



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

**TRADE AND  
INTERNATIONAL**

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# **Step 1 Final Report**

## **DUMPING INVESTIGATION**

# **Galvanised Wire from China and Indonesia**

**Trade (Anti-dumping and Countervailing Duties) Act 1988**

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## Abbreviations and Acronyms

This report contains the following abbreviations and acronyms:

Acronym	Meaning
<b>Act, the</b>	The <i>Trade (Anti-dumping and Countervailing Duties) Act 1988</i>
<b>AD Agreement, the</b>	The WTO Agreement on Implementation of Article VI of the GATT 1994
<b>ADP Committee</b>	WTO Committee on Anti-Dumping Practices
<b>ASEAN</b>	Association of South-East Asian Nations
<b>China</b>	People's Republic of China
<b>CIF</b>	Cost, Insurance, Freight
<b>Customs</b>	New Zealand Customs Service
<b>EBIT</b>	Earnings Before Interest and Taxes
<b>FY</b>	Financial year
<b>GATT 1994</b>	General Agreement on Tariffs and Trade 1994
<b>MBIE</b>	Ministry of Business, Innovation and Employment
<b>mm</b>	Millimetre
<b>MT</b>	Metric ton (tonne)
<b>NZ</b>	New Zealand
<b>NZD</b>	New Zealand dollar
<b>Pacific Steel</b>	Pacific Steel (NZ) Limited
<b>POI(D)</b>	Period of investigation (dumping)
<b>POI(I)</b>	Period of investigation (injury)
<b>PVC</b>	Polyvinyl chloride
<b>ROI</b>	Return on investment
<b>Stats NZ</b>	Statistics New Zealand
<b>USD</b>	United States dollar
<b>VAT</b>	Value added tax
<b>VFD</b>	Value for duty
<b>WTO</b>	World Trade Organisation



# 1. Introduction

## 1.1 Summary

1. In accordance with section 10C(5) of the Act, this report sets out the findings of the Step 1 investigation into dumping of galvanised wire from China and Malaysia, as a basis for determinations to be made by the Minister under section 10D of the Act.
2. The step 1 determination to be made under section 10D(1) is whether, in relation to the imported goods, the goods are being dumped and material injury to an industry has been or is being caused or threatened because of the dumping. This determination is to be made within 180 days of the start of the investigation, but not less than 30 days after this written advice provided under section 10C(2). This means that the determination must be made by 21 November 2020.
3. If the determination under section 10D(1) is affirmative, then in accordance with section 10D(2) the Minister must determine the rate or amount of anti-dumping duty, in accordance with section 10E, that will form the basis for the Step 2 investigation, and direct MBIE to immediately start a Step 2 investigation.
4. If the determination under section 10D(1) is negative, then in accordance with section 10D(3) the Minister must terminate the investigation under section 11 of the Act.
5. The investigation of dumping is based on information relating to a sample of Chinese producers, and the single Indonesian producer. The Indonesian producer and a related Chinese producer have cooperated fully in the investigation. The other Chinese producers have not cooperated, so the conclusions reached on dumping by these producers is based on the available information. MBIE has concluded that imports from some Chinese suppliers are dumped, but imports from Indonesia are not dumped.
6. MBIE has examined the volume and price effects of the dumping of galvanised wire from China, and the consequent impact on the domestic industry. MBIE has also assessed whether factors other than the dumped goods might be injuring the domestic industry. MBIE has concluded that dumped imports from China are causing material injury to the New Zealand industry.
7. MBIE has considered the forms and levels of anti-dumping duty that should form the basis for the step 2 investigation, and has recommended duty rates to apply to dumped goods from China.

## 1.2 Proceedings

8. On 12 February 2020 MBIE accepted a properly documented application from Pacific Steel, alleging that galvanised wire from China and Indonesia is being dumped and by reason thereof causing material injury to the New Zealand industry.

9. On 25 May 2020, the chief executive initiated an investigation pursuant to section 10A of the Act, being satisfied that for the purpose of initiation the industry had provided sufficient evidence to support its application. This included evidence which suggested that:
  - Galvanised wire from China and Indonesia was being dumped, and
  - Material injury to the New Zealand industry was being caused by dumped goods imported from China and Indonesia.
10. On 25 August 2020, the Minister directed the imposition of provisional anti-dumping duties on imports of the subject goods from China. The Minister was satisfied that there was reasonable cause to believe that imports of the subject goods from China were being dumped, and by reason thereof, material injury to the New Zealand industry has been and is being caused, and that provisional measures were necessary to prevent material injury being caused during the period of investigation. The Minister did not direct the imposition of provisional measures on imports of the subject goods from Indonesia because there was not reasonable cause to believe that the goods were dumped.
11. On 7 October 2020, MBIE circulated the EFC Report to notified parties, setting out the essential facts and conclusions likely to form the basis for the determinations to be made by the Minister under section 10D(1). Comments on the EFC Report were received from the Government of Indonesia, Bekaert Qingdao, Bekaert Indonesia and Pacific Steel. The submissions have been taken into account in the preparation of this Step 1 Final Report.
12. The 180-day investigation period for the completion of a Step 1 investigation concludes on 21 November 2020, by which time the Minister must make determinations under section 10D of the Act, including directing MBIE to start a Step 2 investigation into whether or not the imposition of duties is in the public interest. The Step 2 investigation must be completed within 90 days. The full investigation covering both Step 1 and Step 2 has a target completion date of 12 March 2021.
13. The investigation is being carried out according to the requirements of the Act and the AD Agreement, bearing in mind that section 1A of the Act describes its purpose as “to enable New Zealand to apply anti-dumping and countervailing duties in accordance with its obligations as a party to the WTO Agreement.” Where the Act is silent, or its interpretation and that of the AD Agreement requires context, WTO dispute settlement findings provide guidance.

## **1.3 Treatment of Information**

### ***Information Considered***

14. Section 10C(3) of the Act requires that the chief executive should give interested parties a reasonable opportunity to present, in writing, all evidence relevant to the investigation and, on justification being shown, to present that evidence orally.
15. Article 6.1 of the AD Agreement provides that all interested parties in an investigation shall be given notice of the information which the authorities require and ample opportunity to present in writing all evidence which they consider relevant in respect of the investigation in question. Articles 6.1.1-6.1.3 set out matters relating to the use of questionnaires, while

Article 6.2 provides that throughout the investigation all interested parties shall have full opportunity for the defence of their interests.

16. Article 6.6 provides that except in circumstances provided for in paragraph 8 (refusal to cooperate), the authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based.
17. Article 6.14 provides that the procedures set out in Article 6 are not intended to prevent the authorities from proceeding expeditiously with regard to initiating an investigation, reaching preliminary or final determinations, whether affirmative or negative, or from applying provisional or final measures.
18. In an investigation MBIE seeks and obtains information directly relevant to the proceeding, and satisfies itself as to the accuracy of the information provided. Such information includes questionnaire responses and other information from interested parties; the application and submissions from the New Zealand industry; Customs and statistical data; and other relevant data such as exchange rates, interest rates and prices. MBIE can use verification visits and desktop verification to review the information available and to assess its reliability. Interested parties can make submissions at any time during the investigation, including in response to interim reports or to information provided by other parties.

### **Information Available**

19. Section 6 of the Act provides in respect to ascertaining the export price and normal value:

- (1) *Where the chief executive is satisfied that sufficient information has not been furnished or is not available to enable the export price of goods to be ascertained under section 4, or the normal value of the goods to be ascertained under section 5, the normal value or export price, as the case may be, shall be such amount as is determined by the chief executive having regard to all available information.*
- (2) *For the purposes of subsection (1) the chief executive may disregard any information that the chief executive considers to be unreliable.*

20. Article 6.8 of the AD Agreement provides as follows:

*In cases in which any interested party refuses access to, or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available. The Provisions of Annex II shall be observed in the application of this paragraph.*

21. Annex II to the AD Agreement sets out procedures to be followed regarding the request for and provision of information from interested parties. Paragraph 7 of Annex II provides:

*If the authorities have to base their findings, including those with respect to normal value, on information from a secondary source, including the information supplied in the application for the initiation of the investigation, they should do so with special circumspection. In such cases, the authorities should, where practicable, check the information from other independent sources at their disposal, such as published price lists, official import statistics and customs returns, and from the information obtained from other interested parties during*

*the investigation. It is clear, however, that if an interested party does not cooperate and thus relevant information is being withheld from the authorities, this situation could lead to a result which is less favourable to the party than if the party did cooperate.*

22. Information relating to those parties who have not provided information is based on the available information. MBIE notes that while there has been good cooperation from New Zealand importers and the Indonesian producer and one Chinese producer, there has been very limited or no cooperation from other Chinese producers.

### ***Protection of Information***

23. Section 3F(1) of the Act provides that an interested party may ask the chief executive to provide copies of information relevant to trade remedy proceedings, but under section 3F(2) this provision does not apply to confidential information (unless consented to by the supplier of the information), or other information that would be likely to be withheld if it was requested under the Official Information Act 1982. MBIE has made available all non-confidential information through the public file for this investigation. Any interested party has been able to request both a list of the documents on this file and copies of the documents on it.

24. Confidential information is defined in section 3F(5) of the Act:

*In this section, confidential information means information about which the submitter of the information has shown a good reason for the chief executive to believe 1 or more of the following:*

- (a) that making the information available would give a significant competitive advantage to a competitor of the submitter of confidential information;*  
*(b) that making the information available would have a significantly adverse effect on—*  
*(i) the submitter of confidential information; or*  
*(ii) the person from whom the information was acquired by the submitter of the information; or*  
*(iii) any person to whom the information relates;*  
*(c) that the information should be treated as confidential for reasons other than the reasons described in paragraphs (a) and (b).*

25. A recent report from the WTO Appellate Body noted:

*Under Article 6.5, an investigating authority is required to assess objectively whether the request for confidential treatment has been sufficiently substantiated such that "good cause" has been shown. The fact that the investigating authority has conducted this objective assessment must be discernible from its published report or related supporting documents.<sup>1</sup>*

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<sup>1</sup> Korea – Pneumatic Valves, WT/DS504/AB/R, at paragraph 6.29.

26. The Appellate Body also upheld the Panel's findings with regard to summaries of confidential information:

*In the present dispute, the Panel found that, "[i]n the complete absence of data, and with no narrative summary with respect to the deleted information, the 'Disclosed' versions of the three communications identified by Japan cannot be said to contain a summary in sufficient detail to 'permit a reasonable understanding of the substance of the information submitted in confidence'."*<sup>2</sup>

27. In seeking information from interested parties, MBIE points out that where a party requests that information be treated as confidential it should provide a non-confidential version, or a non-confidential summary of the information, or if the information is not susceptible to summarisation, an explanation of the reasons why not, and provide justification for the information being treated as confidential. MBIE points out to parties that section 3F of the Act allows the chief executive to disregard any information for which a satisfactory non-confidential version (or summary or satisfactory statement of why such a summary cannot be given) is not provided.<sup>3</sup>
28. In this Step 1 Final Report, detailed information relating to the calculation of the dumping margins has been included in Confidential Annexes, and is considered to be confidential for the reasons set out in section 3F(5) of the Act, or because it is other information that would be likely to be withheld if it were requested under the Official Information Act 1982. In particular, MBIE has reviewed requests for information to be treated as confidential, and is satisfied that documentation relating to transactions, such as invoices; information relating to costs and prices; information relating to commercial relationships; and non-public financial information; will generally come within the meaning of confidential information. Much of this information is not susceptible of summarisation except in broad descriptive terms, but to the extent possible MBIE has required parties submitting confidential information to provide non-confidential summaries.
29. Information relating to the domestic industry and the analysis of injury is considered to be confidential, and in this Step 1 Final Report the analysis is presented as a summary of information, with tables and charts used to assist in the summarisation of the material. The domestic industry's application and the verification report of the visit to the applicant's premises include non-confidential summaries of the information provided.

### **Verification of information**

30. Article 6.6. of the AD Agreement provides "Except in the circumstances provided for in paragraph 8, the authorities shall during the course of an investigation satisfy themselves

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<sup>2</sup> Ibid, at paragraph 6.31.

<sup>3</sup> The AD Agreement adds the proviso, "unless it can be determined to their satisfaction from appropriate sources that the information is correct," and adds the footnote, "Members agree that requests for confidentiality should not be arbitrarily rejected."

as to the accuracy of the information supplied by interested parties upon which their findings are based.”

31. On-site verifications are neither the only nor the prescribed method of verifying information under the Act or the Agreement. Article 6.7 of the AD Agreement provides for on-site visits as an option for the investigating authority to fulfil its obligation under Article 6.6 to “satisfy itself as to the accuracy of the information supplied by interested parties on which findings are based.”<sup>4</sup>
32. In *US – DRAMS* the Panel considered that the text of Article 6.6 of the AD Agreement does not explicitly require verification of all information relied upon, stating:

*Article 6.6 simply requires Members to 'satisfy themselves as to the accuracy of the information'. In our view, Members could 'satisfy themselves as to the accuracy of the information' in a number of ways without proceeding to some type of formal verification, including for example reliance on the reputation of the original source of the information. Indeed, we consider that anti-dumping investigations would become totally unmanageable if investigating authorities were required to actually verify the accuracy of all information relied on.*<sup>5</sup>

33. MBIE visited Pacific Steel to verify the information it provided. A non-confidential version of the verification report is available on the public file.
34. Due to the COVID-19 public health crisis, MBIE officials were unable to travel to the premises of the Chinese and Indonesian producers. MBIE has therefore carried out desktop verifications of information. A desktop verification involves considering the information provided for consistency and accuracy, checking the information against other available information, and requesting further information or explanation where necessary.
35. Verification reports were prepared on the desktop verifications carried out for the cooperating foreign producers, Bekaert Qingdao and Bekaert Indonesia, and non-confidential versions of these reports are available on the public file.

## 1.4 Report Details

36. In this report, unless otherwise stated, years are calendar years ending 31 December and dollar values are New Zealand dollars (NZD). Information provided by Pacific Steel included data relating to financial years (FY). In tables, column totals may differ from individual figures because of rounding. The term VFD refers to value for duty for New Zealand Customs Service (Customs) purposes, and CIF refers to Cost, Insurance, Freight as a contract term.
37. The period of investigation for dumping (POI(D)) is the year ended December 2019, while the investigation of injury (POI(I)) involves evaluation of data for the period from January 2014 to December 2019.

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<sup>4</sup> WT/DS189/R, Panel Report, *Argentina – Ceramic Tile*, Footnote 65

<sup>5</sup> WT/DS99/R, Panel Report, *US – DRAMS*, paragraph 6.78.

38. All volumes are expressed on a metric ton (MT or tonne) basis unless otherwise stated. Exports to New Zealand were mainly invoiced in United States dollars (USD), although a variety of currencies were used. The exchange rates used are those relating to specific transactions, where available, or the Customs exchange rates or the rate that MBIE considers most appropriate in the circumstances, as indicated in the text.
39. It should be noted that this report provides a summary of the information, analysis and conclusions relevant to this particular investigation, and should not be accorded any status beyond that.

## **1.5 Submissions on the EFC Report**

40. Interested parties were invited to make written submissions to MBIE on the EFC Report. Comments on the submissions were received from the Government of Indonesia, Bekaert Qingdao, Bekaert Indonesia, and Pacific Steel. Annex 1 to this report includes summaries of the submissions made and MBIE's comments on them. Where appropriate, the matters raised have been taken into account in the preparation of this Step 1 Final Report.



## 2. Subject Goods and New Zealand Industry

### 2.1 Subject Goods

41. 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.*

42. Pacific Steel noted that the goods subject to the application are descriptively the same as the goods that were subject to previous investigations of galvanised wire from Malaysia and South Africa.

43. The scope of the description of subject goods has been questioned by an interested party, on the grounds that 'galvanised' wire means wire that is coated with zinc only.

44. MBIE has reviewed the information available relating to this issue, and notes that the relevant standard in New Zealand, AS/NZS 4534:2006 covers both zinc coating and zinc-aluminium coating, albeit with separate definitions; a number of producers in describing their goods do not make a distinction between wire coated with zinc and zinc-aluminium coated wire, although such a distinction is implied by some producers; and MBIE research indicates that while the term 'galvanised' may at one time have referred to coating steel with zinc, developments in coating technology mean that it can now be used to refer to coatings of zinc when combined with other metals.

45. MBIE has concluded that while "galvanised" may have traditionally been used to refer to the application of a 100 per cent zinc coating, the development of galvanising has resulted also in the usage of the term "galvanised" for the application of coatings that are predominantly zinc but include other metals such as aluminium, and which have corrosion resistance as their main purpose. MBIE uses the term "galvanised" in this sense, and has advised interested parties to this effect.

46. As in previous investigations and reviews involving similar goods, wire that is coated with PVC is excluded from coverage.

#### Tariff Classification

47. The subject goods are currently subject to the following classifications in the New Zealand Customs Tariff (greyed lines are not covered by the subject goods description). Note that some statistical keys include goods that are outside the subject goods description (indicated by "Ex" – added by MBIE in the Tariff Item column in Figure 1).

48. The duty rate applicable to China is Free under the NZ-China Free Trade Agreement, and to Indonesia is Free under the ASEAN, Australia, New Zealand Free Trade Agreement.

Figure 1: Tariff Classification<sup>6</sup>

Tariff item	Stat Key	Unit	Description	Duty %	Pref.
<b>72.17</b>			<b>Wire of iron or non-alloy steel:</b>		
7217.10.00			– Not plated or coated, whether or not polished		
			– Plated or coated with zinc:		
7217.20.10			– – Containing by weight less than 0.6 % carbon	5	Free *See Below CA Free CPT 2 1/2021 1 1/2022 Free
			. . . Containing by weight less than 0.25 % carbon:		
			. . . . Fencing wire:		
			. . . . . Less than 1.6mm in diameter:		
	01H	kg	. . . . . Coils, not exceeding 50 kg		
	03D	kg	. . . . . Other		
			. . . . . 1.6 mm or more, but less than 2.5 mm in diameter:		
Ex	05L	kg	. . . . . Coils, not exceeding 50 kg		
Ex	07G	kg	. . . . . Other		
			. . . . . 2.5 mm or more, but less than 4 mm in diameter:		
	08E	kg	. . . . . Coils, not exceeding 50 kg		
	09C	kg	. . . . . Other		
			. . . . . 4 mm or more in diameter:		
Ex	11E	kg	. . . . . Coils, not exceeding 50 kg		
Ex	13A	kg	. . . . . Other		
			. . . . Other:		
	14K	kg	. . . . . Less than 1.6 mm in diameter		
Ex	15H	kg	. . . . . 1.6 mm or more, but less than 2.5 mm in diameter		
	16F	kg	. . . . . 2.5 mm or more, but less than 3.55 mm in diameter		
	17D	kg	. . . . . 3.55 mm or more, but less than 4.5 mm in diameter		
Ex	18B	kg	. . . . . 4.5 mm or more, but less than 5.5 mm in diameter		
	19L	kg	. . . . . 5.5 mm or more in diameter		
			. . . Other:		
			. . . . Fencing wire:		
			. . . . . Less than 1.6 mm in diameter:		
	21B	kg	. . . . . Coils, not exceeding 50 kg		
	23J	kg	. . . . . Other		
			. . . . . 1.6 mm or more, but less than 2.5 mm in diameter:		
Ex	25E	kg	. . . . . Coils, not exceeding 50 kg		
Ex	27A	kg	. . . . . Other		
			. . . . . 2.5 mm or more, but less than 4 mm in diameter:		
	28K	kg	. . . . . Coils, not exceeding 50 kg		
	29H	kg	. . . . . Other		
			. . . . . 4 mm or more in diameter:		
Ex	31K	kg	. . . . . Coils, not exceeding 50 kg		
Ex	33F	kg	. . . . . Other		
			. . . . Other:		
	34D	kg	. . . . . Less than 1.6 mm in diameter		

<sup>6</sup> Extract from the NZ Customs Working Tariff Document, Section XV: Base metals and articles of base metals  
<https://www.customs.govt.nz/globalassets/documents/tariff-documents/working-tariff-document-2018/section-xv-1-july-2019.pdf>

Ex	35B	kg	. . . . 1.6 mm or more, but less than 2.5 mm in diameter		
	36L	kg	. . . . 2.5 mm or more, but less than 3.55 mm in diameter		
	37J	kg	. . . . 3.55 mm or more, but less than 4.5 mm in diameter		
Ex	39E	kg	. . . . 4.5 mm or more in diameter		
7217.20.90			-- Other	5	Free
			. . . Fencing wire:		*See
			. . . . Less than 1.6 mm in diameter:		Below
	01A	kg	. . . . Coils, not exceeding 50 kg		CA Free
	03H	kg	. . . . Other		CPT 2
			. . . . 1.6 mm or more, but less than 2.5 mm in diameter:		1/2021 1
Ex	05D	kg	. . . . Coils, not exceeding 50 kg		1/2022
Ex	07L	kg	. . . . Other		Free
			. . . . 2.5 mm or more, but less than 4 mm in diameter:		
	08J	kg	. . . . Coils, not exceeding 50 kg		
	09G	kg	. . . . Other		
			. . . . 4 mm or more in diameter:		
Ex	11J	kg	. . . . Coils, not exceeding 50 kg		
Ex	13E	kg	. . . . Other		
			. . . Other:		
	14C	kg	. . . . Less than 1.6 mm in diameter		
Ex	15A	kg	. . . . 1.6 mm or more, but less than 2.5 mm in diameter		
	16K	kg	. . . . 2.5 mm or more, but less than 3.55 mm in diameter		
	17H	kg	. . . . 3.55 mm or more, but less than 4.5 mm in diameter		
Ex	18F	kg	. . . . 4.5 mm or more in diameter		
*Unless otherwise indicated, AAN, AU, CN, CPT, HK, KR, LLDC, MY, Pac, SG, TH, TPA and TW rates in the Preferential Tariff are Free.					

## Imports of Subject Goods

49. In its application, Pacific Steel used trade data from TradeMap<sup>7</sup> because data from Statistics New Zealand (Stats NZ) was affected by confidentiality requirements.
50. Stats NZ operates the International Merchandise Trade Statistics confidentiality policy, which sets out the policy for preventing disclosure of confidential information in published international trade statistics. Detailed international trade statistics are normally published without prior checking for disclosure. If an exporter and/or importer requests suppression, aggregated data that identifies individual trade transactions, can, at the discretion of the Government Statistician, be suppressed in future publicly available tables. When such a request is received, Stats NZ will verify the alleged identification risk. If Stats NZ concludes that a risk of identification exists, either directly or by deduction, then it will amalgamate the relevant items with other trade transactions to prevent disclosure. There are five statistical keys that are covered by the subject goods which are currently subject to data suppression.

<sup>7</sup> 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.

51. MBIE has obtained data from Customs for 2013-2019, including details of the goods subject to suppression orders, for the tariff items and statistical keys for the subject goods, with adjustments made to exclude goods whose entry line description clearly puts them outside the subject goods description. This is the data used as “Customs data” in this report, unless otherwise noted. The import levels and trends from Indonesia shown in the Customs data are similar to those shown by the Pacific Steel data, and while the trends are similar for imports from China the actual volumes of imports of the subject goods are lower than those identified by Pacific Steel. MBIE also notes that Indonesia is not the main source of New Zealand’s imports of galvanised wire - that has been Australia which has contributed around half of the annual volume of imports since FY2014 (with most imports under suppressed items).
52. Further adjustments to the import data for 2019 have been made on the basis of information provided by importers which has confirmed that a number of shipments were not covered by the description of the subject goods. This has primarily reflected imports of goods outside the dimensions of the subject goods. It has also confirmed that there have been imports of the subject goods under different tariff headings. Similar adjustments have not been made to import data for earlier years, because relevant invoice information has not been available.
53. The 2019 data, adjusted as noted above, has been used to establish that imports from China and Indonesia are well above the negligibility levels noted in Article 5.8 of the AD Agreement.
54. Confidential Attachment 1 includes tables and charts to illustrate the points made above. The information is confidential because it includes data subject to data suppression by Stats NZ, and is based on entry-line data from NZ Customs and invoice information from importers and producers which is provided on a confidential basis.

## 2.2 Like Goods

55. 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 or have characteristics which closely resemble the subject goods.
56. Section 3(1) of the Act defines like goods, in relation to any goods, as:
  - a. Other goods that are like those goods in all respects; or
  - b. In the absence of goods referred to in paragraph (a), goods which have characteristics closely resembling those goods.
57. The scope of the subject goods is defined in section 2.1 above.
58. Pacific Steel considers that the galvanised wire products that it produces are “like goods” to the subject goods, as required under section 3(1) of the Act. Pacific Steel noted that the goods are the same as the goods in previous MBIE investigations into galvanised wire from South Africa and Malaysia in respect of method of manufacture, physical characteristics, end use and marketing and distribution channels.

59. Pacific Steel noted that there are no material differences since MBIE's previous examination in respect to method of manufacture, physical characteristics, end use, and marketing and distribution channels.
60. The definition of like goods is also relevant to the identification of like goods to the subject goods in domestic sales in the country of export for the purposes of comparing export prices and normal values.
61. Claims have been made by interested parties that because Pacific Steel does not produce wire with a zinc only coating or a 90-10 zinc-aluminium coating, then it does not produce like goods to the subject goods. Claims were also made that Pacific Steel does not produce the full range of diameters of wire covered by the subject goods description.

### **MBIE Consideration**

62. To determine whether the goods produced in New Zealand are like goods to the subject goods, MBIE normally considers physical characteristics, function and usage, pricing patterns, marketing and distribution, substitutability and commercial interchangeability, and any other relevant considerations, with no one of these factors being necessarily determinative.

### ***Physical characteristics***

63. Pacific Steel is New Zealand's only producer of bright wire and galvanised wire. All galvanised wire currently produced by Pacific Steel is coated with a mix of 95 per cent zinc and 5 per cent aluminium. Pacific Steel produces fencing wire and manufacturing wire.
64. Pacific Steel's website indicates that Pacific Steel produces the following 95/5 zinc-aluminium wire:
- high tensile, diameters 1.6 to 4.0mm
  - medium tensile, diameters 2.0 to 3.15mm
  - low tensile diameters 2.0 to 5.0mm.
65. MBIE verified sales information for 2019 which showed that Pacific Steel made sales of all of these types and dimensions of galvanised wire, except for medium tensile galvanised wire greater than 2.5mm. MBIE is satisfied that Pacific Steel makes galvanised steel wire from 1.6mm to 5mm.
66. There are differences between Pacific Steel's galvanised wire and most of the galvanised wire from China and Indonesia in respect of the coatings used, affecting the level of protection from corrosion in some cases. However, as noted above in the discussion on subject goods, all of the coatings identified for both domestic production and imports match the physical description of galvanised wire.

### ***Production methods and technology***

67. MBIE understands that there may be some differences in production processes of galvanised wire used in different plants, but there is no significant difference in the basic production methods used by both Pacific Steel and foreign producers. MBIE has sighted

illustrations of the production processes used by Pacific Steel and foreign producers to confirm this point.

68. MBIE notes that Standards such as AS/NZS 4534:2006 and AS 2423-2002 encompass both zinc and zinc-aluminium coated wire.

### ***Function and usage***

69. The New Zealand and imported galvanised wire have similar functions and uses, with the primary uses in New Zealand being fencing, the manufacture of mesh for fencing and other uses, baling, and for a variety of other manufactured goods. Differences in corrosion-resistance levels and tensile strength influence how the wire is used in practice.

### ***Pricing Patterns***

70. MBIE understands from interested party submissions that there are different price levels for 100% zinc galvanised wire, 95/5 zinc-aluminium and 90/10 zinc-aluminium wire, but that there are also price differences within coating groups, reflecting the level of coating and tensile strength.
71. MBIE has limited information on pricing by interested parties in the New Zealand market. The information available indicates that there are no significant differences in basic pricing structures of the subject goods and the goods produced by Pacific Steel, even though each party may sell at different prices.

### ***Marketing and distribution***

72. Marketing and distribution of locally-produced and imported wire is through similar channels.

### ***Substitutability and commercial interchangeability***

73. MBIE has no substantiated information to indicate that there are circumstances in which galvanised wire with different coatings than that produced by the New Zealand industry has specific applications that would exclude the use of galvanised steel wire produced in New Zealand.

### ***Conclusions***

74. Taking all of these considerations into account, MBIE has concluded that Pacific Steel produces like goods to the goods imported from China and Indonesia, in that while the goods produced by Pacific Steel may not be identical to all of the goods included in the subject goods description, they are goods that have characteristics closely resembling the subject goods.

## **2.3 New Zealand Industry**

75. Section 3A of the Act sets out the 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.*

76. MBIE is satisfied that Pacific Steel is the only New Zealand producer of galvanised wire, and is the New Zealand industry for the purposes of the investigation.



## 3. Interested Parties

### 3.1 Legal Requirements

77. Section 3(1) of the Act identifies the parties (notified parties) who are to be given notice under section 3E of the Act, including:

- the Government of the country of export
- exporters and importers known by the chief executive to have an interest in the goods
- the applicant in relation to the goods

78. Article 6.11 of the AD Agreement provides:

*For the purposes of this Agreement, "interested parties" shall include:*

- an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product;*
- the government of the exporting Member; and*
- a producer of the like product in the importing Member or a trade and business association a majority of the members of which produce the like product in the territory of the importing Member.*

*This list shall not preclude Members from allowing domestic or foreign parties other than those mentioned above to be included as interested parties.*

79. Notice of initiation of the investigation was provided to the parties listed in section 3(1) of the Act.

### 3.2 Applicant

80. Pacific Steel is a wholly owned subsidiary of New Zealand Steel Holdings Limited whose ultimate parent company is BlueScope Steel Limited, an Australian-based company listed on the Australian Stock Exchange.

81. Pacific Steel lodged the application for the initiation of the investigation, and also made submissions in relation to the Initiation Report, the Provisional Measures Report, the Verification Reports relating to the cooperating suppliers in China and Indonesia, and on the EFC Report. This Step 1 Final Report has taken account of those submissions as relevant and appropriate.

### 3.3 Producers

82. Chinese and Indonesian manufacturers supplying galvanised wire to New Zealand were identified from Customs data and questionnaire responses provided by importers. For the purposes of the investigation, a sample of the main Chinese producers of goods exported to New Zealand was identified. There was effectively only one Indonesian producer responsible for exports to New Zealand, since the other producer was exporting only a very small quantity, so establishment of a sample was not required.

83. The AD Agreement, at Article 6.10, provides that authorities may limit their examination either to a reasonable number of interested parties by using samples which are statistically

valid on the basis of information available to the authorities at the time of the selection, or to the largest percentage of the volume of exports which can reasonably be investigated. MBIE has adopted this latter approach in the investigation, which reflects past practice. Customs data indicates that in 2019 there were 43 suppliers of galvanised wire from China, some of which are likely to have been trading intermediaries, supplying 37 importers. The majority of such suppliers were responsible for less than 10 tonnes each of exports in 2019. In these circumstances, and in view of the time and effort required to track down each supplier in order to obtain details of the manufacturer concerned, it was considered to be impracticable and unnecessary to examine all suppliers. The sample of Chinese suppliers chosen was responsible for 68 per cent of imports in 2019.

84. Details of the trade volumes and trading arrangements of the Chinese and Indonesian producers subject to investigation are listed in Confidential Attachment 2. As a result of information provided by importers and producers, it was possible to identify the extent to which Customs data needed to be adjusted to exclude 2019 imports that were outside the description of the subject goods. It was also possible to exclude shipments which were effectively re-exported without substituting for domestically-produced goods.

### **China**

85. The following is the final list of Chinese producers included in the sample investigated:

- Beijing Steels Metal Co Ltd (Beijing Steels)
- Bekaert (Qingdao) Wire Products Ltd (Bekaert Qingdao)
- Dingzhou Five Star Metal Wire Mesh Manufactory (Dingzhou Five Star)
- Hebei Longsheng Metals and Minerals Co Ltd (Hebei Longsheng)
- Hebei Metals and Minerals Import and Export Corp (Hebei Metals)
- Tianjin Bluekin Industries Ltd/Ocean King Industries Ltd (Tianjin Bluekin/Ocean King)
- Tianjin Huayuan Times Metal Products Co Ltd (Times Metal)

86. Questionnaires were sent to all companies identified as sample producers. A response was received from Bekaert Qingdao, and a minimal response was received from Beijing Steels, but no responses were received from the other producers.

### **Indonesia**

87. Information was sought from PT Bekaert Wire Indonesia (Bekaert Indonesia), the producer supplying the great majority all of New Zealand's imports from Indonesia in 2019. Detailed responses were provided to the original questionnaire and to supplementary requests for clarification and further information.

## **3.4 Importers**

88. New Zealand-based importers were identified from Customs data, and invited to supply information which would identify suppliers in China and Indonesia and information which would assist in identifying imports of subject goods.

89. Questionnaires were sent to importers of goods from the sample producers in order to obtain and confirm information relating to import shipments, and information on the operation of the New Zealand market for the subject goods. Responses were received from eight importers, with a further three importers providing information on invoices.

### **3.5 Other Interested Parties**

90. The governments of China and Indonesia are interested parties.
91. No other interested parties have come forward or have been identified.



## 4. Dumping Investigation

### 4.1 Dumping

92. Section 3 of the Act includes the following definitions:

***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.*

93. The dumping investigation determines export prices and normal values in accordance with the provisions of the Act and the AD Agreement, and makes a proper comparison between them in order to establish whether and to what extent any dumping is occurring.

94. For imports from Indonesia and from uncooperative producers in China, MBIE has made a comparison of export prices to normal values on a weighted average-to-weighted average basis. This method involves comparing the weighted average export price and the weighted average normal value across the POI(D). The weighted average-to-weighted average methodology is used by MBIE when there is a large number of export transactions or where there is a large number of different model types at different prices making up the goods under investigation. Using the weighted average-to-weighted average prices, MBIE is then able to establish whether or not the goods were dumped across the POI.

95. For imports from the cooperative Chinese producer, the comparison has been made on a transaction-to-transaction basis, reflecting the limited number of transactions involved and the availability of information for both export and domestic sales by the producer on a transaction-level basis.

### 4.2 Basis for Investigation of Dumping

96. The information available to MBIE in investigating the dumping of galvanised coil from China and Indonesia includes:

- information contained in Pacific Steel's application and subsequent submissions, and from MBIE's verification visit to Pacific Steel
- information from importers
- information from cooperating foreign manufacturers
- information from previous MBIE investigations
- information from WTO dispute findings and other documents
- information from NZ Customs
- information arising from MBIE's independent research.

97. The objective of the investigation is to establish if there is dumping, i.e. whether the export price of the goods is less than the normal value when a fair comparison is made.

## Questionnaire Responses

98. MBIE sent Foreign Manufacturer Questionnaires to each of the sample manufacturers identified in section 3.4 above. Detailed responses were received from Bekaert Indonesia and Bekaert Qingdao, and a limited response from one Chinese producer.
99. Importer Questionnaires were sent to the importers of galvanised wire from the sampled manufacturers. Responses, including questionnaire responses and copies of invoices, were received from eleven importers.
100. In the absence of adequate responses from Chinese producers other than Bekaert Qingdao, the Chinese producers concerned have been regarded as uncooperative. As provided in section 6 of the Act, MBIE is satisfied that sufficient information has not been furnished by uncooperative producers or is not available to enable the normal value of goods to be ascertained under section 5, and therefore the normal value has been determined by MBIE having regard to all available information.

## 4.3 Export Price

101. Export prices are determined in accordance with section 4 of the Act. The export price is usually the price paid for the goods by the importer, less costs, charges and expenses incurred in preparing the goods for shipment that are additional to such costs incurred for sales for home consumption and any other costs, charges and expenses resulting from the exportation of goods or arising after their shipment.
102. The starting point for MBIE is the documentation (usually invoices) for each shipment, which shows the price paid or payable for the goods by the purchaser. MBIE requested this information from both producers and importers in its questionnaires. It also requested documentation of other costs incurred in exportation of the goods. The base price, which is the starting point for the calculation of the export price, is the transaction price paid, whether by the importer or an intermediary.
103. Adjustments are then made to take the base price back to the ex-factory level and to ensure a fair comparison with the normal value. Adjustments to calculate an ex-factory price generally cover costs such as inland freight between the factory and the port, port charges and bank charges, overseas freight and insurance (depending on the terms of sale). Most fair comparison adjustments are made to the normal value, but those relating to differences in the cost of credit and packaging are usually made to the full extent of the costs involved to both the export price and normal value.
104. In some cases where there is an intermediary company involved which acts as a facilitator of the sales and shipment of the goods, adjustments are made for the intermediary's commission or margin, and any other costs associated with the trade to ensure an ex-factory equivalent is achieved.
105. MBIE normally seeks to compare the export price with the normal value at the ex-factory level, after appropriate allowances to ensure a fair comparison. The information available in this investigation has been reviewed to establish the basis for and extent of any adjustments that may be required.

106. MBIE has considered adjustments for the following:
- Costs to bring values back to the ex-factory level
  - Additional costs of preparation for export (section 4(1)(a)(i) of the Act)
  - Other costs resulting from exportation (section 4(1)(a)(ii) of the Act)
107. Fair comparison adjustments are also dealt with in section 4.4 below on normal values (section 5(3) of the Act), but where it is sensible to do so, adjustments have been made to export prices.

### **4.3.1 Export Price – China**

108. MBIE has used information provided in the questionnaire responses from Bekaert Qingdao and from importers, including invoice information. In the absence of information from other Chinese producers, MBIE has used available information to determine export prices for such producers, in accordance with section 6 of the Act.
109. Section 4(1) of the Act requires that the export price be based on the price paid by the importer, where it is an arm's length transaction. Section 3(2) of the Act sets out the basis for when a purchase or sale of goods shall not be treated as an arm's length transaction.

#### **Bekaert Qingdao**

##### ***Base prices***

110. Details of export shipments to New Zealand from Bekaert Qingdao were provided by the company in its questionnaire responses and in its replies to MBIE's requests for clarification and supplementary information, and confirmed from invoice information provided by importers and from Customs data.
111. A significant proportion of the goods shipped were not subject goods because their diameters were outside the range of the subject goods. These shipments have been excluded from the calculation of export prices.
112. MBIE notes that Bridon NZ is an associated company of Bekaert Qingdao. In 2019 there was one shipment to Bridon NZ involving two transactions. MBIE has concluded that sales to PT Bridon should be treated as not being at arm's length and since the goods are not subsequently sold by the importer the provisions of sections 4(1)(b) and (c) of the Act do not apply. Sales to Bridon NZ have not been included in the determination of export prices.
113. The remaining product-level transactions, numbering only five, provide the basis for establishing export prices.
114. MBIE has accepted that the prices set out in export invoices to the New Zealand customer over the period of review are the base prices for the calculation of ex-factory export prices to New Zealand.

##### ***Adjustments to base prices***

###### **Freight and insurance**

115. All sales to New Zealand customers were on a CIF basis. The information regarding export transactions provided by Bekaert Qingdao included details of freight costs, which included

internal freight to the port, as well as port handling and documentation charges. MBIE has deducted these costs from the base prices.

**Handling, packing, loading and ancillary expenses**

116. As noted above, these charges were included in the freight costs provided in the information submitted by Bekaert Qingdao. Packaging costs have been addressed below.

**Other costs resulting from exportation**

*Commission*

117. Bekaert Qingdao's sales to New Zealand are made through an agent. A deduction from the sales price has been made for the applicable rate of commission.

*Other costs and charges*

118. MBIE has reviewed the information provided by Bekaert Qingdao and importers, and is satisfied that no adjustment needs to be made for any other costs or charges.

**Other adjustments**

119. In addition to the adjustments provided for in section 4(1)(a) of the Act, a number of other adjustments can be made to export prices under section 5(3) of the Act in order to ensure a comparison at the ex-factory level.

*Cost of credit*

120. Costs of credit arise from the particular terms and conditions of sale relating to each transaction. Bekaert Qingdao provided details of the payment terms applicable to each transaction, and this has been confirmed from MBIE's examination of invoices. Information on relevant interest rates was provided in the Financial Statement included in Bekaert Qingdao's Questionnaire response and has been used to establish amounts for credit costs for each transaction.

*Value Added Tax*

121. There is no value-added-tax (VAT) on export sales but wire sold on the Chinese domestic market was subject to output VAT at 16 per cent for January-March 2019, and 13 per cent for April-December 2019. Deductible input VAT was, however, payable on inputs to manufacturing at 10 per cent over the whole period. This means that there was residual input VAT of 6 per cent for January-March 2019, and 3 per cent for April-December 2019. These amounts have been confirmed from the transaction-level information provided by Bekaert Qingdao.
122. MBIE has made a deduction to export prices for the VAT paid but not rebated to ensure a fair comparison with Chinese domestic VAT-exclusive sales prices.

*Packaging Costs*

123. Wire is generally shipped in coils, with packaging costs made up of raw materials, such as plastic for wrapping, and metal strips; direct labour; and other packaging materials. MBIE has analysed Bekaert Qingdao's packaging costs for the categories of goods exported to New Zealand for both exports and domestic sales in 2019. The overall average indicates that packing costs for exports were lower than for domestic sales. However, in order to

ensure that provision for packaging is consistent across both export and domestic sales, MBIE has deducted all packaging costs from export sales, and will do the same for domestic sales.

### ***Calculation of export prices – Bekaert Qingdao***

124. Taking the base prices, adjusted as described above, MBIE has established export prices for each of the product-level transactions of subject goods exported to New Zealand by Bekaert Qingdao during 2019. The relevant amounts are set out in Confidential Attachment 3.

### **Other Chinese Producers**

125. The Chinese producers selected for the sample who have not cooperated in the investigation include Dingzhou Five-Star, Hebei Longsheng, Hebei Metals, Tianjin Bluekin/Ocean King, and Times Metal. Beijing Steels provided a minimal response to the Foreign Manufacturer Questionnaire but did not provide further information when requested to do so.
126. The available information used to establish export prices for imports from these producers has been obtained from invoices provided by importers, Customs data, information provided by the cooperating producer, and MBIE's research.

### ***Base prices***

127. MBIE has accepted that the prices on invoices to the New Zealand customers over the period of review are the base prices for the calculation of ex-factory export prices to New Zealand for the other Chinese producers.
128. MBIE has checked invoice information against Customs data to confirm the volumes and values of the relevant transactions covering the subject goods.

### ***Adjustments***

#### **Freight and insurance**

##### *Overseas freight*

129. Where costs for overseas freight and insurance have been available from invoices, this information has been used to identify adjustments for this item. Where information for CIF sales was not available from invoices, estimates of the appropriate amounts have been used, based on Customs data showing the difference between CIF and VFD values, and information from invoices from other suppliers.

##### *Marine insurance*

130. Amounts for insurance are based on invoice information identifying an actual insurance payment and taking the percentage of the FOB price as the basis for other producers.

##### *Inland freight*

131. Information from the cooperating producer cannot be used for identifying amounts for inland freight, because the amounts are included in overall freight costs, and in any event are very small because the plant is very close to the port. This is not the case for the other

producers. In the absence of any other reliable information, MBIE has used the information provided in the application regarding costs for inland freight.

**Handling, packing, loading and ancillary expenses**

*Packaging*

132. The weighted average packaging costs for export sales of subject goods by the cooperating producer have been applied to the other producers. Adjustments for packaging costs have been made in both the export price and normal value calculations in order to ensure that any differences are appropriately accounted for.

*Other costs*

133. Amounts for handling, loading and ancillary expenses were not separately identified by the cooperating producer. In the absence of any other reliable information, MBIE has used the information provided in the application regarding handling, loading and ancillary charges.

**Other costs resulting from exportation**

134. Information from importers indicates that there are no other costs or charges, including any direct or indirect reimbursement to customers covering sales promotion, advertising or warranty charges.

**Other adjustments**

135. In addition to the adjustments provided for in section 4(1)(a) of the Act, a number of other adjustments can be made to export prices under section 5(3) of the Act in order to ensure a comparison at the ex-factory level.

*Cost of credit*

136. Costs of credit arise from the particular terms and conditions of sale relating to each transaction. The terms of sale were established from invoice information and the cost of credit calculated on the basis of the credit period provided and the indicative interest rate provided by the Prime Lending Rate for China<sup>8</sup> of 4.35 per cent that applied during 2019.

*Value Added Tax*

137. MBIE has made a deduction to export prices for the VAT paid but not rebated to ensure a fair comparison with Chinese domestic VAT-exclusive sales prices. The rates of non-rebated VAT were 6 per cent for January-March 2019 and 3 per cent for April-December 2019.

*Packaging Costs*

138. Wire is generally shipped in coils, with packaging costs made up of raw materials, such as plastic for wrapping, and metal strips; direct labour; and other packaging materials. In the absence of information from the other Chinese producers, MBIE has used information from the cooperating producer as the basis for an adjustment. In order to ensure that provision

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<sup>8</sup> From <https://tradingeconomics.com/china/lending-rate>, the Prime Lending Rate is the weighted average rate quoted by three major banks on loans; the weights are the shares of each bank in the volume of loans.

for packaging is consistent across both export and domestic sales, MBIE has deducted all packaging costs from export sales, and will do the same for domestic sales.

### ***Calculation of export price***

139. Taking the base prices, adjusted as described above, MBIE has established export prices for subject goods exported by each of the other Chinese producers in 2019. The relevant amounts are set out in Confidential Attachment 4.

## **4.3.2 Export Price – Indonesia**

140. Customs data confirmed that Bekaert Indonesia was effectively the only supplier from Indonesia. A very small quantity of imports came from another supplier in 2019, and while yet another company was identified as a supplier, the goods were in fact supplied by Bekaert Indonesia and did not enter the New Zealand market. Accordingly, MBIE has based the investigation of the imports of subject goods from Indonesia on Bekaert Indonesia.
141. For the purposes of establishing export prices from Indonesia, MBIE has used information provided in questionnaire responses from Bekaert Indonesia and from importers.

### **Base prices**

142. Details of export shipments to New Zealand from Bekaert Indonesia were provided by the company in its questionnaire responses, and confirmed from invoice information provided by importers and from Customs data.
143. A proportion of the goods shipped were not subject goods because their diameters were outside the range of the subject goods, or they were PVC<sup>9</sup> coated wire, or armouring wire. These shipments have been excluded from the calculation of export prices.
144. Section 4(1) of the Act requires that the export price is to be based on the price paid by the importer, where it is an arm's length transaction. Section 3(2) of the Act sets out the basis for when a purchase or sale of goods shall not be treated as an arm's length transaction.
145. MBIE notes that Bridon NZ is an associated company of Bekaert Indonesia, but there were no sales to Bridon NZ in 2019.
146. The remaining product-level transactions provide the basis for establishing export prices.
147. MBIE has accepted that the invoice prices on export invoices to the New Zealand customer over the period of review are the base prices for the calculation of ex-factory export prices to New Zealand.

### **Adjustments**

#### ***Freight and insurance***

148. Relevant export transactions in 2019, included both FOB and CIF deliveries, and freight information provided by Bekaert Indonesia covered overseas freight and insurance, inland

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<sup>9</sup> PVC – polyvinyl chloride, a synthetic plastic polymer, used here for coating wire.

transport, and charges associated with exportation. In order to establish a basis for considering freight costs, MBIE has assessed the freight charges identified by Bekaert Indonesia for individual transactions for both overseas freight and for local handling costs, covering internal freight and port handling and other costs.

149. MBIE is satisfied that the information provided regarding freight costs per transaction can be used as adjustments to export prices for those transactions.

***Handling, packing, loading and ancillary expenses***

150. The information provided by Bekaert Indonesia identified packing costs, but did not provide separate information on other expenses related to the exportation of the goods, which are included in local handling costs as described above. Packaging costs have been addressed below.

***Other costs resulting from exportation***

*Commission*

151. An adjustment has been made to cover the commission paid to Bekaert Indonesia's agent on each shipment to New Zealand. Bekaert Indonesia provided information on the contractual arrangements for commissions.

*Other costs and charges*

152. MBIE has reviewed the information provided by Bekaert Indonesia and importers, and is satisfied that no adjustment needs to be made for any other costs or charges.

***Other adjustments***

153. In addition to the adjustments provided for in section 4(1)(a) of the Act, a number of other adjustments can be made to export prices under section 5(3) of the Act in order to ensure a fair comparison with normal values at the ex-factory level.

*Cost of Credit*

154. Costs of credit arise from the particular terms and conditions of sale relating to each transaction. Bekaert Indonesia provided details of the payment terms applicable to each transaction, and this has been confirmed from MBIE's examination of invoices. Bekaert Indonesia provided information on relevant interest rates for each month in 2019, and monthly weighted averages of these rates have been used to establish amounts for credit costs for each transaction.

*Packaging costs*

155. Shipments of wire can be unwrapped, or plastic-wrapped with or without additional hardboard or timber support. MBIE has analysed the packaging identified in export and domestic invoices provided by Bekaert Indonesia, and notes that while most exports and a major proportion of domestic sales are wrapped with or without timber, a significantly higher proportion of domestic sales are made unwrapped and loose. MBIE concludes that overall it can be assumed that export sales have higher packaging costs, so in order to ensure that differences in packaging costs are taken into account, adjustments have been made to both export prices and normal values by deducting all packaging costs.

156. MBIE has identified packaging costs from the information provided by Bekaert Indonesia and has accepted the information provided as an appropriate basis for a deduction for packaging costs.

### **Export Price calculations**

157. In calculating ex-factory export prices for Bekaert Indonesia, MBIE deducted the above costs from the values for each of the shipments to New Zealand over the POI. Details of these calculations are set out in Confidential Attachment 5.
158. For the purposes of determining dumping, MBIE has established an export price on the basis of the weighted average of export transactions of the subject goods.

## **4.4 Normal Value**

159. Normal values are determined in accordance with section 5 of the Act. The normal value is usually the price at which the galvanised wire producers sell like goods in their domestic market. The types of sales that can be used to determine normal values can generally be described as arm's length sales of like goods in the ordinary course of trade for home consumption in the country of export.
160. Section 3(2) of the Act sets out the basis for considering whether or not a purchase or sale of goods shall not be treated as an arm's length transaction, including whether the price is influenced by a relationship between the buyer and seller. Section 3(4) of the Act sets out the basis for deeming whether or not a person shall be deemed to be related to another person.
161. Footnote 2 to Article 2.2 of the AD Agreement provides that sales of the like product destined for consumption in the domestic market of the exporting country shall normally be considered a sufficient quantity for the determination of the normal value if such sales constitute 5 per cent or more of the sales of the product under consideration to the importing Member, provided that a lower ratio should be acceptable where the evidence demonstrates that domestic sales at such lower ratio are nonetheless of sufficient magnitude to provide for a proper comparison.
162. Section 5(6) of the Act provides that where sales of the like product in the domestic market of the exporting country or sales to a third country have been made for an extended period of time and in respect of a substantial quantity of like goods at prices below the cost of production plus administrative, selling and general costs they shall be deemed to be not in the ordinary course of trade. Article 2.2.1 of the AD Agreement provides that such sales may be disregarded in determining normal value only if the authorities determine that such sales are made within an extended period of time (normally one year but in no case less than six months) in substantial quantities (not less than 20 per cent of the volume sold in transactions under consideration for the determination of the normal value) and are at prices which do not provide for the recovery of all costs within a reasonable period of time. If prices which are below per unit costs at the time of sale are above weighted average per unit costs for the period of investigation, such prices shall be considered to provide for recovery of costs within a reasonable period of time.

163. As provided in section 5(3) of the Act and Article 2.4 of the AD Agreement, export prices and normal values are to be compared at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. In making the comparison, due allowance is to be made, as appropriate, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability.

#### **4.4.1 Normal Value - China**

##### ***Basis for Normal Values***

164. For the purposes of this Step 1 Final Report, MBIE has used information provided in the questionnaire response from Bekaert Qingdao and from importers, including invoice information. In the absence of information from other Chinese producers, MBIE has used available information to determine normal values.

##### **Bekaert Qingdao**

##### ***Base Prices***

##### ***Like goods***

165. Bekaert Qingdao provided details of all domestic sales of the subject goods, including transaction-level product descriptions, purchasers, terms of trade, prices, costs for manufacturing, packaging, and selling and administration, and profits. The information indicated that while there are variations in some attributes of the goods sold domestically compared with the subject goods exported to New Zealand, there is a sufficient basis to identify categories of goods with sufficient similarities to use this information for the purpose of making comparisons between export prices and normal values.
166. Goods sold domestically that are not like the subject goods have been identified and excluded from the comparison, including armouring wire, wire with a diameter below 2.00mm and above 4.50mm, and ungalvanised wire.

##### ***Sufficiency of volumes***

167. On the basis of the information provided by Bekaert Qingdao, relevant domestic sales exceed export sales to New Zealand, so the volume of sales does not provide a basis for using alternative approaches to the comparison of export prices and normal values.

##### ***Ordinary course of trade***

##### ***Arm's length transactions***

168. With regard to domestic sales of like goods, Bekaert Qingdao has identified that it makes sales to Bridon (Hangzhou) Ropes Co Ltd, an associated company that produces ropes. The transaction-level data also indicated sales to Bekaert Jiangyin Wire and some very small transactions with Bekaert Applied Material Technology. The Notes to the 2019 Financial Statement included details of sales to related companies which confirmed that sales were made to the related parties identified in the transaction-level information. These related-party transactions have been excluded from the consideration of normal values.

*Sales at a loss*

169. Information provided by Bekaert Qingdao indicates that a number of domestic transactions were made at a loss. MBIE has analysed the relevant sales, and has established that sales made in 2019 for goods that were sold at a loss over the year made up significantly less than 20 per cent of the total sales under consideration. From its analysis of the information provided, MBIE is satisfied that the sales made at a loss can be included in the domestic sales under consideration.

**Level of trade**

170. Bekaert Qingdao noted that its domestic sales were 100 per cent to businesses. MBIE notes that while the transaction-level data does include some clients who might be traders, the volume involved is comparatively extremely small. For the purposes of establishing normal values, MBIE sees no need to make any adjustments or allowances for the level of trade of domestic customers.

**Timing of sales**

171. The comparison between export price and normal value is to cover sales made at as nearly as possible the same time.
172. For the purposes of a transaction-to-transaction comparison, the timing of transaction-level sales need to be identified, and suitable comparators selected.
173. The transaction data provided by Bekaert Qingdao identified the month of sale for domestic sales. MBIE has used invoice data to establish the month of exports for transactions for all Chinese exporters. MBIE has reviewed the monthly pattern of both export and import sales demonstrated by the data, and is satisfied that, while recognising the significantly lower number of individual export transactions, the patterns of monthly sales for export and domestic sales are broadly similar.
174. MBIE's conclusion is that there is no need to make any particular adjustments or arrangements to ensure that prices are compared for sales at as nearly as possible the same time.

**Sales Prices**

175. Bekaert Qingdao provided detailed information on domestic sales transactions, together with samples of invoices. MBIE has used this information as establishing the base prices for calculating normal values for individual transactions, and also as the basis for establishing normal values to be applied to non-cooperating producers.

**Adjustments**

**Level of Trade**

176. For the reasons outlined above, both export and domestic transactions being compared were effectively to manufacturers and not to resellers, so no adjustments are necessary to the base prices used. Further adjustments to the transaction values used as base prices in order to ensure that the comparison is at the ex-factory level are addressed below.

**Sales at the same time**

177. As noted above, sales in the POI(D) were broadly similar in terms of timing, so no adjustments or accommodations are necessary.

**Terms and conditions of sale**

178. Bekaert Qingdao provided information on its order processing procedure, general terms of sale, information on payment and credit terms, and delivery charges. Bekaert Qingdao advised that it did not provide any direct or indirect reimbursement to customers, or any consideration other than price. Bekaert Qingdao noted that it did not incur any additional sales expenses or after sales cost on the domestic market that it did not incur on export sales to New Zealand customers, and does not provide any direct or indirect reimbursement to customers.
179. MBIE's conclusion is that no adjustments will be required for differences in terms and conditions of sale other than those it has identified in relation to credit terms and freight costs.

*Cost of credit*

180. MBIE has calculated the credit costs for each transaction, based on the payment terms reported by Bekaert Qingdao, and the applicable interest rate verified from Bekaert Qingdao's Financial Statement. The resulting figures are deducted from the base price.

*Delivery terms*

181. MBIE has deducted from the base price all freight costs identified in the transaction data provided by Bekaert Qingdao.

**Levels of trade**

182. As noted above, MBIE has limited the transactions under consideration to those at the same level of trade as export transactions, so no further adjustments are required.

**Taxation**

183. The individual transaction prices in the information provided by Bekaert Qingdao for domestic sales are exclusive of any taxation.

**Quantities**

184. The reference to "quantities" in section 5(3)(c) of the Act relates to the need to make due allowance as appropriate for any differences in quantities as they relate to the transactions being compared. In the case of Bekaert Qingdao, where a transaction-to-transaction basis is being used to determine dumping, it is the quantity of the transactions being compared that is important.<sup>10</sup>
185. Since Bekaert Qingdao transactions are being used as information available for establishing normal values for other Chinese producers on a weighted-average basis, MBIE has analysed

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<sup>10</sup> The overall level of sales to individual customers can be relevant in considering whether sales are made at the same level of trade, but in the circumstances of the current investigation MBIE does not consider any allowance is required or appropriate.

the information provided by Bekaert Qingdao and information relating to imports from other Chinese producers. The analysis indicates that the average sizes of Chinese export transactions and domestic transactions for Bekaert Qingdao were relatively close, and while the average size of export transactions by all Chinese producers was larger than the average for Bekaert Qingdao's domestic transactions, the maximum sizes were also relatively close.

186. MBIE's conclusion is that there is no need to make any particular adjustments or arrangements to ensure that prices are compared for sales of similar quantities.

**Physical characteristics**

187. Physical difference adjustments are required when differences in the physical characteristics of the goods affect price comparability. MBIE has identified the main physical attributes characterising the goods as being the coating material, coating weight, diameter, and tensile strength. The purpose of the wire in terms of its use may also be relevant, but in general will be reflected in the physical attributes. Differences between the exported subject goods and domestic sales of like goods can be attributed to different descriptions and requirements in relevant standards, and differing customer requirements depending on the use of the products.

188. Because the Bekaert Qingdao transactions compared were for goods of very similar characteristics, no adjustment for physical differences needed to be made.

**Other differences affecting price comparability**

189. The information provided by Bekaert Qingdao did not identify any other differences affecting price comparability.

**Normal Value calculations**

190. In calculating ex-factory normal values for domestic sales, MBIE made the adjustments outlined above to the transaction-level price information provided by Bekaert Qingdao. Details of these calculations are set out in the Confidential Attachment 3.
191. The transaction-level normal values established for specific goods and transactions that are most similar to the transactions for subject goods exported by Bekaert Qingdao have been used as the basis for establishing dumping margins on a transaction-to-transaction basis. For the purposes of establishing a level of duty to be applied to Bekaert Qingdao, the weighted average of the dumping margins established on a transaction-to-transaction basis has been used.

**Other Chinese producers**

192. In the absence of information from uncooperative producers on their domestic sales, MBIE has established normal values on the basis of information available.<sup>11</sup> The best information available is the information provided by the cooperating producer.

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<sup>11</sup> Referred to as "facts available" in the AD Agreement (Article 6.2 and Annex II).

193. The normal value to be used in the comparison with export prices for uncooperative Chinese producers is the weighted average of the normal values calculated for the goods as a whole by the type of coating (zinc or zinc-aluminium), for goods sold by the cooperating producer on the domestic market. Details are set out in Confidential Attachment 4.
194. For the purposes of establishing a level of dumping for each of the other Chinese producers, a weighted average of the dumping margins established for each coating type has been used.

#### **4.4.2 Normal Value – Indonesia**

195. MBIE's determination of normal values for imports of subject goods from Indonesia has used information provided in questionnaire responses from Bekaert Indonesia and from importers.

##### ***Base Prices***

##### ***Like goods***

196. Bekaert Indonesia provided details of all domestic sales of the subject goods. The information indicated that while there are variations in some attributes of the goods sold domestically compared with the subject goods exported to New Zealand, there is a sufficient basis to identify categories of goods with sufficient similarities to use this information for the purpose of making comparisons between export prices and normal values.
197. Goods sold domestically that are not like the subject goods have been identified and excluded from the comparison, including armouring wire, wire with a diameter below 2.00mm and above 4.50mm, and non-galvanised wire.

##### ***Sufficiency of volumes***

198. On the basis of the information provided by Bekaert Indonesia, relevant domestic sales exceed export sales to New Zealand, so the volume of sales does not provide a basis for using alternative approaches to the comparison of export prices and normal values.

##### ***Ordinary course of trade***

##### ***Arm's length transactions***

199. With regard to domestic sales of like goods, Bekaert Indonesia has identified that it makes sales to PT Bridon Indonesia, a sister company that produces ropes. The Notes to the 2019 Financial Statement included details of sales to PT Bridon which matched the sales data provided in the transaction-level information provided. MBIE notes that the specific product lines sold to PT Bridon were not sold to any other customers, and the sample of invoices did not include any invoices to PT Bridon.
200. The information provided makes it clear that PT Bridon is related to Bekaert Indonesia. In the absence of information that would allow prices to PT Bridon to be tested against prices to other customers, MBIE has reached a conclusion that sales to PT Bridon should be treated as not being at arm's length, and are therefore not included in the determination of normal values.

*Sales at a loss*

201. MBIE analysed all sales by Bekaert Indonesia and found that some transactions were at a loss. An analysis of total annual sales of each of these particular goods over 2019, i.e. the goods for which some transactions were at a loss, established that around half of the volume of those goods actually recovered costs over the 12-month period, while the remaining goods, i.e. those with sales at a loss that did not recover costs over the year, made up less than 20 per cent of the total sales being considered for the establishment of normal values.
202. On the basis of the information provided by Bekaert Indonesia relating to its domestic sales, and MBIE's analysis of the data provided, MBIE is satisfied that the sales made at a loss can be included in the domestic sales under consideration.

**Level of trade**

203. Bekaert Indonesia noted that its domestic sales included sales to wholesalers. The wholesaler customers were identified in the transaction data provided to MBIE and sample invoices were also provided.
204. MBIE has excluded sales to wholesalers from the domestic sales to be compared with export prices, since export sales were almost exclusively to manufacturers and the comparison is to be made at the same level of trade.

**Timing of sales**

205. The comparison between export price and normal value is to cover sales made at as nearly as possible the same time. The examination of dumping of imports from Indonesia was carried out on the basis of a weighted average export value and weighted average normal value for all transactions of the subject goods over the POI(D), i.e. 2019. In this situation, the question of timing of sales would normally be irrelevant. However, in order to check whether there may have been any timing considerations that might affect the comparison, e.g. any significant difference between the timing of export transactions and domestic sales which might nevertheless affect the comparison, MBIE has analysed when sales were made. The transaction data provided by Bekaert Indonesia identified the month of sale for both export and domestic sales. MBIE has reviewed the monthly pattern of sales demonstrated by the data, confirmed from invoice information, and is satisfied that the patterns of monthly sales for export and domestic sales are broadly similar. MBIE has also reviewed price trends over the period for total of export and domestic sales per month, which indicated that domestic prices were a little higher for a couple of months in the first part of the year but fell away in the final quarter as the average for domestic prices declined and export prices increased.
206. MBIE's conclusion is that there is no need to make any particular adjustments or arrangements to ensure that prices are compared for sales at as nearly as possible the same time.

**Sales prices**

207. Bekaert Indonesia provided detailed information on domestic sales transactions, together with samples of invoices. MBIE has used this information as establishing the base prices for calculating normal values for individual transactions.

**Adjustments**

208. To meet the requirements of section 5(3) of the Act regarding the need to effect a fair comparison between the normal value and export price, a number of adjustments are required.

**Level of trade**

209. For the reasons outlined above, both export and domestic transactions being compared were to manufacturers and not to resellers, so no adjustments are necessary to the base prices used. Further adjustments to the transaction values used as base prices in order to ensure that the comparison is at the ex-factory level are addressed below.

**Sales at the same time**

210. As noted above, sales in the POI(D) were broadly similar in terms of timing, so no adjustments or accommodations are necessary.

**Terms and conditions of sale**

211. Bekaert Indonesia provided information on its order processing procedure, general terms of sale, information on payment and credit terms, and delivery charges. Bekaert Indonesia advised that it did not provide any direct or indirect reimbursement to customers, or any consideration other than price. Bekaert Indonesia noted that it did not incur any additional sales expenses or after sales costs on the domestic market that it did not incur on export sales to New Zealand customers, and does not provide any direct or indirect reimbursement to customers.
212. MBIE's conclusion is that no adjustments will be required for difference in terms and conditions of sale other than those it has identified in relation to credit terms and freight costs.

*Cost of credit*

213. Bekaert Indonesia provided information on relevant interest rates for each month in 2019, and monthly weighted averages of these rates have been used to establish amounts for credit costs for each transaction. The resulting figures are deducted from the base price.

*Delivery terms*

214. MBIE has deducted from the base price all freight costs identified in the transaction data provided by Bekaert Indonesia.

**Levels of trade**

215. As noted above, MBIE has limited the transactions under consideration to those at the same level of trade as export transactions, so no further adjustments are required.

### **Taxation**

216. The individual transaction prices in the information provided by Bekaert Indonesia are exclusive of any taxation.

### **Quantities**

217. The information provided by Bekaert Indonesia indicates that the average sizes of export and domestic transactions were relatively close, with the average export transaction being larger than the average domestic transaction, and with maximum transaction sizes for both generally being equivalent to a full container.
218. MBIE's conclusion is that there is no need to make any particular adjustments or arrangements to ensure that prices are compared for sales of similar quantities.

### **Physical characteristics**

219. Physical difference adjustments are required when differences in the physical characteristics of the goods affect price comparability. MBIE has identified the main physical attributes characterising the goods as being the coating material, coating weight, diameter, and tensile strength. The purpose of the wire in terms of its use may also be relevant, but in general will be reflected in the physical attributes. Differences between the exported subject goods and domestic sales of like goods can be attributed to different descriptions and requirements in relevant standards, and differing customer requirements depending on the use of the products.
220. In order to establish normal values, MBIE has identified the categories of goods sold domestically which have characteristics, including purpose, which are similar to the subject goods exported to New Zealand. This categorisation does not include any differences arising from the particular coatings used, but broadly reflects the uses of the wire as agricultural, baling, fencing, general purpose, and use in the production of mesh products, as well as for cables. On this basis, there are no adjustments to be made for physical differences.

### **Other differences affecting price comparability**

221. The information provided by Bekaert Indonesia did not identify any other differences affecting price comparability.

### **Normal Value calculations**

222. In calculating ex-factory normal values for domestic sales, MBIE made the adjustments outlined above to the transaction-level price information provided by Bekaert Indonesia. Details of these calculations are set out in the Confidential Attachment 5.
223. MBIE has determined a weighted average normal value for the total of Bekaert Indonesia's domestic sales of goods.

## **4.5 Dumping Margins**

224. MBIE has established dumping margins for the POI by comparing the export prices established in section 4.3 and the normal values established in section 4.4. The dumping margins so established are shown in Figure 5.

### **Bekaert Qingdao**

225. MBIE has used the transaction-to-transaction methodology to establish dumping margins for imports of subject goods from Bekaert Qingdao. For the purposes of identifying the overall margin for Bekaert Qingdao, the weighted average of the individual dumping margins so established has been included in the table below.
226. Following the release of the EFC Report, Bekaert Qingdao provided comments on the extent of comparability of some of the domestic transactions chosen by MBIE, and provided information identifying transactions that were of goods that were more closely like the exported goods. MBIE is satisfied that having examined the information provided, the transactions identified by Bekaert Qingdao are a better basis for comparing export prices and normal values.
227. As a consequence of the amendments to comparable transactions, the revised calculation in relation to Bekaert Qingdao is that the weighted average of individual dumping margins is less than 2 per cent, so is *de minimis*.

### **Other Chinese producers**

228. Because of the lack of information from other Chinese producers, the weighted average-to-weighted average methodology, based on domestic sales information from the cooperating producer, has been used to establish dumping margins for imports of subject goods from other Chinese producers.

### **Bekaert Indonesia**

229. MBIE has used the weighted average-to-weighted average methodology to establish dumping margin for imports of subject goods from Indonesia because of the volume of transactions and the variety of the goods concerned.
230. The outcome of the calculation is that goods from Indonesia are not dumped.

### **Outcome**

231. The investigation has established that imports from five of the investigated Chinese producers are dumped, with imports from one producer not dumped, and the dumping by the cooperative producer was *de minimis*. The weighted average dumping margin of the investigated producers was 25 per cent, which is more than *de minimis*. Imports from Indonesia are not dumped.

Figure 5: Dumping Margins

	Margin
<b>China</b>	
Beijing Steels	24%
Bekaert Qingdao	<i>de minimis</i>
Dingzhou Five-Star	36%
Hebei Longsheng	30%
Hebei Metals	29%
Tianjin Bluekin/Ocean King	Not dumped
Times Metal	27%
Average of investigated	25%
<b>Indonesia</b>	
Bekaert Indonesia	Not dumped

## 4.6 Further Proceedings

232. Section 11 of the Act requires the Minister, at any time before making a final determination, to terminate an investigation where the Minister is satisfied that there is insufficient evidence of dumping to justify proceeding with the investigation; or there is insufficient evidence that material injury to a New Zealand industry is being caused or threatened.
233. On the basis of MBIE’s conclusions, the weighted average dumping margin for investigated producers China, at 25 per cent, exceeds *de minimis* levels. Imports of dumped goods have been assessed at over 3 per cent of total imports, so are not negligible. However, the finding with regard to Bekaert Qingdao is that the dumping margin is *de minimis*, while in regard to Tianjin Bluekin/Ocean King there is no dumping. The Appellate Body in *Mexico – Anti-Dumping Duty on Rice*,<sup>12</sup> found that Article 5.8 requires the immediate termination of the investigation in respect of an exporter for which an individual margin of dumping of zero or *de minimis* is found. Accordingly, the investigation in regard to goods from Bekaert Qingdao and Tianjin Bluekin/Ocean King should be terminated.
234. The conclusion regarding Indonesia is that imports are not dumped. Consequently, the investigation in regard to goods from Indonesia should be terminated.

<sup>12</sup> *Mexico – Anti-Dumping Measures on Rice*, Appellate Body Report, WTO document WT/DS295/AB/R, pp 70-76.

## 5. Injury Investigation

### 5.1 Legal Requirements

235. The basis for considering material injury is set out in section 8(1) of the Act, and requires MBIE to examine the volume of imports of the dumped goods, 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.
236. MBIE interprets this to mean that injury is to be considered in the context of the impact on the industry arising from the volume of the allegedly dumped goods, their effect on prices, and the consequent impact on the industry. This is consistent with Article 3 of the AD Agreement.
237. The Act goes on in section 8(2) to set out a number of matters which the chief executive shall have regard to, although noting that this is without limitation as to the matters the chief executive may consider. These factors and indices include:
- the extent to which there has been or is likely to be a significant increase in the volume of dumped goods, either in absolute terms or relative to production or consumption
  - the extent to which the prices of dumped goods represent significant price undercutting in relation to prices in New Zealand
  - the extent to which the effect of the dumped 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 occurred
  - the economic impact of the dumped goods on the industry, including actual or potential decline in output, sales, market share, profits, productivity, return on investments, or utilisation of production capacity; factors affecting domestic prices; the magnitude of the margin of dumping; and actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.
238. In addition, the chief executive must have regard to factors other than dumping which may be injuring the industry since, in accordance with Article 3.5 of the AD Agreement, it must be demonstrated that the dumped imports are, through the effects of dumping, causing material injury.
239. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry must be based on an examination of all relevant evidence before the authorities, who must examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volumes and prices of non-dumped imports of the product in question, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic

producers, developments in technology and the export performance and productivity of the domestic industry.

240. The chief executive is also required to have regard to the nature and extent of importations of dumped goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importation.

### **Cumulation**

241. Article 3.3 of the AD Agreement provides:

*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.*

242. In its application, Pacific Steel considered the effects of imports from China and Indonesia on a cumulated basis.
243. MBIE is satisfied that on the basis of the information available to it and the conclusions reached regarding the existence and extent of dumping, imports from Indonesia are not dumped, although imports from China are dumped. Accordingly, the conditions for cumulation are not met, and the injury analysis will be based on the dumping of imports from China only.

### **Information Available**

244. MBIE has used information relating to the POI(I) in its analysis of injury. This relates to the calendar years 2016-2019, and takes into account the POI(D) which is calendar 2019. In its application, Pacific Steel provided information on the basis of its financial years ending June. At verification MBIE asked Pacific Steel to provide the information relating to injury on a calendar year basis, which it did so for 2016-2019, but did not provide calendar year information for previous years until its submission of 1 October 2020.
245. MBIE's injury analysis covered at least three years. In this context it is relevant that the WTO Committee on Anti-Dumping Practices (ADP Committee) has adopted a recommendation that the period of data collection for injury investigations should normally be at least three years, unless a party from whom data is being gathered has existed for a lesser period, and should include the entirety of the period of data collection for the dumping investigation. The recommendation is non-binding, but is an indication of the understanding of Members as to appropriate implementation practice regarding the period of data collection for an anti-dumping investigation. MBIE uses a period of three years as the standard, but can extend that period as necessary.
246. MBIE verified the information provided by Pacific Steel for 2016-2019 during a verification visit to Pacific Steel's premises on 23-25 June 2020. A non-confidential version of the

report on the verification visit is available on the Public File for this investigation. The information provided by Pacific Steel for 2016-2019 regarding its costs has been adjusted to reflect prices actually paid for billet without notional increases to reflect international prices for vanadium.

247. MBIE has reviewed the information for calendar years 2013-2015 to ascertain whether it would lead to a different conclusion regarding injury, but since it does not, and since the adjustments for vanadium costs noted above were not available, MBIE has not covered the earlier years in this report.

## 5.2 Import Volume Effects

248. Section 8(2)(a) of the Act requires that the chief executive should 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 goods either in absolute terms or in relation to production or consumption in New Zealand.
249. Pacific Steel noted that import growth of dumped goods had been lumpy and was of an overall upward direction. Pacific Steel pointed out that it was notable that the dumped goods share of the market value was uniformly lower than the share of volume, which, it was claimed, was consistent with the dumped goods being injurious.
250. Because of the suppression orders in place on some statistical keys covering the subject goods, and because domestic production information is classified as commercial-in-confidence, MBIE cannot provide details of the actual volumes of imports and domestic production. Also, while the dumping analysis has covered goods from 2019, the analysis has not covered imports in preceding years. For the purposes of assessing trends, MBIE has assumed that imports from China prior to 2019 are likely to have been dumped in a similar proportion to 2019 imports.
251. MBIE has analysed dumped imports from China, in absolute terms and in relation to consumption in New Zealand. The information shows that in absolute terms the volume of imports from China remained static in 2016 and 2017, nearly doubled in 2018, then declined in 2019. Over the same period, other imports increased in 2017 compared with 2016, then over the next two years declined to lower levels than in 2016. This appears to have been primarily as a result of decreases in imports from Australia. Relative to New Zealand production, dumped imports from China increased over the POI(I), but at relatively low levels. Dumped imports as a share of domestic consumption (the New Zealand market) reflected the pattern of absolute imports, but at very low levels of market share. Detailed information on imports is set out in Confidential Attachment 1.
252. On the basis of this analysis, there is evidence to indicate that when the end of the period is compared with the beginning of the period there has been an increase in the volume of imports of dumped goods from China over the POI(I) in absolute terms and in relation to production and consumption in New Zealand.

### 5.3 Price Effects

253. Sections 8(2)(b) and (c) of the Act require that the chief executive should have regard to the extent to which prices of the dumped 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, and the extent to which the effect of the dumped 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 suppression).

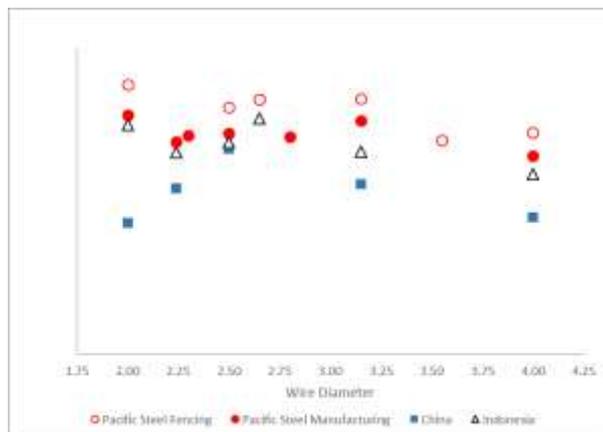
#### 5.3.1 Price Undercutting

254. Price undercutting refers to the extent to which the prices of the subject goods are lower than prices in New Zealand for like goods of New Zealand producers. Prices are compared at the point that the imported goods first compete with the goods made in New Zealand, generally at the ex-wharf level. Price undercutting is not in itself a determinant of the existence or extent of injury, i.e. the margin or frequency of price undercutting is not a measure of the extent of the economic impact on the industry. That impact is to be measured, *inter alia*, in terms of the factors set out in section 8(2)(d) of the Act, outlined in section 5.4 of this Report.

255. MBIE has analysed price undercutting by taking the weighted average prices for Pacific Steel’s sales for individual diameters of wire for the fencing and manufacturing markets, and comparing them with the weighted averages for the subject goods for imports from China and Indonesia. It should be noted that this analysis does not take account of any differences that may arise from different coatings, tensile strength, coating weight, or coil size. The outcome is that goods from China are generally significantly below the Pacific Steel manufacturing wire levels, with weighted average price undercutting of around 29 per cent. Prices for the non-dumped imports from Indonesia are generally close to Pacific Steel manufacturing wire levels, with weighted average price undercutting of around 9 per cent.

**Figure 3: Price Undercutting, NZD/MT weighted averages**

[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]



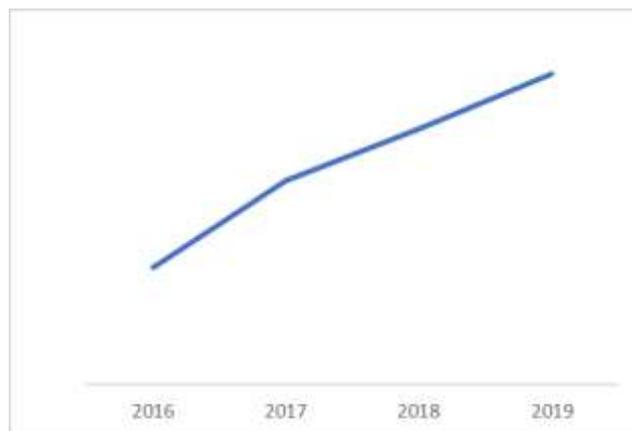
256. There appears to be some correlation between dumping margins and the extent of price undercutting for some of the exports from China, with dumping margins generally a little lower than the margin of price undercutting.
257. The overall conclusion that MBIE draws from this analysis is that there is price undercutting by imports of dumped goods from China, and that this undercutting can be attributed to dumping. MBIE also notes that there is also some undercutting by goods that are not dumped.

### 5.3.2 Price Depression

258. Price depression occurs where prices achieved by the New Zealand manufacturers are lower than those achieved in a period unaffected by allegedly dumped or subsidised goods. Price depression is not in itself a determinant of the existence or extent of injury. There must be a consequent impact on the industry, measured primarily in terms of the factors set out in section 8(2)(d) of the Act.
259. Pacific Steel submitted that it is suffering price undercutting and price depression at the level of trade at which it sells.
260. Pacific Steel provided information on price movements for 2011-2019. Based on the POI(I) of 2016-2019, the following chart shows Pacific Steel's average domestic selling prices for galvanised wire from 2016 to 2019, with index values based on 2016.

**Figure 4: Price Depression  
(NZD/tonne)**

*[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]*



261. Figure 4 shows that during the POI(I), Pacific Steel's average selling price increased from 2016 through to 2019.
262. The evidence indicates that Pacific Steel has not experienced price depression.

### 5.3.3 Price Suppression

263. Price suppression occurs when New Zealand producers are unable to increase prices, for example, to recover cost increases. Price suppression is not in itself a determinant of the existence or extent of injury. There must be a consequent impact on the industry, measured in terms of the factors set out in section 8(2)(d) of the Act.
264. MBIE has compared Pacific Steel's total costs as a percentage of sales revenue from 2016 to 2019. The following chart shows the resulting calculations:

**Figure 5: Price Suppression**

*[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]*



265. Figure 5 shows that Pacific Steel's cost of production per unit as a percentage of sales value fluctuated over the POI(I), but increased in 2019, indicating that cost increases have not been recovered in prices.
266. There is evidence that Pacific Steel has experienced price suppression to the extent that average unit revenue did not reflect increases in costs per unit over the period examined.

### 5.3.4 Conclusion on Price Effects

267. There is evidence that the average prices of dumped imports from China have undercut Pacific Steel's average selling prices; that there is no evidence of price depression; but there is price suppression. MBIE is satisfied that it can be concluded that dumped Chinese imports may be contributing to these price effects.
268. As noted earlier, the price effects examined above are not in themselves a determinant of injury. There must be a consequent impact on the industry, in particular when measured, *inter alia*, in terms of the factors and indices set out in section 8(2)(d) of the Act. Injury caused to the New Zealand industry is assessed in terms of the economic impact in the following section of the report.

## 5.4 Economic Impact

### 5.4.1 Output and Sales

269. Movements in sales revenue can reflect changes in volume 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.

270. Pacific Steel provided sales volume and sales revenue information covering 2016 to 2019.

271. The following chart illustrates the sales volume and sales revenue information for the POI(I), based on information provided by Pacific Steel.

**Figure 6: Sales Volume and Revenue**

*[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]*



272. The information shows that Pacific Steel’s annual sales volume increased in 2018, but over the whole period sales volume declined while sales revenue returned to 2016 levels in 2019.

273. There is evidence that Pacific Steel has experienced a decline in sales volume while sales revenue has been static. Total imports from China declined in 2019, compared with the previous year, and dumped imports make up only a very small share of the market. However, in view of the levels of dumping and price undercutting established, it can be concluded that the dumped imports have contributed to the declines in sales volume and have affected sales revenue, and consequently have had an economic impact on the domestic industry.

## 5.4.2 Market Share

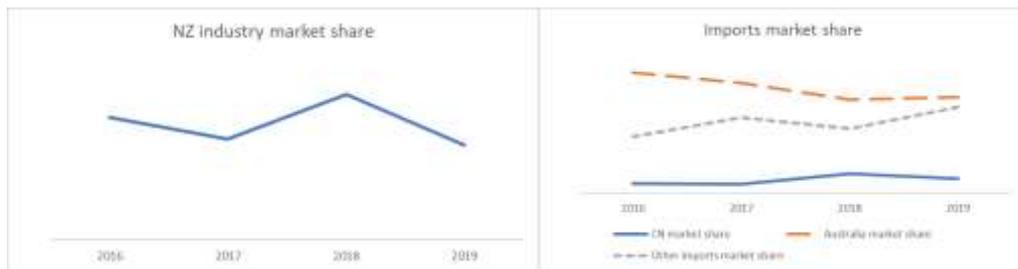
274. Analysis of market share must consider changes in the size of the total market. A decline in the domestic industry’s market share when the total market is expanding will not necessarily indicate that material injury is being caused, particularly if the domestic industry's sales are also growing, because the New Zealand industry is not entitled to a particular market share.

275. Pacific Steel provided market share information which it claimed to show that the dumped goods have grown segment share over the period FY2013 to FY2019 showing steady growth at the expense of Pacific Steel, despite Pacific Steel having the capacity to supply those goods. Pacific Steel noted that counterfactual analysis indicates the extent of injury by a comparison of the share of Chinese and Indonesian goods in FY2013 compared with FY2019.

276. Pacific Steel referred to the Panel report in WTO dispute DS518 as supporting the view that loss of domestic manufacturer share can be injurious.<sup>13</sup> MBIE notes that the Panel's conclusions related to the matters before it and to the particular situation of that safeguard investigation, including whether the Indian authority had provided a reasoned and adequate explanation of its findings on market share in the context of the overall examination of the situation of the domestic industry. This does not negate the MBIE position that there is no entitlement to market share, and that a decline in the domestic industry's market share when the total market is expanding will not necessarily indicate that material injury is being caused. As noted below, the situation in the current case is not that of a declining market share in a growing market.
277. The following charts illustrate market share information for galvanised wire from 2016 to 2019 using Customs data and Pacific Steel production figures. The figures have not been adjusted to reflect only dumped imports.

**Figure 7: Market Share  
(Customs data, %)**

*[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]*



278. The charts show that the domestic industry's market share declined over the period as a whole. It increased in 2018, primarily because of the decline in imports from Australia, while the decrease in 2019 appears to have resulted from the increase in other imports (including Indonesia) rather than imports from China, which also decreased its share. Changes in the total market size have mainly reflected changes in the levels of imports from Australia while the decline in the share of domestic sales is not attributable in whole to any increase in the total market.
279. MBIE concludes that there is evidence of a decline in the industry's market share but that cannot be attributed to dumped imports from China.

### 5.4.3 Profits

280. Dumped imports can affect gross profit and net profit via their impact on sales prices and volumes.
281. Pacific Steel claimed that gross profit and earnings before interest and taxation (EBIT) had declined in absolute terms as a result of Chinese and Indonesian undercutting. Pacific Steel

<sup>13</sup> DS518 India – Iron and Steel Products, Panel Report WT/DS518/R.

noted that the price per tonne for gross profit and EBIT showed a similar pattern. Pacific Steel claimed that MBIE must consider the circumstances of the domestic industry but for the dumping, and assessed the gross profit and EBIT that would have applied in FY2019 if profitability levels from FY2013-FY2015 had been achieved, with the difference between the notional level and the actual level being a measure of the injury.

282. MBIE has assessed the EBIT levels achieved in FY2013-FY2015 and notes that if the average EBIT levels applying in that period had applied in 2016-2019, there would have been an improvement in the level of EBIT achieved, but in either case there would still be adverse impacts on the level of EBIT.
283. To the extent that dumped imports have undercut the prices achieved by the New Zealand industry, and consequently affected the ability to increase prices, then any adverse effects on EBIT can be attributed, in part, to the dumping of imports. However, non-dumped imports, in particular from Indonesia, have also undercut Pacific Steel's prices, to a lesser extent but with greater volumes than the imports from China, so it is difficult to conclude that the adverse impacts on EBIT can be fully attributed to the dumped imports from China.
284. Nevertheless, MBIE is satisfied that over the POI(I) Pacific Steel did suffer adverse effects through a decline in profits, and that in part that economic impact on the domestic industry can be attributed to dumped imports from China.

#### **5.4.4 Other Economic Impacts**

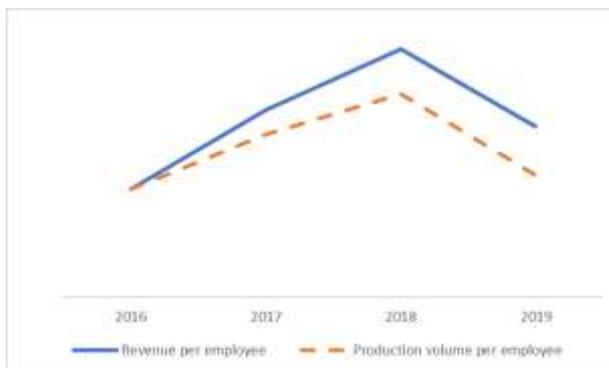
285. Pacific Steel provided information on the other factors referred to in section 8(2)(d) of the Act, and the extent to which they are affected by dumped imports.

##### ***Productivity***

286. Productivity is the relationship between goods produced and the inputs required to manufacture those goods. Productivity is affected by output/sales and capacity utilisation levels.
287. Pacific Steel provided information on productivity by volume and value per employee for galvanised wire production.
288. Figure 8 indicates that productivity increased from 2016 to 2018 but has since declined. This reflects the decline in sales volume in 2019.

**Figure 8: Productivity  
(indexed)**

*[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]*



289. In light of this information, and in view of its conclusions regarding sales volume and revenue, MBIE concludes that dumped imports from China have contributed to a decline in productivity having an economic impact on the New Zealand industry.

### ***Return on investment (ROI)***

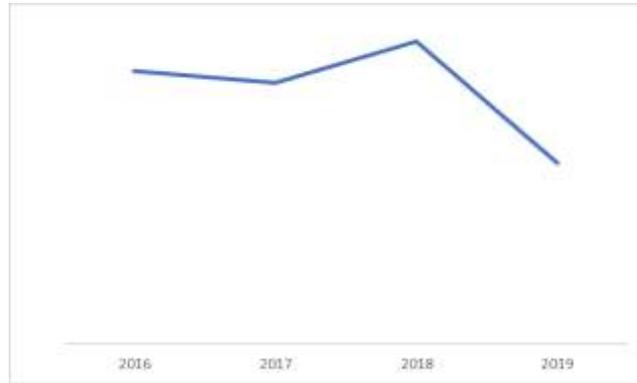
290. An analysis of return on investment measures profit against the value of the investment in a business. Changes in return on investment may impact the ability to retain current investment or attract new investment. Declines in return on investment can result from a decline in profit or an increase in the level of investment within the business.
291. Pacific Steel has noted that the change in ownership of Pacific Steel in 2014 and consequent changes in accounting provisions has affected the relevance of information from previous periods relating to return on investments. Pacific Steel considers that the ROI is dependent on the profitability of the wire mill so adverse effects on ROI are linked to profit performance.
292. MBIE notes that due to the changes in relevant accounting provisions there is no consistent data that would allow a ready assessment of the economic impact of the alleged dumping on ROI over time, and that generally the effects on ROI will arise from effects on profits and profitability.

### ***Utilisation of production capacity***

293. 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.
294. Information provided by Pacific Steel indicated that use of galvanised wire production capacity declined slightly between 2016 and 2017, increased in 2018, and declined in 2019. Pacific Steel attributed this to the alleged dumping of imports since the dumping and price undercutting had enabled those goods to increase their market share at the expense of domestic production.

**Figure 9: Capacity Utilisation (%)**

*[Y axis values deleted, X axis does not cross at 0, gridlines deleted, in order to protect the confidentiality of information where making the information available would have a significantly adverse effect on the submitter of confidential information]*



295. MBIE notes that there is evidence that there has been a decline in capacity utilisation over the POI(I). In light of this information, and in view of its conclusions regarding price undercutting and the impact on sales volume and revenue, MBIE concludes that dumped imports from China have contributed to a decline in capacity utilisation, and have had an economic impact on the domestic industry.

***Factors affecting domestic prices***

296. The Act lists this matter as one of the various factors and indices which the chief executive must have regard to when assessing the economic impact of dumped goods on the industry. MBIE examines this factor in the context of the economic impact of dumped goods on the industry.
297. Pacific Steel has not made any claims regarding factors affecting domestic prices other than those relating to price effects of dumped imports and their consequent impact on the factors outlined above.
298. MBIE notes that a relevant factor affecting domestic prices is Pacific Steel’s import parity pricing process, which takes into account feedback on prices of imports and international prices, in establishing prices for its customers. To the extent that these prices are affected by dumping, they will have an impact on the prices for goods sold by the domestic industry.

***Magnitude of the margin of dumping***

299. Section 8(2)(d)(iii) of the Act refers to the magnitude of the margin of dumping as a factor the chief executive is to have regard to.
300. Pacific Steel’s application identified dumping margins of 30.2 per cent and 19.6 per cent for China and Indonesia respectively, and pointed out that the impact of the margin of dumping is reflected in the market through the import price parity process.
301. MBIE notes that it has established that the weighted average dumping margins for imports of subject goods from individual Chinese exporters range from 0 per cent to 36 per cent

with an overall average of 25 per cent. No dumping has been established for the exporter of subject goods from Indonesia.

302. There appears to be some degree of correlation between the dumping margins established for Chinese exporters and the price undercutting margins established for those exporters. Accordingly, MBIE concludes that there is evidence that the magnitude of the margin of dumping is a contributing factor to price undercutting, and hence to any injury that can be attributed to the dumping of the goods.

### **Negative Effects**

303. Section 8(2)(d)(iv) of the Act refers to the actual and potential negative effects on a range of identified factors as matters that the chief executive is to have regard to in relation to the impact on the industry of dumped goods.

### **Cash flow**

304. Cash flow is the total amount of money being transferred into and out of a business, especially as it affects liquidity, and provides an indication of the ability of producers to self-finance their activities.
305. Information provided by Pacific Steel regarding the impact on cash flow was verified by MBIE. Net cash flow based on EBITDA<sup>14</sup> plus CAPEX<sup>15</sup> less Working Capital Movement<sup>16</sup> was identified and indicated a negative effect.
306. To the extent that the effect of dumped imports has been to cause adverse effects on profits, actual negative effects on cash flow can be attributed in part to the dumping of imports from China.

### **Inventories**

307. Increasing inventories at the end of a financial period can be a sign of injury, bearing in mind the context of the normal conditions and practices of the industry concerned.
308. Pacific Steel provided information, verified by MBIE, which indicated that inventories had increased in 2019, and were significantly above the levels of previous years in the POI in both absolute terms and relative to production. This is despite the fact that most of Pacific Steel's production is made to order. MBIE notes that in earlier years inventory levels were similar to or above the 2019 level, so this may not have any significance, and in fact, in its application Pacific Steel did not claim any adverse impact on inventories as a result of imports of dumped goods.
309. MBIE concludes that there are no actual or potential negative effects on inventories that can be attributed to imports of the dumped goods.

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<sup>14</sup> EBITDA - Earnings before interest, taxation, depreciation and amortisation.

<sup>15</sup> CAPEX - Capital expenditure.

<sup>16</sup> Working Capital Movement – Sum of changes in provision for debtors, stocks, creditors and other current assets.

### **Employment and Wages**

310. Pacific Steel provided information on employment and wages that was verified by MBIE.
311. Pacific Steel claimed that there has been material injury in relation to employment arising from profitability pressure, and provided evidence of the numbers employed in the production of galvanised wire, showing that there has been a decline in employment, with possible consequences for total wages.
312. MBIE notes that there has been a decline in employment, so to the extent that the decline resulted from profitability pressure from dumped imports, it can be provisionally concluded that the dumped imports have had a negative effect on employment and wages.

### **Growth**

313. Pacific Steel did not provide any specific information on the effects on growth of dumped imports.
314. In its application, Pacific Steel observed that the price undercutting by imports from China and Indonesia adversely affects growth. Pacific Steel suggested that the availability of remedies for unfairly-traded goods is a very important part of the global and New Zealand domestic economy, and full recourse should be available to local businesses if they are to compete on a level playing field in New Zealand against international competitors.
315. Pacific Steel has provided no specific evidence to support its statement, so there is no basis for MBIE to conclude that dumped imports have had a negative effect on growth.

### **Ability to Raise Capital and Investments**

316. Pacific Steel did not provide any specific evidence relating to the effect of dumped imports on the ability to raise capital and investments.
317. In its application, Pacific Steel claimed that the current dumping and injury from Chinese and Indonesian goods challenged the availability of investment capital for the Auckland wire mill. Decisions to place investment capital take account of the visible risks to a fairly traded economic environment and the unavailability of trade measures is a significant negative in any investment consideration.
318. Pacific Steel has provided no specific evidence to support its statement, so there is no basis for MBIE to conclude that dumped imports have had a negative effect on the ability to raise capital and make investments.

## **5.4.5 Conclusions on Economic Impact**

319. MBIE is satisfied that there is a reasonable basis to reach conclusions that:
- Dumped imports from China have contributed to declines in sales volume and have affected sales revenue.
  - There is evidence of a decline in the industry's market share but that cannot be attributed to dumped imports from China.
  - Dumped imports from China have contributed to a decline in profits.
  - Dumped imports from China have contributed to a decline in productivity.

- Due to the changes in ownership there is no consistent data that would allow a ready assessment of the economic impact of the alleged dumping on ROI.
- Dumped imports from China have contributed to a decline in capacity utilisation.
- To the extent that prices established under Pacific Steel's import price parity process are affected by the prices of the dumped imports, these prices will have an impact on the prices for goods sold by the domestic industry.
- The magnitude of the margin of dumping is a contributing factor to price undercutting, and hence to any injury that can be attributed to the dumping of the goods.
- To the extent that the effect of the dumped imports has been to cause adverse effects on profits, actual negative effects on cash flow can be attributed in part to the dumping of imports from China.
- There are no actual or potential negative effects on inventories that can be attributed to imports of the dumped goods.
- To the extent that declines in employment have resulted from profitability pressure from the dumped imports, such imports have had a negative effect on employment and wages.
- There is no basis for MBIE to conclude that the dumped imports have had a negative effect on growth.
- There is no basis for MBIE to conclude that the dumped imports have had a negative effect on the ability to raise capital and make investments.

320. Overall, MBIE is satisfied that the dumped imports of galvanised wire from China have contributed to an adverse economic impact on Pacific Steel in relation to sales volume and revenue, profits, productivity, capacity utilisation, and cash flow, arising from the volume and price effects of the dumped imports.

## 5.5 Conclusion on Material Injury

321. Material injury is not defined in either the Act or the AD Agreement, but rather is the level of injury which can be demonstrated by an objective and unbiased investigating authority on the basis of an assessment of the factors set out in section 8 of the Act, and in the context of the circumstances of the industry concerned.

### Import Volumes

322. There has been an increase in the volume of imports of the dumped goods from China over the POI(I) in absolute terms and in relation to production and consumption in New Zealand.

### Price Effects

323. There is evidence that the average prices of dumped imports from China have undercut Pacific Steel's average selling prices; that there is no evidence of price depression; but there is price suppression. MBIE is satisfied that it can be concluded that the dumped Chinese imports are contributing to these price effects.

### **Economic Impact**

324. MBIE is satisfied that the dumped imports of galvanised wire from China have contributed to an adverse economic impact on Pacific Steel in relation to a number of injury factors arising from the volume and price effects of the dumped imports.

### **Conclusion**

325. On the basis of its analysis, MBIE concludes that the domestic industry is being materially injured by dumped imports of galvanised wire from China.



## 6. Causal Link

### 6.1 Legal Requirements

326. Section 8(2)(e) of the Act sets out factors other than the dumped goods that may have injured the industry, and which the chief executive shall have regard to. This reflects Article 3.5 of the AD Agreement, which provides:

*It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.*

### 6.2 Analysis

#### 6.2.1 Dumped Imports

327. As described in the preceding sections of this report, MBIE has examined the information available concerning the volume and price effects of allegedly dumped imports and the consequent impact on the domestic industry, including the extent and nature of any such effects and the causal relationship with the dumped imports of galvanised wire from China.
328. MBIE has concluded that there has been an increase in imports of galvanised wire from China, and that price undercutting by dumped imports from China has contributed to price undercutting and to price suppression being experienced by Pacific Steel. MBIE has also concluded that the consequence of these volume and price effects are actual declines in sales volume, profit, productivity and capacity utilisation, with actual and potential negative effects on cash flow, and employment and wages. In addition, MBIE has concluded that the factors affecting domestic prices have been affected by dumped imports, while the magnitude of the margin of dumping has contributed to price undercutting.

#### 6.2.2 Other Imports

329. Section 8(2)(e)(i) of the Act refers to the volume and prices of goods that are not dumped as factors other than the dumped goods that may have injured or are injuring the industry.
330. MBIE has reviewed Customs data on the levels of imports from the main supplying countries and other sources for all of the subject goods. The information covers statistical keys subject to data suppression, and some goods which may not compete directly with

the goods produced by Pacific Steel, and are average values, but the information reviewed does provide an indication of the potential impact of imported goods other than the allegedly dumped goods from China and Indonesia.

331. The information indicates that imports from sources other than China were primarily from Australia, Canada and Indonesia, with much smaller volumes from other sources, including Malaysia. Australia has been the major source of imports over the period, with Canada being the second-largest supplier. An analysis of average prices for Australia, Canada and Korea suggests that they were not undercutting Pacific Steel's prices. There was some undercutting by imports from Indonesia, and there may have been undercutting by imports from Thailand and Taiwan.
332. A number of submissions by importers stressed the significance of Australia as an influence on the New Zealand market, with the availability of supplies dependent on the situation in Australia. It was also claimed that Australia offers competitive prices and a wider range of goods than is available from Pacific Steel. However, no specific evidence has been provided that would indicate that the availability and prices of imports from Australia have adversely affected the New Zealand industry.
333. Imports from Malaysia are subject to anti-dumping duties, which are currently subject to a full (sunset) review.
334. Details of imports from other countries are included in Confidential Attachment 1.
335. MBIE is satisfied that information on the prices and volumes of imports other than the allegedly dumped goods does not provide a basis for changing the conclusions regarding injury reached in this Report.

### **6.2.3 Demand and Consumption**

336. Section 8(2)(e)(ii) of the Act refers to contraction in demand or changes in the patterns of consumption as factors other than the dumped goods that may have injured or are injuring the industry.
337. Levels of demand for galvanised wire generally reflect economic activity, in particular in agriculture, horticulture and viticulture, including the impact of the COVID-19 pandemic on the economy generally as well as more particularly on these industries. Changing land use, such as dairy conversions, and environmental initiatives for fencing waterways may also influence demand. Patterns of consumption do not appear to have changed significantly, although there does appear to be an increasing demand for longer resistance to corrosion, and a reliance by New Zealand wire product manufacturers on imports for wire of a wider range of specifications than can be provided by Pacific Steel.
338. From comments by interested parties, MBIE understands that the main driver of purchasing decisions is the availability of the quality and type of product required by wire product manufacturers, although prices are also important. The assessment of the injury attributable to dumping has identified the impact of dumped goods on prices, and has not found similar injury that could be attributed to non-dumped imports.

339. MBIE is satisfied that the effects of any changes in demand or patterns of consumption have not been attributed to the injury caused by dumped imports.

#### **6.2.4 Trade Practices**

340. MBIE notes that in New Zealand competition is regulated by the Commerce Commission. MBIE is nevertheless required under section 8(2)(e)(iii) of the Act to assess restrictive trade practices of, and competition between, overseas and New Zealand producers as factors other than the dumped goods that may have injured or are injuring the industry.
341. Interested parties have raised concerns about competition in the New Zealand market, noting that Pacific Steel is a monopoly producer, and that the market structure and distribution channels in New Zealand can affect the ability of wire product manufacturers to participate in the market. MBIE notes, however, that these effects are not causes of injury to the domestic industry.
342. MBIE also notes that in 2014, the New Zealand Commerce Commission gave clearance to the proposed acquisition of Pacific Steel by NZ Steel as it was satisfied that it would not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand. MBIE is aware that the main issue facing the Commerce Commission was the effect on competition as a result of the acquisition of a long products manufacturer by a flat products manufacturer, and recalls that in its considerations, the Commerce Commission discussed the New Zealand markets for various steel products and the availability of imports from a range of sources, and was satisfied that competition could be maintained through access to imports.
343. MBIE is satisfied that any adverse effects to the New Zealand industry arising from trade practices or competition in the New Zealand market have not been attributed to dumped imports.

#### **6.2.5 Developments in Technology**

344. Section 8(2)(e)(iv) of the Act refers to developments in technology as factors other than the dumped goods that may have injured or are injuring the industry.
345. Relevant developments in technology could relate to advances in products in relation to customers' requirements, including coatings and coating technology, and any developments in manufacturing processes. Comments by interested parties have noted that overseas mills tend to be larger than Pacific Steel's wire operations, with more advanced technology, and in particular that Bekaert is a global leader in wire coating technology and the development of new products.
346. The subject goods in this investigation cover all forms of zinc coating of steel wire, irrespective of the technologies involved in the product or the production process. MBIE is satisfied that any effects of technological differences that are not related to dumping have not been attributed to the effects of dumped imports.

### **6.2.6 Exports of New Zealand Producers**

347. Section 8(2)(e)(v) of the Act refers to the export performance and productivity of the New Zealand producers as factors other than the dumped goods that may have injured or are injuring the industry.
348. Pacific Steel advised that it has not recently been exporting the subject goods. MBIE has confirmed from Customs data that this is the case.

### **6.2.7 Imports by the New Zealand Industry**

349. Section 8(2)(f) of the Act requires the chief executive to have regard to 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 importation.
350. Pacific Steel advised that it has not recently imported subject goods and MBIE has confirmed this from Customs data.

## **6.3 Conclusions on Causal Link**

351. MBIE is satisfied that there is sufficient evidence of a causal link between the allegedly dumped imports from China and the volume and price effects and consequent impact on the domestic industry as set out in this Report.
352. With regard to the other causes of injury identified in the Act, MBIE is satisfied that injury caused by any other factors has not been attributed to the dumped imports.

## 7. Anti-dumping Duties

### 7.1 Legal Basis

353. Section 10D(2)(a) of the Act requires that if the Minister makes an affirmative determination under section 10D(1) of the Act that the goods are dumped and that material injury to an industry has been or is being caused because of the dumping, then the Minister must determine the rate or amount of anti-dumping duty, in accordance with section 10E of the Act, that will form the basis for investigation step 2.
354. Section 10E(1) of the Act provides as follows:
- (1) *The Minister may, in respect of dumped or subsidised goods,—*
    - (a) *determine different rates or amounts of duty for named exporters;*
    - (b) *determine a residual rate or amount of duty for all other exporters from the same country as a named exporter.*
  - (2) *The Minister must, in determining the rate or amount of the duty, have regard to—*
    - (a) *the desirability of ensuring that the rate or amount is not greater than is necessary to—*
      - (i) *prevent the material injury or a recurrence of the material injury; or*
      - (ii) *remove the threat of material injury to an industry; or*
      - (iii) *prevent the material retardation to the establishment of an industry;**and*
      - (b) *New Zealand’s obligations as a party to the WTO Agreement.*
    - (3) *The rate or amount must not exceed,—*
      - (a) *in the case of dumped goods, the difference between the export price of the goods and their normal value; and*
      - (b) *in the case of subsidised goods, the amount of the subsidy on the goods.*

### 7.2 Dumping and Injury

355. MBIE has established that there is dumping of exports of galvanised wire from China, and has concluded that it is likely the goods are dumped and that material injury to an industry has been or is being caused because of the dumping.

### 7.3 Form of Anti-dumping Duty

356. An anti-dumping duty may take one of three main forms:

- *ad valorem* duty rate
- a specific duty
- reference prices.

#### ***Ad valorem duty rates***

357. An *ad valorem* duty is a duty based on the margin of dumping or the margin of injury (if the margin of injury is less than the margin of dumping), and is expressed as a percentage of the VFD of the goods.

358. *Ad valorem* duty rates can usually be provided to all parties, and therefore are transparent. They are also convenient to apply and are unlikely to be substantially affected by exchange rate movements.
359. *Ad valorem* rates of duty can be evaded if invoice values of goods subject to duty are manipulated, particularly if imported in conjunction with similar goods which are not subject to anti-dumping duties. MBIE considers that the likelihood of invoice manipulation is low for the subject goods.

### ***Specific duties***

360. A specific duty is a set amount per unit of product based on the monetary value of a margin of dumping. It has the advantages of being convenient to apply, impossible to evade by incorrectly stating the value for duty, and clearly indicates to the importer the amount of duty payable.
361. However, a specific duty can operate effectively only when prices and exchange rates are consistent and stable, otherwise duty amounts could be collected that are either greater than or less than required to remove either injury or dumping.
362. MBIE considers that specific duty amounts are not the best way of applying duties in the circumstances of the current case, because there is a history of exchange rate and pricing changes.

### ***Reference prices***

363. A reference price approach imposes duty based on the difference between the transaction price and a benchmark price. Where the transaction price is lower than the benchmark price, the amount of the difference is the duty payable. A reference price can be based on either a domestic price (in the exporting country) or the New Zealand domestic industry's non-injurious price (a lesser duty).
364. Reference price duties have the advantage of clearly signalling to particular exporters and importers what non-dumped or non-injurious prices are. Additionally they are collected only when goods are priced below the reference price. Therefore, duty is only collected to the extent necessary to remove either injury or dumping.
365. Reference prices are most suitable when dealing with movements in export price and exchange rates (if expressed in the currency of the normal value). A Normal Value (Value for Duty Equivalent) (NV(VFDE)) is set in the currency of the normal value, but Non-Injurious FOBs (NIFOBs) are expressed in the currency of the importing country.
366. Reference prices usually remain confidential to parties other than the particular importer due to the use of confidential information in their calculation, except NIFOB amounts may be released to the domestic industry because they are based on the domestic industry's unsuppressed selling prices in the absence of price undercutting.
367. Reference prices are particularly useful for dealing with situations where a lesser duty is applicable, that is, a duty set at less than the margin of dumping but at a level that would still not be injurious to the industry.

368. The reference prices approach does however have several disadvantages. It is claimed that duties are more easily evaded than other forms of duty, by overstating the VFD of the goods. They are set at a fixed level based on a snapshot of prices and costs, which usually changes over time and becomes less accurate. While significant changes which may occur over time in prices and exchange rates can be addressed by a reassessment of reference prices, the duties may not be functioning effectively for some time before the duties are reassessed.
369. Reference prices may also be less transparent, as they may be set using confidential information from the domestic industry or exporters which require the amounts to be suppressed as confidential.

## 7.4 Proposed Rates or Amounts of Anti-dumping Duties

370. In assessing the rate or amount of anti-dumping duty to be determined by the Minister, MBIE took account of the requirement in section 10E(2)(a) of the Act to have regard to the desirability of ensuring that the rate or amount is not greater than is necessary to prevent material injury.
371. For exports from China, MBIE calculated the weighted average ex-wharf value for each exporter to compare with Pacific Steel's weighted average ex-factory price, in order to establish indicative levels of price undercutting. The overall average showed that the margin of dumping was slightly less than the price undercutting margin, with the individual results for all but one supplier showing a dumping margin below the price undercutting margin.
372. In considering the type of duty to impose, MBIE has taken account of the wide range of product presentations that are traded, as well as the considerations noted above with regard to each form of duty. MBIE considers that *ad valorem* duties would best meet the situation of imports of galvanised wire, and should be set at the margin dumping.
373. In establishing the rate of anti-dumping duty to be applied to Chinese producers other than those examined, MBIE has regard to Article 9.4 of the AD Agreement, which provides that when an examination has been limited to a sample, the duty on other exporters shall not exceed the weighted average margin of dumping established for the examined producers. Article 9.4 also provides that in establishing the weighted average margin of dumping, the authorities shall disregard any zero or *de minimis* margins and margins established on the basis of facts available. For the purposes of this investigation, this means that the rate to be applied to other suppliers is 0 per cent, since the rate has to exclude negative *and de minimis margins*, as well as dumping margins established on the basis of facts available. This effectively excludes all of the margins established in the investigation, leaving the "All Others" rate as 0 per cent.
374. Since the investigation in regard to Bekaert (Qingdao) Wire Products Ltd and Tianjin Bluekin Industries Ltd/ Ocean King Industries Ltd has found zero or *de minimis* margins, it is to be terminated in respect of those suppliers, and these suppliers are excluded from the duties.

375. For subject goods imported from China, MBIE concludes that anti-dumping should be imposed on the subject goods as follows:

**Figure 10: Proposed Anti-dumping Duties**

Supplier	Duty
Beijing Steels Metal Co Ltd	24%
Dingzhou Five Star Metal Wire Mesh Manufactory	36%
Hebei Longsheng Metals and Minerals Co Ltd	30%
Hebei Metals and Minerals Import and Export Corp	29%
Tianjin Huayuan Times Metal Products Co Ltd	27%
All other Chinese suppliers (but see below)	0%
<b>Excluded suppliers:</b> Bekaert (Qingdao) Wire Products Ltd; Tianjin Bluekin Industries Ltd and Ocean King Industries Ltd	

***Provisional Measures***

376. On 26 August 2020, the Minister made a provisional direction under section 16(1) of the Act that payment of duty in respect to the subject goods imported from China should be secured.
377. Section 16(3) of the Act provides that a provisional direction given under section 16(1) of the Act ceases to have effect from the date of the determination made by the Minister under section 10H(1), or if no determination has been, or will be, made under section 10H(1), the date of the determination made by the Minister under section 10D(1).
378. With regard to the anti-dumping duties recommended to be imposed on certain imports from China, the proposed anti-dumping duties provide the basis for the step 2 investigation, but do not come in effect unless the determination by the Minister under section 10H(1) confirms that anti-dumping duties should be imposed. At that point, the provisional measures would cease to apply in accordance with section 16(3)(a) of the Act.
379. With regard to the goods or which termination of the investigation is being recommended, i.e. imports from Bekaert Qingdao and Tianjin Bluekin/Ocean King from China, and all imports from Indonesia, there has been a negative determination under section 10D(1), so there can be no determination under section 10H(1) in respect to these goods. This means that in respect to these goods the provisional measures cease to have effect from the date of the negative determination under section 10D(1), and in accordance with section 16(4) any security given pursuant to the provisional direction should be released.

## 8. Conclusions

380. On the basis of its investigation of the dumping of galvanised wire from China and Indonesia, and in accordance with the requirements of the Act in regard to the determination of export prices and normal values for the subject goods, and the determination of whether or not material injury to an industry has been or is being caused by means of the dumping of goods imported into New Zealand from China and Indonesia, MBIE has concluded that:
- Imports of certain of the subject goods from China are being dumped.
  - Imports of the subject goods when imported from Bekaert (Qingdao) Wire Products Ltd; Tianjin Bluekin Industries Ltd and Ocean King Industries Ltd of China, and all imports the subject goods from Indonesia, are not being dumped.
  - The dumped imports of certain of the subject goods from China are a cause of material injury to the New Zealand industry producing like goods.
381. On the basis of its conclusions on the level of dumping and its assessment of the most appropriate form of anti-dumping duty to remedy the material injury attributable to dumped imports of certain of the subject goods from China, MBIE has identified rates of anti-dumping duty that should form the basis for the Step 2 investigation into whether the imposition of anti-dumping duty at these rates is in the public interest.
382. On the basis of its conclusions relating to dumping, MBIE concludes that the investigation should be terminated in regard to the dumping of imports of the subject goods from Chinese suppliers Bekaert (Qingdao) Wire Products Ltd and Tianjin Bluekin Industries Ltd/ Ocean King Industries Ltd, and in regard to all imports from Indonesia.
383. The effect of the conclusions relating to dumping in regard to the provisional measures applicable to Bekaert Qingdao, is that the provisional direction given by the Minister on 25 October 2020 ceases to apply from the date of the negative determination in regard to goods supplied by Bekaert Qingdao, and any security given pursuant to the provisional direction should be released.

## ANNEX 1: COMMENTS RECEIVED ON THE EFC REPORT

Comments on the EFC Report were received from:

- A. Government of Indonesia
- B. Bekaert Qingdao
- C. Bekaert Indonesia
- D. Pacific Steel

<b>A. Government of Indonesia</b>	
The Government of Indonesia supported MBIE’s findings that imports from Indonesia were not dumped. The Indonesian Government noted the findings of the Appellate Body in <i>Mexico – Anti-Dumping Duty on Rice</i> <sup>17</sup> regarding the immediate termination of an investigation in respect of exporters for which individual margins of dumping are zero or <i>de minimis</i> .	MBIE notes that the termination of the investigation in respect to imports of the subject goods from Indonesia is one of the recommendations of this Step 1 Final Report.
<b>B. Bekaert Qingdao</b>	
Bekaert Qingdao provided comments on the extent of comparability of some of the domestic transactions chosen by MBIE, and provided information relating to transactions that were of goods that were more closely like the exported goods.	MBIE has reviewed the information available on the transactions compared in the light of the submission from Bekaert Qingdao, and has sighted information from Bekaert Qingdao in support of its submission.

<sup>17</sup> *Mexico – Anti-Dumping Measures on Rice*, Appellate Body Report, WTO document WT/DS295/AB/R.

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	<p>The information provided related to the common category and specifications for the matches proposed by Bekaert Qingdao, and greater commonality in the inputs and production processes involved.</p> <p>MBIE is satisfied that the transactions identified by Bekaert Qingdao provide a better basis for comparing export prices and normal values, and this Step 1 Final Report reflects this in section 4.5 and Confidential Attachment 3.</p> <p>The outcome of the amended normal values is that the dumping margin for Bekaert Qingdao is <i>de minimis</i>, which has consequences for the “All Others” rate for imports from China (see paragraph 3733), and also means that the investigation in respect to Bekaert Qingdao should be terminated (see paragraph 2333).</p>
<p>Bekaert Qingdao also queried the basis for the dumping findings in relation to Tianjin Bluekin/Ocean King.</p>	<p>MBIE advised Bekaert Qingdao that the weighted average export price for imports from Tianjin Bluekin/Ocean King was not less than the weighted average normal value calculated for the goods as a whole by the type of coating (zinc or zinc-aluminium) for goods sold by the cooperating producer on the domestic market (i.e. Bekaert Qingdao). On this basis there was no dumping by Tianjin Bluekin/Ocean King.</p>
<p><b>C. Bekaert Indonesia</b></p>	
<p>Bekaert Indonesia supported MBIE’s findings regarding imports from Indonesia, and suggested clarifications of the description of Bekaert Indonesia’s share of exports to New Zealand.</p>	<p>The suggested clarifications have been incorporated into this Step 1 Final Report.</p>

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D. Pacific Steel	
<p>Pacific Steel lodged a submission on the Step 1 EFC Report covering a range of matters.</p>	
<p><b>Normal Value – China Sales at Loss</b></p> <p>Pacific Steel is concerned that despite its comments on sales at a loss in China in the Provisional Measures Report, there was no change in the way MBIE addressed this point in the EFC Report. Pacific Steel considers that MBIE does not have Bekaert Qingdao’s prices and costs on a transaction-to-transaction information so MBIE’s normal value sales at a loss analysis may have an error.</p>	<p>MBIE’s assessment of sales at a loss was based on transaction-level price and cost information. MBIE identified transactions sold at a loss, then assessed whether, for those specific goods, sales over the full year were at a loss. The total of such goods was less than 1 per cent of total sales, which is well below the 20 per cent provided for in the AD Agreement. Accordingly, the sales did not meet the requirements of Article 2.2.1 and Footnote 5 of the AD Agreement for being disregarded in determining normal values.</p> <p>This matter is addressed in paragraph 165 of this Step 1 Final Report by clarifying that Bekaert Qingdao provided details of all domestic sales of the subject goods, including transaction-level product descriptions, purchasers, terms of trade, prices, costs for manufacturing, packaging, and selling and administration, and profits.</p>
<p><b>Normal Value – Customer Size/Quantities – Comparability Factor</b></p> <p>Pacific Steel reiterated the issues raised in its submission of 1 October 2020 regarding the need to ensure that quantities of sales are comparable. Pacific Steel argues that the total level of sales to domestic and export customers should be similar, and considers that MBIE has not considered the matter correctly, nor has it provided a reasoned and adequate explanation.</p>	<p>The reference to “quantities” in section 5(3)(c) of the Act relates to the need to make due allowance as appropriate for any differences in quantities as they relate to the transactions being compared.</p> <p>In the case of Bekaert Qingdao, where a transaction-to-transaction basis is being used to determine dumping, it is the quantities of the transactions being compared that is important. The size of the transactions was a relevant factor in ensuring that equivalent transactions were used.</p>

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	<p>When overall weighted averages of transactions are being used, as in the case of other Chinese producers or Bekaert Indonesia, then individual transaction sizes are relevant only if the differences in transaction quantities are such that an adjustment is appropriate. MBIE found that this was not the case in relation to the weighted average calculations in this investigation.</p> <p>The relevance of customer size is primarily in ensuring that comparisons are made at the same level of trade, or for any differences in terms and conditions of sale. It may well be the case that domestic customers purchase greater quantities overall than New Zealand customers, but that does not rule out the use of larger, or smaller, domestic customers for the purposes of a transaction-to-transaction comparison. Customer size can become relevant when considering sales at the same level of trade.</p> <p>Paragraphs 184-184 of this Step 1 Final Report clarify the position.</p>
<p><b>Normal Value – Physical Characteristics</b></p> <p>Pacific Steel recalled its submission of 1 October 2020 regarding the need for adjustments to be made to cover costs of testing for compliance with standards, and its suggestion that there was a further export price deduction needed for the additional cost of testing to the New Zealand standard. Pacific Steel referred to the WTO dispute <i>Argentina – Ceramic Tiles</i> to support its claim that an investigating authority has to evaluate identified differences in physical characteristics.</p>	<p>MBIE considers that there is a difference between adjustments for physical differences, as provided for in section 5(3)(c) of the Act, and adjustments provided for under section 4(1)(a)(i) of the Act relating to costs, charges and expenses incurred in preparing the goods for shipment to New Zealand that are additional to those costs, charges and expenses generally incurred on sales for home consumption.</p> <p>In the case of Bekaert Qingdao, the goods in the transactions used in the transaction-to-transaction comparison were similar, and there was no need to make adjustments for physical differences. If there had been identifiable differences such that an adjustment to make due allowance for a physical difference was appropriate, then MBIE would have considered it.</p>

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<p><b>Indonesia Sampling and Volume – Smaller Indonesian Exporter – pseudonym “XXX”</b></p> <p>Pacific Steel reiterated the concerns it had raised in its submission of 1 October 2020. In particular, Pacific Steel appears to be concerned that MBIE has not adequately checked whether the exporter other than Bekaert Indonesia may have exported misclassified goods, and because MBIE has not sought evidence from “XXX” it may be missing information that would require a separate dumping margin and a consequential “All others” rate. Pacific Steel also notes that MBIE has sampled Indonesia but there is no impracticability in contacting suppliers that would allow this. Pacific Steel also noted the comments by Bekaert Indonesia on the Step 1 EFC Report and its preference to modify the language relating to its share of exports.</p>	<p>Imports from Bekaert Indonesia made up practically all imports in 2019. In these circumstances, the outcome of any dumping investigation for Bekaert Indonesia would effectively determine the outcome for all Indonesia exports, so using only Bekaert Indonesia information was reasonable.</p> <p>MBIE has reviewed all imports by the importer concerned, as well as exports of wire products by the exporter and is satisfied that there is no issue of misclassified products.</p> <p>As noted in section 3.3 of this Step 1 Final Report, since there was effectively only one producer responsible for exports to New Zealand, and since the other producer was exporting only a very small quantity, the establishment of a sample was not required.</p>
<p><b>Normal Value Indonesia – Sales at a Loss</b></p> <p>Pacific Steel repeats its concern, noted above in regard to China, over the way that MBIE has described its analysis of the extent of any sales at a loss, since on the basis of its understanding it cannot work out what sort of proportions MBIE is talking about.</p>	<p>MBIE analysed all sales by Bekaert Indonesia and found that some transactions were at a loss. An analysis of total annual sales of each of these particular goods over 2019, i.e. the goods for which some transactions were at a loss, established that around half of the volume of those goods actually recovered costs over the 12-month period, while the remaining goods, i.e. those with sales at a loss, that did not recover costs over the year, made up less than 20 per cent of the total sales being considered for the establishment of normal values.</p> <p>Paragraph 201 of this Step 1 Final Report is intended to clarify the matter.</p>
<p><b>Indonesia Normal Value – Timing of Sales; Sales at the same time</b></p> <p>These two subjects were under separate headings in Pacific Steel’s submission but are addressed together here since they cover the same</p>	<p>The examination of dumping of imports from Indonesia was carried out on the basis of a weighted average export value and weighted average normal value for all transactions of the subject goods over the POI(D), i.e. 2019. In</p>

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<p>points.</p> <p>Pacific Steel reiterates its concern from the submission of 1 October 2020, in that it considers that MBIE must confirm whether or not a difference in dumping margins arises from taking into account the timing of sales, since to say they are “broadly similar” is not a sufficiently accurate analysis on such critical elements.</p>	<p>this situation, the question of timing of sales would normally be irrelevant. However, in order to check whether there may have been any timing considerations that might affect the comparison, e.g. any significant difference between the timing of export transactions and domestic sales which might nevertheless affect the comparison, MBIE has analysed when sales were made. It is unreasonable to require that the pattern of sales over a year and pricing trends should be exactly the same for domestic and export sales, but MBIE was satisfied from its analysis that they were broadly similar, and as such it was appropriate that they should be compared.</p> <p>Paragraph 205 of this Step 1 Final Report seeks to clarify the position.</p>
<p><b>Injury POI(I); Information Absence?</b></p> <p>These two subjects were under separate headings in Pacific Steel’s submission but are addressed together here since they cover the same points.</p> <p>Pacific Steel claims that the EFC Report is not an accurate record of the Step 1 investigation, since the EFC Report and its successor the “13F report” must be accurate in all respects. Pacific Steel claims that the injury investigation is incorrectly framed. The basis for Pacific Steel’s concerns are that it provided injury information for financial years 2011-2019, the Initiation Report noted that the POI(I) would be calendar years 2014-2019, while the Step 1 EFC Report noted that Pacific Steel had been asked to provide information relating to calendar years, which it did so for 2016-2019, meaning that MBIE had been unable to take account of the years before 2016 in its analysis.</p>	<p>In its injury assessment for the Provisional Measures Report, MBIE used data for calendar years 2016-2019, because those were the only years available from Pacific Steel for information in calendar years at the time the analysis was undertaken.</p> <p>In its submission of 1 October 2020, Pacific Steel did finally provide information for earlier calendar years but, as it noted, since MBIE had found that Pacific Steel had suffered material injury the injury issue may be considered moot.</p> <p>MBIE had no difficulties in using data for 2016-19, which covered at least three years. In this context it is relevant that the ADP Committee has adopted a recommendation that the period of data collection for injury investigations should normally be at least three years, unless a party from whom data is being gathered has existed for a lesser period, and should include the entirety of the period of data collection for the dumping investigation. The recommendation is non-binding, but is an indication of</p>

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	<p>the understanding of WTO Members as to appropriate implementation practice regarding the period of data collection for an anti-dumping investigation. MBIE uses a period of three years as the standard, but can extend that period as necessary.</p> <p>MBIE has reviewed the information for calendar years 2013-2015 to ascertain whether it would lead to a different conclusion regarding injury, but since it does not, and since the adjustments for vanadium costs noted in section 5.1 above were not available, MBIE has not covered the earlier years in this report.</p> <p>The position is clarified in this Step 1 Final Report at paragraphs 244-247</p>
<p><b>China All Others</b></p> <p>Pacific Steel queried the absence of a China all others rate in the EFC Report, which it considers to be required, and notes that the rate was 28 per cent in the Provisional Measures Report.</p>	<p>Figure 5 in the EFC Report was a summary of the dumping margins found for the foreign producers investigated, with weighted average margins of the investigated producers, per country. This is not a summary of rates of anti-dumping duty.</p> <p>Section 7 of this this Step 1 Final Report sets out MBIE's conclusions on anti-dumping duties, based on the outcome of the dumping and injury analyses. The section notes that in establishing the rate of anti-dumping duty to be applied to Chinese producers other than those examined, MBIE has regard to Article 9.4 of the AD Agreement, which provides that when an examination has been limited to a sample, the duty on other exporters shall not exceed the weighted average margin of dumping established for the examined producers. Article 9.4 also provides that in establishing the weighted average margin of dumping, the authorities shall disregard any zero or <i>de minimis</i> margins and margins established on the basis of facts available. For the purposes of this investigation, this means that the rate to be applied to other suppliers is 0 per cent, since the rate has to exclude</p>

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	<p>negative and de minimis margins, as well as dumping margins established on the basis of facts available. This effectively excludes all of the margins established in the investigation, leaving the “All Others” rate as 0 per cent.</p>
<p><b>Segment Share and Capacity Utilisation</b></p> <p>Pacific Steel uses the term “segment share” to mean market share.</p> <p>Pacific Steel notes MBIE’s conclusions regarding market share and capacity utilisation, in which it cannot attribute a decline in the industry’s market share to dumped imports, but can attribute the decline in capacity utilisation to dumped imports, and Pacific Steel cannot see how both conclusions can be correct.</p>	<p>The different conclusions reflect MBIE’s findings regarding the extent to which the different injury effects could be attributed to dumped imports.</p> <p>Section 5.4.2 of the EFC Report summarised MBIE’s analysis of market share. At paragraph 278, MBIE noted that the domestic industry’s market share declined over the period as a whole. It increased in 2018, primarily because of the decline in imports from Australia, while the decrease in 2019 appears to have resulted from the increase in other imports (including Indonesia) rather than imports from China, which also decreased its share. Changes in the total market size have mainly reflected changes in the levels of imports from Australia while the decline in the share of domestic sales is not attributable in whole to any increase in the total market.</p> <p>MBIE was unable to attribute the decline in market share to dumped imports from China because the decline in Pacific Steel’s market share in 2019, which allowed for the conclusion regarding the whole of the period, coincided with a decline in China’s market share and an increase in the market share of other suppliers.</p> <p>In section 5.4.4 of the EFC Report, at paragraphs 293-295, MBIE attributed the decline in capacity utilisation to price undercutting by dumped goods and the impact on sales volume and revenue. MBIE has not related the decline in capacity utilisation to any increase in market share of dumped imports (although Pacific Steel’s application did so, on the assumption that imports from Indonesia were dumped).</p>

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<p><b>Ability to Raise Capital and Investments</b></p> <p>Following Pacific Steel’s submission of 1 October 2020, MBIE clarified that it reached its conclusion, that there was no basis to conclude that dumped imports have had a negative effect on the ability to raise capital and investments, on the basis that Pacific Steel had provided no specific evidence to support its statements.</p> <p>Pacific Steel recalled that it has advised MBIE of the materiality of the effect of trade measures on an enterprise’s willingness to continue funding it, and making capital available to stay in business. Pacific Steel refers to submissions made to the Malaysian Review and examples of evidence provided in that submission.</p>	<p>Pacific Steel made claims relating to the impact of dumping on these factors, but did not provide evidence of how this was manifested. Similar claims were made in the Malaysian review, with a similar lack of evidence.</p> <p>MBIE notes that its conclusions in this case are similar to those in the investigations into dumping of <i>Steel Reinforcing Bar and Coil from China and Malaysia</i> and <i>Hollow Steel Sections from China and Malaysia</i> for the same reasons, i.e. Pacific Steel/NZ Steel did not provide specific evidence to support its observations about the effects of dumped imports on ability to raise capital and investments. However in the subsidy investigation of <i>Galvanised Steel Coil from China</i>, NZ Steel did put forward specific evidence in support of its claims regarding investments.</p>
<p><b>EFC at 21 – Disregard Information?</b></p> <p>Pacific Steel’s comments refer to matters it had raised in respect to the Malaysian Review, and refers to a footnote being added to the “13F Report”, and the Stage 2 Review Framework and Questionnaire for that proceeding.</p> <p>Pacific Steel is concerned about MBIE’s references to section 3F of the Act and the chief executive’s right to disregard any information for which a satisfactory non-confidential version (or summary or satisfactory statement of why such a summary cannot be given) is not provided. This reference is included in the EFC Report for the current investigation. Pacific Steel considers that this is an incorrect communication regarding what the chief executive can and cannot do, because it omits mention of Article 6.5.2 of the AD Agreement which, Pacific Steel claims, “makes clear that the chief executive is not permitted to disregard information if it can be</p>	<p>Article 6.5.2 allows the authorities to disregard information in certain circumstance, but if the information can be demonstrated to be correct from other sources then it may not be disregarded. This leaves the situation where the information cannot be demonstrated to be correct from other sources, in which case the information can be disregarded.</p> <p>MBIE is happy to include in the Step 1 Final Report the footnoted reference to Article 6.5.2 that appeared in the Stage 1 Final Report for the Malaysian Review.</p>

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<p>satisfactorily demonstrated from appropriate sources that the information is correct.”</p>	
<p><b>Verification</b></p> <p>Pacific Steel wants to sight more complete information on the nature of MBIE’s verification work. Pacific Steel notes that it is familiar with the depth and extent of MBIE’s questioning of Pacific Steel’s information and documents, including live drilling into computer files, random questions to check information between various data sources and backward and forward questioning and discussion. Pacific Steel acknowledges the limitations forced by COVID-19 restrictions, but anticipates this may have required lengthy video calls and live tracking into the exporter’s shared screen. Pacific Steel has asked for more complete information on how MBIE has satisfied the requirements of Article 6.6 of the AD Agreement in this respect.</p>	<p>MBIE’s approach to verification was set out in paragraphs 24-29 of the EFC Report, and in each of the Verification Reports prepared for this investigation. MBIE notes that in <i>New Zealand Steel v Minister of Commerce</i>,<sup>18</sup> at paragraph 228, the Judge noted that verification visits are a possible way of obtaining further information but are not required.</p> <p>The desk verification of cooperating exporters included cross-checking of information with information from importers and invoices, and requests for clarification and additional information. There were no video calls or live tracking of shared screens. MBIE is satisfied that the process adopted for remote verification meets the requirements of Article 6.6, and recognises the realities identified by the Panel in <i>US – DRAMS</i> (see footnote 5)</p>
<p><b>Processing of PF068</b></p> <p>Pacific Steel does not consider that MBIE has adequately addressed the matters raised in its submission of 1 October 2020. Pacific Steel assumes that where MBIE did not provide any change in the EFC Report or include additional argumentation or explanation, then it was because Pacific Steel’s comments were considered to be irrelevant and/or inappropriate for MBIE to take them into account.</p>	<p>According to section 10C(2) of the Act, the purpose of a Step 1 EFC Report is to provide notified parties with written advice of the essential facts and conclusions that are likely to form the basis for a determination to be made by the Minister under section 10D(1). It is not the purpose of a Step 1 EFC Report to address every claim and submission made by parties.</p> <p>MBIE did consider all of the matters raised by Pacific Steel in its submission of 1 October 2020. As noted in paragraph 75 of the EFC Report, that submission was taken into account in the EFC Report as relevant and appropriate. This does not mean that the matters raised were irrelevant or</p>

<sup>18</sup> *New Zealand Steel v Minister of Commerce* [2018] NZHC 2454.

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<p>Pacific Steel claims that the matters it raised cover the dumping margin, paragraphs in the Provisional Measures report over which a serious question was asked, report accuracy, and clarification of matters which Pacific Steel misunderstood. Pacific Steel claims that the EFC Report needed to be fully accurate, clear, complete, and accommodate all the previous input made to MBIE, with all material issues and submissions being closed-out in the EFC report. Pacific Steel considers that it is not satisfactory to deal with such matters only in the “13F” report.</p>	<p>inappropriate, simply that there was no need to make a particular reference or comment to all of them in the EFC Report.</p>
<p><b>Timetabling</b></p> <p>Pacific Steel notes that the 150 day and 180 day periods set out in the Act are not defined dates, but cannot recall MBIE releasing reports earlier than day 150 or day 180, whereas in this case the EFC Report was released on day 135. Uncertainty about the dates affects Pacific Steel’s ability to liaise with MBIE and to plan its work programmes and staff availability. Pacific Steel asks MBIE to advise it well in advance if it intends to publish reports other than on days 150, 180 or 240. In particular, Pacific Steel assumes that the early publication of the EFC Report may lead to a “13F” Report being released on 4 November. Pacific Steel asks for the prompt publication by MBIE of its investigation timetable.</p>	<p>This is not really an issue for comment on the essential facts and conclusions likely to form the basis for determinations to be made under section 10D(1) of the Act.</p> <p>The relevant provisions of the Act require that written advice of the essential facts and conclusion be published <u>within</u> 150 days after starting an investigation (section 10C(2)); the Minister must make a Step 1 determination <u>within</u> 180 days (<u>but not less than 30 days after the written advice</u>); preliminary findings in a step 2 investigation must be given <u>within</u> 60 days after starting investigation step 2; and <u>within</u> 90 days after the start of investigation step 2 (<u>but not less than 30 days after the written advice</u>). [<i>Emphasis added</i>]</p> <p>It is impractical to treat 150 days and 180 days as the precise points in time to release reports, since that would allow a Minister effectively no time to consider the basis for making determinations.</p> <p>MBIE has provided advice to Pacific Steel in relation to the matters it has raised, and the relevant communication is available on the Public File.</p>



## **CONFIDENTIAL ATTACHMENT 1: TRADE DATA**

The information in this Confidential Attachment includes trade data subject to suppression orders by Stats NZ because release of the data could identify individual transactions and commercial publication of commercially sensitive information would damage the businesses of importers or exporters.

## **CONFIDENTIAL ATTACHMENT 2: PRODUCERS AND IMPORTERS**

The information in this Confidential Attachment identifies suppliers and importers of specific transactions of subject goods. The information is derived from Customs data from information provided by suppliers and exporters to ensure that it covers only subject goods. The information regarding trade levels and commercial arrangements and relationships is confidential because making the information available would have a significantly adverse effect on the exporters and importers to whom the information relates.

## **CONFIDENTIAL ATTACHMENT 3: DUMPING ANALYSIS CHINA – BEKAERT QINGDAO**

This Attachment is Confidential in its entirety because making the information available would give a significant competitive advantage to a competitor of the submitter of the information. Section 4 of this Report provides a summary of this confidential information to the extent that information is capable of summary.

## **CONFIDENTIAL ATTACHMENT 4: DUMPING ANALYSIS CHINA – OTHER PRODUCERS**

This Attachment is Confidential in its entirety because making the information available would give a significant competitive advantage to a competitor of the submitter of the information. Section 4 of this Report provides a summary of this confidential information to the extent that information is capable of summary.

## **CONFIDENTIAL ATTACHMENT 5: DUMPING ANALYSIS INDONESIA – BEKAERT INDONESIA**

This Attachment is Confidential in its entirety because making the information available would give a significant competitive advantage to a competitor of the submitter of the information. Section 4 of this Report provides a summary of this confidential information to the extent that information is capable of summary.