Ministry of Economic Development
Manatū Ōhanga

Non-Confidential
Final Report

Reassessment of Anti-Dumping Duty: Galvanised Wire from South Africa

Dumping and Countervailing Duties Act 1988

Ministry of Economic Development

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Trade Rules, Remedies and Tariffs Group
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Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
African Gabions	African Gabions (Pty) Ltd
Agreement (the)	WTO Agreement on Implementation of Article VI of the GATT 1994
Cape Gate	Cape Gate Export Division (Pty) Ltd
Consolidated	Consolidated Wire Industries (Pty) Ltd
Customs	New Zealand Customs Service
Finmesa	Finmesa Investment Corporation
FOB	Free on Board
GUR	Goods under review
Independent	Independent Galvanising (Pty) Ltd
INFOS	Information Network of Official Statistics
Minister (the)	Minister of Commerce
Ministry (the)	Ministry of Economic Development
MRGFI	Marine Research General Freight Index
NIFOB	Non-Injurious Free on Board
NIP	Non-Injurious Price
NV(VFDE)	Normal Value (Value For Duty Equivalent)
NZD	New Zealand Dollar
PPI	Producer Price Index
PW	Pacific Wire
VFD	Value for Duty
WTO	World Trade Organisation
ZAR	South African Rand

1. Executive Summary

Introduction

1. A review of the imposition of anti-dumping duties that currently apply to imports of galvanised wire from South Africa was completed by the Ministry of Economic Development (the Ministry) on 4 July 2008 (referred to in this report as the review). The review concluded that there is a likelihood of a recurrence of dumping causing material injury to the New Zealand industry if the current anti-dumping duties were removed.

2. This report considers the appropriate level of reassessed anti-dumping duties following the conclusion made in the review that there is a continued need for anti-dumping duties to remain in place.

3. The goods subject to the reassessment are described as:

> *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 4mm in diameter*.

Reassessment Process

4. On the same day that the review was completed, a reassessment of the rate and amount of anti-dumping duty was initiated. A section on proposed changes to the current anti-dumping duties was included in the Final Report of the review. Interested parties were given until 21 July 2008 to make submissions on the proposed changes. The only submission received was from Pacific Wire (PW), who is New Zealand's only domestic producer.

5. Due account has been given to PW's submission. The Ministry reconsidered its calculations on overseas freight and insurance costs from South Africa to New Zealand which resulted in an increase in the proposed *ad valorem* rate of anti-dumping duty. The Ministry considered this change was of a significant nature which required a Revised Interim Report to be released to interested parties on 4 August 2008 inviting submissions on the changes. Interested parties had until 8 August 2008 to make submissions, however, no submissions were received.

Conclusion

6. This report concludes that the current anti-dumping duties on imports of South African galvanised wire be reassessed to a single *ad valorem* rate of 33 percent.

2. Introduction

2.1 Background

7. On 21 December 2002, the Minister of Commerce (the Minister) imposed final anti-dumping duties on galvanised wire from South Africa imported into New Zealand, 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 Wire (PW).

8. On 18 December 2007, the Chief Executive of the Ministry (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 PW justifying the need for the review.

9. On 5 June 2008 an Interim Report was released to interested parties which concluded that the duties should remain in place to prevent a recurrence of dumping and injury to the New Zealand Industry. The review was completed on 4 July 2008 and was immediately followed by the initiation of a reassessment of the rate or amount of anti-dumping duties. As part of the Final Report for the review, an Interim Reassessment Report proposed a single *ad valorem* anti-dumping duty rate of 17 percent and invited interested parties to comment on the proposed rate. The only submission received was from PW.

10. Based on issues raised by PW, the Ministry reconsidered its approach to calculating the likely overseas freight and insurance costs on galvanised wire originating from South Africa if imports into New Zealand were to recommence. The change in approach resulted in the proposed *ad valorem* rate of duty increasing from 17 percent to 33 percent. Due to the extent of the increase in the proposed rate of duty from that which was proposed in the Interim Reassessment Report, the Ministry released a Revised Interim Report on 4 August 2008 inviting interested parties to make comments by 8 August 2008. The Ministry did not receive any submissions regarding the revised overseas freight and insurance costs.

11. The reassessment was conducted in accordance with the Act and having regard to the World Trade Organisation (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-dumping Agreement). Electronic links to copies of both the Act and the Agreement are annexed to this report.

2.2 Disclosure of Information

12. The Ministry makes available all non-confidential information to any interested party or any other member of the public through its public file system, in accordance with the requirements of section 10 of the Act and Article 6 of the Anti-Dumping Agreement.

13. The Ministry has, given the timing of this reassessment, continued the public file for the review to include all non-confidential information used in relation to the

current reassessment. This was communicated to all interested parties so that they could request information from the public file during the course of this reassessment.

14. The Ministry has not received any requests to sight or take copies of non-confidential documents held on the public file.

2.3 Interested Parties

New Zealand Industry

15. PW submitted the application for the review from which the Chief Executive initiated this reassessment of the anti-dumping duty rates. 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.

Importers and Exporters

Exporters

16. The following South African exporters and/or producers were involved in the dumping investigation that was concluded in 2002 (original investigation) and were considered interested parties in the review and the reassessment:

African Gabions (Pty) Ltd (African Gabions)
Cape Gate Export Dvn (Pty) Ltd (Cape Gate)
Consolidated Wire Industries (Pty) Ltd (Consolidated)
Independent Galvanising (Pty) Ltd (Independent).

17. Finmesa Investment Corporation was also identified as an exporter in the original investigation but it has since closed its business.

Importers

18. The following importers were involved in the original investigation and were considered interested parties in the review and the reassessment:

Anchor Wire Limited
Euro Corporation Limited
Hurricane Wire Products, a division of Steel and Tube New Zealand
Maccaferri NZ Limited
Paul Industries

Ullrich Machinery Corporation Limited

19. The Ministry also identified Kim Rapley Fencing Ltd (Kim Rapley) from the New Zealand Customs Service (Customs) data as a company that had imported galvanised wire from South Africa since the start of the original investigation. Kim Rapley was considered an interested party in the review and the reassessment.

Submissions of Interested Parties

New Zealand Industry

20. PW made a submission based on the Final Report for the review which included the Ministry's Interim Reassessment Report. Due account has been given to PW's submission, which has been discussed in this report under the relevant headings.

Other Parties

21. No other interested party in the review and reassessment provided a submission on the Interim and Revised Interim Reassessment Reports.

2.4 Imported Goods

22. The goods which are the subject of the anti-dumping duty originate in South Africa and are referred to as "galvanised wire", or "goods under review" (GUR), being:

> *Galvanised steel wire of high, medium and low tensile strength between 2mm and 4.5mm diameter but EXCLUDING the following:*
>
> *Galvanised steel the wire AS1472 exceeding 4mm in diameter.*

23. The GUR enter New Zealand under the following tariff items and statistical keys:

7217			Wire of iron or non-alloy steel
7217.20			- Plated or coated with Zinc:
7217.20.10			- - Containing by weight less than 0.6% carbon
			. . . Containing by weight less than 0.25 % carbon:
			. . . . Fencing Wire:
			. . . . . 1.6 mm or more, but less than 2.5 mm in diameter:
	05L	kg	. . . . . . Coils, not exceeding 50 kg
	07G	kg	. . . . . . Other
			. . . . . 2.5 mm or more, but less than 4 mm in diameter:
	08E	kg	. . . . . . Coils, not exceeding 50 kg

	09C	kg	. . . . Other
			. . . . . . 4 mm or more in diameter:
	11E	kg	. . . . Coils, not exceeding 50 kg
	13A	kg	. . . . Other
			. . . . . Other:
	15H	kg	. . . . . . 1.6 mm or more, but less than 2.5 mm in diameter
	16F	kg	. . . . . . 2.5 mm or more, but less than 3.55 mm in diameter
	17D	kg	. . . . . . 3.55 mm or more, but less than 4.5 mm in diameter
	18B	kg	. . . . . . 4.5 mm or more, but less than 5.5 mm in diameter
			. . . . Other:
			. . . . . Fencing Wire:
			. . . . . . 1.6 mm or more, but less than 2.5 mm in diameter:
	25E	kg	. . . . Coils, not exceeding 50 kg
	27A	kg	. . . . Other
			. . . . . . 2.5 mm or more, but less than 4 mm in diameter:
	28K	kg	. . . . Coils not exceeding 50 kg
	29H	kg	. . . . Other
			. . . . . . 4 mm or more in diameter:
	31K	kg	. . . . Coils, not exceeding 50 kg
	33F	kg	. . . . Other
	35B	kg	. . . . . . 1.6 mm or more, but less than 2.5 mm in diameter
	36L	kg	. . . . . . 2.5 mm or more, but less than 3.55 mm in diameter
	37J	kg	. . . . . . 3.55 mm or more, but less than 4.5 mm in diameter
	39E	kg	. . . . . . 4.5 mm or more in diameter
7217.20.90			- - Other
			. . . Fencing Wire:
			. . . . 1.6 mm or more, but less than 2.5 mm in diameter:
	05D	kg	. . . . . Coils, not exceeding 50 kg
	07L	kg	. . . . . Other

		. . . . 2.5 mm or more, but less than 4 mm in diameter
08J	kg	. . . . . Coils, not exceeding 50 kg
09G	kg	. . . . . Other
		. . . . 4 mm or more in diameter:
11J	kg	. . . . . Coils, not exceeding 50 kg
13E	kg	. . . . . Other
		. . . Other:
15A	kg	. . . . 1.6 mm or more, but less than 2.5 mm in diameter
16K	kg	. . . . 2.5 mm or more, but less than 3.55 mm in diameter
17H	kg	. . . . 3.55 mm or more, but less than 4.5 mm in diameter
18F	kg	. . . . 4.5 mm or more in diameter

24. Customs duty of 6.5 percent applied to imports of galvanised wire from South Africa up to 30 June 2008. On 1 July 2008 this rate went down to 5 percent on the Value for Duty (VFD).

3. Anti-Dumping Duties

3.1 Present Anti-Dumping Duties

25. Section 14 of the Act relates to the imposition of anti-dumping duties. The rates that currently apply have been in place since 31 October 2002. The subject goods were divided into three categories based on the diameter of the wire. The Ministry calculated Normal Value (Value for Duty Equivalents) (NV(VFDE)) amounts for all three exporters and compared them to the Non-Injurious Free on Board (NIFOB) amounts to identify if a lesser duty should apply. NV(VFDE) reference prices for all three categories were set for Independent and Consolidated because they were lower than the NIFOB amounts. NIFOB reference prices were established for all three categories for Cape Gate because they were lower than the NV(VFDE) amounts.

26. The residual rate that applies to all other suppliers is an *ad valorem* rate. This rate was calculated by taking the NIFOB amount and then subtracting the latest Free on Board (FOB) export price from South Africa. The difference was divided by the FOB export price to calculate a percentage which formed the *ad valorem* duty rate. This method in effect sets an *ad valorem* duty based on the "injury margin" rather than the dumping margin.

27. The original investigation concluded that Finmesa and African Gabions were not dumping and therefore both companies' exports to New Zealand were exempt from anti-dumping duties.

28. The current rates of duty set in the original investigation are as follows:

Table 3.1: Current Anti-Dumping Duties (per kg)

	Category 1	Category 2	Category 3
South African Exporters	Greater than or equal to 2.0mm but less than 2.5mm	Greater than or equal to 2.5mm but less than 4.0mm	Greater than or equal to 4.0mm but less than or equal to 4.5mm
Independent	ZAR[redacted]	ZAR[redacted]	ZAR[redacted]
Consolidated	ZAR[redacted]	ZAR[redacted]	ZAR[redacted]
Cape Gate	NZD[redacted]	NZD[redacted]	NZD[redacted]
Afican Gabions and Finmesa	No duty applies	No duty applies	No duty applies
Other suppliers	39%	31%	22%

3.2 Methods of Imposing Anti-Dumping Duties

29. 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".

30. There are numerous 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.

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

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

A Specific Duty Approach

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

33. 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.

34. 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.

35. 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,

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

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

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

Ad Valorem Rate Duty

36. An *ad valorem* duty is a duty based on the margin of dumping or the margin or injury and is expressed as a percentage of the VFD. An *ad valorem* duty is convenient to apply and is unlikely to be substantially affected by exchange rate movements. *Ad valorem* rates are often appropriate where there are a large range of goods 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 concerning the manipulation of the invoice value of the goods.

37. 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.

38. 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.

Reference Price Duty

39. 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 NV(VFDE) amount represents the un-dumped value of the goods at the South African FOB level. A NIFOB is the price at which the imports would not cause injury to the New Zealand industry, calculated at the FOB level. The Ministry prefers to set 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). For example, in the present case, the NV(VFDE) has been based on the normal value in South Africa, which is set in South African Rand (ZAR) while the NIFOB has been based on the New Zealand industry's NIP, which is in New Zealand dollars (NZD). A full discussion of both reference price methods is set out below.

40. 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.

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

Developing Country Considerations

42. For the purposes of dumping investigations and reviews and the imposition of anti-dumping duties, South Africa 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.

43. The World Trade Organisation (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 South African exporters.

44. The Ministry considers that its consideration of a lesser duty (as discussed below) fulfils its obligation under Article 15 of the Anti-Dumping Agreement to give special regard to constructive remedies.

3.3 Proposed Method of Anti-Dumping Duty

Exemption from Anti-Dumping Duties

45. The original investigation concluded that Finmesa and African Gabions were not dumping and therefore both companies' exports to New Zealand were exempt from anti-dumping duties. The Ministry concludes that there can not be a recurrence or a continuation of dumping by exporters who were found not to be dumping in the original investigation. Therefore, both companies 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. The Ministry does not hold any current information on which to establish a specific duty. Furthermore, because the cost of steel products can be subject to large fluctuations,

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[3] WT/DS141/R, Report of the Panel, para 6.229.

any specific duty rate could easily become outdated. The Ministry therefore considers that it is an inappropriate method to impose duties in this instance.

Reference Prices

47. 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. The following section discusses this approach to setting reference prices.

Non-Injurious Price (NIP)

48. 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 South African galvanised wire for five years and there have been no imports since 2004, therefore PW's present prices are unaffected by goods of South African origin. In the review, the Ministry concluded that the New Zealand industry's prices are suppressed but this is not due to the presence of dumped imports from South Africa and therefore most likely due to other causes.

49. PW provided its 2007 average selling prices net of [redacted] separated into the three categories of wire according to the diameters which were established in the original investigation for the purpose of setting anti-dumping duties. In addition, the Ministry has reduced these prices by NZD[redacted] kg (NZD[redacted] per tonne) for domestic freight based on the verified figures provided by PW. The prices are shown in the table below.

Table 3.2: 2007 NIPs (NZD/kg)

Category 1	[redacted]
Category 2	[redacted]
Category 3	[redacted]

Calculation of NIFOBs

50. The purpose of a NIFOB is to establish a price at the FOB level at which the imported product, when sold at the relevant level of trade in New Zealand, would not cause injury to the New Zealand industry.

51. 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. The calculation includes customs duty at 5 percent of the VFD, which has applied since 1 July 2008.

52. The calculation also includes overseas freight and insurance costs from South Africa to New Zealand. In its application for a review, PW estimated overseas freight and insurance costs for galvanised wire based on actual freight and insurance costs for canned peaches from South Africa because this information had been included in an application for a review into South African canned peaches which the Ministry had recently considered. These costs were obtained from Information Network of Official Statistics (INFOS) data for the period April 2006 to December 2006.

53. Based on the INFOS data, PW calculated a cost of freight and insurance per tonne of NZD0.12 per kg, which was then updated to 2007 by the increase in the Maritime Research General Freight Index[4] (MRGFI) of 28%. This resulted in a cost of overseas freight and insurance per kilogram of NZD0.16 (NZD157 per tonne).

54. In order to establish the reasonableness of this figure, the Ministry checked Customs data against the INFOS data, and noted that there were five importations of canned peaches of South African origin which the freight and insurance costs related to, two of which were exported from countries other than South Africa. Furthermore, these two particular importations were not insured, which is in contrast to normal importations from South Africa. Also, the Ministry was unable to source the exact indices of the MRGFI which had been applied by PW and therefore it could not verify that the calculations were correct.

55. At the time of releasing the Interim Reassessment Report, the Ministry considered the overseas freight and insurance costs verified in 2001 from one particular South African exporter to be the best available information regarding likely freight and insurance costs from South Africa to New Zealand. These costs were updated by the Ministry by the change in the South African Producer Price Index (PPI) from 2001 to 2007. The resulting freight and insurance cost of NZD[redacted] per kg was used by the Ministry in its calculation of the NIFOB amounts applying to all South African exporters.

PW's Submission on the Interim Reassessment Report

56. In its submission on the Interim Reassessment Report, PW submitted that the Ministry's use of freight costs from the original investigation updated by the South African PPI was unreasonable. PW restated its view that the 2007 freight and insurance costs for canned peaches from South Africa, updated by the MRGFI, would provide a better indication of likely freight and insurance costs for galvanised wire from South Africa.

57. However, PW stated that it had made an error when applying the MRGFI to estimate likely freight and insurance costs. PW had used the incorrect starting and finishing points of the MRGFI over which the percentage cost increase was calculated. The cost increase should have been 43.8%. PW's recalculated cost for

[4] http://www.mol.co.jp/research-e/info/dry_bulk.pdf

overseas freight and insurance was NZD0.18 per kilogram (NZD177 per tonne) which PW considered the Ministry should use in its NIFOB calculations.

Ministry's Response to PW's Submission

Imports of Canned Peaches from South Africa

58. The Ministry notes that if freight and insurance costs for canned peaches from South Africa were considered to be a reasonable indication of the same costs for galvanised wire, Customs data showing current freight and insurance costs for canned peaches would be more appropriate to use rather than updating the 2006 costs by the MRGFI.

59. To analyse whether there are significant differences in the cost per kg for freight and insurance for imports of canned peaches compared to imports of galvanised wire, the Ministry compared the two sets of freight and insurance costs for imports from South Africa to New Zealand for 1999, 2000 and 2001, as these years provided import data for both products. The Ministry established in this exercise that freight and insurance costs for galvanised wire were consistently lower on a per kg basis compared to the same costs for canned peaches. This suggested that if data for imports of canned peaches was to be used, an adjustment would be required.

60. The Ministry noted that for each of the three years under consideration, there were significantly higher volumes of galvanised wire imported than canned peaches. Furthermore, the volume of imported canned peaches decreased significantly over the three year period which the Ministry considers could influence the per unit cost of overseas freight and insurance.

61. The Ministry also considered the MFGFI in further detail. The Ministry is of the understanding that this index measures the changes in price of moving major raw materials by sea – dry bulk cargo – for example, scrap metal or iron ore. It therefore does not measure the changes in prices of container cargo where the goods are packaged and containerised for transportation by sea, as is the case with galvanised wire. The Ministry is also mindful that the cost of overseas freight for a 20ft container (a full container load) which can hold on average 24 tonnes of galvanised wire, may be different to the overseas freight cost for 24 tonnes of dry bulk cargo.

Other Products Imported from South Africa

62. The Ministry considered what other products imported from South Africa could provide a more suitable indication of current costs for freight and insurance for galvanised wire. The Ministry used the World Trade Atlas database[5] to search for imports from South Africa of similar products to galvanised wire. The Ministry identified brass bars and rods under tariff item 7407.21.01 statistical key 09D as a product which is imported in significantly larger quantities than canned peaches. The recent volume of imports for canned peaches and brass bars and rods is compared in the table below.

[5] www.gtis.com/english/GTIS_WTA.html

Table 3.3: Imports from South Africa (kgs)

	Brass Bars and Rods	Canned Peaches
2005	407,164	63,636
2006	768,496	78,254
2007	453,123	127,410

63. The figures show that the volume of imports of brass bars and rods is similar to PW's estimate of the likely import volume of galvanised wire from South Africa, if the duties were removed. When consideration is given to the amount of galvanised wire imported before duties were imposed in 2002 and the projected import volume if duties were to be removed, the volume of imported brass bars and rods should provide a better indication of freight and insurance costs than the smaller volume of imported canned peaches. Furthermore, the Ministry considers that with respect to the nature of the product, galvanised wire is more closely aligned to brass bars and rods than to canned peaches.

64. Customs data for year ended 30 June 2008 shows that [redacted] kgs of brass bars and rods were imported into New Zealand from South Africa. The average freight cost over this period was NZD[redacted] per kg. The Ministry has used this amount as the freight cost for galvanised wire in its calculation of the NIFOB. The Ministry notes that this is a similar figure to that provided in PW's submission.

65. The cost of insurance for brass bars and rods as a percentage of the FOB price over the same period was [redacted]%. This percentage is almost the same as the cost of insurance as a percentage of the FOB price for galvanised wire in 1999, 2000 and 2001. Therefore, the percentage cost of insurance for the brass bars and rods has been used by the Ministry in its calculation of the NIFOB.

66. The table below shows the revised NIFOB calculations using the overseas freight and insurance figures described above.

Table 3.4: 2008 NIFOBs (NZD/kg)

	Category 1	*Category 2*	*Category 3*
PW NIP	[redacted]	[redacted]	[redacted]
Less Costs after FOB to Ex-wharf			
Freight	[redacted]	[redacted]	[redacted]
Insurance	[redacted]	[redacted]	[redacted]

Customs Duty (5%)	[redacted]	[redacted]	[redacted]
Port Services Charges	[redacted]	[redacted]	[redacted]
NIFOB(NZD)	[redacted]	[redacted]	[redacted]

Calculation of NV(VFDE)s

67. NV(VFDE) amounts are calculated by adding to the South African normal value all costs incurred by the exporter up to the FOB level. The NV(VFDE) therefore represents an un-dumped price at the FOB level. As discussed in section 4.5 of the Final Report for the review, the Ministry was not able to calculate current normal values for each of the three categories of subject goods for each South African exporter because of the exporters' lack of cooperation in the review. Therefore, in order to establish updated NV(VFDE) amounts, the Ministry has updated the normal values and costs established in 2002 by the South African PPI. According to "*International Monetary Fund: International Financial Statistics*", the PPI is designed to monitor changes in prices of items at the first important commercial transaction. In principle, the PPI should include service industries, but in practice it is limited to the domestic agricultural and industrial sectors. Of particular note is that the industrial sector prices should be at the ex-factory level.

68. In 2002, the Ministry observed a large difference between the normal values of Independent and Consolidated. Updating each exporters normal value from 2002 by the PPI recognises the difference in the normal values of each company at that time which will be reflected in the updated NV(VFDE) amounts calculated for each exporter.

69. The tables below show the updated NV(VFDE) calculations for Consolidated, Independent and Cape Gate. The NV(VFDE) amounts are expressed in ZAR, but for the purpose of the "lesser duty" assessment, the amounts have been converted to NZD for comparison with the NIFOBs. Because the NIP information relates to PW's 2007 financial year, the Ministry has used the average exchange rate over the period 1 July 2006 to 30 June 2007 for the currency conversion, which was listed [redacted] 1 NZD:[redacted] ZAR.

Table 3.5: NV(VFDE) Independent

	Category 1	Category 2	Category 3
Normal Value	[redacted]	[redacted]	[redacted]
Plus Cost from ex-factory to FOB			
Inland Freight Cost	[redacted]	[redacted]	[redacted]
Wharfage	[redacted]	[redacted]	[redacted]

Merchant Haul Release	[redacted]	[redacted]	[redacted]
Certificate of Origin	[redacted]	[redacted]	[redacted]
Tel/Fax/Stamps	[redacted]	[redacted]	[redacted]
Document fee	[redacted]	[redacted]	[redacted]
Finance fee	[redacted]	[redacted]	[redacted]
Packaging	[redacted]	[redacted]	[redacted]
NV(VFDE) (ZAR)	[redacted]	[redacted]	[redacted]
NV(VFDE) (NZD)	1.14	0.96	0.97

Table 3.6: NV(VFDE) Consolidated

	Category 1	Category 2	Category 3
Normal Value	[redacted]	[redacted]	[redacted]
Plus Cost from ex-factory to FOB			
Inland Freight	[redacted]	[redacted]	[redacted]
Merchant Haul release	[redacted]	[redacted]	[redacted]
Wharfage	[redacted]	[redacted]	[redacted]
Document Charge	[redacted]	[redacted]	[redacted]
Packaging	[redacted]	[redacted]	[redacted]
NV (VFDE) (ZAR)	[redacted]	[redacted]	[redacted]
NV(VFDE) (NZD)	1.42	1.38	1.35

Table 3.7: NV(VFDE) Cape Gate

	Category 1	Category 2	Category 3
Normal Value	[redacted]	[redacted]	[redacted]
Plus Cost from ex-factory to FOB			

Inland Freight	[redacted]	[redacted]	[redacted]
Merchant Haul release	[redacted]	[redacted]	[redacted]
Wharfage	[redacted]	[redacted]	[redacted]
Document Charge	[redacted]	[redacted]	[redacted]
Packaging	[redacted]	[redacted]	[redacted]
NV (VFDE) (ZAR)	[redacted]	[redacted]	[redacted]
NV(VFDE) (NZD)	2.58	1.67	1.61

PW's Submission Concerning Normal Values

70. In its submission on the Ministry's Interim Reassessment Report, PW was concerned that the Ministry did not use all of the data and relevant information the Ministry possessed to calculate normal values in South Africa. As part of its Application for a Review, PW provided a price list from a company named MEPS. Once the review was initiated, the Ministry used this information to establish normal values. However, the Ministry was also able to obtain price lists from two independent South African companies (Vulcania and Stafix), which were used by the Ministry to check the reasonableness of the normal values submitted by PW. PW submitted however that these price lists should have been used in the calculation of normal value, rather than as a means of checking the reasonableness of the MEPS information.

71. In order to make a fair comparison between the export price and the normal value, the Ministry establishes both the normal value and export price on information that ideally relates to the same period of time, which is over the period of dumping. In the review, the period of dumping was 1 December 2006 to 30 November 2007 and the export statistics used to establish the likely export prices related to the period 1 July 2006 to 30 June 2007.

72. The MEPS price list was sighted by the Ministry on the company's website in November and December 2007. From January 2008 onwards, the prices relating to the MEPS galvanised wire products were removed and the company stated that prices were available on request. This was interpreted by the Ministry to mean that the prices that were previously listed had changed. The Ministry is satisfied that the prices sighted by the Ministry are within the period of dumping established for the review.

73. The price lists of Vulcania and Stafix were not sighted by the Ministry until 1 April 2008. Vulcania offered lightly galvanised wire, whereas Stafix offered both heavily and lightly galvanised wire. The Stafix price list stated that the prices were effective from March 2008 onwards, therefore they were clearly outside the period of dumping.

74. The Vulcania price list stated that prices were effective from July 2007, although a disclaimer stated that prices are subject to change at any time. The Vulcania website states that it manufactures a broad range of reinforcing products, but during the review the Ministry was unsure whether the lightly galvanised wire was produced by Vulcania. The Ministry also noted in the Interim Report and the Final Report for the review that there was limited information concerning the position of each company in the distribution chain which was another reason why the Ministry was reluctant to use this information. Furthermore, no submissions were received concerning this issue after the Ministry released its Interim Report for the review.

75. In view of the above, the Ministry still considers that the other South African price lists should only be used as a check on the reasonableness of the normal values provided by PW in its Application for a Review.

Comparison of NIFOB and NV(VFDE)

76. The following tables shows the levels of duty for exports from Independent, Consolidated and Cape Gate, calculated on the basis set out above if the Ministry was to determine that the re-assessed duty rates should be established on the basis of reference prices:

Comparison - Independent			
NZD/kg			
Diameter (mm)	NIFOB	NV(VFDE)	NIFOB or NV(VFDE)
>2.0<2.5	[redacted]	1.14	NIFOB
>2.5<4.0	[redacted]	0.96	NV(VFDE)
>4.0<=4.5	[redacted]	0.97	NV(VFDE)

Comparison - Consolidated			
NZD/kg			
Diameter (mm)	NIFOB	NV(VFDE)	NIFOB or NV(VFDE)
>2.0<2.5	[redacted]	1.42	NIFOB
>2.5<4.0	[redacted]	1.38	NIFOB
>4.0<=4.5	[redacted]	1.35	NIFOB

Comparison - Cape Gate			
NZD/kg			
Diameter (mm)	NIFOB	NV(VFDE)	NIFOB or NV(VFDE)
>2.0<2.5		2.58	NIFOB
>2.5<4.0		1.67	NIFOB
>4.0<=4.5		1.61	NIFOB

Effect of Exchange Rates on Anti-Dumping Duties

77. The Ministry considers that where an anti-dumping duty is imposed at a full margin of dumping, and is therefore based on the normal value (i.e. a NV(VFDE)), it is appropriate that the duty should be established in ZAR as that is the currency in which the normal value is set.

78. The Ministry recognises the problem of exchange rate movements concerning the lesser duty rule where reference prices have been established. In some instances exchange rate movements can result in NIFOB amounts that were identified as being the lesser duty, later becoming higher than the corresponding NV(VFDE) amount, which would be contrary to the requirement that anti-dumping duties do not exceed the margin of dumping.

79. If the reassessed anti-dumping duties are established using reference prices (as they are currently), the Ministry would propose an *alternative duty* rate be set at the NV(VFDE) amount. In other words, the NIFOB amounts (in NZD) identified as the lesser duty should be applied, except where the NV(VFDE) amount in NZ dollars (calculated at the exchange rate at the date of importation) is lower than the NIFOB. In this situation the NV(VFDE) rate should be applied instead of the NIFOB rate.

Ad Valorem Duty

80. An alternative method of setting anti-dumping duties is to apply an *ad valorem* duty to all South African exporters. An *ad valorem* duty can be set at the margin of dumping or at the margin of injury. In accordance with the lesser duty rule, the lower of the two margins will be used as the *ad valorem* duty rate.

81. In the original investigation, the Ministry imposed a residual rate by using an *ad valorem* duty rate. Cape Gate was identified as the exporter with the highest dumping margin percentages. The Ministry then calculated injury margin percentages for Cape Gate. The injury margin percentages were used as the *ad valorem* duty rate because they were lower than the dumping margin percentages.

82. Due to a lack of detailed South African export price and normal value information sourced in the review, the Ministry was able to calculate a dumping margin for the

subject goods as a whole only, rather than for each exporter and for each of the three categories of the GUR. Due to that limitation, an injury margin was also calculated for the GUR as a whole so that the lower of the two margins could be identified.

83. The dumping margin was calculated by using the normal value as outlined in section 4.5 of the Final Report for the review and then subtracting from this amount an ex-factory export price which was calculated based on the South African FOB value to all destinations. This dumping margin amount has then been divided by the South African FOB value to all export destinations to ensure that the dumping margin is expressed as a percentage of the same value as the injury margin for the purpose of conducting the lesser duty rule (see paragraph below).

84. In the present case, because anti-dumping duties are already in place, an injury margin has been measured by how much the prices of South African imports to New Zealand would likely undercut PW's prices if they were to be exported from South Africa at the current South Africa FOB value to all export destinations. The South African FOB value may not be an ideal price on which a comparison can be made with PW's prices as the range of diameters that make up this value are unknown. However, the value does relate to South African export sales of galvanised wire and it is the best available information regarding the likely export price of South African galvanised wire. To determine the extent to which these South African prices would likely undercut PW's prices, the Ministry has calculated a NIFOB amount based on PW's weighted average price of galvanised wire of 1.60mm to 5.00m diameters (the company's total range of like goods to the GUR. The calculation of the NIFOB includes a wider range of wire diameters than that of the GUR because in the original investigation it was concluded that this range of wire produced by PW were like goods to the GUR.

85. The injury margin has been calculated by subtracting from the NIFOB amount, the South African FOB price to all destinations, which is NZD[redacted] when converted to NZD. The Ministry used the average exchange rate for the year ended June 2007 of 1NZD:[redacted]ZAR, which was the period over which the NIPs were calculated. The difference between these two figures has been divided by the FOB price to calculate an injury margin percentage.

86. Table 8.7 shows the calculated dumping margin.

Table 3.8: Dumping Margin (ZAR)

Normal Value	5.96
Export Price	4.14
Dumping Margin	1.82
FOB Price	4.53
Dumping Margin (as % of FOB)	40%

87. The Ministry's injury margin calculation is shown in the table below.

Table 3.9: Injury Margin (NZD)

NIFOB	[redacted]
Less: FOB Price	[redacted]
Undercutting	[redacted]
Injury Margin (as % of FOB)	33%

88. As discussed from paragraph 56 of this report onwards, the Ministry has reconsidered its method of calculating overseas freight and insurance costs. This has resulted in the overall NIFOB amount, listed in the table above, increasing from NZD [redacted] to NZD [redacted]. As the injury margin is less than the dumping margin, in accordance with the lesser duty rule, the *ad valorem* duty rate should be set at the margin of injury. Therefore, the reassessed anti-dumping duty rate should be set at 33 percent of the VFD of the goods.

3.4 Proposed Anti-Dumping Duty

89. The Ministry proposes a single *ad valorem* anti-dumping duty rate on all three categories of galvanised wire falling within the description of the GUR which will apply to all exporters (excluding African Gabions and Finmesa) at the rate of 33 percent of the VFD of the goods.

90. The Ministry prefers to impose a single *ad valorem* rate rather than to update the reference prices established in the original investigation because of the following reasons:

- Due to the lack of information obtained during the review, the Ministry was unable to calculate accurate and up-to-date normal values specifically relating to each of the three exporters which were assigned NV(VFDE) amounts in the original investigation and for each of the three categories of galvanised wire established for the purpose of imposing duties. Because NV(VFDE)s are established from normal values, the Ministry was unable to establish reliable, updated NV(VFDE) amounts for each of the three exporters using their individual normal value information. The updated NV(VFDE) amounts that have been established for each exporter and category of galvanised wire (see tables 3.5 to 3.7 above) were based on the NV(VFDE) amounts that were calculated in the original investigation. The new amounts were simply updated from the original investigation by using the South African PPI from 2002 to present and the Ministry is concerned that these up-dated amounts may not accurately reflect the current South African normal values and export costs for galvanised wire.

- The Ministry is also aware of that the price of steel products and raw material used to manufacture steel products including galvanised wire has increased significantly over recent years and there is no indication that prices will stabilise in the foreseeable future. This, in itself, presents a problem in setting anti-dumping duties on the basis of reference prices because it is likely that such reference prices will quickly become outdated. As referred to in paragraph 41 above, one of main problems with reference prices is that the information they are based on represents a snapshot of prices and costs at a particular point in time and if these prices or costs change, the reference prices will become outdated and may no longer be accurate. Inaccurate reference prices are unlikely to perform the task intended of them, which is to prevent imports of the goods entering New Zealand at dumped prices.

- The single *ad valorem* duty of 33 percent has been calculated using recent South Africa export price and normal value information sourced during the review and relates to information collected over all categories of galvanised wire of the type under review (including both heavy and lightly galvanised wire). While this information was not available on a per category basis, the Ministry considers that a single *ad valorem* duty will be more convenient and administratively practical to apply than a number of reference prices relating to different exporters and categories of galvanised wire. Furthermore, it is unlikely to be substantially affected by increases in world steel prices or by exchange rate movements.

91. It is difficult to gauge the extent to which the proposed level of duty has changed when compared with the duty rates set in 2002 because those rates were mainly set through use of reference prices whereas the proposed duty rate is a single *ad valorem* percentage rate. The anti-dumping duty collected for imports after the original reference prices were set does show, however, that the amount of anti-dumping duty collected on those importations is very similar to the amount that would have been collected if the Ministry's proposed *ad valorem* rate of 33 percent had applied at that time. In addition, the proposed *ad valorem* rate of 33 percent is similar to the three residual *ad valorem* rates that were set in 2002 of 22, 31 and 39 percent (representing a simple average of 31 percent).

92. These two factors indicate that the new reassessed rate 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.

3.5 Date Duties Become Effective

93. Under section 17(c) of the Act reassessed anti-dumping duties can apply from either the day after the Minister determines new rates of anti-dumping duty or a specified day after the day the Minister determines new rates of anti-dumping duty. There is no basis in this case for the new rate to apply on a specified day other than the day after the date of the Minister's determination.

Refunds of Anti-Dumping Duty

94. Section 14(10) of the Act allows for refunds of anti-dumping duty, where the reassessed amount is lower than the measure that is currently in force, for the period

since the initiation of the preceding review. The review was initiated on 18 December 2007.

95. The proposed rate of anti-dumping duty differs from those established in the original investigation. The differences refer to a proposed single *ad valorem* rate of anti-dumping duty that would apply to all imports of South African galvanised wire over all categories rather than specific reference prices or a residual *ad valorem* rate based on the diameter of the galvanised wire and its named supplier. At the time of initiating the review in December 2007 there had been no imports of galvanised wire from South Africa since 2004 and it is unlikely there have been any imports since that time. However, if there have been imports since December 2007, it is possible that the duty payable under the proposed single *ad valorem* rate may be lower than the amount payable under the existing rates.

96. It is therefore recommended that (if the above rate of duty is determined) the Minister also direct Customs to, upon application by an importer, refund any anti-dumping duty paid in the period from 18 December 2007 to the date of her decision, if the anti-dumping duty paid was greater than the amount of the new anti-dumping duty.

3.6 Future Reassessments

97. Under section 14(6) of the Act, the Ministry may initiate a reassessment of any rate or amount of anti-dumping duty where a request for a reassessment is submitted by an interested party who submits evidence justifying the need for a reassessment.

98. Normally, the Ministry would not undertake a reassessment within six months of new duty rates being set, as prices can still be adjusting to the new rates of anti-dumping duties during this time. However, if an application for a review or reassessment was presented that illustrated a significant change in circumstances had occurred, the Ministry would consider this application within the six month timeframe. Sufficient evidence would be required that an importer's or exporter's behaviour in the market had changed such that it was likely to cause material injury to the New Zealand industry, for a reassessment to be initiated.

4. Recommendations

99. The Ministry concludes that the current rates of anti-dumping duty need to be reassessed.

100. It is recommended that the Minister:

a. Agrees to the reassessed rate of anti-dumping duty, in the form of a single *ad valorem* duty as proposed in this reassessment report.

b. Agree that the new rate of anti-dumping duty should apply from the day after you determine new rate, in accordance with section 17(c)(i) of the Act.

c. Approve the refund of any anti-dumping duty paid in excess of the reassessed rate of anti-dumping duty in the period from 18 December 2007 to the day after the new rate is determined.

d. Sign the attached *Gazette* notice publicly notifying the above decisions.

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Investigating Team
Trade Rules, Remedies and Tariffs Group
Ministry of Economic Development

Appendix 1

101. 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