

Ministry of **Economic  
Development**



*M a n a t ū   Ō h a n g a*

# **Wire Nails from China**

## **Non-confidential Final Report**

**Dumping and Countervailing Duties Act 1988**

### **Dumping Investigation**

Ministry of Economic Development

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## Abbreviations

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The following abbreviations are used in this Report:

AAN	ASEAN-Australia-New Zealand Free Trade Area
Act (the)	Dumping and Countervailing Duties Act 1988
aka	Also known as
Agreement (the)	World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
Arrownail	Arrownail Industries Limited
Baisheng	Tianjin Baisheng Metal Products Co. Ltd
Beijing Metal	Beijing Metal Trading Co. Ltd
Beijing Longtime	Beijing Longtime Rich Tech Development Co Ltd
Chief Executive	Chief Executive of the Ministry of Economic Development
China	The People's Republic of China
CIF	Cost, Insurance and Freight
EBIT	Earnings Before Interest and Tax
FOB	Free on Board
Gm(s)	Grams
Huafeng	Tianjin Tianli Huafeng Metal Production Co. Ltd
ITWCS	ITW Construction Systems Group (a division of ITWNZ)
ITWNZ	ITW New Zealand Limited
ITW Proline	ITW Proline (part of ITWCS)
Kg(s)	Kilograms
Kunxin	Tianjin Kunxin Metal Product Co. Ltd
Lianjin Investment	Tianjin Lianjin Investment Co Ltd
Ministry (the)	Ministry of Economic Development
NZD	New Zealand Dollars
NZ Nail	New Zealand Nail Industries Ltd

POI	Period Of Investigation
SPAH	Shanghai Puying Architecture Hardware Co Ltd
Tonnes	Metric Tonnes
TPA	Trans-Pacific Strategic Economic Partnership Agreement
VAT	Value Added Tax
VFD	Value for Duty
Wireplus	Wireplus Limited
WTO	World Trade Organisation
Xuzhou CIP	Xuzhou CIP International Group Co Ltd
Zhangjiagang Lianfeng	Zhangjiagang Lianfeng Metals Products Co Ltd

# Executive Summary

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## Introduction

1. An investigation into wire nails from China was initiated on 15 November 2010, following the receipt of an application for a dumping investigation from Wireplus Limited (Wireplus) claiming that bright and galvanised nails were being imported at dumped prices causing material injury to it.

2. Wireplus requested the application of provisional measures to prevent material injury being caused during the period of the investigation. The then Associate Minister of Commerce (Hon John Boscawen) declined to impose provisional measures because the initial information collected during the investigation showed that the volume of dumped goods was negligible (less than 3 percent of total imports) and therefore the Minister did not have reasonable cause to believe injurious dumping was occurring and could not be satisfied provisional measures were necessary to prevent material injury being caused during the remainder of the investigation period.

3. On 2 May 2011 the Ministry released the Essential Facts and Conclusions Report which found that 30 percent of the volume of the wire nails imported from China during the POI were dumped, and that these goods had been a cause of material injury to the domestic industry.

4. Interested parties were given the opportunity to make submissions on the Ministry's conclusions in the Essential Facts and Conclusions Report. The Ministry considered all submissions made in response to the essential facts and conclusions and has responded to these in this Report.

## Wire Nails Subject to Investigation

5. When this investigation was initiated the subject goods (also referred to as wire nails) were described as:

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

6. As a result of information gathered during the investigation, the Ministry has narrowed the subject goods description to the following:

*Wire nails of iron or steel, bright (plain) and galvanised (coated), excluding wire nails that meet any of the following criteria:*

- *those made of stainless steel;*
- *those equal to or greater than 155mm in length;*
- *those equal to or greater than 7mm in diameter;*
- *those that are collated or for collation;*
- *horseshoe nails.*

## Dumping

7. Due to the large number of exporters from China over the POI, the Ministry limited its analysis to a selection of exporters that represented the largest percentage of the volume of exports that could reasonably be investigated, as permitted by Article 6.10 of the Agreement.

8. Information was requested, but not received or not received in a timely fashion from some interested parties and in those cases findings in relation to those parties were based on facts available.

9. Verification visits were conducted with four of the suppliers of the subject goods from China. From information provided by interested parties to the investigation, 30 percent of all wire nails imported from China (during the year ended 30 September 2010) were found to be dumped.

10. Weighted average dumping margins for the exporters and manufacturers investigated, and the volume of dumped and non-dumped imports are as follows:

Exporter/Manufacturer	Weighted Average Dumping Margin	Volume of Dumped Imports (kg)	Volume of Non-dumped Imports (kg)
Beijing Metal	15%		
Minmetals	10%		
Huafeng	-1%		
Shanghai Puying (SPAH)	-5%		
Tianjin Baisheng	-2%		
Tianjin Kunxin	7%		
Tianjin Lianjin Investment	51%		
Zhangjiagang Lianfeng	110%		
Xuzhou CIP	5%		
Imports from Selected Chinese Exporters		1,043,102	2,435,504
% Dumped/Not Dumped <sup>1</sup>		30%	70%
Imports from Other Chinese Exporters		46,692	109,019
Total Imports from China		1,089,793.83	2,544,523.18
Imports from Other Countries			103,667
Total Volume of Imports			3,737,984.30
Dumped Imports as % of Total Imports			29%

11. Dumping margins as a percentage of export prices range from -5 percent (undumped) to 110 percent (dumped). The dumping margins of Beijing Metal,



Zhangjiagang Lianfeng, Minmetals, Lianjin Investment, Xuzhou CIP and Kunxin are more than de minimis in terms of Paragraph 8 of Article 5 of the Agreement.

12. No dumping was found for Huafeng Metal Production Co. Ltd (Huafeng), Tianjin Baisheng Metal Products Co. Ltd (Baisheng) and Shanghai Puying Architecture Hardware Co. Ltd (SPAH) and it is therefore recommended that these companies should be exempted from any anti-dumping duties that are imposed.

## **Injury**

13. There are three New Zealand manufacturers of wire nails: Wireplus, Arrownail Industries Limited (Arrownail) and New Zealand Nail Industries Ltd (NZ Nail). Neither Arrownail nor NZ Nail provided sufficient information to allow an assessment of whether they were being injured by dumped imports. The Ministry has concluded that Wireplus on its own constitutes a major proportion of the New Zealand production of like goods and can therefore be considered the New Zealand industry in terms of the Act.

14. The Ministry has concluded that:

- There is evidence there has been a significant increase in dumped import volumes, both in absolute terms and in relation to production and consumption in New Zealand.
- There is evidence of significant price undercutting, some evidence of price depression and evidence of price suppression.
- There is evidence of a consequent economic impact reflected in declines in sales volume and revenue, market share, profitability, productivity, capacity utilisation, and employment.
- There is evidence that some injury has been caused by factors other than dumped imports.

15. The Ministry is satisfied that the New Zealand industry has suffered material injury caused by dumped imports from China.

## **Conclusion**

16. The Ministry has concluded that:

- some of the goods under investigation are being dumped; and
- by reason thereof material injury to an industry has been or is being caused.

## **Recommendations**

17. The Ministry recommends that the Minister make a final determination that wire nails from China are dumped and that these goods have caused material injury to the New Zealand industry. The Ministry also recommends that Baisheng, Huafeng,

and SPAH should be exempted from any anti-dumping duties that are imposed as these manufacturers have been found not to be dumping.

18. If you agree to the above recommendations, the Ministry consequently recommends that anti-dumping duties are imposed by way of *ad valorem* rates. The following table sets out the recommended rates of duty:

<b>Chinese Exporter</b>	<b>Anti-dumping Duty Rate</b>
Tianjin Kunxin Metal Product Co. Ltd.	7%
Xuzhou CIP International Group Co. Ltd.	5%
Tianjin Lianjin Investment Co. Ltd.	51%
Zhangjiagang Lianfeng Metals Products Co. Ltd.	110%
Beijing Metal Trading Co. Ltd.	15%
Minmetals (Nanjing) Int'l Trading Co. Ltd.	10%
Residual "Other" Rate	6%

# 1. Introduction

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## 1.1 Application

19. On 7 October 2010, the Ministry of Economic Development (the Ministry) accepted a properly documented application from Wireplus Ltd (Wireplus), alleging that wire nails from China were being dumped and by reason thereof causing and threatening to cause material injury to the New Zealand industry.

20. On 15 November 2011, the Chief Executive of the Ministry, formally initiated an investigation into wire nails from China pursuant to section 10 of the Dumping and Countervailing Duties Act 1988 (“the Act”), on being satisfied that sufficient evidence has been provided that:

- (a) the wire nails imported from China are being dumped; and
- (b) by reason thereof material injury to an industry has been caused.

21. The Ministry’s investigation is required to establish both the existence and effect of the alleged dumping of wire nails from China and is conducted in accordance with the Act and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Agreement).

## 1.2 Consideration of Provisional Measures

22. The application from Wireplus requested that provisional measures be considered. The Minister of Commerce can impose provisional measures under section 16(1) of the Act at any time after 60 days from the date of initiation of an investigation, if he has reasonable cause to believe that injurious dumping is occurring and is satisfied that provisional measures are necessary to prevent further material injury to the industry during the remainder of the investigation period.

23. On 17 March 2011, the Associate Minister of Commerce (acting under an authority delegated to him by the Minister of Commerce) considered the imposition of provisional measures and concluded that there was not reasonable cause to believe that dumped imports of the subject goods had been imported or were intended to be imported in volumes sufficient to cause or threaten material injury to the New Zealand industry. This was because the initial information collected during the investigation showed that the volume of dumped goods was negligible (less than 3 percent of total imports) and therefore the Minister did not have reasonable cause to believe injurious dumping was occurring and could not be satisfied provisional measures were necessary to prevent material injury being caused during the remainder of the investigation period.

## 1.3 Essential Facts and Conclusions

24. Written advice of the essential facts and conclusions as provided for under Section 10A of the Act were released to interested parties for comment on 2 May 2011. All submissions have been considered by the Ministry and taken into account in this report.

## 1.4 Disclosure of Information

25. The Ministry makes available all non-confidential information via the Public File for this investigation. Any interested party is able to request both a list of the documents on this file and copies of the documents. During the course of this investigation several parties have made use of this facility.

## 1.5 Participation in the Investigation

26. The Ministry carried out on-the-spot visits in China, pursuant to Article 6.7 of the Agreement, with the following manufacturers:

- Shanghai Puying Architecture Hardware Co. Ltd.
- Tianjin Baisheng Metal Products Co. Ltd.
- Tianjin Kunxin Metal Product Co. Ltd.
- Tianjin Tianli Huafeng Metal Production Co. Ltd.

27. Detailed verification reports (which include detailed analyses of the calculation of the dumping margins in the form of dumping spreadsheets<sup>1</sup>) have been provided to each of the above manufacturers.

28. The Ministry is allowed under Section 6 of the Act (which reflects paragraph 8 of Article 6 of the Agreement) to base its conclusions on the best information available if any interested party has not provided the necessary information within a reasonable period. A number of parties did not provide any information and some parties provided only limited information. The extent to which information gaps exist, and as a result best information has been relied upon, are discussed in the relevant sections of this report.

## 1.6 Report Details

29. In this report the years are ended 30 September and the values are in New Zealand dollars (NZD) unless stated otherwise. In tables column totals may differ from individual figures due to rounding.

30. The period of considering claims of dumping (POI) is the year ended 30 September 2010, while the consideration of injury involves the evaluation of data from 1 January 2006 to either 30 June 2010 or 31 December 2010.

31. All amounts are expressed on a per unit basis unless otherwise stated.

## 1.7 Exchange Rates

32. Article 2.4.1 of the Agreement provides as follows:

When the comparison under paragraph 4 [of Article 2] requires a conversion of currencies, such conversion should be made using the rate of exchange on the

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<sup>1</sup> In some cases it was necessary to use confidential provided by other manufacturers and this information was withheld from the detailed spreadsheets.

date of sale<sup>1</sup>, provided that when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used. Fluctuations in exchange rates shall be ignored and in an investigation the authorities shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.

1 Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale.

33. In this report, when dealing with information provided by exporters, the exchange rate used is the rate set by the Bank of China at the first of the month within which the date of sale occurs.



## 2. Interested Parties

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### Exporters

#### Selection of Exporters

34. There were 56 exporters identified in the Customs' data as supplying the subject goods to New Zealand from China during the POI. Some of these goods entered New Zealand via a third country.

35. Due to the large number of exporters from China over the POI, the Ministry limited its analysis to a selection of exporters that represented the largest percentage of the volume of exports that could reasonably be investigated, as permitted by Article 6.10 of the Agreement.

36. The Ministry initially selected exporters who represented 93 percent of the volume of imports from China for the year ended 30 September 2010 for the tariff item and statistical key under which the subject goods are classified. Further information was sought from these exporters during the investigation. Once contact had been made with the companies in the selection, the names of the companies on the list were traced back through the transaction chain to the companies exporting and/or manufacturing the subject goods.

37. Table 2.1 below shows the 12 exporters and manufacturers who have been identified from the original selection as exporting and /or manufacturing the subject goods. The companies are listed alphabetically.

**Table 2.1: Selection of Exporters/Suppliers**

Beijing Metal Trading Co Ltd.
Beijing Longtime Rich Tech Development
Minmetals (Nanjing) Int'l Trading Co. Ltd.
Shanghai Puying Architecture Hardware Co. Ltd.
Shanxi Tianli Industries Co. Ltd. (aka Shanxi Tianli Enterprise Co. Ltd.)
SIIC Shanghai International Trade Group Co. Ltd.
Tianjin Baisheng Metal Products Co. Ltd.
Tianjin Kunxin Metal Product Co. Ltd.
Tianjin Lianjin Investment Co. Ltd.
Tianjin Tianli Huafeng Metal Production Co. Ltd.
Xuzhou CIP International Group Co. Ltd.
Zhangjiagang Lianfeng Metals Products Co. Ltd.

38. Information was sought from all 12 companies but a number of them did not respond to the Ministry's request for information.

39. Article 6.8 of the Agreement provides as follows:

In cases in which any interested party refuses access to, or otherwise does not provide necessary information within a reasonable period or significantly

impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available. The provisions of Annex II shall be observed in the application of this paragraph.

40. Information was requested, but not received or not received in a timely fashion or to the extent required, from the following exporters:

**Table 2.2: Other Exporters**

Beijing Metal Trading Co Ltd.
Minmetals (Nanjing) International Trading Co. Ltd.
Tianjin Lianjin Investment Co. Ltd.
Zhangjiagang Lianfeng Metals Products Co. Ltd.

41. Where information is incomplete the information used in the analysis relating to those exporters is based on facts available.

## Importers

42. From the original list of 47 importers of wire nails under relevant tariff item in the Customs data, Table 2.3 below lists alphabetically the firms importing from the 12 exporters in the selection. The Ministry requested information from these importers by way of questionnaires.

**Table 2.3: Importers**

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

43. Not all of the New Zealand importers provided a response to the Ministry's questionnaire. A brief synopsis of the activities of the importers of wire nails from China is set out below. In many instances limited or no information has been provided to the Ministry by the importers directly. In these cases therefore the only information available to the Ministry is that supplied by exporters or that which is publicly available.



**BBI Holdings Limited**

44. BBI Holdings Ltd (BBI) imports wire nails from a Chinese exporter [REDACTED] through an agent [REDACTED]. The Customs data shows that BBI imported several shipments of wire nails during the POI.

45. The exporter [REDACTED] is a very large Chinese trading company but was not the manufacturer of the goods. Because of a lack of co-operation from the New Zealand importer, insufficient information was provided to [REDACTED] to enable it to identify the manufacturer. ([REDACTED]). BBI did not provide a response to the Ministry's importer questionnaire.

**Response to EFC Report**

46. BBI responded that it had been unable to provide a response as at the time it was moving premises and had limited resources to respond in any meaningful way to such a detailed document. It said that collated nails were its main business and loose nails were only a small amount of its business.

**Ecko Staples & Nails Limited**

47. Ecko Staples & Nails Limited (Ecko) stated that as part of a structural reorganisation BBI took over the wire nails importing business from it during the POI. It had imported wire nails from [REDACTED] during the POI up to June 2010 when it ceased importing these products. Ecko advised that [REDACTED] sourced the imported wire nails from [REDACTED].

48. Ecko stated that because the records of the old company were not easily accessible it would be difficult to find the relevant invoices and paper work relating to the imports, and as the dumping investigation was not relevant to it, it would not provide a response to the Ministry's importer questionnaire.

**Response to EFC Report**

49. Echo wanted to put into context the above comments by saying that 95 percent of its business is in collated nails which fall outside of the investigation and because collated nails are its main business and it was only a small player in the market, there would be adequate responses from the larger importers.

**Euro Corporation Limited**

50. Euro Corporation Limited (Euro Corp) imported wire nails from [REDACTED]. [REDACTED] said that Euro Corp [REDACTED]. Euro Corp did not provide a response to the Ministry's importer questionnaire.

**Global Imports & Exports Limited**

51. Global Import and Export Limited (Global) imported wire nails from [REDACTED] during the POI. Global is a distributor of building supplies,

hardware and other products to the Pacific Islands. It imports and distributes a range of nails. Global imports did not provide a response to the Ministry's importer questionnaire. From a web search, [REDACTED] appears to be an export agent.

### ***ITW Construction Systems Group: (A Division of ITW New Zealand Limited)***

52. ITW Construction Systems Group (ITWCS) is a division of ITW New Zealand Limited (ITWNZ). ITWCS imported wire nails from [REDACTED] during the POI. ITWCS imported wire nails on behalf of ITW Proline which is a group within ITWCS. ITWNZ is an indirect wholly owned subsidiary of Illinois Tool Works Inc. which is a publically listed company on the New York Stock Exchange.

53. ITW Proline provided a response to the Ministry's importer questionnaire. ITW Proline purchase wire nails at FOB and said that the nails are stored in the ITWCS warehouse. ITWCS picks and packs and distributes the nails. ITW Proline sells wire nails to hardware resellers such as [REDACTED] ITWNZ.

### ***Kiwibranz Limited***

54. Kiwibranz Limited (Kiwibranz) is recorded as having imported wire nails from [REDACTED]. Kiwibranz advised that the actual name of the exporter was [REDACTED]. From information on the Internet [REDACTED] is a Branch Office of [REDACTED].

55. Kiwibranz did not provide a response to the Ministry's importer questionnaire.

### ***NZ Nail Industries Limited***

56. NZ Nail Industries Limited is both an importer and a manufacturer of wire nails. It imports wire nails from [REDACTED], through the exporters [REDACTED] respectively.

57. NZ Nail provided details of its suppliers in China but did not provide a response to the Ministry's importer questionnaire.

### ***Steel & Tube Holdings Limited***

58. Steel & Tube Holdings Limited (Steel & Tube) imported wire nails [REDACTED]. The subject goods are manufactured by [REDACTED].

59. Steel & Tube provided a response to the Ministry's importer questionnaire.

### **The Pallet Company Limited**

60. The Pallet Company Limited (The Pallet Company) imported the subject goods during the period of investigation from [REDACTED]. The Pallet Company's website states it is a large manufacturer and repairer of wooden pallets and crates. The Pallet Company did not provide a response to the Ministry's importer questionnaire.

### **Timbalok Fasteners (NZ) Limited**

61. Timbalok Fasteners (NZ) Limited (Timbalok) imported wire nails during the POI from [REDACTED]. Timbalok provided a response to the Ministry's importer questionnaire.

62. Timbalok stated that it does not sell to end users but acts as a wholesaler selling to builder's merchants and other fastener distributors. It said that loose nails are [REDACTED] percent of its business.

### **New Zealand Industry**

63. The application for the investigation was submitted by Wireplus. Wireplus is not the sole producer of wire nails in New Zealand. The application was supported in writing by another producer, Arrownail Industries Limited (Arrownail). In initiating an investigation the Ministry's Chief Executive was satisfied that the application was made by or on behalf of the New Zealand industry producing like goods, having met the requirements of sub-section 10(3) of the Act. These requirements are that the collective output of the New Zealand producers providing written support for the application constitute:

- (a) Twenty-five percent or more of the total New Zealand production of wire nails for sale in New Zealand based on the POI; and
- (b) More than 50 percent of the total production of wire nails for sale in New Zealand by New Zealand manufacturers who have, in writing expressed an opinion on the application.
















64. "Industry" is defined in section 3A of the Act as:

- (a) The New Zealand producers of like goods; or
- (b) Such New Zealand producers of like goods whose collective output constitutes **a major proportion** of the New Zealand production of like goods (emphasis added).

65. Subsequent to initiation another New Zealand manufacturer, New Zealand Nail Industries Ltd (NZ Nail) was identified. NZ Nail provided only its annual production volume for the year ended 30 June 2010 and declined to provide any further information. Arrownail provided only limited data that did not allow for a full assessment of the injury factors. A proper assessment of injury was therefore possible only in respect of Wireplus. It was consequently necessary to determine whether Wireplus on its own could still be considered to constitute a major proportion of the New Zealand industry.

66. The following table shows the production volumes of like goods by the three producers referred to above for the most recent two years for which this information was available for each company (the production figures for NZ Nail in the prior year have been estimated based on the company's proportion of New Zealand production in 2010).

**Table 2.4: New Zealand Production Volume**

	2009	2010	Total	% of Total
Wireplus				
Arrownail				
NZ Nail				
Total				

67. The Ministry does not consider that “a major proportion” means that the New Zealand producers in question must represent more than 50 percent of the total production. The Ministry notes that those producers supporting an application for an investigation must represent at least 25 percent of the total production of like goods. While the minimum level of support for an application does not necessarily mean that it constitutes “a major proportion” in terms of section 3A of the Act it does nevertheless provide some guidance on what might be the lower bounds of what could be considered “a major proportion”.

68. The Ministry notes that Wireplus on its own represents a significantly larger proportion of the total production of like goods than the 25 percent threshold required to initiate an investigation and represents about one third of the total production of like goods. “Major” can be defined as “of considerable importance” and the Ministry considers it reasonable to conclude that production representing about one third of the total production is a “major proportion” in terms of the Act.

### 3. Subject Goods and Like Goods

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#### 3.1 Goods Subject to Investigation

69. When this investigation was initiated the subject goods (also referred to as wire nails) were described as:

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

70. Wire nails enter New Zealand under the following tariff classification (bolded):

**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>

71. Wire nails can also enter into New Zealand under the other statistical keys listed above, but these goods are not considered to be subject goods or like goods for the reasons explained later in this section. It should be noted that there are other goods that are classified by Customs in this tariff item that are not covered by the goods description and so are not subject to this investigation.

72. For tariff item and statistical key 7317.00.09.09D the applicable duty rates are set out in the following Table:

Normal Tariff Rate	5%
AAN	1/2014 3%, 1/2017 Free
China	1/2011 1.4%, 1/2012 Free
Malaysia	1/2014 3%, 1/2016 Free
Australia, Canada, Thailand, TPA	Free

73. Wireplus submitted that there appeared to be a greater volume of wire nails being imported than are recorded by New Zealand Statistics (which is based on Customs' data). During the investigation it was found that some wire nails had entered New Zealand under the wrong statistical key. This occurred in 2008, 2009 and 2010 and was for 2,000 kg, 68,000 kg and 94,000 kg respectively (in round figures). The import statistics have been adjusted accordingly.

#### Response to the EFC

74. Following the release of the EFC Report an importer provided further information relating to horseshoe nails. The information shows that these nails are highly specialised, considerably more expensive and not substitutable for wire nails and should therefore be excluded from the description of the goods.

75. During the investigation process the Ministry has found that the subject goods description in paragraph 69 above cover a wider range of goods than was originally intended. All wire nails, of any length and diameter, were covered by the original description, rather than only those of iron or steel whether coated with zinc or not. Following discussions with the industry, and taking into account the information concerning horseshoe nails, the subject goods description has been narrowed to the following:

*Wire nails of iron or steel, bright (plain) and galvanised (coated), excluding wire nails that meet any of the following criteria:*

- *those made of stainless steel;*
- *those equal to or greater than 155mm in length;*
- *those equal to or greater than 7mm in diameter;*
- *those that are collated or for collation,*
- *horseshoe nails.*

76. The revised subject goods description therefore covers wire nails made of iron or steel, with the exception of wire nails of stainless steel, nails larger than certain lengths and diameters and horseshoe nails. It also by definition excludes wire nails made of metal other than iron or steel.

#### **Electroplated Wire Nails**

77. An exporter, SPAH, questioned whether zinc plated wire nails (wire nails with a light cover of zinc) should be subject to this investigation as the New Zealand industry does not use a zinc plating process to make these. Zinc plating processes include electro-galvanising and mechanical galvanising. SPAH submitted therefore, that these types of nails (lightly zinc coated nails) should not be covered by the subject goods description.

78. SPAH considered that there are two general categories of wire nails, bright wire nails and galvanised wire nails, and that galvanised nails could be split into two groups, hot dipped galvanised wire nails and zinc plated wire nails. SPAH stated that the hot dipped process produces a much thicker, more durable zinc coating and that the zinc plating process (it uses electroplating) produces a thin coating. SPAH

submitted that the cost and selling price of zinc plated wire nails are both significantly lower than those of hot dipped galvanised wire nails.

79. SPAH stated that another difference is the appearance of the zinc plated nail which has a shiny surface whereas a hot dipped wire nail has a matte gray surface. It stated that the thin coating of the electroplated nail is much more quickly eroded and is consequently more subject to corrosion which makes it unsuitable for outdoor applications, except in very dry climates. SPAH stated that the shiny electroplated nails are for indoor use and the hot dipped galvanised matte grey nails are for outdoor use.

80. On the basis of the above, SPAH considered that zinc plated wire nails should be considered separately from hot dipped galvanised wire nails and that therefore the wire nail products should be categorised into three types: bright, hot dipped galvanised, and zinc plated.

81. SPAH said that the applicant, Wireplus, does not produce zinc plated wire nails and therefore these nails should be excluded from the scope of the product under investigation. SPAH stated that this should be done because in addition to the industry not making this kind of nail there are significant differences in quality, cost, price, production process and application which make the zinc plated nails not comparable to the hot dipped galvanised wire nails. SPAH also noted the description of the goods in the application and the Initiation Report as only using the word “galvanised”, did not indicate whether the zinc plated wire nails were included or not.

### **Ministry Response**

82. It is clear that zinc plated wire nails made of iron or steel are a type of galvanised nail (a dictionary definition of ‘galvanised’ is ‘coated with zinc’) and are therefore covered by the original description of the subject goods and the revised description proposed paragraph 75 above.

83. The Ministry notes that although zinc plated nails do not compete directly in the market with hot dipped galvanised nails, they do compete directly with the other category ‘bright’ nails for indoor use in New Zealand. It is accepted that zinc plated wire nails, if used outside in New Zealand’s weather conditions, would not be fit for that purpose because they would likely show signs of rust within a season or two, and therefore should not be used in the same outdoor situations as hot-dipped galvanised nails.

84. The Ministry considers that zinc plated wire nails which are only slightly more expensive than bright nails, are substitutable and compete directly based on usage, with bright wire nails in the same market segment. Zinc plated nails are similar in form and shape with both bright and hot dipped galvanised nails except that there is a colour variation among the three categories. They are all made of the same base material (either iron or steel). In usage terms bright and zinc plated wire nails can be considered to be subsets of the indoor wire nail market. The Ministry observes that bright nails can be substituted in most instances for zinc plated nails but neither would be fit for the purpose if used in wet or weather exposed situations, which is where hot dipped galvanised nails should be used.

85. The Ministry considers that there are three types of subject goods, but there are only two market segments, that for bright and lightly zinc coated wire nails for use in situations protected from the weather such as inside, and that of galvanised wire nails (hot-dipped) for wet situations and outside use.

## 3.2 New Zealand Production of Like Goods

86. In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into injury, and having identified the subject goods, it is necessary to determine whether there are New Zealand producers of goods which are like those goods in all respects, and if not, whether there are New Zealand producers of other goods which have characteristics closely resembling the subject goods.

87. The subject goods have been defined in Section 3.1 of this Report as:

*Wire nails of iron or steel, bright (plain) and galvanised (coated), excluding wire nails that meet any of the following criteria:*

- *those made of stainless steel;*
- *those equal to or greater than 155mm in length;*
- *those equal to or greater than 7mm in diameter;*
- *those that are collated or for collation,*
- *horseshoe nails*

88. Wireplus stated that it produces bright and galvanised nails for the New Zealand domestic market. Wireplus also manufactures stainless steel, silicon bronze, aluminium and gold passivated wire nails. It needs to be considered whether these other types of nails that Wireplus produce are like goods to the subject goods, so a decision can be made whether to include or exclude them from the analysis of injury to the New Zealand industry.

89. Wireplus' wire nails are manufactured from New Zealand sourced wire rod and produced in a range of different lengths, diameters and range of head types. They are packaged for sale in a range of different weights and types of packaging.

## Like Goods Analysis

90. 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

91. 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

92. The wire nails produced by Wireplus and the imported wire nails are similar to each other in form and shape in most respects. Within the two market segments of:

- bright and zinc plated nails; and
- hot-dipped galvanised nails;

there are three types of wire nails imported which can be described as:

- bright (uncoated nails);
- zinc plated (lightly zinc coated including electroplated and electro-galvanised and mechanically galvanised nails); and
- hot dipped galvanised (heavily zinc coated nails).

93. The main difference in appearance between these types is whether the nails are coated with zinc or not, and the thickness of the coating.

94. Bright nails are those of iron or steel without a coating and Wireplus produces this type of nail.

95. Wireplus does not produce zinc plated nails which have a light coating of zinc (up to about 20 microns thick) and are shiny in appearance. They are slightly different in colour to the shiny bright nails that Wireplus produces.

96. The hot dipped galvanising process produces nails that have a rougher surface and a thick zinc coating which will after a short duration become a dull matte gray colour. This is the same for both locally produced and imported hot dipped nails.

97. Wireplus also manufactures stainless steel, gold passivated, silicon bronze, and aluminium nails. These differ in colour from bright and zinc plated and hot dipped galvanised nails (both locally produced and imported) the most obvious colour differences are the gold colour of the gold passivated nails and the bronze appearance of the silicon bronze nails.

### Size and Dimensions

#### *Pack Sizes*

98. The imported goods come in a range of pack sizes based on weight. Information from the exporters shows the range of pack sizes exported were 25 kg, 20 kg, 15 kg, 12.5 kg, 5 kg, 2.5 kg, 2 kg, 500gm, 250 gm and 200gm.

99. Wireplus' bright and galvanised wire nails are packaged for sale in 25 kg wooden boxes, 5 kg plastic buckets, 1 kg plastic buckets and 500 gram plastic bags.

100. Each importer or New Zealand manufacturer has its own range of pack sizes. Plastic bucket style packaging is common for the heavier weights and wooden boxes are popular for 25 kg and plastic boxes are often used for the mid-range pack sizes. Packaging varies for the smaller pack weights from plastic bags and blister packs to plastic containers with clear plastic lids.

#### *Nail Size and Range*

101. From information supplied from an importer (ITW Proline) there are at least 270 different sizes of nail imported. Each head type usually comes in a range of sizes.

102. Wireplus' nail types range in length from 19mm to 150mm and in diameter from 2mm to 6mm (the types are listed in its application).

103. It is apparent that within each of the two market segments (bright/zinc plated, and hot-dipped galvanised) the sizes of the imports and local production are directly competitive with each other, though ITW Proline has stated that Wireplus' smaller range of nail products is one factor that limits Wireplus' ability to compete for large reseller contracts.

104. The size and dimensions of the other types of nails manufactured by Wireplus (stainless steel, gold passivated, silicon bronze, and aluminium) are similar to the bright and galvanised nails imported and locally manufactured, although Wireplus' size range is quite small and the nails are intended for specific applications.

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

105. The imported wire nails are made of iron or steel and are produced with machinery that is similar to that used by the New Zealand industry producing nails, however Wireplus does not use any zinc plating (lightly zinc coated) process in New Zealand. Hot dipped galvanising processes for nails are used in both China and New Zealand.

#### *Bright Nails*

106. Wireplus' bright wire nails are manufactured by drawing wire from steel rod (locally manufactured by Pacific Steel). Wireplus said that the nails it produces have a similar production process to the imported product. No information has been received to refute this.

#### *Hot Dipped Galvanised Nails*

107. Several interested parties (e.g. Arrownail, ITW Proline) have said that imported hot dipped galvanised nails, if done properly, have at least the minimum 40 micron coat thickness required to meet the New Zealand Standard and are of a similar quality to the New Zealand industry's hot dipped galvanised nails.

108. Wireplus' bright nails are galvanised off-site. The nails are galvanised using the 'hot dipped' method. The nails are centrifuged with zinc which coats bright nails to

the Australian/New Zealand Standard (AS/NZ 4680:2006). Wireplus said that the minimum amount of zinc needed to coat the nails is 40 microns. Wireplus noted that small nails pick up far more zinc than large nails because of the surface area and cause clumping in the basket used to hold the nails, which restricts the movement of free zinc. Wireplus said an average coating mass of 250gms per metre squared is applied to nails of 8mm or less. Wireplus said that the coating mass is double the standard requirement in order to safeguard from any problems.

### *Zinc Plated Nails*

109. The Chinese manufacturer SPAH provided some information about the zinc plated nails that it exports to New Zealand. Zinc plated nails have a lighter coating (up to about 20 microns) of zinc and should not be used outdoors. Some of the other terms used to describe this process are 'zinc plating' 'electro-galvanising' and 'mechanical galvanising'. These are significantly cheaper than hot dipped galvanising.

### *Other Coated Nails*

110. The Ministry notes that the other nails produced by Wireplus (silicon bronze, aluminium, and stainless steel) are not usually zinc coated. They are however of different composition as the raw materials used to manufacture Wireplus' other types of wire nails are different, and usually considerably more expensive than any of the bright or zinc plated or hot dipped galvanised nails mentioned above.

## **Function and Usage**

111. Function and usage covers consumer perceptions, and expectations, and end use, which can assist in reaching conclusions regarding substitutability where relevant.

112. Almost all the imported and locally produced wire nails are produced for the building construction and contracting industries and distributed through resellers and retailers and to businesses as end use customers.

113. Wireplus said that the wire nails it manufactures have the same function and end use applications as the imported nails. Wireplus said that it distributes its wire nails through selected merchants. Wireplus said that some commonly used terms for the kinds of uses nails had are 'finishing nails' which contain more steel for strength and have annular grooves and are used in external applications such as decks etc; 'framing nails' which are used in internal applications and are generally not visible, and 'product nails' which consists mainly of (hot-dipped) galvanised nails.

114. The Ministry notes that most nails fulfil the same function and usage, that is, they are fasteners and are applied in the same manner, but a number would not be fit for purpose if used in the wrong situation. In particular indoor/dry area nails such as bright and lightly galvanised nails would corrode quite quickly if used in outdoor situations.

115. Other nails that Wireplus manufactures (silicon bronze, aluminium, and stainless steel nails) are specialist nails made for use in specific conditions. The

Ministry notes that these types of nails can be used in most situations where the subject goods are used, but are only rarely used in situations where bright or galvanised nails could be used instead.

## Pricing Structures

116. 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.

117. Wireplus said that the wire nails it manufactures compete at the same price points as the imported nails. Wireplus provided its average prices of bright and galvanised nails at the average ex-factory level of trade. The Ministry has compared Wireplus' average ex-factory selling prices of the dumped bright and galvanised nails at the importers ex-store level. This information indicated that the imported nails were selling on average at prices [REDACTED] percent below Wireplus' galvanised nails and at [REDACTED] percent above Wireplus' bright nails.

118. Wireplus said that it has not been able to compete on price with the imported nails from China. Wireplus said that it purchases steel and zinc at international commodity market prices, as do the Chinese producers, but it cannot compete on galvanising costs even though the base raw material costs should be similar to those of the Chinese producers.

119. 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 it has higher overheads which the Chinese do not have such as higher energy costs, occupational health and safety (OSH) requirements and environmental costs.

120. The pricing structures of the other types of nails that Wireplus manufactures are considerably higher than the pricing structure for bright and galvanised wire nails. These higher prices reflect the material costs for the manufacture of other kinds of nails e.g. the costs of silicon bronze nails is between NZD [REDACTED] and NZD [REDACTED] per kilogram and stainless steel nails costs are of a similar order. These costs are several times more than the average cost to make bright and galvanised wire nails and their different pricing structure in the market reflects this. Wireplus said that the low prices of the bright and galvanised nails imported from China had not impacted on its sales of the other nail types.

## Marketing

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

122. Wireplus said that the wire nail market in New Zealand consists of "loose" (non-collated) nails which are the subject of this investigation, and collated nails used in nail guns. Wireplus said that loose nails cannot be used in a nail gun and it was not aware of any company collating nails in New Zealand. It viewed the two markets as

quite separate. Timbalok, however, commented that it thought there had been a gradual increase in the use of nails guns as improvements in technology had made them easier to use. It considered that the size of the loose nail market may have been slowly eroding over a number of years.

123. Several parties (Wireplus, ITW Proline, and Timbalok) commented that the market demand for nails fluctuates with economic activity and that the market size had declined significantly in 2009 (the Ministry notes that the Customs' import data shows a decline in 2008 and 2009 followed by a significant increase in 2010). Wireplus estimated that of the loose nail market, 72 percent is represented by galvanised nails with the balance being bright nails.

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

### **Customers and Distribution Channels**

125. The majority of the imported nails are sold to retailers and trade resellers (e.g. PlaceMakers, Independent Timber Merchants (ITM), Carters, Bunnings, Mitre 10 and Buildlink) and to business customers such as pallet manufacturers.

126. Wireplus said the market structure has changed over the last several years and is now characterised by trade resellers and retailers, which often deliver directly to customers. The large resellers (see above) are strongly focused on 'trade supply' and now offer total service packages to customers with which the New Zealand manufacturers have to compete. Many trade resellers have pre-nailing departments which supply framing to builders. Wireplus estimated that trade resellers hold 80 percent of the market for nails (across all pack sizes), and the large resellers require most of the smaller pack sizes.

127. Wireplus commented that PlaceMakers, Bunnings and Carters have centralised buying functions and put requests for proposals to the market (RFP's) periodically. Wireplus said that ITM and Buildlink in particular are organised as 'buying groups' where a preferred supplier is required to call on all owner operated stores in the chain, but sales are not guaranteed.

128. Wireplus said that it has not been able to compete on price in the retail market and has focused on the smaller higher value market segment of 'business to business' such as pallet manufacturers. This has enabled Wireplus to maintain margins, but volumes have been dramatically declining. Wireplus has the view that this market segment demands good quality nails and is of the view that New Zealand nails are of better quality than the Chinese imports.

129. ITW Proline considered that it does not compete in the same market segment as the New Zealand producers and as it competes in a different segment it cannot be causing injury to the New Zealand industry. It said that this is because in its view the domestic manufacturers focus on producing the nail sizes with high sales volume

and do not offer a broad enough range of nails, nor do they package the smaller weight packs to a standard demanded by the large resellers and retailers. ITW Proline considered that the large resellers want to deal with fewer suppliers rather than a number of smaller ones.

130. The Ministry has observed that least one of the large resellers [REDACTED], and that [REDACTED], so there appears to be competition in these areas. In addition Wireplus also [REDACTED] companies. In addition, [REDACTED]. Wireplus has also said that [REDACTED] competitive.

131. From the information available it appears that the large resellers could be considered a market segment, but that does not restrict the smaller importers and domestic manufacturers from gaining contracts with them, nor does it restrict the larger importers such as [REDACTED] from selling to the smaller reseller chains and retailers in the market.

132. With regard to the other nails that Wireplus produce, these are a small specialised market niche and only account for between [REDACTED] percent of Wireplus' production. The distribution channels for silicon bronze, aluminium and stainless steel nails are the same as for the imported nails. The customers may be the same, but these nails have a different pricing structure and are usually only used in specific situations. It is possible that their distribution channels might be affected by the competition in the bright and galvanised wire nails market, but there is no information about whether this is the case.

## Other

### *Tariff Classification*

133. Wireplus stated that the wire nails it produces, if imported into New Zealand, would be classified under the same Tariff Item and Statistical key in the New Zealand Customs' Tariff (7313.00.09.09D) as the imported subject goods.

134. With regard to the stainless steel, aluminium, and silicon bronze and other types of nails such as gold passivated which Wireplus manufactures, depending on their composition they may be classified in the same tariff item and statistical key as bright and galvanised nails, or another statistical key for nails of other materials. Wireplus has said that in their view these goods do not compete in the market and are not affected by sales of the subject goods and do not consider they should be included in the like goods.

## Conclusion Relating to Like Goods

135. The Ministry has considered the information gathered about like goods produced by the New Zealand industry and has compared the information with the characteristics of the imported subject goods. The Ministry has considered the

physical characteristics, function and usage, pricing, marketing and tariff classification.

136. The imported subject goods and the domestically produced goods are similar in appearance. Among types there is some colour variation, in the case of zinc coating this depends on the thickness of the zinc coating as a result of differences in coating processes. The imported subject goods are sold mostly in the same or similar package weights as the domestically produced goods. The sizes and dimensions of the imported nails compete directly and are similar to nails that are domestically manufactured. The function and usage of the subject goods and domestically produced goods are the same if they are used in the correct situations (e.g. bright and lightly zinc coated nails should not be used in wet areas). The nails are made to compete at the same price points in the market, with the exception of the other types of nails (stainless steel, silicon bronze, aluminium and gold passivated) which are in a higher price bracket and not affected by the price competition of the subject goods.

137. It is considered there are numerous attributes which are the same or similar between the imported subject goods (bright, zinc plated and hot dipped galvanised nails) and domestically produced bright and hot dipped galvanised wire nails, to consider that the domestically produced goods (with the exception of the stainless steel, silicon bronze, aluminium and gold passivated nails) and the imported subject goods are like products.

138. On the basis of the information available, the Ministry concludes 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.





## 4. Dumping Investigation

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139. Dumping occurs when an exporter sells wire nails to New Zealand at a price lower than it is sold for in China. The price wire nails are sold for in China is referred to as the normal value. In essence dumping is price discrimination between an export and domestic market.

### 4.1 Introduction

140. This section of the report explains how the Ministry compared the prices of wire nails exported to New Zealand and those sold on the Chinese domestic market during the year ended 30 September 2010 (the POI) to establish whether wire nails from China were dumped.

#### Methodology

141. The Ministry normally undertakes the comparison of export prices and normal values on a transaction-to-transaction basis. In this case because of the large number of transactions involved and the large number of product types and sizes the Ministry did not consider it was feasible to undertake this comparison on a transaction-to-transaction basis and has consequently carried out this comparison on a weighted average-to-weighted average basis.

142. The use of the weighted average-to-weighted average methodology is in accordance with Article 2.4.2 of the Agreement which states that the existence of margins of dumping shall normally be established on the basis of either a weighted average-to-weighted average comparison or a transaction-to-transaction comparison.

143. To ensure a fair comparison of prices, the Ministry has, where sufficient information was available, grouped the subject goods into bright wire nails, hot dipped galvanised nails and zinc plated galvanised nails. For each manufacturer/exporter, the Ministry has calculated export prices and normal values for each group and then multiplied each of these against the volume of exports of each group made by the manufacturer/exporter to New Zealand during the POI. The resulting total export price was subtracted from the resulting total normal value and the balance was divided by the total export price to calculate an overall dumping margin.

144. The weighted average export price and normal value for the POI have been compared at the ex-factory level, which is the preferred point of comparison under paragraph 4 of Article 2 of the Agreement, as a comparison at this point removes any differences in downstream costs from the dumping calculation.

145. To arrive at ex-factory values for each manufacturer, the Ministry has made a number of deductions from the base domestic and export prices and adjustments have also been made to ensure a fair comparison between sales of wire nails for domestic consumption in China (or constructed normal values) and those exported to New Zealand.

146. A comparison of the weighted average export price and normal value for each manufacturer over the POI showed whether the goods were dumped. If the weighted average export price was lower than the weighted average normal value for a manufacturer, the goods were considered to be dumped.

### Information Used

147. In establishing export prices and normal values the Ministry has used, in the first instance, verified information provided by those parties selected for investigation. Some interested parties did not participate fully in the investigation. In the absence of the required information, the Ministry used the best available information to fill in information gaps, being information provided by other interested parties. All information that has been supplied to the Ministry has been used in the preparation of this report where it can be reasonably relied upon.

148. Detailed verification reports and calculations of dumping margins have been provided to the four Chinese producers that were visited.

## 4.2 Export Prices

149. Export prices are determined in accordance with section 4 of the Act.

150. Weighted average export prices have been established by deducting from the selling price to New Zealand importers all costs and charges incurred after the goods left the factory and adjustments were made for differences between costs incurred for export and costs incurred for domestic sales.

### Tianjin Tianli Huafeng Metal Production Co Ltd

151. Tianjin Tianli Huafeng Metal Production Co Ltd (Huafeng) is a manufacturer of nails, and more recently staples, and is jointly owned by [REDACTED] and Shanxi Tianli Industries Co Ltd (STICO).

152. Over the period of investigation Huafeng's product was exported to New Zealand by STICO. STICO exported the goods to the New Zealand importer [REDACTED].

153. STICO has a New Zealand-based sales representative, [REDACTED], whose owner is a [REDACTED] percent shareholder of STICO.

154. Huafeng provided a detailed response to the Ministry's questionnaire and allowed information to be verified at an on-site visit.

### Export Sales Distribution

155. All exports to New Zealand are made through STICO. Following receipt of an enquiry letter from the New Zealand importer, STICO checks with Huafeng for product availability and pricing, negotiates detailed terms and conditions with the New Zealand importer and sends them an order confirmation. The New Zealand importer responds with a purchase order, a contract is then issued between STICO

and Huafeng, and Huafeng produces the nails to order. The cost of transporting the goods to the port is paid for by STICO.

156. [REDACTED] is responsible for communication between STICO and the New Zealand importer and for collecting payment from the importer. Once payment is received from the New Zealand importer Huafeng issues its invoice to STICO and is paid by STICO.

157. The Ministry has decided that export prices should be established for those shipments invoiced by STICO over the POI rather than for those shipments that entered New Zealand over the POI to ensure the closest possible match with domestic sales by Huafeng which represent sales invoiced by Huafeng over the POI.

158. During the POI, Huafeng supplied STICO with [REDACTED] shipments consisting of bright nails, zinc-plated nails and hot-dipped galvanised nails for export to New Zealand. These shipments totalled [REDACTED] kilograms.

### **Base Prices**

159. STICO invoices the New Zealand importer in USD on an FOB basis in arm's length transactions. The base price used in calculating ex-factory export prices is STICO's invoiced FOB price. The Ministry has converted USD to RMB using published People's Bank of China exchange rates at the relevant dates of sales.

### **Date of Sale**

160. The Ministry agrees with Huafeng that the date of sale is the date that STICO issues the invoice to the New Zealand importer, being the date when the final terms and conditions of the sale are established.

### **Adjustments**

#### *Exporter's Margin*

161. The Ministry has treated STICO's margin as the difference between STICO's selling price to the New Zealand importer and Huafeng's selling price to STICO. STICO's margin covers costs such as inland freight from Huafeng's factory to the port, port charges, cost of credit, bank charges any payments to its New Zealand representative and any other costs incurred in relation to the exportation of the goods. One other notable cost for exporting wire nails is non-refundable VAT. The Ministry notes that the exporter which purchases the wire nails from a manufacturer pays 17 percent VAT. If these wire nails are exported the exporter can only claim back 5 percent of the FOB value. The cost of not being able to claim back all VAT is a known cost to exporters and is likely to be factored into exporters selling prices. This assumption is consistent with the practice of the Australian Customs Service when dealing with differences in VAT refunds.

162. By deducting the exporter's margin and consequently not making separate adjustments for the aforementioned costs and charges, STICO's selling price is effectively adjusted back to Huafeng's ex-factory selling price to STICO. The Ministry notes that the selling price from Huafeng to STICO includes VAT of 17 percent as it is a domestic sale. The Ministry has used the VAT exclusive selling

price for a fair comparison with the normal values which are also exclusive of VAT as stated in paragraph 271 below.

### Response to EFC Report

163. Wireplus submitted that the Ministry did not properly assess whether all costs relating to the exportation of wire nails to New Zealand have been covered by the exporters' selling prices.

164. The Ministry can confirm that all costs, including non-refundable VAT, were covered by the margin achieved by the three exporters associated with the manufacturers whose information was verified.

### *Arm's Length Sales*

165. Huafeng stated that the terms and conditions under which it sells to STICO are the same as sales it makes to unrelated trading companies. The Ministry requested a sale made by Huafeng to an unrelated trader for galvanised wire nails of similar specifications and as close as possible to the date of sale to the related trader. The Ministry noted that there was very little difference between the prices of the galvanised wire nails sold to the related and unrelated trading company and was satisfied that this supported Huafeng's contention that there is no difference in the terms and conditions. Following the release of the verification report, Wireplus questioned whether the verification of one transaction was sufficient to determine whether the transaction between Huafeng and STICO are at arm's length. Given the explanation of Huafeng's general pricing policy and given that no issues arose from the selling price to an unrelated trader which was verified, the Ministry is satisfied that the sales from Huafeng to STICO were made at arm's length.

166. Huafeng stated at the verification visit that it receives an advance payment for about half of the sales made for export to New Zealand. Wireplus submitted that the advance payments by STICO to Huafeng to finance situations where there is a shortage of raw materials were "highly unusual" given that STICO is a major customer. Wireplus considered that this is a significant benefit to Huafeng and Wireplus presumes that this is effectively a "loan" for six months when wire rod prices are high.

167. The Ministry notes that two of the other Chinese manufacturers visited by the Ministry also arranged deposits from customers if they consider that steel prices are likely to rise or a significant amount of raw material was required for the order. The Ministry notes that the benefit received by Huafeng would likely be about 2 to 3 months, which is the amount of time between the beginning of manufacture and receiving payment from STICO. Given the practice of taking deposits is common amongst other Chinese manufacturers for various reasons, the Ministry still considers that the sales between Huafeng and STICO are at arm's length.

### *Packaging*

168. The Ministry has decided to deduct the total cost of all packaging from both export prices and normal values for the purposes of fair comparison. Deductions for cost of packaging have been made from SPAH's base prices.

### *Wireplus submission regarding cost of credit*

169. Following the release of the verification report, Wireplus submitted that the invoicing practice of Huafeng was more favourable to STICO than the invoicing practices of other Chinese manufacturers. The Ministry agrees with Wireplus' observation and considers that an adjustment for the cost of credit should not be based on the number of days between Huafeng's invoice to STICO and the date of payment by the importer.

170. The Ministry has instead based the cost of credit adjustment on the number of days between the date of STICO's invoice to the New Zealand importer and the date STICO receives payment from the New Zealand importer. The Ministry considers that these dates reflect the dates that the manufacturer would normally invoice the exporter and also receive payment from the exporter based on the practice of other companies verified by the Ministry. The interest rate used in the calculation is the benchmark rate of 4.86 percent set by the Bank of China for 6 month loans that applied during the POI. The Ministry has based its calculation on the full value of all of the transactions even though Huafeng stated that it takes a 30 percent deposit for approximately half of the sales made to STICO for wire nails exported to New Zealand. The Ministry has used the full value of all transactions for this adjustment rather than accounting for the 30 percent deposit for half the sales as the difference is not material, but the Ministry notes that the amount of the adjustment is more than it would have been if the advanced payments had been factored into the calculation.

### **Export Prices**

171. From the base prices and adjustments outlined above the Ministry has calculated separate weighted average ex-factory export prices for bright nails, electro-plated and hot dip galvanised nails in RMB per kilogram.

### **Shanghai Puying Architecture Hardware Co Ltd**

172. SPAH is a manufacturer of nails. SPAH produces a wide range of bright and galvanised nails made from steel wire and also a small volume of stainless steel and bronze nails.

173. Over the period of investigation subject goods produced by SPAH were exported directly to [REDACTED] and through [REDACTED] to its New Zealand customer [REDACTED].

174. SPAH provided a detailed response to the Ministry's questionnaire and allowed information to be verified at an on-site visit.

### **Export Sales Distribution**

175. SPAH receives a purchase order from customers which is based on the most recent price list for that customer. [REDACTED]. SPAH checks the pricing recorded in the purchase order and either accepts or negotiates pricing with the customer. SPAH then sends a confirmation email accepting the price. Once production is completed the wire nails are transported directly from the factory to the port by a transport company.

176. The Ministry has decided that export prices should be established for those shipments invoiced by SPAH over the period of investigation rather than for those shipments that entered New Zealand over the period of investigation to ensure the closest possible match with SPAH's domestic sales and costs over the POI.

177. During the period of investigation, SPAH wrote [REDACTED] invoices relating to shipments to New Zealand. The shipments relating to these invoices totalled [REDACTED] kilograms.

### **Base Prices**

178. SPAH provided copies of all invoices for export sales to New Zealand. All export sales to New Zealand were made by SPAH on an FOB basis in USD in arm's length transactions.

179. For SPAH's export sales to [REDACTED], the base prices for sales to [REDACTED] are the invoiced FOB prices.

180. For SPAH's export sales to [REDACTED], in the absence of information on [REDACTED]'s invoiced prices to the New Zealand importer, the Ministry has used SPAH's invoiced FOB prices to [REDACTED] as base prices for the calculation of export prices. The Ministry notes that by starting with SPAH's sale price to the trading company, all costs incurred and margins achieved by the trading company after the FOB level are removed.

181. The Ministry has converted USD to RMB using published People's Bank of China exchange rates at the relevant dates of sale.

### **Date of Sale**

182. The Ministry agrees with SPAH that the date of sale is the date that the invoice is issued to the customer as that is the date when the final terms and conditions of the sale are established.

### **Adjustments**

#### *Inland Freight and Port Charges*

183. The nails exported to New Zealand are transported from the factory to the port by an independent freight company. Clearance at the port and the loading of the goods onto the ship are arranged by an independent freight forwarding company. The Ministry has deducted inland freight and port charges from SPAH's base prices.

#### *Packaging*

184. The Ministry has decided to deduct the total cost of all packaging from both export prices and normal values for the purposes of fair comparison. Deductions for cost of packaging have been made from SPAH's base prices.

#### *Cost of Credit*

185. Payment terms for [REDACTED].  
Payment terms for [REDACTED].  
Adjustments for cost of credit based on the number of days between the date of sale and the date payment have been made by the Ministry based on the benchmark rate of 4.86 percent set by the Bank of China for 6 month loans that applied during the POI.

### *Bank Charge*

186. The Ministry has also made an adjustment to base prices for bank charges incurred by SPAH on deposits of foreign currency in relation to its export sales to New Zealand.

### **Export Prices**

187. From the base prices and adjustments outlined above the Ministry has calculated separate weighted average ex-factory export prices for bright nails, zinc plated and hot dip galvanised nails in RMB per kilogram.

### **Tianjin Baisheng Metal Products Co Ltd**

188. Tianjin Baisheng Metal Products Co Ltd (Baisheng) manufactures a wide range of loose bright and galvanised nails. Over the period of investigation sales of the subject goods produced by Baisheng were arranged by [REDACTED] and exported to New Zealand by [REDACTED] to the New Zealand importer [REDACTED].

189. Baisheng provided a detailed response to the Ministry's questionnaire and allowed information to be verified at an on-site visit.

### **Export Sales Distribution**

190. Following a request from the New Zealand customer, [REDACTED] checks product availability and pricing with Baisheng. [REDACTED] negotiates the detailed terms and conditions with the New Zealand importer and sends an order confirmation to the New Zealand importer which responds with a purchase order for the agreed types of nails, quantities and prices. [REDACTED] then enters into a sales contract with Baisheng, the goods are produced to order and transported to the Tianjin port for shipping to New Zealand.

191. Baisheng issues an invoice to [REDACTED] in RMB on an ex-factory basis after [REDACTED] has checked the weight of wire nails from the order confirmation provided by the transport company. As [REDACTED], it uses [REDACTED] as the export agent to organise all paperwork for the exportation of the wire nails to New Zealand, including export invoice, Customs clearance, and bill of lading. [REDACTED] arranges and pays for inland freight to the port of export, clearance at the port and the loading of the goods onto the ship.

192. An invoice is issued by [REDACTED] to the New Zealand importer in USD on an FOB basis when the bill of lading is issued. [REDACTED] provides the documents to the New Zealand importer which makes payment to [REDACTED]. Once payment has been received [REDACTED] pays Baisheng's invoice [REDACTED].

193. The Ministry has decided that export prices should be established for those shipments invoiced by SIIC over the period of investigation rather than for those shipments that entered New Zealand over the period of investigation to ensure the closest possible match with the information which will be used to establish normal values over the period of investigation.

194. During the period of investigation [REDACTED] made [REDACTED] shipments to the New Zealand importer of subject goods, consisting of bright nails, zinc-plated nails and hot-dipped galvanised nails wire nails of the type subject to investigation. One shipment included stainless steel nails purchased from another factory. The Ministry has removed the stainless steel nails from its analysis as these types of nails have been excluded from the subject goods description as described in paragraph 75 above. Excluding stainless steel nails, the volume of the [REDACTED] shipments totalled [REDACTED] kilograms.

### **Base Prices**

195. The base prices used in calculating ex-factory export prices are [REDACTED]'s invoiced FOB prices. The Ministry has converted USD to RMB using published People's Bank of China exchange rates at the relevant dates of sales.

### **Date of Sale**

196. The Ministry agrees with Baisheng and [REDACTED] that the date of sale is the date that [REDACTED] issues the invoice to the New Zealand importer, being the date when the final terms and conditions of the sale are established.

### **Adjustments**

#### *Exporter's Margin*

197. By deducting the margins of and costs incurred by [REDACTED] relating to the exportation of the goods, and consequently not making separate adjustments for costs such as freight to the port, port charges, customs charges, cost of credit extended to the New Zealand importer, bank charges and non-refundable VAT, [REDACTED]'s selling price is effectively adjusted back to Baisheng's ex-factory selling price (exclusive of VAT).

#### *Cost of Credit*

198. The cost of extending credit to the New Zealand importer is borne by [REDACTED] out of its margin. A deduction has been made for [REDACTED] margin and MED does not consider a further deduction is required for cost of credit as to do so would effectively double count this deduction.



199. MED has made an adjustment for cost of credit extended to [REDACTED] by Baisheng based on the six month loan rate set by the Bank of China and the number of days between the date of Baisheng's invoices to [REDACTED] and the date that Baisheng receives payment from [REDACTED].

### *Packaging*

200. The Ministry has decided to deduct the total cost of all packaging from both export prices and normal values for the purposes of a fair comparison. [REDACTED] purchases all inner (primary) packaging except for the 25kg paper carton which is purchased by Baisheng. Baisheng's invoiced price to [REDACTED] only includes the cost of packaging for 25 kg cartons. In the absence of information from Baisheng, the Ministry has made a deduction from the export price of nails exported to New Zealand in 25kg cartons based on the cost incurred by another manufacturer.

201. The Ministry has also deducted from Baisheng's ex-factory price an amount representing the cost of other packing materials used by Baisheng in preparing the wire nails for export to New Zealand, such as pallet, plastic wrap, and plastic straps. In the absence of information from Baisheng, the Ministry used the best available information from another manufacturer. The Ministry also made an adjustment for the cost of packing labour incurred by Baisheng.

202. The costs of packaging provided by [REDACTED] will be included in the deduction made for [REDACTED] and [REDACTED]'s margin.

### **Export Prices**

203. From the base prices and adjustments outlined above the Ministry has calculated separate weighted average ex-factory export prices for bright nails, zinc plated and hot dip galvanised nails in RMB per kilogram.

### **Tianjin Kunxin Metal Product Co Ltd**

204. Tianjin Kunxin Metal Product Co Ltd (Kunxin) is a manufacturer of nails. Over the period of investigation subject goods produced by Kunxin were exported to New Zealand through [REDACTED] to the New Zealand importer [REDACTED]. Kunxin also exported direct to New Zealand a relatively small quantity of large mesh-fixing nails, which are considered by the Ministry not to be subject goods.

205. Kunxin provided a detailed response to the Ministry's questionnaire and allowed information to be verified at an on-site visit.

### Response to EFC Report

206. [REDACTED] noted that it was identified as the exporter in the initiation report and that Kunxin was not included. The Ministry listed all exporters that were known to the Ministry in the initiation report based on Customs information. Following initiation, the Ministry attempted to identify the manufacturers of the wire nails exported to New Zealand, and where this was achieved, the dumping assessment was undertaken on the basis of the manufacturer.

## Export Sales Distribution

207. Following a request from the New Zealand customer, [REDACTED] provides a quotation as the basis for agreement or further negotiation. [REDACTED] and the importer confirm quantities and prices by each signing an order confirmation sheet. Kunxin then produces to order and packs the goods into containers at its factory site prior to their dispatch to the port of Xingang.

208. The Ministry has decided that export prices should be established for those shipments invoiced by Kunxin over the period of investigation rather than for those shipments that entered New Zealand over the period of investigation to ensure the closest possible match with domestic sales by other sellers in China over the POI.

209. During the period of investigation, Kunxin supplied [REDACTED] with [REDACTED] orders consisting of bright nails, zinc-plated nails and hot-dipped galvanised nails for export to New Zealand. These shipments totalled [REDACTED] kilograms.

## Base Prices

210. [REDACTED] provided copies of invoices for all relevant shipments to New Zealand. All sales are made by [REDACTED] on an FOB basis in USD in arm's length transactions. The base price used in calculating ex-factory export prices is [REDACTED] invoiced FOB price. The Ministry has converted USD to RMB using published People's Bank of China exchange rates at the relevant dates of sales.

## Date of Sale

211. The Ministry considers the date of sale is the order confirmation date at which time the material terms of sale are set. In the absence of actual order confirmation dates, the Ministry has used an approximate figure of 30 days before the date of Kunxin's invoice as the date of sale for each shipment.

## Adjustments

### *Exporter's Margin*

212. [REDACTED] margin covers costs such as inland freight from Kunxin's factory to the port, port charges, terminal handling charges, handling costs, customs clearance charges, cost of credit extended to the New Zealand importer, non-refundable VAT and any other costs incurred in relation to the exportation of the goods.

213. By deducting the exporter [REDACTED] margin and consequently not making separate adjustments for the aforementioned costs and charges, [REDACTED] selling price is effectively adjusted back to Kunxin's ex-factory selling price to [REDACTED] (exclusive of VAT).

## Response to EFC Report

214. [REDACTED] submitted that the Ministry should deduct 12 percent VAT from Kunxin's VAT inclusive selling prices to [REDACTED], rather than 17 percent, because [REDACTED] receives a 5 percent refund of VAT on exported nails. The Ministry notes that the 12 percent non-refundable VAT, which results from the exportation of the goods, is included within [REDACTED]'s margin. Once all costs and margins have been deducted from the export price, the relevant price is Kunxin's selling price to [REDACTED]. The Ministry notes that sales transactions relating to the export price and normal value are all in fact domestic sales for Kunxin and are all subject to 17 percent VAT. There is therefore no reason to deduct a lesser amount of VAT from Kunxin's selling price to [REDACTED] to account for the VAT refund obtained by [REDACTED] on its export sales.

### *Packaging*

215. The Ministry has decided to deduct the total cost of all packaging from both export prices and normal values for the purposes of fair comparison. Costs incurred by Kunxin for packaging have been deducted from Kunxin's selling price to [REDACTED], except for the costs of small printed plastic bags supplied free-of charge to Kunxin. The costs of those bags will be included in the deduction made for [REDACTED] margin. The costs deducted from Kunxin's prices may be slightly overstated due to the difficulty of obtaining more precise information on different types of packaging.

### *Submission from [REDACTED]*

216. [REDACTED] challenged the Ministry's use of Kunxin's ex-factory price as the export price for purposes of comparison, noting that [REDACTED] and Kunxin are strategic partners whereby Kunxin sells at a low price to [REDACTED] but [REDACTED] sells to the New Zealand importer at a high price which it considers is not dumping. The Ministry pointed out that the comparison of export price and normal value has been carried out at the ex-factory level to ensure a fair comparison in accordance with the Agreement. Article 2.4 of the Agreement states that "The comparison shall be made at the same level of trade, normally at the ex-factory level . . .".

### **Export Prices**

217. From the base prices and adjustments outlined above the Ministry has calculated separate weighted average ex-factory export prices for bright nails, zinc plated and hot dip galvanised nails in RMB per kilogram.

### **Xuzhou CIP International Group Co Ltd**

218. Xuzhou CIP International Group Co. Ltd (Xuzhou CIP) is a manufacturer and exported wire nails directly to [REDACTED] during the POI. Xuzhou CIP provided a manufacturer's questionnaire response.

219. The Ministry has decided that export prices should be established for those shipments invoiced by Xuzhou CIP over the period of investigation rather than for those shipments that entered New Zealand over the period of investigation to ensure

the closest possible match with domestic sales by other sellers in China over the POI. The Ministry has used the date of export as the date of sale.

### **Base Prices**

220. During the POI, Xuzhou CIP exported [REDACTED] kilograms of nails to New Zealand. Xuzhou CIP exported bright and hot dipped galvanised wire nails in 25 kg cartons. Xuzhou CIP sells wire nails to the importer on an FOB basis in USD and these prices have been used to establish base prices. The Ministry notes that foreign exchange rates are set by the People's Bank of China. The Ministry has converted the invoice prices from USD into RMB by applying the basic exchange rate published by that bank on the first day of the month in which the transaction occurs.

221. From the above information, the Ministry calculated an average VFD per kilogram in RMB for bright nails and hot dipped galvanised nails.

### **Adjustments**

222. As the base price is at the FOB level, the Ministry has deducted costs between ex-factory and FOB to calculate an ex-factory selling price.

#### *Inland Freight*

223. In its questionnaire response, Xuzhou CIP included an adjustment for inland freight of USD [REDACTED] per carton. The Ministry converted this cost of inland freight in USD to RMB at the basic exchange rate published by the People's Bank of China on the first day of the month in which the transaction occurs. The cost per carton was divided by 25 to calculate a per kilogram cost of inland freight.

#### *Handling*

224. In its questionnaire response, Xuzhou CIP included an adjustment for handling of USD [REDACTED] per carton. The Ministry converted this cost of inland freight in USD to RMB according to the basic exchange rate published by the People's Bank of China on the first day of the month in which the transaction occurs. The cost per carton was divided by 25 to calculate a per kilogram cost of handling.

#### *Cost of Credit*

225. The Ministry has made an adjustment for the cost of credit extended to the New Zealand importer by Xuzhou CIP based on the six month loan rate set by the Bank of China that applied over the POI (4.86 percent) and the number of days between the date of export and date that Xuzhou CIP receives payment from the New Zealand importer.

#### *Bank Charge*

226. The Ministry has included a cost for bank charges which would normally be incurred when receiving a foreign currency transaction. The Ministry has made an adjustment for the cost of bank charges based on information verified from other manufacturers and exporters.

### Export Packaging

227. In its questionnaire response, Xuzhou CIP included an adjustment for export packaging of USD [REDACTED] per carton. The Ministry converted this cost of packaging in USD to RMB according to the basic exchange rate published by the People's Bank of China on the first day of the month in which the transaction occurs. The cost per carton was divided by 25 to calculate a per kilogram cost of handling.

### Export Prices

228. From the base price and adjustments outlined above the Ministry has calculated a weighted average ex-factory export price for bright and hot dipped galvanised nails in RMB per kilogram.

### Beijing Metal Trading Co. Ltd

229. The supplier named in the Customs data was Beijing Building Materials Import and Export Corporation. However the importer, [REDACTED] advised the Ministry that the actual name of the exporter was Beijing Metal Trading Co. Ltd (Beijing Metal). Information on the internet states that Beijing Metal is a Branch Office of Beijing Building Materials Import and Export Corporation and the companies are therefore related. The Ministry has treated Beijing Metal as the exporter of the wire nails during the period of investigation based on the information provided by [REDACTED].

230. Beijing Metal did not provide a response to the Ministry's questionnaire. According to information on the internet, Beijing Metal is a manufacturer of wire nails and the Ministry has therefore assumed that Beijing Metal manufactured the wire nails exported to New Zealand. No information was provided by [REDACTED] about the types of nails exported by Beijing Metal.

231. In the absence of information from Beijing Metal and the importer, the Ministry considers the best information available on export prices for this exporter is Customs import data.

232. In the absence of any information about the type of the nails exported by Beijing Metal over the period of investigation, the Ministry has assumed they are hot dipped galvanised nails given they are most common wire nails imported into New Zealand.

### Base Prices

233. During the POI, Beijing Metal exported [REDACTED] kilograms of nails to New Zealand. The shipments were valued in USD in the Customs data at the FOB level. The Ministry has converted the USD values into RMB at the basic exchange rate published by the People's Bank of China on the first day of the month in which the wire nails were imported.

234. From the information recorded in the Customs data, the Ministry calculated an average VFD per kilogram in RMB for hot dipped galvanised nails.

### Adjustments

### *Costs between Ex-factory and FOB*

235. As the base price is at the FOB level, the Ministry has deducted costs between ex-factory and FOB to calculate an ex-factory selling price. The Ministry considers that the best information available is that which has been verified from other Chinese manufacturers which also export themselves. The Ministry has deducted costs for inland freight, port handling, cost of credit and bank charges.

### *Costs Associated with Packaging*

236. The Ministry has decided to deduct the total cost of all packaging from both export prices and normal values for the purposes of fair comparison. The Ministry has deducted the costs of primary packing materials, secondary packing materials and packing labour based on verified information from other Chinese manufacturers and exporters.

### **Export Prices**

237. From the base price and adjustments outlined above the Ministry has calculated a weighted average ex-factory export price for hot dipped galvanised nails in RMB per kilogram.

### **Zhangjiagang Lianfeng Metals Products Co Ltd**

238. Zhangjiagang Lianfeng Metals Products Co. Ltd (Zhangjiagang Lianfeng) did not provide a response to the Ministry's questionnaire and no information was provided by the importer, [REDACTED]. According to information on the internet Zhangjiagang Lianfeng is a manufacturer of nails, and the Ministry has therefore assumed that Zhangjiagang Lianfeng is the manufacturer of the nails exported to New Zealand.

239. In the absence of information from Zhangjiagang Lianfeng and the importer, the Ministry considers the best information available on export prices for this exporter is Customs import data.

240. In the absence of any information about the type of the nails exported by Zhangjiagang Lianfeng over the period of investigation, the Ministry has assumed they are hot dipped galvanised wire nails given they are most common wire nails imported into New Zealand.

### **Base Prices**

241. During the POI, Zhangjiagang Lianfeng exported [REDACTED] kilograms of nails to New Zealand. The exports were valued in USD in the Customs data at the FOB level. The Ministry has converted the USD values into RMB at the basic exchange rate published by the People's Bank of China on the first day of the month in which the wire nails were imported.

242. From the information recorded in Customs data, the Ministry calculated an average VFD per kilogram in RMB for hot dipped galvanised nails.

### **Adjustments**

243. The Ministry has made adjustments to the base price for the costs incurred between ex-factory and FOB and also the costs associated for packaging as explained paragraphs 235 to 236 above.

### **Export Prices**

244. From the base price and adjustments outlined above the Ministry has calculated a weighted average ex-factory export price for hot dip galvanised nails in RMB per kilogram.

### **Minmetals (Nanjing) Int'l Trading Co Ltd**

245. The supplier named in the Customs data was [REDACTED]. The importers named in the Customs data were [REDACTED] and [REDACTED]. [REDACTED] advised the Ministry that [REDACTED] is a sales agent through which it sourced the goods and that the actual exporter was Minmetals (Nanjing) Int'l Trading Co. Ltd. (Minmetals). The Ministry has treated Minmetals as the exporter of the wire nails during the period of investigation based on the information provided by [REDACTED].

246. No substantive information regarding the goods exported by Minmetals has been provided to the Ministry. In the absence of information from Minmetals and the importer, the Ministry considers the best information available on export prices for this exporter is Customs import data.

247. According to the entry line goods descriptions in Customs data, there were two types of nails exported to New Zealand, industrial brads and electro galvanised wire nails. The Ministry notes that electro galvanising is another term used for zinc plated processing. In the absence of any information regarding the type of industrial brads exported, the Ministry has assumed they are hot dipped galvanised nails given they are most common wire nails imported into New Zealand.

### **Base Prices**

248. During the POI, Minmetals exported [REDACTED] kilograms of nails to New Zealand. The exports were either valued in USD or NZD in the Customs data at the FOB level. The Ministry has converted the USD and NZD values into RMB at the basic exchange rate published by the People's Bank of China on the first day of the month in which the wire nails were imported.

249. From the information recorded in Customs data, the Ministry calculated an average VFD per kilogram in RMB for zinc plated nails and hot dipped galvanised nails.

### **Adjustments**

#### *Costs between Ex-factory and FOB*

250. As the base price is at the FOB level, the Ministry has deducted costs between ex-factory and FOB to calculate an ex-factory selling price. As The Ministry considers that Minmetals is the exporter, rather than the manufacturer and exporter,

the Ministry considers that the best information available is that which has been verified from other Chinese exporters. The Ministry has deducted costs for exporter's margin, inland freight, port handling, cost of credit and bank charges.

### *Costs Associated with Packaging*

251. The Ministry has made an adjustment to the base price for the costs associated with packaging as explained in paragraph 236 above.

### **Export Prices**

252. From the base price and adjustments outlined above the Ministry has calculated weighted average ex-factory export prices for zinc plated and hot dipped galvanised nails in RMB per kilogram.

### **Tianjin Lianjin Investment Co Ltd**

253. Tianjin Lianjin Investment Co Ltd (Lianjin Investment) did not provide a response to the Ministry's questionnaire and no information was provided by the importer, [REDACTED]. It is not known if Lianjin Investment is the manufacturer of the nails exported to New Zealand.

254. In the absence of information from Lianjin Investment and the importer, the Ministry considers the best information available on export prices for this exporter is Customs import data.

255. In the absence of any information about the type of the nails exported by Lianjin Investment over the period of investigation, the Ministry has assumed they are hot dipped galvanised wire nails given they are most common wire nails imported into New Zealand.

### **Base Prices**

256. During the POI, Lianjin Investment exported [REDACTED] kilograms of nails to New Zealand. The exports were valued in USD in the Customs data at the FOB level. The Ministry has converted the USD values into RMB at the basic exchange rate published by the People's Bank of China on the first day of the month in which the wire nails were imported.

257. From the information recorded in Customs data, the Ministry calculated an average VFD per kilogram in RMB for hot dipped galvanised nails.

### **Adjustments**

258. The Ministry has made an adjustment to the base price for costs incurred between ex-factory and FOB as explained in paragraph 250.

259. The Ministry has made an adjustment to the base price for the costs associated with packaging as explained in paragraph 236 above.

### **Export Prices**



260. From the base price and adjustments outlined above the Ministry has calculated a weighted average ex-factory export price for hot dipped galvanised nails in RMB per kilogram.

### 4.3 Normal Values

261. The normal value is usually the price at which the Chinese manufacturers sell wire nails in the domestic market in China. The types of sales that can be used to determine normal values are set out in section 5 of the Act, which can generally be described as arm's length sales of like goods in the ordinary course of trade for home consumption in the country of export, in this case China. Where an exporter makes no such sales, sales by other sellers of like goods in China can be used to establish normal values.

262. In the absence of relevant and suitable sales in the ordinary course of trade, normal values may be constructed on the basis of the sum of cost of production and, on the assumption that the goods had been sold for home consumption in the ordinary course of trade in China, reasonable amounts for administrative and selling costs and other costs incurred in the sale, and a rate of profit normally realised on sales of goods of the same general category in the Chinese domestic market.

263. An explanation is given below of the calculation of normal values for each of the manufacturers and exporters of nails exported from China to New Zealand.

#### Tianjin Tianli Huafeng Metal Production Co Ltd

##### Introduction

264. Huafeng sells bright wire nails and zinc plated galvanised wire nails on the Chinese domestic market. Only bright wire nails and zinc plated galvanised nails were sold by Huafeng on the domestic market over the POI.

##### Domestic Sales Distribution

265. Domestic customers negotiate quantities and prices with Huafeng by telephone, email or fax. Both parties then conclude a sales contract which sets out a detailed description of the nails, specifications, quantity and price. Huafeng then manufactures the nails in accordance with the contract.

266. The domestic customer arranges and pays for delivery of the nails. The invoice is usually issued a few days after the goods are collected.

267. During the period of investigation, Huafeng sold on the domestic market [REDACTED] kilograms of bright wire nails and [REDACTED] kilograms of zinc galvanised nails to [REDACTED] domestic customers.

##### Base Prices

268. All of Huafeng's sales of nails on the Chinese domestic market over the period of investigation were made to other manufacturers of nails. Huafeng is not related to any of its domestic customers and there is no evidence to suggest sales are not

made at arm's length. The Ministry is satisfied that domestic sales during the period of investigation were made at a profit.

269. The total domestic sales volume of [REDACTED] kilograms represents [REDACTED] percent of the total volume of nails exported to New Zealand over the period of investigation. Domestic sales are well over the 5 percent threshold referred to in footnote 2 of the Agreement and are considered to be of sufficient quantity for the determination of normal values.

270. The Ministry considers that Huafeng's sales on the Chinese domestic market are at arm's length and in the ordinary course of trade and can be used to establish normal values.

271. The Ministry notes that Huafeng's selling price to its domestic customers includes 17 percent VAT as they are domestic sales. The Ministry has used the VAT exclusive selling price for a fair comparison with the export prices which are also exclusive of VAT as stated in paragraph 161 above. The base prices are Huafeng's invoiced ex-factory selling prices (exclusive of VAT) to domestic customers. There are no subsequent discounts or rebates.

## **Adjustments**

### *Level of Trade*

272. Huafeng does not consider level of trade as a relevant consideration in setting the prices of either its domestic sales or its sales that are destined for export. The same holds for STICO in setting prices for the nails it exports to New Zealand.

273. Wireplus submitted that the Ministry could have referred to an analysis of sales to other customers to verify the comments made by Huafeng and STICO about level of trade. The Ministry notes that all of Huafeng's domestic sales were made to manufacturers and all export sales were made through trading companies. The Ministry does not consider the analysis proposed by Wireplus would be of any value to the consideration of the differences in the level of trade. The Ministry does not consider any adjustment is required for differences in level of trade.

### Response to EFC Report

274. Wireplus submitted that Huafeng's sale to a manufacturer and sale to a trading company which were then exported to New Zealand are clearly different levels of trade. Wireplus stated that the Ministry is obliged to compare normal value and export prices at the same level of trade under section 5(3) of the Act. Wireplus submitted that given there is a difference, the Ministry should follow its normal practice and make an adjustment for this difference. In support of its submission, Wireplus referred to its own pricing policy in the New Zealand market which it considered was evidence that there is a difference in the level of trade which affects price comparability.

275. The Ministry notes that a difference in level of trade is not of itself sufficient grounds for an adjustment. An adjustment can only be made for differences in levels of trade where such a difference "affects price comparability" as provided for in

section 5(3)(c). While the comments from Wireplus concerning its own pricing policy in the New Zealand market may constitute evidence that there is a difference in the level of trade in the New Zealand market, the Ministry does not consider it is evidence that Chinese manufacturers have the same or a similar pricing policy for domestic sales in China.

276. The Ministry considers there is no evidence which indicates that an adjustment to the normal value is appropriate for differences in level of trade.

#### *Packaging*

277. The Ministry deducted the total costs of packaging from the base prices.

#### *Cost of Credit*

278. Credit terms are payment in full within one month of Huafeng's invoice being issued although one customer pays a 10 percent deposit before the nails are manufactured and is then subject to the same credit terms for the balance.

279. An adjustment for cost of credit has been made based on the number of days between the date Huafeng issues its VAT invoice and the date payment is received by Huafeng using the six month loan rate set by the Bank of China, which applied during the period of investigation, of 4.86 percent.

#### *Physical Differences*

280. Huafeng did not sell hot dipped galvanised nails on the domestic market in China, so the per kilogram cost of the hot dip galvanising process (outsourced to another firm for those nails intended for export) was added to the weighted average ex-factory normal value per kilogram of bright wire nails to arrive at an ex-factory normal value for hot dipped galvanised nails.

#### *Other Differences Affecting Price Comparability*

281. The Ministry considers that there are no other differences affecting price comparability.

#### *Submission from Wireplus regarding VAT*

282. Wireplus submitted that even though the Ministry considers that the non-refundable VAT cost is included within the exporter's margin as described in paragraph 161 above, there is still a difference in VAT that has not been adjusted for in the normal value.

283. Wireplus also submitted that no evidence has been provided which proves that the exporter did in fact claim the VAT rebate. Wireplus provided two hypothetical scenarios in which VAT may not be claimed back by exporters. Without such evidence, Wireplus considers that the normal value should be increased 17 percent rather than the non-refundable VAT rate of 12 percent for export sales.

#### *Ministry's Response*

284. The Ministry has made an adjustment for the exporter's margin (the difference between STICO's purchase price from Huafeng and STICO's selling price to the New Zealand importer). The difference between the two selling prices includes all costs and margins incurred and achieved by the exporter. Unrecoverable VAT is a cost which will be incurred by STICO and is included within the exporter's margin. No further adjustment for VAT is required because Huafeng's sales to STICO, for VAT purposes, are domestic sales and are therefore subject to the same VAT rate, and more importantly subject to the same refundable VAT rules, as its sales to domestic customers. The Ministry therefore considers that there is no requirement for an adjustment to be made to the normal value for the differences in VAT refunds for export and domestic sales.

285. In response to Wireplus' submission concerning VAT refunds not being claimed by exporters, the Ministry again notes that if an exporter does not claim back the VAT of 5 percent, this will be a cost and will decrease the exporter's net margin (after costs).

#### Response to EFC Report

286. Wireplus submitted that an upward adjustment should be made to the normal value for non-refundable VAT for all manufacturers. This submission relates to the Ministry's approach to only make an upwards adjustment to the normal value for those manufacturers which export the wire nails directly to New Zealand.

287. The Ministry considers that an adjustment is required for the difference in the treatment of VAT refunds where that difference affects the export prices and normal values that are being compared. The Ministry considers that the difference in VAT refunds for domestic sales and export sales of a Chinese manufacturer which exports the wire nails to New Zealand affects price comparability and has accordingly made an upward adjustment to the normal value for non-refundable VAT.

288. The Ministry does not consider that the same adjustment should be made where the manufacturer sells the wire nails to an intermediate exporter located in China which then exports the nails to New Zealand. After deducting costs and margins from the exporter's selling price, which includes non-refundable VAT, the selling price has effectively been reduced to the manufacturer's selling price to the trading company at the ex-factory level. The comparison of export price and the normal value (whether that is based on sales on the Chinese domestic market or a constructed price) is not affected by non-refundable VAT as both prices are subject to the same VAT refund provisions. Accordingly, it is not necessary to make an adjustment for non-refundable VAT for a fair comparison.

289. Wireplus stated that such an approach is inconsistent with the Ministry's normal practice and referred to the 2006 dumping investigation concerning Preserved Peaches from China. Wireplus specifically referred to a manufacturer in that investigation which Wireplus submitted exported preserved peaches through an intermediary in China and the Ministry made an upward adjustment to the normal value for non-refundable VAT. The Ministry checked the investigation reports and notes that the intermediary was in fact based in New Zealand and not in China as submitted by Wireplus. As all of the exporters investigated in the Preserved

Peaches from China investigation were also the manufacturers of the exported product, the Ministry made an upward adjustment to all normal values for non-refundable VAT. The Ministry notes that if all manufacturers were also the exporters then an upward adjustment would have been made to all normal values as applied in the investigation concerning preserved peaches from China. There is no inconsistency between the treatment of non-refundable VAT in this investigation and the investigation concerning preserved peaches from China.

290. Following the release of the EFC report, Wireplus referred the Ministry to a VAT issues paper produced by the Australian Customs and Border Security Service (Australian Customs) during an investigation into aluminium extrusions from China and also to an investigation undertaken by the Canada Border Services Agency (CBSA) into certain mattress innerspring units from China.

291. The Ministry has considered the VAT issues paper produced by Australian Customs during the aluminium extrusions investigation and does not consider the paper directly addresses the issue of whether the same adjustment should be made where the manufacturer sells the wire nails to an intermediate exporter located in China which are then exported.

292. The Ministry has referred to the Statement of Reasons for the Final Determination relating to the investigation into certain mattress innerspring units from China undertaken by the CBSA. The Ministry notes that it is extremely difficult to make any judgments on the approach taken by the CBSA for non-refundable VAT due to the lack of detail contained in the report. For example, CBSA states that the export price for Noromall Enterprises Ltd (an intermediate exporter) was based on its selling price to the Canadian importer which was “adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods” (see paragraph 57). The report does not specify what these costs, charges and expenses are.

293. Without the relevant information about what was taken into consideration by the CBSA, the Ministry considers it is not in a position to comment on how the CBSA has treated non-refundable VAT for this exporter in that particular investigation.

294. While the practices of other trade remedy administrations are helpful when considering particular issues, the decision on how the issue is to be addressed in a New Zealand investigation lies solely with the Ministry.

#### *Submission from Wireplus regarding Advance Payments from STICO*

295. Wireplus submitted that the advance payments made from STICO to Huafeng, as discussed in paragraph 166 above, resulted in Huafeng incurring lower financing costs for export sales than for its domestic sales. Wireplus submitted that Huafeng’s normal value should be increased for this difference to ensure price comparability.

296. The Ministry agrees with Wireplus’ understanding that Huafeng’s export sales incur lower financing costs than Huafeng’s domestic sales. The Ministry has already made an adjustment for the cost of credit that Huafeng extends to STICO in paragraph 170 above. The Ministry calculated this adjustment on the basis of the full

value of the sales i.e. the 30 percent advanced deposit for half the sales was included in the calculation of the adjustment. This means that the amount of the cost of credit adjustment is in fact slightly more than it would have been had such advance payments been factored into the calculation.

297. The Ministry considers that the adjustments made for cost of credit to both the export price in paragraph 170 and the normal value in paragraph 279 enables a comparison of prices which are exclusive of credit costs. The Ministry does not consider that an upward adjustment to the normal value for the advance payments received by Huafeng for its export sales to New Zealand is appropriate given that a cost of credit adjustment has already been made to the export price.

### **Normal Values**

298. Normal values at the ex-factory level were calculated for Huafeng by deducting from base prices total costs for all packaging on domestic sales and the cost of credit. Prices for each of the three categories of nail type were calculated on a weighted average basis according to the volume of domestic sales. On this basis, Huafeng's ex-factory normal values are comparable with Huafeng's ex-factory export prices.

## **Shanghai Puying Architecture Hardware Co Ltd**

### **Domestic Sales Distribution**

299. SPAH made [REDACTED] sales of wire nails on the domestic market during the period of investigation totalling [REDACTED] kilograms.

300. All domestic sales were of bright wire nails to an unrelated manufacturer of hardware products such as bolts and screws to provide a full range of products required by its own customers.

### **Ordinary Course of Trade**

301. The Ministry calculated that SPAH's domestic sales were made at a loss and considers there is no provision for the recovery of costs within a reasonable period of time.

### **Domestic Sales Volume**

302. SPAH's domestic sales of wire nails represented [REDACTED] percent of the total volume of nails exported to New Zealand during the period of investigation, which is less than the 5 percent threshold referred to in footnote 2 to Article 2 paragraph 2 of the Agreement.

### **Sales by Other Sellers**

303. The Ministry considered using selling prices of other sellers in order to establish normal values for SPAH, as provided for under section 5(1) of the Act. Another Chinese producer of nails sold wire nails in the ordinary course of trade for home consumption in China in arm's length transactions, namely Huafeng.

304. The Ministry compared Huafeng's normal values against the information provided by SPAH to assess whether it would be reasonable to use selling prices of other sellers for SPAH. First, the Ministry compared Huafeng's weighted average selling prices for each of the three categories against SPAH's cost of production and a reasonable amount for general selling and administration incurred on sales of like production on the domestic market (based on the proportion that Huafeng's selling, general and administration expenses represent of its cost of production). The Ministry found that Huafeng's selling prices are less than SPAH's cost of production and a reasonable amount for general, selling and administration expenses.

305. Secondly, the Ministry compared Huafeng's domestic sales volume against the total volume of nails exported to New Zealand by SPAH during the period of investigation and found that Huafeng's domestic sales volume represents less than 5 percent of SPAH's total export volume of wire nails during the period of investigation.

306. The Ministry considers that it would not be reasonable to use domestic selling prices of Huafeng to establish normal values for SPAH because domestic sales at these prices, if sold by SPAH, would not be made in the ordinary course of trade and are not considered to be of sufficient quantity to permit a proper comparison.

### **Constructed Normal Values**

307. The Ministry considers that normal values for the three categories of wire nails should be constructed in accordance with section 5(2)(d) of the Act.

#### *Cost of Production*

308. The Ministry used SPAH's cost of production information, including cost of materials, processing charges for outsourcing both galvanising processes, direct labour and manufacturing overheads. SPAH noted that packing labour is included within direct labour and is not able to be separated out but MED notes that this will not affect the comparison with the export price because no adjustment for packing labour has been made to the export price.

#### Response to EFC Report

309. Wireplus queried whether the Ministry's verification of SPAH's cost of steel wire for December 2009 lowered "the actual costs incurred by SPAH during the period of investigation". The Ministry has verified cost of production information provided in Appendix 9B of SPAH's manufacturer's questionnaire response which relates to the year ended 30 September 2010. The Ministry verified information relating to specific dates or periods included in the total figures to assess the accuracy of the information contained in Appendix 9B.

310. Wireplus stated that the Ministry had not conducted a comparison of wire rod costs supplied by SPAH for the year ended 30 September 2010 against the cost for the month of December 2009. Although the Ministry considers that there is limited value in such a comparison, the Ministry nevertheless checked and can confirm that SPAH's cost of steel wire in December 2009 was lower than SPAH's average cost of steel for the POI.

311. The wire costs used to construct SPAH's normal value relate to the entire POI and there is no justification for an upward adjustment to the cost of wire rod as requested by Wireplus.

#### *Reasonable Amount for Selling, General and Administration*

312. SPAH confirmed that it does not sell any other products within the same general category of products on the domestic market. The Ministry has based a reasonable amount for selling, general and administration costs for domestic sales on the percentage that Huafeng's selling, general and administration costs represented of its cost of production.

#### *Reasonable Profit Margin*

313. In the absence of any sales of products by SPAH within the same general category of products on the domestic market, the Ministry has based a reasonable amount for profit on domestic sales on the profit margin achieved by Huafeng on its domestic sales of like product during the period of investigation. The Ministry applied the percentage that Huafeng's profit margin represented of its cost of production to SPAH's cost of production of each category to calculate a profit margin.

#### *Constructed Normal Values*

314. The Ministry has constructed normal values based on SPAH's cost of production of the goods exported to New Zealand, plus reasonable amounts for selling, general and administration and profit which would normally be incurred and achieved on domestic sales of the like product in China, the exporting country.

### **Adjustments**

#### *Value Added Tax*

315. SPAH advised that nails sold on the domestic market are subject to VAT at 17 percent and that in calculating the VAT payable to the government it can claim back all of the VAT paid on its inputs. SPAH advised that while it is not required to charge VAT on its export sales, it can only claim back VAT at a rate of 5 percent of the FOB value. This means that for its export sales to New Zealand there is a non-refundable amount of VAT equal to 12 percent of the FOB value.

316. To recognise the difference in the treatment of VAT refunds between domestic and export sales, the Ministry added an additional 12 percent of the constructed normal value to make an adjustment for the difference in VAT.

317. The Ministry notes that the method used to calculate the amount of the adjustment to the normal value for differences in VAT differs from the method that was used to calculate the adjustment in SPAH's verification report (as described in paragraphs 65 to 67 of SPAH's verification report). The Ministry considers the method described in paragraph 316 better reflects the selling price of like goods on the domestic market if they received the same VAT treatment as export sales because the method uses the normal value as the base price from which to calculate the adjustment rather than the export price.



318. The Ministry has made an upward adjustment to the constructed normal value of hot dipped wire nails for the non-refundable VAT as described in paragraph 316.

#### Response to the EFC Report

319. Wireplus submitted that in cases where the Ministry has not verified the 5 percent VAT refund, the upward adjustment to the normal value should be 17 percent.

320. The Ministry has made an adjustment for non-refundable VAT based on the assumption that exporters claim the 5 percent VAT refund. SPAH and the trading companies' associated with the manufacturers whose information was verified are export orientated companies. In the case of the trading companies, none of them sell wire nails on the domestic market in China. The Ministry notes that a refund of 5 percent of the FOB value of the wire nails exported by these companies is a significant amount. The Ministry considers that it is reasonable to assume that exporters claim a refund of the VAT to which they are entitled given that their business is focused on exporting and the amount of the refund is significant. The Ministry notes that Australian Customs also make this assumption as described in their VAT issues paper.

321. The Ministry is satisfied that the assumption that exporters will claim their refund is reasonable and adjustments for non-refundable VAT have been made at 12 percent.

#### *Cost of Credit*

322. Huafeng's selling, administration and general expenses incurred on its domestic sales have been used for SPAH's constructed normal value. The Ministry notes that Huafeng's selling, administration and general expenses include costs for credit offered to its domestic customers. The Ministry has therefore made an adjustment for the cost of credit to SPAH's normal value based on the amount made on Huafeng's domestic selling prices.

#### *Cost of Packaging*

323. The Ministry does not consider an adjustment for packaging is necessary because packing cost was not included in the cost of production of the constructed normal value and is therefore comparable with export price which has been adjusted to exclude cost of packaging.

#### *Other Adjustments*

324. The Ministry does not consider any further adjustments are required for a fair comparison between the export price and normal value.

#### **Normal Values**

325. Normal values have been calculated by making the adjustments outlined above to the constructed normal values.

#### **Tianjin Baisheng Metal Products Co Ltd**

## Introduction

326. Baisheng makes no sales on the domestic market in China. In the absence of sales on the domestic market in China, MED considered whether it was appropriate to use domestic sales by other sellers of like goods.

## Base Prices

327. The Ministry first considered using selling prices of other sellers in order to establish normal values for Baisheng, as provided for under section 5(1) of the Act.

328. The Ministry established that another Chinese producer of nails sold wire nails in the ordinary course of trade for home consumption in China in arm's length transactions, namely Huafeng. The Ministry verified the information provided by Huafeng and was satisfied that its domestic sales could be used to establish normal values.

329. The Ministry compared Huafeng's normal values against the information provided by Baisheng to assess whether it would be reasonable to use Huafeng's selling prices for Baisheng.

330. First, the Ministry compared the weighted average domestic normal values for bright, electro-plated and hot dip galvanised nails sold by Huafeng on the Chinese domestic market against Baisheng's ex-factory cost (i.e. cost of production plus a reasonable amount for general selling and administration incurred on sales of like product on the domestic market (based on the proportion that Huafeng's selling, general and administration expenses represent of its cost of production) for bright, zinc plated and hot dipped galvanised nails.

331. The normal values for Huafeng for bright, electro-plated and hot dip galvanised wire nails exceeded Baisheng's ex-factory cost for bright nails and galvanised nails.

332. Secondly, MED compared Huafeng's domestic sales volume against the total volume of nails exported to New Zealand by Baisheng during the POI. The Ministry notes that Huafeng's domestic sales volume represents greater than 5 percent of Baisheng's total export volume of wire nails during the period of investigation.

333. The Ministry consequently considers it is appropriate to use the Huafeng's sales on the domestic market in China to establish normal values for Baisheng as provided for, and in this case required by, Section 5(1) of the Act.

## Adjustments

334. Huafeng did not sell hot dipped galvanised nails on the domestic market in China, so the cost of hot dip processing was added to the domestic selling prices of bright nails to arrive at ex-factory normal values for those products.

335. Normal values at the ex-factory level were calculated for Huafeng by deducting total costs for all packaging on domestic sales and the cost of credit. On this basis, Huafeng's ex-factory normal values are comparable with Baisheng's ex-factory export prices.

336. For the reasons noted in paragraph 284 above, the Ministry does not consider any adjustment is required to the normal value for differences in VAT refunds for domestic and export sales.

### **Normal Values**

337. As no adjustments are required to base prices, normal values have been established using the base prices for each of the three categories of nail types.

## **Tianjin Kunxin Metal Product Co Ltd**

### **Introduction**

338. Kunxin makes no sales on the domestic market in China. In the absence of sales on the domestic market in China, the Ministry considered whether it was appropriate to use domestic sales by other sellers of like goods.

### **Base Prices**

339. The Ministry first considered using selling prices of other sellers in order to establish normal values for Kunxin, as provided for under section 5(1) of the Act.

340. The Ministry established that another Chinese producer of nails sold wire nails in the ordinary course of trade for home consumption in China in arm's length transactions, namely Huafeng. The Ministry verified the information provided by Huafeng and was satisfied that its domestic sales could be used to establish normal values.

341. The Ministry compared Huafeng's normal values against the information provided by Kunxin to assess whether it would be reasonable to use Huafeng's selling prices for Kunxin.

342. First, the Ministry compared the weighted average domestic normal values for bright and hot dip galvanised nails sold by Huafeng on the Chinese domestic market against Kunxin's ex-factory cost (i.e. cost of production plus a reasonable amount for general selling and administration incurred on sales of like product on the domestic market - based on the proportion that Huafeng's selling, general and administration expenses represent of its cost of production) for bright and galvanised nails.

343. The normal values for Huafeng for bright and hot dip galvanised wire nails exceeded Kunxin's ex-factory cost for bright nails and galvanised (hot dip and zinc plated) nails.

344. Secondly, MED compared Huafeng's domestic sales volume against the total volume of nails exported to New Zealand by Kunxin during the POI. The Ministry notes that Huafeng's domestic sales volume represents greater than 5 percent of Kunxin's total export volume of wire nails during the period of investigation.

345. The Ministry consequently considers it is appropriate to use Huafeng's sales on the domestic market in China to establish normal values for Kunxin as provided for in Section 5(1) of the Act.

346. [REDACTED] questioned the use of Huafeng's normal values for comparison with Kunxin's export prices. [REDACTED] contended that Huafeng's domestic sales to Chinese nail manufacturers are to make up orders for export. The Ministry notes that Huafeng advised that it considered its sales to other manufacturers in China to be domestic sales rather than export sales.

### **Adjustments**

347. Huafeng did not sell hot dipped galvanised nails on the domestic market in China, so the cost of hot dip processing was added to the domestic selling prices of bright nails to arrive at ex-factory normal values for those products.

348. Normal values at the ex-factory level were calculated for Huafeng by deducting total costs for all packaging on domestic sales and the cost of credit. On this basis, Huafeng's ex-factory normal values are comparable with Kunxin's ex-factory export prices.

349. For the reasons noted in paragraph 284 above, the Ministry does not consider any adjustment is required to the normal value for differences in VAT refunds for domestic and export sales.

### **Normal Values**

350. As no adjustments are required to base prices, normal values have been established using the base prices for each of the three categories of nail types.

## **Xuzhou CIP International Group Co Ltd**

### **Normal Values**

351. In its questionnaire response, Xuzhou CIP stated that it did not sell wire nails on the domestic market in China.

### **Selling Prices of Like Product by Other Sellers**

352. The Ministry has considered using selling prices of other sellers for the purpose of establishing normal values for Xuzhou CIP as provided for under section 5(1) of the Act. Of the Chinese exporters and manufacturers which provided a questionnaire response, only Huafeng sold like goods on the Chinese domestic market in the ordinary course of trade during the POI. The Ministry verified the information provided by Huafeng and was satisfied that its domestic sales could be used to establish normal values. The Ministry notes that Huafeng's domestic selling prices are exclusive of the cost of packaging, which is comparable with Xuzhou CIP's export selling prices which have been adjusted to exclude of the cost of packing as discussed in paragraph 227.

353. The Ministry compared Huafeng's normal values against the information provided by Xuzhou CIP to assess whether it would be reasonable to use selling prices of other sellers to establish Xuzhou CIP's normal values. Firstly, The Ministry compared Huafeng's weighted average selling prices for bright nails and hot dipped galvanised nails against Xuzhou CIP's cost of production and a reasonable amount

for general selling and administration incurred on sales of like production on the domestic market.

354. The Ministry has based a reasonable amount for selling, general and administration costs for domestic sales on information provided by Huafeng. The Ministry calculated the percentage that Huafeng's selling, general and administration costs represented of its cost of production. The Ministry applied this percentage to Xuzhou CIP's cost of production for zinc plated nails and hot dipped galvanised nails to calculate an amount for selling, general and administration expenses. The Ministry observes that Huafeng's selling prices are lower than Xuzhou CIP's cost of production and a reasonable amount for general, selling and administration expenses.

### **Conclusion on Selling Prices of Other Sellers**

355. The Ministry considers that it would not be reasonable to use domestic selling prices of other sellers to establish normal values for Xuzhou CIP because domestic sales at these prices, if sold by Xuzhou CIP, would not be made in the ordinary course of trade.

### **Constructed Normal Values**

356. The Ministry considers that normal values for the two categories of wire nails exported by Xuzhou CIP should be constructed in accordance with section 5(2)(d) of the Act. The Ministry has constructed normal values based on Xuzhou CIP's cost of production of the goods exported to New Zealand, plus reasonable amounts for selling, general and administration and profit which would normally be incurred and achieved on domestic sales of the like product in the exporting country.

#### *Cost of Production*

357. Xuzhou CIP provided its cost of production information relating to bright and hot dipped galvanised wire nails exported to New Zealand in Appendix 9B of its questionnaire response.

#### *Selling, General and Administration and Profit*

358. To construct the normal value, the Ministry added a reasonable amount for selling, general and administration expenses and also for profit which would normally be incurred and achieved on domestic sales of the like product in the exporting country (based on the proportion that Huafeng's selling, general and administration expenses and also profit represent of its cost of production).

### **Adjustments**

#### *Value Added Tax (VAT)*

359. As Xuzhou CIP is a manufacturer, the Ministry notes that any domestic sales made by a manufacturer are subject to VAT at 17 percent and that in calculating the VAT payable to the government it can claim back all of the VAT paid on its inputs. Based on information submitted by another Chinese manufacturer which also exports wire nails to New Zealand, the manufacturer does not charge VAT on its

export sales but it can only claim back VAT at a rate of 5 percent of the FOB value. This means that for its export sales to New Zealand there is a non-refundable amount of VAT equal to 12 percent of the FOB value.

360. To recognise the difference in the treatment of VAT refunds between domestic and export sales, the Ministry added an additional 12 percent of the constructed normal value to calculate the adjusted normal value.

361. The Ministry has made an upward adjustment to the constructed normal value of hot dipped wire nails for the non-refundable VAT.

#### *Cost of Credit*

362. The Ministry notes that Huafeng's selling, administration and general expenses, which was used to construct Xuzhou CIP's normal value, include costs for credit offered to its domestic customers. As the export price is exclusive of the cost of credit, the Ministry has deducted the amount of the cost of credit adjustment made to Huafeng's domestic selling prices.

#### **Normal Values**

363. From the base price and adjustments outlined above the Ministry has calculated an ex-factory normal value for bright nails and hot dip galvanised nails in RMB per kilogram.

#### **Beijing Metal Trading Co. Ltd**

#### **Normal Values**

##### *Domestic sales made by the exporter*

364. The Ministry does not know whether Beijing Metal sells wire nails on the domestic market and normal values cannot therefore be established on this basis.

#### **Selling prices of like product by Other Sellers**

365. The Ministry has considered using selling prices of other sellers for the purpose of establishing normal values for Beijing Metal as provided for under section 5(1) of the Act. Of the Chinese exporters and manufacturers which provided a questionnaire response, only Huafeng sold like goods in the ordinary course of trade on the Chinese domestic market during the POI. The Ministry verified the information provided by Huafeng and was satisfied that its domestic sales could be used to establish normal values. The Ministry notes that the selling prices for Huafeng's domestic sales are exclusive of the cost of packaging, which is comparable with Beijing Metal's export selling prices which are exclusive of the cost of packing as discussed in paragraph 236.

366. As Beijing Metal has not provided any information, the Ministry used information supplied by other Chinese manufacturers to assess whether it would be reasonable to use Huafeng's selling prices to establish Beijing Metal normal value.

367. The Ministry has used the cost of production for the relevant category of wire nails from the manufacturers whose information was verified. The Ministry weighted the manufacturers' cost of production according to their export volume of those types of wire nails to New Zealand during the POI. The Ministry then added a reasonable amount for general selling and administration incurred on sales of like production on the domestic market (based on the proportion that Huafeng's selling, general and administration expenses represent of its cost of production).

368. The Ministry notes that Huafeng's selling prices are less than the cost of production of hot dipped galvanised nails and a reasonable amount for general, selling and administration expenses. The Ministry considers that it would not be reasonable to use domestic selling prices of other sellers to establish normal values for Beijing Metal because domestic sales at these prices, if sold by Beijing Metal, would not be made in the ordinary course of trade.

### **Constructed Normal Value**

369. The Ministry considers that normal values for wire nails should be constructed in accordance with section 5(2)(d) of the Act.

370. The Ministry has constructed normal values based on the cost of production of the relevant category of nail from those manufacturers whose information was verified. The Ministry weighted the manufacturers' cost of production for the relevant category according to their export volume of those types of wire nails to New Zealand during the POI. To construct the normal value, the Ministry added a reasonable amount for selling, general and administration and also profit which would normally be incurred and achieved on domestic sales of the like product in the exporting country (based on the proportion that Huafeng's selling, general and administration expenses, and also profit, represent of its cost of production).

### **Adjustments**

#### *Value Added Tax (VAT)*

371. As Beijing Metal is considered to be a manufacturer, the Ministry notes that any domestic sales made by a manufacturer are subject to VAT at 17 percent and that in calculating the VAT payable to the government it can claim back all of the VAT paid on its inputs. Based on information submitted by another Chinese manufacturer which also exports wire nails to New Zealand, the manufacture does not charge VAT on its export sales but it can only claim back VAT at a rate of 5 percent of the FOB value. This means that for its export sales to New Zealand there is a non-refundable amount of VAT equal to 12 percent of the FOB value.

372. To recognise the difference in the treatment of VAT refunds between domestic and export sales, the Ministry added an additional 12 percent of the constructed normal value to calculate the adjusted normal value.

373. The Ministry has made an upward adjustment to the constructed normal value of hot dipped wire nails for the non-refundable VAT.

### *Cost of Credit*

374. The Ministry notes that Huafeng's selling, administration and general expenses, which was used to construct Beijing Metal's normal value, include costs for credit offered to its domestic customers. As the export price is exclusive of the cost of credit, the Ministry has deducted the amount of the cost of credit adjustment made to Huafeng's domestic selling prices.

### **Normal Values**

375. From the base price and adjustments outlined above the Ministry has calculated an ex-factory normal value for hot dip galvanised nails in RMB per kilogram.

## **Zhangjiagang Lianfeng Metals Products Co Ltd**

### **Normal Values**

#### *Domestic sales made by the exporter*

376. The Ministry does not know whether Zhangjiagang Lianfeng sells wire nails on the domestic market and normal values cannot therefore be established on this basis.

### **Selling prices of like product by Other Sellers**

377. The Ministry has considered using selling prices of other sellers for the purpose of establishing normal values for Zhangjiagang Lianfeng as provided for under section 5(1) of the Act. The Ministry assessed the reasonableness of using selling prices of other sellers using the approach described in paragraphs 365 to 368 above.

378. The Ministry notes that Huafeng's selling prices are less than the cost of production of hot dipped galvanised wire nails and a reasonable amount for general, selling and administration expenses. The Ministry considers that it would not be reasonable to use domestic selling prices of other sellers to establish normal values for Zhangjiagang Lianfeng because domestic sales at these prices, if sold by Zhangjiagang Lianfeng, would not be made in the ordinary course of trade.

### **Constructed Normal Value**

379. The Ministry considers that the normal value for hot dipped galvanised wire nails should be constructed in accordance with section 5(2)(d) of the Act. The Ministry has constructed normal values using the approach explained in paragraph 370 above.

### **Adjustments**

#### *Value Added Tax (VAT)*

380. The Ministry has made an upward adjustment to the constructed normal value of hot dipped wire nails for the non-refundable VAT using the method explained in paragraphs 371 to 373 above.



### *Cost of Credit*

381. The Ministry has made a downward adjustment to the constructed normal value of hot dipped wire nails for the cost of credit using the method explained in paragraph 374 above.

### **Normal Values**

382. From the base price and adjustments outlined above the Ministry has calculated an ex-factory normal value for hot dip galvanised nails in RMB per kilogram.

### **Minmetals (Nanjing) Int'l Trading Co Ltd**

#### **Normal Values**

383. The Ministry does not know whether Minmetals sells wire nails on the domestic market.

#### **Selling prices of like product by Other Sellers**

384. The Ministry has considered using selling prices of other sellers for the purpose of establishing normal values for Minmetals as provided for under section 5(1) of the Act. The Ministry assessed the reasonableness of using selling prices of other sellers using the approach described in paragraphs 365 to 368 above.

385. The Ministry notes that Huafeng's selling prices are less than the cost of production and a reasonable amount for general, selling and administration expenses for zinc plated and hot dipped galvanised nails. The Ministry considers that it would not be reasonable to use domestic selling prices of other sellers to establish normal values for Minmetals because domestic sales at these prices, if sold by Minmetals, would not be made in the ordinary course of trade.

#### **Constructed Normal Value**

386. The Ministry considers that normal values for the two categories of wire nails should be constructed in accordance with section 5(2)(d) of the Act. The Ministry constructed normal values for zinc plated and hot dipped galvanised nails using the method explained in paragraph 370 above.

#### **Adjustments**

387. The Ministry had made an adjustment for the cost of credit as explained in paragraph 374 above.

#### **Normal Values**

388. From the base price and adjustments outlined above the Ministry has calculated an ex-factory normal value for zinc plated nails and hot dipped galvanised nails in RMB per kilogram.

## Tianjin Lianjin Investment Co Ltd

### Normal Values

389. The Ministry does not know whether Lianjin Investment sells wire nails on the domestic market.

### Selling prices of like product by Other Sellers

390. The Ministry has considered using selling prices of other sellers for the purpose of establishing normal values for Lianjin Investment as provided for under section 5(1) of the Act. The Ministry assessed the reasonableness of using selling prices of other sellers using the approach described in paragraphs 365 to 368 above.

391. The Ministry notes that Huafeng's selling prices are less than the cost of production for hot dipped galvanised nails and a reasonable amount for general, selling and administration expenses. The Ministry considers that it would not be reasonable to use domestic selling prices of other sellers to establish normal values for Lianjin Investment because domestic sales at these prices, if sold by Lianjin Investment, would not be made in the ordinary course of trade.

### Constructed Normal Value

392. The Ministry considers that the normal values should be constructed in accordance with section 5(2)(d) of the Act. The Ministry constructed a normal value for hot dipped galvanised nails using the method explained in paragraph 370.

### Adjustments

#### *Cost of Credit*

393. The Ministry had made an adjustment for the cost of credit as explained in paragraph 374 above.

### Normal Values

394. From the base price and adjustments outlined above the Ministry has calculated an ex-factory normal value for hot dipped galvanised nails in RMB per kilogram.

## 4.4 Comparison of Export Price and Normal Value

### Dumping Margins

395. The Ministry has calculated a weighted average dumping margin for each Chinese manufacturer/exporter as described in paragraph 143 above.

396. The table below shows the dumping margin calculated for each Chinese manufacturer/exporter. Table 4.1 below also includes the volume of dumped imports for the year ended 30 September 2010. For those Chinese manufacturers/exporters which provided a response to the questionnaire, their volumes have been based on their export volumes during the POI. For those Chinese manufacturers/exporters which did not provide a questionnaire response, their volumes are based on the

import volumes recorded in the Customs data for the year ended 30 September 2010. Import volumes from other Chinese exporters and imports from other countries are based on the import volumes recorded in the Customs data for the year ended 30 September 2010.

**Table 4.1: Dumping Margins and Dumped Import Volumes  
(1 Oct 2009 -30 Sept 2010)**

Exporter/Manufacturer	Weighted Average Dumping Margin	Volume of Dumped Imports (kg)	Volume of Non-dumped Imports (kg)
Beijing Metal	15%		
Minmetals	10%		
Huafeng	-1%		
Shanghai Puying (SPAH)	-5%		
Tianjin Baisheng	-2%		
Tianjin Kunxin	7%		
Tianjin Lianjin Investment	51%		
Zhangjiagang Lianfeng	110%		
Xuzhou CIP	5%		
Imports from Selected Chinese Exporters		1,043,102	2,435,504
% Dumped/Not Dumped <sup>1</sup>		30%	70%
Imports from Other Chinese Exporters		46,692	109,019
Total Imports from China		1,089,793.83	2,544,523.18
Imports from Other Countries			103,667
Total Volume of Imports			3,737,984.30
Dumped Imports as % of Total Imports			29%

<sup>1</sup> These percentages have been applied to Chinese exporters outside of the selection to calculate the volume of dumped imports from these exporters.

#### *Wireplus' Submission regarding Other Chinese Exporters*

397. Following the release of the provisional measures report, Wireplus submitted that MED has erred in automatically applying the percentage of dumped/non-dumped to the "other Chinese exporters" who were not selected for investigation. Wireplus considered that the Ministry had no grounds to reach the conclusion that the same proportion of these imports are not dumped as those selected for investigation. Wireplus submitted that the best information available on which to determine whether "other Chinese exporters" were dumping was that provided by Wireplus in its application and accepted in the Initiation Report.

398. Due to the large number of Chinese exporters identified by the Ministry at the beginning of the investigation, the Ministry selected the exporters which accounted for 93 percent of imports during the POI for questionnaire responses. The rationale for taking a selection or sample, which is provided for in Article 6.10 of the Agreement, is to keep the number of exporters and producers for whom a dumping margin must be determined to a manageable level.

399. To proceed to determine a dumping margin for those exporters not selected for investigation would defeat the purpose of selecting exporters for investigation. The Ministry is satisfied that the approach it has adopted is consistent with the rationale of using a sample or selection as provided for under the Agreement.

## **4.5 Volume of Dumped Imports**

400. Section 11(1) of the Act provides that where the Minister is satisfied in respect of some or all of the goods under investigation, that there is insufficient evidence of dumping or injury to justify proceeding with the investigation then it shall be terminated. Section 11(2) of the Act provides that evidence of dumping shall be regarded as insufficient if the volume of imports of dumped goods, expressed as a percentage of total imports of like goods into New Zealand, is negligible, having regard to New Zealand's obligations as a party to the WTO Agreement.

401. Article 5.8 of the Agreement provides that volumes of dumped imports are negligible if they are less than 3 percent of total imports of like goods, unless countries which individually account for less than three percent of imports of like goods collectively account for more than seven percent of imports of like goods.

402. The Ministry has found that the volume of dumped imports during the POI made up 29 percent of total imports of like goods, which is more than negligible in terms of Article 5.8 of the Agreement. The Ministry concludes that the volume of dumped imports is not negligible.

## **4.6 Conclusions Relating to Dumping**

403. Dumping margins as a percentage of export prices range from -5 percent (undumped) to 110 percent (dumped). The dumping margins of Beijing Metal, Zhangjiagang Lianfeng, Minmetals, Lianjin Investment, Xuzhou CIP and Kunxin are more than de minimis in terms of Paragraph 8 of Article 5 of the Agreement. No dumping was found for Huafeng, Baisheng and SPAH and it is therefore proposed that these companies should be exempted from any anti-dumping duties that are imposed.

## 5. Evidence of Material Injury

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### 5.1 Introduction

404. Section 10 of the Act outlines the evidence of material injury that must be provided in an application. Material injury is considered for the industry as a whole, or in the absence of information from all 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.

405. 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, being beyond mere allegation, conjecture or remote possibility.

406. Material injury is assessed by comparing data for an injury factor against the data in a period unaffected by dumping. Wireplus stated that injury probably first became material in 2007, and that the 2006 year and prior years were less affected by dumping. For the purpose of assessing material injury, Wireplus provided data relating to volumes of sales, revenue, cost of production, and gross profit, selling and administration and general expenses and net profit figures for the nails part of the business. Sales volume and revenue were actual figures and the costs were calculated by apportioning the relevant wire nail production and administration costs from the total Wireplus financial statements. Nails produced that are not like goods were excluded from the data.

407. Although Wireplus considered 2006 to be a year less affected by dumping it considered that dumping had probably been occurring before 2006 as well. Due to a change in its accounting and finance systems Wireplus was unable to provide detailed financial data relating to years prior to 2006, which was why 2006 was the first year of data it provided.

408. As discussed from paragraphs 63 to 68, material injury is assessed in relation to the New Zealand industry, which for the purposes of the present case is Wireplus only.

409. Wireplus was able to provide the Ministry with revenue information from 2006. Wireplus' production volume of like goods constitutes approximately 80 percent of its total production of wire nails, and Wireplus stated that it has removed the sales volume of these other types of nails from its data. The Ministry is satisfied the data can be used reliably as an injury indicator. This data has been used for import volume, market share, revenue and profit analysis from 2006.

### 5.2 Import Volumes

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

411. A number of adjustments have had to be made to the volume data. As noted in paragraph 71, the Customs' data for imports of wire nails under the relevant tariff item and statistical key includes a number of products which are not considered to be subject goods. Import entries that are not subject goods have been removed from the data to calculate import volumes, and subject goods found to have entered New Zealand under the wrong statistical key in the POI have been added to the data. Imports from China have also been adjusted to account for significant inconsistencies in volumes from China between export invoices provided during the investigation and Customs' data for the POI.

412. Only exports by those exporters and manufacturers found to be dumping (those with a dumping margin greater than *de minimis*) are included in the volume of dumped imports used in the analysis of injury. Exports by those exporters and manufacturers found not to be dumping have been included in the volume of non-dumped imports for the purposes of this analysis. The New Zealand industry sales relate only to sales by Wireplus as Wireplus is considered to constitute the New Zealand industry for the purposes of this investigation.

413. To estimate the volume of dumped imports in periods outside of the POI, the percentage of imports of the goods under investigation over the POI found to be dumped, expressed as a percentage of the total volume of imports from the Chinese exporters and manufacturers selected for investigation (30%), has been applied to periods outside of the POI to estimate the volume of dumped goods in previous years. Import volumes are based on Customs' data for the relevant year ended 31 December (adjusted where necessary as outlined above).

**Table 5.1: New Zealand Market (Volume)**

	2006	2007	2008	2009	2010
Dumped Imports China	302,025	803,837	718,471	600,613	1,089,794
Non-dumped all Sources	1,054,779	2,197,258	1,902,110	1,528,041	2,633,695
Total Imports	1,356,804	3,001,095	2,620,581	2,128,654	3,723,489
NZ Industry Sales					
NZ Market					

<i>As % of Consumption:</i>					
Dumped Imports China					
Non-dumped all Sources					
NZ Industry Sales					
<i>As % of Industry Sales:</i>					
Dumped Imports					
Non-dumped all Sources					
<i>Change on Previous Year:</i>					
Dumped Imports China		501,812	-85,366	-117,858	489,181
Non-dumped all Sources		1,142,480	-295,148	-374,069	1,105,654
Total Imports		1,644,291	-380,515	-491,927	1,594,835
NZ Industry Sales					
NZ Market					
<i>% Change:</i>					
Dumped Imports China		166%	-11%	-16%	81%
Non-dumped all Sources		108%	-13%	-20%	72%
Total Imports		121%	-13%	-19%	75%
NZ Industry Sales					
NZ Market					

414. The volume of dumped imports has fluctuated over the period from 2006 to 2010 but over all of this period there has been a significant increase of 261 percent in these imports. The Ministry notes that the fluctuations may be due in part to errors in the Customs data and that the correction of these errors over the period of investigation may be the reason for the large increase in the volume of dumped imports from 2009 to 2010. There has nevertheless been a significant increase in the absolute volume of dumped imports from 2006 to 2010.

415. At the same time there has also been a significant increase in the volumes of non-dumped imports from 2006 to 2010 most of which originate from China and reflect the finding in the dumping section of this report that 70 percent of the imports of the subject goods from China are not dumped. The New Zealand industry's sales increased from 2006 to 2007 but declined each year thereafter such that sales in 2010 were well below sales in 2006.

416. Relative to consumption, dumped imports have increased each year and over all of the period have increased their share of total consumption from [REDACTED] percent in 2006 to [REDACTED] percent in 2010, an increase of [REDACTED] percentage points. Over the same period non-dumped imports have also either increased or held steady their share of total consumption each year increasing from [REDACTED] percent in 2006 to [REDACTED] percent in 2010, an increase of [REDACTED] percentage points. There has been a corresponding significant decline in the New Zealand industry's share of total consumption from [REDACTED] percent in 2006 to [REDACTED] percent in 2010, a decline of [REDACTED] percentage points.

417. Dumped imports have increased significantly relative to the New Zealand industry's production in each year. In 2006 dumped imports represented [REDACTED] percent of the New Zealand industry's production and in 2010 they represented [REDACTED] percent, an increase of [REDACTED] percentage points. Over the same period non-dumped imports have also increased significantly relative to the New Zealand industry's production, growing from [REDACTED] percent in 2006 to [REDACTED] percent in 2010, an increase of [REDACTED] percentage points.

## Conclusion

418. The Ministry concludes that over the period from 2006 to 2010 there has been a significant increase in the volume of dumped imports both in absolute terms and relative to production and consumption in New Zealand.

## 5.3 Price Effects

419. Sub-section 8(2) of the Act sets out several price effects that need to be considered when assessing material injury, namely undercutting, suppression and depression.

### Price Undercutting

#### Introduction

420. Price undercutting refers to the extent to which the allegedly dumped wire nails from China are sold at lower prices than the wire nails made by the domestic industry. Prices are compared at the point that the wire nails from China first compete in New Zealand with the wire nails made in New Zealand (referred to as the level of trade). Where possible, the level of trade is determined for each importer and therefore the prices of several importers may be considered at different points in the supply chain.

421. In considering price undercutting, the Ministry will normally seek to compare prices at the ex-factory and ex-importer's store levels, to ensure that differences in distribution costs and margins do not confuse the impact of dumping. Accordingly,



the Ministry's position is generally to compare importers' prices, including relevant selling and administration costs, which involve similar cost elements to those in the New Zealand manufacturer's ex-factory price, but not including cost elements relating to the distribution of goods.

### **Information Sourced during the Investigation**

422. The Ministry has relied on the best available information to establish selling prices for dumped goods exported by Beijing Metal, Zhangjiagang Lianfeng, Minmetals and Lianjin Investment as no questionnaire responses were received from these companies or from the companies that import from them. The Ministry notes that the importers of the dumped goods produced by Kunxin and Xuzhou CIP did not provide responses to the importer's questionnaire. To establish the selling prices for these dumped goods, the Ministry has used information contained in the exporter's questionnaire response and also used the best available information where there were information gaps.

423. Responses to the importer's questionnaire were received from ITW Proline, Timbalok and Steel and Tube. Two of these responses included detailed information up to the importer's ex-store selling price and one to the cost price which was adjusted by the Ministry to an average ex-store selling price. The wire nails imported by these importers have been found not to be dumped and they have therefore been excluded from the undercutting analysis. The Ministry has however used some of the information provided by these importers to make adjustments for costs and margins for other importers as it is the best available information.

424. The Ministry has assessed price undercutting by dividing the subject goods into two categories of wire nails, i.e. bright wire nails and galvanised wire nails. The Ministry has included imports of zinc plated wire nails within the bright category as the Ministry considers that zinc plated nails are most closely aligned with bright nails because both are primarily designed for indoor environments, but neither are suitable for use outdoors and are therefore not a substitute for hot dipped galvanised nails. A full discussion of these issues is contained in paragraphs 82 to 85.

### **Level of Trade**

425. As discussed elsewhere in this report, several parties have commented about a significant structural change in the New Zealand market whereby virtually all nails are sold by resellers/retailers. Resellers/retailers do not import directly but rather are supplied by importers who also supply a range of other building related products. In this situation the Ministry considers that the first point of competition at which dumped goods compete with goods produced by the domestic industry in the New Zealand market is at the ex-factory level for the domestic industry and the importer's ex-store level for dumped goods.

### **Domestic Industry's Selling Prices**

426. The Ministry has used Wireplus' average selling prices for bright and galvanised wire nails for the year ended 31 December 2010. The selling prices are [REDACTED] at the ex-factory level.

## **Selling Prices of Dumped Imports**

*For imports where the exporter has provided a response*

427. To establish base selling prices for dumped goods imported from Kunxin and Xuzhou CIP, the Ministry has used information provided in their responses to the exporter's questionnaire. As noted in paragraph 422, the importers of the wire nails produced by these manufacturers did not provide responses to the importer's questionnaire. The importers which sourced wire nails from these exporters purchased at the FOB level in USD. The Ministry identified the Customs exchange rates that applied to imports from the exporter during the POI and used an average exchange rate to convert the FOB values from USD to NZD. The Ministry added an average per kilogram cost of overseas freight and insurance which applied to imports from the exporter according to Customs data. The Ministry added the import duty paid on the imports from that exporter for the POI according to Customs data.

428. To calculate the ex-store selling price, the Ministry has used information provided by other importers. The Ministry weighted the costs and margins of the importers which provided information according to their respective volumes of imports during the POI. The Ministry added amounts for port services charges, cartage from wharf, devanning, selling and administration expenses and an importer's margin for profit to calculate the ex-store selling prices.

*For imports where the exporter has not provided a response*

429. For those exporters which did not provide any information, the Ministry has used Customs data to establish the base selling prices for dumped wire nails. Where there has been insufficient information in the goods description of the Customs data, the Ministry has considered the imports to be hot dipped galvanised wire nails as these are the most common type of wire nails imported into New Zealand. The Customs data provided information including FOB value, overseas freight, insurance and import duty paid on the imports.

430. The Ministry added amounts for port services charges, cartage from wharf, devanning, selling and administration expenses and an importer's margin for profit as described in paragraph 428 to calculate the ex-store selling prices.

431. The Ministry calculated the weighted average selling prices of the dumped bright and galvanised wire nails at the importer's ex-store level using the above information.

## **Comparison of Selling Prices**

432. The table below compares the domestic industry's selling prices against the selling prices of dumped imports for bright and galvanised wire nails during the POI.

**Table 5.2: Price Undercutting Analysis**

	Bright	Galvanised	Product as a Whole
NZ Industry's Ex-factory Selling Price	██████████	██████████	██████████
Ex-store Selling Price of Dumped Goods	██████████	██████████	██████████
Amount of Undercutting	██████████	██████████	██████████
Price Undercutting as % of NZ industry's selling price	██████████	██████████	██████████

433. Table 5.2 shows that the domestic industry's average selling price for bright wire nails is not being undercut. The Ministry notes that even if the imported zinc plated nails were excluded from the bright category, there is no evidence of undercutting of the domestic industry's average selling price for bright wire nails.

434. Table 5.2 shows that the domestic industry's average selling price for galvanised wire nails is being undercut by ██████ percent.

435. The Ministry notes that galvanised wire nails make up a significant proportion of volumes for both domestic sales and dumped imports. The Ministry calculated the weighted selling prices for the product as a whole for the domestic industry and the dumped imports by weighting them against their respective volumes. The margin of undercutting for the product as a whole was ██████ percent.

## Price Depression

436. Section 8(2)(c) of the Act provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers.

437. Price depression occurs when prices are lower than those in a market unaffected by dumping, usually in a previous period.

438. Wireplus has commented that even though average prices had not declined over the period they had declined sharply for both bright and galvanised nails in 2010, and had declined overall from 2007 to 2010.

439. Wireplus has stated that although the overall prices had not declined, its prices in the market had been kept artificially low by price pressure from dumped prices over the whole of the period. It said it had focused on sales at the high margin end of the market, but this has had a negative impact on sales volume.

440. Wireplus has provided its average selling prices of wire nails from 2006 to 2010 as shown in the following table.

**Table 5.3: Weighted Average Ex-factory Selling Prices (per Kg)**

	2006	2007	2008	2009	2010
Galvanised					
Bright					
Average Selling Prices					
Average Selling Price as % of 2006					

441. The table shows the overall selling prices increased each year up to 2009 and then declined in 2010 to a level below that achieved in 2008 and 2009 but were still above the prices achieved in 2006 and 2007. There is evidence that Wireplus' prices were depressed in 2010 when compared with its prices in 2008 and 2009 although its 2010 prices were still higher than those achieved in 2006.

### Price Suppression

442. Section 8(2)(c) of the Act also provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to prevent price increases for those goods that otherwise would have been likely to have occurred.

443. The Ministry has generally based its assessment of price suppression on positive evidence, in particular the extent to which cost increases have not been recovered in prices. Cost increases not recovered in prices will be reflected in increases in total costs expressed as a percentage of sales. Where cost savings have been made, the lack of any price increase will not normally be regarded as price suppression.

444. Wireplus provided the information shown in the following table on its costs and revenue.

**Table 5.4: Price Suppression**

	2006	2007	2008	2009	2010
Average Selling Price					
Cost of Sales					
Selling and Admin					
Total Costs					
Total Costs as a % of Ave SP					

445. Total costs have [REDACTED] in each year over the period from 2006 to 2010. The table shows that total costs as a percentage of sales revenue have fluctuated over the period when compared to the preceding year, decreasing in 2007, increasing in 2008, decreasing in 2009 and increasing in 2010 to a level above that in any of the prior years. While there has been a fluctuation in the percentage that total costs represent of sales revenue over the period, there was a particularly significant rise in this percentage in 2010 and when the information is considered over all of the period from 2006 to 2010 there is evidence that Wireplus' prices have been suppressed.

## Conclusions on Price Effects

446. The Ministry concludes that Wireplus' average selling price of bright wire nails is not being undercut by dumped imports. The Ministry concludes that the domestic industry's selling price of galvanised wire nails is being undercut by dumped imports. The Ministry further concludes that Wireplus' overall average selling price is being undercut by the overall weighted average price of dumped imports.

447. There was no price depression when average selling prices in 2006 are compared with those in 2010. However, prices did decline in 2010 to a level below those achieved in 2008 and 2009.

448. There is evidence that prices were suppressed when total costs relative to selling prices in 2006 are compared with that in 2010, although this was in a situation where this ratio had fluctuated in each of the years over this period.

## 5.4 Economic Impact

449. Section 8(2)(d) of the Act provides that the Chief Executive shall have regard to the economic impact of the dumped or subsidised goods on the industry, including—

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

### Output and Sales

450. Movements in sales revenue reflect changes in volumes and prices of goods sold. Dumped imports can affect both of these factors through increased supply of goods to the market and through price competition.

451. Wireplus provided sales volume and revenue figures related to bright and galvanised wire nails with other products not like goods removed from the data. The figures were net figures at the ex-factory level.



**Table 5.6: Market Share (Kilograms)**

	2006	2007	2008	2009	2010
Sales by Wireplus	██████████	██████████	██████████	██████████	██████████
Dumped Imports from China	302,025	803,837	718,471	600,613	1,089,794
Non-Dumped all Sources	1,054,779	2,197,258	1,902,110	1,528,041	2,633,695
NZ Market	██████████	██████████	██████████	██████████	██████████
<i>As % of NZ Market:</i>					
Sales by Wireplus	██████████	██████████	██████████	██████████	██████████
Dumped Imports from China	██████████	██████████	██████████	██████████	██████████
Non-Dumped all Sources	██████████	██████████	██████████	██████████	██████████

457. The table shows that Wireplus' market share, when compared with the preceding year, declined significantly in 2007, declined slightly in 2008, remained static in 2009 and again declined significantly in 2010. The overall decline in market share from 2006 to 2010 has been very significant with the share in 2010 being one fifth of that achieved in 2006 and representing a decline of ██████ percentage points.

458. Dumped imports from China have increased their market share significantly from 2006 to 2010 by ██████ percentage points with the most significant increases in market share occurring in 2007 and 2010. Over the same period non-dumped imports have also increased their market share to a lesser extent with an increase of ██████ percentage points with the most significant increase occurring in 2010.

459. The table therefore shows that the majority of the market share lost by the New Zealand industry can be attributed to dumped imports from China.

## Profits

460. Changes in net profit reflect changes in prices, sales volumes or costs. Dumped imports can impact on any or all of these. Normally, the extent of any decline in profit will be measured against the level achieved in the period immediately preceding the commencement of dumping.

461. Wireplus provided the following information on its earnings before interest and tax.

**Table 5.7: EBIT**

	2006	2007	2008	2009	2010
EBIT (\$)	██████████	██████████	██████████	██████████	██████████
Change from Previous year		██████████	██████████	██████████	██████████
% of 2006		██████████	██████████	██████████	██████████
EBIT per Kg	██████████	██████████	██████████	██████████	██████████
Change from Previous Year		██████████	██████████	██████████	██████████
% of 2006		██████████	██████████	██████████	██████████
EBIT as % Sales Revenue	██████████	██████████	██████████	██████████	██████████

462. The table shows that EBIT for the wire nails has ██████████ each year from 2006 to 2010. The ██████████ fluctuated over the period, increasing in 2007 and 2008, reducing significantly in 2009 and increasing in 2010. The amount of ██████████ in 2010 was significantly less than ██████████ recorded in 2006, 2007 and 2008. The reduction in ██████████ over all of the period between 2006 and 2010 reflects in significant part the reduction in sales revenue over this period which declined by ██████████ percent. If the percentage that the ██████████ EBIT represented of sales revenue in 2006 had been the same in 2010 then ██████████ would have been ██████████, i.e. the reduction in ██████████ would have been greater. The size of ██████████ in 2010 therefore also reflects a deterioration in the ratio of ██████████ EBIT to sales revenue which went from ██████████ percent in 2006 to ██████████ percent in 2010.

463. The deterioration in the ratio of ██████████ EBIT to sales revenue is also reflected in an increase in the ██████████ EBIT per kilogram, which in a situation of ██████████ declines in revenue is a more significant indicator of injury than the absolute level of the EBIT. While the ██████████ EBIT per kilogram has fluctuated over the period, it sharply increased in 2010 to a level significantly ██████████ than that recorded in any of the previous years under review, indicating there has been a ██████████ decline in Wireplus' profitability.

## Productivity

464. Productivity is the relationship between the output of goods and the input of resources used to produce them. Changes in productivity are affected by output levels and by the level of capacity utilisation.

465. Wireplus provided details of the number of employees engaged in nail production (on a full time equivalent basis) and the actual sales volume from 2006 to 2010 (the employee numbers for 2010 are for the 6 months to June 2010, while the sales volume relates to the 12 months to December 2010) as shown in the following table.



**Table 5.8: Sales Volume per Employee**

Year	Number of Employees	Sales Volume (kgs)	Sales Volume per Employee
2006	██████████	██████████	██████████
2007	██████████	██████████	██████████
2008	██████████	██████████	██████████
2009	██████████	██████████	██████████
6 months to June 2010	██████████	██████████	██████████

466. The table shows that both employee numbers and sales volumes have decreased over the period. It also shows that sales volume per employee peaked in 2007 and declined each year thereafter such that in 2010 it was significantly lower than that achieved in 2006, indicating there has been a significant decline in productivity.

### Return on Investments

467. A decline in return on investments will result from a decline in returns with or without a relative increase in the investment factor being used. Movements in the return on investments affect the ability of the industry to retain and attract investment.

468. Wireplus has provided information relating to its investment in nail making machinery (at net book value) and has calculated a rate of return based on these values as shown in the table below.

**Table 5.9: Return on Investments**

	2006	2007	2008	2009	2010
EBIT	██████████	██████████	██████████	██████████	██████████
Investment in nail making machinery	██████████	██████████	██████████	██████████	██████████
Return on investment	██████████	██████████	██████████	██████████	██████████

469. The table shows there has been ██████████ return on investments in each year over the period. The return has fluctuated with ██████████ return being recorded in 2008 followed by an improvement in 2009 and a further deterioration in 2010 with the return in 2010 being a little worse than that recorded in 2006.

470. As noted above under “Profits” the amount of the absolute [REDACTED] EBIT has been affected by the decline in revenue and is not a good indicator of injury. Because of this, the return on investments calculated on the basis of an absolute [REDACTED] EBIT is not considered to be a particularly useful measure of injury.

### Utilisation of Production Capacity

471. The utilisation of production capacity reflects changes in the level of production, although in some cases it will arise from an increase or decrease in production capacity. In either case, a decline in the utilisation of production capacity will lead to an increase in the unit cost of production, and a consequent loss of profit.

472. Wireplus provided figures on its production capacity by taking the number of machines and the production rate of each machine and applying it to the time the machines were operating to calculate the potential output of annual production in kilograms, based on one shift as shown in the following table.

**Table 5.10: Production Capacity**

Nail Machines	No. of Machines	Nails per Minute	Nails per Kg	Kg per Hour		Manufacturing Weeks in per year	Hours per Shift	Annual Kg Output 1 Shift
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]
Total Capacity			[REDACTED]	[REDACTED]				[REDACTED]

473. Wireplus noted that reduced market demand led to reduced production output and that any manufacturing venture carried a portion of fixed costs associated with it. Wireplus said that to an extent it was able to mitigate the effect of the fixed costs by reducing the number of operable machines [REDACTED]. It said that the increased volume of dumped nails [REDACTED] affects the viability of the manufacturing process, and that it was “being hit from two angles” being reduced volume and lower net prices.

474. Wireplus said that the employees were flexible in that they could be moved to other work and the manufacturing process was such that the volume produced could be adjusted very quickly to reflect changes in market demand. Wireplus also noted that it had significant capacity and could very easily increase its utilisation of that capacity should the market demand increase. Wireplus further noted that it [REDACTED] from time to time to help keep fixed costs down, but that there would

come a point where the utilisation of its capacity was so low that it would not be worth continuing production.

475. On the basis of the production capacity in Table 5.10 above and its annual sales volume, Wireplus has calculated the percentage of its capacity that it has utilised in each year over the period. Wireplus has also calculated the amount of spare (or unused) capacity in each year. Details are shown in the table below.

**Table 5.11: Utilization of Production Capacity**

Year	Actual Sales Volume Kgs	Annualised Spare Capacity	% Capacity Utilisation
2006	██████████	██████████	██████
2007	██████████	██████████	██████
2008	██████████	██████████	██████
2009	██████████	██████████	██████
2010	██████████	██████████	██████

476. The table shows that capacity utilisation peaked in 2007 and declined each year thereafter such that in 2010 it was at half the level achieved in 2006, indicating there has been a significant decline in the utilisation of production capacity.

### Factors Affecting Domestic Prices

477. Wireplus has commented that a significant factor affecting domestic prices has been a structural change in the market since about 2007 whereby most nails are now sold by resellers ██████████ to end-users which has meant that most of its sales are now made to resellers rather than to end-users. Such resellers have significant market power and this has resulted in downwards pressure on selling prices to resellers.

### Magnitude of the Margin of Dumping

478. 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.

479. The weighted-average dumping margin for those exporters and manufacturers which were selected for investigation and were found to be dumping was 11 percent. The dumping margins ranged from 5 to 110 percent. The Ministry notes that the smaller importers had higher dumping margins.

480. Dumped imports are undercutting the domestic industry's selling prices by ██████ percent for the product as a whole. Dumped imports of galvanised wire nails are

undercutting the domestic industry’s selling prices by [REDACTED] percent. Dumped imports of bright nails are not undercutting the domestic industry’s selling prices.

481. A comparison of the weighted average dumping margin and weighted average margin of undercutting indicates that a majority of the price undercutting can be attributed to dumping.

## 5.5 Other Adverse Effects

### Cash Flow

482. Wireplus said that it was quite difficult to get a measure of the cash flow of the nail portion of the business as nails is one product of many manufactured and transacted through the business. Wireplus said that its cash flow has been [REDACTED] affected by weak demand and noted that from the end of 2009 to 2010 [REDACTED] enhance cash flows.

483. Wireplus has, however, estimated the cash flow relating to its nail manufacturing operation to give an indication of cash flow for wire nails. The details are shown in the following table.

**Table 5.12: Net Cash Flow**

	2006	2007	2008	2009	2010
EBIT	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
less interest	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
less depreciation	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
EBITDA	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Opening stock	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Closing stock	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Stock movement	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Net Cash Flow	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

484. The table shows a [REDACTED] cash flow for each year over the period. The [REDACTED] cash flow has increased each year when compared with the preceding year from 2007 to 2009 and then improved significantly in 2010 to a level that was better than any of the prior years. The Ministry notes that the cash flows for 2009 and 2010 have been affected by a [REDACTED] at the end of 2009.

485. As noted above under “Profits” the amount of the absolute [REDACTED] EBIT has been affected by the decline in revenue and is not a good indicator of injury. Because the calculation of cash flow takes the EBIT as its starting point and because its calculation is significantly affected by movements in stock the Ministry does not consider cash flow to be a particularly useful measure of injury.

## Inventories

486. To the extent possible, Wireplus said that inventory levels are managed on a ‘just in time’ basis. Wireplus’ stock control system has minimum trigger levels for production to maintain enough stock. Wireplus said that it carried a maximum stock of [REDACTED] months supply.

487. Wireplus said it valued the inventory by the absorption costing method taking into account raw material costs, variable overhead costs and a portion of fixed costs associated with the business.

488. Wireplus stated that as its sales volumes decline those volumes are replaced by imported dumped nails from China and so base inventory levels will be higher than ideal. Wireplus said that it has to consider economic production runs so it is not unusual to see inventories fluctuate more when its sales volumes decline as this reflects fewer production runs and longer lead times between production runs.

489. Wireplus provided the following figures on inventory levels (data was not available for 2006 and 2007).

**Table 5.13: Inventory Levels (Year End)**

	2008	2009	2010 (June)
Value	[REDACTED]	[REDACTED]	[REDACTED]
Quantity	[REDACTED]	[REDACTED]	[REDACTED]

490. The information available on inventories is limited, but does show a [REDACTED] build up in inventories at the end of 2009 followed by a decline at the end of June 2010 although the levels at that date are still above those at the end of 2008.

## Employment and Wages

491. Wireplus stated that reduced market demand and pricing due to dumped nails leads to a reduction in waged workers, reduction in overtime and reallocation where possible of salaried workers to other roles within the business.

492. Wireplus provided details relating to wages and employee numbers (converted to full time equivalents) in respect of its employees engaged in the production of wire nails, as shown in the table below.

**Table 5.14: Wages and Employment**

Year	Expensed Wages	Average Hourly Rate	Employee Hours	Hours per Week	No. of FTE (based on 40 hours per week)
2006	██████████	██████████	██████████	██████████	██████████
2007	██████████	██████████	██████████	██████████	██████████
2008	██████████	██████████	██████████	██████████	██████████
2009	██████████	██████████	██████████	██████████	██████████
6 months to June 2010	██████████	██████████	██████████	██████████	██████████

493. Wireplus also provided the figures from 2006 to June 2010 for employees in production management, logistics and sales relating to its wire nail operation which shows that the FTE's had reduced from ██████████ to ██████████ FTE's.

494. The information provided by Wireplus shows a ██████████ reduction in the number of full time equivalent employees engaged in Wireplus' wire nail operation from a total of ██████████ employees in 2006 to ██████████ employees in June 2010 which represents a ██████████ percent reduction.

495. There is no evidence that wages have declined in absolute terms.

**Growth**

496. Wireplus stated that the significant increase in imports of wire nails has led to a decline in the industry's production and sales and made it less attractive to invest in new technology for nail manufacture.

497. Wireplus referred to studies it had undertaken which had examined investment in plant and machinery ██████████ ██████████ ██████████ ██████████ ██████████ manufacture of nails. Wireplus said these studies had shown this would still not make the galvanised nail business competitive which it said indicated that the competing Chinese imported nails were being dumped.

**Ability to Raise Capital, and Investments**

498. Wireplus said that its ability to raise capital and investments was not affected as nails was a small part of Wireplus' business and its parent company, United Industries, raises any funds required e.g. for any upgrade in technology. Although capital is available Wireplus said it is less attractive for it to invest in technology specifically for wire nails compared to other areas of its business.

## 5.6 Causes of Injury Other than Dumping

499. Section 8(2)(e) of the Act provides that the Chief Executive shall have regard to factors other than the dumped goods which have injured, or are injuring, the industry, including—

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

500. Under section 8(2)(f) of the Act the Chief Executive is also required to have regard to the nature and extent of importations of dumped or subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

### Non-dumped Imports

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

502. China is the major source of imports of wire nails. In 2010 imports from China represented about 96 percent of total imports. The investigation into dumping has found that 70 percent of the imports from China are non-dumped. Non-dumped imports from China therefore constitute nearly all of the non-dumped imports. In considering whether non-dumped imports have been a cause of injury to the New Zealand industry the Ministry has consequently focused on non-dumped imports from China.

503. As noted in paragraph 423 above, responses to the importer's questionnaire were received from ITW Proline, Timbalok and Steel & Tube. The wire nails imported by these importers have been found not to be dumped and they were therefore excluded from the analysis carried out above to establish whether dumped imports are undercutting the New Zealand industry's prices. The Chinese manufacturers which supplied wire nails to these importers supplied 96 percent of the imports from China found to be non-dumped. Because the wire nails imported by these companies represent such a large proportion of non-dumped imports from China and because their responses included detailed information up to the importer's ex-store selling price, the Ministry has used this information to assess whether non-dumped imports are undercutting the prices of the New Zealand industry.

504. There are a large number of different stock keeping units (SKUs) of wire nails and each importer imports a range of these to a greater or lesser extent. The products have therefore been divided into two categories according to whether they

are competing in the indoor (bright and zinc plated) or outdoor (hot dipped galvanised) market segment.

505. The Ministry has calculated import prices at the level of trade at which the importer predominantly trades and Wireplus' average prices and has:

- compared weighted average prices on a per kilogram basis for the two categories of Wireplus and the Chinese imports; and
- compared the prices of one of the most popular sizes of nail for the two categories of Wireplus and the Chinese imports.

506. The following paragraphs discuss competition in the New Zealand market between the importing companies and the New Zealand industry, the level of trade, calculation of prices and the extent of any price undercutting by each importer.

### **Competition in the New Zealand Market**

507. ITW Proline has questioned the relevance of comparing its prices with the New Zealand industry's as in its view it does not compete with the domestic industry because it is not competing for the same customers and consequently cannot cause injury to the New Zealand industry.

508. ITW Proline said it supplies large hardware resellers whereas the New Zealand industry supplies rural resellers and pallet manufacturers. It said that it had a broad product range of approximately 4000 hardware SKU's (of which nails comprise approximately 270 SKU's) with which to negotiate contracts and therefore it had significant cost advantages and efficiencies, for example for freight. It said the type of customers it dealt with had centralised decision making processes and preferred dealing with only a few customers within product ranges. ITW Proline said its customer market was mainly resellers such as [REDACTED].

509. ITW Proline said that the rural sector reseller chains were a different market segment made up of, for example, Wrightsons, Farmlands, and other independents such as Independent Timber Merchants (ITM's) and Buildlink which were mixtures of trade, DIY and rural suppliers and so did not compete with the New Zealand industry in supplying that sector. ITW Proline said that although it could purchase from the New Zealand industry, the industry could not provide all the SKU's that it would be required to supply to its customers, and so it preferred to buy from a supplier that could provide all of its product range.

510. Timbalok also commented on the competition in the New Zealand market. It said that in the nail market where the quality of the imported product was similar to that produced by the New Zealand industry, an important feature of competition was the ability to meet the major retail hardware customer's requirements in presentation marketing. For example, the presentation of 500 gram packs in 'expensive clam packs' rather than plastic bags. Timbalok said that most New Zealand manufacturers only offer the larger sized nails as they are 'fast movers'. Timbalok said that these issues inhibit New Zealand manufacturers from winning the supply contracts with major retail hardware merchants.



511. The Ministry is aware that the New Zealand industry does compete (and has had some success in the past) for the large reseller contracts. The Ministry notes that [REDACTED]

some of which are presumably manufactured by it in New Zealand.

[REDACTED] . In addition [REDACTED] ITM's (80 to 90 independent stores with group buying and marketing power whose members supply trade, DIY and rural customers). Wireplus has stated that as one of a group of companies itself it is not limited to selling wire nails and wire mesh, but can be competitive in negotiating [REDACTED].

512. The Ministry considers it is appropriate to compare the New Zealand industry's ex-factory prices with the ex-store prices of the larger importers (where the imported goods are taken into stock in the importers distribution outlets) as they all, to a greater or lesser degree compete to supply various mixes of hardware products which include wire nails.

### **ITW Proline**

513. ITW Proline is part of ITW Constructions Systems (ITWCS) which imports wire nails from [REDACTED]. All imports are delivered to its distribution centres. ITWCS conducts the warehousing and dispatch functions and is a separate business unit [REDACTED]. While ITW Proline manages the sales and marketing, ITWCS holds stock and distributes the wire nails (and other hardware items) to a number of hardware resellers around New Zealand.

514. As ITW Proline's wire nails are all entered into ITWCS warehouses and distributed from there to its reseller customers, the Ministry considers the level of trade at which ITW Proline competes with the New Zealand industry is at the ex-store versus ex-factory level.

515. ITW Proline provided the following weighted average values of its prices for bright and galvanised wire nails for four different pack sizes (0.5kgs, 2kgs, 5kgs and 15 kgs). These values have been adjusted to ex-store per kilo prices [REDACTED] and comparing these prices with the weighted average ex-factory selling prices of the New Zealand industry.

**Table 5.15: ITW Proline: Price Undercutting (NZD per Kilogram)**

Category	Wireplus	ITW Proline		P/U	P/U as %
	Ave \$/Kg	Ave \$/Kg	Pack Size (Kgs)		
Bright (Indoor)	██████	██████	██████	No P/U	No P/U
		██████	██████	No P/U	No P/U
		██████	██████	██████	██████
		██████	██████	██████	██████
Galvanised (Outdoor)	██████	██████	██████	No P/U	No P/U
		██████	██████	No P/U	No P/U
		██████	██████	██████	██████
		██████	██████	No P/U	No P/U

516. The table above shows that there has been price undercutting in three of the eight pack sizes, two in the bright (indoor) category and one in the galvanised (outdoor) category.

517. Where price undercutting has occurred it is only by a minor amount ranging from ██████ to ██████ percent (the amount of price undercutting expressed as a percentage of Wireplus’ price). Of the five cases where there is no price undercutting, in four of those cases the import price ██████ above Wireplus’ price and in the remaining case the import price is ██████ above Wireplus’ price.

**Comparison of Average Prices for High Volume Wire Nails**

518. Specific information was also provided on some single lines of nails by ITW Proline, Steel & Tube and Timbalok. All three importers have distribution warehouses which on-sell nails (and other hardware products) to wholesalers, distributors, builders’ merchants, hardware stores and the like.


519. Several companies during the investigation had commented that the 100mm x 4.0 mm wire nails were one of the most popular sizes of wire nails which is reflected in the high volume turnover and very competitive prices. Two of the three importers provided breakdowns to the ex-store price level for individual 100mm x 4mm for both bright and galvanised wire nails and one provided details to the ex-store cost level which the Ministry has adjusted to an ex-store price. The Ministry has then carried out a price undercutting comparison for this size of nail in respect of the three

importers referred to above. The comparison has again been made at the ex-factory level for Wireplus and at the ex-store level for the importers.

520. The following table compares average ex-store and ex-factory prices for 100mm x 4mm bright wire nails.












**Table 5.16: Price Undercutting Comparison: Bright Wire Nails (100mm X 4mm)**





		Dimensions	Pack Size	Ex-store Importer \$/kg	Wireplus Weighted Ave. \$/kg	P/U	P/U as %
ITW Proline	Bright Flat head	100 x 4 mm	0.50			No P/U	No P/U
Steel & Tube	Bright Jolt head	100 x 4 mm	5.00			No P/U	No P/U
Timbalok	Bright Flat head	100 x 4 mm	0.50			No P/U	No P/U
Timbalok	Bright Flat head	100 x 4 mm	5.00			No P/U	No P/U

521. The table shows there was no price undercutting by the imported nails. In all cases the import prices  above Wireplus' prices.

522. The following Table compares average ex-store and ex-factory prices for 100mm x 4mm galvanised wire nails.

**Table 5.17: Price Undercutting Comparison: Galvanised Wire Nails (100mm x 4mm)**

Galvanised		Dimensions	Pack Size	Ex-store Importer \$/kg	Wireplus Weighted Ave. \$/kg	P/U	P/U as %
ITW Proline	Galv Jolt head	100 x 4 mm	2.00			No P/U	No P/U
Steel & Tube	Galv Flat head	100 x 4 mm	25.00				
Steel & Tube	Galv Flat head	100 x 4 mm	5.00				
Steel & Tube	Galv Flat head	100 x 4 mm	2.00			No P/U	No P/U
Steel & Tube	Galv Flat head	100 x 4 mm	0.50			No P/U	No P/U

Timbalok	Galv Flat head	100 x 4 mm	0.50			No P/U	No P/U
Timbalok	Galv Flat head	100 x 4 mm	5.00			No P/U	No P/U

523. The table shows that there was price undercutting in only two cases. In one of these cases the level of price undercutting was minor and in the other it was significant.

524. Such price comparisons as above are necessarily only a snapshot of prices in the market. Only one importer responded with weighted average prices for different pack sizes so the comparisons are limited to the information provided. The comparisons show that there is some undercutting occurring on individual lines of high volume nails and price undercutting from at least one large importer on average

525. In summary, the information available shows that most of the non-dumped wire nails imported from China are not undercutting Wireplus' prices and where there is price undercutting, with one exception, it is only by minor amounts.

### Imports from Sources other than China

526. The Ministry has used the Custom's data for the calendar year 2010 for imports of wire nail from sources other than China in Table 5.18 below. The Ministry has separately identified the two countries which have the highest export volumes to New Zealand behind China and grouped the remaining countries as "other sources".

**Table 5.18: Volume and FOB Value of Imports from Sources Other than China**

	Import Volume (Kg)	VFD (NZD)
Republic of Korea	8,221	4.23
Taiwan	24,540	5.53
Other Sources	70,539	9.24

527. The Ministry notes that the average FOB prices of wire nails from sources other than China are significantly higher than the domestic industry's ex-factory selling prices. Given that these imports do not undercut the domestic industry's selling prices at the FOB level, the Ministry considers it is not necessary to calculate the importer's ex-store selling prices by adding costs for overseas freight, insurance, and other costs incurred to calculate an importer's ex-store selling price given there would be no undercutting. Based on this information the Ministry considers that it is unlikely that imports from sources other than China are a cause of injury to the domestic industry.

### Volume of Non-Dumped Imports

528. As shown under “Market Share” above, non-dumped imports hold the largest share of the New Zealand market when compared to the shares held by the New Zealand industry and dumped imports from China and have increased their share of the market between 2006 and 2010 by [REDACTED] percentage points. The gain in market share by non-dumped imports has been at the expense of a loss of market share by the New Zealand industry so non-dumped imports have clearly had an impact on the New Zealand industry. At the same time the New Zealand industry has lost a significantly larger share of the market ([REDACTED] percentage points) to dumped imports from China over the same period.

## Changes in Consumption or Demand

529. Changes in the pattern of consumption or a reduction in demand can also be a potential cause of material injury to the New Zealand industry producing wire nails.

530. Several sources have noted changes in the market that affect the volume of sales of wire nails. These are described below.

### *Economic Activity*

531. Wireplus noted in its application that the market demand for nails fluctuates with economic activity and estimated a downturn of approximately 20 percent in 2009. ITW Proline agreed that macro economic factors such as economic growth, lending rates, exchange rates and population growth affect the market for nails. A number of companies noted that the activity in building and house construction affect the market (including the effects of the recent Christchurch earthquake).

### *Structural Change*

532. Wireplus said that there has been significant structural change in the New Zealand market since about 2007, whereby now virtually all nails are sold by resellers/retailers who often deliver to trade customers. As a consequence direct sales to builders and builders groups have declined in favour of total service packages to these customers. Wireplus has said that it had tried to focus on sales to trade customers but this structural change in the market had negatively affected its sales volumes. Several parties noted that major resellers preferred to deal with fewer suppliers which meant that suppliers had to be able to offer a wide enough product range to be considered. Another importer (Steel & Tube) noted that resellers often changed contract suppliers for strategic reasons.

533. It was generally acknowledged that the largest volumes of loose nails were sold through large resellers such as Bunnings, Carters, ITM stores, Mitre 10 and Placemakers, and that the acquisition or loss of a contract with one of these companies could have a significant impact on the suppliers share of the market (whether importer or New Zealand manufacturer).

534. ITW Proline considered that there is now distinct market segmentation, the market segments being retail, trade and direct sales. It considered that it did not compete directly with the New Zealand industry because its target market was sales to the large resellers above, and that the New Zealand industry did not have access to a broad enough range of product and so would not be able to supply this market

as the large resellers preferred to deal with few suppliers. It considered that the industry was therefore restricted to supplying other smaller chains, and to make direct sales. It considered that the current structure of the market meant that it was not therefore competing against the New Zealand industry and therefore could not be causing it injury.

535. As outlined in paragraph 510 above, Timbalok commented that in the nail market where the quality of the imported product was similar to that produced by the New Zealand industry, an important feature of competition was the ability to meet the major retail hardware customer's requirements in presentation. Timbalok also commented that most New Zealand manufacturers only offer the larger sized nails as they are 'fast movers'. Timbalok said that these issues inhibit New Zealand manufacturers from winning the supply contracts with major retail hardware merchants.

### Response to EFC Report

In response to the issues of competitiveness raised in particular in paragraphs 511 and 534 above, Wireplus stated that it competes vigorously for supply contracts with the major retailers and hardware merchants and is able to supply a wider range of products than just wire nails. It stated that the claims that imports from China in the wire nails sector are not causing injury to Wireplus are therefore incorrect.

### *Collated Nails*

536. Two importers (Timbalok and Steel & Tube) noted the increasing use of nail guns which use collated nails rather than loose nails which has resulted in a decline in the consumption of loose nails. Timbalok estimated this to be up to 50 percent over the last 10 years.

### *Competitive Steel Framed Houses*

537. Timbalok pointed to the increasing competitiveness of steel framed houses which don't require nails as having a negative effect on sales.

### *Market Size*

538. The information available from Customs import statistics and New Zealand wire nail manufacturers indicates that between 2006 and 2010 there was a significant increase in the size of the total New Zealand market, although the figures do show significant fluctuations in market size over this period.

539. As noted elsewhere in this report, the Ministry has found discrepancies in the Customs import data and the apparent fluctuations in the size of the market further indicate that Customs import data is not completely reliable. Nevertheless, the information available on market size does indicate the market is growing rather shrinking as the submissions are suggesting.

## Restrictive Trade Practices and Competition

540. Restrictive trade practices of overseas or New Zealand producers, such as price ceilings, other statutory measures, or exclusive dealer arrangements, can affect the financial position of New Zealand manufacturers when they are not the beneficiaries of the restrictions. Competition between, overseas and New Zealand producers of wire nails can, be a cause of material injury independent of any dumping. For example the existence of a price war or the constant threat of new competitors to the New Zealand market can cause a fiercely competitive environment where it is difficult for a New Zealand manufacturer to make a positive return.

541. There have been no reports from interested parties of the existence of restrictions on competing for contracts in the market. Several parties did comment on the strong competition for contracts to supply resellers/retailers and noted that new entrants had comparatively low barriers of entry to start up an import business supplying the market. With low operating costs they could compete on price and target independent retailers and others.

## Developments in Technology

542. Wireplus stated there have not been any significant changes in the technology used to produce wire nails. Wireplus noted that if it needed to it could invest in faster German nail manufacturing machines. Wireplus has sufficient capacity with its current machines to satisfy current market demand and has therefore has no need to invest in such technology.

543. There have been no submissions which suggest that differences between the technology used by the New Zealand industry and that used in China have been a cause of injury to the New Zealand industry.

## Export Performance and Productivity of New Zealand Producers

544. Wireplus noted that the sales figures included its export sales. Wireplus stated that it exports small quantities of wire nails to the Pacific Islands. Wireplus' export sales volume in 2009 was 100 tonnes or 0.1 percent which is insignificant when compared to total sales of wire nails of 100,000 tonnes in 2009. The Ministry noted that exports in 2007 and 2008 were 100 and 100 tonnes respectively.

545. The Ministry considers that these exports are too small to have had any negative effect on the industry.

## Imports by the Industry

546. Wireplus stated that it had not imported any subject goods during the POI. Customs import data does not show any imports by Wireplus (or its parent company) over the POI or in any prior years back to 2006.

## Conclusions on Other Causes of Injury

547. There is evidence that non-dumped imports have contributed to the injury to the New Zealand industry, in particular from a limited amount of price undercutting and a loss of market share. Factors other than non-dumped imports, in particular the structural change in the market towards most nails being sold through major resellers/retailers may also have had a negative impact on the New Zealand industry.

## 5.7 Causal Link

548. Sub-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 other factors also being a cause of material injury. This reflects the requirements of Paragraph 2 of Article 5 of the Agreement.

549. 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.

550. 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.

### First Causal Link Limb

551. There is evidence that the volume of dumped imports has increased significantly from 2006 to 2010 in absolute terms, recording an increase of 261 percent over this period. There has also been a very large increase in dumped imports relative to production in New Zealand (reflecting both an increase in dumped imports and a decline in New Zealand production) and a significant increase in dumped imports relative to consumption in New Zealand. The increase in dumped imports relative to consumption has coincided with a decrease in the New Zealand industry’s share of total consumption in New Zealand.

552. There is evidence of significant price undercutting of the New Zealand industry’s hot dipped galvanised nails by dumped imports but no evidence that the prices of the New Zealand industry’s bright wire nails are being undercut by dumped imports (galvanised nails are, however, a far more significant component of the New Zealand industry than bright wire nails). While there is no evidence of price depression when average selling prices in 2006 are compared with those in 2010, the industry’s average selling prices did decline in 2010 to a level below that achieved in 2008 and 2009. There is evidence of significant price suppression in 2010 such that the percentage total costs represent of sales revenue in that year was above that of any of the prior years from 2006 to 2009.

553. These volume and price effects correspond with declines in sales volume and revenue, market share, EBIT per kilogram, productivity, utilisation of production capacity and employment. The Ministry consequently considers there is an



inference that the increase in the volume of dumped goods, the price effects and the consequent economic impact outlined in the paragraphs above can be attributed to dumped imports from China.

## Second Causal Link Limb

554. The dumping investigation has found that 70 percent of the imports of the subject goods from China are not dumped. As noted previously in this report, nearly all of the imports of wire nails into New Zealand come from China. Non-dumped imports from China are consequently a significant factor in the New Zealand market representing a significantly larger part of the New Zealand market than either dumped imports or sales by the New Zealand industry.

555. The volume of non-dumped imports has increased significantly in absolute terms and they have increased their share of the New Zealand market at the expense of the New Zealand industry although their gain in market share has only been half as great as the market share gained by dumped imports. There is also evidence of a limited amount of price undercutting by non-dumped imports (although in the majority of cases non-dumped imports were not undercutting) but the amount of the undercutting is generally minor and not as great as the undercutting by dumped imports.

556. While the volume of non-dumped imports is significantly higher than that of dumped imports this does not necessarily mean that the pricing pressure and consequent economic impact exerted by non-dumped imports was greater than that of dumped imports, particularly in a situation where non-dumped imports are undercutting only to a limited extent and to a lesser degree than dumped imports and where non-dumped import volumes are not increasing at the same rate as dumped import volumes.

557. There is some evidence that factors other than non-dumped imports, in particular the structural change in the market to most nails being sold through major resellers/retailers, may also have had a negative impact on the New Zealand industry.

558. Dumped imports must be a cause of material injury in order for a finding of material injury to be sustained. The Ministry does not consider that the Act or Agreement provides that dumped imports must be the sole cause of material injury.

559. While there is evidence that non-dumped imports have caused some injury to the New Zealand industry and some evidence that the structural change in the industry may have had a negative affect on the industry, the Ministry is satisfied that it is not sufficient to break the inferred causal link that dumped imports from China have caused material injury to the New Zealand industry.

## 5.8 Conclusions Relating to Injury

### Import Volumes

560. There is evidence there has been a significant increase in dumped import volumes, both in absolute terms and in relation to production and consumption in New Zealand.

### Price Effects

561. There is evidence of significant price undercutting of the prices of Wireplus' galvanised nails, but no evidence that the prices of its bright wire nails have been undercut. There is evidence that Wireplus' overall average selling price is being undercut by the overall weighted average price of dumped imports. There is evidence that Wireplus' prices were depressed in 2010 when compared with its prices in 2008 and 2009 although its 2010 prices were still higher than those achieved in 2006. There is evidence that Wireplus' prices have been suppressed.

### Economic Impact

562. There is evidence that the New Zealand industry has suffered the following adverse effects, attributable to dumped imports:

- a decline in sales volume and revenue;
- a decline in market share;
- a decline in profitability;
- a decline in productivity;
- a decline in capacity utilisation; and
- a decline in employment.

563. There is insufficient or no evidence of injury attributable to dumped imports, reflected in:

- a decline in return on investments;
- a decline in cash flow;
- an increase in inventories;
- a decline in wages; and
- an adverse impact on growth and the ability to raise capital and investments.

## **Other Causes of Injury**

564. There is evidence that injury has been caused by non-dumped imports, in particular through a limited amount of price undercutting and through gains in market share at the expense of the New Zealand industry, which may have contributed to price depression and suppression and also to the consequent economic impact referred to above. There is also some evidence that the structural change in the market towards most nails being sold through major resellers/retailers may also have had a negative impact on the New Zealand industry.

### Response to EFC Report

565. Wireplus noted that if its export price and normal value methodology were used there would be positive dumping margins for the other three exporters, and this would have reduced or eliminated the extent of injury caused by non-dumped imports.

## **Finding of Material Injury**

566. The Ministry is satisfied, having considered all the mandatory requirements, in addition to considering other relevant factors, both as presented by interested parties to this investigation and those discovered in the course of the investigation, that the New Zealand industry has suffered material injury. The Ministry is further satisfied that the material injury suffered was in significant part caused by the dumped imports from China such that the New Zealand industry has suffered material injury attributable to dumped imports.



## 6. Anti-Dumping Duties

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### 6.1 Introduction

567. Section 14 of the Act sets out the requirements for the imposition of anti-dumping duties. Under section 14(1) of the Act, the Minister may, at any time after making a final determination under section 13(1) on whether dumped imports have caused or threaten to cause material injury to a New Zealand industry, impose an anti-dumping duty.

568. The Ministry considered whether the imposition of duties would in fact be effective given that three of the biggest exporters were found not to be dumping. While it is difficult to predict the behaviour of New Zealand importers, it is possible that some importers may decide to source wire nails from those manufacturers which were found not to be dumping.

569. The effect of importers sourcing from these manufacturers is likely to increase the injury caused to the New Zealand industry by non-dumped imports. The Ministry nevertheless considers, given the scheme and purpose of the Act is to provide for the imposition of anti-dumping duties where dumped imports have caused or threaten to cause material injury to a New Zealand industry, that the industry is entitled to the imposition of duties to prevent injury which is attributable to dumped imports.

### 6.2 Method of Imposing Duties

570. The objective of an anti-dumping duty is to remove injury attributable to dumping, and is not to punish the exporter or to provide protection to an industry beyond the impact of the dumping. The Act prevents the Minister from imposing a duty that exceeds the margin of dumping.<sup>2</sup> Furthermore, the Act requires that the Minister have regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry.<sup>3</sup> This requirement is known as the “lesser duty rule”.

571. There are numerous considerations that are taken into account when deciding on the form of the anti-dumping duty. Factors such as the ability to ensure the dumping margin is not exceeded, the ability to maintain fairness between parties, the predictability of the duty payable and the ease of administration, are all important aspects of an anti-dumping duty.

572. Anti-dumping duties can be applied in a number of different ways. The three basic approaches are:

- a specific duty approach;

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<sup>2</sup> Dumping and Countervailing Duties Act 1988, s14(4).

<sup>3</sup> Dumping and Countervailing Duties Act 1988, s14(5).

- an *ad valorem* rate approach; and
- a reference price approach.

## A Specific Duty

573. A specific duty is a set amount of duty payable per unit of product imported. This specific amount of duty is based on the monetary value of a margin of dumping. The approach is convenient to apply, impossible to evade by incorrectly stating the value for duty, and it clearly indicates to the importer the amount of duty payable on the product.

574. Some problems with a specific duty approach may occur if there are a wide range of goods involved, exchange rates may fluctuate to the extent that the margin of dumping will be exceeded without constant reassessments of the specific amount, or where an exporter manipulates prices so that the duty is either greater than the margin of dumping or less than the margin of dumping previously established.

575. A specific duty, expressed as a monetary amount, can only operate effectively when two conditions are present. The first is that prices and exchange rates are consistent and stable. The second is that the transaction-to-transaction comparison does not result in a range of different dumping margins.

576. A specific duty approach can be implemented as a formula, being the difference between equivalent prices to the normal value and the export price of a particular shipment, with the values for the normal value and export price being fixed. When those elements of the formula are expressed in terms of the currency of each transaction, the problem of exchange rate movements can be dealt with. However, a formula approach does not deal with the problem of changes in export prices for reasons other than exchange rate movements or movements in normal values such as a price change.

## Ad Valorem Rate Duty

577. An *ad valorem* duty is a duty based on the margin of dumping or the margin of injury (if the margin of injury is less than the margin of dumping), and is expressed as a percentage of the value for duty (VFD). An *ad valorem* duty is convenient to apply and is unlikely to be substantially affected by exchange rate movements. *Ad valorem* rates are often appropriate where there are a large range of goods. As with the other approaches, there is the possibility of collusion between an exporter and importer concerning the manipulation of the invoice value of the goods.

578. Under this approach, a particularly low export price (and therefore a potentially more injurious export price) would result in a lower amount of duty, which may not be sufficient to remove injurious dumping. Conversely, a particularly high export price (and therefore likely to be less injurious), would attract a higher amount of duty, which may be higher than is necessary to remove injurious dumping.

579. An *ad valorem* rate gives an indication of the impact of the duty, but is not as clear an indication as the other forms of duty, although the rate can usually be provided to all parties and is therefore very transparent.

## Reference Price Duty

580. Under the reference price approach, the duty payable is the difference between the transaction price and a reference price. A reference price can be based on either a normal value or the domestic industry's non-injurious price (NIP). A Normal Value (Value for Duty Equivalent) or NV(VFDE) amount represents the un-dumped value of the goods at the free-on-board (FOB) level. A non-injurious free-on-board (NIFOB) price is the price at which the imports would not cause injury to the New Zealand industry, calculated at the FOB level. The Ministry prefers to set the NV(VFDE) and NIFOB amounts in the currency in which the like goods are sold in their respective markets. In this case those currencies are RMB (for reference prices based on normal values) and NZD (for reference prices based on NIPs), as these are the currencies in which like goods are traded in their respective markets.

581. A reference price has advantages in that it is best able to deal with movements in the export price and exchange rates (if expressed in the currency of the normal value), and is particularly appropriate for dealing with situations where a lesser duty is applicable. However, it has been argued that it is more easily evaded than the other forms of duty by overstating the VFD of the goods. Nevertheless, a reference price does have the advantage of clearly signalling to exporters and importers what price is un-dumped or non-injurious. In addition, a reference price duty only collects duty when the goods are priced below the non-injurious or un-dumped reference price, therefore duty is collected only to the extent necessary to remove injurious dumping.

582. One of main problems with reference prices is that the information they are based on represents a snapshot of prices and costs at a particular point in time. If these prices or costs change, the reference prices may no longer be accurate although significant changes in prices or costs can be addressed by way of a reassessment of the reference prices.

## Method of Imposing Duty

583. The Ministry's practice is to consider the suitability of all methods of imposing anti-dumping duties, i.e. a specific amount per unit, a reference price and an *ad valorem* rate, in the circumstances of each dumping investigation.

584. Under sub-section 14(5) of the Act the Minister must have regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry, and this issue is considered separately below.

585. There is a very wide range of different product types involved in this investigation and a correspondingly wide range of export prices and normal values. Export prices usually change each time they are negotiated with suppliers and normal values are subject to frequent change in a competitive Chinese domestic market. For these reasons the Ministry does not consider that a specific duty is appropriate or feasible in this case.

586. Historically the Ministry's preference has been to impose duties through a reference price mechanism, for the reasons set out above. The Ministry considers,

however, that the use of a reference price mechanism would not be effective for the subject goods due to the wide range and prices of the goods that each sub-category covers. This method can be more complex in its application at the border and it may be circumvented by the exporter overvaluing the goods for export and offsetting the difference against other goods exported to the same importer.

587. The Ministry does not consider it would be practical to establish reference prices for individual product types given the very wide range of products and the frequency with which product types and prices change. For the preceding reasons the Ministry does not consider it feasible to use the reference price method to impose duties.

588. An *ad valorem* duty is appropriate where there is a large range of goods and the goods are of such a nature that the number of types may increase or decrease, e.g. due to changes in consumer demands or obsolescence. An *ad valorem* duty is easy to administer at the border and does not require the release of confidential information that has been provided by any party in the investigation.

589. The Ministry considers that duties should be imposed by means of an *ad valorem* percentage duty as it is a practical method of imposing duties against a product of this nature and can be easily enforced at the border. The Ministry considers that the *ad valorem* duty should be based on each manufacturers/exporters margin of dumping, but the Ministry has considered the appropriateness of a lesser duty as discussed in paragraphs 593 to 614.

## Developing Country Considerations

590. For the purposes of dumping investigations and the imposition of anti-dumping duties, China is considered to be a developing country and therefore Article 15 of the Agreement applies. Article 15 requires that special regard must be given by developed country members to the special situation of developing country members when considering the application of anti-dumping measures. The possibility of constructive remedies is to be explored before applying anti-dumping duties where they would affect the essential interests of a developing country member.

591. The WTO Dispute Settlement Panel in *Cotton-Type Bed Linen from India* stated that “the imposition of a “lesser duty” or a price undertaking would constitute “constructive remedies” within the meaning of the Article 15...”<sup>4</sup>

592. The Ministry has given consideration to whether a lesser duty is appropriate in the following paragraphs. No exporters or manufacturers have offered to enter into a price undertaking. The Ministry considers that to the extent that it is able to do so by the Act, it has explored the possibilities of constructive remedies provided for by Article 15 of the Agreement.

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<sup>4</sup> Report by the Panel on European Communities-Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India, WT/DS141/R, 30 October 2000, at paragraph 6.229.



## Consideration of Lesser Duty

593. Section 14(5) of the Act requires that the Minister has regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry. The Ministry has compared two reference prices at the FOB level which represent an un-dumped selling price (NV(VFDE)) and a non-injurious selling price (NIFOB) to assess the appropriateness of a lesser duty.

### *Calculation of Non-Injurious Prices (NIPs)*

594. A NIP is an unsuppressed selling price at which a domestic producer can sell its products in its domestic market in the absence of dumped imports and is the basis on which a NIFOB reference price is calculated. The Ministry concluded that there was some evidence of price suppression during the POI. An unsuppressed selling price is one that is achievable in the absence of competition from dumped product in the New Zealand market. There are a number of methods which can be used to calculate NIPs, including:

- the current cost of production plus industry profits taken at a time when the industry was unaffected by dumped imports;
- using pre-injury prices scaled up by a relevant index; and
- determining the lowest priced non-dumped product in the market.

595. The Ministry does not consider that any of the above methods enable a reasonable calculation of the NIP. The Ministry notes that it is not clear in what financial year the New Zealand industry's selling prices were last unaffected by dumped imports. As noted in paragraph 525 above, the Ministry found that most of the non-dumped wire nails imported from China are not undercutting Wireplus' prices, and that where there was price undercutting, it involved minor amounts.

596. The Ministry considers it is therefore reasonable to use Wireplus' 2010 selling prices as the NIP even though the Ministry has concluded that there is some evidence of price suppression. The Ministry notes that the use of Wireplus' 2010 selling prices is likely to be a conservative basis for the NIP as an unsuppressed selling price would likely be higher than the industry's current selling prices. The Ministry further notes that it would not make any difference even if the Ministry had used higher selling prices for the NIP as the Ministry concludes in paragraph 614 below that a lesser duty is not appropriate for any of the exporters/manufacturers.

597. As stated in paragraph 425 above, the relevant level of trade for the New Zealand industry is at the ex-factory level.

598. The Ministry has established a specific NIP for each Chinese exporter/manufacturer according to the types of wire nails exported to New Zealand during the POI. The Ministry has used the New Zealand industry's overall NIP for Kunxin, Xuzhou CIP and Minmetals as they manufactured/exported a mix of bright, zinc plated and hot dipped wire nails during the POI.

599. For Zhangjiagang Lianfeng, Lianjin Investment and Beijing Metal, the manufacturers/exporters which the Ministry has assumed only manufactured/exported hot dipped galvanised wire nails, the Ministry has used Wireplus' 2010 average selling price for hot dipped galvanised wire nails as the NIP.

#### *Calculation of NIFOB Amounts*

600. The purpose of a NIFOB amount is to ensure that the price of imported Chinese wire nails, when considered at the FOB level, is such that when wire nails from China are sold at the relevant level of trade in the New Zealand domestic market, the sale price is not lower than the NIP.

601. As stated in paragraph 425 above, the Ministry considers that the level of trade for importers of wire nails from China is at the ex-store level.

602. The Ministry notes that none of the companies which imported goods from Chinese exporters and manufacturers found to be dumping provided a response to the Ministry's questionnaire. The Ministry has therefore had to use the best available information to calculate the costs between FOB and the ex-store level.

603. To calculate the NIFOB amounts based on the importer's ex-store level of trade, the Ministry has deducted the costs of importing the goods from the FOB level to the ex-store level. The Ministry has made downward adjustments to the NIP for overseas freight, insurance, import duty (2.8 percent), port charges, inland freight, devanning, importer's selling and administration expenses and an importer's profit margin. Overseas freight and insurance was based on actual amounts incurred on each manufacturer's/exporter's exports during the POI. Port charges, inland freight, devanning, importer's selling and administration expenses and an importer's profit margin were all based on information supplied by other importers during the investigation. The Ministry weighted the costs and margins of the importers which provided information according to their respective volumes of imports during the POI.

604. The NIFOB amounts for each Chinese manufacturer/exporter are compared to the NV(VFDE) amounts in Table 6.1 below.

#### ***NV(VFDE) Reference Prices***

605. NV(VFDE) amounts are calculated by adding to the Chinese normal values, all costs incurred by the Chinese manufacturer/exporter up to the FOB level. The NV(VFDE) amounts therefore represent an un-dumped price at the FOB level.

606. As with the NIFOB, the Ministry has calculated a single NV(VFDE) for each manufacturer/exporter. The Ministry has calculated a normal value for the product as a whole by weighting the normal values for each category by the volume of wire nails in each category that were exported to New Zealand. As the normal values calculated in section 4.3 of the report were exclusive of packing costs, the Ministry has added packing costs associated with the wire nails exported to New Zealand relevant to each Chinese exporter/manufacturer. The packing costs include primary packing costs, secondary packing costs and also packing labour.

*Costs and margins for exporters/manufacturers which provided a response*

607. For Xuzhou CIP and Kunxin, the Ministry has added the relevant costs and margins incurred and achieved between ex-factory and FOB as recorded in their questionnaire responses for the POI. For Xuzhou CIP the costs included inland freight and port handling charges. For Kunxin, the Ministry added the margin taken by its exporter which included all costs and margins between ex-factory and FOB.

*Costs and margins for exporters/manufacturers which did not provide a response*

608. For Minmetals and Lianjin Investment, which the Ministry assumes manufactures the wire nails and exports them through a trading company, the Ministry has added an exporter's margin which includes all costs and margins incurred and achieved by the exporter from the ex-factory level to the FOB level. These costs include inland freight, port handling charges, cost of credit, bank charge and an exporter's profit margin.

609. For Zhangjiagang Lianfeng and Beijing Metal, which the Ministry assumes both manufacture and export the wire nails, the Ministry has added the costs incurred by a manufacturer which also exported the wire nails and whose information has been verified by the Ministry. These costs include inland freight, port handling charges, cost of credit and bank charge.

610. The NV(VFDE) amounts for each Chinese manufacturer/exporter are compared to the NIFOB amounts in Table 6.1 below.

**Comparison of NIFOB and NV(VFDE) Amounts**

611. The Ministry has compared the NIFOB and NV(VFDE) amounts calculated above to assess whether a lesser duty is appropriate. A lesser duty would be appropriate where a NIFOB amount is less than the NV(VFDE) amount. Where the NIFOB amount is not lower than the NV(VFDE) amount, the duty should be imposed at the full margin of dumping.

612. For the purpose of this comparison, the Ministry has converted the NV(VFDE) amounts, which are normally set in RMB, to NZD to allow a comparison with the NIFOB amounts which are set in NZD. The Ministry converted the NV(VFDE) amounts using the 12 month rolling average of the RMB and NZD exchange rate to 15 October 2010.<sup>5</sup>

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<sup>5</sup> <http://www.ird.govt.nz/resources/2/2/22c68b804272d52ab31cbf82245c33b7/mid-month-currency-rates-2011.pdf>

613. The following table compares the NIFOB and NV(VFDE) amounts.

**Table 6.1: Reference Price Comparison (NZD/kg)**

Manufacturer/Exporter	NIFOB	NV(VFDE)	Lower Price
	(NZD/Kg)	(NZD/Kg)	
Kunxin			NV(VFDE)
Xuzhou CIP			NV(VFDE)
Lianjin Investment			NV(VFDE)
Zhangjiagang Lianfeng			NV(VFDE)
Beijing Metal Trading			NV(VFDE)
Minmetals			NV(VFDE)

614. There are no NIFOB amounts which are lower than the corresponding NV(VFDE) amounts and the Ministry therefore considers that a lesser duty is not appropriate for any of the Chinese exporters/manufacturers.

#### ***Rates of Anti-Dumping Duty***

615. The rates of duty are to be set on a percentage *ad valorem* basis at the full margin of dumping, to be applied to the value for duty of the goods. The percentage rate of duty will therefore be equal to the weighted average margin of dumping for each exporter which was found to be dumping as shown in Table 6.2 below.

#### ***Residual Rate of Duty***

616. It is necessary to establish a residual rate of duty that will apply to exporters not selected for investigation. As the Ministry took a selection of manufacturers/exporters as provided for under paragraph 10 of Article 6 of the Agreement, the provisions of paragraph 4 of Article 9 of the Agreement apply in respect of setting residual duties. Paragraph 4 of Article 9 of the Agreement requires that a residual rate is not to exceed the weighted average margin of dumping of the selected exporters and producers and the Ministry is required to disregard any zero and *de minimis* margins and margins established in the circumstances of Paragraph 8 of Article 6 of the Agreement. Paragraph 8 of Article 6 of the Agreement provides that in cases where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, a determination may be made on the basis of the facts available.

617. After excluding manufacturers/exporters which were found to have zero and *de minimis* margins, and those manufacturers/exporters with margins established on the basis of facts available, the only manufacturers which were selected for investigation

from which a residual rate can be based are Kunxin and Xuzhou CIP. The Ministry has therefore calculated the weighted average margin of dumping of Kunxin and Xuzhou CIP and proposes that this be used as the residual rate. The proposed residual rate of duty is shown in Table 6.2 below.

**Table 6.2: Summary of Proposed Duty Rates**

Kunxin	7%
Xuzhou CIP	5%
Lianjin Investment	51%
Zhangjiagang Lianfeng	110%
Beijing Metal Trading	15%
Minmetals	10%
Residual Rate	6%

### **Reassessment for Exporters not selected for Investigation**

618. The Act, at section 14(6), provides for the initiation of a reassessment on the initiative of the Chief Executive or at the request of an interested party who submits evidence justifying the need for a reassessment. The Ministry would not normally carry out a reassessment for at least six months after the completion of an investigation in order to allow sufficient time for the operation of the duties to be properly assessed.

619. However, paragraph 5 of Article 9 of the Agreement provides that authorities shall promptly carry out an accelerated review, for the purpose of establishing individual dumping margins for any exporter or producer of that product in the exporting country who has not exported the product to the importing country during the period of investigation.

620. The Ministry also interprets Article 9.5 to apply to parties who have exported the goods under investigation to New Zealand during the period of investigation, but who were not selected for investigation under paragraph 10 of Article 6 of the Agreement.

### **Effective Dates**

621. Section 14(2) of the Act requires that anti-dumping duty shall be collected and paid on the demand of Customs the day after the date the notice of the rate or amount of duty determined is published in the *New Zealand Gazette*. Under section 17 of the Act, the rate or amount determined is payable from either (a) the day after the date of the Minister's final determination on the investigation, or (b) a specified day after this date.

622. It is proposed that the anti-dumping duties should apply from the day after the date of the Minister's final determination on the investigation.

### **Impact of Anti-dumping Duties**

623. The Ministry considers that it is difficult to gauge the extent of any price increases to New Zealand importers and New Zealand consumers as a result of the imposition of the duties. The Ministry notes that the major exporters are not subject

to the duties and it is possible that some New Zealand importers may decide to source from those manufacturers/exporters which were not found to be dumping.

624. The Ministry has assessed whether a lesser duty is appropriate and considers that the duty should be imposed based on the full margin of dumping based on the information available. The Ministry considers that the proposed rates of duty are set at a level which is sufficient to remove injury caused to the New Zealand which is attributable to dumping.

## 7. Conclusions

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625. On the basis of the information available, it is concluded that:

- a. some of the goods under investigation are being dumped;
- b. by reason thereof material injury to an industry has been or is being caused;
- c. anti-dumping duties should be imposed using an *ad valorem* methodology at the weighted-average dumping margin for each of the three sub-categories of CBS found to be dumped on an exporter specific basis; and
- d. the three exporters which were found not to be dumping, namely SPAH, Huafeng and Baisheng should be exempt from the anti-dumping duties.





## 8. Recommendations

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626. It is recommended on the basis of the information obtained during the course of the investigation into the dumping of wire nails from China:

- a That the Minister determine pursuant to section 13 of the Act that in relation to the importation or intended importation of wire nails from China:
  - goods are being dumped; and
  - by reason thereof material injury to an industry has been or is being caused.
- b That the Minister, having made a determination under section 13 of the Act, give notice pursuant to section 14(1) of the rate or amount of duty determined under section 14(4) of the Act to be imposed in respect of the goods under investigation imported from China, on the basis set out in Table 6.2 above.
- c That the Minister exempt subject goods manufactured by those companies found not to be dumping from anti-dumping duty, namely Shanghai Puying Architecture Hardware Co. Ltd., Tianjin Baisheng Metal Products Co. Ltd., and Tianjin Tianli Huafeng Metal Production Co. Ltd.
- d That the Minister sign the attached Gazette notice, and give notice of the final determination and imposition of duties in respect of China, to interested parties in accordance with sections 9, 13 and 14 of the Act.

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Investigating Team  
Trade Rules, Remedies and Tariffs Group