in October 2008 on Chinese domestic prices of wire nails. Information was gathered from large outlets in the Beijing road “metal market” in Shanghai. Wireplus said that the metal market was made up of “vast street/streets packed with outlets selling products such as fasteners, steel, wire and other related building products”. It was noted that galvanised nails were not prevalent. Wireplus said that the outlets visited were wholesale outlets and gave the example of an outlet being able to quote a price for 25 kilogram packs of nails. The information was collected in a piecemeal fashion and collated in a Table. Wireplus provided a copy of the business cards referred to in Table 4.5 below.

102. The price information gathered in the manner outlined above was provided by Wireplus.

**Table 4.5: Summary of Prices Obtained in Shanghai**

Source of Prices: Business Card References	Nails - Inches (“) 25 Kg Packs	RMB/Kg
XXXX	4”, 3.5”, 3” (Bright nails) 2.5” (Bright nails)	11.5/kg 12.6/kg
XXXX	Bright nails *Galvanised nails	8.5/kg + 30%
XXXX	Bright nails *Galvanised nails	5/kg + 2 or 3 RMB
XXXX	Bright nails	5.5/kg
XXXX	2.5” (Bright nails) 4” (Bright nails)	10/kg 12/kg
XXXX	2.5” (Bright nails) 3”, 4” (Bright nails) *Galvanised nails	13/kg 11-12/kg + 30%
XXXX	Bright nails Galvanised nails	11/kg 12/kg
XXXX	Bright nails	11/kg
XXXX	Galvanised nails	16.92/kg

\* Where indicated the price for galvanised nails is increased by the amount stated for bright nails.

103. Wireplus said that some of the above prices were subsequently updated in November 2009, but only in a general way to the effect that a standard price of 10 RMB per kilogram was being offered for bright nails and an additional 2 RMB per kilogram offered for galvanised nails. No other information was provided. Wireplus said that it used the updated prices for the comparison with the export prices.

104. In the absence of any other information the Ministry considered the reasonableness of Wireplus' updated normal values by comparing them with the average of the prices (10.71 RMB per kilogram for bright and 13.82 RMB per kilogram for galvanised nails) collected in Table 4.5. The average price for the bright and the galvanised nails above was in each case higher than the updated prices of 10 and 12 RMB per kilogram. The Ministry considers that the updated prices are conservative and therefore reasonable as the dumping margins would have been greater had the higher average normal values been used.

#### *Value Added Tax*

105. Wireplus noted that there is a value added tax (VAT) of 17 percent on the domestic sale of goods in China which should be taken into account in any calculations of normal value. On export sales the VAT is refunded at a rate of 13 percent. To remove the tax component from the comparison, any VAT from the normal value has been removed, and then an adjustment has been made to the normal value by increasing it by 4 percent of the relevant FOB export price used in the comparison with the normal value.

#### *Wholesalers Margin*

106. Wireplus provided a margin for a wholesaler on the Chinese market of **xxxx** percent of the selling price. The Ministry considers that Wireplus' estimate is reasonable with regard to the Ministry's knowledge of margins in respect of other goods.

#### *Inland Freight*

107. Wireplus has provided an estimate of one percent of the selling price for the cost of transport from the factory to the customer. This cost appears to be reasonable compared with information that it holds on other goods for the cost of transport.

### **Normal Value Calculations**

108. Wireplus presented several different calculations of normal values. The following were calculated from the selling prices selected from Table 4.5 above.

**Table 4.6: Normal Value based on Domestic Selling Prices**

	<b>Galvanised Nails RMB/Kg</b>	<b>Bright Nails RMB/Kg</b>
Prices at first point of resale in country of Export (wholesale)	12.00	10.00
Less VAT (17%)	1.75	1.45

	<b>XXXX</b>	<b>XXXX</b>
Less Wholesalers Margin ( <b>XXXX%</b> )	<b>XXXX</b>	<b>XXXX</b>
Estimated Inland freight from Factory to Customer (1%)	<b>XXXX</b>	<b>XXXX</b>
Estimated Ex-factory Normal Value	<b>XXXX</b>	<b>XXXX</b>
Plus VAT Price Effect (4 % of FOB)	<b>XXXX</b>	<b>XXXX</b>
<b>Normal Value</b>	<b>XXXX</b>	<b>XXXX</b>

109. Wireplus also provided an alternative method of establishing the normal value by constructing a value in China based on the cost of production, plus reasonable amounts that would have been incurred on the domestic sale in China for administrative, selling and general expenses and for profit. Wireplus said that the cost of production figures provided were for the 6 months to June 2010. Wireplus said the price constructed in the Application (reproduced here as Table 4.7) was based on its knowledge of the nail industry and international commodity prices.

**Table 4 .7: Constructed Normal Value for Galvanised and Bright Nails**

	Galvanised		Bright	
	NZD/tonne	NZD/Kg	NZD/tonne	NZD/Kg
Cost of Production				
- Wire <sup>1</sup>	<b>XXXX</b>		<b>XXXX</b>	
- Labour ( <b>XXXX%</b> of NZ)	<b>XXXX</b>		<b>XXXX</b>	
- Packaging	<b>XXXX</b>		<b>XXXX</b>	
- Galvanising ( <b>XXXX%</b> of NZ or less)	<b>XXXX</b>		<b>XXXX</b>	
	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>
Selling and Admin Costs ( <b>XXXX%</b> )		<b>XXXX</b>		<b>XXXX</b>
Profit Margin ( <b>XXXX%</b> )		<b>XXXX</b>		<b>XXXX</b>
Estimated Ex-factory Normal Value		<b>XXXX</b>		<b>XXXX</b>
Convert @ Exchange Rate of 4.81 <sup>2</sup>				
<b>Estimated Ex-factory Normal Value (RMB)</b>		<b>XXXX</b>		<b>XXXX</b>

<sup>1</sup> Wireplus said that this is from Pacific Steel's published price list which moves fairly well in line with international trends.

<sup>2</sup> Average Customs exchange rate for YTD July 2010.

110. The Ministry considered whether the assessment of the rate of Chinese labour costs was reasonable by comparing the "Gross Domestic Product (GDP) per person employed" for China and New Zealand.<sup>3</sup> The ratio between the GDP of China and New Zealand for 2008 was 29 percent which indicates that the amount estimated by Wireplus is reasonable. Wireplus also said that the major difference in the cost of galvanising in China compared to New Zealand is also the cost of

<sup>3</sup> The data for "GDP per person employed" was reproduced by the World Bank from the International Labour Organisation, Key Indicators of the Labour Market database. (The "GDP per person employed" is GDP divided by total employment in the economy")

labour, as zinc (the main raw material used in the galvanising process) can be sourced at world prices.

111. The Ministry notes that the reasonableness of the adjustment for galvanising ([Text deleted due to confidentiality] percent) depends on what proportion of the galvanising cost is represented by labour. On the basis of the difference in the labour costs between New Zealand and China, an adjustment of **xxxx** percent would mean nearly all the cost of galvanising is labour, which is unlikely. However, a refinement of the adjustment for the proportion of the galvanising cost represented by labour would only increase the galvanising cost and hence the dumping margin. The Ministry therefore considers the adjustment for galvanising costs is reasonable for initiation purposes. The Ministry notes that the production costs used by Wireplus are for the 6 months to June 2010, which is sufficiently similar to the date of the export prices provided for a fair comparison to be made.

112. The normal values are compared to the export prices in Table 4.8 below.

### 4.3 Comparison of Export Price and Normal Value

113. The following table compares the export prices and normal values calculated in the sections 4.1 and 4.2 above.

**Table 4.8: Dumping Margins**

	Export Price RMB/Kg	Normal Value RMB/Kg (Selling Prices Oct 2008 to Nov 2009)	Dumping Margin as % of Export Price
Average Import VFD - January to December 2009	9.81	7.65 - 9.18	Not Dumped
Average Import VFD - January to July 2010	9.76	7.65 – 9.18	Not Dumped
<b>Galvanised Nails</b>		<b>Normal Value – Constructed Price (6 months to June 2010)</b>	
Deductive Export Price - August 2010 Retail Prices	<b>xxxx</b>	<b>xxxx</b>	17 %
<b>Bright Nails</b>			
Deductive Export Price - August 2010 Retail Prices	<b>xxxx</b>	<b>xxxx</b>	25 %

\* The exchange rate Wireplus used for August 2010 is NZD/RMB 4.81. (The Ministry notes that the average exchange rate for the month of August 2010 was 4.82.)

### 4.4 Conclusion

114. Wireplus has provided evidence of estimated export prices and normal values based on information that was reasonably available. The Ministry considers that the exchange rates, the export price and normal value information and relevant assumptions and adjustments, have been made on a reasonable basis.

115. Based on the information contained in the application and obtained by the Ministry, the Ministry concludes that there is sufficient evidence for the purpose of initiating an investigation that wire nails from China have been exported to New Zealand at dumped prices, with dumping margins ranging from not dumped to 25 percent.

## 4.5 Import Volumes

116. Under Paragraph 8 of Article 5 of the Agreement if the subject goods represent less than 3 percent of the total imports of wire nails into New Zealand then that volume shall normally be regarded as negligible and if held to be negligible an investigation cannot be initiated. This is reflected in sub-section 11(2) of the Act. When considering the volume of imports, the Ministry normally uses the proposed period of investigation to assess whether the import volumes are negligible.<sup>4</sup>

117. Wireplus obtained import statistics from Statistics New Zealand for the year ended December 2009 which indicated that 97 percent of imports under the relevant tariff item and statistical key were from China. The other countries from which imports were sourced were Australia, Taiwan and Korea. Wireplus also provided the following information on imports.

**Table 4.9: Import Volumes of Wire Nails (Year to 31 July 2010)**

	<b>Kilograms</b>	<b>% of Total</b>
Allegedly Dumped Goods (China)	1,628,306	96 %
Imports from Other Countries	61,068	3%
Total Imports	1,689,374	100 %
Allegedly Dumped Goods as % of Total Imports		96%

118. The Ministry also examined import volumes from the Customs' data for the period for the year to September 2010. Imports from China over this period were also 96 percent of total imports. The Ministry considers that the estimated import volumes from China are greater than 3 percent of the estimated total imports of wire nails.

## Conclusion on Import Volumes

119. Based on the information available, the import volumes of subject goods from China are not negligible.

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<sup>4</sup> Recommendation adopted by the World Trade Organisation Committee on Anti-Dumping Practices on 27 November 2002 (G/ADP/10).





## 5. Material Injury

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### 5.1 Introduction

120. Section 10 of the Act specifies the evidence of material injury that must be provided in a properly documented application before an investigation may be initiated. Material injury is considered for the industry as a whole or, in the absence of information from all domestic producers, in relation to those producers that constitute a major proportion of the New Zealand industry, regardless of whether an application has been supported by all producers.
121. Section 8 of the Act sets out in detail the matters that must be examined in any investigation to establish if material injury exists. In determining whether the evidence provided by Wireplus is sufficient in terms of section 10 the Ministry therefore takes guidance from the provisions of section 8 of the Act.
122. An application can be made on the basis of either current material injury or the threat of material injury. When no current material injury is found the Ministry assesses the extent to which a threat of material injury may exist using the guidelines in paragraph 7 of Article 3 of the Agreement. The Agreement states that a threat of material injury has to be clearly foreseen and imminent, and not be based on mere allegation, conjecture or remote possibility.
123. Material injury is assessed by comparing data for an injury factor against the data in a period unaffected by dumping. Wireplus stated that injury commenced in 2007 and therefore the latest period unaffected by alleged dumping is its 2006 financial year.
124. The period used to assess injury caused by the subject goods is from 1 January 2006 to 30 June 2010 (injury period). Wireplus provided financial information for years ended 31 December 2006, 2007, 2008 and 2009. Wireplus also provided financial information for the 6 months ending 30 June 2010.
125. The Ministry does not have any injury information relating to Arrownail. As noted in paragraph 81, Wireplus on its own is considered to meet the 'standing' requirement of section 10(3) of the Act. Section 10(1) of the Act, however, also requires that there must be sufficient evidence of material injury to an 'industry' caused by dumped imports. 'Industry' is defined in section 3A of the Act to mean either the New Zealand producers of like goods or such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods.
126. Information provided by Arrownail on its production indicates that Wireplus represents approximately **xxxx** percent of the New Zealand production of like goods. The Ministry is satisfied that Wireplus' production of like goods represents a 'major proportion' of the total New Zealand production of like goods in terms of section 3A of the Act and can therefore be considered to constitute the New Zealand industry for the purpose of considering whether there is sufficient evidence of material injury caused by dumped imports to warrant initiation of an investigation. Any investigation will however need to establish to the extent

possible the injury caused by subject goods to both Wireplus and Arrow nail during the injury period.

## 5.2 Import Volume Effects

127. Sub-section 8(2) of the Act directs that consideration shall be given to increases in import volumes either in absolute terms or relative to the volumes manufactured and consumed in New Zealand.

128. Import volumes of the subject goods have been estimated based on imports under Tariff Item and Statistical Key 7317.00.09.09D, which also includes goods other than those subject to the application. Any investigation will need to establish to the extent possible the actual import volumes of the subject goods over the injury period. New Zealand industry sales volumes include both Wireplus' and Arrow nail's sales volumes based on the information provided in the application for the investigation.

129. The following table provides information relating to import volume effects.

**Table 5.1: Import Volumes (Kilograms)**

	2006	2007	2008	2009	Jun-10
Imports from China	1,102,585	3,099,906	2,549,176	2,055,626	1,628,306
Other Imports	324,187	279,489	130,910	63,563	61,068
Total Imports	1,426,772	3,379,395	2,680,086	2,119,189	1,689,374
NZ Industry Sales	XXXX	XXXX	XXXX	XXXX	XXXX
NZ Market	XXXX	XXXX	XXXX	XXXX	XXXX
<i>As % of Consumption</i>					
Imports from China	XXXX	XXXX	XXXX	XXXX	XXXX
Other Imports	XXXX	XXXX	XXXX	XXXX	XXXX
NZ Industry Sales	XXXX	XXXX	XXXX	XXXX	XXXX
<i>As % of Industry Sales</i>					
Imports from China	XXXX	XXXX	XXXX	XXXX	XXXX
Other Imports	XXXX	XXXX	XXXX	XXXX	XXXX
<i>Change on Previous Year</i>					
Imports from China		1,997,321	- 550,730	- 493,550	
Other Imports		- 44,698	- 148,579	- 67,347	
Total Imports		1,952,623	- 699,309	- 560,897	
NZ Industry Sales		XXXX	XXXX	XXXX	
NZ Market		XXXX	XXXX	XXXX	
<i>% Change</i>					

Imports from China		181%	- 18%	- 19%	
Other Imports		- 14%	- 53%	- 51%	
Total Imports		137%	- 21%	- 21%	
NZ Industry Sales		<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	
NZ Market		<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	

130. Table 5.1 shows that import volumes from China increased significantly in absolute terms in 2007, but decreased in 2008 and 2009. The reduction of imports from China in 2008 and 2009 is likely to be due to the contraction in the market during this period which Wireplus submitted was due to the global financial crisis. If the import volumes from China continue at the same rate as recorded for the first 6 months of 2010, import volumes for the full year of 2010 would surpass import volumes in any of the years since 2006.

131. Imports from China increased significantly (by **XXXX** percentage points) relative to the New Zealand industry's sales from 2006 to June 2010. Imports from China increased by **XXXX** percent points relative to New Zealand consumption from 2006 to June 2010.

### Conclusion on Import Volume Effects

132. On the basis of the import volumes estimated in Table 5.1, there is evidence that import volumes of the subject goods increased significantly in absolute terms in 2007 and then decreased in 2008 and 2009. Based on the amount of imports in the first 6 months of 2010, it appears that import volumes for 2010 are likely to surpass import volumes in any of the years since 2006. Relative to consumption and production in New Zealand, there is evidence that the import volumes of the subject goods increased significantly from 2006 to June 2010.

## 5.3 Price Effects

133. Sub-section 8(2) of the Act sets out several price effects that need to be considered when assessing material injury. These are price undercutting, price suppression and price depression. Each of these is set out below.

### Price Undercutting

134. Price undercutting refers to the extent to which the prices of the dumped goods represent significant price undercutting in relation to prices in New Zealand for like goods of New Zealand producers. Prices are compared at the point that the imported goods first compete with the goods made in New Zealand (referred to as the level of trade). The level of trade is determined for each importer and therefore prices from several importers may be considered at different points in the supply chain.

135. Wireplus considers the first point of resale in New Zealand of imported wire nails from China is at the importer's ex-store level of trade.

## Importer's Prices

136. Wireplus provided information which enabled the Ministry to estimate importer's selling prices using two separate methods.

### ***Constructed Importer's Prices Based on Import Data***

137. Wireplus provided import statistics for Tariff Item and Statistical Key 7317.00.09.09D, which was later checked against Customs data which the Ministry obtained. As the import statistics do not separately identify bright and galvanised wire nails, the Ministry has calculated an average value for wire nails (both bright and galvanised). The Ministry calculated a per kilogram export price for wire nails at the FOB level in China. The Ministry calculated average export prices for the calendar year 2009 and also for the 6 months to June 2010.

138. To estimate the importer's ex-store prices, the Ministry made adjustments for overseas freight (NZDxxxx), import duty (2.8%), cartage to importer's store (NZDxxxx) and an importer's margin (xxxx%). The adjustments for overseas freight, cartage to importer's store and an importer's margin were estimated by Wireplus in its application for an investigation. The Ministry considers that the amount of these adjustments is reasonable when compared to similar adjustments accepted by the Ministry in previous investigations.

139. As the estimated importer's ex-store prices relate to wire nails (both bright and galvanised wire nails), for the purpose of the undercutting analysis they have been compared to Wireplus' average selling price for wire nails (both bright and galvanised wire nails) for the calendar year 2009 and also for the 6 months to June 2010. These prices are compared in Table 5.2 below.

### ***Constructed Importer's Prices Based on Retail Selling Prices***

140. Wireplus provided evidence of retail selling prices of Chinese nails in New Zealand on a per kilogram basis. The retail selling prices were obtained in August 2010. Separate retail selling prices were identified for bright and galvanised wire nails. To estimate the importer's ex-store prices, the Ministry made adjustments for goods and services tax (12.5%), retailer's margin (xxxx%), retailer's rebate (xxxx%) and cartage to retailer's store (NZDxxxx). The adjustments for cartage to retailer's store, retailer's rebate and retailer's margin were estimated by Wireplus in its application for an investigation. The Ministry considers that the amount of these adjustments is reasonable when compared to similar adjustments accepted by the Ministry in previous investigations.

141. These estimated importer's ex-store prices have been compared to Wireplus' average selling prices for bright and galvanised nails in the 6 months to June 2010 in Table 5.3 below.

## New Zealand Industry Ex-factory Prices

142. Wireplus provided information relating to its selling prices from 1 January 2006 to 30 June 2010. Its prices were at the ex-factory level of trade.

143. The Ministry calculated a per kilogram selling price for wire nails (combining both bright and galvanised wire nails) for 2009 and also the first 6 months of 2010. These average selling prices are compared to the importer's ex-store selling prices relating to the same periods in Table 5.2 below.

144. The Ministry calculated separate per kilogram selling prices for bright and galvanised wire nails for the first 6 months of 2010. These average selling prices are compared to the importer's ex-store selling prices relating to the same period in Table 5.3 below.

### Price Undercutting

145. The following tables compare the importer's ex-store prices with Wireplus' ex-factory prices to establish the extent of price undercutting. The undercutting is measured as a percentage of Wireplus' average selling prices.

**Table 5.2: Price Undercutting (NZD per Kilogram)**

	2009	Jun-10
Wireplus' Ex-factory Prices	XXXX	XXXX
* Importer's Ex-store Price	XXXX	XXXX
Amount of Undercutting	XXXX	XXXX
Percentage Undercutting of Wireplus' Prices	XXXX	XXXX

\* Estimate based on import data

146. Table 5.2 above shows Wireplus' 2009 and 2010 selling prices of wire nails (combining both bright and galvanised wire nails) were being undercut by **XXXX** percent and **XXXX** percent respectively.

**Table 5.3: Price Undercutting (NZD per Kilogram)**

	Bright	Galvanised
Wireplus' Ex-factory Prices	XXXX	XXXX
* Importer's Ex-store Price	XXXX	XXXX
Amount of Undercutting	XXXX	XXXX
Percentage Undercutting of Wireplus' Prices	No Undercutting	XXXX

\* Estimate based on retail selling prices

147. Table 5.3 above shows there is no evidence of undercutting of Wireplus' selling price of bright wire nails in the first 6 months of 2010. However, there is evidence of Wireplus' selling price for galvanised wire nails being undercut by **XXXX** percent in the first 6 months of 2010.

## Price Depression

148. Price depression occurs where prices achieved by the New Zealand manufacturers are lower than those achieved in a period unaffected by dumped goods.

149. Wireplus provided financial information to enable the Ministry to assess whether it has suffered price depression during the injury period. The following table shows Wireplus' selling prices of wire nails from 2006 to June 2010.

**Table 5.4: Price Depression (NZD per Kilogram)**

	2006	2007	2008	2009	Jun-10
Average Selling Prices	XXXX	XXXX	XXXX	XXXX	XXXX
As % of 2006		XXXX	XXXX	XXXX	XXXX

150. Table 5.4 shows that Wireplus' selling prices for wire nails increased from 2006 to 2009. Wireplus' selling prices declined sharply in the first six months of 2010 to a level below the average prices achieved in 2007 to 2009, but still above the average selling price in 2006. Wireplus noted that its average selling price increased from 2006 to 2009 because it focused on the high margin end of the market. Wireplus stated that although the average selling prices increased during this period, there was a negative impact on the volume of sales.

## Price Suppression

151. Price suppression exists when New Zealand manufacturers are unable to fully recover increases in costs by raising sale prices.

152. The Ministry has compared Wireplus' cost of sales and selling and administration expenses as a percentage of sales revenue from 2006 to June 2010. The following table shows the resulting calculations.

**Table 5.5: Price Suppression (NZD per Kilogram)**

	2006	2007	2008	2009	Jun-10
Average Selling Price	XXXX	XXXX	XXXX	XXXX	XXXX
Cost of Sales	XXXX	XXXX	XXXX	XXXX	XXXX
Selling and Administration	XXXX	XXXX	XXXX	XXXX	XXXX
Total Costs	XXXX	XXXX	XXXX	XXXX	XXXX
Total Costs as % of Ave Selling Price	XXXX	XXXX	XXXX	XXXX	XXXX

153. Table 5.5 shows that the total costs as a percentage of sales revenue has fluctuated from 2006 to June 2010. The data does not indicate Wireplus has suffered price suppression over the injury period.

154. Wireplus commented that it has not been able to sell enough wire nails to cover its fixed costs due to the dumped imports from China. Wireplus said the lower international wire prices reduced its cost of production from 2009 to June 2010.

## Conclusion on Price Effects

155. There is evidence of price undercutting by imports of the subject goods. From the Ministry's analysis using two separate methods of analysis, margins of undercutting found ranged from **xxxx** percent to **xxxx** percent when expressed as a percentage of Wireplus' ex-factory prices. In the undercutting analysis using retail selling prices, there was no evidence of Wireplus' selling prices for bright wire nails being undercut.

156. There is no evidence which indicates Wireplus suffered price suppression from 2006 to June 2010. There is no evidence which indicates Wireplus suffered price depression from 2006 to 2009. There is evidence which indicates that it suffered price depression in the first 6 months of 2010, but its costs of production also fell significantly over the same period although not as sharply as the decline in prices.

157. The Ministry notes that these price effects are not of themselves a measure of injury. Injury caused to the New Zealand industry is assessed in terms of the economic impact in the following section.

## 5.4 Economic Impact

158. Section 8 of the Act requires an assessment of the economic impact of the dumped goods on the New Zealand industry, and that relevant indicators are taken into account when considering the extent of that impact. These indicators are considered below.

### Output and Sales

159. Wireplus stated that its production volume closely follows its sales volume. Wireplus provided financial information for sales volume and sales revenue over the injury period.

160. The following table provides the sales volume and sales revenue information over the injury period.

**Table 5.6: Sales Volume (kilograms) and Sales Revenue (NZD)**

	2006	2007	2008	2009	Jun-10
Sales Volume	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>
As % of 2006		<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	
Sales Revenue	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>
As % of 2006		<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	
Revenue/kg	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>	<b>xxxx</b>

161. Table 5.6 shows Wireplus' production volume, sales volume and sales revenue increased in 2007, but decreased significantly in 2008 and 2009 to levels below those achieved in 2006. The results for the six month period to June 2010 indicate that a further decline is likely for the full year 2010.

162. The Ministry notes that the changes in Wireplus' sales volume and revenue partially reflect the changes in the size of the New Zealand market shown in Table 5.1. The total New Zealand market increased significantly from 2006 to 2007 (by 103 percent) while over the same period Wireplus' sales increased but to a much lesser extent. From 2007 to 2008 there was a substantial decrease in the total New Zealand market (by 20 percent) while over the same period Wireplus' sales volume fell to a greater extent but its decrease in sales revenue was not as great as the fall in the total New Zealand market.

163. From 2008 to 2009 there was a further substantial fall in the total New Zealand market (by 18 percent) while over this period the decline in Wireplus' sales volume was slightly larger than this and its decline in sales revenue was somewhat less than this. Wireplus' sales volume and sales revenue in the six months to 30 June 2010 relative to the total New Zealand market over this period suggests that for the full year 2010 Wireplus' sales will decline while the total New Zealand market is likely to increase, compared to 2009.

164. The changes in Wireplus' sales relative to changes in the total New Zealand are mirrored in the variations in Wireplus' sales revenue per kilogram and in its market share (which is analysed below). Revenue per kilogram increased each year from 2007 to 2009 but fell sharply in the six months to 30 June 2010. Any investigation will need to consider changes in the total New Zealand when analysing changes in the New Zealand industry's sales volume and revenue.

165. In its application for an investigation, Wireplus noted that it has not been able to compete on price with wire nails from China and has lost a number of customers. Wireplus noted a particular customer who was lost as a direct result of being undercut in a tender process.

## Market Share

166. Analysis of market share must consider changes in the size of the total market. A decline in market share when the total market is expanding will not necessarily indicate that material injury is being caused, particularly if the domestic industry's sales are also growing. In addition the New Zealand industry is not entitled to any particular market share per se.

167. Wireplus claims that it has lost market share due to the presence of lower priced wire nails from China. For the purpose of examining trends in market share, import volumes have been estimated on the basis set out in paragraph 128 above.

168. The following table provides the market share information from 2006 to June 2010.

**Table 5.7: Market Share (Kilograms)**

	2006	2007	2008	2009	Jun-10
NZ Industry Sales	XXXX	XXXX	XXXX	XXXX	XXXX
Imports from China	1,102,585	3,099,906	2,549,176	2,055,626	1,628,306



Other Imports	324,187	279,489	130,910	63,563	61,068
NZ Market	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>
<i>As % of NZ Market</i>					
NZ Industry Sales	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>
Imports from China	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>
Other Imports	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>

169. Table 5.7 shows that the New Zealand industry's market share decreased by **XXXX** percentage points from 2006 to June 2010. The market share held by imports from other countries decreased by **XXXX** percentage points from 2006 to June 2010. The market share held by imports from China increased by **XXXX** percentage points from 2006 to June 2010, indicating that the market share lost by the New Zealand industry was attributable to market share gains by imports from China.

## Profits

170. Dumped imports can affect gross profit and net profit via the impact on sales prices and volumes.

171. The following table shows Wireplus' earnings before interest and tax (EBIT) figures from 2006 to June 2010.

**Table 5.8: EBIT**

	2006	2007	2008	2009	Jun-10
EBIT	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>
Change from Previous Year		<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	
EBIT per Kilogram	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>
Change from Previous Year		<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>	<b>XXXX</b>

172. Table 5.8 shows that Wireplus had **XXXX** EBIT in 2006, which Wireplus considers was the last year which was not affected by dumped imports from China. Wireplus' EBIT decreased in 2007 and 2008 by small amounts. The Ministry notes that Wireplus' EBIT per kilogram improved in 2007 but decreased significantly in 2008. Wireplus' EBIT and EBIT per kilogram improved significantly in 2009, which Wireplus attributed to a reduction in costs. Wireplus' EBIT per kilogram for the first 6 months of 2010 is **XXXX** percent lower than the EBIT per kilogram for 2009 and lower than that achieved in 2006.

173. Wireplus' estimated EBIT for 2010 is **XXXX**, which is significantly lower than any of the previous years from 2006 to 2009. Wireplus did not provide any information regarding the basis on which this estimate was made. The Ministry notes that if the 6 month result for 2010 is doubled to estimate the full year result, it would be slightly worse than its 2009 result.

## Productivity

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

175. Wireplus did not make any specific submissions regarding productivity during the injury period. Wireplus provided its annual production volumes but did not provide information relating to the number of employees involved in the production of like goods. Wireplus commented that if injury caused by dumping continued it would be forced to close its galvanised nail operation which would also necessitate the cessation of manufacture of bright and other types of speciality nails.

176. Any investigation will need to obtain additional information regarding annual staff numbers and labour hours to fully evaluate the impact of imports of the subject goods on productivity over the injury period.

## Return on Investments

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

178. Wireplus did not provide specific information on return on investments. As shown in Table 5.9 above, Wireplus has **[Text deleted due to confidentiality]** EBITs since 2006 and is forecasting a **[Text deleted due to confidentiality]** EBIT for 2010. Wireplus commented that if dumping continues, and **[Text deleted due to confidentiality]** EBIT, it would be forced to close its galvanised nail operation which would also necessitate the cessation of manufacture of bright and other types of speciality nails.

179. Any investigation will need to examine return on investments in relation to profits and investments relating, to the extent possible, only to the production and sale in New Zealand of like goods.

## Utilisation of Production Capacity

180. The utilisation of production capacity reflects changes in production volumes or changes in capacity. A decline in production volumes will lead to a higher cost per unit due to increased overhead allocation. This will lead to a decrease in profit level, unless offsetting savings are found elsewhere.

181. Wireplus did not provide its actual annual production capacity.

182. Any investigation will need to examine return on investments in relation to profits and investments relating, to the extent possible, only to the production and sale in New Zealand of like goods.

## Factors Affecting Domestic Prices

183. Wireplus did not make any specific submissions on factors which affected domestic prices.

## Magnitude of the Margin of Dumping

184. 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.

185. The estimated margin of dumping ranges from zero to 25 percent as shown in Table 4.8 above. Price undercutting has been assessed as ranging from no undercutting to **xxxx** percent.

186. When dumping and undercutting were assessed based on import data, the Ministry found no dumping for 2009 and the first 6 months of 2010, but found price undercutting of **xxxx** percent in 2009 and **xxxx** percent in the first 6 months of 2010. When dumping and undercutting were assessed based on retail selling prices for Chinese bright wire nails in New Zealand, the Ministry found they were dumped by a margin of 25 percent but were not found to be undercutting Wireplus' selling prices. When dumping and undercutting were assessed based on retail selling prices for Chinese galvanised wire nails in New Zealand, the Ministry found they were dumped by a margin of **xxxx** percent and were undercutting Wireplus' selling prices by **xxxx** percent.

187. The information available based on import data suggests that the price undercutting cannot be attributed to dumping. At the same time the information available based on retail selling prices suggests that for bright nails the dumping has not resulted in any price undercutting while for galvanised nails it suggests that most of the price undercutting can be attributed to dumping. In this situation the Ministry considers that on the basis of the information available it is unable to draw any reasonable conclusions by comparing the dumping and undercutting results.

## Other Actual and Potential Effects

188. The other adverse effects that the Ministry is required to consider are the actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

189. Wireplus did not make any specific comments on cash flow, inventory, employment, wages, growth, ability to raise capital and investments. Any investigation will need to obtain additional information to fully evaluate the impact of imports of the subject goods on these factors over the injury period.

## 5.5 Causal Link

190. Section 10(1) of the Act requires that sufficient evidence be provided that material injury is caused by the dumped goods. This does not preclude another

factor(s) also being a cause of material injury. This reflects the requirements of Paragraph 2 of Article 5 of the Agreement.

191. The Ministry adopts a two-limb test to assess causality. The first limb focuses on the dumped imports, asking whether there has been material injury by applying the criteria in sub-sections 8(1) and 8(2) of the Act. This test accepts that there is an inference that where material injury occurs, it is caused by dumping.

192. The second limb examines whether there are any known factors apart from the dumped imports that are also materially injuring the industry. If other factors are identified, it must be established whether the material injury caused by other factors breaks the inferred “causal link” established under the first limb. If there is no manifest cause of material injury, apart from the dumped goods, then the inferred causal link under the first limb is confirmed.

193. For the purpose of testing whether sufficient evidence of a causal link has been provided, the Ministry takes guidance from the potential causes of material injury, other than the dumped goods, set out in sub-section 8(2) of the Act. These factors are outlined below.

## **5.6 Other Causes of Injury**

### **Volume and prices of goods that are not sold at dumped prices**

194. Wireplus considered that no injury it has suffered is attributable to non-dumped wire nails as their volume is insignificant. The Ministry’s estimate of import volumes in Table 5.1 above indicates only a very small volume of wire nails is imported from countries other than China. The market share table indicates that imports from countries other than China lost market share to imports from China.

195. As noted in paragraph 128 above, import volumes of the subject goods have been estimated based on imports under Tariff Item and Statistical Key 7317.00.09.09D, which also includes goods other than those subject to the application. Any investigation will need to establish whether wire nails are imported from sources other than China and examine the impact they may have had on the New Zealand industry.

### **Contraction in demand or changes in the patterns of consumption**

196. Wireplus noted that there had been a contraction in demand during 2008 due to the global financial crisis which also flowed on to 2009. However, Wireplus considered that it had still suffered injury from dumped Chinese imports which was not related to this market contraction. As noted in paragraphs 162 to 164, the changes in Wireplus’ sales volume and revenue at least partially reflect changes in the total New Zealand market for nails and total market size changes will need to be taken into account in any investigation.

197. Wireplus noted that there had been a significant structural change in the New Zealand market the last 2 to 3 years. Wireplus stated that virtually all nails are now sold by trade resellers. Trade resellers have strongly focused on “trade supply”, which is an area Wireplus had traditionally sold to directly. Wireplus

stated that trade retailers were now forcing New Zealand manufacturers of wire nails to use this route to the market.

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

198. Wireplus stated that there does not appear to be any evidence of restrictive trade practices of, and competition between, overseas and New Zealand producers over the injury period which may or may not have an impacted on its production and domestic sales.

### **Developments in technology**

199. Wireplus stated that it did not believe that there was any evidence regarding developments in technology over the injury period which may have an impacted on its production and domestic sales.

### **Export performance of the New Zealand producers**

200. Wireplus stated that it exported only very small volumes of wire nails, mainly to the Pacific Islands. Wireplus' export volumes from 2006 to 2009 are shown in the following table.

**Table 5.9: Wireplus' Exports (kilograms)**

	2007	2008	2009
Exported Wire Nails	XXXX	XXXX	XXXX

201. Due the very small volumes of wire nails exported, the Ministry considers that there is unlikely to be any injury caused by Wireplus' export performance.

202. There was no information in the application on whether Arrownail exports wire nails.

### **Productivity of the New Zealand producers**

203. Wireplus did not make any specific comments on the productivity of New Zealand producers.

### **Imports by the Industry**

204. The Ministry is required to assess the nature and extent of importations of dumped goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

205. Wireplus advised that it did not import any wire nails during the injury period. Arrownail stated that it has previously imported wire nails. Customs data shows that nearly all of Arrownail's imports were from China. Arrownail's import volumes are shown in following table.

**Table 5.10: Arrownail's Imports (kilograms)**

	2007	2008	2009
Imported Wire Nails	XXXX	XXXX	XXXX

206. The Ministry notes that the volume of imports by Arrownail in 2007 and 2008 were significant when compared to the New Zealand industry's volume of domestically produced wire nails. The Ministry also notes that Arrownail imported a significant quantity of wire nails in 2006. The Ministry notes that Arrownail's import volume in 2009 was insignificant with respect to the New Zealand industry's volume of domestically produced wire nails and it has not imported any wire nails in 2010.

207. The Ministry notes that information contained in the application for the investigation shows that Arrownail's domestic production volume increased from 2007 to 2008, and increased significantly in 2009. Based on the information provided to the Ministry, it is unclear whether Arrownail's imports have been a cause of injury to the New Zealand industry. Any investigation will need to examine the impact of Arrownail's imports of wire nails from China to the New Zealand industry.

### Causal Link Conclusion

208. Wireplus submitted that it did not consider there were any other causes of injury apart from possible price pressure from the major trade resellers and this was due for the most part to the price of nails from China. The Ministry notes the contraction in demand during 2008 which flowed on to 2009 due to the global financial crisis may have been a cause of injury to the New Zealand industry during this time.

209. From the information available and for the purpose of initiating an investigation, the Ministry considers that Wireplus has provided evidence that material injury has been caused to the New Zealand industry by imports of the subject goods.

## 5.7 Conclusions Relating to Material Injury

210. Import data shows that import volumes of wire nails from China have increased in absolute terms and in relation to production and consumption in New Zealand from 2006 to 2009. Based on the volume of imports from China in the first 6 months of 2010, it appears that the volume of imports will surpass the annual import volumes from 2006 to 2009.

211. Wireplus provided evidence on the effects of the imports of the subject goods on its selling prices and the consequent impact on the New Zealand industry. Evidence has been provided to show that Wireplus experienced price undercutting and some price depression in the first 6 months of 2010. There is no evidence of price suppression from 2006 to June 2010.

212. The evidence indicates that the extent of price undercutting has resulted in a significant loss of sales volume and consequently sales revenue. Loss of sales volume has significantly reduced the New Zealand industry's market share which

has been taken up by imports from China. Sales volume and sales revenue increased in 2007, but decreased significantly in 2008 and 2009 although these decreases appear to partially reflect a decline in the total New Zealand market. The results for the six month period to June 2010 indicate that a further decline is likely for the full year 2010. Wireplus **[Text deleted due to confidentiality]** EBIT and EBIT per kilogram figures since 2006. Wireplus' EBIT per kilogram for the first 6 months of 2010 is **xxxx** percent lower than what it achieved in 2009, and also slightly lower than what it achieved in 2006 and 2007. Wireplus did not provide annual information specific to cash flow, productivity, employment and wages or its ability to raise capital and investments.

213. Other factors which were possible causes of injury other than imports of the subject goods include the contraction of the market in 2008 and 2009 resulting from the global financial crisis and the change of market conditions which have forced New Zealand producers to go through major trade resellers rather than directly to customers. Wireplus stated that price pressure from the major trade resellers was a possible cause of injury, but stated this was due to having to compete with dumped prices of imports from China.
214. The Ministry considers that although other factors may have been causes of injury during the injury period, the evidence provided shows that dumped imports from China were nevertheless a cause of material injury to the domestic industry.
215. Mindful of the test set out in *Kerry (NZ) Ltd v Taylor*<sup>5</sup> the Ministry is satisfied that evidence of material injury sufficient to warrant the initiation of an investigation has been provided by Wireplus.

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<sup>5</sup> (1991) 2 PRNZ 393





## 6. Conclusions

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216. On the basis of the information available, the Ministry concludes that, for the purposes of initiating an investigation, sufficient evidence has been provided that:

- a. wire nails from China are being dumped;
- b. material injury has been caused to the New Zealand industry; and
- c. imports of the subject goods are the cause of the material injury.



## 7. Recommendations

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217. Following the conclusion above, it is recommended in accordance with section 10 of the Act, that the Chief Advisor, Trade Rules, Remedies and Tariffs Group, acting under delegated authority from the Chief Executive initiate a dumping investigation into wire nails from China.

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Investigation Team  
Trade Rules, Remedies and Tariffs Group

Agree/Not Agree

Robin Hill  
Chief Advisor  
Trade Rules, Remedies and Tariffs Group  
Competition, Trade and Investment Branch