



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

**LABOUR, SCIENCE
AND ENTERPRISE**



Trade (Anti-dumping and Countervailing Duties) Act 1988

Initiation Memo: Application for a Full Review of Anti-Dumping Duties Galvanised Wire from Malaysia

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Full review: Galvanised wire from Malaysia

1. Anti-dumping duties were first imposed on galvanised wire imported from Malaysia in May 2004, following an application from Pacific Steel (NZ) Limited (Pacific Steel), the New Zealand industry. Since then, at the application of Pacific Steel, the Ministry of Business, Innovation and Employment (MBIE) or its predecessor, the Ministry of Economic Development, have conducted a reassessment of the duties in 2005 and reviews and reassessments of the anti-dumping duties in 2009 and 2014-15, resulting in the current duties on galvanised wire imported from Malaysia.
2. Duties were last reassessed in March 2015 where the Minister of Commerce and Consumer Affairs (the Minister) determined that duties should continue at the reassessed rates.
3. The current duties are due to expire on 26 March 2020, unless subject to a review. Reviews carried out in these circumstances are referred to as sunset reviews.
4. On 13 December 2019, MBIE received an application from Pacific Steel for a review of the current duties on galvanised wire from Malaysia. Pacific Steel claimed that if the anti-dumping duties are removed, dumping of imports of galvanised wire from Malaysia will recur and that this will cause a recurrence of material injury to Pacific Steel.
5. The imported goods that are the subject of the application (the subject goods) are described as:

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

Legal context

6. New Zealand implements its obligations under the World Trade Organization (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the AD Agreement) through the Trade (Anti-dumping and Countervailing Duties) Act (the Act).
7. Under section 17D(1) of the Act, if an interested party submits positive evidence justifying the need for a review, then the chief executive must initiate a full review of the continued need for the duties.
8. MBIE considers that the standard for initiating a review as outlined in section 17D(1) of the Act, which speaks of “positive evidence justifying the need for a review” is not the same as that for a new investigation, as outlined in section 10A(1), which speaks of “sufficient evidence”.
9. MBIE also takes guidance from the Appellate Body of the World Trade Organization (WTO) in *US – Hot Rolled Steel* which states (at paragraph 192) that regarding “positive” evidence, “the evidence must be of an affirmative, objective and verifiable character, and that it must be credible.”¹
10. Section 17C of the Act sets out the purpose of a full review:

The purpose of a full review is to investigate, in relation to an anti-dumping or a countervailing duty, whether—

¹ *US – Hot Rolled Steel*, Report of the Appellate Body, WT/DS184/AB/R.

- (a) continued imposition of the duty is necessary to offset dumping or subsidisation; and
- (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied.

11. MBIE considers therefore that in a review the positive evidence provided in an application should support a proposition that the continued imposition of anti-dumping duty is necessary to offset dumping and that material injury to the New Zealand industry would be likely to continue or recur if the duty expired or were otherwise removed or varied.
12. Dumping is defined in section 3(1) of the Act as “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.”
13. Section 8(1) of the Act sets out the matters that must be examined when determining whether or not material injury to an industry is being caused or threatened. Section 8(2) sets out in more detail the matters that MBIE must have regard to in any investigation to establish if material injury exists. These provisions are set out in Annexes B and C.
14. In determining whether the evidence provided by Pacific Steel is positive evidence justifying a review, MBIE takes guidance from these provisions of section 3 and 8 of the Act.

Application

15. MBIE considers that the application provides positive evidence justifying the need for a review. The assessment of the application in terms of sections 3(1) (dumping), 8(1) and (2) (material injury) of the Act is presented below.

Section 3(1) of the Act – Dumping

Application	MBIE’s assessment of positive evidence
<p>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</p>	
Export price	
<p>To calculate export prices, Pacific Steel has used TradeMap² data for the year ended 30 June 2019 for tariff subheading 7217.20. In the absence of information on exports of the subject goods from Malaysia to New Zealand, the company has used exports from Malaysia to</p>	<p>MBIE has assessed the TradeMap data, evidence and information provided by Pacific Steel and considers the export price arrived at by Pacific Steel is reliable based on the data for exports from Malaysia to Australia that the company has used.</p>

² TradeMap is a proprietary database of trade statistics, originally developed by the International Trade Centre UNCTAD/WTO (ITC). Data is sourced from national statistics organisations and other international sources.

<p>Australia to calculate a proxy value for imports into New Zealand should they recur.</p> <p>Pacific Steel has divided the total value of Malaysian exports to Australia by the total volume to calculate a free-on-board (FOB) export price per MT for the year ended 30 June 2019.</p> <p>To ensure a fair comparison between the export price and normal value, Pacific Steel made adjustments for freight to port, export documentation and port charges, export packaging, and cost of credit.</p> <p>Pacific Steel has calculated an ex-factory export price of USD755/tonne.</p>	<p>MBIE accepts Pacific Steel’s grounds for using exports from Australia to Malaysia as a proxy to calculate the export price from Malaysia for review initiation purposes. MBIE has assessed Pacific Steel’s claims regarding the base export price and adjustments needed to ensure a fair comparison and considers Pacific Steel’s claims to be reasonable.</p>
<p>Normal value</p>	
<p>Pacific Steel was unable to source information on pricing of galvanised wire in the Malaysian domestic market for several reasons, including that Malaysian producers, industry associations, customers and end-users do not put their pricing in the public domain. To calculate a normal value for galvanised wire sold in the Malaysian domestic market, Pacific Steel has constructed a normal value.</p> <p>Pacific Steel’s construction of the normal value is based on its own costs in the 2019 financial year adjusted to reflect estimated differences in production costs in Malaysia.</p> <p>Pacific Steel’s constructed normal value includes calculations for the cost of production (including materials, labour, fixed and variable costs, depreciation and yield), but not for administrative and selling costs. Pacific Steel stated it followed its previous conservative approach in 2014 by not including administrative and selling costs. Pacific Steel provided supporting documents and explanations of its calculations or adjustments.</p> <p>Pacific Steel has calculated a normal value of USD1,217/tonne.</p>	<p>MBIE accepts the difficulty Pacific Steel has in accessing pricing information in Malaysia. MBIE considers the normal value constructed by Pacific Steel constitutes positive evidence for an application for a full review of the anti-dumping duties.</p>
<p>Dumping margin</p>	
<p>Pacific Steel’s calculations indicate a dumping margin in FY2019 of 61 per cent.</p>	<p>MBIE considers the dumping margin presented by Pacific Steel constitutes positive evidence that dumping is continuing, therefore justifying the need for an application for a full review of the anti-dumping duties.</p>

Section 8(2) of the Act – Material injury

Application	MBIE's assessment of positive evidence
<p>(a) 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</p>	
<p>Current import volumes</p>	
<p>In its application, Pacific Steel provided galvanised wire import data for imports from Malaysia for FY2019. The import data was derived from TradeMap for tariff subheading 7217.20, which is based on Statistics New Zealand data (Statistics NZ).</p> <p>Pacific Steel has presented an import volume for galvanised wire from Malaysia for FY2019, using the available data from TradeMap. However, Pacific Steel considers that the figures for imports from Malaysia are not for subject goods.</p>	<p>MBIE notes that the tariff subheading relied on by Pacific Steel covers a wider range of imports than the subject goods, and the data does not include import data that has been suppressed by Statistics NZ and is not therefore publicly available. MBIE notes that Pacific Steel has access only to incomplete import data.</p> <p>Nonetheless, and on the basis of a cross check of import data available to MBIE, MBIE considers that Pacific Steel has provided positive evidence which indicates that there are either no imports or relatively small import volumes of galvanised wire from Malaysia of the subject goods.</p>
<p>Likely import volumes</p>	
<p>Pacific Steel considers that if anti-dumping duties cease, import volumes are likely to increase.</p> <p>Pacific Steel pointed to several articles as evidence of surplus capacity and low plant utilisation in Malaysia. Pacific Steel also noted that the New Zealand market is a relatively small proportion of total world trade in the subject goods and stated that these facts suggest that a Malaysian producer would not find it difficult to supply the New Zealand market with sufficient product at short notice if the demand arises.</p> <p>Pacific Steel also referred to a document outlining the Malaysian government's strategy of increasing the number of exporters, exploring new markets, and increasing the internationalisation of Malaysian firms. Pacific Steel provided data showing that Malaysian exports of the subject goods are much greater than Malaysia's imports of the subjects goods.</p> <p>Pacific Steel further commented on the ease of market entry and distribution in New Zealand, the ability of importers to distribute Malaysian imports, and New Zealand market</p>	<p>MBIE notes that, due to the suppression of import data by Statistics NZ, Pacific Steel has access to only limited information from which to establish whether or not there have been imports of the subject goods during FY2019. Given the limited information available, MBIE considers that it is not unreasonable for Pacific Steel to conclude, for purposes of its application for a review, that there were no imports of the subject goods in FY2019.</p> <p>The consequence of this conclusion is that Pacific Steel has presented evidence and argumentation in support of a recurrence of imports, which may also be considered to support a proposition of an increase in current import volumes if the anti-dumping duty is removed.</p>

attractiveness.	
(b) 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	
Price undercutting	
<p>Pacific Steel has added to its estimated FOB value for FY2019 (Malaysian exports to Australia), the estimated cost of freight to New Zealand and costs at the port of destination to arrive at an estimated likely NZD ex-wharf price in New Zealand for galvanised wire from Malaysia. Pacific Steel has compared this ex-wharf price with its own ex-factory price to demonstrate that there would be significant price undercutting by imports of galvanised wire from Malaysia should the duties be removed.</p>	<p>MBIE notes that some of the publicly available import data is suppressed, inhibiting Pacific Steel's ability to assess the volume and prices of imports. Using Pacific Steel's data, MBIE notes that even with the addition of the current 21 per cent anti-dumping duty there is significant price undercutting. Pacific Steel's calculation of likely price undercutting is considered to be reasonable.</p> <p>For the purposes of initiating a review MBIE concludes that Pacific Steel has provided positive evidence that if anti-dumping duties are removed it will face a continuation and/or recurrence of price undercutting.</p>
(c) 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 or significantly to prevent price increases for those goods that otherwise would have been likely to have occurred	
Price depression	
<p>Pacific Steel considers that, if there are no anti-dumping duties, it would need to lower its prices to the estimated ex-wharf price for the Malaysian galvanised wire. Pacific Steel has based its forecasts for sales revenue per MT for FY2020 and FY2021 on this scenario that it would likely lose a proportion of the estimated price undercutting per MT and a proportion of the estimated import volume if anti-dumping duties were to be removed.</p>	<p>For the purposes of initiating a review MBIE concludes that Pacific Steel has provided positive evidence that if anti-dumping duties are removed it will face a recurrence of price depression.</p>
Price suppression	
<p>Pacific Steel claims that, in the absence of anti-dumping duties, its loss of volume to the dumped imports will result in price suppression as the average production cost increases as fewer tonnes are made. Pacific Steel notes that the increased costs will not be able to be recovered in the New Zealand market because of competition from the Malaysian imports. Pacific Steel has provided forecast figures for FY2020 and FY2021 in support of this claim.</p> <p>Pacific Steel's gross profit per MT is forecast to</p>	<p>For the purposes of initiating a review MBIE concludes that Pacific Steel has provided positive evidence that if anti-dumping duties are removed it will face a continuation and/or recurrence of price suppression.</p>

decline significantly in FY2020 even if anti-dumping duties remain, but will decline even more in the absence of anti-dumping duties in both FY2020 and FY2021. Pacific Steel has based its forecasts for FY2020 and FY2021, in the absence of anti-dumping duties, on this scenario that it would likely lose a proportion of the estimated price undercutting per MT and a proportion of the estimated import volume.	
(d) 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	
Sales revenue and volume	
In the absence of anti-dumping duties, Pacific Steel expects in the scenario it puts forward that sales revenue, after a competitive response, would likely decline by a proportion of the estimated level of price undercutting while sales volume may decline by a proportion of the expected volume of imports.	For the purpose of initiating a review, MBIE considers that Pacific Steel has provided positive evidence that if anti-dumping duties are removed price undercutting and an increased import volume from Malaysia will result in losses of sales revenue and volume.
Output	
In the absence of anti-dumping duties, production of galvanised wire is forecast to decline significantly in FY2020 and further in FY2021	MBIE considers that Pacific Steel has provided positive evidence that if anti-dumping duties are removed there will likely be a decline in the New Zealand industry's output.
Market share	
Pacific Steel claims that if anti-dumping duties are removed then, based on the scenario it puts forward, Pacific Steel's market share would decline significantly. Pacific Steel has provided information that shows its market share declined in FY2019 and is forecast to decline further in FY2020 and FY2021 if anti-dumping duties cease.	MBIE considers that Pacific Steel has provided positive evidence that if anti-dumping duties are removed there will likely be a decline in the New Zealand industry's market share.
Profits	
Dumped imports can affect gross profit and net profit via the impact on sales prices and volumes. Pacific Steel has provided actual and forecast profit calculations. Pacific Steel claims, supported by the figures it has provided, that the combined estimated price effect and loss of volume will result in a significant loss of earnings before interest and tax (EBIT) in	MBIE considers that Pacific Steel has provided positive evidence that if anti-dumping duties are removed there will be a decline in the New Zealand industry's profits.

<p>FY2020 and FY2021 if anti-dumping duties are removed.</p>	
<p>Productivity</p>	
<p>Productivity is the relationship between goods produced and the inputs required to manufacture them. Productivity is affected by output and capacity utilisation levels.</p> <p>Pacific Steel claims that cessation of anti-dumping duties would result in a significant decline in productivity measured as revenue per employee, due to a loss of volume and a price decline. Pacific Steel has provided figures for revenue per employee and production per employee, which indicate a likely significant decline in FY2020 and FY2021 if anti-dumping duties are removed.</p>	<p>MBIE accepts Pacific Steel’s claim that if anti-dumping duties are removed there will likely be a decline in the New Zealand industry’s productivity.</p>
<p>Return on investments</p>	
<p>An analysis of return on investments measures profit against the value of the investment in a business. Changes in return on investment may impact the ability to retain current investment or attract new investment. Declines in return on investment can result from a decline in profit or an increase in the level of investment within the business.</p> <p>Pacific Steel points to figures it provided on the likely effect on EBIT if the anti-dumping duties cease which indicate that the return on investments is likely to decline significantly if anti-dumping duties are removed.</p>	<p>MBIE considers that Pacific Steel has provided positive evidence that if anti-dumping duties are removed there will likely be a significant decline in the New Zealand industry’s return on investments.</p>
<p>Utilisation of production capacity</p>	
<p>The utilisation of production capacity reflects changes in production volumes or changes in capacity. A decline in production volumes will normally lead to a higher cost per unit due to increased fixed overheads per unit. This will lead to a decrease in profit level, unless offsetting savings are found elsewhere.</p> <p>Pacific Steel provides figures that show a likely significant impact on utilisation of production capacity if anti-dumping duties cease.</p>	<p>MBIE considers that Pacific Steel has provided positive evidence that if anti-dumping duties are removed there will likely be a significant decline in the New Zealand industry’s utilisation of production capacity.</p>
<p>ii. factors affecting domestic prices; and</p>	
<p>Pacific Steel did not make reference to any other factors affecting domestic prices.</p>	

iii. the magnitude of the margin of dumping; and	
<u>Dumping margin</u> Pacific Steel's calculations indicate a dumping margin in FY2019 of 61 per cent.	<u>Dumping margin</u> MBIE considers the dumping margin presented by Pacific Steel constitutes positive evidence supporting an application for a full review of the anti-dumping duties.
iv. actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments	
<p>Pacific Steel pointed to the likely significant loss of revenue due to lower prices and sales volume which may affect cash flow, but does not consider there will be a material adverse effect on inventories if anti-dumping duties cease.</p> <p>Pacific Steel did not state in its application whether employment would be affected if the anti-dumping duties are removed.</p> <p>Pacific Steel considers that cessation of anti-dumping duties would have a negative impact on the industry's growth relative to the situation if anti-dumping duties were to remain.</p> <p>Pacific Steel considers that the cessation of anti-dumping duties "would challenge the availability of investment capital for the Auckland wire mill."</p>	<p>MBIE considers that Pacific Steel has provided positive evidence that if anti-dumping duties are removed it may face a loss of revenue, a negative impact on growth, and challenges in the availability of investment capital.</p>
(e) factors other than the dumped or subsidised goods that have injured, or are injuring, the industry, including	
i. the volume and prices of goods that are not sold at dumped prices or that are not subsidised; and	
<p>Pacific Steel provided FY2019 quarterly and annual available data on imports under tariff heading 7217.20 from all countries, for volumes, volume share and values, with annual average prices per MT. Pacific Steel also provided estimates of the levels of price undercutting attributable to the main sources of imports.</p> <p>The major suppliers were identified as Australia, Canada, China and Indonesia. Pacific Steel provided estimates of the levels of price undercutting attributable to the main sources of imports indicating that there is price undercutting only from China and Indonesia, but to a lesser extent than Pacific Steel's estimate of likely price undercutting by subject</p>	<p>MBIE is satisfied that information on the prices and volumes of imports other than the allegedly dumped goods does not detract from Pacific Steel's proposition, supported by evidence, that a recurrence of dumping of galvanised wire from Malaysia is likely to cause it material injury if anti-dumping duties are removed.</p>

<p>goods from Malaysia. Pacific Steel considers that subject goods from China and Indonesia are being dumped and are causing it injury. In providing the information, Pacific Steel noted that data suppression created difficulties for this exercise.</p> <p>Pacific Steel claims that its analysis shows that if anti-dumping duties cease and exports of Malaysian goods recur, Malaysian imports will hold a price advantage that will be injurious to the New Zealand industry.</p>	
<p>ii. contraction in demand or changes in the patterns of consumption; and</p>	
<p>Pacific Steel noted that the agriculture and viticulture industries, the main consumers of galvanised wire in New Zealand, are profitable and growing. Pacific Steel considers that market fundamentals do not suggest significant risk.</p>	<p>MBIE understands this to mean that there is no evidence that there is likely to be a contraction in demand or changes in the patterns of consumption that would likely cause injury to the New Zealand industry.</p>
<p>iii. restrictive trade practices of, and competition between, overseas and New Zealand producers; and</p>	
<p>Pacific Steel notes that it does not have any information that restrictive trade practices have caused, or might cause, injury to the domestic industry, nor does it consider that there are such practices.</p>	<p>MBIE notes the absence of restrictive trade practices.</p>
<p>iv. developments in technology; and</p>	
<p>Pacific Steel notes that it does not have any information suggesting that developments in technology by its overseas competitors have been a cause of injury to the domestic industry. The technological changes that Pacific Steel has made to its business in recent years are an improvement to its production rather than a cause, or likely cause, of injury. Pacific Steel considers that its production method is similar to that of other manufacturers.</p>	<p>MBIE understands this to mean that there is no evidence that there is likely to be developments in technology which have caused, or might cause, injury to the domestic industry.</p>
<p>v. the export performance and productivity of the New Zealand producers</p>	
<p>Pacific Steel advises that it has not recently been exporting the subject goods and it does not consider that its export performance has been, or is likely to be, a cause of injury.</p>	<p>MBIE understands this to mean that there is no evidence that there are likely to be exports by New Zealand producers which have caused, or might cause, injury to the domestic industry.</p>
<p>(f) 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</p>	
<p>Pacific Steel advised that it has not recently</p>	<p>MBIE notes that there is no evidence that</p>

imported galvanised wire and does not intend to.

there are likely to be imports by the New Zealand industry which have caused, or might cause, injury to the domestic industry.

Conclusions

16. On the basis of its examination of the information available to and provided by the applicant, MBIE concludes that:
- a. Positive evidence has been provided for the purpose of initiation that, if anti-dumping duties are removed, recurring imports of galvanised wire from Malaysia are likely to be dumped, and that;
 - b. Positive evidence has been provided for the purpose of initiation to show that, if anti-dumping duties are removed, material injury to the New Zealand industry is likely to recur, caused by a recurrence of imports of dumped goods from Malaysia.
17. MBIE concludes that Pacific Steel has provided positive evidence justifying the need for a full review of anti-dumping duties on galvanised wire imported from Malaysia and that notice should be given of the initiation of the full review.

Recommendations

18. Based on the above conclusions, MBIE recommends that the General Manager of the Science, Innovation and International Branch of MBIE, acting under delegated authority from the chief executive:

Note that, in accordance with section 17D(1) of the Act, the chief executive must start a full review of the duty after receiving an application from an interested party that includes positive evidence justifying the need for a full review of the anti-dumping duty on galvanised wire from Malaysia.

Agree, under section 17D(1) of the Act, to start a full review.

Note that the anti-dumping duty on galvanised wire from Malaysia will expire on 26 March 2020 unless a review has been started before that date.

Note that if a full review is started, in terms of section 17D(4) of the Act, the existing duty does not cease to be payable until the duty is:

- a. Terminated following a negative determination by the Minister; or
- b. Terminated following a determination by the Minister that continuing to impose the duty is not in the public interest; or
- c. Replaced with a new duty.

Agree to give notice of the decision to start step 1 of the review, in accordance with section 17E(2) of the Act, and to sign the attached *Gazette* notice.



Prue Williams

General Manager

Science, Innovation and International Branch

Labour, Science and Enterprise

Ministry of Business, Innovation and Employment

24/03/2020

Annex A: New Zealand Gazette notice

Initiation of Full Review of Anti-Dumping Duties: Galvanised Wire from Malaysia

Pursuant to sections 17E(2) and 17D of the Trade (Anti-dumping and Countervailing Duties) Act 1988 (the Act), and acting under delegated authority from the Chief Executive of the Ministry of Business, Innovation and Employment, I have initiated a full review of anti-dumping duties on the goods described in the Schedule of this notice (“goods”). This initiation follows the receipt of an application made by the New Zealand industry providing positive evidence justifying the need for a full review.

The anti-dumping duty was due to cease on 26 March 2020 unless the Ministry of Business, Innovation and Employment initiated a full review of the continued need for the duty. In accordance with section 17D(4) of the Act, the existing anti-dumping duty will continue to be payable until the outcome of this review results in either termination of the duty or replacement with a new duty.

Schedule Goods Subject to Review

Country of Origin

Malaysia

Description of Goods

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

The goods are currently classified under Tariff Item 7217.20.10 and Statistical Keys 05L, 07G, 08E, 09C, 11E, 13A, 15H, 16F, 17D, 18B, 25E, 27A, 28K, 29H, 31K, 33F, 35B, 36L, 37J and 39E and Tariff Item 7217.20.90 and Statistical Keys 05D, 07L, 08J, 09G, 11J, 13E, 15A, 16K, 17H and 18F, which classification is provided for convenience and New Zealand Customs Service purposes only, the written description being dispositive.

Dated at Wellington this 24th day of March 2020



Prue Williams
General Manager
Science, Innovation and International Branch
Labour, Science and Enterprise
Ministry of Business, Innovation and Employment

Invitation for Submissions

Interested parties are invited to make submissions in relation to the full review by emailing traderem@mbie.govt.nz. The Initiation Memorandum, which contains details of consideration of the application for the initiation of a review, is available on the Ministry's website at www.mbie.govt.nz/business-and-employment/business/trade-and-tariffs/trade-remedies/trade-remedy-investigations/

Annex B: Section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Act 1988

8 *Material injury*

(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.*

Annex C: Section 8(2) of the Trade (Anti-dumping and Countervailing Duties) Act 1988

8 Application for investigation

(2) Without limiting the generality of subsection (1), and without limiting the matters that the chief executive may consider, the chief executive shall have regard to the following matters:

(a) 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:

(b) 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:

(c) 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 or significantly to prevent price increases for those goods that otherwise would have been likely to have occurred:

(d) 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 negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments:

(e) factors other than the dumped or subsidised goods that have injured, or are injuring, the industry, including—

(i) the volume and prices of goods that are not sold at dumped prices or that are not subsidised; 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) the export performance and productivity of the New Zealand producers:

(f) 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.