

Ministry of **Economic
Development**



M a n a t ū Ō h a n g a

Non-Confidential Report

2006 Reassessment of Anti-Dumping Duties on Plasterboard from the Kingdom of Thailand

Dumping and Countervailing Duties Act 1988

Ministry of Economic Development

September 2006

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Abbreviations

The following abbreviations are used in this Report:

Act	Dumping and Countervailing Duties Act 1988 (and its subsequent amendments)
Agreement	World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
BML	Building Materials (NZ) Limited
BPB	BPB Thai Gypsum Products Plc.
Customs	New Zealand Customs Service
Elephant	Elephant Plasterboard New Zealand Limited
Minister	New Zealand Minister of Commerce
Ministry	Ministry of Economic Development
mm	Millimetres
NIFOB	Non-injurious free on board
NZD	New Zealand Dollars
NVE	Normal Value Equivalent
NV(VFD)E	Normal Value (Value for Duty) Equivalent
SCT	SCT Co., Ltd.
SGI	The Siam Gypsum Industry (Saraburi) Co., Ltd.
Thailand	The Kingdom of Thailand
THB	Thai Baht
Winstone	Winstone Wallboards Limited

1. Executive Summary

Introduction

1. A review of the anti-dumping duties that currently apply against imports of plasterboard from the Kingdom of Thailand (Thailand) was completed by the Ministry of Economic Development (Ministry) in March 2006 (referred to in this report as the *2005 Review*). The *2005 Review* concluded that there was a likelihood of recurrence of dumping causing material injury to the New Zealand industry if anti-dumping duties were removed.

2. This report considers the appropriate level of anti-dumping duties following the *2005 Review* conclusion that there is a continued need for anti-dumping duties to remain in place.

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

Standard plasterboard of a nominal thickness from, but not including, 6mm and up to, but not including, 12mm, of any width or length.

Reassessment Process

4. The reassessment was initiated at the time the *2005 Review* was completed in March 2006. A section on the proposed changes to anti-dumping duties was included in the final report for the *2005 Review*, which was released to interested parties on 10 April 2006. Interested parties were given until 1 May 2006 to make submissions upon the proposed changes to the anti-dumping duties.

5. The sole submission received was from the New Zealand manufacturer Winstone Wallboards Limited (Winstone).

6. The submission from Winstone broadly agreed with the proposed changes to anti-dumping duties. Winstone's comments have been incorporated into the analysis undertaken in this report.

Conclusions

7. This report concludes that anti-dumping duties on exports from the following exporters or manufacturers be reassessed to the following rates:

- BPB Thai Gypsum Plc to a specific duty of [REDACTED] Thai Baht (THB)
- The Siam Gypsum Industry (Sariburi) Co., Ltd and SCT Co. Ltd (SGI/SCT) exports to Elephant Plasterboard New Zealand Limited (Elephant) a zero percent ad valorem rate;
- SGI/SCT to importers other than Elephant normal value (value for duty) equivalent of THB [REDACTED].

2. Introduction

2.1 2005 Review

8. On 26 August 2005 the Chief Executive of the Ministry of Economic Development (Ministry) received an application from Winstone Wallboards Limited (Winstone) for a review of the anti-dumping duties that currently apply to imports of plasterboard from the Kingdom of Thailand (Thailand).

9. The anti-dumping duties that currently apply to standard plasterboard imports are the result of two separate cases. The first covers plasterboard from Thailand ranging from 8.75 millimetres (mm) to 10.25mm in thickness. This description results from a number of investigations conducted since 1989. The second is plasterboard from Thailand (Other Sizes) that expanded the range of thickness of plasterboard subject to anti-dumping duties to 6mm to 12mm (exclusive), which resulted in the imposition of anti-dumping duties on 27 September 2000. Both of these anti-dumping duties were reassessed together under a single description covering all of the goods and new rates were imposed on 4 December 2002. The anti-dumping duties currently in place would have expired on 27 September 2005 and 19 November 2005, unless a review had been initiated prior to then.

10. On 26 September 2005, the Chief Executive of the Ministry initiated a review of the anti-dumping duties currently in place against imports of plasterboard from Thailand (referred to as the *2005 Review*), being satisfied that positive evidence justifying the need for a review had been submitted within a reasonable period of time prior to the impending expiry of the anti-dumping duties.

11. The *2005 Review* amended the subject goods description to:

Standard plasterboard of a nominal thickness from, but not including, 6mm and up to, but not including, 12mm, of any width or length.

12. Unless otherwise stated any references to plasterboard, or standard plasterboard, throughout this report are references to plasterboard of the type described above.

13. The *2005 Review* determined that if the existing anti-dumping duties were removed there is likely to be a recurrence of dumping causing material injury. The review recommended that anti-dumping duties for all exporters should be reassessed to new levels.

14. This reassessment was initiated on 26 March 2006, when the *2005 Review* was completed. A section on the proposed changes to anti-dumping duties was included in the *2005 Review* final report, a full version of which was released to interested parties on 10 April 2006. Interested parties were given until 1 May 2006 to make submissions upon the proposed changes to the anti-dumping duties.

15. The sole submission received in relation to the reassessment was from the sole New Zealand manufacturer Winstone. No other interested parties made

submissions. Winstone's comments have been incorporated into the analysis in this report.

16. This reassessment was conducted in accordance with the Dumping and Countervailing Duties Act 1988 (Act) and having regard to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Agreement). Electronic links to copies of both the Act and the Agreement are annexed to this report.

2.2 Background

17. Anti-dumping duties relating to the importation of plasterboard from Thailand were first imposed in December 1989 and have since been the subject of thirteen separate anti-dumping investigative actions, including reviews and reassessments of the applicable anti-dumping duties.

18. The number of investigative actions taken in respect of plasterboard anti-dumping duties is relatively high. Investigations have canvassed the coverage of goods subject to the anti-dumping duties, the basis for collecting anti-dumping duties, changed import arrangements, and matters arising in the settlement of judicial review proceedings. Significant events in this history are summarised below.

19. The New Zealand Minister of Commerce (Minister) first imposed anti-dumping duties on plasterboard (9 or 9.5mm) from Thailand in December 1989 as a specific duty per square metre.

20. Following a reassessment, the mechanism for collecting the anti-dumping duty was changed to a non-injurious free on board (NIFOB) mechanism in April 1991. This form of duty resulted in anti-dumping duty being payable only when imports were priced below a certain level.

21. A review was undertaken in 1995 that concluded the dumped imports threatened "further material injury additional to that found in the original investigation". The anti-dumping duties were reassessed in February 1996 and the NIFOB was increased.

22. In March 1996 the anti-dumping duties were clarified to cover various lengths of 9 or 9.5mm plasterboard. In July 1996 the NIFOB was extended to apply to 10mm plasterboard and a reassessment took account of a reduction in the applicable tariff rate (as set out in the Working Tariff of New Zealand) and the NIFOB was increased.

23. A further reassessment in January 1997 took account of changes in the values of the elements of the NIFOB and it was increased again.

24. Winstone made an application for judicial review of the February 1996 review and reassessment processes in August 1997. This was settled out of court and was followed by another reassessment. The reassessment resulted in anti-dumping duties being imposed via a reference price mechanism, allowing the dumping margin (and corresponding duty payable) to be calculated for each shipment. Winstone challenged the reassessment conclusions based on the Ministry's interpretation of the Act. The Crown Law Office confirmed the Ministry's interpretation of the Act in an opinion dated December 1998.

25. In September 1999 the anti-dumping duties were reassessed. Dumping margins had increased significantly, but it was considered that the level of injury could only be reconsidered as part of a review. Accordingly, another review was initiated and completed in March 2000. The review concluded that the continued imposition of anti-dumping duties was necessary to prevent a recurrence of injury to the New Zealand industry and a reassessment was initiated in April 2000, following an application by Winstone regarding increased prices in Thailand.

26. The Ministry also initiated in 5 April 2000 an investigation into the alleged dumping of standard plasterboard outside the (then) current subject goods description and again in September 2000. The goods subject to anti-dumping duty were extended accordingly, upon the basis of a threat of material injury, to “standard plasterboard with dimensions of a nominal thickness from, but not including 6mm, and up to, but not including 12mm, of any width or length”.

27. The two differing anti-dumping duties were reassessed together and new rates were effective from 4 December 2002.

28. Winstone made a submission for a review of the anti-dumping duties, prior to their expiry, in August 2005 and the *2005 Review* was initiated in September 2005.

29. The *2005 Review* found that there was minimal dumping occurring and that there was no material injury being experienced by the New Zealand industry. However, the *2005 Review* concluded that if the anti-dumping duties were removed there would likely be a recurrence of dumping causing material injury and therefore the anti-dumping duties needed to remain in place.

30. In March 2006 following the completion of the *2005 Review*, the current reassessment was initiated to determine at what level anti-dumping duties should continue.

2.3 Disclosure of Information

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

32. The Ministry has, given the timing of this reassessment, continued the public file for the *2005 Review* to include all non-confidential information used in relation to the current reassessment. This was communicated to all interested parties and several have continued to request information from the public file during the course of this reassessment.

2.4 Interested Parties

33. The interested parties involved in the reassessment are listed below.

New Zealand Industry

34. The application for the *2005 Review* was submitted by Winstone, which is a wholly owned subsidiary of Fletcher Building Limited. Throughout the history of the

anti-dumping duties on plasterboard from Thailand, Winstone has been the sole manufacturer of plasterboard in New Zealand.

35. Winstone made a submission on the proposed changes to the current rate of anti-dumping duties.

Manufacturers and Exporters

36. Two Thai companies were identified as being manufacturers of the subject goods exported to New Zealand. Those companies are detailed below.

SGI/SCT

37. The Siam Gypsum Industry (Saraburi) Co., Ltd. (SGI) is part of the Siam Cement Public Co. Ltd group of companies, and manufactures plasterboard for both the Thai domestic market and for export under the “Elephant” brand. SGI is now 71 percent owned by Lafarge Boral Gypsum Asia. It has headquarters in Bangkok and supplies exports to New Zealand from its production facilities in Saraburi. SGI also has two other manufacturing facilities in operation. SGI exports to New Zealand via its related company, SCT Co., Ltd. (SCT).

38. SCT is the export arm of the Siam Cement group of companies and handles the group’s international trading and marketing for a wide range of products, including plasterboard. SCT does not conduct any sales in the Thai domestic market.

39. SGI and SCT provided some information and co-operated in relation to the *2005 Review*. For the remainder of this report, where relevant, both companies are, at their request, referred to as SGI/SCT.

40. SGI/SCT did not make any submissions in respect of this reassessment.

BPB

41. BPB Thai Gypsum Plc (BPB) manufactures for the Thai domestic market and exports plasterboard to a number of countries. BPB has been part of the BPB global group since December 1999. Its headquarters are in Bangkok and it has production facilities elsewhere in Thailand. BPB plasterboard is marketed under the “BPB” brand. BPB exports directly to New Zealand.

42. BPB provided very limited information during the *2005 Review* and did not make any submissions in respect of this reassessment.

Other

43. The *2005 Review* found a single shipment from a third exporter, [REDACTED]. The exporter was not contacted during the *2005 Review*. Exports by this company are discussed further at paragraph 45.

Importers

44. Since the initial imposition of anti-dumping duties in 1989 to the present, there have primarily been two or three individuals that have owned and operated various legal entities involved in the importation of plasterboard from Thailand and its consequent sale in the New Zealand market. Currently there are two companies importing plasterboard on an ongoing basis from Thailand, one from each Thai manufacturer.

45. A third importer, [REDACTED], was also identified during the *2005 Review*. The importer made one importation of [REDACTED] square metres during the review period, which accounted for only slightly above 0 percent of the total imports from Thailand. Due to the size of the importation, this company was not included in the *2005 Review* and is not specially addressed in the current reassessment.

Elephant

46. The first importer is Elephant Plasterboard New Zealand Limited (Elephant). This company continues the business previously conducted by Sigma Agencies Limited and Rikki Merchants Limited. Elephant purchases plasterboard from SGI/SCT.

47. The business structure of the entities that preceded Elephant have been the subject of much debate in previous reviews and reassessments. The business structure of Elephant was not an issue of any significance in the *2005 Review*.

48. Elephant is the sole New Zealand distributor of SGI/SCT manufactured plasterboard. Elephant currently sells plasterboard to distributors and to end-users and ([REDACTED]) attempts to process all its sales through distributors, including delivered to site sales.

49. During the *2005 Review* Elephant purchased directly from, and was invoiced directly by, SGI/SCT in [REDACTED].

50. Some information and co-operation was provided by Elephant in respect of the *2005 Review*. Elephant has not made any submissions in respect of this reassessment.

BML

51. The second company importing plasterboard from Thailand is Building Materials (NZ) Limited (BML). BML involves the continuation of business previously conducted as CTS Quality Building Products Limited. BML imports plasterboard from BPB.

52. BML stated that it is BPB's distributor in New Zealand and sells plasterboard ex-wharf to stockists, ex-store to distributors and thirdly in house lots (processed through its stockist) that are delivered directly to site.

53. BML provided limited information to the *2005 Review* and has not made any submissions to the reassessment.

2.5 Imported Goods

54. The goods covered by this reassessment are described in paragraph 11. The New Zealand Customs Service (Customs) has advised that plasterboard imported from Thailand enters New Zealand under tariff item and statistical key 6809.11.00.10D, as shown below.

68.09 Articles of plaster or of compositions based on plaster:
 - boards, sheets, panels, tiles and similar articles, not ornamented:
68.09.11.00 10d - - faced or reinforced with paper or paperboard only

55. The subject goods fall under the same tariff item as all other standard and performance plasterboards imported into New Zealand. Imported plasterboard from Thailand is eligible to enter New Zealand at the preferential 'less developed countries' tariff rate of 5 percent (the Normal tariff rate for imports from non-preferential sources is 6.5 percent).

56. Under the New Zealand Thailand Closer Economic Partnership Agreement the 5 percent preferential rate will remain in place at that level until 1 January 2010, when it will reduce to zero.

57. The plasterboard exported from Thailand is sent directly to New Zealand and does not pass through any third countries.

58. Full consideration of whether the goods produced by Winstone are like goods, as determined by the Act, to those subject to the anti-dumping duties was addressed in the *2005 Review*. The Ministry has not re-considered the matter in the current reassessment.

3. Reassessment

59. Sub-section 14(6) of the Act provides for anti-dumping duty rates or amounts to be reassessed following the completion of a review.

60. The *2005 Review* involved re-calculating normal values, export prices and the corresponding dumping margins. This resulted in amounts that were different from those upon which the current anti-dumping duties were calculated. Therefore, given the scheme and purpose of the Act and the Agreement, namely that anti-dumping duties should not exceed the established dumping margins, the level of the current anti-dumping duties need to be assessed. This reassessment addresses whether it is appropriate for anti-dumping duties to remain at their current level, or if the rates should change. Accordingly, the Ministry initiated this reassessment upon the completion of the *2005 Review*.

61. The full non-confidential version of the *2005 Review* final report was released to interested parties on 10 April 2006, which contained the proposed changes to the anti-dumping duties. Interested parties were given until 1 May 2006 to make submissions upon the proposed changes to anti-dumping duties. The report indicated that, at that stage, it was proposed that a final reassessment report would be completed as soon as practicable after submissions closed. However, the report also noted that the process was dependent upon the nature of the submissions received and that it may be necessary to lengthen the reassessment process in order to include new information in the Ministry's analysis. In particular, if submissions resulted in significant changes to the proposals, the Ministry would consider issuing another report to allow parties to defend their interests before final recommendations were placed before the Minister. The Ministry considered that an additional report was not required.

62. Winstone was the only party to make a submission.

Winstone's Submission

63. Winstone originally submitted that it felt the "short-cut" reassessment process "effectively precludes" any opportunity to update information used to determine normal values in the *2005 Review* and also allow for the impact of exchange rates movements. Winstone stated the proposed "ad valorem and specific methods of duty proposed are not able to deal with such movements" and alleged that these movements were "increasing the level of dumping and injury". Winstone then stated "[d]espite this, Winstone does not object to the speedy reassessment or the methods of duty proposed in this instance provided that if such movements continue or circumstances otherwise change, the Ministry will again reassess the level and method of duty in a similar speedy manner."

64. Following receipt of Winstone's submission and the Ministry's earlier indications that the reassessment process may need to be lengthened dependent upon the nature of the submissions received, the Ministry sought confirmation from Winstone about its view on the process undertaken. Winstone confirmed to the Ministry that it was happy with the process undertaken by the Ministry and that it did not believe it had been adversely affected.

65. Winstone also stated that its submission related only to the proposed changes to the anti-dumping duties and that it did not deal with any conclusions reached in the *2005 Review*. Winstone further stated that it “does not accept some of the Ministry’s conclusions [in the *2005 Review*] and reserves its position.” Winstone stated in particular that “the Ministry’s conclusions on the level of trade need not be addressed as they do not affect the remedies proposed” but “should the proposed level and method of duties prove ineffective” the “...level of trade may need to be addressed in a subsequent reassessment.”

66. The Ministry notes, as it did at paragraph 281 of the *2005 Review* final report, that while all interested parties were aware that a reassessment was to follow the review, submissions were sought only on matters that the Ministry can consider in a reassessment. That is, what the correct level of duty is to remove the likelihood of recurrence of material injury caused by dumping. The question of the correct level at which to compare prices, is essential in assessing any current material injury or the likelihood of the recurrence of any such material injury and therefore is properly a matter for a review, rather than a reassessment. There are no further opportunities to comment on the conclusions of the *2005 Review* at this stage other than the opportunity for judicial review. Future review processes will again assess the conditions in the market at the time and determine whether the conclusions reached in the *2005 Review* still hold.

67. Furthermore, the position that an interested party adopts in one investigative action does not lock it to that position in all future investigative actions involving the goods in question. While the Ministry considers previous arguments when conducting a review, reassessment, or even a new investigation from a different country, each case is assessed upon the facts available and circumstances as they exist at the time and parties are given an opportunity to comment.

68. Consequently, unless substantial new evidence was presented in a reassessment that was not available during a review, or circumstances had changed significantly, the issue of the correct level of trade at which to make price comparisons, for the purpose of assessing price undercutting, is not a matter for consideration in a reassessment. This includes when considering whether a lesser duty should apply.

69. It is usual and appropriate for a reassessment following the conclusion of a review to use the information from the immediately preceding review. A review gathers data on normal values, export prices, pricing and market behaviour in the New Zealand market amongst other factors. This is exactly the type of information that is required to undertake a reassessment and would be sought in a stand alone reassessment process.

70. Other than following a review, for a reassessment to be initiated, information needs be provided to illustrate that the current anti-dumping duty is not effective. An application for a reassessment may be made by any interested party with supporting information stating that due to market changes the anti-dumping duty is ineffective or too low, or alternatively that that anti-dumping duty is too high. Regardless of the reason for an application for a reassessment, the Ministry always endeavours to complete any reassessment as expeditiously as possible. However, this must be

balanced against the need to provide all interested parties with the opportunity to defend their interests.

71. By using the data from the *2005 Review* the Ministry lessens the requirement for all interested parties to submit further information to the reassessment process. In addition it allows for the anti-dumping duties to be adjusted to the appropriate level as quickly as possible.

72. Winstone's comments in relation to the proposed form and level of anti-dumping duties for each Thai exporter are discussed in the relevant parts of section 4 of this report.

Other Interested Parties

73. Neither of the Thai manufacturers involved made submissions on the proposed changes to anti-dumping duties.

74. The importers, Elephant and BML, also declined the opportunity to make submissions.

75. Due to the effect that the proposed changes in anti-dumping duties would have upon these parties the Ministry provided them with further opportunity to comment. The Thai manufacturers, BPB and SGI/SCT, both commented that they had already made their views known in submissions made during the *2005 Review*.

76. Both BML and BPB requested that they receive the proposed level of the anti-dumping duty applying to BPB's exports. The Ministry explained as it had previously that it was unable to release the proposed anti-dumping duty to BPB as it was based on information confidential to SGI/SCT.

4. Anti-dumping Duties

77. Section 14 of the Act relates to the imposition of anti-dumping duties. The rates of anti-dumping duty that currently apply to imports of plasterboard from Thailand appear in Table 4.1. The current anti-dumping duties are imposed via NIFOB and normal value equivalent (NVE) mechanisms.

Table 4.1: Current Anti-Dumping Duties

Exporter	Importer	Duty (per square metre)
SCT	Elephant	the lessor of -NIFOB NZD [REDACTED]; and -NVE THB [REDACTED]
	Other Importers	NVE THB [REDACTED]
BPB	All	NVE THB [REDACTED]
Other Exporters	All	NVE THB [REDACTED]

4.1 Method of Imposing Duty

78. Anti-dumping duties can be applied in a number of ways. They can be imposed as a rate or amount, including any rate or amount established by a formula. The basic approaches are:

- an ad valorem rate;
- a specific amount per unit of product; and
- a reference price mechanism.

79. The sole objective of an anti-dumping duty is to remove the injurious impact of dumping. Anti-dumping duties are not designed to punish exporters or importers, or to provide protection to an industry beyond the impact of the dumping. In deciding on the form of duty, considerations relating to: ability to ensure the dumping margin is not exceeded; ease of administration; fairness between parties; ease and likelihood of circumvention; and predictability all need to be taken into account.

80. Sub-section 14(4) of the Act stipulates that any anti-dumping duty imposed cannot exceed the dumping margin for those goods. The Solicitor-General has previously advised that the references to "export price" and "normal value" in this sub-section are to be read as references to the export prices and normal values established during an investigative process or to the values at the time the goods subject to the duty are imported.¹ Given this, the Ministry's approach is, when possible, to adopt a form of duty that minimizes the possibility of exceeding the

¹ Plasterboard from Thailand, Reassessment, September 1999.

dumping margin for shipments subsequent to the imposition of the duty when export prices and normal values may not be fixed.

81. Anti-dumping duties against plasterboard from Thailand have taken various forms since they were first imposed in 1989. In this case, more so than other anti-dumping investigations, the type or form of duty that is imposed has previously been the subject of great debate. The form of duty can be crucial to ensuring that the anti-dumping duty achieves its objective. The main three separate types of duty and whether they are appropriate in the present case are discussed below.

Ad Valorem Duty

82. An ad valorem duty is a duty based on the dumping margin, expressed as a percentage of the export price, which is equivalent to the value for duty amount. An ad valorem rate gives an indication of the anti-dumping duty with absolute certainty, but does not target the dumping as accurately as other forms of duty.

83. An ad valorem duty is simple to apply and is not substantially affected by exchange rate movements. Because an ad valorem duty is imposed as a percentage of the export price, a particularly low export price (and therefore a potentially more dumped and injurious price) will result in a lower amount of duty, which may not be sufficient to remedy the injury caused by the dumping. Conversely, a particularly high export price (and therefore likely to be less injurious), will attract a higher amount of anti-dumping duty, which may be higher than is necessary to remove the injury caused by the dumping.

84. An ad valorem duty is also less appropriate where the transaction-to-transaction comparison results in a wide range of dumping margins, indicating that the prices, or exchange rates, are not stable. In addition, collusion between exporters and importers can lead to the manipulation of the invoice value to understate the value of the goods concerned and therefore lower the liability for anti-dumping duty.

85. Ad valorem rates are often appropriate where there is a large range of goods or where new models are frequently introduced. Ad valorem anti-dumping duties can also be used where there is found to be dumping causing or threatening to cause material injury to a domestic industry, but circumstances exist to indicate that a duty should not be collected at the present time. In these circumstances an ad valorem duty at zero percent is imposed. This allows the Ministry to reassess or review the anti-dumping duty as part of a review or reassessment of the goods from that source as a whole. For example, if prices are dumped but the goods are considered to be entering New Zealand at a price above the industry's non-injurious price, a zero duty may be imposed. However, if no duty was imposed, then any changes in price, or any other market situation, that would normally result in a reassessment or review would require a new dumping investigation to be undertaken. Other methods of imposing a duty are also capable of achieving a similar outcome but ad valorem rates are most effective in the circumstances where an anti-dumping duty should not be collected for the time being, but where a change in circumstances may occur in the future that would result in the need for a reassessment or a review.

Specific Duty

86. A specific duty is a set amount per unit based on the monetary value of the dumping margin.

87. A specific duty has the advantages of being convenient to apply and impossible to evade by incorrectly stating the value for duty and clearly indicates the amount of duty payable.

88. Specific duties have the advantage of ensuring that anti-dumping duty is collected. This form of duty is often appropriate in cases where bundled pricing, off invoice rebates or other non-price considerations (being outside the net invoice price of the subject goods) are occurring to ensure that the anti-dumping duty remedies the injury caused by the dumped imports.

89. Difficulties can arise with specific duties when there is a wide range of goods involved, where exchange rates fluctuate to the extent that the dumping margin will be exceeded without constant reassessments of the duty, or where the exporter otherwise changes prices so that the duty is either greater than the dumping margin, or less than the dumping margin previously established. A specific duty can only really operate effectively when prices and exchange rates are stable and where the transaction-to-transaction comparison does not result in a wide range of dumping margins.

90. An alternative approach to deal with exchange rate fluctuations is to express a specific duty as the difference between the normal value and the export price, expressed in the currency of the country of origin of the goods and to convert this amount into New Zealand Dollars (NZD) at the date of sale or importation for each transaction. However, this approach does not deal with the problem of changes in base export prices or movements in normal values.

Reference Price Duty

91. Using a reference price approach, the anti-dumping duty payable is the difference between the price in any given transaction and a set reference price. The reference price is normally based on the prices in the country of origin, the normal values, via a normal value (value for duty) equivalent amount (NV(VFD)E). Alternatively, a reference price can be based on the non-injurious price, which is a dumped price but at which imports cannot cause injury to the New Zealand industry. A reference price mechanism represents the un-dumped, or non-injurious, price of the imports at the relevant level, usually either free on board or cost insurance and freight.

92. A reference price clearly signals the un-dumped or non-injurious price. In addition, a reference price mechanism ensures that anti-dumping duty is only collected when the goods are imported below the non-injurious or un-dumped price. Reference prices always collect anti-dumping duty only to the extent necessary to remove injurious dumping and are able to adjust with movements in both prices and exchange rates if they are expressed in the same currency as the normal values.

93. However, it has been argued that reference prices are more easily evaded than the other forms of anti-dumping duty, by exporters simply overstating the value of the goods imported. The problem of evasion or circumvention of a reference price anti-dumping duty can be limited by carefully describing the like goods and the reference price mechanism.

94. Reference prices also can be ineffective when goods are invoiced at, or above, the set reference price, but some form of non-price consideration is also occurring. In these circumstances the reference price is almost enabling the dumping to cause injury and a reference price mechanism is not an effective form of duty to employ.

Conclusion

95. The Ministry prefers to impose anti-dumping duties through the use of reference prices, when appropriate, primarily because it is the least likely of all the forms of duty to exceed the dumping margin. However, in the present case circumstances exist that indicate reference prices are not the most appropriate form of duty for either exporter.

Exports by BPB

96. The Ministry considers that the export prices to BML from BPB do not reflect the general pricing structures in the global plasterboard trade.

97. The general view in world markets is that standard plasterboard is treated as a generic product being used for general purposes and as a consequence occupies the volume part of the market. In contrast the specialist performance boards occupy market niches and are used for specific purposes. Prices of standard plasterboard, therefore, reflect the commodity nature of the product and are generally lower than the specialist performance boards. This is reflected via a price premium for the performance boards. All parties to the *2005 Review* indicated that performance boards achieve higher prices (and are sold in lower volumes) than standard plasterboard.

98. The one exception to this general rule presented during the *2005 Review* was the pricing of BPB's exports of performance boards to BML, at a price [REDACTED] lower than the prices of its exports of standard plasterboard to BML. The Ministry considers that this difference constitutes a non-price consideration.

99. The level of the performance board export prices from BPB to BML indicates that, in the absence of anti-dumping duties, the export price of standard plasterboard to BML would drop [REDACTED] (and the prices of performance plasterboard would follow the market norm).

100. Therefore the Ministry recommends that a specific duty be imposed against exports from BPB to BML to ensure that the remedy is effective and bundled pricing does not enable circumvention of a reference price anti-dumping duty.

101. BPB has stated that BML is its sole distributor in New Zealand. However, export arrangements may change and anti-dumping duties need to be set for exports to importers other than BML. So, to guard against further circumvention, the Ministry

proposes that the rate and method for exports to other importers be identical to that established for exports to BML.

102. BPB and BML did not make any submissions on the proposed form of anti-dumping duty, despite a further invitation to do so after the closing date for submissions.

Exports by SGI/SCT

103. For exports by SGI/SCT to Elephant it is proposed that the duty be set using the ad valorem method as this method, more easily than others, accommodates a zero rate of duty (the reasons for this are discussed from paragraph 120).

104. SGI/SCT has stated that Elephant is its sole distributor in New Zealand. However, export arrangements may change and anti-dumping duties need to be set for exports to importers other than Elephant.

105. In the case of exports by SGI/SCT, there is no evidence of bundled pricing, off invoice rebates or any other non-price considerations. Due to the advantages of using reference prices outlined above, that the Ministry normally uses this type of duty and in the absence of any reasons that would dictate the use of an alternate duty mechanism; it is proposed that exports by SGI/SCT to importers other than Elephant, be imposed via a reference price mechanism.

4.2 Anti-Dumping Duty Levels

106. Consideration of the appropriate type and level of duty in a reassessment following a review carries with it differing issues from the consideration of anti-dumping duties in a new investigation. Of particular relevance is the fact that the *2005 Review* found that Winstone was not being materially injured by dumped imports from Thailand, indicating that the anti-dumping duties currently in place have been effective in preventing material injury to date.

107. This means that consideration must be given to the prices at which the plasterboard would be imported in the absence of anti-dumping duties, as the *2005 Review* determined that dumping causing material injury was likely to recur if anti-dumping duties were removed.

Lesser Duty Rates

108. Anti-dumping duties can not be applied at a level higher than the dumping margin. In addition sub-section 14(5) of the Act requires that the Minister has regard to the desirability of a lesser duty, that is, a duty which is less than the dumping margin but is sufficient to remove the material injury incurred by the New Zealand industry. This echoes the content of Paragraph 1 of Article 9 of the Agreement.

109. Usually the Ministry calculates a lesser duty by establishing a non-injurious price, at which the importer could sell goods that may be dumped, but would not cause any injury to the domestic industry. This amount is then worked back to create a NIFOB anti-dumping duty rate. To calculate an anti-dumping duty at less than the full dumping margin requires importers to provide information on their cost

build up for the imported goods in order for the Ministry to be able to make any comparisons between importer's net selling prices and Winstone's net selling prices.

110. Neither of the importers provided any information on their average ex-store selling prices, or indeed any of the cost build-up for any sales in the *2005 Review*. This does not prevent the Ministry from making recommendations to the Minister on the methods and amounts that the reassessed anti-dumping duties should take, but it does affect the ability to propose lesser duty amounts.

111. The Ministry has considered whether there is any other method that could be used to calculate a lesser duty in the absence of information from the importers on their net selling prices. No submissions were made by interested parties on alternate approaches and the Ministry is satisfied that it is unable to calculate a lesser duty.

Developing Country Considerations

112. Article 15 of the Agreement also requires that special regard must be given by developed countries when imposing duties against goods from a developing country. Thailand is considered a developing country. The Agreement requires that constructive remedies should be considered before applying any anti-dumping duties where the duties would affect the essential interests of the developing country.

113. The Ministry considers that the constructive remedies referred to in Article 15 of the Agreement are price undertakings and a lesser duty, which are both referred to in the Agreement.

114. Price undertakings offered in relation to an initial investigation are covered in section 15 of the Act and do not explicitly extend to reassessments. In addition, no offers of price undertakings were received from either of the Thai exporters.

115. Anti-dumping duties on certain plasterboard from Thailand have been in place for over seventeen years. Over this time the volume of imports has increased substantially. This indicates that the existence of the anti-dumping duties has not prevented the volume of trade from Thailand increasing.

116. The Ministry considers that, given the above, its consideration of a lesser duty (as discussed from paragraph 108) fulfils its obligation under Article 15 of the Agreement to give special regard to constructive remedies.

Basis for Anti-Dumping Duties

117. The proposed anti-dumping duties are based on the information gathered during the *2005 Review*. No submissions were made in relation to the information used to determine the level of anti-dumping duties.

118. Sub-paragraph 4.1 of Article 2 of the Agreement states that when currency conversions are necessary in assessing dumping they should be made using a forward rate if one applies to the sale. Alternatively in the absence of an applicable forward rate that it should be converted as at the date of sale.

119. [REDACTED] were [REDACTED] in NZD and transactions on the Thai domestic market were in Thai baht (THB). Any currency conversions have been converted at a specified forward rate, if available to the Ministry, or alternatively converted at the date of sale using the inter-bank spot rate as displayed on www.oanda.com/converter/classic.

SCT/Siam Gypsum

120. Exports from SGI/SCT to Elephant are currently subject to the lower of NIFOB NZD [REDACTED] per square metre, or NVE of THB [REDACTED]. Exports from SGI/SCT to all other exporters are subject to the same rate.

121. The *2005 Review* concluded that anti-dumping duties should not be revoked in respect of exports by SGI/SCT to importers other than Elephant; and that anti-dumping duties on standard plasterboard from Thailand, in respect of exports by SGI/SCT to Elephant, should be reassessed to zero. This constitutes a rate less than the dumping margin.

122. SGI/SCT did not make any submissions on the proposed changes to the anti-dumping duties applying to its exports.

Exports to Elephant

123. The Ministry proposes that exports by SGI/SCT to Elephant be subject to anti-dumping duty at 0 percent ad valorem based on the value for duty amount.

124. Winstone stated that it "...does not object to the ad valorem duty of zero percent to be applied to Elephant given the Ministry's understanding of the pricing and behaviour of Elephant in the market. However, Winstone considers that if Elephant's behaviour changes and there is a recurrence of material injury caused by dumping- for example [Elephant] start[s] importing dumped product in order to reduce price in New Zealand and significantly increase market share, then the zero percent ad valorem duty will not be effective in preventing injury to the New Zealand industry." Winstone went on to state that if the situation described in its example occurred that "the Ministry should not only reassess the level of duty but also the appropriateness of the ad valorem method of duty and revert if necessary to a reference price mechanism or other more appropriate method of duty."

125. The form and level of anti-dumping duties is designed to ensure that the anti-dumping duties are effective. If an application was made by any interested party for a reassessment of duties it would require evidence that the anti-dumping duties operating at the time were not effective. Resultantly, the Ministry could consider both the level and form of the anti-dumping duty currently in place in a reassessment.

126. Winstone also stated that if Elephant's behaviour did alter in the manner outlined that the Ministry should "...consider reassessing the level and method of duty retrospectively." The Ministry notes that the relevant part of section 17 of the Act, which covers retrospective measures, can be invoked only where provisional measures are put into place. This means that retrospective measures may only be imposed in a new investigation, as subsection 14(7) of the Act, which governs

reassessments, does not contemplate that provisional measures can be imposed when anti-dumping duties are already in place as is the case when a reassessment or a review is undertaken.

Exports to Other Importers

127. While there is a sole supply agreement between Elephant and SGI/SCT this allows for Elephant to authorise direct supply by SGI/SCT to other entities. Therefore the Ministry considers that it should reassess the rate for exports by SGI/SCT to importers other than Elephant.

128. The Ministry proposes a NV(VFD)E rate of THB [REDACTED] per square metre for exports by SGI/SCT to importers other than Elephant. This amount has been calculated using data collected during the *2005 Review* and constitutes a duty set at the rate of the full dumping margin. It begins with the most recent normal value and adds to it adjustments for packing, inland freight, customs clearance, terminal handling, container freight station, bill of lading and cost of credit, as shown in Table 4.2.

Table 4.2: Calculation of Anti-Dumping Duty for Exports by SGI/SCT to Importers other than Elephant

THB per square metre	
Latest Normal Value	[REDACTED]
Plus Costs from Ex-factory:	
Packing	[REDACTED]
Inland Freight	[REDACTED]
Customs Clearance	[REDACTED]
Terminal Handling	[REDACTED]
Container Charge	[REDACTED]
Bill of Lading	[REDACTED]
Cost of Credit	[REDACTED]
NV(VFD)E	[REDACTED]

BPB

129. Exports by BPB are currently subject to a reference price duty mechanism set at a NVE of THB [REDACTED].

130. The Ministry recommends that the new duty for exports by BPB to BML be set as a specific duty at THB [REDACTED]. This constitutes a duty set at the rate of the full dumping margin. A discussion of how this amount was calculated follows below. All amounts are those established during the *2005 Review*.

131. In establishing a new anti-dumping duty rate for BPB, the Ministry has calculated the proportional difference between SCT's export prices for standard and

performance plasterboard. The weighted-average export price of SCT's standard plasterboard was THB [REDACTED] and SCT's weighted-average export price for performance plasterboards is THB [REDACTED]. This results in a difference of [REDACTED] percent of the weighted-average export price of standard plasterboard.

132. This proportionate differential between SCT's standard and performance plasterboard export prices was then deducted from the constructed weighted-average standard plasterboard export price for BPB's exports. This was established by taking BPB's most recent invoice price for standard plasterboard of NZD [REDACTED], applying that to the exports during the *2005 Review* period and then subtracting the established adjustments to calculate likely export prices going forward.

133. As the setting of anti-dumping duties is a forward looking process the Ministry considers that this is an appropriate methodology to use, as it is based on current prices and the mix of product exported over the *2005 Review* period.

134. The Ministry has taken the export prices and normal values back to ex-factory for the purpose of setting an anti-dumping duty rate. This is because ex-factory is the point that best reflects the amount of dumping. A specific duty can operate based on amounts at the ex-factory level, which is not possible for other duty types, such as a reference price mechanism. In calculating ex-factory amounts the Ministry has used the maximum amount for each adjustment made.

135. The weighted-average standard plasterboard export price for BPB calculated on this basis was THB [REDACTED]. The differential calculated above, of [REDACTED] percent, was then deducted from this to estimate a price that BPB would export standard plasterboard at in the absence of any anti-dumping duties, being THB [REDACTED].

136. This hypothetical price was then compared to BPB's established weighed-average normal value of THB [REDACTED] to derive a dumping margin of THB [REDACTED]. This amount is the recommended specific duty.

137. To check the reasonableness of this constructed price, in the absence of anti-dumping duties and bundle pricing, the Ministry has undertaken several comparisons with other plasterboard prices to determine whether an alternate method could be used to set a specific duty.

138. First, the Ministry has added the estimated dumping margin of THB [REDACTED] to the hypothetical price for standard plasterboard in the absence of anti-dumping duties, to give an un-dumped price of THB [REDACTED] for BPB's standard plasterboard. This was then compared to SCT's standard plasterboard export price. This comparison gives an estimated export price for BPB that represents [REDACTED] percent of SGI/SCT's export price.

139. Another comparison was undertaken by comparing the weighted-average export price of BPB's performance boards of THB [REDACTED] compared with the estimated likely dumping margin THB [REDACTED] added to the hypothetical price for standard board in the absence of anti-dumping duties. This gives an estimation of a potentially un-dumped price of THB [REDACTED] for standard plasterboard, which represents [REDACTED] percent of the price of BPB's performance plasterboard.

140. The recommended form and level of anti-dumping duty is based on the finding in the *2005 Review*, that, in the absence of anti-dumping duties there would be a change in BPB's export prices of both standard and performance plasterboard. The specific duty is designed to respond to the bundle pricing that has occurred as a result of the current reference price anti-dumping duty that applies against standard plasterboard. BPB has exported its standard plasterboard above this price to avoid any anti-dumping duty being payable but at the same time has decreased its performance plasterboard export prices below market norms. This is effectively bundling the prices of the two types of plasterboard and circumventing the anti-dumping duty that applies on exports of standard plasterboard.

141. The recommended specific anti-dumping duty is based upon BPB's export prices for performance and standard plasterboard, as at December 2005. Any change in either of these prices may mean that the duty level would need to be adjusted. In addition a limitation of the recommended specific duty is that it will not provide any incentive to BPB to unbundle its prices of performance and standard plasterboard.

142. However, if BPB does alter its prices of performance and standard plasterboard it is able to request a reassessment of the existing anti-dumping duty. A reassessment could consider both the level and form of the duty.

143. The Ministry notes that one potential limitation of the specific duty is that it does not ensure that standard plasterboard enters New Zealand at an un-dumped price. The specific duty only ensures that a set amount of anti-dumping duty is paid. A consequence of this can be that an exporter decreases the price and as a result the dumping margin increases but the specific duty does not adjust to capture this.

144. The Ministry has considered whether it would be appropriate to set a minimum NV(VFD)E level in addition to the specific duty to ensure that this does not happen. However, given the methodology employed to determine the hypothetical price that BPB would export to BML in the absence of any anti-dumping duties, and that there may be some movement in prices between BPB's standard and performance plasterboards, the Ministry does not consider the setting of a minimum NV(VFD)E as appropriate in the current circumstances.

145. The Ministry monitors the import levels and prices of plasterboard from Thailand. Therefore, if there is any reduction in the purchase price of the standard or performance plasterboard prices by BPB this will be observed by the Ministry. Any change in prices could result in the Ministry initiating a reassessment to ensure that the anti-dumping duty is effective to ensure that the goods do not enter New Zealand at dumped prices.

146. Winstone commented on the specific duty proposed for BPB, noting that it "takes into account the apparent cross-subsidisation between standard boards and performance boards." Winstone stated its concern "that as a remedy it may well not be effective in preventing BPB from dumping. Should this be the case and the New Zealand industry suffers injury, then the Ministry should not only reassess the level of duty but also the method of duty to achieve a more effective remedy." As already noted, the Ministry could consider both the form and level of an anti-dumping duty in any future reassessment.

147. It is proposed that the duty of THB [REDACTED] per square metre be levied as a specific duty that is converted to New Zealand dollars as at the invoice date using the relevant Customs exchange rate. Table 4.3 displays the calculation of the BPB duty rate in full.

Table 4.3: Calculation of duties for exports by BPB

SCT's Weighted-average performance board export price	THB [REDACTED]	
Less- SCT's weighted-average standard board export price	THB [REDACTED]	
Percentage difference between SCT's standard and performance prices		[REDACTED]%
BPB's weighted-average standard board export price	THB [REDACTED]	
Less proportionate difference between SCT's standard and performance boards	THB [REDACTED]	
BPB's standard board export price in the absence of duties		THB [REDACTED]
BPB's weighted-average normal value	THB [REDACTED]	
Less BPB's calculated export price for standard plasterboard in the absence of duties	THB [REDACTED]	
Calculated dumping margin		THB [REDACTED]

148. The specific duty will not be disclosed to either BPB or BML, as it is calculated on amounts that are confidential to SGI/SCT. It was explained to BPB during the 2005 Review that this may be a possible effect of BPB not providing information on its own cost structures.

149. However, it is considered appropriate to provide some indication of the quantum of the anti-dumping duty to BML, as it will be liable to pay the duty. The level of the anti-dumping duty recommended for exports by BPB represents approximately 21 percent of BPB's calculated weighted-average export price of standard plasterboard.

150. Given the advice from BPB that a written sole supply agreement exists between it and BML the Ministry does not consider that it needs to calculate a separate rate for exports by BPB to any other importer and this amount will therefore apply to all exports by BPB.

Other Exporters

151. The current residual rate of anti-dumping duty for plasterboard from Thailand is based on the NVE amount established for Elephant of THB [REDACTED] per square metre. This constitutes a duty set at the rate of the full dumping margin.

152. It is the Ministry's normal practice for the residual anti-dumping duty rate to be set at the highest of all other rates, to prevent the establishment or use of alternate legal entities by existing exporters and importers to take advantage of a lower duty rate.

153. Therefore it is proposed that the anti-dumping duty rate for exporters other than BPB or SGI/SCT be set at the specific duty rate of THB [REDACTED] per square metre that was calculated for exports by BPB.

4.3 Summary of Proposed Anti-dumping duties

154. Table 4.4 summarises the proposed anti-dumping duties. Amounts in THB will be converted to NZD using the relevant Customs exchange rate as at the date of invoice, which in the case of both SGI/SCT and BPB was established as the date of sale.

Table 4.4: Rates of Anti-Dumping Duty

Exporter	Importer	Duty (per square metre)
SCT	-Elephant	Zero percent ad valorem
	-Other	NV(VFD)E THB [REDACTED]
BPB	Any	Specific duty of THB [REDACTED]
All other exporters	Any	Specific duty of THB [REDACTED]

4.4 Date Duties Become Effective

155. Reassessed anti-dumping duties apply from the day after the Minister determines new rates of anti-dumping duty.

156. Under section 14(2) of the Act all anti-dumping duties are payable from the day after the date of the Minister's original determination in respect of plasterboard, which would be 22 December 1989. In order for the new anti-dumping duties to be effective from the day after the Minister determines new rates, the Minister can utilise subsection 14(7) to "terminate, in whole or in part, the imposition of anti-dumping duties". This means that in effect the new duties commence from the day after the Minister determines new rates.

Refunds of Anti-Dumping Duty

157. 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 2005 Review was initiated on 26 September 2005.

158. The anti-dumping duty that is recommended for exports by SGI/SCT to Elephant is lower than that which is currently in force.

159. The anti-dumping duty that is recommended for exports by BPB is a specific duty. The specific anti-dumping duty replaces a NVE rate, which in most circumstances results in no duty being payable. Consequently the new rate would be higher than the current rate in most circumstances.

160. It is recommended that (if the above rates of duty are determined) the Minister also direct Customs to, upon application by an importer, refund any anti-dumping duty paid in the period from 26 September 2005 to the date of her decision, if the anti-dumping duty paid was greater than the amount of the new anti-dumping duty.

4.5 Future Reassessments

161. As previously noted anti-dumping duties have been in place against plasterboard from Thailand since 1989 and have been subject to multiple investigative actions during this time. The Ministry's approach to recommending new rates of anti-dumping duties to the Minister has attempted to address several issues that arise from anti-dumping duties having applied for such a long duration.

162. The *2005 Review* established that there was a likelihood that dumping causing material injury to the New Zealand industry would recur if the anti-dumping duties were removed. However, no material injury to the New Zealand industry was established during the review, indicating that the anti-dumping duties that are currently in place have been effective.

163. The recommendations of a zero percent ad valorem duty and a specific duty are intended to address circumstances found during the review and ensure that Winstone does not receive any benefit above the removal of injurious dumping from the New Zealand market. No form or level of anti-dumping duty can be perfect in remedying and preventing material injury and the Ministry notes that there are limitations in both of its recommended duties. Therefore it is considered appropriate to address the potential for further reassessments of anti-dumping duties.

164. 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. Anti-dumping duties on plasterboard from Thailand are distinct due to the long history of all interested parties and their familiarity with the application and operation of anti-dumping duties. Therefore, 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.

165. The Ministry notes that 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.

166. Winstone's submission made reference to any future reassessments being carried out in a "similar speedy manner". The Ministry attempts to carry out all investigative actions as expeditiously as possible given the due process requirements of the legislation and opportunities for all interested parties to comment on proposals. While reassessments can vary in both length and breadth, any reassessment that was in response to direct attempts to evade or circumvent the anti-dumping duties that are currently in place could be expected to be executed as promptly as possible.

5. Recommendations

167. The Ministry concludes, on the basis of the information available to it both during the *2005 Review* and this reassessment, that the current rates of anti-dumping duties need to be reassessed.

168. It is recommended that the Minister:

- a. Reassess the anti-dumping duty for exports by BPB Thai Gypsum Products Plc. to a specific duty of THB [REDACTED];
- b. Reassess the anti-dumping duty for exports by The Siam Gypsum Industry (Saraburi) Co., Ltd./ SCT Co., Ltd. to Elephant Plasterboard New Zealand Limited to a zero percent ad valorem rate;
- c. Reassess the current rate of anti-dumping duty for exports by The Siam Gypsum Industry (Saraburi) Co., Ltd. SCT Co., Ltd. to importers other than Elephant to a NV(VFDE) of THB [REDACTED];
- d. Agree that the new rates of anti-dumping duty should apply from the day after the Minister determines new rates, using subsection 14(7) of the Act to achieve this.
- e. Approve the refund of any anti-dumping duty paid in excess of the reassessed rates of anti-dumping duty in the period from 26 September 2005 to the day after the new rates are determined, and
- f. Sign the attached Gazette notice publicly notifying the above decisions.

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Investigating Team
Tariff Policy and Trade Rules Group
Ministry of Economic Development

Annex 1

169. The Act is available at: http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes

170. The World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is available at: http://www.wto.org/english/docs_e/legal_e/19-adp.pdf