

Ministry of **Economic
Development**



M a n a t ū Ō h a n g a

Non-Confidential Review Final Report

Reinforcing Steel Bar and Coil from Thailand

Dumping and Countervailing Duties Act 1988

Sunset Review

August 2009

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Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Anti-Dumping Agreement	WTO Agreement on Implementation of Article VI of the GATT 1994
BSBM	Bangsaphan Barmill Public Company Limited
Chief Executive (the)	Chief Executive of the Ministry of Economic Development, New Zealand
CIF	Cost, Insurance and Freight
CPI	Consumer Price Index
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Tax
FOB	Free on Board
Kelive Research	Kim Eng Securities (Thailand) PLC – Kelive Research
MA	Micro Alloy
Ministry (the)	Ministry of Economic Development, New Zealand
NIFOB	Non-Injurious Free-on-Board
NTS	N.T.S. Steel Group Public Company Limited
NV(VFDE)	Normal Value (Value for Duty Equivalent)
NZD	New Zealand Dollar
PPI	Producer Price Index
QT	Quench and Tempered
Rebar	Reinforcing steel bar and coil described as “goods under review”
SCSC	Siam Construction Steel Co Ltd
SCT	SCT Company Ltd
THB	Thai Baht
TSTH	Tata Steel (Thailand) Public Company Limited
USD	United States Dollar

VFD	Value for Duty
WTO	World Trade Organisation

1. Executive Summary

Introduction

1. A review of the anti-dumping duties that currently apply against imports of reinforcing steel bar and coil from Thailand was initiated by the Ministry of Economic Development on 2 March 2009.

2. The review was initiated upon the receipt of an application from Pacific Steel, the sole New Zealand producer of reinforcing steel bar and coil, for a review of the present anti-dumping duties. The duties under review have been in place since March 2004 and would have expired in March 2009. Pacific Steel claimed that the expiry of the duties would lead to a recurrence of dumping and material injury to the industry.

Goods Subject to the Investigation

3. The goods under review from Thailand are described as follows:

Reinforcing steel bar and coil with a diameter equal to or greater than 5mm and less than or equal to 40mm

Dumping

4. There have been no exports of reinforcing steel bar and coil from Thailand to New Zealand since October 2006, therefore, the Ministry was unable to analyse if the goods continue to be dumped into New Zealand since the imposition of anti-dumping duties in 2004. On the basis of the information gathered during the review, however, including average prices of Thai rebar exported to other export destinations and a Thai manufacturer's domestic price for rebar, the Ministry concludes that, should the duties be removed from the goods under review, there is likely to be a recurrence of dumping of rebar into New Zealand.

Material Injury

5. The domestic industry is not currently suffering material injury from dumped imports of rebar from Thailand as there have been no imports from Thailand since October 2006.

6. The review has focused on the likelihood of a recurrence of material injury to the New Zealand industry should the anti-dumping duties be removed. Information examined during the review included comparing the prices of Thai exports of rebar with exports to New Zealand from other countries, the capacity of Thai exporters to supply the New Zealand market, the ability of importers to handle imports from Thailand, exchange rates and other factors likely to affect decisions on whether imports from Thailand would likely resume. On the basis of the information gathered during the review, the Ministry concludes that, should the duties be removed from imports of rebar from Thailand, there is likely to be a recurrence of material injury suffered by the New Zealand industry.

Conclusion

7. The review team concludes that if the current anti-dumping duties are removed there is a likelihood of a recurrence of dumping and that this would likely cause material injury to the New Zealand industry. A reassessment of the rate or amount of anti-dumping duty is recommended.

2. Proceedings

2.1 Proceedings

8. On 4 March 2004, the Minister of Commerce imposed anti-dumping duties on imports into New Zealand of reinforcing steel bar and coil (rebar) from Thailand because an investigation had established that the goods were being dumped and by reason thereof were causing and threatening to cause material injury to the New Zealand industry, Pacific Steel.

9. On 2 March 2009, the Chief Executive of the Ministry of Economic Development (the Chief Executive) initiated a review of the continued need for the imposition of the anti-dumping duties, pursuant to section 14(8) of the Dumping and Countervailing Duties Act 1988 (the Act), on the basis of positive evidence submitted by Pacific Steel justifying the need for the review. A notice advising the initiation of the review was published in the New Zealand *Gazette* dated 5 March 2009.

10. In accordance with Article 11 of the World Trade Organisation (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-dumping Agreement), the purpose of the Ministry of Economic Development's (the Ministry) review is to examine whether dumping and injury would be likely to continue or recur if the duties were removed. This Report includes the essential facts established in the review and the conclusions reached by the Ministry.

11. On 30 July 2009 an Interim Report for this review was provided to all interested parties being written advice of the essential facts and conclusions that will likely form the basis for any final determination to be made. All interested parties were given until 13 August 2009 to make submissions based on the content of the Interim Report.

12. Pacific Steel provided a submission and its comments have been included in this Report where relevant. The Ministry has also received a response from the Thai Trade Centre, Sydney, which advised that no Thai exporters would be making a submission. No other submissions have been received.

13. This Final Report includes the conclusions reached by the Ministry. It should be noted that the report provides a summary only the information, analysis and conclusions relevant to this investigation, and should not be accorded any status beyond that.

2.2 Reviews

14. In terms of section 14(9)(a) of the Act, anti-dumping duties relating to rebar originating from Thailand would, in the absence of a review, have ceased to apply on 5 March 2009. The existing anti-dumping duties will continue to apply pending the outcome of this review and the reassessment that follows.

15. The period of review for dumping is the calendar year 2008. In view of Pacific Steel's concerns about the reliability of 2008 data, due to price instability, the Ministry has also made calculations for 2007 so that it can compare these prices to provide

greater assurance for the outcome of the review in respect of whether or not dumping would likely recur. The period of review into injury involves an evaluation of the data submitted by Pacific Steel for the period 1 July 2005 to 30 June 2009 (Pacific Steel's financial years 2005/6, 2006/7, 2007/8 and 2008/9). The Ministry has also evaluated Pacific Steel's forecast financial information for the year ended June 2010 in relation to the impact on its operations if anti-dumping duties remained in place and should the anti-dumping duties be removed.

16. In this report, unless otherwise stated, years are years ending 30 June and dollar values are in New Zealand dollars (NZD). In tables, column totals may differ from individual figures because of rounding. The term VFD refers to value for duty for Customs purposes.

2.3 Dumping and Injury for the Purposes of a Review

Ministry's Approach to Sunset Reviews

17. The Ministry carries out sunset reviews on the basis of Article 11 of the Anti-Dumping Agreement. In interpreting Article 11, the Ministry takes guidance from New Zealand legal reports, WTO Panel reports and approaches taken by other WTO member countries.

18. Article 11.3 infers a necessity to clearly demonstrate that, "...the expiry of the duty *would be likely* to lead to continuation or recurrence of dumping and injury" [*emphasis added*]. Some guidance regarding the interpretation of the phrase "would be likely" has been provided by the New Zealand Court of Appeal which interpreted the phrase to mean 'a real and substantial risk..., a risk that might well eventuate' (*Commissioner of Police vs Ombudsman [1988] 1 NZLR 385*).

19. For further guidance on the level of evidence that is required to meet the "would be likely" criteria of Article 11.3, the Ministry also referred to the findings of the WTO panel report, *United States Anti-Dumping Duty on Dynamic Random Access Memory Semi Conductors (DRAMs) from Korea*,¹ and *United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina*,² to the approaches taken by the European Union, United States, Canada and Australia to sunset reviews.

20. It was determined in the *US – Anti-Dumping Measures on DRAMS from Korea* case that the test to be applied is a positive one, based on positive evidence that certain events are likely to occur, which will cause a continuation or recurrence of dumping and material injury to the industry, in the absence of anti-dumping duties. In *the US – Sunset Reviews of Anti-Dumping Measures on Tubular Goods from*

¹ Report of the Panel – United States – Anti-Dumping Duty on Dynamic Random Access Memory Semi Conductors (DRAMs) of One Megabit or Above from Korea – WT/DS99/R – Adopted 19 March 1999.

² Report of the Panel – United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina – WT/DS268/R – Circulated 16 July, 2004. Report of the Appellate Body – WT/DS268/AB/R - Adopted 17 December, 2004.

Argentina case, the Appellate Body reaffirmed its own determination in *United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan*³ that an affirmative likelihood determination may be made only if the evidence demonstrates that dumping would be *probable* if the duty were terminated - and not simply if the evidence suggests that such a result might be possible or plausible. The Ministry also noted in section 2.3 above that regard should be had to the timeframe within which an event may occur, and that in determining “likelihood”, the Ministry considers what is likely to happen in the *foreseeable* future which in itself will depend on the circumstances of each case.

21. The Ministry notes that the consideration of whether anti-dumping duties should be removed does not exist in isolation but is dependent on whether the evidence shows that the expiry of the anti-dumping duties would be likely to lead to a continuation or recurrence of dumping and injury. In determining “likelihood”, it is considered that regard should be had to the timeframe within which an event may occur. Article 11.3 of the Agreement makes no express reference to the length of time within which a continuation or recurrence of injury has to take place.

22. Mindful of the different factors involved in each case, and taking guidance from the sources referred to above, the Ministry approaches all investigations and reviews on a case-by-case basis. Based on its interpretation of the Anti-Dumping Agreement, the Ministry adopts the following general principles in considering injury and dumping in sunset reviews:

- The Ministry is required to establish whether the expiry of the anti-dumping duties would be likely to lead to a continuation or recurrence of dumping and injury.
- The test to be applied in respect of the likelihood of a continuation or recurrence of dumping and material injury is a positive one, i.e., the Ministry needs to be satisfied, based on positive evidence, that certain events are likely to occur, and that those events will cause dumping and material injury to the industry to continue or recur in the absence of anti-dumping duty.
- Interpretation of the phrase “would be likely” is guided by a court judgement referring to “a real and substantial risk..., a risk that might well eventuate”.
- In considering the likelihood of injury, the Ministry may refer for guidance to provisions in the Anti-Dumping Agreement that may be helpful in assessing that likelihood and those provisions may include, if appropriate, the factors used in Article 3.7 in assessing a threat of injury. The test to be applied, however, is not that for establishing whether there is a threat of injury.
- In considering whether removal of the duty *would be likely to lead to* a recurrence of dumping and injury, the Ministry considers what is likely to happen in the foreseeable future. The extent to which the Ministry is able to

³ Appellate Body Report - United States – Sunset Review of Anti-dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan – WT/DS244/AB/R – Adopted 9 January, 2004.

make judgements on the likelihood of events occurring in the foreseeable future will depend on the circumstances of each case and, therefore, the foreseeable future will range from the imminent to timeframes longer than imminent.

23. The Ministry considers that the nature of making a determination as to the likelihood of an event occurring in the foreseeable future, makes it an inherently uncertain exercise. The Panel in *US – Anti-dumping Measures on DRAMS from Korea* noted that the necessity requirement in Article 11.2 “. . . is not to be construed in some absolute and abstract sense, but as that appropriate to circumstances of practical reasoning intrinsic to a review process”. The Panel also noted that “Mathematical certainty is not required, but the conclusions should be demonstrable on the basis of the evidence adduced. This is as much applicable to a case relating to the prospect of recurrence of dumping as to one of present dumping.” This statement, however, should be balanced by the Appellate Body’s determination in *US - Corrosion-Resistant Steel Flat Products from Japan* that an affirmative likelihood determination may only be made if the evidence demonstrates that dumping would be probable if the duty were terminated.

2.4 Grounds for the Review

24. Pacific Steel provided evidence that, without the imposition of adequate anti-dumping duties, material injury will likely recur should imports of rebar originating from Thailand recommence. Pacific Steel claimed that imports of rebar will be dumped with the removal of anti-dumping duties and that material injury to Pacific Steel will recur through:

- Price undercutting, price depression; and price suppression,

resulting in:

- a decline in output and sales;
- a decline in market share;
- a decline in profits and return on investments;
- a decline in utilisation of production capacity; and
- adverse effects upon cash flow, inventories, employment and growth.

Reassessment of Anti-Dumping Duties

25. Section 14(6) provides that the Chief Executive of the Ministry may initiate a reassessment of any rate or amount of anti-dumping duty following the completion of a review carried out under section 14(8) of the Act.

2.5 Interested Parties

New Zealand Industry

26. The application was submitted by Pacific Steel, an operating division of Fletcher Steel Limited, a wholly owned subsidiary of Fletcher Building Holdings Limited. Pacific Steel is the sole New Zealand producer of rebar and therefore in accordance with section 3A of the Act constitutes the New Zealand industry.

Importers and Exporters

Exporters

27. The exporters in the original dumping investigation were Sanwa Pty Ltd (Sanwa) and SCT Co Limited (SCT). The Ministry advised these exporters of the initiation of the review and each party has been given the opportunity to make a submission in the review investigation. Sanwa declined to participate and as at the date of this report SCT has not furnished a submission. The Ministry also contacted Siam Construction Steel Company Ltd (SCSC) who produced rebar that had been supplied to New Zealand by SCT and VS Steel Engineering (1999) Partnership (VS Steel). VS Steel has declined to complete a questionnaire response and as at the date of this report the Ministry has not received a response from SCT.

Importers

28. The following importers were identified in the original investigation:

H J Asmuss & Co Ltd
MR Steel Ltd
Quail Glen Industrial Ltd
Steel Plus Ltd
Vulcan Steel Ltd

29. The Ministry contacted the above named importers, except for MR Steel Ltd as it has been removed from the New Zealand Companies Office Register. The Ministry received responses from H J Asmuss and Vulcan Steel but not questionnaire responses as neither company now imports from Thailand.

30. The Ministry also contacted TJ-Steel Ltd (TJ-Steel) as it had imported rebar since 1 July 2005 i.e. the commencement of consideration of a recurrence of material injury to Pacific Steel. The Ministry did not receive a full questionnaire response from TJ-Steel but TJ-Steel did provide some information which is taken into account in this report.

2.6 Imported Goods

31. The goods which are the subject of the application, hereinafter referred to as "rebar" are:

Reinforcing steel bar and coil with a diameter equal to or greater than 5mm and less than or equal to 40mm

32. The goods under review enter under the following tariff items and statistical keys:

72.13				Bars and rods, hot-rolled, in irregularly wound coils, Of iron or non-alloy steel:
7213.10				- Containing indentations, ribs, grooves or other deformations produced during the rolling process:
7213.10.10				- - <i>Of cross-section in the shape of "flattened circles" or "modified rectangles"</i>
7213.10.90				- - Other
	01E	kg	. . .	Of a circular cross-section measuring less than 14 mm in diameter
	09L	kg	. . .	Other
7213.20				- <i>Of free cutting steel:</i>
7213.91				- - Of circular cross-section measuring less than 14 mm in diameter:
7213.91.10				- - - <i>Of cross-section in the shape of "flattened circles" or "modified rectangles"</i>
7213.91.90				- - - Other
	01J	kg	. . . .	Containing by weight less than 0.25% of carbon
	05A	kg	. . . .	Containing by weight 0.25% or more but less than 0.6% of carbon
	09D	kg	. . . .	Other
7213.99.10				- - - <i>Of cross-section in the shape of "flattened circles" or "modified rectangles"</i>
7213.99.90				- - - Other
	01E	kg	. . . .	Containing by weight less than 0.25% of carbon
	05H	kg	. . . .	Containing by weight 0.25% or more but less than 0.6% of carbon
	09L	kg	. . . .	Other
72.14				Other bars and rods of iron or non-alloy steel, not further worked than forged, hot rolled, hot drawn or hot-extruded, but including those twisted after rolling:
7214.10.00				- <i>Forged</i>
7214.20				- Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling:
7214.20.10				- - <i>Of cross-section in the shape of "flattened circles" or "modified rectangles"</i>
7214.20.90				- - Other
			. . . .	Of circular cross-section measuring:
	01G	kg	. . . .	Less than 14 mm in diameter
	05K	kg	. . . .	14 mm or more, but less than 42 mm in diameter
7214.30				- <i>Of free cutting steel:</i>
7214.91.00				- - <i>Of rectangular (other than square) cross section</i>
7214.99				- - Other:

7214.99.10		- - -	<i>Of cross-section in the shape of "flattened circles" or modified rectangles"</i>
7214.99.90		- - -	Other
		. . . .	Containing by weight less than 0.25% of carbon:
		. . . . .	Of circular cross-section measuring:
01C	k g	. . . . .	Less than 14 mm in diameter
03K	k g	. . . . .	14 mm or more, but less than 42 mm in diameter
		. . . . .	Containing by weight 0.25% or more but less than 0.6% of carbon
		. . . . .	Of circular cross-section measuring:
11L	k g	. . . . .	Less than 14 mm in diameter
13G	k g	. . . . .	14 mm or more, but less than 42 mm in diameter
		. . . . .	Other:
21H	k g	. . . . .	Of circular cross-section
72.27			Bars and rods, hot rolled, in irregularly wound coils, of other alloy steel:
7227.10.00		-	<i>Of high speed steel</i>
7227.20.00		-	<i>Of silico-manganese steel</i>
7227.90.00		-	Other
		. . .	Of cross-section in the shape of "flattened circles" or "modified rectangles":
		. . . .	<i>Of a height of 80 mm or more:</i>
		. . .	Other:
11B	k g	. . . .	<i>Wire rod</i>
19H	k g	. . . .	Other
72.28			Other bars and rods of other alloy steel: angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel:
7228.10.00		-	<i>Bars and rods, of high speed steel</i>
7228.20.00		-	<i>Bars and rods, of silico-manganese steel</i>
7228.30.00		-	Other bars and rods, not further worked than hot-rolled, hot-drawn or extruded
		. . .	Of cross-section in the shape of "flattened circles" or "modified rectangles":
		. . . .	<i>Of a height of 80 mm or more:</i>
		. . .	Other:
11J	k g	. . . .	<i>Wire rod</i>

	19D	k	. . .	Other
		g		
7228.50.00			-	Other bars and rods, not further worked than cold-formed or cold-finished:
			. .	<i>Of cross-section in the shape of "flattened circles" or "modified rectangles":</i>
	19A	k	. .	Other
		g		
7228.60.00			-	Other bars and rods
			. .	<i>Of cross-section in the shape of "flattened circles" or "modified rectangles":</i>
			. .	Other:
	11K	k	. . .	<i>Welding</i>
		g		
	19E	k	. . .	Other
		g		

33. Rebar originating from Thailand is subject to a Normal tariff rate of 5 percent except for tariff items 7227.90.00, 7228.30.00, 7228.50.00 and 7228.60.00, which are free of duty. Under the New Zealand and Thailand Closer Economic Partnership Agreement, the 5 percent tariff rates on the subject goods will be reduced to Free from 1 January 2010.

34. Thailand is a member of the Association of Southeast Asian Nations (ASEAN), but no earlier elimination of tariff rates for the subject goods is scheduled under the ASEAN Australia New Zealand Free Trade Agreement.

35. The Ministry requested and was provided with import data from the New Zealand Customs Service (Customs) since 1 July 2005 to 31 December 2008 pertaining to the tariff items and statistical keys identified above. The Ministry notes that rebar from Thailand has not been imported into New Zealand since October 2006.

2.7 Exchange Rates

36. Article 2.4.1 of the Anti-Dumping 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 date of sale⁸, 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.

⁸ Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale.

37. In the current review, when establishing export prices in Thai Baht (THB) the Ministry has used exchange rates sourced from Oanda.com the currency website.

38. Because no imports of rebar from Thailand have entered New Zealand over the period of review of dumping it has not been necessary to convert currencies as at the date of sale or in a forward sale as required under Article 2.4.1. The Ministry has applied the best available information (as discussed at paragraph 43 below) that being an average exchange rate over the period of the review.

2.8 Disclosure of Information

39. The Ministry makes available all non-confidential information to any interested party through its public file system.

40. Pacific Steel is the only party that has requested and been provided with copies of the public file.

41. Article 6.8 of the Anti-Dumping 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.

42. Section 6 of the Act states that:

(1) Where the [Chief Executive] is satisfied that sufficient information has not been furnished or not available to enable an export price of goods to be ascertained under section 4 of this Act, or the normal value of goods to be ascertained under section 5 of this Act, the normal value or export price, as the case may be, shall be such amount as is determined by the [Chief Executive] having regard to all available information.

43. For the period of review there were no recorded imports into New Zealand of rebar of Thai origin. The Ministry invited suppliers in the original investigation to provide pricing information on their domestic sales and export sales to other markets but as at the date of this report no information has been provided. The lack of direct export/import information has meant that the Ministry has had to consider all other available information that would assist in establishing a likely export price and normal value. The Ministry considered the information provided in the original investigation and that provided by Pacific Steel. It also considered information that is publicly available. A determination of a likely recurrence of dumping has been made on the basis of the facts available.

3. New Zealand Industry

44. Section 3A provides the definition of “industry”:

3A. Meaning of “industry”—For the purposes of this Act, the term “industry”, in relation to any goods, means—

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

3.1 Like Goods

45. In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into whether the injury would be likely to continue or recur if the anti-dumping duties were removed or varied, and having identified the goods under review, 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.

46. In the original investigation it was determined that rebar produced by Pacific Steel, while not like in all respects, had characteristics that closely resembled the goods under review. Pacific Steel produces grades 300 and 500 to comply with the joint standard AS/NZS 4671, Class E. The deformed bars and coils are identified by Pacific Steel’s brand Seismic 300E® and Seismic 500E® micro alloy (MA) or Seismic 500E® quench and tempered (QT). Rebar is produced:

- with surface deformations, in straight lengths;
- without surface deformations, in straight lengths;
- with surface deformations in coiled form; and
- without surface deformations in coiled form.

47. The majority of rebar sold by Pacific Steel has surface deformations. Straight lengths range in diameters from 6 – 40mm and the coil form ranges in diameters 6 to 16mm. The lengths available are full metres from 6 to [REDACTED] and most of the rebar is sold in 2 tonne bundles unless a customer requests specific lengths.

48. Since the original investigation Pacific Steel has installed equipment to produce rebar using the QT method i.e. Seismic 500E® QT. The sale of QT rebar in New Zealand has been minimal (approximately [REDACTED] percent of total sales) as a result of customers’ preference for using rebar produced under the MA method. Pacific Steel, [REDACTED].

49. The Ministry does not consider that producing rebar using the QT method means that it is no longer a like good to Thai rebar, therefore the Ministry considers that Pacific Steel continues to produce a like good and as a consequence remains the New Zealand industry in terms of section 3A of the Act.

3.2 New Zealand Market

50. To analyse the New Zealand market the Ministry has used import data provided by Customs. The Customs tariff classification shows that rebar could enter New Zealand under nine tariff items and 19 statistical keys. In the original investigation it was concluded that imports classified under tariff items and statistical keys 7227.90.00 11B and 7228.30.00 11J should be excluded as evidence had been provided by importers that showed this classification related to imports of wire rod only. The Ministry has not found any evidence, in the review, that it needs to revisit this decision therefore the Ministry has continued with this exclusion.

51. The Ministry notes that the tariff items and statistical keys may include imports of diameters greater than 40mm. In the absence of any information that would allow possible imports of rebar outside of the description of goods to be identified, no adjustment has been made.

52. Pacific Steel's financial period is the year ended 30 June and therefore to assess the market trend in the past three years the Ministry has aligned Customs data with that of Pacific Steel. Table 3.1 below shows the New Zealand market since 2006.

**Table 3.1: New Zealand Market by Tonnes
Year Ended June**

	2006	2007	2008	YTD 6mths 2009
Imports from Thailand			0	0
Other Imports				
Total Imports				
NZ Industry Sales				
NZ Market				

53. On the basis that imports equal sales Table 3.1 shows a gradual increase in the New Zealand market since 2006, however, rebar has ceased to be sourced from Thailand since October 2006. Pacific Steel's sales volume has decreased but on an annualised basis it has increased in the first six months of financial year 2009.

4. Dumping Investigation

54. Dumping is defined in section 3(1) of the Act and occurs when an exporter sells goods to New Zealand at a price lower than they sell the same or similar goods in their country. In essence dumping is price discrimination between an export and domestic market.

4.1 Findings of the Original Investigation

55. The original investigation concluded for the year ended 30 June 2003 that 91 percent or 4,496 tonnes of rebar from Thailand was imported at dumped prices. Due to the number of companies that were identified as having exported rebar to New Zealand and that were under investigation at that time, the Ministry selected for investigation three exporters who exported 99 percent of rebar from Thailand namely Sanwa Pty Limited, SCT Company Limited (SCT) and The Siam Construction Steel Company Limited (SCSC).

4.2 Purpose of Review of Dumping

56. The general principles concerning the Ministry's approach to "sunset" reviews are set out in section 2.3 of this report. The Ministry's "sunset" reviews are intended to determine whether the expiry of the existing anti-dumping duties after five years would likely lead to a continuation or recurrence of dumping and injury and therefore whether there is a continued need for the imposition of anti-dumping duties.

57. In respect of dumping, the Ministry's usual approach would be to establish if rebar from Thailand is currently being dumped into New Zealand, the extent of any dumping and then analyse whether there is a likelihood of a continuation or recurrence of dumping, if the anti-dumping duties were removed. In this case, however, because there have been no imports since October 2006, the review has focused on the likelihood of a recurrence of dumping should the anti-dumping duties be removed.

4.3 Likelihood of Continuation or Recurrence of Dumping

Introduction

58. In any dumping analysis (whether in an investigation or review), the Ministry normally compares export prices and normal values on a transaction-to-transaction basis. This basis of comparison involves selecting an appropriate domestic transaction value (or when no suitable domestic transactions exist, constructing a domestic transaction value) for comparison with each export transaction value. The aim is to find sales of the same type and size of good as that exported and as near as possible to the same point in time, making any adjustments for differences that affect price comparability. The Ministry is then able to compare the two values to establish whether or not each transaction was dumped and the extent of any dumping.

59. The Ministry uses a transaction-to-transaction basis for comparing export prices and normal values, rather than a weighted average-to-weighted average method,

because this method identifies the individual transactions that are dumped. The Ministry considers this provides a more accurate representation of the extent of any dumping and is particularly suited to a small economy such as New Zealand where the number of transactions is relatively small.

60. As noted in Table 3.1 of this Report there have been no exports to New Zealand of rebar of Thai origin since October 2006. The Thai exporters who were involved in the original investigation were asked for pricing information relating to export sales to markets that do not have anti-dumping duties in place and for their likely prices to New Zealand should duties be removed, but none of the exporters chose to participate in the review.

61. In the absence of information from exporters and because there have been no imports from Thailand since October 2006 the Ministry has used the average values of exports from Thailand to countries other than New Zealand to estimate export prices in the absence of anti-dumping duty, which have then been analysed to establish whether there is any likelihood of a recurrence of dumping if the anti-dumping duties were to be removed.

62. The period being considered for the purposes of establishing whether there would be a recurrence of dumping is the calendar year 2008, supplemented by the calendar year 2007.

Available Information

63. Article 6.8 of the Anti-Dumping Agreement provides that in cases where any interested party refuses or otherwise does not provide necessary information, a determination can be made on the basis of the facts available. This provision is also mirrored in section 6(1) of the Act which provides that, in the absence of information from interested parties export prices and normal values can be determined having regard to all available information.

64. In assessing whether there is a likelihood of a recurrence of dumping if the duties were to be removed, export prices and normal values have been established based on the following sources of information:

- verified information from the original investigation;
- Pacific Steel's application for a review; and
- information available on Thai business and government websites.

4.4 Export Prices

Introduction

65. Export prices are the prices at which the goods are exported from Thailand to New Zealand, adjusted to allow a fair comparison with the prices of goods sold in the country of export, as required by section 4 of the Act.

Base Prices

Original Investigation

66. The base prices in the original investigation were sourced from invoices issued by SCT who exported to New Zealand rebar produced by SCSC. It was concluded that these transactions represented the first arm's length transaction in the purchase of the goods by a New Zealand importer. The terms of sale at that time were Free-on-Board (FOB) or Cost-Freight, depending upon the importer.

Pacific Steel's Application

67. In its application for the review, Pacific Steel estimated a likely ex-factory price based on Thai export statistics, which it had sourced from an online international trade database, TradeMap⁴. The statistics refer to exports from Thailand to all destinations in 2007 for one tariff reference, namely 7214.20.

68. In 2007 Thailand exported bars and rods to seven destinations at volumes ranging from 110 to 67,672 tons and total values, which are denominated in United States Dollars (USD), between USD65,000 to USD34,083,000 at the FOB level. In estimating a FOB value per unit, Pacific Steel converted the tons to metric tonnes and the USD to THB and divided the value by the volume to arrive at a THB unit value at the FOB level. The base prices were estimated at THB15,779 to THB22,615 per tonne with an overall average unit value of THB18,222 per tonne.

69. At the time that Pacific Steel extracted the data from TradeMap, the latest annual statistical information was for 2007. Pacific Steel noted in 2008 the rapid increase and decrease of world steel prices and believed it would be unreasonable to choose a price in 2008 because of price volatility. Pacific Steel was of the opinion that the decline in prices since July 2008 was trending back to the prices in 2007 therefore it was more reasonable to establish an export price based on 2007 prices.

70. Pacific Steel submitted a standard deviation calculation of world steel prices to support using 2007 prices. This information had been provided to Pacific Steel by *Steel Business Briefing*. Over a five year period to June 2008 the standard deviation was calculated at 80.59. For the calendar year 2007 the standard deviation was 84.46 and for the calendar year 2008 the standard deviation was 106.01.

71. Standard deviation⁵ is a measure of the variability or dispersion of a population, a data set, or a probability distribution. If there is a low standard deviation the data points are very close to the same value whereas for a high standard deviation the data points are spread out over a large range of values. According to the statistics provided by Pacific Steel the standard deviation for 2007, rather than 2008, is closer to the standard deviation of the five year period ended June 2008 indicating that

⁴ <http://www.trademap.org>

⁵ http://en.wikipedia.org/wiki/Standard_deviation

there was less variability of prices in 2007 than in 2008 and therefore prices were more stable and likely to be better suited to determining a likely export price. The disadvantage is that values in 2007 are less proximate in time than 2008 values.

Ministry's Approach

72. The Ministry is required in accordance with Article 3.1 of the Anti-Dumping Agreement to conduct an investigation that is based on positive evidence and involves an objective examination of the volume of dumped imports and the effect on prices in the domestic market for like products and the consequent impact of these imports on domestic producers of such products.

73. The WTO Committee on Anti-dumping Practices recommends that the period for determining dumping shall normally be the 12 months immediately preceding initiation and the period for determining material injury shall normally be at least three years⁶. It would therefore appear that any departure from investigating a twelve month period immediately preceding initiation would require justification to ensure that an objective examination is undertaken as required by Article 3.1 of the Anti-Dumping Agreement.

74. As there have been no imports of rebar from Thailand over the twelve months immediately preceding initiation of the review investigation the Ministry is not in a position to examine the existence of dumping with a view to considering the likelihood of a continuation of dumping. However, the Ministry can examine the prices of rebar exported by Thai producers to other export markets, where anti-dumping duties have not been imposed, over the 12 month period immediately preceding initiation.

75. The latest yearly Thai export statistics that the Ministry observed on TradeMap is for the calendar year 2007. However, this database also contains quarterly Thai export figures for certain countries for 2008.

Conclusion on Base Prices

76. To investigate the likelihood of a recurrence of dumping the Ministry is mindful that it is normally required to consider the 12 month period immediately preceding the initiation of the investigation i.e. the year ended 31 December 2008. Over the 12 month period before initiation there was a sharp increase in world steel prices followed by a decrease. Pacific Steel argued that 2008 is not the best period over which to base a consideration of whether dumping is likely to recur in the foreseeable future as it is likely that the industries increased their prices and that prices were trending back to 2007 levels.

77. The Ministry notes Pacific Steel's concerns about the significant changes in prices during 2008. Variations in pricing during an investigation period are not unusual, but the extent of the variations in 2008, in this case could be considered unusual. It is likely however that the industries involved would follow changes in world steel prices. The Ministry's main concern is to ensure that appropriate export

⁶ G/ADP/6, adopted 5 May 2000 by the Committee on Anti-Dumping Practices

prices and normal values are established as the basis for a fair comparison. A fair comparison is likely to be possible using 2008 data (because prices on the Thai domestic market are likely to have changed at the same rate as export prices), but to ensure any concerns are addressed, it appears prudent to consider base prices for both 2007 and 2008. The time frame for the Ministry's examination as to whether there would be a recurrence of dumping is therefore the calendar year 2008, supplemented by consideration of the calendar year 2007.

78. The base prices per tonne have been calculated from Thai export statistical data for code 721420 sourced from TradeMap for 2007 and 2008. From the export statistics at the FOB level the Ministry has divided the export value in United States Dollars (USD) by the total export volume for each country and converted those simple average export values to THB using the average exchange rate for 2007 or 2008. The exchange rates used by the Ministry are USD1:THB32.53008 (2007) and USD1:THB33.27193 (2008).

79. For 2007 the export volume is measured in "tons", which the Ministry has been advised by TradeMap refers to metric tonnes. For 2008 the export volume is measured in kilograms.

80. The base prices range from THB14,411 to THB20,654 per tonne for 2007 and THB17,519 per tonne to THB38,169 per tonne for 2008.

Costs, Charges and Expenses of Shipments

Original Investigation

81. The costs, charges and expenses incurred in shipping rebar to New Zealand in the original investigation were:

- An extra cost of bar marking that applied to exports of Grade 500E only. For high tensile deformed rebar it was found that additional costs were incurred to mark the rebar with the relevant New Zealand and Australian standard. This cost was THB [REDACTED] per tonne and based on Malaysian verified information;
- Cost of transport from the factory to the port. This cost was THB [REDACTED] per tonne and the Ministry used the cost provided by Pacific Steel as the exporter in Thailand was unable to provide any direct evidence of the cost;
- Terminal handling costs. These costs depended upon the length of rebar exported. For lengths of 6m the cost was THB [REDACTED] and for other lengths, which were shipped break bulk, rather than containerised, the cost was THB [REDACTED] per tonne. These charges were based on verified information;
- Container handling and stuffing cost. This cost related to containerised rebar which was in lengths of 6m only. For lengths of 6m the cost was THB [REDACTED] per tonne and for other lengths no cost applied. This cost was based on verified information;
- Bill of lading cost. This charge was fixed and the cost per tonne changed depending upon the number of containers that were shipped at one time. The

cost was THB [REDACTED] per consignment and the number of containers per consignment varied between [REDACTED] and [REDACTED] containers and therefore the cost varied between THB [REDACTED] to THB [REDACTED] per tonne. This charge was based on verified information;

- Customs clearance costs. These costs depended upon the length of rebar exported because 6m lengths were containerised and other lengths were shipped break bulk. For lengths of 6m the cost was THB [REDACTED] and for other lengths it was THB [REDACTED] per tonne. This cost was based on verified information; and
- Cost of credit. The adjustments were based on verified information at an annual minimum overdraft rate of 6 percent for [REDACTED] days of credit offered to importers.

Pacific Steel's Submission

82. In its application for a review Pacific Steel provided evidence of its estimates of the costs and charges incurred in shipping rebar to New Zealand. These costs relate to bar marking; lifting rebar at the factory; transportation from the factory to the wharf; lift off at port; equipment hire; export labelling; strapping and dunnage, Thai customs requirements and a cost of credit.

83. Upon further consideration Pacific Steel believed its previous estimate of the cost of bar marking for a distinct product was conservative and it should be either NZD [REDACTED] or NZD [REDACTED] per tonne. Pacific Steel provided calculations to support these figures, which apply to the early months of 2009.

Ministry's Approach

84. In the absence of information from Thai suppliers the Ministry is required to give due consideration to all available information. The adjustments from the original investigation in 2003 were based on evidence provided by Pacific Steel and verified information. For the current review Pacific Steel has updated its original evidence and provided evidence of current costs relating to bar marking. Based on the information available to it the Ministry considers that, as it used in the main verified information in the original investigation, it would seem more reliable to update the verified information by the Thai Consumer Price Index (CPI), than use other information, except for the cost of bar marking where Pacific Steel has provided evidence of current costs.

85. According to the International Monetary Fund, CPIs are the "...most frequently used indicators of inflation and reflect changes in the cost of acquiring a fixed basket of goods and services by the average consumer...." The Ministry considers that this index relates to transactions of goods and services available in Thailand and therefore the CPI is the most suitable index for updating most adjustments.

86. According to the published information by the International Monetary Fund, a Producer Price Index (PPI) is "...designed to monitor changes in prices of items at the first important commercial transaction...." The Ministry considers that the cost of

bar marking would be incurred by the manufacturer therefore it is appropriate to use the PPI for this adjustment only.

87. The evidence provided by Pacific Steel on the cost of bar marking is in NZD and therefore to establish an adjustment the cost in NZD has been converted to THB and the relevant changes in the PPI have been applied to reflect the costs in THB in 2007 and 2008.

88. The CPI increased by 14.98 percent and 21.23 percent from 2003 to 2007 and 2008 respectively and the PPI increased by 29 percent and 45 percent from 2003 to 2007 and 2008 respectively.

89. In calculating a cost of credit the Ministry has used the monthly minimum overdraft rate published by the Bank of Thailand. When annualised the rate was 7.32 percent for 2007 and 7.29 percent for 2008.

90. The Ministry notes that some of the original adjustments were based on the length of rebar exported. If the Ministry were to update the actual costs in their entirety it is making an assumption that should exports from Thailand recommence 100 percent of all exports are 6m in length or Grade 500E whereas that was not the case in the original investigation. The Ministry has taken into consideration the proportion that export sales of 6m lengths or 500E represent of total sales and applied the relevant ratio to the cost from the original investigation, which has then been updated by the CPI to 2007 and 2008.

91. The updated adjustments in THB for 2007 and 2008 are:

Cost details:	THB 2007	THB 2008
Bar marking	██████████	██████████
Cost of transport from the factory to the port	██████████	██████████
Terminal handling	██████████	██████████
Container handling and stuffing	██████████	██████████
Bill of lading	██████████	██████████
Customs costs	██████████	██████████
Cost of credit at an annual minimum overdraft rate of 7.32% or 7.29% for ████████ days	██████████	██████████

Conclusion on Costs, Charges and Expenses on Shipping

92. The Ministry has updated the actual verified costs in the original investigation by the Thai CPI and used information from Pacific Steel which has been adjusted by the PPI to reflect costs that would have applied in 2007 and 2008.

Export Prices

93. The Ministry has established export prices for 2007 and 2008 based on all available information, that being information from the original investigation, information provided by Pacific Steel in its application for a review and available public information, as provided for by Article 6.8 of the Anti-dumping Agreement which is reflected in section 6(1) of the Act.

94. The Ministry has calculated export prices for 2008. In view of Pacific Steel's concerns about the reliability of 2008 data, due to price instability, the Ministry has also calculated export prices for 2007 so that it can also compare these prices to provide greater assurance about the outcome of the review in respect of whether or not dumping would likely recur. To investigate the likelihood of a recurrence of dumping the Ministry is normally required to consider the 12 month period preceding the initiation of the investigation i.e. year ended 31 December 2008. However, over this period there was a sharp increase followed by a decrease in the world steel prices. Pacific Steel argued that in 2008 exporters would have increased their prices temporarily while world steel prices were high but this would not have been their pricing behaviour in the long term and therefore the Ministry should be considering pricing in 2007. While a fair comparison is likely to be possible using 2008 data, the Ministry has taken a prudent approach and calculated export prices for the calendar year 2008 and also the calendar year 2007.

95. To establish ex-factory export prices the Ministry has used Thai export statistics at the FOB level and deducted from these values the costs, charges and expenses of shipping that would not be incurred on domestic sales. These costs and charges relate to the cost of bar marking, cost of transport from the factory to the port of export, terminal handling, container handling, bill of lading, Thai Customs costs and a cost of credit that is offered to importers.

4.5 Normal Values

Introduction

96. A normal value is the price at which the like good to the exported product is sold on the foreign manufacturer's domestic market. The types of sales that can be used to determine normal values are set out in section 5 of the Act, namely, goods sold by the exporter, or like goods sold by other sellers, or constructed normal values, or like goods sold to a third country. In order to effect a fair comparison the normal value, to be compared with the export price, is required to the extent possible to be at the same level of trade, relate to sales made as nearly as possible at the same time and with due allowances that affect price comparability.

97. In any investigation or review, where sufficient information has not been provided by the foreign exporter, or is not available, normal values can be established under

section 6(1) of the Act. The provisions of section 6(1) of the Act allow the Ministry to ascertain normal values having regard to all available information. In the present review, as a result of having no information supplied by the Thai suppliers which were involved in the original investigation, the Ministry has had to derive normal values having regard to all available information. Details of the information used in conducting this analysis are set out below.

Base Prices

Original Investigation

98. In the original investigation the Ministry used normal values provided by Pacific Steel as the manufacturer in Thailand and exporters did not furnish sufficient information to enable the normal value of the goods to be ascertained.

99. The base price changed over the period under investigation because of seasonal differences and ranged from THB [REDACTED] to THB [REDACTED] per tonne.

Pacific Steel's Application for a Review

100. In its application for a review, Pacific Steel provided evidence an estimate of a Thai normal value. The normal value was based on published information of [REDACTED] that can be sighted via [REDACTED] website. The published information is provided [REDACTED] public listed companies in Thailand [REDACTED].

101. The base price estimated by Pacific Steel was a simple average of the last three quarterly sale prices for 2007 of THB [REDACTED] per tonne. Pacific Steel was of the opinion that the sale price related to 16mm deformed bar as the price trend line of deformed bar disclosed in the same publication had similar prices to that of the sale price.

Other Available Information

Update of Original Normal Values by PPI

102. The normal values in the original investigation were based on [REDACTED] steel producers and at that time it was established that there were seasonal differences in the prices. The Ministry has not found any evidence that seasonal differences apply to the price of steel products in 2007 and 2008, rather the price has changed as a reaction to the change in world steel prices.

103. From the original normal values the Ministry has calculated a weighted average base price according to the export volume at that time. In applying the changes to the PPI from 2003 to 2007 or 2008 the updated values are THB [REDACTED] per tonne for 2007 and THB [REDACTED] for 2008. The Ministry chose the PPI, rather than the CPI, to update normal values as this index refers to the first important commercial transaction and the base price at that time was based on sales [REDACTED].

Long Steel Producer in Thailand: Tata Steel (Thailand) Public Company Limited

104. In the original investigation The Siam Construction Steel Company Limited (SCSC) produced rebar which was supplied to New Zealand by SCT Company Limited. SCSC, The Siam Iron and Steel (2001) Company Limited (SISC) and N.T.S. Steel Group Public Company Limited (NTS) are subsidiaries of a holding company, Tata Steel (Thailand) Public Company Limited (TSTH).

105. The three companies are reported on the web as manufacturers of rebar and other steel products with a collective rebar rolling capacity of 900,000 tons. TSTH describes its rebar sales as consisting of round bars and deformed bars of diameters ranging from 6mm to 25mm and 10mm to 40mm respectively which are produced according to the Thai Industrial Standards of grade quality SD30, SD40 and SD50.

106. The Ministry has located on TSTH's website its Audited Annual Report 2007-2008 (Annual Report). The Annual Report discloses the financial performance for the year ended 31 March 2008 and the financial performance for the quarter 1 January 2007 to 31 March 2007. It would appear that TSTH at that time had changed its fiscal year and for completeness needed to include the extra quarter's financial performance for its reporting to shareholders. The Annual Report is noted as having been prepared in accordance with generally accepted accounting principles prevailing in Thailand.

107. Financial information disclosed in the Annual Report together with other documents published by TSTH has allowed the Ministry to calculate, based on recognised revenue and sales volume, a domestic rebar price for two periods. The notes to the Annual Report disclose that revenue excludes value added taxes and trade discounts. Other TSTH publications show that sales volume has been measured in "tons". What is not clear is whether the term "ton" relates to a short ton or a metric tonne, which means a different measurement of weight in New Zealand. According to the British and United States standard⁷ a short ton is equal to 907.1874 kilograms or 0.90718474 metric tons. New Zealand follows the National Measurement Institute of Australia⁸ as its weight and measurement guide and a short ton is equal to 907.18 kilograms or 0.9072 tonnes.

108. The Ministry has looked for publications by other Thai businesses that could provide guidance on this matter. The Ministry has located other published material on TSTH's financial performance from Finansa Asian Merchant Banking (Finansa), Siam City Securities Co., Ltd (Siam City) and Kim Eng Securities (Thailand) PCL - Kelive Research (Kelve Research). All of these reports give a brief overview of the financial performance of TSTH for shareholders and potential investors as at the date of their respective release. A Finansa report dated 23 June 2008 discloses financial information but does not disclose sales volume or an average selling price. A Siam City publication (Report number TSTH 04/2008) discloses sales volumes by ton and an average domestic price. The Ministry notes from TSTH's Annual Report that the average domestic price published by Siam City is equivalent to TSTH's sale price of

⁷ <http://ts.nist.gov/WeightsAndMeasures/Publications/appxc.cfm>

⁸ <http://www.consumeraffairs.govt.nz/measurement/index.html>

domestic and export sales of rebar, wire rods, small sections and other products. The Kelive Research publications disclose sales volume in “tonnes” and a selling price per tonne, which is equal to the selling price of all export and domestic sale of all of TSTH’s steel products.

109. It would appear that the terms “ton” and “tonne” are used interchangeably, however, most of the publications refer to “ton”. The Thai export statistics are measured in tonnes and therefore in order to effect a fair comparison between export price and normal value, the Ministry has assumed that TSTH’s domestic sales volume are short tons and has converted the domestic sales volume from tons to metric tonnes.

110. Table 4.1 below shows TSTH’s average domestic rebar sale price per tonne for the two periods.

Table 4.1 TSTH - Average Domestic Sale Price of Rebar Per Tonne

	1 January to 31 March 2007	1 April 2007 - 31 March 2008
Sales Revenue (Million THB)	3,635	18,654
Sales Volume ('000) Tons	198	858
Sales Volume ('000) Tonnes	180	778
Sale Price per Tonne (THB)	20,237	23,965

Long Steel Producer in Thailand: Bangsaphan Barmill Public Company Limited

111. TSTH has referred in its publications to another long steel Thai producer, Bangsaphan Barmill Public Company Limited (BSBM), which has a rebar rolling capacity of 720,000 ton. The BSBM website reports that it is a producer of round bars of diameters 6mm to 34mm of grade SR24 and rebar of diameters 6mm to 40mm of grade quality SD30, SD40 and SD50.

112. BSBM has lodged audited financial statements with the Stock Exchange of Thailand for years ended 31 December 2007 and 2008. The income statement shows revenue from sales but there is no information on sales volume. The notes to the statements state that revenue excludes value added tax and discounts and that allowances have been deducted.

113. The Ministry has located BSBM’s sales volume for 2007 and 2008 in reports published by Kelive Research. The Ministry has reconciled the annual revenue from sales figures disclosed by Kelive Research with that of the audited financial statements of BSBM and they match. The Ministry therefore believes it is reasonable to use a combination of data from both publications. What is not clear, however, is whether revenue includes income from export sales.

114. The Ministry notes that TSTH has a requirement to disclose in its Annual Report its income separated into domestic and export sales. The same separation has not been shown in BSBM's audited financial statements. BSBM's website provides an overview of the company and the products it sells. Regarding its customers it states that "...Our distribution channel is mainly through major trading distributors who reach most retail shops as well as construction users nationwide...." A web search of BSBM has found comments by Corporate Information⁹ which state that BSBM's "...main customers are contractors of residential properties and infrastructure projects such as roads, bridges, airports, mass transits and dams." Based on the published information it is difficult to state with certainty that BSBM's sales are domestic only but as BSBM has published that its customers are nationwide rather than worldwide its focus therefore would appear to be mainly on domestic customers in Thailand.

115. The Ministry has calculated an average sale price per tonne for 2007 and 2008 based on information from the audited financial statements and Kelve Research's reports. It has taken the same approach as the calculation of TSTH's average sale prices and converted short tons to metric tonnes. Table 4.2 below shows the average price for the two periods.

Table 4.2 BSBM - Average Sale Price per Tonne

	1 January to 31 December 2007	1 January to 31 December 2008
Total Sales Revenue (THB million)	1,751	2,775
Total Sales Volume (Ton)	86,381	98,643
Total Sales Volume (Tonne)	78,365	89,489
Sale Price per Tonne (THB)	22,344	31,009

Thailand Ministry of Commerce

116. The original investigation established the Thai Government operated a system of price ceilings for rebar that could not be exceeded and that each mill had its own ceilings prices. Price ceilings were authorised by the Department of Internal Trade of the Ministry of Commerce in Thailand.

117. The existence of this price ceiling had the potential to create a situation in which normal values may need to be constructed in accordance with section 5 (2)(a) of the Act as it could be claimed that the situation in the market was not suitable for determining normal values. However, the investigation established that there were

⁹ <http://www.corporateinformation.com/Company-Snapshot.aspx?cusip=C764WC800>

many participants and the Thai market was very competitive, not just between the Thai producers but also with imported products, and though price ceilings existed they changed in response to changes in demand. Sales, therefore, made on the domestic market in Thailand were treated in the original investigation as having been made in the ordinary course of trade in terms of the Act and were used to establish normal values.

118. For the review the Ministry invited the Ministry of Commerce in Thailand to provide information regarding price ceilings over the period under consideration, however, as at the date of release of this report no information has been received. The Ministry notes that TSTH's Annual Report states in its overview of the industry that the increase in the sales price had been "attributable to the higher cost in the domestic steel business, both raw materials and production process. Moreover, the Department of Internal Trade has approved the price increment in order to comply with the market situation". This indicates that the domestic market in Thailand has not changed since the original investigation and therefore sales on the domestic market, rather than a constructed normal value, can be used to establish normal values.

Conclusion on Base Prices

119. The Thai exporters who were involved in the original investigation were asked for pricing information on the domestic market or on export sales to markets that do not have anti-dumping duties in place but as at the date of the release of this report no information has been provided. The Ministry has therefore had due regard to all available information, that being information from the original investigation, information provided by Pacific Steel in its application for a review and available public information, as provided for by section 6(1) of the Act.

120. The normal values from the original investigation, which were updated by the PPI, established a base price of THB [REDACTED] per tonne (2007) and THB [REDACTED] per tonne (2008). Pacific Steel estimated a base price from [REDACTED] published reports of THB [REDACTED] which is the average sale price for the period 1 April to 31 December 2007 and relates to the sale of rebar of 16mm in diameter. Pacific Steel did not provide a normal value estimate for 2008. The updated normal values from the original investigation are both less than the value estimated by Pacific Steel.

121. The Ministry has located financial information of two long steel producers in Thailand, BSBM and TSTH who produce and sell rebar and other steel products on the domestic market in Thailand. The Ministry has combined financial information disclosed in audited financial statements lodged with the Thailand Stock Exchange and other published material to establish base prices that relate to the domestic sale of rebar. The sale price excludes value added tax, discounts and allowances.

122. Section 5(3) of the Act requires that in order to effect a fair comparison the normal value and export price shall be compared at the same level of trade, in respect of sales made at nearly as possible to the same time and with due allowance for differences that affect price comparability. Of the base prices calculated by the Ministry, being BSBM and TSTH, it would seem reasonable to use BSBM's domestic prices because they relate to a period which corresponds to the period of review

whereas TSTH's domestic prices relate to periods 1 January to 31 March 2007 and 1 April to 31 March 2008 only, which is less likely to provide for a fair comparison.

123. The Ministry notes that Pacific Steel's estimation and TSTH's domestic rebar prices are very similar to BSBM's prices, but are significantly higher than the updated original base price. The Ministry considers that of the information before it, the most reasonable is the published information relating to BSBM as these figures are actual and relate to the period of the review.

124. The base prices on which normal values have been established are:

- 1 January to 31 December 2007 (THB22,344 per tonne); and
- 1 January to 31 December 2008 (THB31,009).

Due Allowances/Adjustments

Original Investigation

125. The allowances that were made for the differences in terms and conditions of sale that affected price comparability in the original investigation were positive adjustments for volume discount and short length premium and a negative adjustment for the cost of credit at an annual rate of 6 percent.

Pacific Steel's Application

126. Pacific Steel's application for the review made a negative adjustment for the cost of credit and positive adjustments for volume discount and a premium relating to short lengths of 6m. Pacific Steel also submitted an additional adjustment which it has described as a complexity premium, which is discussed below starting at paragraph 138.

Other Available Information

Inland Transport

127. Under normal circumstances if an exporter's terms of trade on the domestic market are made on a Free-Into-Store (FIS) basis a downward adjustment is made regarding inland transport costs incurred. The Ministry has not found any reference, however, that BSBM's domestic sales are made on a FIS basis therefore in the absence of specific information on this matter no adjustment has been made for the cost of freight.

Volume Discount

128. In the original investigation, for the year ended 30 June 2003, 4,941 tonnes of rebar were exported to New Zealand. The Ministry considered at that time that the domestic customers in Thailand would purchase a greater quantity than export customers in New Zealand and therefore to adjust for this difference a positive adjustment of 10 percent was made.

129. For the review the Ministry has based likely export prices on average prices to destinations other than New Zealand because over the period of review there were no exports to New Zealand. The base price on which normal values have been established is an aggregate value from rebar sales over a period. The export volumes to each country range from 17 tonnes to 67,672 tonnes, however, it is not known how many export customers make up each of the countries analysed and how much volume each customer purchased. In the Interim Report the Ministry concluded that as it did not hold any information that would assist in this matter it had not been able to make an adjustment in this respect.

Pacific Steel's Submission

130. In response to the Interim Report Pacific Steel submits that the Ministry's conclusion about volume discount is incorrect. Pacific Steel maintains that since the original investigation accepted a volume discount and the Ministry at that time did not have any information about the particular mix of customer sizes on the domestic market in Thailand, which applies also to BSBM, then the Ministry has omitted an adjustment that should be made.

131. Pacific Steel has referred to the annual sales volume of BSBM of approximately 80,000 tonnes. When considering import volumes into New Zealand prior to the imposition of anti-dumping duties Pacific Steel said it would be extraordinary for there to be no volume discount on domestic sales of 80,000 tonnes compared to export sales of 6,000 to 7,000 tonnes destined for New Zealand, which would be similarly spread over a number of customers.

Ministry's Response

132. In the original investigation the volume of export sales to New Zealand during the one-year period of investigation was 4,941 tonnes. The base prices on which normal values were based were [REDACTED] and it was considered that [REDACTED] in the vicinity of [REDACTED] tonnes a year therefore they would receive a volume discount. As a New Zealand importer would not be entitled to the volume discount an estimated discount amount was added back to the base price.

133. Pacific Steel argues that because the Ministry accepted in the original investigation an adjustment for volume discount it should make the same adjustment in the review. Pacific Steel also brought to the Ministry's attention that the adjustment applies because there is a difference between domestic sales of 80,000 tonnes on which normal values are based and the likely export sales to New Zealand of approximately 6,000 to 7,000 tonnes.

134. The Ministry treats every investigation on its own merits and therefore takes a case-by-case approach based on the evidence before it. For the review, the evidence on export price relates to export sales for a number of countries ranging from 17 tonnes to 67,672 tonnes per annum. The evidence on normal values relates to domestic sales of approximately 80,000 tonnes in 2007 and 90,000 tonnes in 2008. The comparison of export and domestic volumes differs, therefore, from that of the original investigation. The number of customers that make up each of the export sale destinations to markets other than New Zealand is unknown, as is the volume

that each customer purchases. The number of customers supplied on the domestic market and the volume each customer's purchases are similarly unknown. There is no evidence available to the Ministry that indicates there is a difference between volumes sold to export customers and volumes sold to domestic customers to warrant making an adjustment for fair comparison of export prices and domestic prices as sought by Pacific Steel.

Short Length Premium

135. In the original investigation it was concluded that in order to effect a fair comparison with export sales of 6m lengths the comparative normal value attracted an extra charge of approximately THB ██████████ per tonne.

136. As explained in paragraph 90 above some of the adjustments to export prices applied only when either short lengths of 6m or grade 500E were exported. If the Ministry was to adjust all normal values by the extra charge on 6m lengths it is making an assumption that all export sales (should they recommence) would be 6m lengths, which did not occur in the original investigation. The Ministry has therefore taken into consideration the proportion that export sales of 6m lengths represented of total sales in the original investigation and applied this ratio to the cost from the original investigation which has then been updated by the CPI to 2007 and 2008 to establish an adjustment for a short length premium.

137. The Ministry has made positive adjustments of THB ██████████ per tonne for 2007 and THB ██████████ per tonne for 2008.

Complexity Premium

138. Pacific Steel submitted that normal values should be further adjusted for the cost of "...scheduling and administration of the short runs and size complexity of a New Zealand destined order if an order of that character was transacted for domestic sale in Thailand". Pacific Steel provided evidence that the cost of a complexity premium is NZD ██████████ per tonne or NZD ██████████ per tonne. The matter of a complexity premium adjustment was not raised with the Ministry in the original investigation and therefore the Ministry did not make an adjustment.

139. Section 5(3) of the Act requires that in order to effect a fair comparison the normal value and export price are to be compared at the same level of trade, in respect of sales made at as nearly as possible the same time and with due allowances for any differences in terms and conditions of sale that affect price comparability.

140. The manufacturers and exporters in the original investigation have not participated in the review investigation and therefore, in accordance with Article 6.8 of the Anti-dumping Agreement and section 6(1) of the Act, the Ministry has given due regard to all available information namely information from the original investigation, information from Pacific Steel and information that is publicly available.

141. In the original investigation, the verification report for SCT stated that a separate production run was required to manufacture rebar to the New Zealand standard. It also states that SCT agreed it was a little more expensive to manufacture rebar to

the New Zealand standard but it did not think any difference in the cost would be significant and, if any, would arise largely through differences in the volume of the production runs.

142. The Ministry does not hold any direct evidence from the Thai manufacturers regarding the costs that would be involved in scheduling and administering a short run but considering BSBM's domestic sales of approximately 80,000 tonnes or 90,000 tonnes, on which normal values have been based, compared to the volume of export sales to New Zealand in 2003 of 4,941 tonnes it would seem reasonable that a cost would be incurred on goods destined for New Zealand on the short production runs.

143. For the review the Ministry has based likely export prices on average prices to destinations other than New Zealand because over the period of review there were no exports to New Zealand. The base price on which normal values have been established is an aggregate value from rebar sales over a period. The Ministry is not aware of how many export customers make up each of the countries analysed and how much volume each customer purchases. In the Interim Report and in the absence of information on sales used to establish export prices, the Ministry considered it could not assume that such sales would exhibit the same "complexity" character as sales to New Zealand. No adjustment was therefore made.

Pacific Steel's Submission on the Interim Report

144. In response to the Interim Report Pacific Steel said that the Ministry should make a positive adjustment for "complexity premium". Pacific Steel has referred to extracts in the Interim Report where the Ministry has acknowledged that goods destined for New Zealand would be short runs and that a difference in costs exist and since Pacific Steel has provided positive evidence of a difference in the cost, it is an adjustment contemplated by section 5(3) of the Act.

Ministry's Response

145. The Ministry agrees that the verification report for SCT does state that there may be a cost difference on short production runs but it also says that if there was any cost difference it would not be significant. SCT was an exporter in the original investigation, not a manufacturer therefore its statement does not automatically mean that an adjustment should be made.

146. For the review, even though Pacific Steel provided evidence of its differences in production runs, it is not known whether there were any short production runs for export sales to meet particular standards in each of the destination countries and in the absence of information on this matter the Ministry does not consider that it is justified in making an adjustment.

Cost of Credit

147. In the original investigation a cost of credit adjustment was made based on the average number of days of credit given to domestic customers i.e. 60 days at the minimum overdraft rate at that time of 6 percent.

148. BSBM's financial statements do not disclose the average collection period of debtors. The notes to the statements do provide information on trade accounts receivable but no details that would allow for an average collection period to be calculated to the extent that the Ministry requires. TSTH's published information shows average aged debtors of 27 days for 1 April to 31 December 2007 and 18 days for 1 April to 31 December 2008.

149. As the Ministry has been able to locate a debtors collection period that applied over a significant portion of the periods under examination it has used this information in preference to the number of days used in the original investigation as it better reflects the actual situation at this time. The minimum overdraft rate of the Bank of Thailand for 2007 and 2008 was 7.32 and 7.29 percent respectively.

150. The Ministry has made a negative adjustment for the cost of credit over either 27 days for 2007 or 18 days for 2008, which equates to THB [REDACTED] or THB [REDACTED] per tonne for 2007 and 2008 respectively.

Conclusion on Due Allowances

151. The Ministry has used a combination of information from the original investigation which has been updated by the CPI and publicly available information to establish due allowances that affect price comparability.

Normal Values

152. The Ministry has based its normal values on publicly available information, that being BSBM's average sale price per tonne for 2007 and 2008. From the base price the Ministry has made a number of adjustments for differences that affect price comparability with export price. The base price has been adjusted by a positive adjustment for short length premium and a negative adjustment for the cost of providing credit to domestic customers.

4.6 Comparison of Export Price and Normal Value

153. The following table shows the comparison of export prices with normal values for 2007 and 2008.

Table 4.3: Likely Dumping Margins (2007)
THB per Tonne

	FOB per Tonne (THB)	Export Price (Ex-Factory)	Normal Value (Ex-Factory)	Dumping Margin	Dumping Margin as % of EP
All Destinations	16,642	[REDACTED]	[REDACTED]	[REDACTED]	43%
USA	16,384	[REDACTED]	[REDACTED]	[REDACTED]	46%
UAE	16,609	[REDACTED]	[REDACTED]	[REDACTED]	44%

Laos	18,483				28%
Cambodia	14,411				67%
Mauritius	18,492				28%
Myanmar	20,654				14%
F. Polynesia	19,222				23%

**Table 4.4: Likely Dumping Margins (2008)
THB per Tonne**

	FOB per Tonne (THB)	Export Price (Ex-Factory)	Normal Value (Ex-Factory)	Dumping Margin	Dumping Margin as % of EP
All Destinations	25,831				26%
Cambodia	22,919				43%
India	29,989				8%
Singapore	27,516				18%
Laos	27,565				18%
Brunei Darussalam	19,659				68%
UAE	38,169				(16%)
Malaysia	17,519				90%
Angola	21,558				52%
Myanmar	26,454				23%
Vietnam	34,489				(7%)

4.7 Conclusions Relating To Dumping

154. For each export destination in 2007 and 2008 the Ministry has established an ex-factory export price and compared it to an ex-factory normal value for the same respective periods. The normal values have been based on a Thai long steel producer's domestic price of rebar.

155. The comparison of export prices and normal values, based on the best available information, has established that the goods have been exported at dumped prices in 2007 and 2008. For two of the ten countries examined in 2008, however, no dumping occurred. The Ministry notes that the prices have increased when comparing the values for 2008 with those for 2007. Since a review is a forward looking exercise and indications show that the world steel prices are declining, and

the Thai market appears to be responsive to these changes, it is reasonable to assume that the prices may revert to those experienced in 2007, if not of earlier periods. The Ministry concludes, on the basis of the 2007 and 2008 information, that should anti-dumping duties be removed it is likely that, if exports of rebar from Thailand to New Zealand resume, rebar will be imported at dumped prices.

5. Injury Investigation

5.1 Findings of the Original Investigation

156. The Ministry concluded, in the original dumping investigation, that rebar from Thailand was being imported at dumped prices and had caused material injury to Pacific Steel. The Ministry found evidence of injury caused to Pacific Steel by factors other than rebar from Thailand but it was not sufficient to break the causal link between the dumped rebar from Thailand and the material injury experienced by Pacific Steel.

5.2 Injury in a Review

Introduction

157. The basis for considering material injury is set out in section 8(1) of the Act. The Ministry interprets section 8 to mean that injury is to be considered in the context of the impact on the industry arising from the volume of the dumped goods and their effect on prices.

158. Section 8 of the Act also sets out a number of factors and indices which the Chief Executive shall have regard to, although noting that this is without limitation as to the matters the Chief Executive may consider. These factors and indices are considered under the relevant headings below.

159. The demonstration of a causal relationship between the dumped imports and the injury, or threat thereof, must be based on an examination of all relevant evidence and any known factors other than the dumped imports, which are injuring, or threatening to injure, the domestic industry. Any injury caused or threatened by factors other than dumping must not be attributed to the dumped imports.

160. In the present review the Ministry has evaluated the financial data submitted by Pacific Steel for the period 1 July 2005 to 31 December 2008. The Ministry has also evaluated forecast financial data for the year ended 30 June 2009 and the year ended 30 June 2010 based on the assumptions of either anti-dumping duties remaining in place or anti-dumping duties being removed.

Likelihood of Continuation of Recurrence of Injury

161. The Ministry's approach to sunset reviews is recorded in section 2.3 above. In considering the likelihood of a continuation or recurrence of injury, the Ministry has applied the general principles set out in that section of the report.

162. The Ministry carries out its injury analysis for reviews on the basis of Article 11 of the Anti-Dumping Agreement and section 8 of the Act. The Ministry interprets these provisions to mean that the likely continuation or recurrence of injury is to be considered in the context of the likely impact on the industry, arising from the likely volume of the dumped goods and their likely effect on prices.

163. In considering injury in a review, the Ministry examines whether the removal of the duty would be likely to lead to the continuation or recurrence of injury.

164. The review team has concluded that if the current anti-dumping duties are removed there is a likelihood of a recurrence of dumping and that this would likely cause material injury to Pacific Steel. The review team has recommended that a reassessment of the rate and amount of anti-dumping duty is initiated pursuant to section 14(6) of the Act.

Injury Information Submitted by Pacific Steel

Financial Information

165. Pacific Steel sells its rebar in New Zealand as well as overseas. Pacific Steel provided financial performance data on domestic sales of rebar for the years ended 30 June 2006 (2006), 30 June 2007 (2007), 30 June 2008 (2008) and year to date to 31 December 2008 (6mths 2009). Each period includes details of domestic sales volume, net sales revenue, cost of production, gross profit, and selling and administration costs and Earnings Before Interest and Tax (EBIT).

166. Pacific Steel experienced difficulty in providing meaningful financial data on some of the injury factors which the Ministry is required to consider because of the way it records its financial performance over all of the goods it produces which are sold domestically and exported. In these instances the financial performance has been narrowed as far as possible to the same general category of goods, which may include export sales. The Ministry has noted in this report where these instances have occurred.

167. At the time of its application for the review, Pacific Steel provided forecast data for the year ended 30 June 2009 (forecast 2009), with duties in place. Pacific Steel based its forecast 2009 figures on its first six months' performance as this was the information it had at that time. Shortly before the release of the Interim Report Pacific Steel provided its actual figure for domestic sales volume for the year ended 30 June 2009 (2009) of [REDACTED] tonnes, which was [REDACTED] percent less than estimated.

168. Since the release of the Interim Report, Pacific Steel has provided its actual net sales revenue, and cost of production figure for 2009. The actual figures show a small increase ([REDACTED] percent) in net sales revenue and a small increase ([REDACTED] percent) in the cost of production from that forecast. The Ministry has replaced forecast 2009 data, where it can with actual 2009 data in its injury analysis. In instances where the Ministry has continued to rely on forecast 2009 data it is noted where relevant in the following paragraphs.

169. The Ministry examined and verified Pacific Steel's financial data from 2006 to 31 December 2008 and considered whether its forecast financial information for 2010 is reasonable. The Ministry recognises that as a result of the changes to world steel prices in 2008 it is difficult to predict what is going to happen in the near future. Any changes in world steel prices will impact on the cost of scrap [REDACTED].

Forecast Financial Information

170. Pacific Steel provided forecast financial information for the year ended 30 June 2010 (2010) on the basis of two scenarios, with anti-dumping duties in place and if anti-dumping duties were to be removed.

Forecast for 2010 (Anti-dumping Duties Remain)

171. When compared to 2009, Pacific Steel's forecast information for 2010 shows a decline in net sales revenue and a decline in sales volume. Pacific Steel foresees that there will be a decline in world steel prices, which will have a flow on effect on the New Zealand market. Pacific Steel's forecasts of declining sales are based on a projected [REDACTED].

172. Pacific Steel foresees for 2010, (if the anti-dumping duties remain in place) when compared to its actual figures for 2009, that its sales volume will decrease by [REDACTED] tonnes from [REDACTED] tonnes to [REDACTED] tonnes. Its net revenue will decrease by NZD [REDACTED] m or NZD [REDACTED] per tonne and its cost of production will decrease by NZD [REDACTED] m or NZD [REDACTED] per tonne.

173. Even though Pacific Steel forecasts a reduction in domestic sales and net sales revenue for this period, Pacific Steel forecasts it will operate at a gross profit margin of [REDACTED] percent and achieve a profit before interest and tax of NZD [REDACTED] or NZD [REDACTED] per tonne.

Forecast for 2010 (Should Anti-dumping Duties be Removed)

174. Pacific Steel forecasts that, should anti-dumping duties be removed, its domestic sales volume will decrease to a greater extent than if the duties had remained in place and it will be forced to decrease its price. Pacific Steel estimates that if anti-dumping duties are removed imports from Thailand would be in the vicinity of 7,306 tonnes and its domestic sales will reduce by approximately 5,584 tonnes.

175. Pacific Steel's estimation of import volume of 7,306 tonnes is based on a percentage of Thai imports in relation to New Zealand's total market from 1999 to 2002 applied to its estimate of current market volume. Pacific Steel's forecast reduction in sales volume of 5,584 tonnes is based on the average import volume for the four years to December 2002 of 22,335 tonnes.

176. Pacific Steel's forecast for 2010, if the anti-dumping duties are removed, shows no change to the total cost of production but fixed costs per unit will increase because of a decline in output. The Ministry notes, however, that the gross profit margin is significantly lower at [REDACTED] percent than its gross profit margin in the presence of dumped product in 2003 of [REDACTED] percent. Pacific Steel has not given any indication that it has considered other matters such as the margins of previous periods or the price of rebar from countries other than Thailand in its forecast calculations. The Ministry notes that Pacific Steel expects 2008 prices to decrease and align more closely with prices in 2007. In forecasting net revenue per unit for 2010 (without anti-dumping duties), Pacific Steel could have considered a higher net revenue per tonne figure of NZD [REDACTED] per tonne that takes into account a gross margin of [REDACTED] percent when the prices were affected by dumped rebar from Thailand. However, this

estimate does not take into account the changes that have occurred in the price of steel products and downward pressure that could be put on domestic prices and also by lower domestic demand in New Zealand. In the foreseeable future Pacific Steel's forecast revenue per unit for 2010 (without anti-dumping duties) of NZD [REDACTED] per tonne would seem to be a reasonable estimate therefore of what it perceives would occur in the foreseeable future.

177. In total, Pacific Steel forecasts that its domestic sales volume will decrease by [REDACTED] tonnes from [REDACTED] tonnes for 2009 to [REDACTED] tonnes in 2010. Pacific Steel maintains that in addition to losing sales of 5,584 tonnes its net sales revenue would reduce by NZD [REDACTED] per tonne from NZD [REDACTED] to NZD [REDACTED] per tonne, although only NZD [REDACTED] per tonne would be due to dumped rebar from Thailand. Pacific Steel forecast that under these conditions it would operate [REDACTED] before interest and tax of NZD [REDACTED] or NZD [REDACTED] per tonne.

5.3 Volume Effects

Import Volumes

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

179. Table 5.1 provides the import volume over the last three years together with imports from other countries and Pacific Steel's domestic sales volume.

**Table 5.1: Import Volume per Tonne
(Year Ended 30 June)**

	2006	2007	2008
Imports from Thailand	[REDACTED]	[REDACTED]	0
Other Imports	[REDACTED]	[REDACTED]	[REDACTED]
Total Imports	[REDACTED]	[REDACTED]	[REDACTED]
NZ Industry Sales	[REDACTED]	[REDACTED]	[REDACTED]
NZ Market	[REDACTED]	[REDACTED]	[REDACTED]
Change on Previous Year:			
Imports from Thailand		[REDACTED]	[REDACTED]
Other Imports		[REDACTED]	[REDACTED]
Total Imports		[REDACTED]	[REDACTED]
NZ Industry Sales		[REDACTED]	[REDACTED]

Percentage Change:			
Imports from Thailand			
Other Imports			
Total Imports			
NZ Industry Sales			
Thailand Imports as a % of:			
NZ Industry Sales			
NZ Market			

180. Table 5.1 illustrates that there have been no imports from Thailand since 2007. The total import volume from countries other than Thailand has increased from 2006 to 2008. The Ministry notes that, since October 2006 there has been no increase in import volumes of rebar from Thailand either in absolute terms or in relation to production or consumption in New Zealand.

The Effect of Anti-dumping Duties

181. With anti-dumping duties in place, a reduction in import volumes could perhaps have been expected, but the following analysis indicates that anti-dumping duties are unlikely to have been a significant factor in the decline in import volumes from Thailand and their cessation in October 2006.

182. The anti-dumping duties were imposed in the form of:

- A Non-Injurious Free-On-Board (NIFOB)¹⁰ amount of NZD [REDACTED] per tonne for Sanwa Pty Ltd and an alternative NV(VFDE) duty of THB [REDACTED] which took effect when exchange rates are such that the NV(VFDE) was lower than the NIFOB;
- A Normal Value (Value for Duty Equivalent) (NV(VFDE))¹¹ amount of THB [REDACTED] for SCT Co. Ltd; and
- An *ad valorem* percentage of 13% for all other exporters, which was capped with a NV(VFDE) of THB [REDACTED].

183. The amount of total duty payable, except in the case of the *ad valorem* duty, was the amount by which the NIFOB or NV(VFDE) amount exceeded the NZ value for duty (VFD) when the goods are entered for home consumption. Anti-dumping duty would not be collected, however, when the values for duty per tonne were greater than a maximum of THB [REDACTED].

¹⁰ A NIFOB is a duty imposed at less than the margin of dumping and represents the FOB price at which imports would not cause injury to the New Zealand industry.

¹¹ A NV(VFDE) is a duty imposed at the full margin of dumping and represents the FOB price at which imports are not dumped.

184. The Ministry has looked at the Customs data since 2003 and notes that the pattern of imports in 2004 shows a gap from mid-January to mid-June. When exports from Thailand resumed in June 2004, Thai exporters' prices had increased significantly to the extent that anti-dumping duty was not payable on imports.

185. The following table shows average VFDs per tonne for imports from Thailand between 2003 and 2006. The table has been constructed using Customs data and average interbank exchange rate data from oanda.com.

Table 5.2: Imports from Thailand: Average Values for Duty NZD (Per Tonne)

Calendar Years	Average VFD (FOB) NZD	Average Exchange Rate NZD:THB	Average THB
2003	██████████	24.20	██████████
2004	██████████	26.78	██████████
2005	██████████	28.40	██████████
2006	██████████	24.68	██████████

186. The table shows that the average VFD per tonne in 2004 of THB ██████████ exceeded the capped NV(VFDE) amount of THB ██████████. Since the anti-dumping duty was imposed in March 2004, only NZD ██████████ of anti-dumping duty has been collected. This does not indicate that the duty has been ineffective, rather it may indicate that exporters raised their prices to avoid the duty (and retain any profit from increased prices), resulting in removal of injury to the industry.

187. To test whether Thai exporters have raised their prices in response to the anti-dumping duties, the Ministry has compared changes in Thai VFDs with changes in VFDs for rebar from ██████████ and ██████████ which, at NZD ██████████ and NZD ██████████ per tonne respectively, were very close to the Thai prices in 2003. In 2004, average prices for rebar from ██████████ and ██████████ increased to NZD ██████████ and NZD ██████████. The average Thai price for 2004 of NZD ██████████ was within this range, indicating that prices of Thai rebar would likely have increased regardless of the imposition of anti-dumping duties and that they increased in 2004 beyond the level required to trigger anti-dumping duties.

Likely Import Volumes Should Duties be Removed

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

- the volume of imports before and after the imposition of anti-dumping duties;
- the price advantage (in the absence of duties) which such imports may hold;
- the capacity of the Thai industry to substantially increase its exports to New Zealand;

- the ease of entry into the New Zealand market;
- the ability of importers to handle a significant increase in imports from Thailand;
- the ease of distribution of the goods in New Zealand; and
- exchange rates.

Import Volumes Before and After the Imposition of Duties

189. In the original investigation the Ministry analysed import volumes from 1999 to 2003. Tables 5.3 and 5.4 below illustrate the import volumes before the original investigation and after the imposition of anti-dumping duties in 2004.

Table 5.3: Import Volumes for Years Ended June (Tonnes) Before Imposition of Duties

	1999	2000	2001	2002	2003
Imports from Thailand	3,781	8,029	4,133	5,482	4,941
Other Imports	20,493	11,229	17,855	12,426	██████████
Total Imports	24,274	19,258	21,988	17,908	██████████

190. Table 5.3 shows that import volumes from Thailand fluctuated for the five year period prior to the original investigation with the largest volume recorded in 2000. In relation to imports from other sources the opposite pattern applies with the largest volume recorded a year earlier in 1999. Total imports have fluctuated and have followed the pattern of imports from sources other than Thailand.

Table 5.4: Import Volumes for Years Ended June (Tonnes) After the Imposition of Duties

	2004	2005	2006	2007	2008
Imports from Thailand	██████████	██████████	██████████	██████████	0
Other Imports	██████████	██████████	██████████	██████████	██████████
Total Imports	██████████	██████████	██████████	██████████	██████████

191. Table 5.4 shows that, since the imposition of anti-dumping duties, imports from Thailand have declined, other than in 2005 when imports increased, to the extent that no imports have been recorded in 2008. Other imports have fluctuated also, with increases in 2005, 2007 and 2008, but have increased significantly overall. Total imports have fluctuated but have increased overall.

192. The average import volume from Thailand from 1999 to 2003 was 5,273 tonnes. For imports from other sources the average import volume was ██████████ tonnes. Since the imposition of anti-dumping duties the average annual import volume from Thailand (over the years 2004 to 2007) was ██████████ tonnes which is significantly

lower than prior to the anti-dumping duties being imposed. The average import volume from other sources is [REDACTED] tonnes which is greater than the period prior to the imposition of anti-dumping duties.

193. The Ministry has also analysed the sourcing patterns of importers from before the anti-dumping investigation to assess the extent to which importers may have switched to sources other than Thailand. In the calendar year 2002, [REDACTED] importers were sourcing rebar from Thailand, but [REDACTED] of them were also sourcing from a range of other exporting countries. There were [REDACTED] importers from Thailand in 2004, the year duties were imposed, and [REDACTED] from Thailand by 2006. In 2008, of the [REDACTED] importers who were sourcing rebar from Thailand in 2002, there were [REDACTED] importers remaining who were still importing rebar from other sources. [REDACTED] of these importers, [REDACTED], ceased importing from Thailand in [REDACTED] before the Ministry initiated the original investigation, and has since been importing [REDACTED] from [REDACTED]. [REDACTED], ceased importing from Thailand [REDACTED] before the anti-dumping duties were imposed, and has since continued to import from [REDACTED] and [REDACTED] with some imports also from [REDACTED] and [REDACTED]. Importers now source rebar from a range of countries other than Thailand. The number of New Zealand importers from Thailand declined significantly after the duties were imposed even though total imports from all sources increased significantly in 2005, 2007 and 2008. This pattern indicates the presence of the anti-dumping duties may have had a trade chilling effect.

194. Having considered historical information on imports from Thailand, the Ministry has also considered the likelihood of imports from Thailand in the future. There is no information from exporters that indicates their intentions if the anti-dumping duties were to be removed. Three importers commented on whether they would resume importing from Thailand.

- H J Asmuss stated that it had “almost totally departed the reinforcing bar market” and was “extremely unlikely to ever get back into the reinforcing market”. H J Asmuss confirmed that it had had no contact with Thai rebar mills, had no knowledge of Thai prices and did not know who was actively importing from Thai mills.
- TJ-Steel imports many steel products from Thailand and had [REDACTED]. [REDACTED] The Ministry does not have copies of [REDACTED] and T-J Steel advised that it has no indication of prices, which the Ministry assumes refers to current prices. TJ-Steel also experienced [REDACTED]. [REDACTED] TJ-Steel noted that it is a very small supplier in the total steel market and that it considers sourcing from Thailand because it imports other product from Thailand and “Pacific Steel will not supply to TJ-Steel with reinforcing products”. The price undercutting analysis below, however, does show that Thai imports would now be competitive, on the basis of price alone, with the New Zealand industry’s prices.

- Vulcan Steel noted that it had not landed rebar from Thailand since [REDACTED], [REDACTED], has “no intention of resuming this business” and has no current supply or pricing information.

195. The Ministry notes that, while there have been no imports of rebar from Thailand since October 2006, Pacific Steel considers that the removal of anti-dumping duties would result in likely import volumes of rebar of 7,306 tonnes from Thailand. The Ministry has based its analysis on a likely import volume of between 5,584 tonnes and 7,306 tonnes from Thailand as it considers that this is a reasonable estimation based on the import volume prior to the initiation of the original dumping investigation and also taking account of a forecast contraction in the New Zealand domestic market in 2010. The decline in imports of rebar from Thailand may be due to factors other than the quantum of the anti-dumping duties imposed because the pricing of imports from Thailand has been higher than that required to trigger the imposition of anti-dumping duties and the year after the duties were imposed imports continued at a reasonably high level.

196. The Ministry does note however that the anti-dumping duty may have had a trade chilling effect on imports from Thailand as importers would realise that the need for the duties would be reviewed and the duties would potentially be re-assessed, leading to some uncertainty regarding the pricing of future imports. The fact that the duty thresholds are confidential could also contribute to the level of uncertainty for traditional importers and would likely impact significantly on the ability of new importers to make decisions on whether importing rebar from Thailand was worthwhile.

197. Pacific Steel observes that persons involved in decisions to cease imports from Thailand in 2006 may not now be well-placed to reliably explain that decision. In any case, the Ministry notes the lack of co-operation from exporters in this review and that importers who responded were in a position to supply only limited information. Rather than considering the year 2005/2006, Pacific Steel suggests considering “the economic forces in play looking forward” and that the Ministry would be incorrect to consider events in 2005/06 determinative in respect of likely future volumes from Thailand. The Ministry notes that it had referred only to the possibility that factors in play in 2006, which may have led to the cessation of imports, could still be significant factors in decisions by exporters and importers about whether to resume sending Thai rebar to New Zealand.

198. Pacific Steel considers it has provided positive evidence of the following matters, some of which have been commented on elsewhere in this report, which it considers are relevant to the question of the likelihood of imports from Thailand resuming and material injury recurring should the anti-dumping duties not be renewed.

- Expansion of capacity in Thailand, which results in pressure leading to exports. The Ministry concludes, for reasons in the next section, that Thailand has the capacity to increase exports to New Zealand.
- Increased impetus for generally increased exports from Thailand due to a weakening in the Thai economy and confidence expressed in the private and public sectors that exports will continue expanding. The Ministry notes that this

information was about exports in general and not steel in particular.

Bloomberg.com reported on 30 June 2009 that the Thai central bank stated “exports, which are equivalent to about 60 percent of Thailand’s economy, slid 26.5 percent to \$11.55 billion in May from a year earlier, declining for a seventh month”¹². The Ministry considers that in these circumstances Thai exporters in general will be seeking further export orders.

- A recent decline in consumption in Thailand’s two largest export destinations, namely the United States and the UAE. In 2007, exports from Thailand of rebar to these two markets accounted for 86% of Thai rebar exports. Construction demand in the US is forecast to be lower than in 2007, already in 2009 demand for rebar has declined by 17% and is forecast to decline further to 18% in 2010, representing 12,601 tonnes. While there is some evidence of a downturn in demand in the UAE, at the same time the UAE is expanding capacity to meet construction growth. The Ministry notes there is evidence of a decline in global steel consumption, which is forecast to return to 2007 levels until 2012 and that demand in the United States has declined which is likely to leave Thai exporters of rebar searching for other markets. The evidence in respect of a decline in demand in the UAE is contradictory.
- Ease of entry to the New Zealand market. The Ministry agrees that there is ease of entry to the New Zealand market.
- Ability of New Zealand importers to purchase from Thai rebar exporters. The Ministry notes that importers have the capability of importing from many countries, including Thailand, and that importers source other steel products from Thailand.
- No impediment to entry or re-securing distribution in New Zealand. The Ministry agrees there are no impediments to exporters “resurrecting the contacts and export arrangements that they previously had in place” and that importers have adequate distribution channels in New Zealand.
- Very low utilisation in the Thai steel industry (about 64% according to a *Steel Business Briefing* article of 23 July 2009) is causing enhanced interest in securing export sales for steel goods, which Pacific Steel considers is greater now than when imports from Thailand began in the late 1990s. The Ministry considers that this view is reasonable.

199. Pacific Steel also referred to [REDACTED] (see paragraph 237 below), which referred to the trade remedy action in New Zealand, as indicating an interest in the New Zealand market.

200. The Ministry considers that all of these factors indicate that there is a possibility that imports of rebar from Thailand could resume at some time in the future. Whether it is likely imports will resume involves consideration of all of the relevant factors.

¹² <http://www.bloomberg.com/apps/news?pid=20601080&sid=a5RpKJ88Xvug>

201. There are assertions from three importers that they do not foresee themselves importing rebar from Thailand while one importer, Quail Glen Industrial, has made no comment. There is no positive evidence, nor information from Thai exporters, indicating that imports from Thailand will not resume. There is information that supports a conclusion that imports from Thailand could resume, that is that imports are possible. In particular imports have occurred in the past and importers [REDACTED].

202. The question that needs to be answered, however, is whether resumption of dumped imports from Thailand is likely, that is whether probable and demonstrable on the basis of the evidence adduced. Unfortunately, exporters and importers have not provided information or evidence that would allow the Ministry to carry out a full analysis of the situation. Pacific Steel has provided information but is limited in the information it can access, due to suppression of import data and because it is not an importer of rebar from Thailand.

203. Pacific Steel considers that, in the absence of other information, its volume estimate for Thai imports of 5,584 tonnes is conservative. The Ministry notes that the volume of 5,584 tonnes represents [REDACTED] percent of the market and [REDACTED] percent of imports in the year ended 2008. Before anti-dumping duties were imposed Thai imports accounted over the years 1999 to 2003 for between [REDACTED] percent and [REDACTED] percent of the New Zealand market and 16 percent and 42 percent of all imports. Pacific Steel's estimate is at the lower end of these ranges. Pacific Steel considers that, since its application, lower Thai domestic consumption, lower Thai utilisation of capacity, and greater expansion of Thai capacity would indicate that a higher volume of imports of 7,306 tonnes is likely to be imported from Thailand if anti-dumping duties are removed. The Ministry notes that this is the maximum volume of imports in the period 1999 to 2003 and accepts that Pacific Steel's figure of 5,584 tonnes is more conservative.

Price Advantage Held by the Imported Products

204. In looking at the price advantage of imported products the Ministry has considered the price of products from Australia as well as [REDACTED] countries [REDACTED].

205. The Ministry has calculated, based on import data under tariff items and statistical keys described at paragraph 32 of this report, aggregate CIF values plus import duty for the dumping review period of 1 January 2007 to 31 December 2008.

206. The following table shows on an aggregate level the lowest estimated CIF prices plus duty were on goods from [REDACTED], [REDACTED] and [REDACTED]. The highest price was for goods from [REDACTED].

Table 5.5: 2007 Cost-Insurance-Freight and Duty Value for Calendar Year 2007 per Tonne (NZD)

	Total Tonnes	Total VFD ('000)	Total Ins ('000)	Total Freight ('000)	Total Duty ('000)	Cost-Insurance-Freight and Duty (per Tonne)
Australia						
Other						

207. The following table shows that in 2008 the lowest estimated CIF prices plus duty were on goods from the same countries as in 2007, [REDACTED] and when compared with 2007 the price has increased and the volume from [REDACTED] has increased but the volume of goods from [REDACTED] and [REDACTED] have decreased. As in 2007 the highest price continues to be for goods of [REDACTED] origin.

Table 5.6: 2008 Cost-Insurance-Freight and Duty Value for Calendar Year 2008 per Tonne (NZD)

	Total Tonnes	Total VFD ('000)	Total Ins ('000)	Total Freight ('000)	Total Duty ('000)	Cost-Insurance-Freight and Duty Per (Tonne)
Australia						

Other						

208. The Ministry notes that low-value import sources are [redacted], [redacted] and [redacted]. The Ministry has therefore compared CIF prices plus duty for exports of rebar from Thailand with the same prices for exports from [redacted], [redacted], and [redacted] as shown in the next table. For 2007 and 2008, the Ministry has calculated Thai CIF prices plus duty based on average world prices calculated for purposes of assessing likely dumping and likely price undercutting. Pacific Steel estimated a likely New Zealand importers' CIF price plus duty of NZD [redacted] per tonne of goods of Thai origin, based on Thai export data for the calendar year 2007 to destinations other than New Zealand and adjusted as if the goods were destined for New Zealand. The Ministry has not used this price, which is higher than the Ministry's estimated CIF plus duty price, because Pacific Steel's calculation included a conversion to metric tonnes that was not required and an exchange rate that did not match the period of import data. Prior to 2007 prices from Thailand are based on import prices into New Zealand taken from Customs data.

**Table 5.7: Cost-Insurance-Freight and Duty Values
Calendar Years 2002 to 2008
per Tonne (NZD)**

	2002	2003	2004	2005	2006	2007	2008
Thailand	738	691	[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]

*Not Sufficient Value

209. Differences between CIF plus duty prices relating to [redacted], [redacted] and [redacted] when compared with those from Thailand were as follows:

- [redacted] prices were lower than Thailand's prices in 2002, 2005, and 2006, but not in 2007 and 2008;
- [redacted] prices were lower than Thailand's prices from 2002 to 2006, but not in 2007 and 2008;

- [REDACTED] prices were lower than Thailand's prices in 2003 and 2006, but not in 2002, 2004, 2005, 2007 and 2008.
- [REDACTED] prices were [REDACTED] countries compared in 2007 and 2008

210. Pacific Steel notes that the volume flow of imports from Thailand in 2006 was small and intermittent, which it considers might explain why Thai prices in that year were higher than they would be for larger and more consistent orders from [REDACTED].

211. The Ministry notes that its calculations of CIF plus duty values for imports from Thailand for 2007 and 2008 are based on aggregate data for exports from Thailand to all sources, but that data represents the best information available to indicate likely prices of Thai rebar if sold to New Zealand importers.

212. The Ministry notes that, on the basis of price alone, despite imports ceasing in October 2006 due to factors other than the impact of anti-dumping duties, Thai prices are likely to be very competitive with other low-cost imports. *Steel Business Briefing* reports that TSTH's new furnace will "lower steel making costs", which will increase the competitiveness of Thai rebar.

Other Factors Affecting Export Prices

213. Pacific Steel, in response to the Ministry's observation that at times imports from some countries are lower than Thailand's prices, pointed out factors other than price that could provide incentives for Thai exporters and New Zealand importers to recommence trade in rebar and presented arguments against any conclusion that might be drawn that imports of rebar from Thailand would not resume. Pacific Steel's views are considered in the relevant sections of this report.

214. Pacific Steel considers the Ministry would be "incorrect to seek determinative guidance on whether importers may not resume imports from Thailand from aged data suggesting alternative import[ed] goods from Singapore, Malaysia or Indonesia have been lower priced than Thai goods". The Ministry notes that it takes all relevant factors into account and must decide not whether imports may resume, but rather whether imports are likely to resume and result in a recurrence of material injury.

215. Pacific Steel refers to the following factors it consider relevant:

- There is a price-volume trade-off which will affect prices, and Thai prices would decrease as volumes to New Zealand increase.
- Terms of payment will almost certainly differ.
- The range of sizes and lengths will differ.
- Rebar may be price-packaged with other steel goods.
- [REDACTED] might exist between Thai suppliers and New Zealand importers.

- Different grades or quality.
- Differences due to value placed on certain uses, such as efficiency of the rebar when run through a straightening machine.

216. The Ministry notes that it does not have invoices for imported rebar, from either Thailand or other countries, so no judgement can be made on terms of payment, sizes and lengths, price-packaging, grade or quality, nor has cooperation been forthcoming from importers or exporters that would allow these or other matters (such as [REDACTED], value in use, or distribution in the non-engineered sector of New Zealand) to be explored. While the factors mentioned by Pacific Steel have a potential impact on purchasing decisions and prices, there is no positive evidence of the extent to which most of these factors have affected such decisions or prices in relation to exports from Thailand or from other countries.

217. Pacific Steel also asks the Ministry to consider the situation in reverse, referring to lower-cost imports from Japan and South Africa between December 1998 and February 2003 falling away while more-expensive Australian imports continued. Pacific Steel also states that Singapore's supply of rebar to New Zealand was lower cost than that from Thailand, but Thailand's volume grew while Singapore's volume declined.

218. Pacific Steel uses these examples to suggest the Ministry would be unsafe in concluding that the existence of an apparently lower cost source will necessarily prevent a higher cost source being sold into a market. At the same time, the company "concedes that opposite examples can also be found in the same data set". The Ministry notes the reference to contradictory data and that it would only reach a conclusion on whether imports are likely to resume based on positive evidence indicating imports are probable in the foreseeable future.

219. Pacific Steel provides evidence, by comparing prices from Turkey and China and Russia and China, showing that historic patterns of relative competitiveness are not necessarily stable and cannot be counted to hold going forward. Pacific Steel refers to cost savings signalled by Tata Thailand, which it states will lower Thai domestic and export prices.

220. Pacific Steel notes that, unlike Thailand, Singapore has no known plans to expand capacity and its prices may therefore not be as competitive in the future against Thai exports. Pacific Steel also considers that imports into New Zealand [REDACTED], which could make their prices more competitive against Thai imports. Pacific Steel considers [REDACTED]

221. Pacific Steel argues that if the contention were to hold that an historic price premium held by an exporting country, such as Thailand, would deny it further growth (or limit growth), the contention must be supported by net gains in the future going only to the lowest cost supplier. Pacific Steel considers this is not the case as steel prices do not exhibit asymptotic behaviour (that is, the prices represented by a straight line trend do not mean that steel prices will not vary considerably over time),

steel makers could not extract price and service premiums (which they do), and higher prices sources would disappear (which they do not).

222. Thai exports would also still be price competitive against competition from a number of other exporting countries, including Australia, China and Taiwan, so the resumption of imports from Thailand is not precluded.

223. Pacific Steel has cast doubt on whether the Ministry can rely on lower prices from countries such as Indonesia, Malaysia, and Singapore being a major factor in deciding whether imports will resume. In any case, the Ministry's own estimates of Thai prices in 2007 and 2008, indicate that Thai prices are likely to be very competitive with all other countries exporting rebar.

Capacity of the Thai Industry to Increase Exports to New Zealand

224. In the original investigation, rebar from Thailand was in the main produced by Siam Construction Steel Company Limited (SCSC) and was supplied to New Zealand by its export arm SCT Co Limited (SCT). Since the investigation there has been a merger of companies and a name change. SCSC is now a subsidiary of holding company Tata Steel (Thailand) Public Company Limited (TSTH), as are The Siam Iron and Steel (2001) Company Limited (SISC) and N.T.S. Steel Group Public Company Limited (NTS).

225. In its application Pacific Steel submitted that TSTH has excess capacity over domestic demand and some looming supply-side production pressure would mean that it has the desire and capability to grow export sales. Pacific Steel stated TSTH has a cumulative capacity to produce 1.2 million tons of steel per annum and rolling capacity of 1.7m tons a year. According to the published information on its website¹³, TSTH has the annual capacity to produce 900,000 tons of rebar i.e. rolling capacity of 400,000 tons at NTS and 500,000 tons at SCSC. Its deformed bars conform to, along with other grades, SD30, which was equivalent to exports of 300E in the original investigation, and SD40 or SD50, which were considered equivalent to exports of 500E in the original investigation. An article from *Steel Business Briefing* provided by Pacific Steel refers to TSTH's plans to produce "1.1m tonnes of finished long products this year" and that it has a rated capacity of 1.7m tonnes per annum "but the economic downturn and adverse factors have resulted in lower output".

226. Pacific Steel provided an article from *Steel Business Briefing* of 23 July 2009 referring to the Iron and Steel Institute of Thailand's May 2009 forecast in respect of Thai domestic demand which considered that apparent steel demand for long products will fall by 22 percent.

227. Pacific Steel referred to an article reported in the 4 November 2008 issue of the *Steel Business Briefing* where it is stated in part that TSTH intends to construct a new blast furnace with the aim of increasing its capacity by 10million tonnes per year. According to TSTH's Notice to Shareholders, the Eighth Annual General Meeting of Shareholders for the Year 2009 (shareholders report)¹⁴ the investment in the mini

¹³ <http://www.tatasteelthailand.com/>

¹⁴ Ibid

blast furnace is THB3,800m. The project commenced in August 2007 and Pacific Steel has provided evidence that it is being 'blown' in by the end of August 2009. Initially the blast furnace was to commence operating in 2008 but it has been delayed because of two reasons, the contractor was not experienced in installing a blast furnace in Thailand and the sharp increase in the global steel price. TSTH's Annual Report for the year ended 31 December 2008 discloses its future projects, including the mini blast furnace. The expected benefits are noted as including hot metal being utilised as input material for producing billets by the electric arc furnace which will bring positive results in terms of productivity, production cost reduction and billet quality when compared to its existing production process. The Report states that the high quality billets will increase its capability to produce various special grades of high quality wire rods.

228. TSTH disclosed in its 4th Quarter and Year 2008-2009 publication (4th Quarter Report) an outlook on global steel demand. Data has been sourced from the World Steel Association. The data is separated by 9 geographical regions and the geographical region that includes New Zealand is Oceania. The following table is an extract of that information.

**Table 5.8: Extract of Global Steel Demand Outlook
Apparent Steel Use, Finished Steel Products (million tonnes)**

	2007	2008	2009E	2010E
All Destinations	1,216.64	1,195.64	1,026.34	1,109.06
Oceania	8.59	9.19	7.47	8.36
% Difference (Oceania)		7%	(19%)	12%

229. Table 5.8 shows that it is estimated that the global steel demand will decline in 2009 but increase in 2010. In relation to steel products demanded by countries in Oceania it is estimated that demand will decrease in 2009 and increase in 2010.

230. In its application, Pacific Steel provided brief extracts of comments published in the *Steel Business Briefing*. On a global perspective Peter Marcus, managing partner of World Steel Dynamics stated during the American Institute for Internal Steel's annual conference in New York that there is a current downturn in the global steel industry which is likely to continue well into 2009 and possibly beyond. He said that the industry saw record prices and profits in the early part of 2008. Marcus predicts that hot rolled coil prices are likely close to their low point and global steel production could decline between 6 percent and 14 percent in 2009, as could world steel consumption. Marcus predicts that steel mill profits will be down sharply in 2009 and the outlook for 2010 is "up in the air". He said the industry is likely facing two years of significant oversupply and yet globally there is USD100billion steel related capital expenditure being made (*Steel Business Briefing* 11 November 2008).

231. TSTH's shareholders' report discloses its plans for fiscal year ended 31 March 2009. It states that TSTH has "well defined plans to improve sales, production and its ability to generate profit". TSTH predicts that the global steel price should be

stable for the next two to three years but placed a caveat on that opinion by stating that the price cannot be controlled. What TSTH said it can control is its costs, performance and product mix by increasing its variety of products. It is recorded that its most profitable product over the last two years has been rebar.

232. For the year ended 31 March 2008 TSTH sold domestically 858,000 tons of rebar but its export volume of rebar is unknown, which would give an indication of its spare production capacity to recommence exporting rebar to New Zealand.

233. According to TSTH's 4th Quarter Report and Annual Report TSTH exported 135,000 tons of steel products or 9 percent of total sales and the revenue specific to export sales was THB2,647m. TSTH produces rebar, wire rod, small sections and other steel products but the mix of steel products that were exported is not known. According to a *Bangkok Post* article published 23 February 2009¹⁵ TSTH's export markets are mainly Vietnam and Indonesia.

234. The Ministry has estimated TSTH's export sales of rebar based on its domestic steel product sales volume and sales revenue. In 2008 domestic sales of rebar represented 66 percent of total sales and generated 65 percent of revenue, a difference of 1 percentage point. A calculation of domestic sales of wire rod revealed a difference of 2 percentage points. Revenue from export sales of rebar represented 52 percent of total export revenue, therefore, as revenue is closely aligned to sales volume by approximately 1 or 2 percentage points, all other things being equal, by applying a ratio of 53 percent to the total export sales volume of 135,000 tons it equates to approximately 71,550 tons of rebar. As domestic sales were 858,000 tons and it is estimated that TSTH exported 71,550 tons of rebar it appears that TSTH's production and sale of rebar in 2008 was at full rolling capacity and it sold stock from the previous period.

235. TSTH has projected for the year ended 31 March 2009 that its domestic sales of rebar will reduce by 242,000 tons to 616,000 and its export sales will increase by 12,000 tons to 147,000 tons. By applying a ratio of 53 percent it is estimated that TSTH will export an additional 6,360 tons of rebar and therefore as it is projected that TSTH would produce and sell 622,360 tons of rebar. As it has a rolling capacity of 900,000 tons it is likely that TSTH will have spare production capacity.

236. As TSTH's aim is to achieve global excellence and improve sales, production and profitability by analysing its key processes and controlling its costs, performance and product mix, it is reasonable to assume that if sales on the domestic market are not profitable then it would look to expand its export markets or seek new markets to recover its extra outlay on fixed costs. *Steel Business Briefing* reported on 23 July 2009 that Thai exports of long products had increased from 373 million tonnes in 2006 to 681 million tonnes in 2008. Pacific Steel considers the volume of decline in Thai domestic demand of 1.179 million tonnes should be added to the Thai export figure as that tonnage will now be available for export. The Ministry concludes that Thailand has the capacity to increase exports to New Zealand and that this capacity is growing.

¹⁵ <http://www.bangkokpost.com/business/economics/12163/tata-forecasts-20-sales-drop>

237. Pacific Steel submitted that [REDACTED]

238. While TSTH has not traded with New Zealand for at least [REDACTED] years it is possible, if the anti-dumping duties were to be removed, that it may consider resuming links with those importers who had previously traded with it or seek new customers.

Ease of Entry into the New Zealand Market and the Ability of Importers to Handle a Significant Increase in Imports from Thailand

239. To assist in establishing if New Zealand importers have the capability of handling resumed imports from Thailand or of increasing the volume of imports from Thailand, should the anti-dumping duties be removed, the Ministry has looked at the New Zealand Customs data before the imposition of anti-dumping duties and a two year period prior to the initiation of the review investigation. The Ministry found that in 2002 and 2003 the importers of Thai rebar prior to the imposition of anti-dumping duties imported [REDACTED] tonnes and [REDACTED] tonnes respectively. In 2007 and 2008 importers imported [REDACTED] and [REDACTED] tonnes, which is a [REDACTED] reduction from that shown five years ago. Based on this information importers have the capacity to increase their volume of imports.

Ease of Distribution of the Goods in New Zealand

240. Pacific Steel submitted that importers that were involved in the original investigation continue to remain active. Pacific Steel considers that the rebar market [REDACTED] and it is reasonable that, if the anti-dumping duties were to be removed, the Thai manufacturers will visit New Zealand to re-establish previous channels in the New Zealand market or develop new ones.

241. Pacific Steel referred to two companies that possess certification from the Australian Certification Authority for Reinforcing Steels Limited (ACRS)¹⁶. Pacific Steel states that if the Thai companies hold certification in Australia [REDACTED] export to New Zealand.

242. Pacific Steel advised that in Australia it is the QT rebar that is sold domestically and before a steel mill can sell its rebar it is mandatory for the company to hold current ACRS certification. It is not, however, mandatory in New Zealand to hold certification but it does hold merit as it provides an assurance to the purchaser that they are buying a product of a certain quality.

243. The Ministry notes from the ACRS website that there is one Thai manufacturer who holds current certification for the period from 1 July to 30 June 2010 as a rebar processor; LRP (Thailand) Co Ltd, and there are three Thai manufacturers that hold current certification for the period 1 July to 30 June 2010 as bar or rod

¹⁶ http://www.acrs.net.au/Certificates/Cert_Home.html

manufacturers; SCSC, NTS (SCSC and NTS are subsidiaries of TSTH) and BRP Steel.

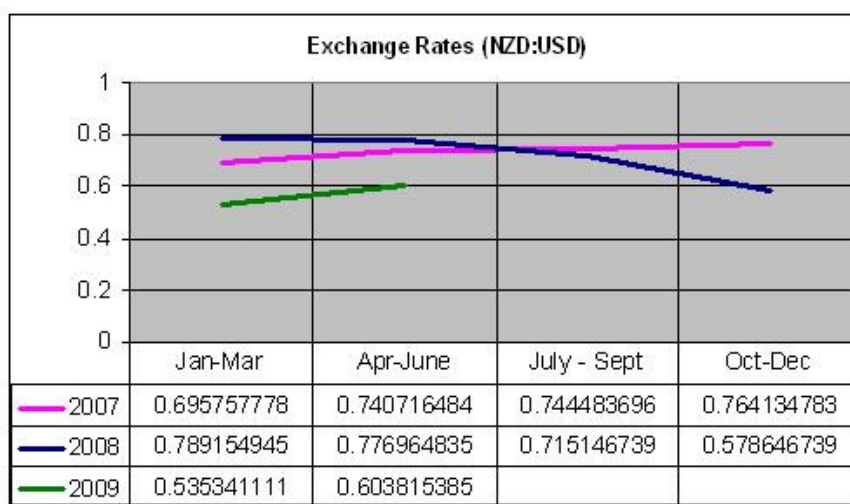
244. If the anti-dumping duties were to be removed it is possible that the Thai manufacturers who sell their goods on the Australian market may choose to revisit previous New Zealand customers or, since Australia is geographically close to New Zealand, may consider adding New Zealand as another market since the product that it sells in Australia ie QT rebar can also be sold to New Zealand.

245. The Ministry notes that in the calendar year 2008, [REDACTED] of the traditional importers of Thai rebar were still importing rebar (from other sources), although another importer from Thailand (only in 2006), [REDACTED], was also importing rebar. In 2008, there were [REDACTED] importers of goods under the 19 “rebar” tariff items and statistical keys. The Ministry is satisfied that sufficient channels exist for ease of distribution of rebar in New Zealand.

Exchange Rates

246. In the original investigation invoices issued to importers were in USD. To consider whether any difference in the exchange rate could have impacted on import volumes from Thailand, and what is likely to occur in the foreseeable future, the Ministry has analysed the exchange rate sourced from www.oanda.com for the periods 1 January 2007 to 31 December 2007, 1 January to 31 December 2008 and 1 January to 30 June 2009. For ease of reference the Ministry has averaged the daily exchange rates into quarters which are provided in the line graph below.

Figure 5.1: Movement in Exchange Rates (NZD:USD)



247. Figure 5.1 shows that in 2007 the NZD appreciated against the USD but the reverse has applied in 2008. This movement in the exchange rate means that it would have been more favourable for importers to import goods in 2007 than 2008. The trend for 2009 is increasing which of itself could be an incentive for importers to resume importing and therefore it should be a consideration along with other factors.

248. The average exchange rate between NZD and USD in June 2009 of 0.6383 was however short of the average exchange rate in the six-month period July to

December 2006 when the last importation from Thailand occurred. The average rate of NZD to USD in that six month period was 0.6543, ranging from a low of 0.6023 to a high of 0.7050. Although the exchange rate between NZD and USD has been rising in 2009, the Ministry considers that the strengthening of the New Zealand dollar is not sufficient in itself at the moment to induce importers to resume importing from Thailand but would contribute to other factors that would make importing from Thailand more attractive.

Other Matters

Import Data Suppression

249. Pacific Steel considers the suppression of import data by Statistics New Zealand “significantly impinges on Pacific Steel’s ability to adequately defend its interests”.

Contraction in Demand

250. Pacific Steel is forecasting a decline in sales volume in 2010 of about [REDACTED] percent, which if extended to New Zealand as a whole, would make it more difficult for Thai exports to penetrate the New Zealand market. Prior to the imposition of anti-dumping duties, the New Zealand market between 1999 and 2003 was between [REDACTED] percent and [REDACTED] percent lower than its current size, yet the volumes of Thai imports ranged between 3,441 and 7,306 tonnes, indicating that Thai imports had no difficulty penetrating a much smaller market.

Import Duties

251. The Ministry notes that import tariffs (customs duties) on rebar of Thai origin are to reduce from 5 percent to free of duty from 1 January 2010. Imports of rebar from Australia are already free of duty; imports of rebar from Singapore will be free of duty from 1 January 2010 under the Trans-Pacific Strategic Economic Partnership; imports from China will be free of duty from 1 January 2012; and imports of rebar from ASEAN member countries (including Malaysia) will be free of duty from between 1 January 2014 and 1 January 2020.

252. The reduction of import duty on rebar from Thailand will increase the competitiveness of rebar from 1 January 2010 against imports from other countries, except Australia and Singapore, which are already both free of duty.

Conclusion on Likely Import Volume

253. The Ministry considers it is likely that imports from Thailand will resume following the removal of anti-dumping duties, for the following reasons:

- Imports from Thailand are likely to be competitive with even the lower-cost suppliers, [REDACTED], [REDACTED] and [REDACTED];
- A duty reduction from 5 percent to Free for rebar originating in Thailand takes place with effect from 1 January 2010 and will assist in the competitiveness of Thai exports to New Zealand;

- The New Zealand exchange rate has been appreciating against the United States dollar, making importing [REDACTED];
- While the cessation of imports from Thailand in October 2006 was not due to the impact of anti-dumping duties on prices, the fact that anti-dumping duties were in place was likely to deter New Zealand importers from sourcing Thai rebar due to future uncertainty;
- Thailand has the capacity to increase exports to New Zealand;
- The Thai industry is increasing capacity at the same time as demand in Thailand is declining, leading to pressure to seek export markets;
- The Thai exporter TSTH holds current certification to sell its goods in Australia facilitating its exports to New Zealand;
- There is ease of entry into the New Zealand market and importers have the ability and distribution channels to handle increased exports from Thailand to New Zealand;
- Pacific Steel is forecasting a decline in sales volume in 2010 of about [REDACTED] percent. While this [REDACTED] contraction in demand, if extended to New Zealand as a whole, would increase the difficulty of resuming and growing imports of rebar from Thailand it would not preclude this from occurring as happened in a much smaller market prior to the imposition of anti-dumping duties.

254. In the five year period prior to the imposition of anti-dumping duties on average 5,273 tonnes of rebar of Thai origin were imported into New Zealand each year. Pacific Steel has estimated, and provided its forecast scenario on the basis of an estimated reduction in sales of 5,584 tonnes (although the import volume would be higher at 7,306 tonnes). If TSTH were to resume exporting rebar to New Zealand it is reasonable to assume, considering all of the factors mentioned above, that imports of rebar from Thailand would rise to a similar volume to that imported before the imposition of anti-dumping duties. It is therefore reasonable for Pacific Steel to base its forecast financial information on a reduction in sales of 5,584 tonnes. If the anti-dumping duties are removed, even considering that the total market may contract by [REDACTED] percent, import volumes from Thailand would probably increase up to their pre-duty level of about 6,000 tonnes per annum. In the absence of anti-dumping duties, rebar from Thailand is likely to be priced lower than both Pacific Steel's price and that of competitors in some other countries, the import volume from Thailand is likely to be at the expense of both the New Zealand industry and imports from countries other than Thailand. Pacific Steel's estimated reduction in sales of 5,584 tonnes is reasonable and is significantly less than Pacific Steel's latest estimate that imports from Thailand will total 7,306 tonnes.

255. In conclusion, the Ministry is satisfied that on the information gathered during the review, the expiry of the present anti-dumping duties would be likely to lead to a recurrence of imports of dumped rebar to around the levels forecast by Pacific Steel. In accordance with the Appellate Body in *US – Sunset Review of Anti-dumping Duties on Corrosion-Resistant Carbon Steel Products from Japan* the Ministry

considers it has used an appropriate degree of diligence and arrived at a reasoned conclusion on the basis of information gathered as part of a process of reconsideration and examination.

5.4 Price Effects

Price Undercutting

Introduction

256. Section 8(2)(b) of the Act provides that the Chief Executive shall have regard to the extent to which the prices of the dumped or subsidised goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers.

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

Price Undercutting Comparisons in the Original Investigation

258. The original investigation compared Pacific Steel's ex-factory price against importers' ex-wharf or ex-store prices to measure the extent of price undercutting. The investigation concluded that as Pacific Steel used an import price parity method to establish its selling prices the imports compete in aggregated form with the domestically produced product at the ex-wharf level. However, not all importers were able to purchase domestically manufactured product under Pacific Steel's customer criteria and therefore for those importers the point of price competition was determined to be at the ex-store level. For importers of rebar of Thai origin the levels of trade were determined as:

- H J Asmuss & Co Ltd, Steel Plus Ltd, Vulcan Steel Ltd: ex-wharf
- Quail Glen Industrial Ltd: ex-store

Price Undercutting Comparisons in the Present Review

259. For the period 1 January 2007 to 31 December 2008 there were no imports of rebar from Thailand. Over this period, however, Thai long steel producers exported rebar to other destinations. To measure the extent of price undercutting in the absence of exports to New Zealand, the Ministry has used the Thai export statistics relating to rebar exports to other destinations as a basis to calculate a likely importer's price into New Zealand over the period.

Level of Trade

260. Pacific Steel submitted in its application that it disagrees with the Ministry's findings in the original investigation. It considers that in the New Zealand rebar market it is a commercial reality that all participants have an economic choice of buying from Pacific Steel at ex-factory or from an exporter and bearing the import costs to ex-wharf. Pacific Steel is of the opinion that all importer's price comparison points with its ex-factory price should be at the ex-wharf level.

261. In New Zealand there is an [REDACTED] that exists in the domestic rebar market. The [REDACTED] includes Pacific Steel, distributors, fabricators, building merchants, construction companies and builders and there is a [REDACTED]. Pacific Steel continues to operate a customer criteria requirement to ensure that [REDACTED] and that there is no departure [REDACTED]. Pacific Steel has distributors and fabricators as its customers [REDACTED].

262. TJ-Steel, a past importer of rebar from Thailand said that Pacific Steel will not supply it with rebar and therefore it has to procure rebar from other sources. Since the release of the Interim Report TJ-Steel has provided the Ministry with the reasons why Pacific Steel has refused to sell to it and Pacific Steel has responded. This is discussed more fully in paragraph 266 below. Pacific Steel's customer criteria was a significant factor in establishing whether a price undercutting comparison should be made at the ex-wharf or ex-store level in the original investigation.

263. Since the original investigation, Pacific Steel has extended its customer base to include certain importers involved in the original investigation. Pacific Steel has advised that importers H J Asmuss & Co Ltd, Steel Plus Limited, Vulcan Steel Ltd and Quail Glen Industrial Ltd [REDACTED]. Pacific Steel argues that this reinforces that a price comparison of imported goods should be made at the ex-wharf level.

264. The Ministry considered in the Interim Report that the same reasons that applied in the original investigation still apply for the review and therefore it did not have sufficient information in the review that would allow it to conclude that a comparison should be made only at the ex-wharf level. The Ministry had not been provided with any information from interested parties that required it to consider a departure from the method used in the original investigation. The Ministry, therefore, considered it appropriate in the Interim Report to still make price comparisons of the likely imported rebar at both the ex-wharf and ex-store levels.

265. The levels of trade for the Interim Report at which the likely importer's price was compared to that of Pacific Steel's ex-factory price was at the ex-wharf and ex-store levels.

Pacific Steel's Submission on Interim Report

266. In response to the Interim Report Pacific Steel submits that "... the Ministry must not leave ex-factory / ex-store levels of trade in place given that it [the Ministry] has been presented with definitive evidence that any 2004 situations no longer prevail." Pacific Steel cites the following points:

- Quail Glen Industrial Ltd (Quail Glen), which was considered in 2004 to be at the ex-store level of trade, [REDACTED] Pacific Steel provided evidence [REDACTED].
- Parties that have the potential to commence importing from Thailand should be considered by the Ministry and just because Euro Corporation Ltd (Eurocorp) was not an importer of rebar from Thailand in the original investigation it should not be excluded from consideration of an appropriate level of trade [REDACTED].
- The persons in charge of Pacific Steel's sales who dealt with T-J Steel have since left the company and it currently has different marketing and sales staff, where a different approach would be taken to its customer criteria. Pacific Steel is aware that T-J Steel [REDACTED].
- Pacific Steel does not operate [REDACTED]. Pacific Steel has provided details of sales to its customer, [REDACTED], who has purchased over the last year [REDACTED] tonnes of rebar, which is significantly less than another customer, [REDACTED] who purchased over the same period [REDACTED] tonnes. The Ministry notes, from the evidence, that [REDACTED] account is noted as "new" therefore it is perhaps not unexpected that it would have a low volume of sales. Pacific Steel has also noted that "...annualised sales volume to [REDACTED] is thus currently running at [REDACTED] tonnes..." which confirms that it is likely [REDACTED] is considered to have the potential to be a larger customer like its other customers.

Ministry's Response to Pacific Steel's Submission on Level of Trade

267. The Ministry has re-considered factors in the original investigation and the submission by Pacific Steel. In the original investigation the Ministry established two levels of trade (ex-wharf and ex-store) on which price undercutting comparisons should be made between Pacific Steel's ex-factory price and the importer's prices. The ex-wharf level was determined for three importers and the ex-store level was determined for one importer.

268. The decision on levels of trade are described in detail in the report on the original investigation and primarily related to Pacific Steel's customer criteria at that time and whether or not importers could purchase rebar from Pacific Steel or could only source their goods from a New Zealand distributor or off shore. Some importers fell into a category that required the Ministry to compare Pacific Steel's ex-factory

price with importers' prices at the ex-wharf level and some importers fell into a category that required comparison with importers' prices at the ex-store level.

269. In order to appropriately manage its distribution system, Pacific Steel continues to base decisions on whether or not to sell to particular customers on customer criteria. Pacific Steel has stated [REDACTED]. T-J Steel has stated that it cannot purchase rebar from Pacific Steel, although it has not approached Pacific Steel recently. In response, Pacific Steel has said that the sales and marketing staff at the time of the refusal have left the company and its new staff would take a different approach.

270. The issue for the Ministry to consider is how Pacific Steel operates its customer criteria policy, because it is the policy that provides the rules or principles when a new customer is being considered. Pacific Steel has not said that it would supply T-J Steel [REDACTED] said that "... [REDACTED] [REDACTED] The Ministry interprets this to mean that Pacific Steel would not actively seek T-J Steel as a customer but in view of other matters that Pacific Steel has raised it would appear that it would also not be averse to being approached by TJ Steel and this matter would be handled in a different manner than before. Provided T-J Steel met Pacific Steel's customer criteria, Pacific Steel would sell rebar to T-J Steel. T-J Steel does not need to be considered further in this review, however, as it has stated that it has "no intention of resuming this business' with Thailand.

271. Pacific Steel has confirmed that Quail Glen, which was considered in the original investigation to be the only importer to require price comparison at the ex-store level, [REDACTED]. The Ministry has considered the evidence provided by Pacific Steel and concludes that if Quail Glen had imported rebar from Thailand over the period under review any price comparison would be made at the ex-wharf level.

272. Pacific Steel argues that the Ministry should also decide that the level of trade at which to compare its rebar price with that of Eurocorp's imported rebar is at the ex-wharf level. Pacific Steel considers that although Eurocorp does not import rebar from Thailand, the Ministry should consider Eurocorp as a potential importer whose prices should also be compared at the ex-wharf level.

273. The Ministry notes that Eurocorp [REDACTED] supply of rebar [REDACTED] and there is no indication [REDACTED] importing from Thailand. Each New Zealand importer has a unique business structure to consider and it is for each investigation to make a conclusion on the appropriate level of trade based on the interested parties in an investigation and the facts before it at that time. Eurocorp was neither an importer from Thailand for purposes of the original dumping investigation nor for this review and the Ministry has accordingly not made a decision on the appropriate level of trade for price comparison of any potential imports by Eurocorp of rebar from Thailand. The approach taken to deciding such a matter has not altered since the original investigation.

274. The Ministry is not aware of any past or likely future importers from Thailand who would be in a category that would require a price comparison to be made at the importers' ex-store level. The Ministry has, therefore, made the price comparison in this report only at the level of importers' ex-wharf prices and Pacific Steel's ex-factory price.

Estimated Importer's Price

275. Pacific Steel provided in its application an estimate of an importer's price based on Thailand's 2007 export statistics with costs added in relation to overseas transportation, overseas insurance and New Zealand Customs clearance costs including duty, transport from the wharf to store and an importer's margin.

276. The Ministry has estimated likely importer's prices at the ex-wharf level having regard to all available information as provided in section 6(1) of the Act. The likely importer's prices are based on evidence provided by Pacific Steel and what is publicly available.

Base Price

277. The base price is the average unit value in USD from total volume and revenue figures sourced from Thai export statistics published by TradeMap.

278. For 2007 the base price is the per unit value of all seven export destinations at that time. For 2008 the base price is the per unit value of all ten export destinations at that time.

279. From these base prices the Ministry has converted USD to NZD using an average exchange rate sourced from the currency conversion website Oanda.com that applied over the year ended 31 December 2007 (1.36154) and the year ended 31 December 2008 (1.42503).

Costs and Expenses from FOB to Ex-Wharf

Introduction

280. Pacific Steel provided evidence of the costs associated with importing, in 20ft containers, long steel products ranging from 6m to 15m in lengths from Bangkok. The Ministry has used the costs that would be incurred [REDACTED]. Most costs, except for overseas insurance, are based on a specific cargo weight per container of 20 tonnes. In instances where a total cost per container had been provided by the freight forwarding firm the Ministry has divided the value by 20 to establish a cost per tonne. The Ministry notes that some of the costs have been quoted in USD. In instances where this has occurred the Ministry has converted the USD to NZD based on an average exchange rate over the period of review sourced from the currency conversion website Oanda.com.

281. As the likely importers' prices are being used to determine the extent of price undercutting that could occur if the anti-dumping duties were to be removed, and are therefore representative of the foreseeable future, the Ministry has not added

customs duty, as the tariff is to be eliminated in January 2010 as discussed in paragraph 33 of this report.

Overseas Security and Freight

282. These costs relate to cargo security in Thailand, ocean freight, overnight surcharge and bunker adjustment factor. The total amount differs from the information provided by Pacific Steel in its application because of the addition of a cost of cargo security in Thailand and the different exchange rate used.

Insurance

283. The evidence provided by Pacific Steel in relation to the cost of overseas insurance is from an insurance broker and is based on the value of the consignment. To establish a cost per tonne the Ministry has divided the total cost per container by 20 to arrive at a cost per tonne.

Port Clearance Fees

284. The port clearance fees include the New Zealand Customs costs pertaining to destination handling charge in New Zealand, port security charge, delivery order fee, documentation fee, customs clearance, EDI compliance and delivery from wharf to site in New Zealand.

Production Method – Cost Difference

285. Pacific Steel submitted that it is probable that the steel products from Thailand would be produced using a QT method. Since the original investigation Pacific Steel has invested in plant and equipment to produce rebar using both methods i.e. micro-alloy (MA) and QT. Pacific Steel produces Seismic 500E® QT and 500E® MA but in the main its products are produced using the MA method.

286. Pacific Steel submitted that there is a difference between the selling price and cost of production using the MA and QT methods. Pacific Steel provided evidence that its selling price of Seismic 500E® MA is approximately NZD [REDACTED] per tonne more than Seismic 500E® QT and there is a difference in the cost of production of NZD [REDACTED] per tonne. The cost difference relates to higher run time, higher billet yield, lower cobble rate and extra cost of additives for the production of MA compared to that of QT. Pacific Steel's calculation of the differences is based on a likely import volume of 5,584 tonnes. Pacific Steel also stated that the cost of capital expenditure per tonne in relation to setting up the plant and equipment to produce QT rebar was NZD [REDACTED] per tonne.

287. Pacific Steel's production method was considered in the original investigation alongside developments in technology regarding material injury caused by factors other than dumping. There was no adjustment made for the cost difference of the different methods of production, because at that time Pacific Steel did not produce rebar using both methods.

288. The Ministry notes from SCT's Verification Report in the original investigation, that the rebar sold on the domestic market in Thailand and that exported to New Zealand was produced using the QT method¹⁷. The Ministry therefore considers it reasonable that should exports of rebar to New Zealand resume they would be produced using the QT method.

289. The Act requires that a price undercutting comparison is made in respect of like goods. As Pacific Steel has provided evidence of a difference in selling price and cost of production the Ministry considers that to ensure a fair comparison of prices adjustment should be made. The Ministry has therefore made a positive adjustment for the difference in the cost of production.

Conclusion on Estimated Importer's Prices

290. The Ministry has added to the base prices the adjustments described in the preceding paragraphs above, which are shown in Table 5.9 below:

Table 5.9: Estimated Importer's Prices per Tonne

	2007	2008
Export Value FOB USD ('000)	75,898	88,863
Exported Volume (Tonnes)	148,357	114,461
FOB per Tonne (USD)	512	776
VFD per Tonne (NZD)	697	1,106
Overseas Freight per Tonne (NZD)	█	█
Overseas Insurance per tonne	█	█
Port Clearance Fees	█	█
Difference in Production Method	█	█
Ex-wharf Cost per Tonne	█	█

Pacific Steel's Ex-factory Price

291. Pacific Steel ex-factory or net revenue per tonne for the period 1 January 2007 to 31 December 2008 is NZD █ (2007), NZD █ (2008). In addition Pacific Steel's net revenue per tonne for the year ended 31 December 2008 is NZD █. Pacific Steel's net revenue figures do not align exactly in terms of time frames to the estimated importers' prices shown in Table 5.9 above as its financial year ends 30

¹⁷ Paragraph 10, Page 5 of SCT Co. Ltd Verification Report – dated January 2004.

June. Pacific Steel has presented its financial data, other than 2008, in years ended 30 June therefore the Ministry has considered the financial data that would apply over calendar year 2007.

292. The financial data that would apply in year ended 31 December 2007 is the last half of the financial year 2007 and the first half of 2008. The Ministry notes that there is [REDACTED] and therefore it considers it is reasonable to combine the sales volume and net revenue over these two year periods to establish an average price for the year ended 31 December 2007. The Ministry has calculated an ex-factory price for Pacific Steel for the year ended 31 December 2007 of NZD [REDACTED] per tonne.

Price Undercutting Analysis

293. To measure the extent of price undercutting the Ministry has compared the estimated importers' prices at the ex-wharf level shown in Table 5.11 above with Pacific Steel's average net revenue per tonne for the years ended 31 December 2007 and 31 December 2008. The results are shown in the table below.

Table 5.10: Price Undercutting per Tonne at the Ex-Wharf Level

	All Destinations 2007	All Destinations 2008
Estimated Ex-Wharf Importers Price	[REDACTED]	[REDACTED]
Pacific Steel's Net Revenue	[REDACTED]	[REDACTED]
Price Undercutting	[REDACTED]	[REDACTED]
Price Undercutting as % of Ex-Factory Price	[REDACTED]	[REDACTED]

294. Table 5.11 shows that Pacific Steel's net revenue per tonne would be undercut by the estimated importers ex-wharf price by up to [REDACTED] percent.

295. Pacific Steel considers that any price undercutting of Pacific Steel's prices is likely to be conservative given likely price suppression from [REDACTED]

296. The Ministry notes that there is limited data availability for 2007. Based on the information before it, the Ministry has established price undercutting at the ex-wharf levels for both 2007 and 2008. The Ministry is satisfied that any recurrence of dumped imports from Thailand will result in prices that are likely to undercut the New Zealand industry's prices.

Price Depression

297. 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.

298. Price depression occurs when prices are lower than those in a market unaffected by dumping, usually in a previous period, and refers to reductions in prices that have been made by domestic producers in order to deal with competition from prices of dumped goods.

299. In the case of a review, the assumption made is that the existence of a remedy has had the effect of removing injury due to dumping. On this basis, a period covered by anti-dumping duties meets the general requirement of being a market unaffected by dumping.

300. In the original dumping investigation, it was found that Pacific Steel had experienced price depression effects, which were attributable to imports from Thailand.

301. To establish whether Pacific Steel has experienced price depression the Ministry has analysed its net revenue from 2006 to 2009. Table 5.11 below compares the annual average net revenue with the base value in 2006.

Table 5.11: Average Net Revenue per Tonne (2006 to 2009)

	2006	2007	2008	2009
Net Revenue (NZD)	██████████	██████████	██████████	██████████
As % of 2006	100%	██████████	██████████	██████████

302. Table 5.11 shows that Pacific Steel's prices have increased since 2006 and there has been no price depression, when using 2006 as a base value.

303. In its application for the review Pacific Steel estimated an importer's price of NZD ██████████ per tonne at the into-store level. At that time it estimated (based on the four months to 31 October 2008) that its net revenue for 2009 would be NZD ██████████ per tonne. If the anti-dumping duties did not continue to be imposed Pacific Steel stated that it would be forced to reduce its prices to meet the importer's price ██████████. Pacific Steel's ██████████ refers to supplying goods of New Zealand origin and Pacific Steel's capability of providing a shorter lead time than an export sale. It was estimated, at that time, that the 2009 price would be NZD ██████████ per tonne if anti-dumping duties were to be removed.

304. Since the time of the application Pacific Steel has revisited its forecast financial information and provided forecast financial data for 2010 with and without the imposition of anti-dumping duties. This information is shown in Table 5.12 below.

**Table 5.12: Forecast Average Net Revenue per Tonne for 2010
With and Without Duties in Place**

	With Duties 2010	Without Duties 2010
Net Revenue (NZD)		
As % of 2006		

305. Table 5.12 shows that Pacific Steel forecasts that, if the anti-dumping duties are removed and imports of dumped rebar from Thailand resume, it would [REDACTED] and it would depress its price from what it forecasts for 2010.

Price Suppression

306. 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 likely have occurred.

307. 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 declines in gross profit and EBIT 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.

308. In the original investigation the Ministry found that Pacific Steel's prices had been suppressed, which was evidenced by the combination of decreasing weighted average selling price and increasing total costs per tonne.

309. The Ministry has considered Pacific Steel's financial information from 2006 to 2009, which is shown in the table below.

Table 5.13: Price Suppression per Tonne (From 2006 to 2009)

	2006	2007	2008	2009
Net Revenue (NZD)				
Cost of Production				
Gross Profit				
Selling and Administration Expenses				
Total Costs				
EBIT				

<i>As % of Revenue</i>				
Cost of Production (%)				
Gross Profit (%)				
Selling and Administration Expenses (%)				
Total Costs (%)				
EBIT (%)				

310. Table 5.13 shows that up to 2008, Pacific Steel was experiencing price suppression as it has not increased its prices in line with the increase in total costs. However, in 2009 there has been no price suppression as, even though total costs on a per unit basis have increased from that experienced in the previous year, Pacific Steel's [REDACTED] its profit margin has increased.

311. Pacific Steel provided pricing information should anti-dumping duties remain and if they were to be removed. Table 5.14 shows these details.

**Table 5.14: Forecast Price Suppression (2010)
With and Without Duties in Place**

	With Duties 2010	Without Duties 2010
Net Revenue (NZD)		
Cost of Production		
Gross Profit		
Selling and Administration Expenses		
Total Costs		
EBIT		
<i>As % of Revenue</i>		
Cost of Production (%)		
Gross Profit (%)		
Selling and Administration Expenses (%)		
Total Costs (%)		
EBIT(%)		

312. Table 5.14 shows that with anti-dumping duties in place Pacific Steel's prices and total costs will decrease from 2009 [REDACTED] its gross profit [REDACTED]. If the anti-dumping duties were to be removed, Pacific Steel's prices would decrease, as Pacific Steel is of the view that it [REDACTED] the imported goods, and total costs would increase [REDACTED].

Conclusion on Price Effects

313. Pacific Steel submitted that if existing anti-dumping duties were to be removed and imports of dumped product from Thailand were to recommence, price undercutting, price depression and price suppression would result.

314. In its assessment of price effects the Ministry has analysed historical and current financial information for the years 2006, 2007, 2008 and 2009 as well as forecast financial information for 2010 on the basis that anti-dumping duties would remain or anti-dumping duties would be removed.

315. Over the period that was considered for dumping there were no imports of rebar of Thai origin. The Ministry has therefore given due regard to all available information, in accordance with section 6(1) of the Act, to estimate likely importers' prices to analyse the extent of price undercutting. The Ministry has calculated two likely importers' prices from Thai export data for 2007 and 2008 as if the goods destined for other countries over that period had been imported into New Zealand. The two likely importers' prices were based on the FOB level for all destinations.

316. In the original investigation the matter concerning the appropriate level of trade at which to compare an importer's price with that of Pacific Steel's ex-factory price was discussed extensively. The Ministry established, in the main based on Pacific Steel's customer criteria, that the level of trade for importers was either ex-wharf or ex-store.

317. Pacific Steel submitted in its application that the importers in the original investigation [REDACTED]. Pacific Steel therefore considers that the price of all importers' goods should be compared at the ex-wharf level.

318. The Ministry considered Pacific Steel's position within the industry structure in New Zealand and its customer criteria. Pacific Steel stated that a distributor or fabricator could purchase from it [REDACTED] but the Ministry considered in the Interim Report that this did not of itself signify that all distributors or fabricators would qualify as a customer, which was confirmed by one importer who advised that Pacific Steel will not sell to them. The Ministry therefore concluded in the interim that since some customers could purchase from Pacific Steel and some could not then a potential distributor or fabricator had to source rebar either from another distributor or fabricator in New Zealand or an overseas source. In the Interim Report the Ministry calculated likely importers' prices at the ex-wharf cost and ex-store value, which was then compared to Pacific Steel's ex-factory net revenue per tonne.

319. In response to Pacific Steel's submission and taking account of further information from an importer the Ministry has reviewed its interim presentation of price undercutting at different levels of trade. Pacific Steel provided evidence that the only importer in the original investigation where the level of trade was determined at the ex-store level, [REDACTED] Pacific Steel's customer criteria [REDACTED]. The Ministry concludes that the level of trade for price comparison is Pacific Steel's ex-factory net-revenue per tonne compared to a likely importer's ex-wharf cost per tonne and that there is no need to carry out a comparison at the importers ex-store level because there are no known past or likely importers to be treated at that level.

320. The Ministry has found that Pacific Steel would have experienced price undercutting at the ex-wharf level of between [REDACTED] percent and [REDACTED] percent from the goods exported from Thailand over the years 2007 and 2008, if the goods exported from Thailand at that time had been imported into New Zealand. Since the Ministry has found price undercutting at the ex-wharf level for both 2007 and 2008 it is satisfied that it is likely that if dumped imports from Thailand were to resume they would significantly undercut Pacific Steel's prices.

321. Since 2006 Pacific Steel's prices have not been depressed and it is forecast that they will not be depressed if anti-dumping duties remain in place. If anti-dumping duties are removed it is forecast that prices will be depressed as the price will decrease in response to a lower priced product from Thailand and the price is likely to be less than the previous year.

322. The Ministry found that Pacific Steel has experienced price suppression from 2006 to 2008, but this is not attributable to imports from Thailand as there have been no imports since October 2006. Pacific Steel did not experience any price suppression in 2009 as its prices increased [REDACTED]. Pacific Steel forecast in 2010 that if anti-dumping duties remain it is likely that its prices and total costs will decrease from 2009. If the anti-dumping duties are removed it is likely that the prices will decrease at a greater extent than the total costs, which will reduce Pacific Steel's profit margin [REDACTED].

323. The Ministry concludes that if anti-dumping duties are removed, it is likely that a recurrence of dumped imports from Thailand will result in Pacific Steel's prices being undercut and depressed and suppressed.

5.5 Economic Impact

324. 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—

- (i) Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and
- (ii) Factors affecting domestic prices; and
- (iii) The magnitude of the margin of dumping; and

- (iv) Actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

Output

325. Dumped imports can affect a domestic industry's production volume through increased competition on the domestic market.

326. In the original investigation Pacific Steel's output from 1999 to 2003 fluctuated with a decrease in 2002, with all other years increasing. It was found that the loss of output had been in relation to the contraction in demand for rebar and Pacific Steel's output had been better than the overall market performance. On this basis the Ministry concluded that no negative output effects could be illustrated.

327. Pacific Steel's output increased in 2007 but decreased in 2008 and 2009 to a level between that of 2006 and 2007. The figures on output provided by Pacific Steel relate to production for domestic and export sales and since there have been no imports of rebar from Thailand since October 2006 the output would not have been affected by the presence of rebar from Thailand.

328. Pacific Steel forecasts that in 2010 its output will decrease as it has been advised that [REDACTED] projected to decline. Pacific Steel, therefore, estimates that its production volume will decrease by approximately [REDACTED] percent. If the anti-dumping duties are removed Pacific Steel forecast that its output would reduce by approximately a further [REDACTED] percent, as a result of a loss of sales from lower priced imported rebar from Thailand. Since the release of the Interim Report Pacific Steel has provided its actual sales volume for 2009 and the Ministry has estimated, as discussed in paragraph 359, that output in 2010 would reduce with anti-dumping duties in place by [REDACTED] percent and if anti-dumping duties were removed output would reduce by a further [REDACTED] percent.

Sales Volume and Value

329. 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.

330. In the original investigation the sales volume from 1999 to 2003 had fluctuated but the sales volume achieved in 2003 in absolute terms was greater than that experienced in 1999. The sales revenue had been negatively affected because of the presence of the dumped rebar from Thailand, which demonstrated Pacific Steel's strategy at that time of [REDACTED].

331. Pacific Steel has not provided any commentary on changes to its sales volume and sales revenue while anti-dumping duties have been in place. There have been no imports of rebar from Thailand since October 2006 and therefore any changes experienced by Pacific Steel since 2003 would be in response to market changes, not the presence of rebar from Thailand. Table 5.15 shows Pacific Steel's sales volume and revenue from 2006 to 2009.

Table 5.15: Sales Volume and Sales Revenue from 2006 to 2009

	2006	2007	2008	2009
Sales Volume (Tonnes)				
Change from 2006				
% Change from 2006				
Sales Revenue ('000)				
Change from 2006				
% Change from 2006				

332. Table 5.15 illustrates that from 2006 to 2008 sales volume on a year by year basis has [REDACTED] in 2009 sales volume increased. Sales revenue, [REDACTED] on a per unit basis net revenue increased, and increased in 2008 and 2009 which reflects Pacific Steel's increasing net revenue per unit. Pacific Steel's position has improved in 2009 as sales volume and prices has increased to a greater extent than shown for previous periods.

333. Based on information it has received [REDACTED] Pacific Steel has submitted that sales will decline in the foreseeable future. Pacific Steel states that there may be a turnaround as the New Zealand Government's initiative is to invest in productive infrastructure.

334. Pacific Steel's [REDACTED] market share and therefore if the anti-dumping duties were to be removed, it submits that not only would its sales reduce but it would lose further sales to dumped imports of rebar from Thailand of approximately 5,584 tonnes, and it would [REDACTED] to compete with the imported product. On the basis that its prices would decrease in the near future and it would [REDACTED] to compete with the imported product, Pacific Steel's sales revenue would decline by up to NZD [REDACTED]. Table 5.16 shows the financial details for Pacific Steel's forecast should anti-dumping duties remain and if they should be removed.

Table 5.16: Forecast Sales Volume and Sales Revenue for 2010 With and Without Duties in Place

	With Duties 2010	Without Duties 2010
Sales Volume (Tonnes)		
Change		
% Change		
Sales Revenue ('000)		

Change		
% Change		

335. Table 5.16 illustrates that with anti-dumping duties in place sales volume and revenue will decrease. If the anti-dumping duties are removed Pacific Steel forecasts that its sales volume will decrease by 5,584 tonnes or reduce by [redacted] percent and revenue will reduce by [redacted] percent or NZD [redacted].

Conclusion on Output and Sales

336. Since October 2006 there have been no imports of rebar from Thailand therefore any changes experienced by Pacific Steel would be in response to market changes not as a response to rebar from Thailand. Pacific Steel’s production schedule is based on its sales. From 2006 to 2008 Pacific Steel’s sales volume had decreased however in 2009 it increased. Sales revenue, over this period, decreased in 2007 and increased in 2008 and 2009.

337. Pacific Steel has forecast that in the foreseeable future the demand for rebar will reduce and its output and sales will decline. If anti-dumping duties were to be removed Pacific Steel forecast that its sales will reduce further by 5,584 tonnes, and [redacted], which would impact on its output, sales volume and net revenue with a loss of sales revenue of NZD [redacted].

338. The Ministry considers that Pacific Steel’s forecast of a decline in domestic demand in New Zealand is reasonable. The Ministry also notes that a global decline in production has been forecast by commentators. A resumption of imports from Thailand would have a significant impact on Pacific Steel’s output in a situation where there is contraction in demand. The Ministry concludes that there is evidence that the New Zealand industry’s output, sales and revenue will decline as a result of a recurrence of dumped imports of rebar from Thailand.

Market Share

339. The analysis of market share must take account of changes in the growth of the market as a whole. A decline in the share of the market held by the domestic industry in a situation where the market as a whole is growing will not necessarily indicate that injury is being caused to the domestic industry, particularly if the domestic industry’s sales are also growing. There is no “entitlement” to a particular market share.

340. In the original investigation the Ministry concluded that from 1999 to 2003 Pacific Steel’s market share had increased, due in part to its [redacted].

341. Pacific Steel’s [redacted] market share. Pacific Steel is of the opinion that the New Zealand market for rebar is approximately [redacted] to [redacted] tonnes and over the past three years it has held around [redacted] to [redacted] percent of that share. Pacific Steel’s aim is to sell approximately [redacted] tonnes per annum, which is supported by its sales and marketing strategy, for example [redacted].

342. Pacific Steel commented that in 2006/2007 a [REDACTED] its market share from previous years. Pacific Steel said that the main market change since [REDACTED], at the distributor level, is [REDACTED] growth as a result of imports of rebar from sources other than Thailand. As for other distributors, Pacific Steel believes that there has been no dramatic change.

343. Table 5.17 shows Pacific Steel's market share from 1 July 2006 to 31 December 2008.

**Table 5.17: New Zealand Market
from 2006 to Year to Date 31 December 2008**

	2006	2007	2008	YTD 6mths 2009
NZ Industry Sales	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Imports from Thailand	[REDACTED]	[REDACTED]	0	0
Other Imports	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
NZ Market	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
As % of NZ Market				
NZ Industry Sales (%)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Imports from Thailand (%)	[REDACTED]	[REDACTED]	0	0
Other Imports (%)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

344. As mentioned in paragraph 53 of this report the market has increased slightly since 2006. The last recorded import of rebar from Thailand was in October 2006 which is recorded in Table 5.17 above in 2007. Table 5.17 shows, using 2006 as a base year, that Pacific Steel's market share in 2007 declined by [REDACTED] percentage points and imports from other sources increased to a greater extent by [REDACTED] percentage points. In 2008 Pacific Steel's market share declined by a further [REDACTED] percentage points, being replaced by imports from other sources to the same extent. For the first six months of 2009 Pacific Steel's market share has increased by [REDACTED] percentage points at the expense of imports from other sources. This movement over the years has occurred while anti-dumping duties have been imposed on rebar from Thailand.

345. [REDACTED] Pacific Steel's marketing plan, among other matters, is [REDACTED]. Pacific Steel's forecast for 2010 if anti-dumping duties are removed shows sales reducing by 5,584 tonnes and a reduction in price. It is therefore logical that with sales reducing Pacific Steel would lose market share as customers move their patronage in favour of lower priced imports from Thailand if imports were to resume.

Conclusion on Market Share

346. The Ministry has commented earlier in this report that Pacific Steel forecasts in the foreseeable future that its sales will decline. If this is a sign of future demand for rebar products then it is forecast that the market will contract. This prediction does not appear as a consequence of rebar from Thailand but as a result of other market forces.

347. Based on the Ministry's analysis it is likely that if anti-dumping duties are removed, Pacific Steel will endeavour to [REDACTED] reduce its prices. However, with a forecast of a reduction in sales volume it is likely that should anti-dumping duties be removed and imports from Thailand resume Pacific Steel will lose market share.

Profits

348. 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.

349. The original investigation concluded that there was evidence of a decline in profit due to price depression and price suppression.

350. Table 5.18 below shows details of Pacific Steel's per tonne earnings before interest and tax (EBIT) from 2006 to 2009.

**Table 5.18: Earnings Before Interest and Tax
from 2006 to 2009**

	2006	2007	2008	2009
EBIT ('000's)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Change on previous year		[REDACTED]	[REDACTED]	[REDACTED]
% change		[REDACTED]	[REDACTED]	[REDACTED]
As % of sales revenue	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
EBIT per Tonne	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Change on previous year		[REDACTED]	[REDACTED]	[REDACTED]
% change		[REDACTED]	[REDACTED]	[REDACTED]

351. Table 5.18 shows that EBIT decreased in 2007 and improved in 2008 and improved [REDACTED] in 2009. From 2006 to 2009 the EBIT as a proportion of sales revenue decreased in 2007 and decreased further by [REDACTED] in 2008 then [REDACTED] improved in 2009.

352. If the anti-dumping duties remain in place Pacific Steel forecasts, compared to 2009, that its EBIT will decrease, which is due in part to a forecast decline in demand

and prices. If the anti-dumping duties are removed Pacific Steel forecasts that its EBIT would reduce by NZD [REDACTED]. Table 5.19 shows these details.

**Table 5.19: Forecast Earnings Before Interest and Tax for 2010
With and Without Duties in Place**

	With Duties 2010	Without Duties 2010
EBIT ('000's)	[REDACTED]	[REDACTED]
Change		[REDACTED]
% change		[REDACTED]
As % of sales revenue	[REDACTED]	[REDACTED]
EBIT per Tonne	[REDACTED]	[REDACTED]
Change		[REDACTED]
% change		[REDACTED]

353. Table 5.19 shows that if the anti-dumping duties remain Pacific Steel forecasts that its EBIT per tonne will decrease, but will still be higher than in 2006, 2007 or 2008 at [REDACTED] percent of sales revenue, which [REDACTED] exceeds that in the years 2006 to 2008. If the anti-dumping duties are removed, Pacific Steel's EBIT would reduce [REDACTED]. It should be noted however that most of the forecast impact on EBIT would be due to its reduction of prices in the face of lower priced rebar from Thailand.

Conclusion on Profits

354. Based on the Ministry's analysis Pacific Steel's profit decreased from 2006 to 2007 but improved in 2009. If the anti-dumping duties remain in place it is likely that in 2010 Pacific Steel's level of profit will reduce from 2009, [REDACTED]. If the anti-dumping duties are removed it is likely that there would be an adverse affect on Pacific Steel as its level of profit will reduce [REDACTED].

Productivity

355. 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.

356. Pacific Steel provided its yield rate as a measurement of productivity. The production yield of the steel plant refers to the percentage of billet produced for every tonne of scrap metal used to produce it. The rolling mill yield refers to the percentage of rebar produced for every tonne of billet used to produce it. Table 5.20 shows the historical yield rates.

Table 5.20: Yield Rates of Pacific Steel's Steel Plant and Rolling Mill from 2006 to 2008

	2006	2007	2008
Steel plant:			
Production yield (%)			
Rolling mill:			
Yield (%)			

357. Table 5.20 shows that Pacific Steel's production yield in both the steel plant and rolling mill remained relatively stable between 2006 and 2008, with a decline in the rolling mill yield in 2007.

358. In providing forecast information Pacific Steel submitted its projected total production, the number of staff employed and the number of tonnes produced for each staff member employed. There is a caveat with this information because it relates to the production of all products that are destined for domestic and export sale. It is not possible for Pacific Steel to provide this information based specifically on domestic sales of rebar.

359. Pacific Steel provided the Ministry with actual figures on domestic sales and cost of production for 2009 but total production figures has not been provided. Pacific Steel advised that its production volume is closely aligned to sales volume therefore the Ministry has estimated production volume for 2009 based on Pacific Steel's ratios shown in its forecast 2009 data. The results are shown in the table below.

Table 5.21: Forecast Productivity for 2010 With and Without Duties in Place

	2008	2009	With Duties 2010	Without Duties 2010
Total Production (Tonnes)				
Full Time Equivalent				
Number of tonnes per Employee				

360. Table 5.21 shows productivity reduced in 2009 and it is forecast to increase in 2010. Productivity will not decrease further if the anti-dumping duties are removed because Pacific Steel will to account for the reduction in production. If the anti-dumping duties are removed Pacific Steel forecasts that not only will its production volume decrease but also.

Conclusion on Productivity

361. Pacific Steel's productivity from 2006 to 2008 has been relatively stable, however, when compared to the previous year productivity declined in 2009. If anti-dumping duties remain it is likely that total production will decline but as 2009 has been a very productive year for Pacific Steel, the Ministry considers that it would appear [REDACTED] given a projected decline in demand and output. It would appear that this initiative would erode productivity compared to 2009 when measured by output per employee.

362. Based on the Ministry's analysis, if anti-dumping duties are removed, and imports from Thailand resume, it is likely that there would be an adverse impact on Pacific Steel's productivity as Pacific Steel's total production will decline, more than had the anti-dumping duties remained in place, and as a consequence it may [REDACTED] to increase its productivity level.

Return on Investments

363. 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.

364. Pacific Steel explained that its measurement of a return on investment is based on the concept of return on funds, which is EBIT as a percentage of funds employed.

365. From 2006 to 2008 Pacific Steel's total asset value increased, which was due to its increasing investment in plant i.e. a new transformer, T-Bay Crane and plant and equipment to produce rebar using the QT method.

366. Pacific Steel has been unable to split its assets according to assets specifically employed to produce rebar for the domestic market and assets specifically employed to produce other goods and therefore it provided figures relating to its total operation which are shown in Table 5.22 below.

**Table 5.22: Return on Investments
For 2006 to 2009**

	2006	2007	2008	Forecast 2009
Total Assets ('000)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
EBIT	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
EBIT as % of Total Assets	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

367. Table 5.22 shows that Pacific Steel experienced a decline in its return on investment in 2007 but it increased in 2008 and is forecast to increase [REDACTED] in forecast 2009.

368. Pacific Steel forecast for 2010 that with anti-dumping duties in place its return on investment would decrease from forecast 2009. If the anti-dumping duties are removed Pacific Steel forecast that [REDACTED] return on investment [REDACTED]. Table 5.23 provides details of Pacific Steel's forecast for 2010.

**Table 5.23: Forecast Return on Investments for 2010
With and Without Duties in Place**

	With Duties 2010	Without Duties 2010
Total Assets	[REDACTED]	[REDACTED]
EBIT	[REDACTED]	[REDACTED]
EBIT as % of Total Assets	[REDACTED]	[REDACTED]

369. Table 5.23 shows that for 2010 the return on investment is forecast to decline from that experienced in forecast 2009. If the anti-dumping duties are removed it is forecast that there would be [REDACTED].

Conclusion on Return on Investments

370. Pacific Steel was unable to provide the value of assets specifically employed in the production of rebar for domestic sale as other steel products are produced from the same plant which are sold domestically and exported. It did however provide financial data over all of its business for the Ministry to analyse.

371. Based on the Ministry's analysis there was a return on investment in 2006, 2008 and forecast for 2009 [REDACTED], although this outcome is in respect of Pacific Steel's total business, rather than just relating to rebar [REDACTED]. It is forecast in 2010 if the duties remain in place that the return on investment will decline compared to forecast 2009 [REDACTED]. If the anti-dumping duties are removed it is likely that there would be an adverse impact on Pacific Steel return on investment [REDACTED].

Utilisation of Production Capacity

372. The utilisation of production capacity reflects changes in the level of production, although in some cases a change 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.

373. Pacific Steel submitted that it has billet capacity of [REDACTED] tonnes per annum and rolling capacity of [REDACTED] tonnes per annum. On the basis of the rolling capacity Pacific Steel's utilisation of capacity is shown in Table 5.24 below.

Table 5.24: Utilisation of Production Capacity from 2006 to 2009

	2006	2007	2008	2009
Bar Capacity	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Production Volume (Bar)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Utilisation Percentage	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

374. As mentioned in paragraph 260 the Ministry has not been provided with revised production figures for 2009 but based on forecast 2009 figures the Ministry has estimated production volume of approximately [REDACTED] tonnes and therefore for 2009 the plant has a utilisation percentage of [REDACTED] percent. Table 5.24 shows that Pacific Steel's production volume increased in 2007, then decreased slightly in 2008 and 2009. From 2006 to 2009, the most favourable year is 2007 with its least favourable in 2009. However, overall the changes have not been significant.

375. Pacific Steel forecasts for 2010 that its production volume will decrease, even if anti-dumping duties remain, and therefore its utilisation of production capacity will decrease. The following table represents Pacific Steel's forecast on its utilisation of production capacity for 2010.

**Table 5.25: Forecast Utilisation of Production Capacity for 2010
With and Without Duties in Place**

	With Duties 2010	Without Duties 2010
Bar Capacity	[REDACTED]	[REDACTED]
Production Volume (Bar)	[REDACTED]	[REDACTED]
Utilisation Percentage	[REDACTED]	[REDACTED]

376. Pacific Steel forecasts that, if anti-dumping duties are removed, its utilisation rate will reduce by [REDACTED] percentage points.

Conclusion on Utilisation of Production Capacity

377. Pacific Steel has a rolling capacity of [REDACTED] tonnes. From 2006 to forecast 2009 Pacific Steel's output utilised [REDACTED] percent to [REDACTED] percent of full capacity, with its

most favourable year in 2007. It is forecast in 2010 that as the output reduces its production capacity will be more underutilised than at present.

378. Based on the Ministry's analysis, it is likely that whether anti-dumping duties remain in place or not, Pacific Steel's rolling capacity will not be fully utilised. If the anti-dumping duties are removed, Pacific Steel contends that rolling capacity would be even less fully utilised. It is likely that the removal of anti-dumping duties would have an adverse impact on Pacific Steel's utilisation of production capacity.

Magnitude of the Margin of Dumping

379. 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.

380. The Ministry has established that it is likely, should the anti-dumping duties be removed, that if imports of rebar from Thailand were to recommence they would be imported at dumped prices. The margin of dumping is greater than the extent of price undercutting therefore it is likely that if the anti-dumping duties were to be removed and imports from Thailand were to resume injury to Pacific Steel would recur and such injury would be attributable to dumping.

Factors Affecting Domestic Prices

381. Pacific Steel considers that the factors that affect domestic prices are the prices of imported rebar from sources such as Malaysia, Indonesia, Singapore, China, Taiwan and Thailand. The other factor is the trend in world steel prices.

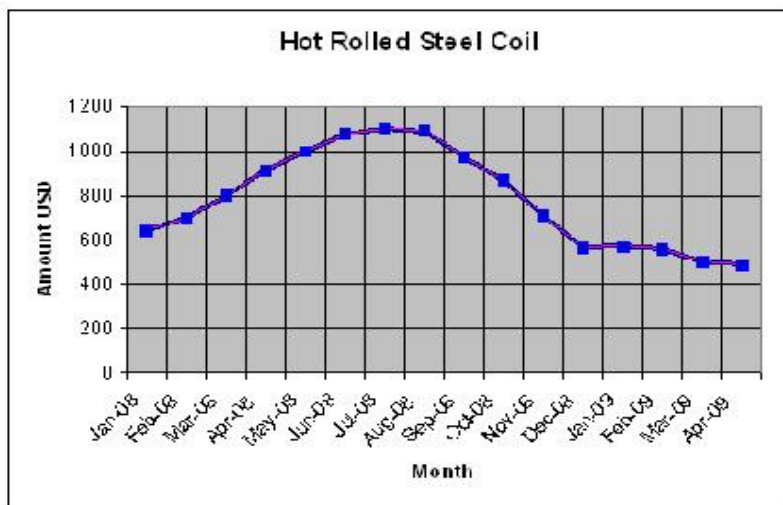
382. Pacific Steel bases its selling price on an import parity price i.e. it benchmarks its prices on information from [REDACTED] pricing information from the *Steel Business Briefing* and other steel publications such as [REDACTED] and [REDACTED], steel traders and [REDACTED] customers. The world steel prices also affect its cost of scrap, which is the major input of rebar. The cost of scrap is based on [REDACTED]

383. In its application Pacific Steel provided a line graph showing the significant rise and fall of steel prices in 2008 that was based on pricing information from the *Steel Business Briefing*. According to Steelonthenet.com¹⁸ the world prices of hot rolled steel coil since January 2008 have on a month by month basis slowly risen until peaking in July 2008 and then sharply declined to a level less than that recorded in January 2008. This follows the same trend as that provided by Pacific Steel.

384. Figure 5.1 below provides the trend line of the USD price of hot rolled steel coil sourced from Steelonthenet.com.

¹⁸ <http://www.steelonthenet.com/prices.html>

Figure 5.1: World Steel Prices of Hot Rolled Steel Coil (USD per Tonne)



385. Figure 5.3 shows that the world steel prices peaked in July 2008 and since then have declined. Pacific Steel’s financial year is year ended 30 June and in the most recent four years its most profitable year is 2009. It is therefore probable that the decline in world steel prices, if it stabilises, will impact on the price of steel products overseas and the products produced by Pacific Steel. It is likely, however, that this decline will impact on overseas prices before it filters through to Pacific Steel’s financial performance in the coming years.

5.6 Other Adverse Effects

Cash Flow

386. In the original investigation Pacific Steel made no claim in respect of adverse impacts on cash flow. The Ministry established that the extent to which cash flow effects were attributable to the presence of dumped imports was unclear because of the method by which the cash flow was allocated to domestic sales of rebar. The patterns, however, were consistent with the price and volume effects.

387. Pacific Steel could not provide in a meaningful manner cash flow specifically relating to the domestic sale of rebar. It did, however, provide cash flow figures relating to the whole of Pacific Steel’s business. The following table shows its results from 2006 to forecast 2009.

Table 5.26: Net Cash Flow (2006 to 2009)

	2006	2007	2008	Forecast 2009
Cash Flow from All Operations (\$'000)				
Change from 2006				
% Difference				

388. Table 5.26 shows that Pacific Steel Group's net cash flow declined in 2007 but increased in 2008 and forecast 2009. The results for forecast 2009 [REDACTED] and are due to Pacific Steel's [REDACTED]. Pacific Steel provided a forecast of its cash flow, which is provided in the table below.

**Table 5.27: Forecast Net Cash Flow for 2010
(With and Without Duties)**

	With Duties 2010	Without Duties 2010
Cash Flow from All Operations	[REDACTED]	[REDACTED]
Change		[REDACTED]
% Difference		[REDACTED]

389. Pacific Steel's 2010 forecast of cash flow shows a decline with anti-dumping duties in place. It is forecast that if the anti-dumping duties are removed cash flow will reduce by [REDACTED] percent.

390. It is difficult to draw conclusions about the likely change in net cash flow as a result of the removal of anti-dumping duties as the forecast relates to Pacific Steel's total business but if the forecast data on cash flow is considered along with the forecast on changes to EBIT, Pacific Steel's cash flow would likely be adversely affected by the removal of anti-dumping duties as a consequence of a recurrence of dumped imports from Thailand.

Inventories

391. Pacific Steel keeps in store approximately [REDACTED] of scrap supply and [REDACTED] tonne of rod grade billet, just in case an unexpected event occurs such as that experienced in 2006 when a transformer caught fire in the steel mill which affected its output capabilities for a short period of time.

392. Pacific Steel's production volume of rebar equates to or closely mirrors its sales volume. Rolled product is made to order therefore Pacific Steel does not hold any in stock. [REDACTED] it has introduced [REDACTED] commencing production [REDACTED]. If there is any stock at the end of the financial period the majority of it comprises orders. If inventory is to be held Pacific Steel prefers that it is held at the steel billet stage as a billet does not devalue to the same extent as the finished product, rebar.

393. Pacific Steel produces rebar for both export and domestic markets and therefore inventory does not specifically relate to domestic sales. The following table represents the quantity of goods in inventory at the end of the financial periods.

Table 5.30: Employment (2010)

	With Duties 2010	Without Duties 2010
Employment (Total of Pacific Steel)		

399. Table 5.30 shows that if the anti-dumping duties remain in place Pacific Steel may consider [REDACTED]. If the anti-dumping duties are removed, and as a consequence of a reduction in output and prices, Pacific Steel has stated that it [REDACTED].

400. The Ministry notes that, if anti-dumping duties are continued, Pacific Steel intends to [REDACTED] in 2010 [REDACTED] forecasting a significant decline in volume that year. Pacific Steel has explained that [REDACTED] and has provided an extract from its budget for 2010 to support this, so the [REDACTED] employees is a [REDACTED], due to the decline in volume even if anti-dumping duties continue.

401. The Ministry notes that Pacific Steel's projection of [REDACTED] if anti-dumping duties are not continued is [REDACTED] percent of the 2010 figure calculated for the situation where duties are continued. [REDACTED]

On this basis, the Ministry considers that, given the likely import volumes from Thailand, Pacific Steel's forecast of [REDACTED] in 2010 is reasonable. The Ministry notes, however, that [REDACTED]

Wages

402. Pacific Steel submits that it could not draw a distinction between staff costs attributable to the production of rebar sold on the domestic market in New Zealand and that produced for export. Pacific Steel therefore has provided the amount of wages and salaries for all of its business. Table 5.31 provides this information:

Table 5.31: Salaries and Wages (2006 to 2008)

	Cost	Full Time Equivalents	Cost Per Full Time Equivalent
2006	[REDACTED]	[REDACTED]	[REDACTED]
2007	[REDACTED]	[REDACTED]	[REDACTED]
2008	[REDACTED]	[REDACTED]	[REDACTED]

403. Table 5.31 shows that the cost per full time equivalent has increased from 2006 to 2008. Pacific Steel has submitted that if anti-dumping duties are removed there would not be a material impact on its wage levels.

Growth

404. Pacific Steel's initiatives to grow its business are linked with any capital expenditure investment plans. If the anti-dumping duties are removed Pacific Steel submitted that it would [REDACTED] to invest in business growth, as explained in the following section.

Ability to Raise Capital and Investments

405. As Pacific Steel is a business unit of FBL any investment in plant and machinery is applied for internally. On large investments (over NZD [REDACTED]) Pacific Steel is required to make a capital expenditure bid to FBL's committee i.e. the Major Investment Project Subcommittee (MIPS). A bid is not always successful as it depends upon the unit's performance, market share and other matters. MIPS uses as its basis [REDACTED]

406. In 2008 when the demand for rebar spiked and it was able to increase its prices Pacific Steel was in a favourable position to implement to some extent its three year investment plan. Pacific Steel has informed the Ministry that the application of anti-dumping duties against injurious imports from Thailand had assisted in its successful capital bid in 2008.

407. Pacific Steel forecasts for 2010 if anti-dumping duties remain in place [REDACTED] decline in demand and a decline in price. If the anti-dumping duties are removed it would have an adverse effect upon its level of profitability and therefore Pacific Steel stated that it would not be in a position to implement any of its investment plans.

5.7 Other Causes Of Injury

408. Sections 8(2)(e) and (f) of the Act provide that the Chief Executive shall have regard to factors other than the dumped goods which have injured, or are injuring, the industry, including—

- 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
- vi. 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.

409. In dumping investigations, where economic indicators show that an industry has suffered injury, if factors other than dumping have been the real cause of the injury, it is important that such injury not be attributed to dumping. However, a finding that one or a number of factors other than the dumped goods have adversely affected the industry would not necessarily preclude a finding of material injury caused by the dumped goods. If it is claimed that factors other than dumping are the cause of that injury then those other factors could be expected to have had a particular impact within the period when the economic indicators show the onset of injury. If there are factors other than dumping causing injury to an industry, but those other factors have been constant over the period of investigation, then it is unlikely that the onset of injury could be attributed to those other factors.

410. In a dumping review (as opposed to an investigation) it is more difficult to analyse the extent to which factors other than the dumped goods have caused injury to the domestic industry since the duties were first imposed because the imposition of duties would normally result in the removal of injury to the domestic industry. With the anti-dumping duties in place, the industry would not normally be suffering injury from the dumped goods. However, if the industry is still suffering injury, and the original duties are set at the appropriate level, it could reasonably be assumed that there are factors other than the dumped goods that are continuing to have an adverse effect on the industry's performance

411. The injury analysis above indicates that the industry has not suffered material injury from imports of rebar from Thailand during the period of the review investigation.

412. In the final report on the original investigation, the investigation team concluded that "there is evidence that injury has been caused by other factors specifically the increase in scrap prices, more expensive micro-alloy method of manufacture used and the volumes and prices of other imports in the New Zealand market". In this review, Pacific Steel has not identified increasing scrap prices as a significant concern, nor have concerns been expressed by other parties about Pacific Steel's method of manufacture.

413. Pacific Steel was asked to comment about other possible causes of injury which may have affected its performance since the original investigation and its comments are included below in the relevant sections. The Ministry has considered a number of factors that may have affected the industry's performance other than those caused by dumped goods.

Non-dumped Imports

414. This report refers to non-dumped imports as all imports into New Zealand that have not been shown to be dumped. All imports from countries other than Thailand are therefore treated as non-dumped. In the original investigation imports from Malaysia were found to be dumped, but were neither causing nor threatening to cause material injury to the New Zealand industry. Imports from Malaysia have been treated in this section as non-dumped imports.

415. There have been no imports of rebar from Thailand since October 2006. Imports from Thailand can be considered non-dumped because of the anti-dumping

duties, but for the purposes of this analysis non-dumped goods consist only of rebar imported into New Zealand from exporting countries other than Thailand.

Non-dumped Import Volumes

416. Imports of rebar from countries other than Thailand over the last four years are shown in the following table.

**Table 5.32: Tonnes of Rebar Imported from Other Sources
(Years ended 30 June)**

	2005	2006	2007	2008	YTD 6 mths 2009
Malaysia					
Singapore					
Australia					
Japan					
Indonesia					
Korea					
China					
Other					
Total					

417. The volumes of imports from exporting countries other than Thailand have increased overall over the period 2005 to 2008, although there was a notable decline in imports in 2006. Imports from [REDACTED] have shown the greatest growth in absolute terms, [REDACTED] from 2005 to 2008 and growing to [REDACTED] the tonnage imported in 2003 ([REDACTED] tonnes).

**Table 5.33: CIF \$NZ per Tonne of Rebar Imported from Other Sources
(Years ended June)**

	2005	2006	2007	2008	YTD 6 mths 2009
Malaysia					
Singapore					
Australia					

Japan					
Indonesia					
Korea					
China					

418. The average CIF values plus duties (analysed above in the section on Import Volumes) suggests that significant price competition facing the domestic industry over this period was from [REDACTED], [REDACTED] and [REDACTED] as well as [REDACTED] and in the most recent 18 months the keenest prices have continued to be provided by [REDACTED], although the type of rebar being imported may impact on the degree of the competition. Pacific Steel has noted that prices from Thailand prior to the anti-dumping duty being imposed over the period 2001 to 2003 were similar to [REDACTED] prices. Pacific Steel considers that its import competition is mainly from rebar from Malaysia, Indonesia, Thailand, Singapore, China and Taiwan.

419. The market share of non-dumped imports has increased by [REDACTED] percentage points, from [REDACTED] percent in 2003 to [REDACTED] percent in 2008. Most of the market share has been taken by imports from [REDACTED]. In 2003, [REDACTED] imports held [REDACTED] percent of market share and Thai imports held [REDACTED] percent. By 2008, the increased import volumes and competitive pricing of imports from [REDACTED], and the lack of competition from Thai imports, resulted in market share increasing for [REDACTED] imports by [REDACTED] percentage points to [REDACTED] percent.

420. The impact of non-dumped imports on Pacific Steel can be seen in the June years 2007 and 2008, when sales volume declined by [REDACTED] percent and [REDACTED] percent respectively, while non-dumped import volumes increased in the same years by [REDACTED] percent and [REDACTED] percent respectively. Pacific Steel's market share declined in 2007 to [REDACTED] percent and in 2008 to [REDACTED] percent, but recovered in the 6 months to 31 December 2008 to [REDACTED] percent. The market share of non-dumped imports increased from [REDACTED] percent in 2006 to [REDACTED] percent in 2008 and in the six months to 31 December 2008 had declined to [REDACTED] percent, but was still above the percentage market share held prior to 2007. Pacific Steel's EBIT declined from [REDACTED] percent of sales revenue in 2006 to [REDACTED] percent of revenue in 2008 but increased to [REDACTED] percent of revenue in the six months to 31 December 2008.

Likely Non-Dumped Import Volumes

421. There are several factors that are likely to lead to an increase in import volumes of non-dumped goods:

- Increasing global capacity;
- Falling consumption and oversupply in global markets; and
- Increasing levels of inventory.

422. Increasing global capacity is indicated by evidence provided by Pacific Steel in its application for a review. Pacific Steel referred to growth in capacity due to the construction and expansion of steel plants in various countries: TSTH is constructing three green field steel plants (representing “2% of world primary capacity”) in Eastern India and a new blast furnace in Malaysia; Perwaja Steel is commissioning a new electric arc furnace; an integrated steel mill will be built by Sahaviriya Group in Thailand in 2009.

423. Based on evidence provided by Pacific Steel in its application for a review, global consumption is likely to fall until at least late 2009. Pacific Steel referred to *Steel Business Briefing's* comment on 5 November 2008 that: “The decline in steel prices is largely because of falling consumption, which has been exacerbated by bearish GDP forecasts and diminishing consumer confidence . . .”. On the same date, *Steel Business Briefing* reported that delegates at a steel industry conference in Mexico considered that “market recovery for the steel industry will not take place until the second half of 2009 or 2010”. Pacific Steel also provided commentary indicating that the steel industry likely faces two years of significant oversupply, with prices and production declining in 2009 (Marcus, World Steel Dynamics, in SBB 11 November 2008).

424. Over the last few years the world steel market has seen a sharp peak and a decline in prices to the present day. Pacific Steel provided the Ministry in its review application with a line graph demonstrating these price changes. Pacific Steel considers that in 2008 the People’s Republic of China (China) has not been exporting the same volume of steel products to the same extent it has over previous periods; rather it has been focusing on its domestic demand and possibly stockpiling. The concern is that the volume of steel product that is stockpiled if exported could be damaging to smaller markets like New Zealand not just from the volume effects but also on a pricing level as an oversupply in the market could lead to reduced prices worldwide which would have a flow on effect to New Zealand.

425. Pacific Steel has also stated that the “imminent recession [is] likely to increase dumping activities as steel makers generally seek to produce marginally costed product for exports sale”. Pacific Steel has provided a sample of comments from the daily *Steel Business Briefing* that it considers supports this contention.

426. The Ministry concludes that there has been an increase in the volume of imports of non-dumped imports and their market share. [REDACTED] imports of rebar have increased significantly indicating there may have been a significant switch of sourcing of imports from Thailand to [REDACTED]. There is evidence that, due to increasing global capacity, falling consumption and increased inventory levels, the supply of rebar from sources other than Thailand could continue to increase, but any increase is likely to be offset to some extent by a forecast decline in demand.

Contraction in Demand and Changes in the Pattern of Consumption

427. Pacific Steel has noticed [REDACTED] domestic orders in recent months. Pacific Steel believes [REDACTED] customers [REDACTED] purchasing new product. Pacific Steel has found no evidence that customers [REDACTED].

428. Pacific Steel notes that demand is [REDACTED] and Pacific Steel monitors [REDACTED]. Pacific Steel has been told [REDACTED] that it foresees that [REDACTED] statistics will be down by between [REDACTED] to [REDACTED] percent in the next year.

429. Data on building consents from Statistics New Zealand shows that the floor area for non-residential building consents has remained reasonably steady, within a range of 3.2 to 3.7 million m², and was at the lower end of this range in the year ended May 2009. The value of non-residential building consents has risen from NZD3,048 million in the year ended May 2004 to NZD4,741 million in the year ended May 2009. Statistics New Zealand has noted that the values of non-residential building consents in April and May 2009 were the highest monthly values recorded and that the May 2009 figures were “boosted by consents for sports stadiums around the country”. The following table shows non-residential building consents by floor area and value in NZD for the years ended May 2004 to May 2009.

Table 5.34: Non-residential Building Consents by Floor and Value for New Zealand (Years ended May)

	Floor area m ² (000)	Value NZD(million)
2004	3,368	3,048
2005	3,698	3,992
2006	3,524	4,091
2007	3,248	4,063
2008	3,659	4,436
2009	3,268	4,741

430. The table shows that there was a decline in the floor area for non-residential building consents of 11 percent between 2008 and 2009, indicating a decline in consumption in the immediate future. The Ministry also notes that the New Zealand Institute of Economic Research, in a report for construction consultancy Rider Levett Bucknall¹⁹, estimates the total value of non-residential building investment to have grown 3.1 percent over the year to March 2009, but expects it to fall 12.7 percent over the March 2010 year and 6.2 percent over the March 2011 year, before rebounding to 10.8 percent growth over the year to March 2012.

431. In response to observations by the Ministry on non-residential building consents, Pacific Steel noted that on the basis of its revised production volume for 2009, the forecast decline between 2009 and 2010 (with anti-dumping duties still in place) is [REDACTED] percent, which is significantly less than the downturn forecast by [REDACTED]. Pacific Steel also pointed out that the forecast decline in volume provided to the

¹⁹ Rider Levett Bucknall at http://www.oceania.rlb.com/news/current/news_ease.html

Ministry was consistent with its budget process which took place through April and May 2009 and involved deep analysis. Pacific Steel considers the April and May 2009 building consent data do not have a material impact on its forecasts. Increases in value are not considered by Pacific Steel to bear upon the volume forecast, that is, total values of building consents may increase but volumes in some years will decline. Pacific Steel uses the analysis undertaken by [REDACTED] to carry out its own analysis and it relies on this for budgeting purposes. [REDACTED] projects and buildings [REDACTED].

432. The Ministry notes that the New Zealand market has continued to grow and that Pacific Steel's forecasts of a [REDACTED] percent decline in 2010 and non-residential building consent data showing an 11 percent decline in floor area in 2009 over 2008, indicate there will be a significant decline in Pacific Steel's volume of production and sales, even if anti-dumping duties on rebar from Thailand are continued. The Ministry concludes that there will be a contraction in demand in New Zealand in 2010. This contraction in demand as it affects Pacific Steel has been detailed separately in the review report so that the impact of any resumed imports of dumped rebar from Thailand is isolated. There is no evidence of changes in the pattern of consumption.

Restrictive Trade Practices

433. The Ministry has not been presented with, nor is aware of, any evidence of restrictive trade practices in operation by either the New Zealand industry or overseas producers.

Competition between Overseas Producers and New Zealand Producers

434. Non-dumped rebar has gained increased market share, [REDACTED] rebar from [REDACTED]. The average CIF plus duty values of imports from [REDACTED] are at relatively low levels but were higher in 2007 and 2008 than the estimated values for exports from Thailand. The Ministry estimates that the likely CIF plus duty value of dumped Thai imports in the calendar year 2008 would have been NZD [REDACTED], which is significantly lower ([REDACTED] – [REDACTED] percent) than the average CIF plus duty values in the calendar year 2008 for [REDACTED] (NZD [REDACTED]), [REDACTED] (NZD [REDACTED]) and [REDACTED] (NZD [REDACTED]). If the anti-dumping duties are removed, imports from all sources will have to compete with any imports that resume from Thailand, with the prices of exports from [REDACTED] ([REDACTED] % of non-dumped imports) being the most competitive.

435. Using the same costs as used for Thailand in the price undercutting analysis above, the ex-wharf prices in the calendar year 2008 would be NZD [REDACTED] for [REDACTED], NZD [REDACTED] for [REDACTED] and NZD [REDACTED] for [REDACTED]. Prices for [REDACTED] undercut significantly the ex-factory price for Pacific Steel for 2008 of NZD [REDACTED], while [REDACTED] price was slightly higher. The into-store costs for [REDACTED] would be NZD [REDACTED], for [REDACTED] would be NZD [REDACTED] which also undercut significantly Pacific Steel's ex-factory price, while imports from [REDACTED] did not at NZD [REDACTED]. In 2007, when

prices were more stable, Pacific Steel's ex-factory price of NZD [REDACTED] was undercut significantly at both the ex-wharf and into-store by exports from all [REDACTED] countries. The ex-wharf and into-store prices for [REDACTED] were NZD [REDACTED] and NZD [REDACTED], for [REDACTED] were NZD [REDACTED] and NZD [REDACTED], and for [REDACTED] were NZD [REDACTED] and NZD [REDACTED].

436. The Ministry concludes that the prices for a majority of non-dumped imports are undercutting Pacific Steel's prices but would be unlikely to undercut dumped imports from Thailand.

Developments in Technology

437. Pacific Steel manufactures brand Seismic 300E® and Seismic 500E® Micro Alloy (MA) or Seismic 500E® quench and temper (QT) rebar. MA product accounts for most ([REDACTED]%) of Pacific Steel's domestic sales of rebar.

438. Since the original investigation Pacific Steel has invested more than NZD [REDACTED] in the installation of Italian technology to manufacture QT rebar as well as MA rebar. This new technology has provided it with the facilities to offer its customers a wider range of goods. QT product is mainly supplied to the [REDACTED] market. The original investigation found that the introduction of grade 500E rebar manufactured using the micro-alloy (MA) method had a negative effect on Pacific Steel's EBIT because such product competes in a market which contains the less expensive QT product.

439. Pacific Steel's selling prices differ depending upon the production method (namely whether MA or QT) and the grade. The selling price of Seismic 500E® QT is approximately NZD [REDACTED] to NZD [REDACTED] per tonne less than Seismic 500E® MA. The properties of MA rebar allow it to be straightened, welded or rethreaded without changing its strengthening qualities whereas, unless it is handled in a specific manner, the same cannot be said for QT rebar.

440. The Ministry considers that use of the MA method is likely to continue to have some impact on Pacific Steel's profitability when competing with imported rebar, but this is likely to be largely offset by customers' demands for a product which meets New Zealand seismic conditions and handling benefits.

Export Performance of Domestic Industry

441. Pacific Steel's main export market for rebar is [REDACTED] to which it exports [REDACTED]. Pacific Steel's exports to [REDACTED] have increased over the past [REDACTED], which the company attributes to responsive pricing according to world steel price movements. World Trade Atlas shows that domestic exports of rebar from New Zealand in calendar year 2007 totalled NZD [REDACTED] million. The calendar year 2007 has been used because one tariff item and statistical key relating to rebar exports has been suppressed by Statistics New Zealand for reasons of confidentiality, namely 7213.91.90 01J, and no figure appears against that tariff line for 2008.

442. The Ministry has verified financial information in relation to domestic sales and is satisfied that information did not relate to exports. Consistent with the finding in

the original investigation, the Ministry concludes that there is no evidence that exports have adversely impacted on the industry's domestic business.

Productivity of Domestic Industry

443. Productivity in terms of steel mill yield and rolling mill yield has remained relatively stable over the past three calendar years, as shown in the injury section above.

Nature and Extent of Importations by Domestic Industry

444. Pacific Steel does not import rebar from Thailand. Fletcher Steel Ltd, of which Pacific Steel is an operating division, imported [REDACTED] tonnes of rebar in the calendar year 2008, mainly from [REDACTED]. This volume of imports is about [REDACTED] percent of Pacific Steel's sales. [REDACTED] are not low-cost sources and such a low level of imports is unlikely to have any adverse effect on the New Zealand industry.

Conclusion on Other Causes of Injury

445. The Ministry concludes that:

- There has been an increase in the volume of imports of non-dumped imports and their market share. [REDACTED] imports of rebar have increased [REDACTED];
- There is evidence that the supply of rebar from sources other than Thailand will likely continue to increase;
- There is no evidence of changes in the pattern of consumption and there will be a contraction in demand for rebar in New Zealand in 2010;
- There is no evidence of restrictive trade practices in operation by either the New Zealand industry or overseas producers;
- Prices for a majority of non-dumped imports are undercutting Pacific Steel's prices but would be unlikely to undercut dumped imports from Thailand;
- Use of a more expensive technology may impact on Pacific Steel's profitability but this is likely to be limited by New Zealand particular rebar requirements;
- There is no evidence that exports have adversely impacted on the industry's domestic business;
- Productivity has remained relatively stable;
- Imports by the New Zealand industry represent a very small percentage of Pacific Steel's sales in New Zealand.

446. In summary, the Ministry concludes that the volumes, market share and prices of non-dumped imports from [REDACTED] indicate

that a majority of non-dumped imports have adversely affected the New Zealand industry. The prices of imports of non-dumped imports from these sources were on average in 2007 and 2008 lower than Pacific Steel's price (except for [REDACTED]), but not the likely price of dumped imports from Thailand. Non-dumped imports appear to have impacted on Pacific Steel's sales volume, market share and profitability and are likely to cause injury to the industry in the future.

447. The fact that injury is being caused and is likely to be caused by non-dumped imports does not mean that injury cannot also be caused and be likely to be caused by dumped imports from Thailand. The Ministry has taken account of injury caused by non-dumped imports but has also found that material injury would likely be caused by dumped imports from Thailand if anti-dumping duties were to be removed from Thai imports as summarised below.

5.8 Conclusions Relating To Injury

448. From information made available during the review, the Ministry has reached the following conclusions:

Volume and Price Effects

- In absolute terms, the volume of imports of rebar from Thailand has decreased to the extent that there have been no recorded imports since late 2006.
- Pacific Steel's domestic price of rebar has not been undercut by imports from Thailand because of the absence of rebar from Thailand.
- Pacific Steel has experienced no price depression and it has experienced price suppression but this cannot be attributed to rebar of Thai origin.

Economic Impact

- There is no evidence of an adverse economic impact from rebar of Thai origin on Pacific Steel's level of output, sales, market share, profits, productivity, return on investments and utilisation of production capacity as there have been no imports since October 2006.
- Factors that have affected domestic prices have been the changes to the world steel prices and the price of rebar from countries other than Thailand.
- The estimated magnitude of the margin of dumping is greater than the injury that could be caused to Pacific Steel through price undercutting.
- There is no evidence of actual and potential effects from goods of Thai origin on Pacific Steel's cash flow, inventories, employment, wages, growth, ability to raise capital and investments.
- Factors other than dumped goods have impacted on Pacific Steel's performance.

Likelihood of Injury if Anti-Dumping Duties Cease or are Terminated

449. In relation to the likelihood of a recurrence of material injury should anti-dumping duties be removed the Ministry concludes that:

- It is likely in the foreseeable future that the overall demand in New Zealand for rebar will decline;
- Import volumes from all sources will likely remain similar to or slightly less than in previous years;
- It is likely that imports of significant volumes of rebar from Thailand would resume;
- It is likely that the prices of dumped imports from Thailand would undercut the New Zealand industry's prices;
- It is likely that Pacific Steel will depress and suppress its prices as a result of a recurrence of dumped imports from Thailand;
- Pacific Steel's domestic sales of rebar will reduce and as a result of a decline in prices its revenue will decrease;
- Due to a likely decline in domestic sales it is likely, as a result of a recurrence of dumped imports from Thailand, that Pacific Steel's market share will reduce;
- It is likely that there will be a significant adverse impact on Pacific Steel's profit and productivity levels which may require Pacific Steel to [REDACTED];
- It is likely that there would be an adverse impact on Pacific Steel's utilisation of production capacity;
- It is likely that there would be an adverse impact on Pacific Steel's return on investment;
- There is evidence that, as a consequence of a reduction in revenue, cash flow would likely be adversely affected;
- There is no evidence that there would be an adverse effect upon inventory levels, salary and wages because of Pacific Steel's stock management systems and staff relations, [REDACTED];
- Factors other than dumped imports are likely to continue to constrain the performance of the domestic industry in a similar way to their impact in the past but can be distinguished from the injurious effects likely to result from dumped imports from Thailand.

6. Conclusions

450. On the basis of the information available, the review team concludes that if the current anti-dumping duties are removed there is a likelihood of a recurrence of dumping and that this would likely cause material injury to the New Zealand industry.

7. Recommendations

451. It is recommended that the Chief Executive initiates a reassessment of the anti-dumping duty rates and amounts pursuant to section 14(6)(c) of the Act on the basis that the review has been completed and has concluded that there is likely to be a recurrence of dumping and injury if the anti-dumping duties expire.

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Review Team

Trade Rules, Remedies and Tariffs Group

Recommendation Accepted/Not Accepted

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Robin Hill
Chief Advisor, Trade Rules, Remedies and Tariffs Group (*Acting under delegated authority from the Chief Executive of the Ministry of Economic Development*)
Ministry of Economic Development.

8. Appendix One

452. A full copy of the Act and the WTO Agreement on Implementation of Article VI of the GATT 1994 (the Anti-dumping Agreement) can be found at:

- http://www.legislation.co.nz/act/public/1988/0158/latest/DLM137948.html?search=ts_act_dumping+and+countervailing+duties&sr=1
- www.wto.org/english/docs_e/legal_e/19-adp.pdf or www.wto.org/english/docs_e/legal_e/19-adp.doc

