Non-Confidential Final Reassessment Report

Galvanised Wire from Malaysia

Dumping and Countervailing Duties Act 1988

Sunset Review

Ministry of Economic Development

Trade Rules and Remedies
November 2009

ISBN: - 978-0-478-35815-5 (HTML)

ISBN – 978-0-478-35813-1 (PDF)

Table of Contents

Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Anti-Dumping Agreement	WTO Agreement on Implementation of Article VI of the GATT 1994
Chief Executive (the)	Chief Executive of Ministry of Economic Development
CIF	Cost, Insurance and Freight
FOB	Free on Board
GUR(D)	Goods under review (Dumping)
GUR(I)	Goods under review (Injury)
GUR	Goods under review
Maccaferri NZ	Maccaferri NZ Limited
Ministry (the)	Ministry of Economic Development
NIFOB	Non-Injurious Free-on-Board
NV (VFDE)	Normal Value (Value for Duty Equivalent)
NZCS	New Zealand Customs Service
NZD	New Zealand Dollar
POR(D)	Period of Review for Dumping (1 April 2008 to 31 March 2009)
POR(I)	Period of Review for Injury (1 July 2004 to 31 December 2008)
PW	Pacific Wire
USD	United States Dollars
VFD	Value for Duty
WTO	World Trade Organisation

1. Executive Summary

Introduction

1. On 20 October 2009, a review of the anti-dumping duties on imports of galvanised wire from Malaysia concluded that there is a continued need for anti-dumping duties to prevent a continuation or recurrence of dumping, which would likely cause material injury to the New Zealand industry (referred to in this report as the review). A reassessment of the anti-dumping duties was initiated immediately following the completion of the review.

Reassessment

2. This reassessment report considers the appropriate level of anti-dumping duties. A section on the proposed rates of anti-dumping duty was included in the final report of the review, and interested parties were given the opportunity to make submissions on the proposed rates of anti-dumping duty. Two parties responded with comments.

3. The subject goods from Malaysia are described as:

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

Conclusion

4. This report concludes that the current anti-dumping duties on galvanised wire from Malaysia be reassessed to a rate of 15 percent of the Customs' value for duty as proposed in sections 3.3 and 3.4 of this report.

2. Introduction

2.1 Review

5. A review of the anti-dumping duties that currently apply to imports of galvanised wire from Malaysia was initiated by the Ministry of Economic Development (the Ministry) on 24 April 2009. The review was completed on 20 October 2009 and concluded that there is a continued need for the imposition of the anti-dumping duties, to prevent a continuation or recurrence of dumping, which would likely cause material injury to the New Zealand industry.

6. A reassessment of the anti-dumping duty was initiated on 20 October 2009, immediately following the completion of the review. An Interim Reassessment Report which set out the proposed changes to the anti-dumping duty rates was released as part of the Final Report. Interested parties were given until 5 November 2009 to make submissions of the proposed changes to the anti-dumping duty. Two submissions were received and are recorded in section 3.6 of this report.

7. The Interim Reassessment Report stated that a Final Reassessment Report would be completed as soon as practicable after submissions closed. It noted that the process was dependant on the nature of the submissions received and if, in response to the submissions there were any significant changes to the proposals, the Ministry would consider issuing another report for parties to comment on in order to allow parties defend their interests, before recommendations were placed before the Minister. It is not considered the there is sufficient reason to issue a further report.

8. The reassessment was conducted in accordance with the Dumping and Countervailing Duties Act 1988 (the Act), having regard to the World Trade Organisation (WTO) Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement). Electronic links to the Act and the Agreement are annexed to this report.

2.2 Background

9. On 27 April 2004, the Minister of Commerce first imposed anti-dumping duties on galvanised wire from Malaysia imported into New Zealand, because an investigation had established that the goods were being dumped and had caused material injury to the domestic industry. The rates of duty were reassessed in November 2005, and as a result of the investigation new, higher rates were implemented.

10. This reassessment follows the review of the anti-dumping duty referred to in paragraph 5 above.

2.3 Disclosure of Information

11. The Ministry makes available all non-confidential information to any interested party through its public file system, in accordance with the Act and Article 6 of the Anti-Dumping Agreement.

2.4 Interested Parties

12. The interested parties involved in the reassessment are recorded below.

New Zealand Industry

13. Pacific Wire (PW) is the sole New Zealand producer of galvanised wire, and therefore in accordance with section 3A of the Act constitutes the New Zealand industry.

Exporters

14. In addition to the suppliers identified from the Customs import data, exporters and/or producers from the original investigation were given the opportunity to comment (even if they did not export the subject goods during the period of dumping).

15. The companies notified were Aspac Alliance Steel Sdn Bhd (Aspac), RCI Wire Sdn Bhd (RCI); **[Text deleted due to confidentiality]**; Southern Wire Industries (Malaysia) Sdn Bhd (Southern Wire), and Maccaferri (Gabions) Malaysia Sdn Bhd (Maccaferri Malaysia).

16. In the original investigation RCI Wire was exempt from anti-dumping duties and therefore has been excluded from consideration in the review.

Importers

17. In addition to the importers identified from the Customs import data, importers from the original investigation were given the opportunity to comment (even if they did not import during the period of dumping).

18. The companies notified were Olex New Zealand Ltd; Euro Corporation Limited (Euro Corp); Judea Holdings Ltd (Judea Holdings), and Maccaferri NZ Limited (Maccaferri NZ).

2.5 Imported Goods

19. The goods which are the subject of the anti-dumping duty originate in Malaysia and are referred to as “galvanised wire” or “subject goods” or “goods under review” and are:

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

20. The goods under review enter under the following tariff item 7217.20.10 and Statistical Keys 05L, 07G, 08E, 09C, 11E, 13A, 15H, 16F, 17D, 18B, 25E, 27A 28K, 29H, 31K, 33F, 35B, 36L, 37J and 39E, and Tariff Item 7217.20.90 and Statistical Keys 05D, 07L, 08J, 09G, 11J, 13E, 15A, 16K, 17H and 18F of the Tariff of New Zealand.

21. The normal rate of 5 percent applies to imports of the subject goods from Malaysia.

3. Anti-dumping Duties

3.1 Method of Imposing Duties

22. The objective of an anti-dumping duty is to remove injury attributable to dumping, and is not to punish the exporter or to provide protection to an industry beyond the impact of the dumping. The Act prevents the Minister from imposing a duty that exceeds the margin of dumping.[1] Furthermore, the Act requires that the Minister have regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry.[2] This consideration is known as the "lesser duty rule".

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

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

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

A Specific Duty Approach

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

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

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

---

[1] Dumping and Countervailing Duties Act 1988, s14(4)

[2] Dumping and Countervailing Duties Act 1988, s14(5)

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

Reference Price Duty

29. Under the reference price approach, the duty payable is the difference between the transaction price and a reference price. A reference price can be based on either a normal value or the domestic industry's non-injurious price (NIP). A Normal Value (Value for Duty Equivalent) or NV(VFDE) amount represents the un-dumped value of the goods at the Malaysian FOB level. A Non-injurious Free-on-Board (NIFOB) is the price at which the imports would not cause injury to the New Zealand industry, calculated at the Free-on-Board (FOB) level. The Ministry prefers to set reference prices in the currency that the reference price calculations have been worked, that being either the currency of the normal value (in the case of NV(VFDE)s) or the currency of the NIP (in the case of NIFOBs).

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

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

Ad Valorem Rate Duty

32. An *ad valorem* duty is a duty based on the margin of dumping or the margin of injury and is expressed as a percentage of the value for duty. An *ad valorem* duty is convenient to apply and is unlikely to be substantially affected by exchange rate movements. *Ad valorem* rates are often appropriate where there are a large range of goods or where new models appear, provided that the transaction-to-transaction comparison does not result in a range of different dumping margins. As with the other approaches, there is the possibility of collusion between an exporter and importer to manipulate the invoice value of the goods subject to duty, particularly when similar goods are bundled with the subject goods.

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

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

Developing Country Considerations

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

36. The WTO Dispute Settlement Panel in *European Communities - Cotton-Type Bed Linen from India* was of the view that "the imposition of a "lesser duty" or a price undertaking would constitute "constructive remedies" within the meaning of the Article 15…"[3] Price undertakings offered in relation to an initial investigation are covered in section 15 of the Act but do not explicitly extend to reassessments of current anti-dumping duties in place. In addition, no offers of price undertakings were received from Malaysian exporters.

37. The Ministry considers that, given the above, its consideration of a lesser duty (as discussed below) fulfils its obligation under Article 15 of the Agreement to give special regard to constructive remedies.

3.2 Present Anti-dumping Duties

38. Anti-dumping duties have been in place on galvanised wire from Malaysia since 27 April 2004. The rates were reassessed on 15 November 2005 and are currently applied to two companies in the form of NV(VFDE) amounts in the currency of the country of origin. An ad valorem (percentage) rate applies to other suppliers/exporters and is capped by an NV(VFDE) amount.

39. The separate rates of duty established for the two suppliers are for each type of wire (high tensile (HT) and low tensile (LT)) and for the different wire diameters. For imports of medium tensile (MT) galvanised wire, the appropriate category for determining duties is LT.

[3] WT/DS141/R, Appellate Body report, para 6.229.

40. The following are current company specific anti-dumping duty (NV(VFDE)s for which anti-dumping duty is payable if the FOB price is lower than the relevant amount:

Table 3.1: Present Anti-dumping Duties (MYR/kg)

Diameter (mm)	**2.00**	**2.50**	**3.15**	**3.40**	**4.00**
Southern Wire					
Armouring Wire	xxxx	xxxx	xxxx	N/A	N/A
Galvanised Wire (LT)	xxxx	xxxx	xxxx	N/A	xxxx
Galvanised Wire (HT)	xxxx	xxxx	xxxx	N/A	xxxx
SMI					
Galvanised Wire (LT)	N/A	N/A	N/A	xxxx	xxxx
Galvanised Wire (HT)	N/A	N/A	N/A	xxxx	xxxx

41. The rate for all other exporters (for all categories of wire) is an ad valorem rate of 11 percent, but the amount of anti-dumping duty payable per kilogram is capped by the NV(VFDE) amounts in the table below.

Table 3.2: NV(VFDE) Caps on Other Exporters' Rate (MYR/kg)

Diameter in mm	**2.00**	**2.50**	**3.15**	**3.40**	**4.00**
- Armouring Wire (ARM)	xxxx	xxxx	xxxx		
- Low Tensile (LT or LC)	xxxx	xxxx	xxxx	xxxx	xxxx
- High Tensile (HT or HC)	xxxx	xxxx	xxxx	xxxx	xxxx

Pacific Wire's Submission

42. PW submits that there is good cause to depart from the use of reference prices for anti-dumping duties on galvanised wire from Malaysia as reference prices are:

- Static, in that the information that reference prices are based on represents a snap shot of prices and costs at a particular point in time and if these prices and costs change the reference price becomes outdated and therefore inaccurate;
- Not transparent because reference prices are confidential and therefore PW finds it difficult to make informed decisions;
- Not timely because reference prices become inaccurate and unless a reassessment is initiated the reference prices are unlikely to prevent imports entering New Zealand at dumped prices, which would injure PW.

43. PW also states that an application for a reassessment to update reference prices is burdensome. PW states that it can cost a considerable amount of money and there is also a time delay between the application and changes being implemented, which could be injurious to it. PW states that it faces difficulty in making use of trade

remedy action that is available because of the use of confidentiality orders over New Zealand import statistics. As a result of the confidentiality orders PW says it is forced to use statistics from exporting countries, which are often considerably less timely and there may be categorisation difficulties. PW considered the application of a specific duty but because of the price and exchange rate fluctuations it did not consider that a specific duty would be suitable.

44. Considering the matters identified above, PW is of the opinion that an *ad valorem* duty rate based on the lower of the margin of dumping or the margin of injury should apply as it is convenient to apply, is easy to understand, and is not substantially affected by exchange rate changes.

3.3 Amount of the Reassessed Anti-dumping Duty Rates

Exemption from Anti-dumping Duties

45. The original investigation concluded that the Malaysian company RCI was not dumping and its exports to New Zealand were therefore exempted from the anti-dumping duties. There cannot be a recurrence or a continuation of dumping by exporters who were found not to be dumping in the original investigation. Therefore, RCI will continue to be exempt from the proposed reassessed anti-dumping duties.

Specific Duty

46. The Ministry has considered whether a specific duty should be applied. There are a range of goods being imported which fall under the description of the subject goods and a specific duty does not lend itself to this type of situation nor does the Ministry hold any current information on the full range of goods on which to establish a specific duty.

47. The cost of steel products can be subject to large fluctuations, most recently and memorably was the large fluctuation in raw material prices globally, and as these circumstances exist in this industry, any specific duty rate could easily become quickly outdated. Constant reassessments of a duty are neither a practical nor an economic solution for those involved.

48. For the reasons above, as well as the risk that the duty may not be sufficient over time to remove injury, or alternatively may be greater than the margin of dumping over time, it is not appropriate to apply a specific duty to galvanised wire from Malaysia.

49. The Ministry therefore considers in this instance that a specific duty would not be able to take account of the major problem of cost fluctuations in this industry and therefore should not be used in these circumstances.

Reference Prices

50. The Ministry's normal practice regarding reference prices is to calculate both NV(VFDE) and NIFOB amounts with the lower of the two anti-dumping duties being used as the reference price.

51. However, due to a lack of detailed Malaysian export price and normal value information sourced in the present review, the Ministry has only been able to calculate a dumping margin for the subject goods as a whole only, rather than for each exporter and for each type of subject good. This is a limitation in the possible use of references prices.

52. The current reference price duty is an extreme example of how quickly the prices can become out of date in relation to costs, in a highly volatile period of trading. In 2008, raw material costs rose and then declined so quickly that the reference prices which are fixed values, could not reflect these underlying cost changes and were therefore ineffective for a period.

53. In deciding on the most effective type of anti-dumping duty to apply, the market conditions in which the goods are traded need to be considered. Steel, the major raw material for galvanised wire is traded daily on world markets. International commodity traders use a number of tools, including steel indexes, to track steel prices and when the price rises in one market (e.g. Europe) the increase flows through to other markets (e.g. Asia) very quickly. If an anti-dumping duty is in the form of an NV(VFDE) an increase in the steel price may, as occurred in 2008, increase the cost of the goods above the duty threshold, making the duty ineffective. At the same time the dumping margin, however, may not have changed as the Malaysian domestic and export price on which the duty is based will likely both have increased to the same extent. Establishing a NIFOB is problematic for the same reason in that the industry’s NIP will also change with the steel price and therefore a NIFOB, which is a fixed amount, would also become ineffective very quickly in such circumstances. A more effective form of duty for this market would be one that is not affected by changes in the cost and therefore the price of the goods.

54. The Ministry considers that it is not appropriate in the case of galvanised wire to impose a static reference price which would normally apply for five years and which could quickly become outdated over that period, and which could require frequent reassessments.

Ad Valorem Rate Duty

55. An alternative method of setting anti-dumping duties is to apply an *ad valorem* duty to imports from all exporters of the subject goods. An *ad valorem* duty is easy to apply, it is transparent and can be set at the margin of dumping or at a margin of injury, whichever is the lesser amount, to remove the injurious effects of dumping.

56. An *ad valorem* rate is not affected by changes in prices over the period to which it applies and would be imposed on all imports of galvanised wire from Malaysia. The amount of anti-dumping duty payable, however, would change as prices change. If prices increase or decrease in the circumstances outlined above in paragraph 53, the amount of anti-dumping duty payable would change as the VFD changes. Any changes to export and domestic sale prices can be assumed to affect the costs in both these markets to a similar degree and therefore price changes in the goods would reflect these changes, and the margin between the prices would remain at a similar level and therefore the duty would remain relevant to the level of dumping. If this is not the case, then interested parties can apply for a reassessment.

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

58. On the basis of the discussion above the Ministry considers that it is appropriate to apply an anti-dumping duty in this case in the form of an *ad valorem* rate.

3.4 Calculation of Proposed Anti-dumping Duties

Introduction

59. To establish the appropriate *ad valorem* duty rate to be applied to imports of galvanised wire from Malaysia, the Ministry has first considered whether the rate should be set at a lesser rate to remove only the injury likely to be caused by dumping or at a rate representing the full margin of dumping. The duty payable using an *ad valorem* rate is calculated as a proportion of the Customs VFD (usually the transaction value at the FOB level). A comparison of the un-dumped price at the VFD (FOB) point, namely the NV(VFDE) amount, and the non-injurious price at the VFD (FOB) point, namely the NIFOB amount, will show whether the rate of duty at the VFD point should be at the full margin of dumping or at a lesser rate to remove injury. If the NIFOB amount is lower than the NV(VFDE), a lesser duty is appropriate. If the NV(VFDE) amount is lower, a rate at the full margin of dumping is appropriate.

60. A comparison of the Ministry's calculation of a dumping margin as a percentage of the FOB price to a calculation of a non-injurious margin as a percentage of the FOB price should also reveal which margin is lower and therefore which rate should be used as the *ad valorem* duty rate. This conclusion should of course be consistent with that reached when comparing the NV(VFDE) and NIFOB amounts. The following paragraphs outline these calculations.

Ad Valorem Rate at the Full Margin of Dumping

61. A dumping margin for the purpose of establishing an *ad valorem* duty rate is the difference between the price of galvanised wire on the domestic market in Malaysia (normal value) and an export price. The *ad valorem* rate is the dumping margin expressed as a percentage of the FOB value.

62. The dumping margin was calculated by using the likely normal value and export price established in the dumping section of the Final Report. This exercise was conducted in section 4.7 of that report and the dumping margin calculated was MRY**xxxx**(or 16 percent as a percentage of the export price). For the purpose of calculating the dumping margin ad valorem percentage, the dumping margin has been divided by the FOB price to ensure that the dumping margin is expressed as a percentage of the same value as the non-injurious margin for the purpose of calculating the "lesser duty rule" (see below).

63. The Ministry notes that both the likely normal value and export price were calculated using 2007 calendar year values. This period was considered by the

Ministry to be a relatively stable period of world steel prices and not affected by significant fluctuations of world steel prices as was the year that followed. As concluded in paragraph 160 of the Final Report, although the dumping margin related to the 2007 calendar year, the Ministry considered that this period is likely to be indicative of the dumping margin in future periods if the duties are removed.

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

Table 3.3: Dumping Margin (MYR/kg)

Normal Value	**xxxx**
Export Price	**xxxx**
Dumping Margin	**xxxx**
FOB Price	**xxxx**
Dumping Margin (as % of FOB)	15%

Lesser Duty Calculated as an Ad Valorem Rate

65. An *ad valorem* rate can be calculated by taking the NIFOB amount, calculated in Table 3.4 below, and subtracting the FOB price from Malaysia to New Zealand. The difference is then divided by the FOB price, and the resulting percentage is the non-injurious ad valorem duty rate. In accordance with the lesser duty rule, the non-injurious *ad valorem* duty rate will be used where it is lower than the dumping margin *ad valorem* duty rate.

Non-Injurious Price (NIP)

66. A NIP is an unsuppressed selling price at which a domestic producer can sell its products and is the basis on which a NIFOB amount is calculated. An unsuppressed selling price is one that is achievable in the absence of competition from dumped product in the New Zealand market. Anti-dumping duties have been in place on Malaysian galvanised wire since 2004 and there have been few imports since 1 June 2006. It is considered that PW's present prices have been unaffected by goods of Malaysian origin. The Ministry concluded that the New Zealand industry's prices are suppressed but this is not due to the presence of dumped imports from Malaysia and therefore most likely due to other causes.

67. PW provided its sales volume and sales revenue figures for its full 2009 financial year, broken down on a month by month basis. PW's sales revenue figures are net of freight and **[Text deleted due to confidentiality]** This information did not separately identify the type or diameter size of the galvanised wire, therefore the Ministry has had to calculate an average selling price for galvanised wire. The Ministry considers that the most appropriate period on which to establish PW's NIP is the second half of PW's 2009 financial year because it is relatively unaffected by significant fluctuations of world steel prices. For this reason, PW's NIP is a weighted average selling price for its 2009 financial year, which equated to $**xxxx** per kilogram.

Calculation of NIFOB

68. The purpose of the NIFOB is to ensure that the price of the imported product, when considered at the FOB level, is such that when it is sold at the relevant level of trade, the sale price is not lower than the NIP.

69. The calculation of a NIFOB is achieved by deducting from PW's NIP all costs that arise after FOB up to the level of trade at which the imported product first competes with PW's products. The first point of competition between the imported product and PW's product is at the ex-wharf level. Individual NIFOBs for each exporter have not been calculated due to the lack of up-to-date information sourced from these exporters on their costs arising after FOB. As such, one NIFOB amount has been calculated using information sourced in the review and it applies to all exporters. A full description of the calculation and source information used to establish the costs incurred from FOB to ex-wharf and are provided in section 5.4 of the Final Report.

Table 3.4: NIFOB (NZD/kg)

PWs NIP	**xxxx**
Less: Costs after FOB to Ex-Wharf	
Freight	**xxxx**
Insurance	**xxxx**
Customs Duty (5%)	**xxxx**
Port Services	**xxxx**
NIFOB	**xxxx**

Calculation of Malaysian FOB Price

70. The NIFOB is based on the second half of PW's 2009 financial year covering the period from 1 January 2009 to 30 June 2009. To ensure a fair comparison, the Ministry considers that the Malaysian FOB price should be based on data covering the same period. The Ministry has used Australian Customs data which recorded all imports from Malaysia into Australia from 1 January 2009 to 30 June 2009 as base data from which an up-to-date FOB price could be constructed. For the reasons noted in paragraphs 244 to 247 of the Final Report, the Ministry considers that the Malaysian export price to Australia is the best available information from which to estimate an export price from Malaysia to New Zealand.

71. The Australian Customs data valued the imports from Malaysia in Australian dollars (AUS), and therefore the Ministry converted this value to NZD using the average exchange rate for the 6 month period ending June 2009 of NZD1:AUS0.79966 from the Oanda website. The value of the imports was also at the CIF level, and therefore the Ministry deducted the estimated freight and insurance from Malaysia to Australia of NZD**xxxx** and NZD**xxxx** per tonne respectively. The estimated freight figure was based on PW's estimate of freight to New Zealand of NZD**xxxx** per tonne, minus NZD**xxxx** per tonne, which it considered would be the extra cost of freight from Australia to New Zealand. The Ministry used the insurance cost incurred on imports from Malaysia to New Zealand in 2008 of NZD**xxxx** per tonne. On the basis of the method described above, the Ministry

calculated the average FOB price of galvanised wire from Malaysia to Australia of NZD**xxxx** per tonne.

72. As noted in paragraph 110 of the Final Report, **[Text deleted due to confidentiality]** estimated that **xxxx** percent of galvanised wire imported into Australia from Malaysia was likely to be of low tensile strength. Based on this information, the Ministry estimated the low and high tensile export prices based on an **xxxx**/**xxxx** mix of low and high tensile wire included within the average export price by using a formula.[4] The simple average of the export prices for low and high tensile wire is considered to be the likely export price from Malaysia to New Zealand in the absence of the duties. The Ministry considered that a simple average of the prices was appropriate because it ensures a fair comparison with PW's average selling price, which includes both low and high tensile galvanised wire. On the basis of the method described above, the Ministry calculated a likely FOB price to New Zealand of NZD**xxxx** per tonne.

73. The table below shows the non-injurious margin *ad valorem* rate calculation.

Table 3.5: Non-injurious Margin (NZD/kg)

NIFOB	**xxxx**
Less: FOB Price	**xxxx**
Undercutting	**xxxx**
Injury Margin (as % of FOB)	29%

Comparison of Dumping Margin and Non-injurious Margin Ad Valorem Rates

74. The non-injurious margin *ad valorem* rate is 29 percent, which is higher than the dumping margin FOB *ad valorem* rate of 15 percent. The *ad valorem* duty rate would be therefore be set at the margin of dumping and be 15 percent of the VFD of the goods.

Proposed Levels of Anti-dumping Duty

75. The Ministry considers that a single *ad valorem* anti-dumping duty rate should be imposed on imports of Malaysian galvanised wire from all Malaysian exporters (with the exception of RCI), rather than the present exporter-specific reference prices and the all other exporters *ad valorem* rate. The exporters of galvanised wire involved in the original investigation and the current review did not provide any information during the review, and consequently the Ministry has had to use the best available information, which is not exporter-specific.

76. The Ministry prefers to impose an *ad valorem* anti-dumping duty rate because:

[4] Total FOB value of exports = (volume of low tensile * x) + (volume of high tensile * (x + high tensile premium)). x equals the export price of low tensile wire, and (x + the high tensile premium) equals the export price of high tensile wire.

- The Ministry is mindful that a duty is normally imposed for five years. With the significant fluctuations in world steel prices, there is the possibility that a reference price could become outdated and ineffective, and therefore would not provide an effective remedy against dumped imports from Malaysia;

- An *ad valorem* rate is administratively easy to impose and thereby reduces compliance costs and provides certainty to the market that can be built into pricing strategies;

- It is transparent and therefore all parties know of the rate that is to be paid.

3.5 Impact of Anti-dumping Duty

77. It is difficult to gauge the extent to which the proposed level of duty has changed when compared with the duty rates set in 2005 because those rates were mainly set through the use of reference prices whereas the proposed duty rate is a single *ad valorem* (percentage) rate. Only a small amount of anti-dumping duty has been collected since it was implemented which means that wire was being priced at or above the references prices from the time that they were imposed although volumes declined significantly from 2007. The current residual *ad valorem* rate of 11 percent cannot be compared directly with the proposed *ad valorem* rate of 15 percent but does give an indication that the amount of dumping has not changed markedly.

78. The impact on importers will be different however. Previously anti-dumping duty would have to be paid on every shipment that was below the reference price set, and when the VFD of the goods rose above this amount no duty was payable. The proposed *ad valorem* rate means that every shipment will pay duty at the rate of 15 percent regardless of the VFD of the goods. When the steel price rises or falls the duty will keep in step with it.

79. The transparency of the *ad valorem* duty allows a wider range of importers to assess the price competitiveness of Malaysian galvanised wire in the New Zealand market and this may mean that some importers will choose to import galvanised wire from Malaysia. The purchase price for importers may increase from previous prices but it would be the importer’s decision as to whether they choose to pass the extra cost on to fabricators, distributors or building supply merchants. As the *ad valorem* duty rate is based on the full margin of dumping, the duty will ensure that the increase in the price removes any injurious price effects that may be caused to PW by dumped imports.

80. The proposed rate therefore, will at least maintain the effective level of remedy so that the conditions in the New Zealand market should not change in terms of the amount of anti-dumping duty payable by the New Zealand importers.

81. The proposed *ad valorem* duty rate is based on the full margin of dumping, and is therefore intended to remove any injurious effects caused by dumping. Should the *ad valorem* rate of duty be considered by interested parties to be no longer relevant, for example if export prices have increased at a greater rate than normal values, an interested party may apply for a reassessment of the rate of duty by providing evidence justifying the need for a reassessment.

3.6 Opportunity for Comment

82. Interested parties were given the opportunity to comment on an interim reassessment report. Comments were received from PW and Maccaferri NZ.

Responses to the Review and Interim Reassessment Report

83. In response the reassessment report PW it said that it agreed with the Ministry's conclusions.

84. Maccaferri NZ stated that its position had not changed from the original investigation, i.e. because the amount of galvanised wire it imports from Malaysia is very limited (**[Text deleted due to confidentiality]** since the original investigation) and it imports the wire only for its own use as part of a **[Text deleted due to confidentiality]** and the like, and does not sell bulk wire alone. Maccaferri NZ said that at the rates it pays for the wire as part of the system that it imports it considers it is not injuring local industry and therefore there is no requirement for any duty on its imported product.

Ministry's Response

85. The Ministry recognises that the anti-dumping duty proposed applies to all imports of galvanised wire and does not have a threshold volume below which the duty would not apply.

86. Maccaferri NZ has stated that galvanised wire imported is included as a small component part of products which it further processes in New Zealand. It stated that it currently did not pay anti-dumping duty (it is not clear whether the import prices were higher than the reference prices or whether the galvanised wire was of a type outside the subject goods description and therefore would not attract anti-dumping duty). It stated it was not injuring the New Zealand industry because of the small volume imported and that it was not on-selling the wire and competing against the local industry.

87. The Ministry contacted Maccaferri NZ in response to its comments pointing out that the change in the form of the duty proposed would mean that it may now attract the duty on the galvanised wire that it imports, if the imports fell within the goods description. No response was received.

88. In the absence of more detailed information from Macafferri NZ about the galvanised wire it imports, it is not clear whether it will be affected by the proposed change in the form of the anti-dumping duty. This is because it is not known whether the galvanised wire Maccaferri NZ imports is a like product to that produced by PW, or whether the wire is outside the subject goods description. If the product it imports is a like good to that which PW produces it could only be exempted from the anti-dumping duty if the goods are not dumped, and the information has not been made available to determine this.

4. Conclusions

89. The Ministry concludes that:

- A single *ad valorem* anti-dumping duty rate of 15 percent should be imposed on the value for duty of imports of galvanised wire from all Malaysian exporters (excluding RCI) rather than the present reference price method being applied on an exporter-specific basis to cooperating exporters and an *ad valorem* rate applying to other exporters;

- The single *ad valorem* rate of 15 percent is based on the difference between the estimated export price and a non-injurious export price and therefore the price of imports from Malaysia of galvanised wire will not injure the New Zealand industry; and

- An *ad valorem* rate is easily administered, transparent, provides certainty to market participants and the amount payable moves with changes in value in a way that ensures it remains effective over time.

5. Recommendations

90. It is recommended that the Minister:

a. **Agree** to a new rate of anti-dumping duty on imports of galvanised wire from Malaysia, on the basis of the information obtained during the review and reassessment and the analysis outlined in this report;

b. **Sign** the attached Gazette notice, and give notice of the reassessment to interested parties in accordance with sections 9 and 14 of the Act.

Appendix One

91. 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