

18 December 2007

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APPLICATION BY PACIFIC WIRE FOR A REVIEW OF ANTI-DUMPING DUTIES ON GALVANISED WIRE FROM SOUTH AFRICA

1 This report assesses an application made by Pacific Wire on 2 November 2007 for a review of anti-dumping duties that currently apply to imports of galvanised wire from South Africa.

2 The report recommends that you should initiate a review of the anti-dumping duties that currently apply to galvanised wire from South Africa.

Background

3 Final anti-dumping duties were imposed on galvanised wire from South Africa in December 2002. There have been no reassessments or reviews of this duty since it was imposed. The duties that currently apply will expire on 21 December 2007 unless a review is initiated prior to this date. Reviews that are initiated prior to an anti-dumping duty's expiry are referred to as sunset reviews. If a review is initiated the duties will remain in place pending the outcome of the review.

4 The galvanised wire that would be subject to any review that is initiated are described below:

Galvanised steel wire of high, medium and low tensile strength between 2mm and 4.5mm in diameter, but EXCLUDING the following:

- galvanised steel spring wire AS1472 exceeding 4.00 mm in diameter

5 Galvanised wire imported from South Africa enters New Zealand under 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 and are subject to the standard tariff of 6.5 percent. The standard tariff will reduce to 5 percent in July 2008.

Legislation and Associated Jurisprudence

6 Section 14 of the Dumping and Countervailing Duties Act 1988 (the Act) deals with the imposition, application and duration of anti-dumping duties and states (in part):

- ...
- (8) The [Chief Executive] may, on his or her own initiative, and shall, where requested to do so by an interested party that submits positive evidence justifying the need for a review, initiate a review of the imposition of anti-dumping duty...in relation to goods and shall complete that review within 180 days of its initiation.
 - (9) Anti-dumping duty...applying to any goods shall cease to be payable on those goods from the date that is the specified period after—
 - (a) The date of the final determination made under section 13 of this Act in relation to those goods; or
 - (b) The date of notice of any reassessment of duty given under subsection (6) of this section, following a review carried out under subsection (8) of this section,—
whichever is the later, unless, at that date, the goods are subject to review under subsection (8) of this section.
 - (9A) In subsection (9), “specified period” means,—
 - (a) In the case of goods of Singaporean origin, 3 years; and
 - (b) In the case of goods of any other origin, 5 years.
- ...

7 The Act requires that any interested party that requests a review submit positive evidence justifying the need for a review and that when this is provided the Chief Executive shall initiate a review. The Act is determinative in governing how anti-dumping duties should apply in New Zealand and accordingly how reviews are carried out. However where the Act is silent the Ministry turns to its international obligations, as set out in the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Agreement) and the associated jurisprudence, for guidance.

8 Article 11 of the Agreement deals with the duration and review of anti-dumping duties and states in Paragraph 3 (in part):

...any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review...if that review has covered both dumping and injury...), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and injury [footnote omitted.]

9 The test outlined in the Agreement is primarily whether the application for review constitutes a duly substantiated request that, without anti-dumping duties on imports of galvanised wire from South Africa, there would be a continuation or recurrence of dumping and material injury. The Ministry considers that the test outlined in the Agreement is equivalent to the test set out in the Act, with an additional factor that the Agreement states should be considered, that is, whether the application was submitted within a reasonable period of time prior to the expiry of the current duties.

10 The World Trade Organisation Dispute Settlement Panel (Panel) *United States – Sunset Review Of Anti-Dumping Duties On Corrosion-Resistant Carbon Steel Flat Products From Japan*¹ discussed the practice of the United States administration in relation to what is considered a reasonable period of time prior to the expiry of duties. It stated at paragraph 7.20 in regard to the initiation of reviews:

Section 751(c)(1) of the US Statute requires that five years after the date of publication of an antidumping duty order, the administering authority and the Commission shall conduct a review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and of material injury. Section 751(c)(2) provides: "Not later than 30 days before the fifth anniversary of the date described in paragraph (1), the administering authority shall publish in the Federal Register a notice of initiation of a review under this subsection...". Similarly, Section 351.218(a) of the Regulations provides that "...no later than once every five years, the Secretary must determine whether dumping ... would be likely to continue or recur...", while section 351.218(c)(1) states that "...No later than 30 days before the fifth anniversary date of an order or suspension of an investigation...the Secretary will publish a notice of initiation of a sunset review...".

11 While the United States uses a self-initiation process for instigating sunset reviews, the Ministry considers that the timeframes it has established as being a reasonable period of time prior to the expiry of the duty would also apply to an application for a review submitted to the investigating authority. The practice of the United States in this regard does not bind the Ministry, but is illustrative of other authorities interpretation of what constitutes a reasonable period of time prior to the expiry of duties, namely 30 days.

12 In the present case the application for a review was submitted by Pacific Wire on 2 November 2007, which is 48 days prior to the expiry of the anti-dumping duties that it seeks to have considered in the review. I am satisfied that Pacific Wire's submission of a request for a sunset review was done within a reasonable period of time prior to the expiry of the duties.

Consideration of Evidence Presented

13 The Ministry interprets the requirement of subsection 14(8) of the Act for a review to be initiated when an interested party "...submits positive evidence justifying the need for a review..." as being a requirement for positive evidence of a lesser standard than that required under subsection 10(2) of the Act in respect of new investigations. This interpretation is supported by the international jurisprudence relating to the Agreement.

14 In *United States – Countervailing Duties On Certain Corrosion-Resistant Carbon Steel Flat Products From Germany*², which dealt with a sunset review of countervailing duties, the Panel stated at paragraph 8.42:

...it is clear that, in the absence of an affirmative determination by an investigating authority, [duties] may not be maintained beyond a five-year period. It is also clear that any such determination must be correctly reasoned and based on positive evidence...The initiation of a review is merely the beginning of a process leading to a determination as to

¹ World Trade Organisation Dispute Settlement Panel *United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan* WT/DS244/R 14 August 2003.

² World Trade Organisation Dispute Settlement Panel *United States – Countervailing Duties On Certain Corrosion-Resistant Carbon Steel Flat Products From Germany* WT/DS213/R 3 July 2002.

whether or not subsidisation and injury are likely to continue or recur. The standards for the initiation of a review – whether on the initiative of an investigating authority or upon request by the domestic industry – in no way prejudge the standards applied by an investigating authority in reaching the substantive determination to be made in that review. In sum, it seems to us that the European Communities' argument is based upon an incorrect equation of the standards for the initiation of a review with those for the substantive determination to be made in a review.

15 The above excerpt illustrates that the standards an investigating authority, such as the Ministry, must apply in assessing whether a sunset review should be initiated are less than those which must be applied in making a substantive determination in any review undertaken. While this case related to the sunset review provisions of the WTO Agreement on Subsidies and Countervailing Measures these provisions are very closely aligned with those of the Agreement and it is reasonable to assume that the same findings would have been made had the case related to the equivalent provisions of the Agreement.

16 The issue of the requisite standard of evidence required to initiate a sunset review was also discussed in the Panel *United States – Sunset Review Of Anti-Dumping Duties On Corrosion-Resistant Carbon Steel Flat Products From Japan*³ at paragraph 7.27:

We also note that the text of Article 11.3 does not contain any cross-reference to the evidentiary rules relating to initiation of investigations contained in Article 5.6 of the *Anti-dumping Agreement*. Therefore, Article 11.3 itself does not explicitly provide that the evidentiary standard of Article 5.6 (or any other evidentiary standard) is applicable to sunset reviews. Although paragraphs 4 and 5 of Article 11 contain several cross-references to other articles in the *Anti-dumping Agreement*, no such cross-reference has been made in the text of Article 11 to Article 5.6. These cross-references (as well as other cross-references in the *Anti-dumping Agreement*, such as, for example, in Article 12.3) indicate that, when the drafters intended to make a particular provision also applicable in a different context, they did so explicitly. Therefore, their failure to include a cross-reference in the text of Article 11.3, or, for that matter, in any other paragraph of Article 11, to Article 5.6 (or *vice versa*) demonstrates that they did not intend to make the evidentiary standards of Article 5.6 applicable to sunset reviews. The Appellate Body, in *US – Carbon Steel*, drew the same conclusion from the non-existence of a cross-reference in Article 21.3 of the *Agreement on Subsidies and Countervailing Measures* (the "*SCM Agreement*") to Article 11.6 of that Agreement, which contains the evidentiary standard for the self-initiation of countervailing duty investigations. [footnote omitted]

17 This clearly indicates that the Panel considered the evidentiary standards required for the initiation of a new investigation (as outlined in Paragraph 6 of Article 5 of the Agreement) do not apply for the initiation of sunset reviews and the applicable standard is in fact a lesser one.

18 The Ministry considers, therefore, that while an application for the initiation of a sunset review may cover the information on the factors outlined in Paragraph 2 of Article 5 of the Agreement it is not necessary that all of these matters are addressed or addressed in full for an application to constitute "positive evidence justifying the need for a review".

³ World Trade Organisation Dispute Settlement Panel *United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan* WT/DS244/R 14 August 2003.

New Zealand Industry Standing

19 The Agreement states that an application for a sunset review must be made by or on behalf of a domestic industry.

20 Section 3A of the Act defines “industry” as follows:

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.

21 “Like goods” are defined in section 3 of the Act as follows:

Like goods, in relation to any goods, means—

- (a) Other goods that are like those goods in all respects; or
- (b) In the absence of goods referred to in paragraph (a) of this definition, goods which have characteristics closely resembling those goods

22 Pacific Wire has advised that there has been a change in the composition of the zinc coating that it applies as part of its manufacturing process. Pacific Wire said that at the time of the 2002 investigation its product was coated with 100 percent zinc whereas now the majority of the galvanised wire it produces is coated with a mix of 95 percent zinc and 5 percent aluminium. Pacific Wire said it understands that both 100 percent zinc coated and 95 percent zinc/5 percent aluminium coated wire is imported into New Zealand.

23 Pacific Wire has submitted that wire coated with a mix of 95 percent zinc and 5 percent aluminium is a like good to wire coated with 100 percent zinc. In support of this submission, Pacific Wire has provided an analysis of the components making up both types of galvanised wire, along with a comparison of the production method, end use, packaging, function, corrosion resistance, price, marketing, and tariff classification. Pacific Wire said that this analysis shows that there is sufficient evidence for the purpose of initiating a review, that the galvanised wire it produces closely resembles wire 100 percent coated with zinc and is therefore a like good.

24 Pacific Wire has not provided in its application the range of galvanised wire it produces. This information is, however, displayed on its web site at www.pacificsteel.co.nz which shows that it produces a wide range of galvanised wire including fencing wire of high and low tensile with a range of diameters falling within the description of the goods subject to the duty, manufacturing wire and nail wire.

25 It is noted that the description of the goods subject to the duty does not specify the make up of the coating with which the wire has to be galvanised. The original investigation found that Pacific Wire produced goods that were like those under investigation. The information provided by Pacific Wire, and the information on its web site, indicates that this situation has not changed.

26 Pacific Wire advised in its application that it is the sole New Zealand producer of galvanised wire, which was the situation at the time the current anti-dumping duties were imposed. No further information has been discovered that contradicts Pacific Wire's statement that it is the sole New Zealand producer of galvanised wire.

27 I consider that the information provided as above constitutes positive evidence that there is still in place an "industry" in terms of section 3A of the Act, which consists solely of Pacific Wire, and that the request for the initiation of a review therefore constitutes an application made by the New Zealand domestic industry.

Continuation or Recurrence of Dumping

Export Price

28 Pacific Wire has noted it has not been possible to obtain actual export prices and also noted that there is a confidentiality order in place on the Statistics New Zealand import data. Pacific Wire has therefore estimated an export price on the basis of South African export data for the tariff item 72172000, which covers wire plated or coated with zinc. This data relates to exports from 2004 to 2007 (in years ended June) to all destinations and to the top ten destinations and shows the total volume and total FOB value in South African rand (SAR). Average FOB values in SAR per tonne have been calculated from this data for the year ended June 2007.

29 A deduction has been made from these figures to calculate an ex-factory price for customs costs, terminal handling, lift off at port, transport to port, lift on at port, equipment hire and export packaging inland freight in South Africa to estimate an ex-factory export price. Pacific Wire said the deductions for the costs between FOB and ex-factory were taken from its 2002 application to which a 27 percent adjustment for inflation has been added. Pacific Wire has noted that the inflation adjustment was taken from the wikipedia web site for the period from 2002 to 2005.

30 The costs between FOB and ex-factory have been checked against Pacific Wire's 2002 application and against the actual costs established in the 2002 investigation. The actual costs are close to those in Pacific Wire's 2002 application and therefore Pacific Wire's figures are considered reasonable for the purposes of this application. The inflation adjustment has been checked against the consumer price index for South Africa taken from the International Monetary Fund's International Financial Statistics for October 2007. These statistics show the change in the CPI from 2002 to July 2007 (the most recent figures available) to be 25.1 percent (based on a change in the index over this period from 115.4 to 144.4). The use of the IMF figure would result in the deduction of a smaller amount for the costs between FOB and ex-factory, but the difference in the estimated dumping margins as shown below is negligible, so the figure used by Pacific Wire has been accepted for the purpose of considering whether a review should be initiated.

31 The export prices calculated on the basis set out above are SAR [REDACTED] per tonne (on the basis of prices to all export destinations) and SAR [REDACTED] per tonne (on the basis of exports to the top ten destinations).

Normal Value

32 Pacific Wire has based normal values on information taken from the web site of a South African company, MEPS Electric Fence Systems (www.mepsef.com). Pacific Wire has obtained a price for the following galvanised wire product from the “price list” section of their web site which is stated to be on an ex-works basis excluding VAT:

HSS Wire 2.4mm 1650m per roll 50kg roll SAR 630.20
fully galvanised

33 Pacific Wire has stated that this product is the main selling fencing product and is equivalent to that used in New Zealand and is a like good. Pacific Wire has noted that “fully galvanised” corresponds to the New Zealand terminology of “heavily galvanised”, which is wire corresponding to the New Zealand Standard 3471:1974, with a galvanised coating of not less than 260g/m². Pacific Wire said that this product is the only one on the price list that is a like good to the galvanised subject to the duty. The price above equates to SAR 12,604 per tonne. The list price of the above product has been checked against MEPS’s web site.

34 Pacific Wire considers that because the price list notes that MEPS should be contacted for export and wholesale prices, the prices on the price list are at the retail level. Pacific Wire has stated that there may be a discount off the list price of █ percent based on its knowledge of business practice in South Africa. Pacific Wire has therefore made an adjustment by deducting █ percent of the list price. No evidence in support of this estimate has been provided. The Ministry’s final report on the 2002 investigation, however, refers to discounts from list prices ranging from █ to █ percent for one exporter and from █ to █ percent for another exporter. Price lists may differ and therefore so may the extent of the discounts a company is prepared to offer. An estimate at the lower end of the range of discounts identified during the 2002 investigation appears to be reasonable for the purposes of an application.

35 Pacific Wire has also stated that the list price will include the cost of freight and handling from ex-works at the manufacturer to the MEPS warehouse. Pacific Wire has estimated this cost to be SAR █ per tonne based on its 2002 application and consideration of the export price adjustments that were made at the time. This amount has been adjusted upwards by 27 percent to take account of inflation from 2002 to 2006, to arrive a final adjustment of SAR █ per tonne. The freight and handling cost has been checked against Pacific Wire’s 2002 application and the estimated cost as adjusted for inflation is considered to be reasonable.

36 A further adjustment has been made by Pacific Wire for MEPS’s margin on its purchase price from the manufacturer of █ percent. Pacific Wire said this mark-up is based on its industry knowledge of the South African market. No evidence was provided to substantiate this percentage, but Pacific Wire has stated that as a wire manufacturer that has previously visited South Africa it considers it has the requisite experience and judgement to estimate the amount of this mark-up.

37 The normal value calculated on the basis set out above is SAR █ per tonne.

Dumping Margins

38 Pacific Wire has noted that there have been no exports of galvanised wire from South Africa to New Zealand since 2004 (this is confirmed by Customs data) and therefore it must consider whether exports of galvanised wire from South Africa to other countries are dumped. A comparison has been made by Pacific Wire of the estimated ex-factory normal value calculated as above with the estimated ex-factory export prices to all export destinations and to the top ten export destinations, as calculated above. Pacific Wire has also compared this normal value with the estimated ex-factory export price to each of the top ten export destinations.

39 The dumping margins (as a percentage of the export price) calculated on the basis of this comparison are 58 percent in relation to all export destinations and 64 percent in relation to the top ten destinations. The dumping margins calculated for each of the top ten countries range from 24 to 220 percent. Pacific Wire has stated that the estimated dumping margins provide positive evidence of the likelihood of a recurrence of dumping should the current duties be removed.

40 Pacific Wire has provided information on estimated export prices in the absence of anti-dumping duties and on an estimated normal value for a type of widely used galvanised wire. The information provided indicates that galvanised wire from South Africa is dumped by significant margins and I consider it constitutes positive evidence of a likely recurrence of dumping should the anti-dumping duty be removed that is sufficient to justify the initiation of a review.

Continuation or Recurrence of Material Injury

Ability of South African Suppliers to Export to NZ

41 Pacific Wire has noted that the estimated dumping margins on the basis of prices to other countries are large and any resumption of exports to New Zealand is also likely to be dumped at similar margins. In particular Pacific Wire has noted that the export prices to the top ten destinations, none of which have anti-dumping duties in place, is in all cases at a dumped price and on average is SAR 2,630 per tonne less than the normal value.

42 Pacific has stated that the manufacturers in South Africa have excess production capacity and a desire to grow export sales. Pacific Wire has referred to information on the web site of Consolidated Wire (www.consolidatedwire.co.za), one of the exporters found to be dumping in the 2002 investigation where it is recorded that it exports a significant percentage of its production to more than 40 countries. Pacific Wire said this indicates that Consolidated Wire has significant capacity in excess of its domestic sales. Pacific Wire said this supports the view that there is significant value to Consolidated Wire in placing surplus export volumes at prices which are at a premium to its variable production cost.

43 While Consolidated Wire's web site does state that it exports a significant percentage of its production to more than 40 countries, this does not necessarily indicate that it has surplus capacity available to produce galvanised wire for export to New Zealand. There is nothing on its web site about its production capacity or sales volumes against which to compare with Pacific Wire's current sales volumes.

Information provided by Consolidated Industries during the 2002 investigation shows at that time its domestic sales were about [REDACTED] tonnes per annum and its export sales were about [REDACTED] tonnes. These figures are significant compared to Pacific Wire's annual production of about [REDACTED] tonnes, but again do not necessarily indicate that surplus capacity is available for export to New Zealand. The information does, however, show that Consolidated Wire does have an export capability that is significant compared with the size of the New Zealand industry.

44 Pacific Wire has also referred to the web site of Capegate (www.capegate.co.za), another of the manufacturers found to be dumping in the 2002 investigation. Pacific Wire has noted that the web site refers to Capegate's intention to focus on entering and developing new markets internationally. Pacific Wire has also referred to a comment by Capegate recorded on another web site (www.itweb.co.za/office/compareafrica/0108230809.htm) that the South African market is too small to sustain its production capacity, that 25 percent of its turnover is export related which it would like to grow and its focus on mass production (rather than on small volume or customised production).

45 The web site references provided by Pacific Wire have been examined to sight the extracts referred to above by Pacific Wire. While they confirm that Capegate does export and intends to grow its exports, they also do not necessarily establish that Capegate has surplus capacity available to produce galvanised wire for export to New Zealand (the Capegate web site does not provide any information on its production capacity or sales volumes). Capegate did not co-operate with the 2002 investigation, but the final report on that investigation does note that it was the [REDACTED] supplier of galvanised wire to New Zealand over the period of investigation, making up [REDACTED] percent of total exports. The information available does show that Capegate has an export capability which at the time of the 2002 investigation was significant relative to the size of the New Zealand industry.

46 There were two other manufacturers identified during the 2002 investigation as exporting galvanised wire to New Zealand during the period of investigation, African Gabions (Pty) Ltd and Independent Galvanising (Pty) Ltd. Pacific Wire has not provided any information relating to these two companies in its application.

47 African Gabions was primarily a manufacturer of gabions but at the time of the 2002 investigation it also exported to New Zealand galvanised [REDACTED] with the gabions which fell within the description of the goods under investigation. African Gabions did not co-operate with the 2002 investigation. Its web site indicates that it is still primarily a manufacturer of gabions and similar woven wire products, operating under the name Maccaferri SA (PTY) Ltd. Independent Galvanising did co-operate with the 2002 investigation and was visited to verify information provided but does not appear to have a web site under that name.

48 While the information provided by Pacific Wire does not necessarily indicate that the South African industry has surplus capacity available to produce galvanised wire for export to New Zealand, the information available shows that the South African industry is large relative to the New Zealand industry. For example, the export statistics provided by Pacific Wire (see paragraph 52 below) show that galvanised wire exports from South Africa are about 116,000 tonnes per annum. In addition, as outlined in paragraph 53 below, the volume of exports found to be injurious at the time of 2002

investigation are a very small proportion of total South African exports and the estimated total production of the South African industry. For the purposes of an application it is therefore considered reasonable to assume that the South African galvanised wire industry has the capacity to resume exports to New Zealand in injurious volumes.

Access into NZ Market

49 Pacific Wire has noted that historically the Ministry has sought to determine whether imported product can access distribution channels in the New Zealand market. Pacific Wire has stated that the Ministry's previous investigations into galvanised wire are determinative on this issue noting that these reports demonstrate well developed distribution channels give widespread access to the market and are clearly available for imported product.

50 The most recent investigation relating to galvanised wire was the dumping investigation into galvanised wire from China and Malaysia completed in April 2004 which resulted in duties being imposed against imports from Malaysia. This investigation considered ease of entry into the New Zealand market but only in relation to wire fabricators. There were, however, a number of importers identified in that case who clearly had a distribution system available that was sufficient to import galvanised wire in injurious quantities. The evidence suggests that access to the New Zealand market would not be an impediment to a resumption of imports from South Africa.

51 Pacific Wire has also observed that many of the importers and exporters who were involved in the 2002 investigation remain active and considers it reasonable to believe that they will be aware of the potential expiry of the duties. Pacific Wire has said that the New Zealand market is attractive to and culturally familiar to South Africans and therefore considers there is a reasonable likelihood that if the duties were removed [REDACTED].

Likely Material Injury

52 Pacific Wire has noted that South African export statistics show that over the last four years galvanised wire exports from South Africa have averaged 116,197 tonnes. Based on Capegate's statement that it exports 25 percent of its production, and assuming this to be representative of all South African producers, Pacific Wire has estimated total South African production to be in the vicinity of 464,000 tonnes per annum. Pacific Wire has not provided any evidence to suggest that Capegate's percentage of exports is representative of other South African producers. There is, however, evidence of total exports from South Africa which are significant relative to the New Zealand industry's production of about [REDACTED] tonnes per annum.

53 Pacific Wire has noted that the volume of galvanised wire imported into New Zealand from South Africa from 1998 to 2002 (June years) averaged 871 tonnes per annum. Pacific Wire considers 871 tonnes to be a reasonable estimate of the likely lowest volume of exports to New Zealand should the duties be removed. Pacific Wire has noted that 871 tonnes would represent only 0.7 percent of the average exports per annum from South Africa over the last four years and less than 0.2 percent of its estimated total production.

54 Pacific Wire has also noted that galvanised wire from Australia, which is currently the largest source of such imports, is priced significantly higher than the likely price from South Africa. Pacific Wire has referred to Australian export statistics for galvanised wire exported to New Zealand for the year ended June 2007 showing the average FOB price per tonne was NZ\$_____. This compares with the average FOB price per tonne for exports from South Africa to all destinations over the same period converted to NZD of NZ\$973. The average NZD/SAR exchange rate provided by Pacific Wire for the year ended June 2007 of 4.79 actually yields a price from South Africa of NZ\$945 per tonne. The average NZD/SAR exchange rate over this period from the OANDA currency conversion web site (www.oanda.com/converter/classic) is 4.95 which yields a price of NZ\$914 per tonne. Both of these alternative calculations give a lower price than that provided by Pacific Wire. Pacific Wire considers that this price difference could result in the substitution of up to _____ of Australian imports by those from South Africa. Based on imports from Australia for the year to June 2007, Pacific Wire said this could amount to _____ tonnes which would amount to only _____ percent of South African exports or less than _____ percent of its production. Pacific Wire has not provided any information on the difference in the shipping costs for exports from South Africa and Australia to New Zealand and the impact of this on landed prices in New Zealand.

55 Customs data for the year ended 30 June 2007 shows that imports from Australia of galvanised wire was _____ tonnes at an average NZ\$ VFD (equivalent to FOB) of \$_____. While the average FOB price differs from that provided by Pacific Wire it still is significantly higher than the average FOB price from South Africa. The tonnage figures in each set of data are similar. The Customs data for the year ended 30 June 2007 also shows that the cost of overseas freight for imports from Australia was \$___ per tonne. Galvanised wire has not been imported from South Africa since April 2004. Customs data shows that the cost of freight for imports of galvanised wire from South Africa over the year to April 2004 was \$___ per tonne. While the freight cost for imports from South Africa relates to 2003/04, the data indicates that the difference in freight costs is not close to removing the price advantage of the South African product at the FOB level when compared with that from Australia.

56 Pacific Wire said it considers it reasonable to conclude that export prices from South Africa to New Zealand in the absence of duties will be at a premium to the average export prices to other destinations. If a South African exporter could sell to New Zealand at an average premium of ___ percent over existing export sales, Pacific Wire said export product would be diverted to New Zealand and/or additional product would be produced for sale to New Zealand. Pacific Wire has calculated an estimated ex-wharf price in New Zealand based on the average FOB export price from South Africa to all destinations. A ___ percent premium has been added and adjustments made for costs between FOB and ex-wharf in New Zealand and has been converted to NZ\$ at the Customs exchange rate for September 2007.

57 The cost of overseas freight and insurance is based on the cost per tonne of shipping canned peaches from South Africa to New Zealand taken from the application made by Heinz-Watties earlier this year for a review of the anti-dumping duty on canned peaches from South Africa. Pacific Wire has noted that freight costs have increased significantly since early 2007 and have adjusted this cost by the movement in the Maritime Research General Freight Index (available at www.mol.co.jp/research-

[e/info/dry_bulk.pdf](#)) from the average of the index in the year ended March 2006 up to August 2007 to arrive at a cost of \$157 per tonne. As a check on the reasonableness of this figure the \$ [redacted] per tonne as calculated in paragraph 55 above was adjusted by the movement in the index from 1 January 2005 (the start date of the index) to October 2007. The cost calculated on this basis is \$ [redacted] per tonne, indicating that the cost used by Pacific Wire is not understated.

58 The cost of import duty has been based on the less developed country rate of 5 percent. Galvanised wire imports from South Africa are subject to import duty at the normal rate of 6.5 percent, but the difference in the cost is negligible (\$ [redacted] per tonne). Pacific Wire has also made an adjustment for the cost of local freight, port services and insurance on the basis of these costs in its application for the 2002 investigation. These costs have not been updated and it is unclear why local freight has been included when the price is being estimated at the ex-wharf level. The amount of these costs, however, is also negligible (\$ [redacted] in total) and updating them and removing local freight would be of no significance.

59 The ex-wharf price calculated on the basis outlined above is NZ\$ [redacted] per tonne.

60 Pacific Wire considers the relevant level of trade at which South African galvanised wire should be compared to its prices is the ex-wharf level, which was the level of trade used in the 2002 investigation and in the 2004 investigation into galvanised wire from China and Malaysia. Pacific Wire has compared the ex-wharf price estimated in the paragraph above with its average FIS (free into store) selling price for the year ended June 2007 of NZ\$ [redacted] per tonne to calculate potential price undercutting of \$ [redacted] per tonne which it has stated represents price undercutting of [redacted] percent (in fact it is [redacted] percent of Pacific Wire's average selling price). In the 2002 investigation the level of trade at which Pacific Wire's prices were compared with the prices of imported galvanised wire was ex-factory. The use of Pacific Wire's average FIS price in this application would therefore overstate the level of price undercutting if ex-factory was considered to again be the relevant level of trade but the difference would not be significant (in the 2002 investigation Pacific Wire's freight to customers was about [redacted] percent of the FIS price).

61 Pacific Wire considers that to try and maintain market share and volume, in the absence of duties, it would need to lower its prices in order to match the dumped South African price by the amount of the estimated price undercutting of \$ [redacted] per tonne. Pacific Wire said if it had to drop its prices by this amount it would not be in a position to recover any future cost increases. Because of forecast medium term increases in world steel prices, Pacific Wire said this would potentially be a very significant matter. Pacific Wire also noted that any loss of volume to dumped South African imports would amount to price suppression as its costs would increase as fewer tonnes were made. Pacific Wire has also stated that the 2002 investigation found price suppression and it is reasonable to conclude similar price suppression would recur if dumped imports re-entered the New Zealand market.

62 Pacific Wire has stated that reducing its prices by the amount of the potential price undercutting estimated in paragraph 60 above of \$ [redacted] per tonne would on the basis of sales volume for the year ended June 2007 ([redacted] tonnes) reduce its earnings by \$ [redacted]. Pacific Wire said it has the aim of maintaining market share but if the duties were removed there would be a loss of volume to dumped imports.

Competitive responses from Pacific Wire could be expected to limit this [redacted] referred to at paragraph 53 above. This would equate to a loss of [redacted] at the lower end which would reduce Pacific Wire's sales revenue by \$[redacted]. At the upper end Pacific Wire said that importers switching supply from Australia to South Africa on the basis outlined in paragraph 54 above (a loss of [redacted] tonnes) would reduce its sales revenue by \$[redacted].

63 Pacific Wire has said that the loss of revenue estimated in the paragraph above will flow directly through to a loss of profit of the same amount (from between \$[redacted] to \$[redacted]) because it will have [redacted] ability to reduce costs and it is likely that [redacted].

64 Pacific Wire has noted that the loss of volume, sales revenue, and profits estimated as above will also have significant adverse effects upon its return on investments, utilisation of production capacity, cash flow, inventories, employment and growth. Pacific Wire has not quantified the effects on these factors.

65 Pacific Wire has noted that the original investigation established a causal link between dumped imports and material injury to the New Zealand industry. Pacific Wire has also noted that its structure and commercial practice is substantially unchanged since 2002 and the principle importers and South African exporters remain active. Pacific Wire has stated that the causal link between dumped imports and injury will again be present should the duties be removed.

66 Pacific Wire has provided reasonable evidence of the likely import price into New Zealand of galvanised wire from South Africa in the absence of anti-dumping duties. Pacific Wire has also made reasonable assumptions about the flow-on effects of such price undercutting and provided estimates quantifying these flow-on effects on sales volume, sales revenue and profits. I consider this information constitutes positive evidence of a recurrence of material injury should anti-dumping duties be removed that is sufficient to justify the initiation of a review.

67 Any review will need to obtain more detailed historical and forecast financial data as a basis for determining whether the removal of the anti-dumping duties would be likely to lead to a recurrence of material injury and consider the consistency of the forecasts on the impact of the removal of the anti-dumping duties between different economic factors.

Conclusion

68 In order for a review to be initiated the Act requires only a request by an interested party that submits positive evidence justifying the need for a review. The Agreement requires that a duly substantiated request must be made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of the anti-dumping duties that the expiry would be likely to lead to a continuation or recurrence of dumping and injury.

69 I am satisfied that an application has been made by the domestic industry within a reasonable period prior to the expiry of the duties that contains positive evidence sufficient to justify the initiation of a review.

Recommendation

70 It is recommended, in accordance with section 14(8) of the Act and acting under delegated authority that you:

- (a) formally initiate a review of the imposition of anti-dumping duty on galvanised wire from South Africa; and
- (b) sign the attached notice of the initiation of the review for publication in the *Gazette*.

Robin Hill
Chief Advisor
Trade Rules & Remedies
Competition, Trade & Investment

Agreed/Not Agreed

Anne Corrigan
Manager
Trade Rules and Remedies Group