

Oil Filters
from
China, Indonesia, Korea and
Thailand

Non-Confidential Initiation Report

Dumping and Countervailing Duties Act 1988

Dumping Application

Ministry of Economic Development

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Table of Contents

Abbreviations	ii
1. EXECUTIVE SUMMARY	3
2. INTRODUCTION	5
2.1 Assessment of Application	5
2.2 Dumping	5
2.3 Injury	6
2.4 Causal Link.....	6
3. PROCEEDINGS	7
3.1 Application.....	7
3.2 Basis for the Application	7
3.3 Interested Parties	8
3.4 Imported Goods.....	13
4. NEW ZEALAND INDUSTRY	15
4.1 Like Goods	15
4.2 New Zealand Industry	18
4.3 Imports of Oil Filters	18
5. EVIDENCE OF DUMPING	20
5.1 Export Prices	20
5.2 Normal Values.....	30
5.3 Comparison of Export Price and Normal Value	38
5.4 Conclusions Relating to Dumping	44
6. EVIDENCE OF INJURY	45
6.1 Material Injury.....	45
6.2 Import Volumes	45
6.3 Price Effects	49
6.4 Economic Impact.....	56
6.5 Other Causes of Injury	60
6.6 Conclusions Relating to Injury	62
6.7 Cumulation and Causal Link.....	62
7. CONCLUSIONS	65
8. RECOMMENDATIONS.....	66

Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Anti-Dumping Agreement (the Agreement)	WTO Agreement on Implementation of Article VI of the GATT 1994
AUD	Australian Dollars
Chief Executive	Chief Executive of the Ministry of Economic Development
CIF	Cost, Insurance and Freight
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Taxation
FOB	Free on Board
GUD	G.U.D. (NZ) Limited
INFOS	Information Network for Official Statistics, Operated by Statistics New Zealand <i>Te Tari Tatau</i>
LDC	Less Developed Countries
LLDC	Least Developed Countries
Minister (the)	The Minister of Commerce of New Zealand
Ministry (the)	Ministry of Economic Development
NZD	New Zealand Dollars
OANDA	www.oanda.com (the currency site™)
OPS	Other Preferential Sources
Pac	Forum Island Members of the South Pacific Regional Trade and Economic Cooperation Agreement
RepcO	RepcO Ltd
USD	United States Dollars
VFD	Value for Duty
WTO	World Trade Organisation

1. Executive Summary

Introduction

1. On 13 May 2004, the Ministry of Economic Development ("the Ministry") accepted a properly documented application for a dumping investigation from G.U.D. (NZ) Limited ("GUD"). GUD claims that imports of oil filters from China, Indonesia, Korea and Thailand are being dumped and are causing material injury to the New Zealand industry.

Goods Subject to the Investigation

2. The goods subject to the investigation are described as follows:

Lubricating oil filters (including cartridge/element type) for use on internal combustion engines, including off-road, commercial and industrial applications but

EXCLUDING:

- *Hydraulic oil filters.*
- *Cartridge/element type filters having dimensions greater than 467mm in length or 400mm in outside diameter.*
- *Spin-on type filters having dimensions greater than 300mm in length or 123mm in outside diameter.*
- *Lubricating oil filters (including cartridge/element type) solely manufactured for use on:*
 - (a) Motorcycles; and*
 - (b) Aircraft.*

Grounds for the Application

3. GUD claims the significant increase in the volumes of imports and the prices of the allegedly dumped oil filters from China, Indonesia, Korea and Thailand have caused material injury.

Provisional Measures

4. GUD believes the continued importation of the dumped goods during the period of investigation will increase the materiality of injury and, therefore, has requested the imposition of provisional anti-dumping duty in accordance with section 16 of the Dumping and Countervailing Duties Act 1988 ("the Act").

Dumping

5. The Ministry is satisfied that GUD has provided sufficient evidence of dumping for purposes of initiation of an investigation. The range of dumping margins is as follows:

China

6. The dumping margins expressed as a percentage of export price range from -45 (i.e. not dumped) to 127 percent.

Indonesia

7. The dumping margins expressed as a percentage of export price range from 15 to 54 percent.

Korea

8. The dumping margins expressed as a percentage of export price range from 69 to 398 percent.

Thailand

9. The dumping margins expressed as a percentage of export price range from 69 to 216 percent.

Injury

10. The Ministry is satisfied, on the basis of the information and evidence provided by GUD, that there is sufficient evidence of material injury for the purposes of initiation.

Injury Factors Other Than the Dumped Goods

11. GUD states that there are no other known causes of injury, than from the allegedly dumped imports.

Causal Link

12. GUD has provided evidence in support of its claim that material injury has been caused by the allegedly dumped goods.

Conclusion

13. Sufficient evidence has been provided in the application to demonstrate that goods imported into New Zealand are being dumped and by reason thereof are causing material injury to the New Zealand industry producing like goods.

Recommendation

14. This report recommends that the Chief Executive of the Ministry of Economic Development (“Chief Executive”) formally initiate an investigation to determine both the existence and effect of any alleged dumping of oil filters from China, Indonesia, Korea and Thailand.

2. Introduction

2.1 Assessment of Application

15. An industry applying for a dumping investigation is required to provide evidence and information, which is reasonably available to it, on export prices and normal values, material injury and a causal link between dumping and material injury.

16. The Chief Executive is required to assess the accuracy and adequacy of the evidence, to establish whether the application is properly documented and contains sufficient evidence that the subject goods imported into New Zealand are dumped, and have caused, are causing, or threaten to cause, material injury to the New Zealand industry producing like goods.

17. The evidence must go beyond mere assertion¹ and be of a nature and extent that indicates a likelihood of dumping and injury requiring investigation. The Chief Executive is required to be satisfied as to the sufficiency of the evidence, not of the existence of dumping and injury. The question of whether dumping is occurring and causing injury in fact is one for an investigation.

18. It should be noted that the inclusion of any information in this report does not indicate that the Ministry necessarily accepts that information or any conclusions arising from it. Any final determination of whether or not goods are dumped and causing injury can only be made after a full investigation carried out in accordance with the Act.

2.2 Dumping

19. Dumping is price discrimination between markets. It occurs when an exporter sells goods to New Zealand at a price less than the price charged in its domestic market.

20. The price at which goods are sold in the domestic market of the exporting country is referred to as the "normal value" of those goods. The "export price" is based on the price that the New Zealand importer pays for the goods.

21. Imported goods are dumped if their "export price" is less than their "normal value", once adjustments have been made to ensure that the price comparison is fair.

22. Section 3(1) of the Act states:

Dumping, in relation to goods, means the situation where the export price of goods imported into New Zealand or intended to be imported into New Zealand is less than the normal value of the goods as determined in accordance with the provisions of this Act, and **dumped** has a corresponding meaning:

¹ *Kerry (NZ) Limited v Taylor* (1988) 3 TCLR 265 per Gault J

2.3 Injury

23. In order to assess claims of injury as required by section 8 of the Act, the application must have evidence showing:

- The volume of imports of dumped goods; and
- The effect of the dumped goods on prices in New Zealand for like goods; and
- The consequent impact of the dumped goods on the relevant New Zealand industry.

24. Any assessment the Ministry makes on the threat of injury is done on the basis of guidelines set down in Articles 3.7 and 3.8 of the World Trade Organisation (WTO) Agreement on Implementation of Article VI of the GATT 1994 ("the Anti-dumping Agreement").

2.4 Causal Link

25. An application must show evidence of a causal link between the alleged dumping and the alleged injury.

3. Proceedings

3.1 Application

26. On 13 May 2004, the Ministry accepted a properly documented application from GUD, a subsidiary of GUD Holdings Limited, an Australian company. The application alleged that imports of oil filters from China, Indonesia, Korea and Thailand were being dumped and by reason thereof causing material injury to the New Zealand industry.

27. In accordance with section 10 of the Act, on receipt of a properly documented application, the Chief Executive may initiate an investigation to determine both the existence and effect of any alleged dumping of any goods on being satisfied that sufficient evidence has been provided that:

- a. the goods imported, or intended to be imported, into New Zealand are being dumped; and
- b. by reason thereof material injury to an industry has been or is being caused or is threatened, or the establishment of an industry has been or is being materially retarded.

3.2 Basis for the Application

28. GUD claims that as a result of the alleged dumping, material injury is resulting from:

- increased volume of the allegedly dumped imports;
- price undercutting, price depression, and price suppression;

and is resulting in:

- decline in sales volume and revenue;
- decline in market share; and
- decline in profits.

29. GUD states in its application that material injury became evident in the year ended June 2003.

30. GUD has requested the imposition of provisional anti-dumping duties to prevent material injury being caused during the period of investigation. Provisional anti-dumping duties may be imposed no earlier than 60 days after initiation of an investigation, if the Minister of Commerce of New Zealand ("the Minister") has reasonable cause to believe that the imported goods are being dumped and are causing material injury to an industry, and is satisfied action is necessary to prevent material injury being caused during the period of investigation. Provisional measures will be considered if the case is initiated.

3.3 Interested Parties

New Zealand Industry

31. GUD has advised that it is the only company in New Zealand that produces oil filters.

Exporters

32. GUD said it does not know the names of exporters with any certainty and listed in its application the names of exporters from Indonesia, Korea and Thailand identified in a previous investigation that was terminated in November 2000. GUD advised that it has not been able to identify any of the exporters from China.

33. New Zealand Customs Service ("Customs") data for the year ended 30 June 2004 shows that the following firms are exporters of oil filters under the tariff item and statistical key that Customs has advised cover the subject goods. (Customs data shows that GUD has imported oil filters from [REDACTED]) The firms are listed in alphabetical order.

China:

Bengbu Xinda Import & Export Co Ltd	Donaldson Australasia Pty Ltd
Filtran Ltd	Fleetguard Australia
Frederick Manufacturing Corp	Guandong Youhe Trade-with-Taiwan
Guangzhou Haizhu Foreign Development	Hitachi Construction Machinery Pte Ltd
Isuzu Motors Ltd	Motospecs
Ningbo Arts & Crafts Import & Export Corp	Sofima Automotive Filter (Shanghai) Co Ltd
Super Cheap Auto	Towa Company Ltd
Valvoline Pty	Zhejiang Universe Filter Co Ltd

Indonesia:

Donaldson Australasia Pty Ltd	Filter Sales Australia
Fleetguard Australia	FSA Filters Pty Ltd
General Motors Holden Automotive Ltd	Iveco Airo
Paccar Parts	Pt Selamat Sempurna Tbk

Korea:

Baron Rubber Pty Ltd	Bayside Co Ltd
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Bowha Trading Corp	Chungku Industrial
Clark Equipment	Crown Equipment Pty Ltd
Daedong Ind Co Ltd	Daewoo Heavy Industries & Machinery Ltd
Daimler Chrysler South East Asia Pte Ltd	Dana Canada Inc
Dong Young Ind Co	GUD Manufacturing Co Pty Ltd
Honeywell Consumer Products Group	Honeywell Inc
Hyundai Corporation	Hyundai Mobis
Ju Ahm Industries Co Ltd	Kapas International Trading Corp
Kian Ann Engineering Co Pty Ltd	Kuk Dong Enterprise Co
Magicap Corporation	Mo Doo Industry Co Ltd
Racer Australia Pty Ltd	Robert Bosch Pty Ltd
S & B Corporation	Ssangyong Motor Co
Su & Lee Ltd	Super Cheap Auto
Twin Corporation	Volvo Construction Equipment
Young Dong Industrial Co Ltd	Yuil Air Filter Co Ltd

Thailand:

ACSG (Thailand) Co Ltd	Asian Honda Motor Co Ltd
Bike Alert PLC	CT Industry Co Ltd
Ford Operations (Thailand) Co Ltd	Ford Sales (Thailand) Co Ltd
Ford Motor Company Australia Ltd	General Motors Holden Automotive Ltd
GUD Manufacturing Co Pty Ltd	HKS (Thailand) Co Ltd
Isuzu (Thailand) Co Ltd	Kanjana
Parts Unlimited	SCAT Enterprises Inc.
Siam Filter Products Ltd	Sumitomo Corp Ltd
Syw Autoparts Pty Ltd	

34. In the year ended 30 June 2004 Customs data shows, in some instances, that for goods originating from China, as well as China, the exporting countries were Australia, Hong Kong, Japan and Singapore. For goods originating from Indonesia, as well as Indonesia the countries of export were Australia, Japan and the United States. For goods originating from Korea, as well as Korea the countries of export were Australia, Canada, France, Singapore and the United States and for goods originating from Thailand, in addition to Thailand the countries of export were Australia, Great Britain, Japan and United States. Any investigation will need to identify the suppliers of the goods and establish whether such goods have any degree of manufacture in the country of export, or whether they are merely trans-shipped.

Importers

35. GUD has identified importers of the subject goods in its application from each country, but noted that there will be other importers not known to it.

36. Customs data for the year ended 30 June 2004 shows the following firms, listed in alphabetical order, as importers from the exporters listed above.

ADL Group Ltd

Ashland New Zealand Ltd t/a Valvoline New Zealand

Autolines NP Ltd

Automotive Supplies NZ Ltd

Brake and Transmission NZ Ltd

Cable Price (NZ) Ltd

Clark Equipment NZ Ltd

Cummins Engine Company Ltd

Daewoo Automotive NZ t/as Rapson Holdings Ltd

Darbi Accessories Ltd

Diesel Distributors Ltd

Eagle Spares Ltd

Extreme Distributors Ltd

Global Auto Distributors (NZ) Ltd

GUD (NZ) Ltd

Hirequip Ltd

Holt Lloyd Ltd

Hyundai Automotive New Zealand T/As Korean Motors Ltd

Ken's Farming Ltd

Kiwi Investments (NZ) Ltd

Landscape Cars Ltd

Lifestyle Vehicles

Mazda Motors of NZ Ltd

Multispares NZ Ltd

Partmaster Ltd

Power Farming Wholesale Co Ltd

Repco Ltd

Segedins Auto Parts Ltd

Asian Car Parts Ltd

Automotive Parts Group NZ Ltd

Beyond Motorworks

Butler Auto Mart Ltd

Chainsaw & Outdoor Power Ltd

Crown Equipment Ltd

Cycle and Carriage Ltd

Daimler Chrysler New Zealand

DCE Filters Ltd

DR Britton Ltd

Eastsea Enterprise (NZ) Ltd

Ford Motor Company of New Zealand Ltd

Gough Gough & Hammer Ltd

Hana Trading Ltd

Holden New Zealand Ltd

Honda New Zealand Ltd

Iveco Trucks Australia Ltd

King Star Holdings Ltd

K-Style Car Shop Ltd

Lifan WU

Lyntec Holdings t/a Kawasaki Motorcycle Distributors

MBK Group Pty Ltd

NZ Auto Wholesalers Ltd

Pioneer Equipment Ltd t/a Pioneer Autoparts

Racer (NZ) Ltd

Sea Jho Co Ltd

Southpac Trucks Ltd

Su & Lee Ltd

Super Cheap Auto Pty Ltd

Titan Plant Services Ltd

Super Cheap Auto Spares Ltd

Superior Spares Pitts
Motorcycles 1987 Ltd T/A

Transmissions & Diesels
Holdings Limited

Sample of Exporters

37. Due to the number of exporters identified, should an investigation be initiated it is intended to specifically investigate those exporters (and their associated importers) representing the top 85 to 98 percent of imports (by volume) of the subject goods from each country over the year ended June 2004.

38. The sample was selected on the basis of the four largest exporters by volume from each country. Where there were exporters outside of the four largest from each country who had exported more than 10,000 oil filters over the year ended June 2004, then these exporters were also included in the sample. In addition, because an exporter supplying GUD was included in the sample for [REDACTED] chosen on this basis, the next largest exporter from [REDACTED] was also included in the sample, to ensure the sample for [REDACTED] contained the number of exporters who do not supply GUD that is comparable to those in other countries. This selection criterion meant that for Indonesia, Korea and Thailand the five largest exporters were included in the sample. The proportion of exports covered by the sample for each country is as follows:

China	95 percent
Indonesia	98 percent
Korea	88 percent
Thailand	95 percent

39. All other firms/exporters will be advised and they will be given the opportunity to provide submissions but these will not be directly solicited.

40. Exporters falling into the above category (and the firms importing from those exporters), listed in alphabetical order, are as follows:

China

Bengbu Xinda Import & Export Co Ltd
Guangzhou Haizhu Foreign Development
Valvoline Pty
Zhejiang Universe Filter Co Ltd

Indonesia

Donaldson Australasia Pty Ltd

Filter Sales Australia
Fleetguard Australia
General Motors Holdens Automotive Ltd
Pt Selamat Sempurna Tbk

Korea

Bowha Trading Corp
Chungku Industrial
Kuk Dong Enterprise Co
Twin Corporation
Yuil Air Filter Co Ltd

Thailand

Asian Honda Motor Co Ltd
Bike Alert Plc
CT Industry Co Ltd
Ford Operations (Thailand) Co Ltd
Siam Filter Products Ltd

Importers

ADL Group Ltd	Ashland New Zealand Ltd t/as Valvoline New Zealand
Autolines NP Ltd	Automotive Supplies NZ Ltd
Brake and Transmission NZ Ltd	Cable Price (NZ) Ltd
Cummins Engine Company Ltd	Darbi Accessories Ltd
DCE Filters Ltd	DR Britton Ltd
Eagle Spares Ltd	Eastsea Enterprise (NZ) Ltd
Extreme Distributors Ltd	Ford Motor Company of New Zealand Ltd
Global Auto Distributors (NZ) Ltd	Gough Gough & Hammer Ltd
GUD (NZ) Ltd	Hana Trading Ltd
Holden New Zealand Ltd	Honda New Zealand Limited
Iveco Trucks Australia Ltd	MBK Group Pty Ltd
Multispares NZ Ltd	NZ Auto Wholesalers Ltd
Partmaster Ltd	Repco Ltd
Segedins Auto Parts Ltd	Transmissions & Diesels Holdings Ltd

41. Any investigation will have to establish the extent to which the parties listed above are importing the goods subject to this application.

3.4 Imported Goods

42. The goods which are the subject of the application, hereinafter referred to as oil filters or “subject goods”, are:

Lubricating oil filters (including cartridge/element type) for use on internal combustion engines, including off-road, commercial and industrial applications but

EXCLUDING:

- *Hydraulic oil filters.*
- *Cartridge/element type filters having dimensions greater than 467mm in length or 400mm in outside diameter.*
- *Spin-on type filters having dimensions greater than 300mm in length or 123mm in outside diameter.*
- *Lubricating oil filters (including cartridge/element type) solely manufactured for use on:*
 - (a) *Motorcycles; and*
 - (b) *Aircraft.*

43. Since acceptance of the application for a dumping investigation some minor changes have been made to the description of the goods to more clearly define the product to which the application relates.

44. Customs has advised that the subject goods are classified under the following tariff item and statistical key. Items that are in italics are included for completeness and comprehension of the tariff items and statistical keys that follow.

84.21	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases:
	- Filtering or purifying machinery or apparatus for liquids:
8421.23.00	- - Oil or petrol filters for internal combustion engines
01B	. . . Oil

45. Applicable duty rates are:

Normal	10%
Australia	Free
Canada	6%
LDC	8%
LLDC	Free
OPS	Free
Pac	Free

46. GUD has provided data obtained from INFOS operated by Statistics New Zealand on the volume of imports classified under the above tariff item and statistical key from all sources. The data has been presented in June years from 2001 to 2003 and for the six months from July to December 2003.

47. GUD has advised that its financial year is 1 July to 30 June. The financial data in the application has been presented in years ended June for 2001, 2002 and 2003. Estimated financial data has also been provided for June year 2004 and forecast data has been provided for June year 2005.

48. In this report years are ended June and dollar values are New Zealand Dollars (NZD) unless stated otherwise. In tables, column totals may differ from individual figures because of rounding.

49. Should an investigation be initiated, the period for considering claims of dumping will be the year ended 30 June 2004, while the consideration of injury (injury period) will involve, assuming the latest information is available, evaluation of data from 1 June 2000 to 30 June 2004.

4. New Zealand Industry

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

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

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

“Like goods” is defined in section 3 of the Act:

“Like goods”, in relation to any goods, means—

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

4.1 Like Goods

51. In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into injury, and having identified the subject goods, it is necessary to determine whether there are New Zealand producers of goods which are like those goods in all respects, and if not, whether there are New Zealand producers of other goods which have characteristics closely resembling the subject goods.

The Imported Goods

52. The subject goods have been identified (in section 3.4 of this Report) as:

Lubricating oil filters (including cartridge/element type) for use on internal combustion engines, including off-road, commercial and industrial applications but

EXCLUDING:

- *Hydraulic oil filters.*
- *Cartridge/element type filters having dimensions greater than 467mm in length or 400mm in outside diameter.*
- *Spin-on type filters having dimensions greater than 300mm in length or 123mm in outside diameter.*
- *Lubricating oil filters (including cartridge/element type) solely manufactured for use on:*

- (a) Motorcycles; and
- (b) Aircraft.

New Zealand Production

53. GUD produces a wide range of oil filters that fall within the description of the subject goods. GUD has advised that it does not manufacture oil filters that fall outside of the description of the subject goods.

54. GUD has noted that in previous investigations the Ministry has accepted that the oil filters manufactured in New Zealand are like goods to the imported filters. GUD has stated that although the oil filters it produces “. . . are not identical to the imported oil filters the differences have not been significant enough to impact on the assessment of like goods.”

55. GUD has also noted that there are a significant number of Part II concessions for oil filters. GUD has stated that it did not object to a number of these concessions because at the time the filter as described fell outside of its local manufacture. However, GUD has advised that it now manufactures filters covered by a number of current concessions (such filters have not been identified in the application).

56. The Ministry notes that concessions granted under Part II of the Tariff of New Zealand allow the goods for which a concession has been granted to enter New Zealand free of duty. A concession may be granted if there is no New Zealand production of commercially available goods and the goods can be described in a legally enforceable way. Once a concession has been approved it is not withdrawn if a firm subsequently commences manufacturing the same or substitutable goods.

57. The criterion used to assess the suitability of a tariff concession is whether there is New Zealand production of suitable alternative goods. Suitable alternative goods are defined as those which perform the same or a similar function to the imported goods for which a concession is sought; and where the imported goods would compete directly in the same market. Price and quality are not normally taken into consideration.

58. Because the test to be applied when considering a concession application is different from the like goods test (the Ministry's approach to which is set out below), the Ministry considers that the existence of a concession for an oil filter, whether or not GUD believes it now produces a suitable alternative, does not preclude a finding that the oil filters produced by GUD are like goods to such filters.

Like Goods Considerations

59. In identifying like goods the Ministry uses the following framework to consider what goods produced in New Zealand are like goods to the allegedly dumped imports.

- a. Physical Characteristics. This covers appearance, size and dimensions, composition, production methods and technology.

- b. Function/usage. This covers consumer perceptions/expectations, end uses, and will lead to any conclusions on the issue of substitutability where relevant.
- c. Pricing structures.
- d. Marketing. This covers distribution channels, customers and advertising.
- e. Other. This can include tariff classification if applicable, and any other matters which could be applicable in the circumstances.

Physical Characteristics

60. GUD has advised that it manufactures oil filters for the New Zealand market and such oil filters are either identical or similar to imported oil filters which are the subject of the application. GUD has also advised that its method of manufacture is similar to oil filters manufactured in China, Indonesia, Korea and Thailand, as recently confirmed by its managing director visiting some of these countries.

Function and Usage

61. GUD has stated that the oil filters it manufactures must meet the demands of the New Zealand market as must imported oil filters. GUD said the oil filters it manufactures consequently have the same function and application as the imported oil filters.

Pricing

62. GUD has advised that the oil filters it manufactures compete at the same price points as the imported oil filters. The information provided as evidence of price undercutting also indicates that the domestically produced and imported goods do not differ in price to an extent that they could be considered not like goods.

Marketing Issues

63. GUD has commented that the oil filters it manufactures are distributed in the same way as imported oil filters.

Other

64. GUD advised that the oil filters it manufactures, if imported into New Zealand, would be classified under the same tariff item and statistical key provided by Customs as applicable to the imported subject goods from China, Indonesia, Korea and Thailand.

Conclusions Relating to Like Goods

65. GUD has advised that the oil filters it manufactures have the same or similar physical characteristics, method of manufacture, function and usage, pricing, marketing and tariff classification. The Ministry concludes that there is sufficient evidence for the purposes of initiation that oil filters produced by GUD, while not like

in all respects, have characteristics that closely resemble the subject goods, and therefore are like goods to the subject goods.

4.2 New Zealand Industry

66. An investigation may not be initiated unless the Chief Executive is satisfied that the requirements of section 10(3) of the Act are met. These requirements are that the collective output of those New Zealand producers who have, in writing, expressed support for the application constitutes:

- a. Twenty-five percent or more of the total New Zealand production of like goods produced for domestic consumption (assessed during the most recent representative period, being not less than six months); and
- b. More than 50 percent of the total production of like goods produced for domestic consumption (as so assessed) by those New Zealand producers who have, in writing, expressed support for or opposition to the application.

67. The applicant, GUD, states it is the only New Zealand manufacturer of oil filters. The Ministry has found no evidence that there are any other manufacturers of like goods in New Zealand. Therefore, based on the information available, the application meets the domestic industry standing requirements of section 10(3) of the Act.

4.3 Imports of Oil Filters

68. Section 11(1) of the Act provides that where the Minister is satisfied in respect of some, or all of the goods under investigation, that there is insufficient evidence of dumping or injury to justify proceeding with the investigation then the investigation shall be terminated. Section 11(2) of the Act provides that evidence of dumping shall be regarded as insufficient if the volume of imports of dumped goods, expressed as a percentage of total imports of like goods into New Zealand is negligible, having regard to New Zealand's obligations as a party to the Anti-Dumping Agreement Article 5:8. which deals with the negligibility of dumped imports as follows:

5.8 An application under paragraph 1 shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or the injury, is negligible. The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 per cent, expressed as a percentage of the export price. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member.

69. The fourth Ministerial Conference at Doha in November 2001 decided that a number of implementation-related issues and concerns in the anti-dumping area needed to be addressed. One such issue was to ensure the maximum possible

predictability and objectivity in the application of timeframes when determining the volume of dumped imports that can be considered negligible. New Zealand notified the WTO Committee on Anti-dumping Practices in document G/ADP/N/100/NZL of 24 January 2003, that, in determining negligible import volumes, it will use "the period of data collection for the dumping investigation" as its preferred timeframe in all future investigations. Accordingly, in determining whether the volume of dumped imports is negligible the Ministry has used data available to it for the most recent 12 consecutive months

70. To determine whether the volume of imports of dumped goods, expressed as a percentage of total imports of like goods into New Zealand, is negligible the Ministry has used Customs data, for the tariff item and statistical key covering the subject goods, over the last 12 consecutive months available.

Table 4.1: Volume of Imports (Per Unit)

	Year ended 30 June 2004	Percentage of total Imports
Imports from China		5.1%
Imports from Indonesia		10.4%
Imports from Korea		8.1%
Imports from Thailand		10.9%
Other Imports		65.5%
Total Imports		100.0%

71. Table 4.1 shows the allegedly dumped imports from China, Indonesia, Korea and Thailand, as a percentage of total imports of like goods into New Zealand, are greater than 3 percent in all cases. Therefore, the volumes of imports are not negligible according to Article 5.8 of the Anti-dumping Agreement.

72. Note the total of Imports from China in Table 4.1 reflects the assumption in paragraph 163 that 20% of imports from China are not dumped.

5. Evidence of Dumping

73. Section 3(1) of the Act states:

“Dumping”, in relation to goods, means the situation where the export price of goods imported into New Zealand or intended to be imported into New Zealand is less than the normal value of the goods as determined in accordance with the provisions of this Act, and “dumped” has a corresponding meaning:

74. Information was provided in the application concerning the export price and the normal value of the subject goods. Assessment of the information provided follows.

5.1 Export Prices

75. Export prices are determined in accordance with section 4 of the Act.

China, Korea and Thailand

76. For these countries, export prices are USD FOB quotes from various suppliers obtained by GUD. GUD has noted that

[REDACTED]

77. The quotes have been provided in the form of a spreadsheet prepared by GUD. No deductions have been made to take the FOB prices back to estimated ex-factory figures, but doing so would only reduce export prices further and increase dumping margins.

78. The quotes provided were given on the basis of the purchase of particular volumes of filters. GUD has commented that

[REDACTED]

GUD has advised that the export prices were obtained in the third quarter of 2003.

79. GUD has advised that for one of the Chinese oil filters (designated C2), an exact comparison with the export prices in the spreadsheet was not able to be made. GUD advised that the export price of a similar oil filter designated C1 was therefore “. . . increased arbitrarily to USD [REDACTED], based on the applicant’s knowledge of the oil filter market.” GUD subsequently advised that for another Chinese oil filter (designated C3) the export price is an estimate. The basis on which the estimate was made was not explained.

80. To support the export prices GUD subsequently provided copies of various documents as set out below. GUD has noted that the quotes in these documents do not necessarily relate to the export prices provided in its application, but has stated that “The attached documents do, however, for the purposes of initiation, support the method used in obtaining prices.”

81. In response to requests for further information, GUD provided additional evidence and explanations, which are also detailed below. GUD has noted that it has not always been possible to match a filter with the same physical characteristics for which it has provided additional evidence of the export price to a filter for which normal values are available. GUD has stated, however, that the cost of manufacture and pricing of oil filters is well known to it “. . . and obtaining a comparable part number, in these instances, has been made by observing that, for example, a [REDACTED] while not physically identical to a [REDACTED] would have the same cost and pricing level of the known [REDACTED] export price.”

China

82. [REDACTED] from a Chinese oil filter exporter dated [REDACTED] was provided in which the exporter expressed its willingness to supply oil filters to GUD. [REDACTED] did not provide any prices. Subsequent to providing [REDACTED] GUD advised that [REDACTED] obtained the quotations for Chinese origin oil filters which were then put into the spreadsheet in its application. GUD said that it would have considerable difficulty tracking down the original quotes, if they in fact still exist in hard copy, noting that there was some difficulty in obtaining [REDACTED] referred to above.

83. Subsequent to providing the information above, GUD supplied a copy of [REDACTED] with a different Chinese supplier in [REDACTED]. The correspondence in [REDACTED] contains an indicative quote which states that their price is between USD [REDACTED] to [REDACTED], noting that prices can be confirmed in detail if samples are provided.

84. The correspondence in [REDACTED] contains a quote in USD for [REDACTED] types of oil filter and contains the part number of the equivalent GUD oil filter. The quotes are for oil filters [REDACTED]. The correspondence following this later in [REDACTED] and in [REDACTED] concerns negotiations to reduce the price of the oil filters [REDACTED] and shows that the Chinese supplier agreed to [REDACTED].

85. The correspondence in [REDACTED] containing these quotes also has an additional heading for FOB prices under which (higher) prices have been hand written (presumably by GUD). The quoted prices for the [REDACTED] types of oil filter [REDACTED] are therefore presumed to be before FOB. Neither the indicative prices in the [REDACTED] correspondence nor the quotes in the [REDACTED] correspondence, specify the volume of purchases to which the indicative prices and quotes relate.

86. The following tables show the export prices provided in the application and the prices in the [REDACTED] correspondence referred to above.

Table 5.1: Export Prices in Application

Designation	Equivalent GUD Oil Filter (Ryco Brand)	USD FOB Export Price
C1	[REDACTED]	[REDACTED]
C2	[REDACTED]	[REDACTED]
C3	[REDACTED]	[REDACTED]
C4	[REDACTED]	[REDACTED]
C5	[REDACTED]	[REDACTED]

Table 5.2: Export Prices for Which Documented Evidence Provided

Equivalent GUD Oil Filter (Ryco Brand)	[REDACTED] (USD)	[REDACTED] (USD)
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

87. A comparison of the two tables shows that the [REDACTED] and [REDACTED] oil filters are common to both tables. The documented prices for these 2 filters [REDACTED] are lower than the export prices in the application (but the FOB prices handwritten in the [REDACTED] [REDACTED] correspondence agree with the export prices in the application). In addition GUD has advised that [REDACTED] is similar to [REDACTED]. The documented prices for [REDACTED] are lower than that for [REDACTED] in the application.

88. The 3 oil filters referred to in the paragraph above for which documented export prices have been provided can be matched to 3 (out of 5) of the oil filters for which normal values have been provided (these 3 filters are designated C3, C4 and C5).

89. As recorded above there is also a documented indicative export price in the range of USD [REDACTED] [REDACTED]. The price at the top of this range is USD [REDACTED] higher than 3, and USD [REDACTED] lower than 4, of the prices quoted in [REDACTED] for specified oil filters [REDACTED] [REDACTED] [REDACTED], as shown in Table 5.2 above. This indicates that USD [REDACTED] represents a reasonable indication of the level at which the export prices for the remaining 2 filters (designated C1 and C2) are

94. The following tables show the export prices provided in the application and the prices in the [REDACTED] and [REDACTED] correspondence referred to above.

Table 5.3: Export Prices in Application

Designation	Equivalent GUD Oil Filter (Ryco Brand)	USD FOB Export Price
K1	[REDACTED]	[REDACTED]
K2	[REDACTED]	[REDACTED]
K3	[REDACTED]	[REDACTED]
K4	[REDACTED]	[REDACTED]
K5	[REDACTED]	[REDACTED]
K1a	[REDACTED]	[REDACTED]
K2a	[REDACTED]	[REDACTED]
K5a	[REDACTED]	[REDACTED]

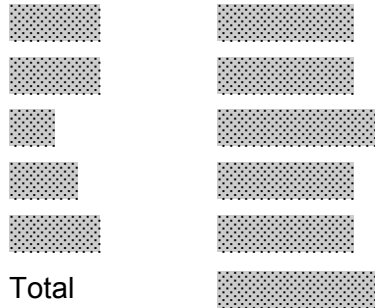
Table 5.4: Export Prices for Which Documented Evidence Provided

Equivalent GUD Oil Filter (Ryco Brand)	Annual Volume on Which Quote Based	[REDACTED] Quote (USD FOB)	[REDACTED] Quote (USD FOB)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

95. A comparison of the two tables shows that the [REDACTED] and [REDACTED] oil filters are common to both tables. The documented prices for these two filters are equal to or higher than the export prices in the application, but are still well below the normal values. In addition GUD has advised that [REDACTED] is similar to [REDACTED]. The documented prices for [REDACTED] are lower than that for [REDACTED] in the application.

96. The 3 oil filters referred to in the paragraph above for which documented export prices have been provided can be matched to all of the oil filters for which normal values have been provided.

97. The Ministry has estimated the approximate volume of imports that could be represented by each type of oil filter for which a documented export price has been provided, on the same basis as that set out above for China. The following shows GUD's sales volume (where available) over this period for each filter equivalent to those for which documented export prices are available.



98. The oil filter sales volume listed in the paragraph above represent [redacted] percent of GUD's estimated sales for the June 2004. For the same reason set out above for China, the Ministry considers it reasonable to assume that those oil filters for which documented export prices are available could represent approximately [redacted] percent of imports from Korea, which is a significant proportion of total imports.

Thailand

99. A copy of a [redacted] dated [redacted] was provided for a range of oil filters showing prices in USD at FOB. The [redacted] shows the part number of the equivalent GUD oil filter and relates to the supply of a specified volume of oil filters that is also shown in the [redacted] (the oil filter types and the volume of purchases on which the prices are based are the same as those shown in the quote from the Korean supplier).

100. The [redacted] does not specify that the volume shown is an annual purchase volume. However, given that the volumes are the same as those on the quote from the Korean supplier (which does specify that the volumes are annual purchases), it is reasonable to assume that the volumes relate to purchases over a one year period. GUD subsequently re-submitted the same [redacted] noting on it other GUD oil filters that are similar to those to which the [redacted] relates.

101. The following tables show the export prices provided in the application and the prices in the [redacted] referred to above.

Table 5.5: Export Prices in Application

Designation	Equivalent GUD Oil Filter (Ryco Brand)	USD FOB Export Price
T1	[redacted]	[redacted]
T2	[redacted]	[redacted]
T3	[redacted]	[redacted]
T4	[redacted]	[redacted]

T5	[Redacted]	[Redacted]
T6	[Redacted]	[Redacted]

Table 5.6: Export Prices for Which Documented Evidence Provided

Equivalent GUD Oil Filter (Ryco Brand)	Volume to Which the Invoice Relates	Prices (FOB USD)
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]

102. A comparison of the two tables shows that the [Redacted] oil filter is common to both tables. The documented price for this filter is the same as the (corrected) export price in the application. In addition GUD has advised that [Redacted] is similar to [Redacted] and [Redacted] is similar to [Redacted] and [Redacted]. The documented price for [Redacted] is the same as that of [Redacted] in the application. The documented price for [Redacted] is the same as that of [Redacted] and [Redacted] in the application.

103. The 3 oil filters referred to in the paragraph above for which documented export prices have been provided can be matched to 3 (out of 6) of the oil filters for which normal values have been provided.

104. The Ministry has estimated the approximate volume of imports that could be represented by each type of oil filter for which a documented export price has been provided on the same basis as that set out above for China. The following shows GUD's sales volume (where available) over this period for each filter equivalent to those for which documented export prices are available.

[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
Total	[Redacted]

105. The oil filter sales volume listed in the paragraph above represent [Redacted] percent of GUD's estimated sales for the June 2004. For the same reason set out above for China, the Ministry considers it reasonable to assume that those oil filters for which

documented export prices are available could represent approximately [REDACTED] percent of imports from Thailand, which is a significant proportion of total imports.

Indonesia

106. Export prices are USD FOB prices [REDACTED]

107. GUD also provided copies of [REDACTED]

108. Subsequent to providing the information referred to above, GUD provided further details on the way in which the export prices ex-Indonesia were [REDACTED]

109. Following the provision of the information referred to above, and in response to requests by the Ministry for further evidence of export prices, GUD provided evidence of export prices using a deductive method. In its application GUD provided a price list from [REDACTED] dated 8 December 2003 which it used as the basis for calculating prices ex-Indonesia for price undercutting purposes. The price list shows [REDACTED] part numbers ([REDACTED] oil filters are manufactured by an Indonesian company), the [REDACTED] and the net price of each filter in NZD. It is noted on the price list that the [REDACTED]

110. GUD has calculated an export price by deducting from the price on the price list estimated amounts for importer's margin, overseas freight and costs from wharf to store in New Zealand and import duty. This calculation has been done for only those types of oil filter that GUD considers are equivalent to those for which a normal value has been obtained. There are a further 3 types of oil filter (Z145A, Z429 and Z436) for which GUD has provided a normal value that are also recorded on the [REDACTED] price list for which GUD did not provide a deductive export price. GUD stated that these 3 types of oil filter are also comparable to filters for which a normal value is available. The Ministry has therefore also calculated deductive export prices for these 3 oil filters using the same method and figures used by GUD.

111. GUD said the importer's margin was estimated from the margin it achieved on a range of oil filters it imports into New Zealand. GUD provided evidence in the form of extracts from its internal costing and financial records showing the FOB price, CIF price, overseas freight and costs from wharf to store, annual sales quantity and revenue, average net selling price and average margin, for 6 types of oil filter that it has imported.

112. The weighted average profit margin, calculated on the difference between the CIF purchase price and net selling price, expressed as a percentage of the net selling price, was [REDACTED] percent. GUD has stated that to calculate a conservative export price it has used an importer's profit margin of [REDACTED] percent.

113. GUD noted that the weighted average cost of overseas freight and costs from wharf to store in New Zealand for the 6 types of oil filter referred to above is NZD [REDACTED] per oil filter. GUD said this amount seems [REDACTED] even though it has been based on its actual imports. GUD has therefore used an amount of NZD [REDACTED] per oil filter, which produces a higher export price and is therefore a conservative approach.

114. GUD calculated import duty at 5.5 percent. The Ministry notes that the import duty for oil filters from Indonesia is 8 percent and has used this rate in its calculations.

115. GUD advised it converted the NZD price resulting from the calculations outlined above into USD using the average rate in the Customs Exchange Rate Notice for entries during December 2003. A copy of this Notice was provided. The Ministry has used the current interbank exchange rate at the time writing (12 July 2004) taken from the OANDA currency conversion internet site at www.oanda.com/converter/classic.

116. GUD has commented that it does not have information relating to exporter's costs to the FOB point and has therefore not made a deduction for these costs (however, doing so would only increase the dumping margins).

117. The following table shows the calculation of deductive export prices on the basis explained above.

Table 5.7: Deductive Export Prices

GUD's part number (Ryco brand)	Z9	Z79x	Z130	Z148x	Z145	Z429	Z436
Price to reseller (NZD)	3.70	3.70	3.70	3.70	3.70	3.70	3.70
Less:							
- Importer's margin @ [REDACTED]%	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
- Overseas freight & freight to store	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
- Duty @ 8%	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Estimated FOB price NZD	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

NZD/USD Exchange Rate @ 12/7/04	0.66	0.66	0.66	0.66	0.66	0.66	0.66
Estimated FOB price USD	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

118. The 7 oil filters in the Table 5.7 above for which deductive export prices have been provided can be matched to 7 (out of 19) of the oil filters for which normal values have been provided.

119. The Ministry has estimated the approximate volume of imports that could be represented by each type of oil filter for which a deductive export price has been provided on the same basis as that set out above for China. The following shows GUD's sales volume (where available) over this period for each filter equivalent to those for which documented export prices are available.

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
Total	[REDACTED]

120. The oil filter sales volume listed in the paragraph above represent [REDACTED] percent of GUD's estimated sales for 2004. For the same reason set out above for China, the Ministry considers it reasonable to assume that those oil filters for which documented export prices are available could represent approximately [REDACTED] percent of imports from Indonesia, which is a significant proportion of total imports.

Conclusion on Export Prices

China

121. There is documented evidence of export prices for 5 types of oil filter, which are estimated to represent approximately [REDACTED] percent of oil filter imports from China. The oil filters for which a documented export price has been provided can be matched to all of the filters for which a normal value has been provided.

122. The Ministry concludes there is sufficient evidence of export prices from China for the purpose of initiating an investigation.

Indonesia

123. The Ministry was provided with [REDACTED]

124. In addition GUD provided evidence of export prices using a deductive method for 7 types of oil filter, which are estimated to represent approximately [REDACTED] percent of oil filter imports from Indonesia. The oil filters for which a deductive export price has been provided can be matched to 7 (out of 19) of the filters for which a normal value has been provided. When comparing the export prices [REDACTED] and that provided using a deductive method, most of the export prices have increased with only one model showing a reduction.

125. The Ministry concludes there is sufficient evidence, in the form of the deductive export prices referred to above, of export prices from Indonesia for the purpose of initiating an investigation.

Korea

126. There is documented evidence of export prices for 3 types of oil filter, which are estimated to represent approximately [REDACTED] percent of oil filter imports from Korea. The oil filters for which a documented export price has been provided can be matched to all of the filters for which a normal value has been provided.

127. The Ministry concludes there is sufficient evidence of export prices from Korea for the purpose of initiating an investigation.

Thailand

128. There is documented evidence of export prices for 3 types of oil filter, which are estimated to represent approximately [REDACTED] percent of oil filter imports from Thailand. The oil filters for which a documented export price has been provided can be matched to 3 (out of 6) filters for which a normal value has been provided.

129. The Ministry concludes there is sufficient evidence of export prices from Korea for the purpose of initiating an investigation.

Unit of Measure

130. The unit of measure is per oil filter, which is the same basis on which oil filters are measured in the Tariff of New Zealand. All export prices shown are on a per oil filter basis.

5.2 Normal Values

Introduction

131. Normal values are determined in accordance with section 5 of the Act.

132. The normal value of any goods imported or intended to be imported into New Zealand is the price paid for like goods sold in the ordinary course of trade for domestic consumption in the country of export, in sales that are arm's length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

China, Korea and Thailand

133. For these countries GUD employed a research company to estimate ex-factory normal values. GUD has advised that the research company was asked to obtain prices for oil filters for popular models of passenger and light commercial vehicles sold in each country. GUD has noted that it was not possible to identify the manufacturers of oil filters imported into New Zealand and therefore the research company was instructed to obtain domestic prices of other sellers of oil filters.

134. GUD has provided a copy of a report prepared by the research company, which is dated January 2004 (a supplementary report relating only to Korea is dated February 2004). The report by the research company states in part:

Data which requires careful use are the hearsay margins information and the prices, which are for one-off, and therefore will be higher than unit prices within a bulk purchase.

As a balance to those concerns are the fact that the prices are actuals and not from lists or quotations, and the manufacturers have been identified.

China

135. GUD has advised that the research company purchased oil filters in China. The research company's report identifies the company (located in Beijing) from whom the oil filters were purchased, includes a copy of the purchase dockets and lists the oil filters purchased showing the number, manufacturer, vehicle used in, and the cost in USD, AUD and NZD.

136. A date can be discerned on only one of the 5 purchase dockets (the date being January 2004). However, all of the filters were purchased at the same company and the Ministry considers it reasonable to assume that all of the dockets were purchased on the same date. Each of the 5 purchase dockets is for the purchase of one oil filter.

137. The report by the research company states that its research in China has discovered the percentage retail margins for each of the oil filters and these are listed in the report along with a calculation of the retail margin in USD and the calculation of an estimated wholesale price. The retail margins range from [REDACTED] to [REDACTED] percent. GUD has referred to one of the oil filters, identified as C4, and commented that although the research company has shown the retail mark up as [REDACTED] percent for this filter the retail mark up has been taken as [REDACTED] percent. GUD has then gone on to comment that "In the absence of any other information the retail mark up has been estimated at [REDACTED]%" GUD said it ". . . has no evidence to base this estimate on other than an expectation that the mark up in a market like China would be less than the retail mark up in [REDACTED], perhaps reflecting a different level of service and consumer expectation in the distribution of oil filters in China." The actual retail margin used by GUD in its application is [REDACTED] percent.

138. It is unclear why GUD in its application commented only on the difference between the retail margin provided by its research company and the [REDACTED] percent it actually used, in relation to the C4 oil filter. It is also unclear why GUD then went on

to comment that the [REDACTED] percent retail margin was used in the absence of any other information, when the report provided by its own research company contains information on retail margins for each of the oil filters for which a normal value has been calculated. GUD was asked to clarify this, but did not provide a satisfactory explanation.

139. The Ministry notes, however, that the use of retail margins shown in the research company's report shows that the same oil filters are dumped (or not dumped) and by percentage margins that are reasonably close to those estimated by GUD in its application using a [REDACTED] percent retail margin. In addition, a [REDACTED] percent retail margin is close to the simple average of the margins provided in the research company's report. The Ministry has therefore accepted the [REDACTED] percent retail margin used by GUD as reasonable for the purposes of an application for a dumping investigation.

140. GUD has also made a deduction for a wholesale margin of [REDACTED] percent. This margin is based on advice from the research company contained in an email, which in relation to China, states in part "We have found that Wholesaler mark-up is usually [REDACTED] %."

141. Using the prices and margin deductions referred to above, GUD has provided a table showing its calculation of normal values. GUD has converted the purchase prices in Chinese Yuan into USD using an exchange rate at 16 February 2004. The Ministry has updated the exchange rate to that prevailing at the time of writing (at 12 July 2004) using the interbank rate from the OANDA currency conversion site at www.oanda.com/converter/classic. The calculation of normal values is shown in the table below (the table is shown in two parts because of its width).

Table 5.8: Normal Values for China

Filter ID	Filter Number	Manufacturer	Vehicle	Retail Price (Yuan)	Yuan/USD X-Rate at 12/7/04
C1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.12067
C2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.12067
C3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.12067
C4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.12067
C5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.12067

Filter ID	Retail Price (USD)	Retail Margin @ % (USD)	W'sale Margin @ %	Ex-Factory Normal Value (USD)
C1				
C2				
C3				
C4				
C5				

Korea

142. GUD has advised that the research company also purchased oil filters in Korea. The research company's report identifies the company from whom the oil filters were purchased (located in Seongnam City). The report includes copies of the purchase dockets (which have been translated into English), and lists the oil filter numbers, the manufacturer of the oil filter, the vehicle used in, and the purchase price in Korean won, AUD and NZD.

143. The purchase dockets for the oil filters designated as K1 to K5 are dated 13 December 2003. The purchase dockets designated as K1a, K2a and K3a are dated 3 February 2004. All of the purchase dockets relate to the purchase of one of each type of oil filter.

144. The research company's report (and a subsequent email) records that it obtained margin information relating to two filters manufactured by [REDACTED]. This information was for the total margin between the retail purchase price from a parts company and the ex-factory price, which the research company obtained by telephone from [REDACTED]. For one oil filter the total margin was [REDACTED] percent and for the other [REDACTED] percent.

145. The report by the research company notes that in Korea, direct sales of oil filters to end users are comparatively few, with most oil filters being purchased indirectly by end users as part of a vehicles service or repair package. Based on the total mark up of [REDACTED] percent for one filter as referred to above, and on information it obtained on distribution chain margins, the research company's report breaks down the total margin as follows:

Service centre sale to customer:	+ [REDACTED] percent mark up
Auto parts store sale to service centre	+ [REDACTED] percent mark up
Manufacturer's sale to auto part store	+ [REDACTED] percent mark up

146. In a supplementary report by the research company, details are provided of another purchase of oil filters from what is described as a shop that only sells filters and other auto parts to customers directly (the shop is located in Seoul). This report

contains the same type of information as that in the main report, except that it is noted by the research company that it has no further information on margins.

147. GUD has stated that based on its industry knowledge it has allowed for a [REDACTED] percent service centre mark up and a mark up of [REDACTED] percent for a wholesalers margin, to give a difference of [REDACTED] percent from ex-factory to retail. GUD has noted that this differs from the [REDACTED] percent total mark up reported by the research company, but has provided no reason other than that given in the preceding sentence to explain why it has used a lower mark up than that found by the research company. GUD has commented that the total mark up found by the research company for the other oil filter was [REDACTED] percent but “. . . this has been disregarded in order to establish a conservative normal value . . .”. The Ministry notes that deducting a lower mark up such as that used by GUD produces a higher normal value and consequently a higher dumping margin.

148. The Ministry also notes that the research company’s report shows that the oil filters were purchased from a company that acts as a parts agent for various motor vehicle manufacturers, and not from a service centre. The Ministry also notes that the research company’s report does not show a wholesaler in the distribution chain, the relevant distribution chain being shown in paragraph 145 above.

149. Using a conservative approach, the Ministry has applied the total margin reported by the research company of [REDACTED] and [REDACTED] percent to the two filters to which they relate, and has applied the higher [REDACTED] percent margin to the remaining filters. GUD has converted the purchase prices in Korean Won have been converted into USD using an exchange rate at 16 February 2004. The exchange rate conversion has been updated by the Ministry using the interbank rate at 12 July obtained from OANDA.

150. The calculation of normal values is shown in the table below (in two parts because of its width).

Table 5.9: Normal Values for Korea

Filter ID	Filter Number	Manufacturer	Vehicle	Retail Price (won)	Won/USD X-Rate at 12/7/04
K1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.0008691
K2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.0008691
K3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.0008691
K4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.0008691

K5					0.0008691
K1a					0.0008691
K2a					0.0008691
K5a					0.0008691

Filter ID	Retail Price (USD)	Total Margin %	Total Margin (USD)	Ex-Factory Normal Value (USD)
K1				
K2				
K3				
K4				
K5				
K1a				
K2a				
K5a				

Thailand

151. The report prepared by the research company records that various oil filters were purchased from four automobile parts shops in Bangkok and includes copies of the purchase docket. The report lists the oil filter numbers, the manufacturer of the oil filter (where this is known), the vehicle used in, and the purchase price in USD, AUD and NZD.

152. The purchase dockets for all of the oil filters (designated T1 to T6) are dated 13 January 2004. All of the purchase dockets relate to the purchase of one of each type of oil filter.

153. The report also notes that information on margins has been obtained from the trade in Thailand and presents the margins in the form of a diagram showing the margins in various distribution chains. In the case of the margin taken by parts dealers and wholesalers, the margins have been presented in ranges; for parts dealers ranging from percent and for wholesalers ranging from percent. From these ranges GUD has taken the margin for parts dealers as percent and for wholesalers as percent.

154. The calculation of normal values, but using the current exchange rate at the time of writing, is shown in the table below (in two parts because of its width).

Table 5.10: Normal Values for Thailand

Filter ID	Filter Number	Manufacturer	Vehicle	Retail Price (baht)	Baht/USD X-Rate at 12/7/04
T1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.024449
T2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.024449
T3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.024449
T4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.024449
T5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.024449
T6	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0.024449

Filter ID	Retail Price (USD)	Parts Dealer Margin @ [REDACTED] % (USD)	W'sale Price (USD)	W'sale Margin @ [REDACTED] %	Ex-Factory Normal Value (USD)
T1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T6	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Indonesia

155. GUD has stated that normal values for Indonesia are based on a price list from the domestic distributor of [REDACTED] oil filters, [REDACTED]. The price list is dated February 2001 and a copy has been provided. The price list also contains a heading for volume, and this is assumed to be the minimum purchase volume. GUD has commented that it has not been able to obtain a more recent price list “. . . but understands that these prices are still current further to recent inquiries [REDACTED].” GUD has noted that even if the price list is not current it is to be expected that prices would have increased since February 2001. The Ministry notes there has been a significant increase in the consumer price index in Indonesia since 2001, so the expectation that if the price list is not current prices would have increased, is reasonable.

156. GUD has advised that the parent company of [REDACTED] (the manufacturer of [REDACTED] filters), [REDACTED], owns [REDACTED].

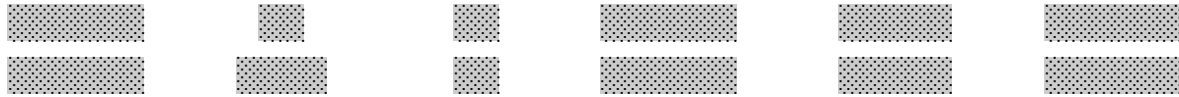
██████████ GUD has stated that ██████████ appears to sell all of its oil filters for the Indonesian domestic market through ██████████ and notes that it does not have any information which is able to confirm either way that the sale from ██████████ is an arm's length transaction.

157. GUD has taken prices from the price list referred to above for those oil filters it considers are comparable to those for which export prices are available. GUD has allowed for a ██████ percent discount off the list price to estimate the distributor's actual selling prices to resellers. GUD has stated this discount is based on its industry knowledge and that it does not have any evidence to justify this discount. GUD has noted that not including this discount would result in a higher normal value and therefore a higher dumping margin. Using information from the research company's reports into the other three countries, GUD has estimated a mark up from the manufacturer to the distributor of ██████ percent, to obtain an estimated ex-factory normal value. GUD has taken a conservative approach and converted the list prices from Indonesian rupiah to USD using the exchange rate at 16 February 2004.

158. The calculation of normal values, but using the current exchange rate at the time of writing, is shown in 2 parts in the table below.

Table 5.11: Normal Values for Indonesia

██████████ Part No.	GUD Equivalent (Ryco Brand)	Volume	List Price (rupiah)	Discount @ ██████%	Distributor's Price (rupiah)
██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████
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██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████
██████████	██████████	████	██████████	██████████	██████████



Part No.	Rupiah/USD X-Rate at 12/7/04	Distributor's Price (USD	Distributor's Margin @ %	Ex-Factory Normal Value (USD)
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	0.0001122	[REDACTED]	[REDACTED]	[REDACTED]

Conclusion on Normal Values

159. The Ministry concludes that the information on normal values provided by GUD is sufficient for the purposes of considering the initiation of an investigation.

5.3 Comparison of Export Price and Normal Value

160. The tables below show the export price, normal value and dumping margin calculations for China, Indonesia, Korea and Thailand.

China

Table 5.12: Dumping Margins for China

Filter ID	Export Price (USD)	Normal Value (USD)	Dumping Margin (USD)	Dumping Margin as % of Export Price
C1	██████████	██████████	██████████	127%
C2	██████████	██████████	██████████	110%
C3	██████████	██████████	██████████	-45%
C4	██████████	██████████	██████████	-9%
C5	██████████	██████████	██████████	81%

161. Table 5.12 above shows three of the oil filters are dumped and two are not dumped. Dumping margins expressed, as a percentage of export price, range from -45 (i.e. not dumped) to 127 percent. GUD has commented that there is an argument to adjust normal values upwards based on the poor quality of the inner components of the oil filters sold on the Chinese domestic market compared to those exported to New Zealand. GUD provided photographs of a sample of the oil filters sold on the Chinese domestic market to demonstrate this low quality. GUD has noted that the normal values for the C3 and C4 (which are not dumped) could be adjusted to the average of the other three filters (which are dumped) and this would then give a positive dumping margin.

162. The evidence provided in the application shows that for three of the five oil filters the alleged margins of dumping are not *de minimis* in terms of Article 5.8 of the Agreement, as they are greater than 2 percent expressed as a percentage of export prices.

163. Those two oil filters that the evidence shows are not dumped (designated C3 and C4) are equivalent to GUD's Ryco brand oil filters ██████████ ██████████ ██████████ ██████████ ██████████ ██████████. As noted in paragraph 90 above GUD has provided its sales volume figures for its top 50 spin-on and its top 50 cartridge type oil filters, for the year ended 31 May 2004. These figures show that sales of oil filters, over this period, of the type recorded in the first sentence of this paragraph, totalled ██████████. This quantity represents 20 percent of all GUD's sales of oil filter types equivalent to those for which an export price and normal value has been provided of ██████████ (see table in paragraph 90). The Ministry considers this provides a reasonable indication, on the basis of the evidence available, of the proportion of imports of the subject goods from China that are likely dumped, i.e., 80 percent.

164. The Ministry notes that the export prices are at the FOB level and normal values are at the ex-factory level, and are therefore at different levels in the distribution chain. However, any adjustment to place export prices and normal values at the same point in the distribution chain would only increase dumping margins, as export prices would be decreased or normal values would be increased.

165. The Ministry further notes that the purchase volumes on which documented export prices are based have not been specified, while normal values have been based on the purchase of one of each type of oil filter for which a normal value has been provided. GUD has commented that the quotes on which export prices have been established relate to volumes that may be higher than the import volumes into New Zealand of the same type filter but the difference in volumes is not expected to vary the export price to any significant degree. This comment by GUD indicates that the export prices were established in relation to particular import volumes.

166. Consequently it is likely that export prices are based on purchase volumes much higher than the purchase of the one oil filter of each type on which normal values are based. As noted in paragraph 134 above, the research company employed by GUD has commented that the prices used to establish normal values will be higher than unit prices within a bulk purchase. It is therefore likely that an adjustment is required for the difference in volumes. GUD has not provided any information on which to base such an adjustment.

167. The Ministry notes, however, for those 3 oil filters that are dumped the dumping margins are large. To remove the dumping margin for the filter with the lowest margin would require a discount off the normal value of 44 percent. The Ministry has considered whether it is likely that the additional volumes on which export prices are based would result in a discount of sufficient magnitude to remove the lowest dumping margin. To do this the Ministry has examined verification reports for both the New Zealand industry and overseas producers and exporters produced in investigations from 1999 to date for evidence of volume related adjustments and discounts or rebates. The following is a list of the investigations and verification reports where there was sufficient detail recorded to identify adjustments, discounts or rebates specifically related to the volume of sales:

- (a) Review of Anti-Dumping Duty on Lead Acid Batteries from Indonesia, Korea, Malaysia, Singapore and Taiwan completed in 1999. The verification report on Global & Yuasa Battery Company Ltd (a Korean manufacturer) refers to a volume discount available to domestic customers of 10 to 15 percent.
- (b) Anti-dumping investigation of oil filters from Thailand, Korea, Malaysia and Indonesia completed in 2000. The verification report on June Heung Filter Co Ltd and Chung Ku Industrial Co Ltd (a Korean manufacturer and exporter respectively) refers to a 10 percent fair comparison adjustment for the difference in quantities sold on the Korean domestic market and the quantities exported to New Zealand.
- (c) Anti-dumping investigation of glass wool insulation from Taiwan completed in 2003. The verification report on Taita Chemical Co Ltd (a Taiwanese manufacturer) refers to special prices for large projects which can attract a discount of up to 10 percent.

168. The adjustment and discounts referred to above are well below the amount required to remove the dumping margin on the oil filter with the lowest dumping margin. On the basis of the examination outlined above the Ministry considers it unlikely that the additional volumes on which export prices are based would have resulted in a discount of sufficient magnitude to remove the dumping margins. The

Ministry considers therefore that the evidence available indicates the 3 oil filters that are shown as dumped in Table 5.12 above are likely to be dumped even if the difference in volumes was to be taken into account.

Indonesia

Table 5.13: Dumping Margins for Indonesia

Part No.	GUD Equivalent (Ryco Brand)	Export Price (USD)	Normal Value (USD)	Dumping Margin (USD)	Dumping Margin as % of Export Price
					40%
					40%
					40%
					40%
					15%
					54%
					22%

169. Table 5.13 above shows that all of the oil filters are dumped with dumping margins, expressed as a percentage of export price, ranging from 15 to 54 percent.

170. The evidence provided by the applicant shows that the alleged margins of dumping are not *de minimis* in terms of Article 5.8 of the Agreement as they are greater than 2 percent expressed as a percentage of export prices.

171. As with China, export prices are at the FOB level and normal values are at the ex-factory level, and are therefore at different levels in the distribution chain. However, any adjustment to place export prices and normal values at the same point in the distribution chain would only increase dumping margins, as export prices would be decreased or normal values would be increased.

172. Deductive export prices are based on a price list that specifies a [REDACTED] [REDACTED] is required, while normal values have been based on a price list that requires minimum purchases of either [REDACTED] or [REDACTED] filters. The difference in minimum purchase volumes specified on the price list used to calculate the deductive export prices and that specified on the price list used to establish normal values is very small. If any adjustment at all is required to account for this difference in volumes, it is not likely to be significant.

173. All but one of the dumping margins for Indonesia is greater than 20 percent. For the reasons recorded in paragraphs 167 and 168 above the Ministry considers it unlikely that any adjustment to account for the very small difference in volumes would remove these dumping margins. The Ministry considers therefore that the

evidence available indicates the oil filters in Table 5.13 above are likely to be dumped even if the difference in volumes results in a lower normal value.

Korea

Table 5.14: Dumping Margins for Korea

Filter ID	Export Price (USD)	Normal Value (USD)	Dumping Margin (USD)	Dumping Margin as % of Export Price
K1				73%
K2				398%
K3				169%
K4				189%
K5				69%
K1a				69%
K2a				381%
K5a				70%

174. Table 5.14 above shows that all of the oil filters are dumped with dumping margins, expressed as a percentage of export price, ranging from 69 to 398 percent.

175. The evidence provided by the applicant shows that the alleged margins of dumping are not *de minimis* in terms of Article 5.8 of the Agreement as they are greater than 2 percent expressed as a percentage of export prices.

176. As with China and Indonesia, export prices are at the FOB level and normal values are at the ex-factory level, and are therefore at different levels in the distribution chain. However, any adjustment to place export prices and normal values at the same point in the distribution chain would only increase dumping margins, as export prices would be decreased or normal values would be increased.

177. The purchase volumes on which documented export prices are based are significant, while normal values have been based on the purchase of one of each type of oil filter for which a normal value has been provided. The documented export prices are equal to or higher than the export prices in the application, indicating that the export prices are based on the purchase of significant volumes.

178. Export prices are therefore based on purchase volumes much higher than the purchase of the one of each type of oil filter on which normal values are based. As noted in paragraph 134 above, the research company employed by GUD has commented that the prices used to establish normal values will be higher than unit prices within a bulk purchase. It is therefore likely that an adjustment is required for the difference in volumes. GUD has not provided any information on which to base such an adjustment.

179. The dumping margins in Table 5.14 above are large. To remove the dumping margin for the filter with the lowest margin would require a discount off the normal value of 41 percent. For the reasons recorded in paragraphs 167 and 168 above the Ministry considers it unlikely that the additional volumes on which export prices are based would have resulted in a discount of sufficient magnitude to remove the dumping margins. The Ministry considers therefore that the evidence available indicates oil filters from Korea are likely to be dumped even if the difference in volumes is taken into account.

Thailand

Table 5.15: Dumping Margins for Thailand

Filter ID	Export Price (USD)	Normal Value (USD)	Dumping Margin (USD)	Dumping Margin as % of Export Price
T1				216%
T2				201%
T3				185%
T4				110%
T5				102%
T6				69%

180. Table 5.15 above shows that all of the oil filters are dumped with dumping margins, expressed as a percentage of export price, ranging from 69 to 216 percent.

181. The evidence provided by the applicant shows that the alleged margins of dumping are not *de minimis* in terms of Article 5.8 of the Agreement as they are greater than 2 percent expressed as a percentage of export prices.

182. As with China, Indonesia and Korea export prices are at the FOB level and normal values are at the ex-factory level, and are therefore at different levels in the distribution chain. However, any adjustment to place export prices and normal values at the same point in the distribution chain would only increase dumping margins, as export prices would be decreased or normal values would be increased.

183. The Ministry notes that the purchase volumes on which documented export prices are significant, while normal values have been based on the purchase of one of each type of oil filter for which a normal value has been provided. The documented export prices are equal to the export prices in the application, indicating that the export prices are based on the purchase of significant volumes.

184. Export prices are therefore based on purchase volumes much higher than the purchase of the one oil filter on which normal values are based. As noted in paragraph 134 above, the research company employed by GUD has commented that the prices used to establish normal values will be higher than unit prices within a bulk purchase. It is therefore likely that in order to obtain a fair comparison between

export prices and normal values an adjustment is required for the difference in volumes. GUD has not provided any information on which to base such an adjustment.

185. The dumping margins in Table 5.15 above are large. To remove the dumping margin for the filter with the lowest margin would require a discount off the normal value of 41 percent. For the reasons recorded in paragraphs 167 and 168 above the Ministry considers it unlikely that the additional volumes on which export prices are based would have resulted in a discount of sufficient magnitude to remove the dumping margins. The Ministry considers therefore that the evidence available indicates oil filters from Thailand are likely to be dumped even if the difference in volumes is taken into account.

5.4 Conclusions Relating to Dumping

186. GUD has provided information reasonably available to it on export prices and normal values.

187. The evidence in respect of China shows that two out of the five oil filters for which information was provided were not dumped. The Ministry concludes, however, that the information in respect of the other three oil filters (which are estimated to constitute approximately 80 percent of imports from China) provides sufficient evidence of dumping for the purposes of initiation.

188. The Ministry concludes that information provided in the application in respect of Indonesia, Korea and Thailand provides sufficient evidence of dumping for the purposes of initiation.

189. Any investigation will need to consider export price and normal value in terms of sections 4 and section 5 of the Act respectively, and in particular the application of the appropriate adjustments under 4(1)(a)(i) and (ii) and 5(3).

6. Evidence of Injury

6.1 Material Injury

190. The basis for considering material injury is set out in section 8(1) of the Act:

8. Material injury to industry—(1) In determining for the purposes of this Act whether or not any material injury to an industry has been or is being caused or is threatened or whether or not the establishment of an industry has been or is being materially retarded by means of the dumping or subsidisation of goods imported or intended to be imported into New Zealand from another country, the [Chief Executive] shall examine—

- (a) The volume of imports of the dumped or subsidised goods; and
- (b) The effect of the dumped or subsidised goods on prices in New Zealand for like goods; and
- (c) The consequent impact of the dumped or subsidised goods on the relevant New Zealand industry.

191. GUD has advised that material injury became evident in its financial year ended June 2003.

192. The import data in this section of the Report is presented in years ended 30 June and for six months from 1 July to 31 December 2003, and financial data is presented in years ended 30 June (including an estimate for 2004, which is based on nine months of actual data).

6.2 Import Volumes

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

194. To establish the extent to which there has been a significant increase in the volume of imports in absolute terms and in relation to production and consumption, GUD has provided financial information on its own sales together with import data from INFOS separated out by each country under consideration.

195. GUD stated that the tariff item and statistical key captures all oil filters imported into New Zealand i.e. subject goods and goods not subject to the application. To separate out the subject goods from the total volume imported was considered by GUD as an uneconomical use of resources given that the majority of the goods imported compete with the range of goods produced by GUD and it is unknown to GUD if any import data is confidential. GUD considered it had provided sufficient information for initiation purposes.

196. The Ministry's research has shown the tariff item and statistical key that covers the subject goods is not a suppressed tariff item. The Ministry is, at this stage, unable to adjust for quantity of imports of subject goods from each nominated

country and other sources as there is no information available that would allow the proportion of imported subject goods to be estimated, therefore no adjustment in this respect has been made to INFOS figures. Furthermore GUD has advised that it imports goods that are not subject goods from Australia, Korea and Thailand therefore an adjustment could be made based on Customs data. However, with their inclusion or exclusion the trends remain the same. For consistency and to ensure that all parties have access to non-confidential information relevant to the presentation of their case the Ministry has not excluded from the figures the volume of GUD's imports that are not subject goods.

197. The Ministry has adjusted, based on the evidence provided, the figures of import volumes from China as not all types of oil filters imported from China are dumped. The Ministry has reduced the import volume by the percentage estimated to be undumped of 20 percent, calculated on the basis set out in paragraph 163. For the purposes of this report it is an assumption that the import volume equals import sales volume and the table below shows adjusted volume of imports in absolute terms and in relation to production and consumption.

Table 6.1: Import Volumes for Year Ended June (Per Unit)

	2001	2002	2003	Dec-03
China	476	13,994	57,280	55,242
Indonesia	156,335	91,823	256,413	97,680
Korea	107,462	160,972	188,383	91,627
Thailand	99,926	129,568	172,444	96,021
Subtotal Dumped Imports	364,199	396,357	674,520	340,570
Other Imports	1,463,201	1,550,350	1,624,362	725,784
Total Imports	1,827,400	1,946,707	2,298,882	1,066,354
NZ Industry Sales				
NZ Market				
<u>Change on previous year:</u>				
China		13,518	43,286	
Indonesia		- 64,512	164,590	
Korea		53,510	27,411	
Thailand		29,642	42,876	
Subtotal Dumped Imports		32,158	278,163	
Other Imports		87,149	74,012	
Total Imports		119,307	352,175	
NZ Industry Sales				
NZ Market				
Percentage Change:				

China	2840%	309%
Indonesia	-41%	179%
Korea	50%	17%
Thailand	30%	33%
Subject Imports	9%	70%
Other Imports	6%	5%
Total Imports	7%	18%
NZ Industry Sales	1%	-7%
NZ Market	4%	9%

China Imports as a Percentage of:

NZ Industry Sales				
NZ Market				

Indonesia Imports as a Percentage of:

NZ Industry Sales				
NZ Market				

Korean Imports as a Percentage of:

NZ Industry Sales				
NZ Market				

Thai Imports as a Percentage of:

NZ Industry Sales				
NZ Market				

Subject Imports as a Percentage of:

NZ Industry Sales				
NZ Market				

198. The Ministry sourced data from INFOS and although the trends are the same, it differs in parts from the data provided in the application document. GUD advised that the data it provided was provisional and also included its own imports. The Ministry has shown in Table 6.1 the updated INFOS data adjusted to exclude undumped subject goods from China. Any investigation will need to remove the volume of undumped goods and the goods that fall outside of the description of subject goods from the volume of imports.

China

199. In absolute terms, the volume of imports of allegedly dumped goods increased in 2002 and significantly increased in 2003. If the trend in the first six months of 2004 continues into the last six months of 2004 there will be a significant increase in the volume of allegedly dumped goods. This is confirmed by Customs data for the

year ended 30 June 2004 which shows total imports from China as [REDACTED] units. In relation to production and consumption the figures show a steady increase over the injury period with a [REDACTED] increase in 2003 and for the first six months of 2004.

Indonesia

200. In absolute terms, the volume of imports of allegedly dumped goods from Indonesia decreased in 2002. However, for 2003 it significantly increased. If the trend in the first six months of 2004 continues into the last six months of 2004 the volume of imports appear to decrease but it still remains a significant annual increase from 2001 and 2002. This is confirmed by Customs data for the year ended 30 June 2004 which shows imports from Indonesia as [REDACTED] units which represents a small decline on the previous year. In relation to production and consumption the figures show a decrease in 2002, a [REDACTED] increase in 2003, a decrease for the six months ended December 2003 but the figures are higher than that shown for 2001 and 2002.

Korea

201. In absolute terms, the volume of imports of allegedly dumped goods significantly increased in 2002 and increased in 2003. If the trend in the first six months of 2004 continues into the last six months of 2004 the volume of imports of allegedly dumped goods for the full year will remain similar to 2003. Customs data for the year ended 30 June 2004 shows total imports from Korea as [REDACTED] units which is a small increase on the previous year. In relation to production and consumption the figures show a [REDACTED] increase in 2002 and a further increase in 2003 and a slight decrease for the six month period ended December 2003.

Thailand

202. In absolute terms, the volume of imports of allegedly dumped goods increased in 2002 and significantly increased in 2003. If the trend in the first six months of 2004 continues into the last six months of 2004 the volume of allegedly dumped goods will increase slightly from last financial year. Customs data for the year ended 30 June 2004 shows total imports from Thailand as [REDACTED] units which is substantially higher than the previous financial year. Customs data shows, in relation to production and consumption a [REDACTED] increase in 2002 and 2003 and a [REDACTED] increase for the 6 month period up to December 2003.

Imports of Subject Goods

203. In absolute terms the volume of imports of allegedly dumped goods increased in 2002 and significantly increased in 2003, which is in the same financial period that GUD claims material injury commenced. If the trend in the first six months of 2004 continues into the last six months of 2004 the volume of subject goods imported will be similar to that shown for 2003. Customs data for the year ended 30 June 2004, however, indicates import volumes for the June year 2004 will be significantly higher than for 2003. In relation to production and consumption the data shows a

increase in 2002 and 2003 and an increase for the first six months to December 2003.

Conclusion on Import Volumes

204. There is sufficient evidence that the volumes of imports of the subject goods from each nominated country have increased significantly in absolute terms and relative to New Zealand production and consumption over the injury period.

6.3 Price Effects

Price Undercutting

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

206. To assess the extent of price undercutting the Ministry must consider the level of trade at which the subject goods first compete with the like goods of the New Zealand producer.

207. GUD sells its oil filters to distributors who on sell to the trade. GUD advised that importers sell to the same customers (distributors) as GUD. GUD has stated that for convenience it has compared its ex-factory price with the estimated price that an importer would sell to a distributor or reseller, noting that any investigation would determine whether a different level of trade should be used.

208. GUD has provided information, which is reasonably available to it, regarding the names of importers and the brands of oil filters imported from the nominated countries. It has obtained copies of importers' price lists for oil filters originating from Indonesia and Thailand, an invoice from the distributor of oil filters originating from China and an invoice from the importer/distributor of oil filters originating from Korea. It has compared the price per unit of a sample of the imported products on a model by model basis with its own manufactured product to demonstrate the extent of price undercutting. The equivalent Ryco models produced by GUD are in their top sales except for two models.

China

209. GUD has stated that the brands of oil filters imported from China are [redacted]. GUD has provided pricing information on the [redacted] oil filter.

210. [redacted] is an importer of the [redacted] brand of oil filter and [redacted] is its distributor. As evidence of prices per unit GUD has provided copies of invoices issued by [redacted] and a cash sale to another customer (not named) dated [redacted]. To support its own prices GUD has provided copies of invoices issued to its customer [redacted] (who GUD has stated purchases similar volumes to those purchased by

() dated 8 and 17 March 2004. The models shown in the evidence represent for year ended May 2004, percent of GUD's sales.

211. GUD has stated that is at the same level of trade as GUD because both companies sell their products to distributors. GUD has removed from price per unit which represents what it considers to be a reasonable distributor margin and reduced its price by percent which represents which is available to GUD has advised that under this deductive method it has assumed that prices will have a freight component per unit therefore it has not removed the freight component from its own prices. In effect this method has established a comparison on a free-into-store price per unit.

Table 6.2: Price Undercutting - Goods from China (per unit)

Part Number	Equivalent Model (Ryco Brand)	GUD's prices	prices	Price Undercutting	Percentage of Price Undercutting
	Z9				
	Z79(X)				
	Z56B				
	Z148(X)				

212. GUD has advised that the price undercutting above is understated

213. Based on a sample of oil filters imported from China as noted in the table above there was significant price undercutting of all models.

Indonesia

214. GUD has stated that the brands of oil filters imported from Indonesia are

215. imports the branded oil filter. GUD has provided a copy of price list dated 8 December 2003 that shows the price per unit at a To illustrate its prices at approximately the same time GUD has provided copies of invoices dated 5, 12 and 18 November 2003 issued to its customer from which a has been deducted. The models shown in the evidence represent for year ended May 2004, percent of GUD's sales.

216. The following table shows details comparing these prices:

Table 6.3: Price Undercutting - Goods from Indonesia (per unit)

Brand	Equivalent Model (Ryco Brand)	GUD Prices	Prices	Price Undercutting	Percentage of Price Undercutting
	Z9				
	Z158				
	Z79X				

217. Based on a sample of oil filters imported from Indonesia as noted in the table above there is significant price undercutting of all models.

218. [REDACTED]

Korea

219. GUD has advised that the brands of oil filters imported from Korea are [REDACTED]

220. [REDACTED] is an importer and distributor of oil filters imported from Korea. GUD has provided a copy of a cash sale invoice issued by [REDACTED] dated [REDACTED] that shows the retail and trade price of various oil filters. To estimate an ex-importer's price GUD assumes that [REDACTED] would take a margin as importer and a margin as distributor therefore it has adjusted the price by [REDACTED] which it considers a distributor would normally charge. Even though GUD believes the price could be further reduced because a discount is most probably offered it has taken a conservative approach to pricing by not making an adjustment for discount. As evidence of the prices of GUD's oil filters it has provided copies of invoices issued to [REDACTED] dated 5 and 12 November 2003 and applied the [REDACTED]. The models shown in the evidence represent for year ended May 2004, [REDACTED] percent of its sales. The following table shows the comparisons of prices.

Table 6.4: Price Undercutting - Goods from Korea (per unit)

(Part Number)	Equivalent Model (Ryco brand)	GUD's prices	prices	Price Undercutting	Percentage of Price Undercutting
	Z79X				
	Z313				
	Z436				
	Z88(A)				

221. Based on a sample of oil filters imported from Korea as noted in the table above there is significant price undercutting of two models. Of the two models that illustrate price undercutting [REDACTED] which represents for year ended May 2004, [REDACTED] percent of GUD's sales.

Thailand

222. GUD has stated that the brands of oil filters imported from Thailand are [REDACTED]

223. GUD has advised that [REDACTED] imports the [REDACTED] brand of oil filters from Thailand. It has provided a copy of a price list (undated) which was obtained in 2004. [REDACTED] price list shows the selling price of various oil filters. GUD has provided as evidence of its prices invoices issued to [REDACTED] dated 5 and 12 November 2003 and applied a [REDACTED]. The models shown in the evidence represent, for year ended May 2004, [REDACTED] percent of GUD's sales. The table below shows the price comparisons:

Table 6.5: Price Undercutting - Goods from Thailand (per unit)

Part Number	Equivalent Model (Ryco Brand)	GUD's prices	prices	Price Undercutting	Percentage of Price Undercutting
	Z9				
	Z142(A)				
	Z79(X)				
	Z154				
	Z191(A)				

224. Based on a sample of oil filters imported from Thailand as noted in the table above there is significant price undercutting of all models.

Conclusion on Price Undercutting

225. There is sufficient evidence that a majority of the prices of the allegedly dumped imports for which evidence has been provided are undercutting the prices of the New Zealand producer.

226. Should an investigation be initiated, considering there is a large number of oil filters that are like goods and in some circumstances models produced by GUD can be substituted for more than one imported oil filter, it would likely be impracticable to complete a comparison on a model by model basis therefore another method of comparison could be considered under the circumstances.

Price Depression

227. Section 8(2)(c) of the Act provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers.

228. Price depression occurs when prices are lower than those in a market unaffected by dumping, usually in a previous period.

229. To determine if there is price depression over the injury period GUD has divided its annual sales revenue (net of [REDACTED]) by its annual volume of oil filters sold in the New Zealand market to obtain an average per unit selling price over the injury period. In 2001 and 2002 the market was unaffected by the allegedly dumped goods therefore these years are used for comparative purposes. The following table shows the trend over the injury period:

Table 6.6: Price Depression: Average Selling Price For Year Ended June (per unit)

	2001	2002	2003	2004 (Estimate)
Volume (units)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Revenue	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<i>Per Unit:</i>				
Average Price	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Difference from previous year		[REDACTED]	[REDACTED]	[REDACTED]

230. As illustrated in the table above the average price per unit on all goods produced by GUD has increased in 2002 and 2003. However, based on the actual performance for the first nine months of 2004 it is estimated that the price per unit will decrease by [REDACTED] when compared with 2003 and it will be an increase from 2001 but a decrease when compared with 2002.

231. GUD has advised that it [REDACTED] its selling price of several large volume filters [REDACTED] prices of imported filters in early 2004 but the goods have not been in the market long enough to [REDACTED] the average price. GUD forecasts for 2005 that its average price per unit will be [REDACTED]

Conclusion on Price Depression

232. There is evidence that the average prices of oil filters per unit have increased in 2002 and 2003. The average price in 2004 is not depressed when compared with 2001 but it is depressed when compared with 2002, which is the period immediately prior to that in which dumping is alleged to have an injurious affect.

Price Suppression

233. Section 8(2)(c) of the Act also provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to prevent price increases for those goods that otherwise would have been likely to have occurred.

234. The Ministry has generally based its assessment of price suppression on positive evidence, in particular the extent to which cost increases have not been recovered in prices. Cost increases not recovered in prices will be reflected in declines in gross profits and earnings before interest and taxation ("EBIT") expressed as a percentage of sales. Where cost savings have been made, the lack of any price increase will not normally be regarded as price suppression. While the inability to recover cost increases in prices is the main indicator of price suppression, the Ministry will consider any other factors raised as positive evidence of price suppression.

235. GUD [REDACTED] and even though the exchange rate has been favourable [REDACTED] and consequently the cost of production [REDACTED] GUD has stated that the [REDACTED] in 2003 prevented it from [REDACTED] across the range of oil filters therefore [REDACTED] production costs [REDACTED]. The following table shows GUD's costs, profit and EBIT relative to average prices:

Table 6.7: Price Suppression for Year Ended June (Per Unit)

	2001	2002	2003	2004 (Estimate)
Average Price	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Cost of Production	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Gross Profit	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Sales and Marketing	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Administration	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

EBIT	██████████	██████████	██████████	██████████
Total Costs	██████████	██████████	██████████	██████████
Difference from Previous Year:				
Average Price		██████████	██████████	██████████
Cost of Production		██████████	██████████	██████████
Gross Profit		██████████	██████████	██████████
Sales and Marketing		██████████	██████████	██████████
Administration		██████████	██████████	██████████
EBIT		██████████	██████████	██████████
Total Costs		██████████	██████████	██████████
As Percentage of Sales:				
Cost of Production	██████████	██████████	██████████	██████████
Gross Profit	██████████	██████████	██████████	██████████
Sales and Marketing	██████████	██████████	██████████	██████████
Administration	██████████	██████████	██████████	██████████
EBIT	██████████	██████████	██████████	██████████
Total Costs	██████████	██████████	██████████	██████████

236. Figures in Table 6.7 show that the cost of production ██████████ in 2002, ██████████ in 2003 and is estimated to ██████████ in 2004. As a percentage of sales the cost of production ██████████ in 2003 and is estimated to ██████████ in 2004, consequently gross profit has decreased. Sales, marketing and administration costs as a percentage of sales have ██████████ over the injury period but EBIT has decreased in 2003 and is estimated to ██████████ decrease in 2004. There is evidence indicating that prices have been suppressed in 2003 and price suppression is estimated to occur in 2004.

Conclusion on Price Suppression

237. There is evidence that the average price of oil filters per unit has been suppressed.

Conclusion on Price Effects

238. There is sufficient evidence of price undercutting, price depression and price suppression for the purposes of initiation.

6.4 Economic Impact

239. Section 8(2)(d) of the Act provides that the Chief Executive shall have regard to the economic impact of the dumped or subsidised goods on the industry, including—

- i. Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and
- ii. Factors affecting domestic prices; and
- iii. The magnitude of the margin of dumping; and
- iv. Actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

Output and Sales

240. Movements in sales revenue reflect changes in volumes and prices of goods sold. Dumped imports can affect both of these factors through increased supply of goods to the market and through price competition.

Sales Volume

241. GUD has advised that its production volume "...closely follows sales and therefore there is no need to do a separate analysis of output". The following table shows the actual and potential increase or decrease in sales volume since 2001:

Table 6.8: Sales Volume for Years Ended June (per oil filter)

	2001	2002	2003	2004 (Estimate)
Volume	██████████	██████████	██████████	██████████
Difference from previous year		██████████	██████████	██████████

242. According to the figures in the table above the volume of sales decreased in 2003, and is estimated to increase in 2004 when compared to the previous year. There is sufficient evidence that sales volume has decreased in 2003 and it is estimated to increase in 2004 but to a level lower than the volume of sales of 2001 and 2002.

Sales Revenue

243. GUD has advised that its revenue declined in 2003 at the same time as the volume of allegedly dumped imports increased. The following table shows the actual and potential increase or decrease in revenue since 2001.

Table 6.9: Industry Sales Revenue for Years Ended June

	2001	2002	2003	2004 (Estimate)
Revenue				
Difference from previous year				

244. As demonstrated in Table 6.9 revenue increased in 2002 but decreased in 2003 and is estimated to decrease further in 2004 to below the levels of 2001 and 2002.

245. There is sufficient evidence that actual sales revenue has declined in 2003 and it is likely to decline further in 2004.

Conclusion

246. There is sufficient evidence that the industry's sales volume and revenue declined in 2003. For 2004 it is estimated that the sales volume will improve but the revenue will decline, however, both factors are below that achieved in 2001 and 2002.

Market Share

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

248. GUD has claimed that its market share is declining as the volume of allegedly dumped imports increases. For the purposes of this report it is an assumption that the import volume equals import sales volume except that imports from China have been adjusted to remove the proportion estimated to be undumped. The table below shows the volume of imports and the New Zealand industry's sales as they relate to market share:

Table 6.10: Market Share for Years Ended June (Per oil filter)

	2001	2002	2003	Dec 2003
NZ Industry Sales				
<i>Imports from:</i>				
- China	476	13,994	57,280	55,242
- Indonesia	156,335	91,823	256,413	97,680
- Korea	107,462	160,972	188,383	91,627
- Thailand	99,926	129,568	172,444	96,021

Total Subject Imports	364,199	396,357	674,520	340,570
Other Imports	1,463,201	1,550,350	1,624,362	725,784
NZ Market				
<i>As a Percentage of Total Market:</i>				
- NZ Industry Sales				
- China Imports				
- Indonesia Imports				
- Korea Imports				
- Thailand Imports				
Total Subject Imports				
Other Imports				

249. The table above shows that since 2001 the New Zealand market for sales of oil filters has been increasing steadily. NZ industry sales as a percentage of the market decreased in 2002 by [REDACTED] decreased in 2003 by [REDACTED] and maintained this level for the six months up to December 2003. The subject goods as a percentage of the market have increased [REDACTED] since 2001. In 2002 it increased by [REDACTED], in 2003 it increased by [REDACTED] and for six months up to December 2003 it has increased by [REDACTED]

Conclusion

250. There is sufficient evidence that the industry's market share declined in 2002, declined [REDACTED] in 2003 and improved [REDACTED] for the period of six months up to December 2003 but it is below the level of 2001 and 2002.

Profits

251. Changes in net profit reflect changes in prices, sales volumes or costs. Dumped imports can impact on any or all of these. Normally, the extent of any decline in profit will be measured against the level achieved in the period immediately preceding the alleged commencement of dumping.

252. GUD claims that its sales volumes have declined, costs have increased and prices have been constrained, which has impacted on the level of profit. GUD advised that with imports of the subject goods [REDACTED] volume growth its [REDACTED] in market share [REDACTED] GUD has also noted that as sales volumes [REDACTED] these costs.

253. The following table shows the level of profit since 2001.

Table 6.11: Earnings Before Interest and Tax for Years Ended June

	2001	2002	2003	2004 (Estimated)
Revenue				
EBIT				
Change from 2001				
% change from 2001				
EBIT as % of Revenue				
EBIT per Unit				
Change from 2001				

254. The table above shows a decline in EBIT in 2003 and the EBIT is estimated to decline in 2004 when compared with 2001 and 2002.

Conclusion

255. The Ministry considers that there is sufficient evidence of a decline in profit.

Productivity

256. Productivity is the relationship between the output of goods and the inputs of resources used to produce them. Changes in productivity are affected by output levels and by the level of capacity utilisation.

257. GUD has not provided any information regarding the number of staff or other resources specifically employed to produce like goods over the injury period therefore any investigation will need to obtain this information to determine if there has been actual and potential decline in productivity as a result of the allegedly dumped goods.

Return on Investments

258. A decline in return on investments will result from a decline in returns with or without a relative increase in the investment factor being used. Movements in the return on investments affect the ability of the industry to retain and attract investment.

259. GUD has not provided any information pertaining to its return on investments over the injury period therefore any investigation will need to obtain this information to determine if there has been actual and potential decline in the return on investments as a result of the allegedly dumped goods.

Utilisation of Production Capacity

260. The utilisation of production capacity reflects changes in the level of production, although in some cases it will arise from an increase or decrease in production capacity. In either case, a decline in the utilisation of production capacity will lead to an increase in the unit cost of production, and a consequent loss of profit.

261. GUD has not provided any information regarding its production capacity over the injury period therefore any investigation will need to obtain this information to determine if there has been an actual and potential decline in the utilisation of production capacity as a result of the allegedly dumped goods.

Other Adverse Effects

262. When taking into account other adverse effects, the Ministry considers actual and potential effects on cash flow, inventory, employment, wages, growth, ability to raise capital and investments.

263. GUD has not provided any information regarding other adverse effects therefore any investigation will need to obtain this information to determine if there are actual and potential declines of any of these factors which have been caused by the allegedly dumped goods.

Factors Affecting Domestic Prices

264. GUD has not claimed that there are any other factors other than the allegedly dumped goods that are affecting domestic prices. Factors that affect domestic prices, other than from dumped goods, will need to be examined in any investigation.

Magnitude of the Margin of Dumping

265. There are significant dumping margins for the subject goods originating from the nominated countries established earlier in this report. GUD has not specifically commented on how the dumping margins have impacted on its economic indices but the magnitude of the margin of dumping needs to be considered in any investigation.

6.5 Other Causes of Injury

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

- i. The volume and prices of goods that are not sold at dumped prices; and*
- ii. Contraction in demand or changes in the patterns of consumption; and*
- iii. Restrictive trade practices of, and competition between, overseas and New Zealand producers; and*
- iv. Developments in technology; and*

v. *Export performance and productivity of the New Zealand producers; and the nature and extent of importations of dumped or subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.*

Volume and Prices of Goods Not Sold at Dumped Prices

267. GUD has stated that the volume of other imports has remained relatively stable since 2001 and in fact declined slightly in 2003. It considers that other imports have not impacted on its business. The Ministry notes there was a small increase in the volume of other imports in 2003, not a decline as stated by GUD. INFOS data obtained by the Ministry shows that the volume of all oil filters from [REDACTED] when combined is not [REDACTED]. However, considering that the volume imported has not changed significantly since 2001 and 2002, (rather it has declined slightly in market share over this period) which are the years that the industry does not claim any injury, it appears that there has been no impact or minimal impact on the industry's sales from non-dumped goods.

Contraction in Demand or Changes in the Patterns of Consumption

268. GUD maintains that the production level of oil filters in New Zealand has not been substantially affected by changes in demand arising from the changes in vehicle fleet other than from normal model changes.

Restrictive Trade Practices of, and Competition Between, Overseas and New Zealand Producers

269. GUD does not believe there is any evidence of restrictive trade practices of, and competition between, overseas and New Zealand producers other than the dumping causing injury.

Developments in Technology

270. GUD does not believe that there is any evidence of technology development relevant to the consideration of material injury.

Export Performance and Productivity

271. GUD exports its goods to Australia. GUD advises that the financial information that was provided in the application document excludes data that relates to its export business.

Imports by the Industry

272. GUD advises that it imports the subject goods from [REDACTED]. Any investigation will need to consider, in terms of section 8(2)(f) of the Act, the nature and extent of these imports, including the value, quantity, frequency and purpose of the importations.

Other

273. No evidence was provided of any other cause of material injury.

Conclusion on Other Causes of Injury

274. There is no evidence that material injury has been caused by other factors.

6.6 Conclusions Relating to Injury

Volume Effects

275. There is sufficient evidence of a significant increase in the volume of imports of allegedly dumped goods both in absolute terms and in relation to production or consumption since 2001/2002.

Price Effects

276. There is sufficient evidence of price undercutting, price depression and price suppression.

Economic Impact

277. There is sufficient evidence of a consequent economic impact in the form of a decline in sales, market share and profits. The Ministry was not provided with any information of an economic impact on productivity, return on investments, utilisation of production capacity, factors affecting domestic prices, cash flow, inventories, employment, wages, growth and the industry's ability to raise capital and investments.

Factors Other Than the Dumped Goods

278. There is no evidence of factors other than the dumped goods that have caused material injury to the industry.

6.7 Cumulation and Causal Link

279. The Act does not require sufficient evidence on a country-by-country basis on injury and causation for each country being investigated, but refers simply to a causal relationship between dumped imports and injury without specifying that such dumped imports must be from a single country. Injurious effects of imports from China, Indonesia, Korea and Thailand can, therefore, be cumulated provided the provisions of Article 3.3 of the Anti-Dumping Agreement are met.

280. Article 3.3 provides as follows:

Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the investigating authorities may cumulatively assess the effects of such imports only if they determine that (a) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in paragraph 8 of Article 5 and the volume of imports from each country is not

negligible and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product.

281. The Ministry notes that Article 3.3 does not appear to apply to applications, but only to investigations initiated. The Ministry considers it prudent, however, to consider Article 3.3 at initiation so as to assess the accuracy and adequacy of evidence.

282. The Ministry also notes that cumulation, in practice, means that effects are considered only if there are effects. This means, for example, that if the volume of dumped imports from a country are not increasing, then such imports will not be considered as contributing to any increase in the volume of dumped imports, and any consequent impact will not be attributed to dumped imports from that country. Similarly, if dumped imports from a country are not undercutting or otherwise affecting domestic prices, the impact of such price effects will not be attributed to the dumped imports from that country. Further, even if the volume and price effects might otherwise be cumulated, the goods concerned must compete with each other and with the like domestic products.

283. For the purposes of analysing an application for an investigation, and with information about the imported goods naturally limited, it is sufficient to note that the goods from the four exporting countries appear to be interchangeable, that several importers import from more than one of these countries and, therefore, the channels of distribution are likely to be similar. In these circumstances, it is reasonable to assume that the goods imported from the four exporting countries compete both with each other and with like goods made in New Zealand. There is reasonable cause to believe that the goods imported are substitutable for the goods produced by the industry.

284. In addition, the volumes of imports from each country are not negligible, and have increased, and the margin of dumping shown for goods originating from each country is greater than two percent except in the case of two models from China. Evidence has also been provided of price undercutting by the allegedly dumped goods from each of the four exporting countries. GUD advised that the subject goods and like goods compete in the same market at the same level of trade.

285. The Ministry considers, for the purpose of initiation, that a cumulative assessment of injury is appropriate in light of the prevailing competition conditions as outlined in the two preceding paragraphs.

286. GUD has stated that it has provided sufficient evidence of a causal link between dumping and material injury. It has supplied evidence of significant margins of dumping, a rapid increase of allegedly dumped imports in 2003, price undercutting, price depression and suppression that coincided with a decline in sales, decline in market share and a significant reduction in profitability commencing in the financial year 2003. The Ministry considers, for the purpose of initiation, that there is sufficient evidence of a causal link between the dumping of the subject goods and material injury to the New Zealand industry.

287. Any investigation will need to establish whether the requirements of Article 3.3 of the Anti-Dumping Agreement are met and whether there is a causal link between dumping and material injury.

7. Conclusions

288. On the basis of the information available, it is concluded that sufficient evidence has been provided that:

- a. Oil Filters from China, Indonesia, Korea and Thailand are being dumped; and
- b. by reason thereof material injury to the industry is being caused.

8. Recommendations

289. It is recommended on the basis of the conclusions reached and in accordance with section 10 of the Dumping and Countervailing Duties Act 1988:

- a. that the Chief Executive formally initiate an investigation to establish whether imports of oil filters from China, Indonesia, Korea and Thailand are being dumped and thereby causing material injury to the New Zealand industry producing like goods; and
- b. that the Chief Executive sign the attached *Gazette* notice, and give notice to interested parties in accordance with section 9 of the Act.

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Investigating Team
Trade Remedies Group

Agreed/Not Agreed

Anne Corrigan
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Trade Remedies Group
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