Non-Confidential
Final Reassessment Report

Reinforcing Steel Bar and Coil from Thailand

Dumping and Countervailing Duties Act 1988

Sunset Review

November 2009
ISBN: 978-0-478-35809-4 (HTML)
ISBN: 978-0-478-35810-0 (PDF)

Trade Rules, Remedies and Tariffs Group

956882

Table of Contents

Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Anti-Dumping Agreement	WTO Agreement on Implementation of Article VI of the GATT 1994
BSBM	Bangsaphan Barmill Public Company Limited
Chief Executive (the)	Chief Executive of the Ministry of Economic Development, New Zealand
CPI	Consumer Price Index
Customs	New Zealand Customs Service
FOB	Free on Board
Ministry (the)	Ministry of Economic Development, New Zealand
NIFOB	Non-Injurious Free-on-Board
NV(VFDE)	Normal Value (Value for Duty Equivalent)
NZD	New Zealand Dollar
Pacific Steel	Pacific Steel, an operating division of Fletcher Steel Limited which is a wholly owned subsidiary of Fletcher Building Holdings Limited
PPI	Producer Price Index
Rebar	Reinforcing steel bar and coil
THB	Thai Baht
TSTH	Tata Steel (Thailand) Public Company Limited
USD	United States Dollar
VFD	Value for Duty
WTO	World Trade Organisation

1. Executive Summary

Introduction

1. On 28 August 2009, following the completion of a review, the Chief Executive of the Ministry of Economic Development (Chief Executive) initiated a reassessment of the rate or amount of anti-dumping duty on reinforcing steel bar and coil from Thailand.

2. The review investigation concluded that if the current anti-dumping duties were to be removed there is a likelihood of recurrence of dumping and this is likely to cause material injury to the New Zealand industry, Pacific Steel.

3. The current anti-dumping duties are exporter specific reference prices for two exporters and for other exporters an *ad valorem* rate, which is capped by a reference price.

Goods Subject to the Reassessment

4. The goods subject to a reassessment of anti-dumping duty from Thailand are referred to in this report as “rebar” and are described as follows:

> *Reinforcing steel bar and coil with a diameter equal to or greater than 5mm and less than or equal to 40mm*

Dumping

5. There have been no exports of reinforcing steel bar and coil from Thailand to New Zealand since October 2006. On the basis of the information gathered during the review, however, including average prices of Thai rebar exported to other export destinations and a Thai manufacturer’s domestic price for rebar, the Ministry concluded that there is likely to be a recurrence of dumping of rebar into New Zealand.

Material Injury

6. In the review investigation the Ministry concluded that the continued imposition of anti-dumping duties was necessary to prevent the recurrence of dumping and material injury to the New Zealand industry producing like goods to the goods under review.

Proposed Method of Anti-Dumping Duty

7. The Ministry of Economic Development (the Ministry) proposes applying an *ad valorem* rate exclusively rather than using reference prices to assess anti-dumping duties. Reference prices represent values at one point in time and since steel prices vary significantly over time (for example they have increased sharply and then decreased over the past year) reference prices are not a durable means of imposing effective anti-dumping duties over a five-year period. The proposed *ad valorem* rate is simple to apply and is transparent to all interested parties.

Proposed Levels of Anti-Dumping Duty

8. In considering the level of the *ad valorem* rate the Ministry has applied the lesser duty rule, that is it has applied a level of duty that is sufficient to remove any likely recurrence of injury to the New Zealand industry, but the level of duty is less than the margin of dumping.

Effective Date of Application of New Duties

9. The new duties are payable and collectable on demand “on and from” the day after the date on which they are published in the New Zealand *Gazette* but they are due and payable from the day after the date that the Minister of Commerce (the Minister) determines the new rates or amount.

Conclusion

10. The Ministry has concluded that:

- A single *ad valorem* anti-dumping duty rate of 28 percent should be imposed on imports of rebar from all Thai exporters, rather than the present reference price methodology being applied on an exporter-specific basis to cooperating exporters and an *ad valorem* rate applying to other exporters; and

- An *ad valorem* rate is easily administered, transparent, provides certainty to market participants and the amount payable moves with changes in value in a way that ensures it remains effective over time.

2. Proceedings

2.1 Introduction

11. On 28 August 2009 the Chief Executive, having completed a review of the continued need for the imposition of anti-dumping duty on imports of reinforcing steel bar and coil (rebar) from Thailand, concluded that the continued imposition of anti-dumping duties is necessary to prevent the recurrence of dumping and material injury to the New Zealand industry producing like goods to the goods under review.

12. Following the completion of the review, and in accordance with section 14(6)(c) of the Dumping and Countervailing Duties Act 1988 (the Act) the Chief Executive initiated on 28 August 2009 a reassessment of the rate or amount of anti-dumping duty.

13. The goods subject to the reassessment (rebar) are described as follows:

> *Reinforcing steel bar and coil with a diameter equal to or greater than 5mm and less than or equal to 40mm*

14. On 23 September 2009 the Ministry released to interested parties an interim reassessment report on the proposed rate and amount of anti-dumping duty and invited submissions before the reassessment was finalised. The Ministry has received only one submission, from Pacific Steel, and it has been taken into account in this Final Reassessment Report.

15. It should be noted that this report provides a summary only the information, analysis and conclusions relevant to this reassessment, and should not be accorded any status beyond that.

Background

16. Anti-dumping duties were first imposed on rebar from Thailand in March 2004 following an investigation that determined that rebar from Thailand was dumped and causing material injury to the New Zealand industry, Pacific Steel. On 2 March 2009 the Chief Executive initiated a review investigation as a result of positive evidence provided by Pacific Steel justifying the need for a review.

2.2 Period of Reassessment

17. The period for reassessing the amount or rate of anti-dumping duty that is imposed on imports of rebar from Thailand is 1 January 2007 to 31 December 2008. As explained later in this report, the most recent two-year period has been used rather than the most recent one-year period to smooth out the unusual pattern of price changes that occurred in 2008 and provide values that are more representative of the situation in a more stable period.

2.3 Interested Parties

New Zealand Industry

18. The review investigation concluded that, Pacific Steel, an operating division of Fletcher Steel Limited which is a wholly owned subsidiary of Fletcher Building Holdings Limited, is the sole New Zealand producer of rebar and continues to produce a like good to the imported rebar. Pacific Steel therefore, in accordance with section 3A of the Act, constitutes the New Zealand industry.

Importers and Exporters

Exporters

19. The exporters in the review investigation who were considered to be interested parties were Sanwa Pty Ltd (Sanwa), SCT Co Limited (SCT), Siam Construction Steel Company Ltd (SCSC) and VS Steel Engineering (1999) Partnership (VS Steel). Sanwa and VS Steel declined to participate in the review investigation and the Ministry did not receive any responses from SCT or SCSC.

Importers

20. The importers who were considered interested parties in the review investigation were HJ Asmuss & Co Ltd (HJ Asmuss), Quail Glen Industrial Ltd (Quail Glen), Steel Plus Ltd (Steel Plus), Vulcan Steel Ltd (Vulcan Steel) and TJ-Steel Ltd (TJ-Steel). The Ministry did not receive a questionnaire response in the review investigation from any importer but received comments from H J Asmuss, TJ-Steel and Vulcan Steel, which were taken into consideration in the findings of the review investigation.

2.4 Goods Subject to Anti-Dumping Duty

21. The goods subject to the reassessment enter under the following tariff items and statistical keys of the Tariff of New Zealand:

72.13			**Bars and rods, hot-rolled, in irregularly wound coils, Of iron or non-alloy steel:**
7213.10			- Containing indentations, ribs, grooves or other deformations produced during the rolling process:
7213.10.10			*- - Of cross-section in the shape of "flattened circles" or "modified rectangles"*
7213.10.90			- - Other
	01E	kg	. . . Of a circular cross-section measuring less than 14 mm in diameter
	09L	kg	. . . Other
7213.20			*- Of free cutting steel:*
7213.91			- - Of circular cross-section measuring less than 14 mm in diameter:
7213.91.10			*- - - Of cross-section in the shape of "flattened circles" or "modified rectangles"*
7213.91.90			- - - Other

	01J	kg	. . . . . Containing by weight less than 0.25% of carbon
	05A	kg	. . . . . Containing by weight 0.25% or more but less than 0.6% of carbon
	09D	kg	. . . . . Other
7213.99.10			*- - - Of cross-section in the shape of "flattened circles" or "modified rectangles"*
7213.99.90			- - - Other
	01E	kg	. . . . . Containing by weight less than 0.25% of carbon
	05H	kg	. . . . . Containing by weight 0.25% or more but less than 0.6% of carbon
	09L	kg	. . . . . Other
72.14			**Other bars and rods of iron or non-alloy steel, not further worked than forged, hot rolled, hot drawn or hot-extruded, but including those twisted after rolling:**
7214.10.00			*-Forged*
7214.20			- Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling:
7214.20.10			*- - Of cross-section in the shape of "flattened circles' or "modified rectangles"*
7214.20.90			- - Other
			. . . . Of circular cross-section measuring:
	01G	kg	. . . . . Less than 14 mm in diameter
	05K	kg	. . . . . 14 mm or more, but less than 42 mm in diameter
7214.30			*- Of free cutting steel:*
7214.91.00			*- - Of rectangular (other then square) cross section*
7214.99			- - Other:
7214.99.10			*- - - Of cross-section in the shape of "flattened circles" or modified rectangles"*
7214.99.90			- - - Other
			. . . . Containing by weight less than 0.25% of carbon:
			. . . . . Of circular cross-section measuring:
	01C	kg	. . . . Less than 14 mm in diameter
	03K	kg	. . . . 14 mm or more, but less than 42 mm in diameter
			. . . . Containing by weight 0.25% or more but less than 0.6% of carbon
			. . . . . Of circular cross-section measuring:
	11L	kg	. . . . Less than 14 mm in diameter
	13G	kg	. . . . 14 mm or more, but less than 42 mm in diameter
			. . . . Other:
	21H	kg	. . . . . . Of circular cross-section

72.27			**Bars and rods, hot rolled, in irregularly wound coils, of other alloy steel:**
7227.10.00			*- Of high speed steel*
7227.20.00			*- Of silico-manganese steel*
7227.90.00			- Other
			. . Of cross-section in the shape of "flattened circles" or "modified rectangles":
			. . . Of a height of 80 mm or more:
			. . Other:
	11B	*kg*	*. . . Wire rod*
	19H	kg	. . . Other
72.28			**Other bars and rods of other alloy steel: angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel:**
7228.10.00			*- Bars and rods, of high speed steel*
7228.20.00			*- Bars and rods, of silico-manganese steel*
7228.30.00			- Other bars and rods, not further worked than hot-rolled, hot-drawn or extruded
			. . Of cross-section in the shape of "flattened circles" or "modified rectangles":
			. . . Of a height of 80 mm or more:
			. . Other:
	11J	*kg*	*. . . Wire rod*
	19D	kg	. . . Other
7228.50.00			- Other bars and rods, not further worked than cold-formed or cold-finished:
			. . Of cross-section in the shape of "flattened circles" or "modified rectangles":
	19A	kg	. . Other
7228.60.00			- Other bars and rods
			. . Of cross-section in the shape of "flattened circles" or "modified rectangles":
			. . Other:
	11K	*kg*	*. . . Welding*
	19E	kg	. . . Other

22. Rebar originating from Thailand is subject to a Normal tariff rate of 5 percent except for tariff items 7227.90.00, 7228.30.00, 7228.50.00 and 7228.60.00, which are free of duty. Under the New Zealand and Thailand Closer Economic Partnership Agreement, the 5 percent tariff rates on the subject goods will be reduced to Free from 1 January 2010.

23. Thailand is a member of the Association of Southeast Asian Nations (ASEAN), but no earlier elimination of tariff rates for the subject goods is scheduled under the ASEAN Australia New Zealand Free Trade Agreement.

24. The Ministry requested and was provided with import data from the New Zealand Customs Service (Customs) and notes that rebar from Thailand has not been imported into New Zealand since October 2006.

2.5 Reassessment Details

25. In tables, column totals may differ from individual figures because of rounding. The term VFD refers to value for duty for Customs purposes. The units of measure are tonnes unless otherwise specified.

2.6 Exchange Rates

26. Article 2.4.1 of the Anti-Dumping Agreement provides as follows:

> When the comparison under paragraph 4 *[of Article 2]* requires a conversion of currencies, such conversion should be made using the rate of exchange on the date of sale[8], provided that when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used. Fluctuations in exchange rates shall be ignored and in an investigation the authorities shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.
>
> [8] Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale.

27. In the review investigation, when establishing export prices in Thai Baht (THB) the Ministry used exchange rates sourced from the currency website www.oanda.com.

28. Because no imports of rebar from Thailand have entered New Zealand from 1 January 2007 to 31 December 2008 it has not been necessary to convert currencies as at the date of sale or in a forward sale as required under Article 2.4.1. The Ministry has applied the best available information (as discussed at paragraph 32 below) and has applied an average exchange rate over the period.

2.7 Disclosure of Information

29. The Ministry makes available all non-confidential information to any interested party through its public file system. Pacific Steel was the only interested party which accessed public file information during the review investigation.

2.8 Facts Available

30. Article 6.8 of the Anti-Dumping 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.

31. Section 6 of the Act states that:

> (1) Where the [Chief Executive] is satisfied that sufficient information has not been furnished or not available to enable an export price of goods to be ascertained under section 4 of this Act, or the normal value of goods to be ascertained under section 5 of this Act, 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.

32. There have been no recorded imports into New Zealand of rebar of Thai origin since October 2006. The Ministry invited Thai suppliers in the review investigation to provide pricing information on their domestic sales and export sales to other markets but as at the date of the Final Review Report no information had been provided. The lack of direct export/import information meant that the Ministry had to consider all other available information that would assist in establishing a likely export price and normal value. The Ministry considered the information provided in the original dumping investigation and that provided by Pacific Steel. The Ministry also considered information that is publicly available. A conclusion of a likely recurrence of dumping has been reached on the basis of the facts available.

3. Dumping Investigation

3.1 Introduction

33. Dumping is defined in section 3(1) of the Act and occurs when an exporter sells goods to New Zealand at a price lower than they sell the same or similar goods in their country. In essence dumping is price discrimination between an export market and a domestic market.

34. The Ministry normally uses a transaction-to-transaction basis to establish whether goods from an overseas source are dumped by comparing export prices and normal values, rather than a weighted average-to-weighted average method, because this method identifies the individual transactions that are dumped.

35. As noted in paragraph 24 there have been no exports to New Zealand of rebar of Thai origin since October 2006. The Thai exporters who were involved in the original investigation were asked for pricing information relating to export sales to markets that do not have anti-dumping duties in place and for their likely prices to New Zealand should duties be removed, but none of the exporters chose to participate in the review investigation.

36. In the absence of information from exporters and because there had been no imports from Thailand since October 2006 the Ministry used the average values of exports from Thailand to countries other than New Zealand to estimate export prices in the absence of anti-dumping duty, which were then analysed to establish whether there was any likelihood of a recurrence of dumping if the anti-dumping duties were to be removed.

37. The period considered for the purposes of establishing whether there would be a recurrence of dumping was the calendar year 2008, supplemented by the calendar year 2007.

Available Information

38. In assessing whether there was a likelihood of a recurrence of dumping if the duties were to be removed, export prices and normal values were established based on the best available information in accordance with Article 6.8 of the Agreement and section 6(1) of the Act from the following sources:

- verified information from the original investigation;
- Pacific Steel's application for a review; and
- information available on Thai business and government websites.

3.2 Export Prices

Introduction

39. Export prices are the prices at which the goods are exported from Thailand to New Zealand, adjusted to allow a fair comparison with the prices of goods sold in the country of export, as required by section 4 of the Act.

40. The following paragraphs summarise the Ministry's analysis of export prices. Full details of the Ministry's research and background to its conclusions can be found in the Review Final Report.

Base Prices

Original Investigation

41. The base prices in the original investigation were sourced from invoices issued by SCT Company Ltd (SCT) which exported to New Zealand rebar produced by Siam Construction Steel Co Ltd (SCSC).

Review Investigation

42. In its application for the review, Pacific Steel estimated a likely ex-factory price based on Thai export statistics, which it had sourced from an online international trade database, TradeMap[1].

43. To investigate the likelihood of a recurrence of dumping the Ministry was mindful that it is normally required to consider the 12 month period immediately preceding the initiation of the investigation[2] i.e. the year ended 31 December 2008. Over the 12 month period before initiation there was a sharp increase in world steel prices followed by a significant decrease. Pacific Steel argued that 2008 is not the best period over which to base a consideration of whether dumping is likely to recur in the foreseeable future as it is likely that the industries increased their prices and that prices were trending back to 2007 levels.

44. The Ministry noted Pacific Steel's concerns about the significant changes in prices during 2008. Variations in pricing during an investigation period are not unusual, but the extent of the variations in 2008 in this case could be considered unusual. It is also likely that the industries involved would follow changes in world steel prices. The Ministry's main concern was to ensure that appropriate export prices and normal values were established as the basis for a fair comparison. A fair comparison was likely to be possible using 2008 data (because prices on the Thai domestic market would likely have changed at the same rate as export prices), but to ensure any concerns were addressed, it appeared prudent to consider base prices for both 2007 and 2008.

---

[1] http:www.trademap/org

[2] G/ADP/6, adopted 5 May 20000 by the Committee on Anti-Dumping Practices

45. The time frame for the Ministry's examination of whether there would be a recurrence of dumping was therefore the calendar year 2008, supplemented by consideration of the calendar year 2007.

Costs, Charges and Expenses of Shipments

Original Investigation

46. The costs, charges and expenses incurred in shipping rebar to New Zealand in the original investigation were an extra cost of bar marking that applied to exports of Grade 500E only, cost of transport from the factory to the exporting port, terminal handling costs, container handling and stuffing costs, bill of lading, customs clearance fees and cost of credit.

Pacific Steel's Submission

47. In its application for a review Pacific Steel provided evidence of its estimates of the costs and charges incurred in shipping rebar to New Zealand. These costs related to bar marking; lifting rebar at the factory; transportation from the factory to the wharf; lift off at port; equipment hire; export labelling; strapping and dunnage; Thai customs requirements and a cost of credit.

Conclusion on Costs, Charges and Expenses on Shipping

48. In the absence of information from Thai suppliers the Ministry is required to give due consideration to all available information. Based on the information available to it the Ministry considered it would be more reliable to update the verified costs from the original dumping investigation by the Thai CPI and it adjusted the evidence provided by Pacific Steel on bar marking by the PPI to reflect costs that would have applied in 2007 and 2008.

49. The updated adjustments in THB for 2007 and 2008 are shown in the Table below:

Table 3.1: Export Price Adjustment Details per Tonne

	THB 2007	THB 2008
Bar marking	[redacted]	[redacted]
Cost of transport from the factory to the port	[redacted]	[redacted]
Terminal handling	[redacted]	[redacted]
Container handling and stuffing	[redacted]	[redacted]
Bill of lading	[redacted]	[redacted]
Customs costs	[redacted]	[redacted]
Cost of credit at an annual minimum overdraft rate of 7.32% or 7.29% for [redacted] days	[redacted]	[redacted]

Export Prices

50. The Ministry has established export prices for 2007 and 2008 based on all available information, that being information from the original investigation, information provided by Pacific Steel in its application for a review and available public information, as provided for by Article 6.8 of the Anti-dumping Agreement which is reflected in section 6(1) of the Act.

51. The ex-factory export prices are based on the Thai export statistics at the FOB level and deducted from these values are the costs, charges and expenses of shipping that would not be incurred on domestic sales. These costs and charges relate to the cost of bar marking, cost of transport from the factory to the port of export, terminal handling, container handling, bill of lading, Thai Customs costs and a cost of credit that was offered to importers.

3.3 Normal Values

Introduction

52. A normal value is the price at which the like good to the exported product is sold on the foreign manufacturer's domestic market. In order to effect a fair comparison, the normal value to be compared with the export price, is required to the extent possible to be at the same level of trade, relate to sales made as nearly as possible at the same time and with due allowances that affect price comparability.

53. The following paragraphs summarise the Ministry's analysis of normal values. Full details on the Ministry's research and the background to its conclusions can be found in the Review Final Report.

Base Prices

Original Investigation

54. In the original investigation the Ministry used normal values provided by Pacific Steel as the manufacturer in Thailand and exporters did not furnish sufficient information to enable the normal value of the goods to be ascertained.

Review Investigation

55. In its application for a review, Pacific Steel provided evidence of a Thai normal value. The normal value was based on published information of [redacted].

56. The Thai exporters who were involved in the original investigation were asked in the review investigation for pricing information on the domestic market or on export sales to markets that did not have anti-dumping duties in place but no information was provided. The Ministry, therefore, had due regard to all available information, that being information from the original investigation, information provided by Pacific Steel in its application for a review and available public information, as provided for by section 6(1) of the Act.

57. The Ministry considered the normal values from the original investigation, which were updated by the PPI, Pacific Steel's estimated base price from [redacted] and published Annual Reports and financial information of two long steel producers, Tata Steel (Thailand) Public Company Ltd (TSTH) and Bangsaphan Barmill Public Company Ltd (BSBM) in Thailand.

58. Section 5(3) of the Act requires that in order to effect a fair comparison the normal value and export price shall be compared at the same level of trade, in respect of sales made at nearly as possible to the same time and with due allowance for differences that affect price comparability. Of the base prices considered by the Ministry, and to ensure a fair comparison was undertaken BSBM's figures for domestic revenue per tonne was considered to be the most reasonable because in the main they related to a period which corresponded to the period of review.

59. Table 3.3 shows the calculation of normal value base prices.

Table 3.3 BSBM - Average Sale Price per Tonne

	1 January to 31 December 2007	**1 January to 31 December 2008**
Total Sales Revenue (THB million)	1,751	2,775
Total Sales Volume (Ton)	86,381	98,643
Total Sales Volume (Tonne)	78,365	89,489
Sale Price per Tonne (THB)	22,344	31,009

60. The base prices on which normal values have been established are:

- 1 January to 31 December 2007 (THB22,344 per tonne); and
- 1 January to 31 December 2008 (THB31,009).

Due Allowances/Adjustments

Original Investigation

61. The allowances that were made for the differences in terms and conditions of sale that affected price comparability in the original investigation were positive adjustments for volume discount and short length premium and a negative adjustment for the cost of credit.

Review investigation

62. Pacific Steel's application for the review made a negative adjustment for the cost of credit and positive adjustments for volume discount and a premium relating to

short lengths of 6m. Pacific Steel also submitted an additional adjustment which it has described as a “complexity premium”.

63. Due allowances that affect price comparability were made for the cost of credit and a short length premium. The cost of credit adjustment was based on publicly available information and the short length premium was based on the original cost updated by the CPI.

64. Pacific Steel argued that the Ministry should also make positive adjustments for volume discount and a “complexity premium”, which relates to the difference in scheduling and administration of short runs of a New Zealand destined order as if an order of that character was transacted on the domestic market in Thailand.

65. The evidence on export price related to export sales for a number of countries ranging from 17 tonnes to 67,672 tonnes per annum. The evidence on normal values related to domestic sales of approximately 80,000 tonnes in 2007 and 90,000 tonnes in 2008. The comparison of export and domestic volumes differed from that of the original investigation. The number of customers that made up each of the export sale destinations to markets other than New Zealand was unknown, as was the volume that each customer purchases. The number of customers supplied on the domestic market and the volume of each customers purchases are similarly unknown. There was no evidence available to the Ministry that indicated there was a difference between volumes sold to export customers and volumes sold to domestic customers therefore the Ministry did not consider that it was justified in making the additional adjustments sought by Pacific Steel.

Pacific Steel’s Submission in Reponse to Interim Reassessment Report

66. Pacific Steel submits that it does not agree with the Ministry regarding the complexity premium. It stated that the Ministry should make an adjustment as it is based on facts such as:

- the existence of a complexity cost premium arose from statements made by a Thai entity;
- Pacific Steel furnished positive evidence of the cost and the Ministry is obliged, in accordance with Article 6.8 of the Anti-Dumping Agreement, to make a determination on the basis of the facts available;
- there has been a lack of co-operation by interested parties in Thailand that could have given the Ministry the opportunity to inquire on the matter;
- the idea that exports from Thailand may not incur a complexity cost is a construct of the Ministry;
- the Ministry has not asked about to the quantum of the complexity cost; and
- the original investigation and the review investigation do not contain positive evidence to support the complexity premium being volume related.

Ministry's Response

67. The Ministry included in its analysis for the Review investigation a statement made by a Thai exporter in the original investigation, the evidence provided by Pacific Steel (that was based on rolling mill runs being smaller than forecast), the evidence the Ministry used in determining export prices and normal values and the fact that there was a lack of direct evidence from Thai manufacturers in the review.

68. Pacific Steel had provided positive evidence of a cost difference between the scheduling and administration costs of rebar destined for New Zealand and that for the Thai domestic market. The export prices for rebar destined for New Zealand are, however, based on sales to countries other than New Zealand and the Ministry has no evidence that those sales incurred the additional costs or "complexity premium" that may be applicable to sales to New Zealand. The Ministry does not hold any information on export prices and normal values that could justify an adjustment and therefore no adjustment has been made. The Ministry does not consider in this latest submission that Pacific Steel has raised any new factor for the Ministry to consider and no adjustment has been made to normal values.

Normal Values

69. The Ministry has based its normal values on publicly available information, that being BSBM's average sale price per tonne for 2007 and 2008. From the base price the Ministry has made a number of adjustments for differences that affect price comparability of normal values with export prices. The base price has been adjusted by a positive adjustment for short length premium and a negative adjustment for the cost of providing credit to domestic customers.

3.4 Comparison of Export Price and Normal Value

70. The following table shows the comparison of export prices with normal values for 2007 and 2008.

Table 3.4: Likely Dumping Margins (2007)
THB per Tonne

	FOB per Tonne (THB)	Export Price (Ex-Factory)	Normal Value (Ex-Factory)	Dumping Margin	Dumping Margin as % of EP
All Destinations	16,642	[redacted]	[redacted]	[redacted]	43%
USA	16,384	[redacted]	[redacted]	[redacted]	46%
UAE	16,609	[redacted]	[redacted]	[redacted]	44%
Laos	18,483	[redacted]	[redacted]	[redacted]	28%
Cambodia	14,411	[redacted]	[redacted]	[redacted]	67%

Mauritius	18,492	[redacted]	[redacted]	[redacted]	28%
Myanmar	20,654	[redacted]	[redacted]	[redacted]	14%
F. Polynesia	19,222	[redacted]	[redacted]	[redacted]	23%

Table 3.5: Likely Dumping Margins (2008)
THB per Tonne

	FOB per Tonne (THB)	Export Price (Ex-Factory)	Normal Value (Ex-Factory)	Dumping Margin	Dumping Margin as % of EP
All Destinations	25,831	[redacted]	[redacted]	[redacted]	26%
Cambodia	22,919	[redacted]	[redacted]	[redacted]	43%
India	29,989	[redacted]	[redacted]	[redacted]	8%
Singapore	27,516	[redacted]	[redacted]	[redacted]	18%
Laos	27,565	[redacted]	[redacted]	[redacted]	18%
Brunei Darussalam	19,659	[redacted]	[redacted]	[redacted]	68%
UAE	38,169	[redacted]	[redacted]	[redacted]	(16%)
Malaysia	17,519	[redacted]	[redacted]	[redacted]	90%
Angola	21,558	[redacted]	[redacted]	[redacted]	52%
Myanmar	26,454	[redacted]	[redacted]	[redacted]	23%
Vietnam	34,489	[redacted]	[redacted]	[redacted]	(7%)

3.5 Conclusions Relating To Dumping

71. The comparison of export prices and normal values, based on the best available information, has established that the goods have been exported at dumped prices in 2007 and 2008. For two of the ten countries examined in 2008, however, no dumping occurred. The Ministry notes that the prices have increased when comparing the values for 2008 with those for 2007. Since a review is a forward looking exercise and indications show that the world steel prices are declining, and the Thai market appears to be responsive to these changes, it is reasonable to assume that the prices may trend back toward those experienced in 2007. The Ministry concluded, on the basis of the 2007 and 2008 information, that should anti-dumping duties be removed it is likely that, if exports of rebar from Thailand to New Zealand resume, rebar will be imported at dumped prices.

4. Reassessment of Anti-Dumping Duties

4.1 Introduction

72. Where a review has been carried out, in terms of section 14(9) of the Act, anti-dumping duty continues to be payable until either;

- The duty is reassessed and a new rate notified; or
- The duty is terminated by notice under section 14(7) of the Act.

73. On 28 August 2009 the Chief Executive, having completed a review of the imposition of anti-dumping duty, initiated a reassessment of the rate or amount of anti-dumping duty. Having completed the reassessment, and taken the submission made by Pacific Steel into consideration the Chief Executive of the Ministry is reporting to the Minister on the review and making a recommendation to the Minister on the new rates or amounts of anti-dumping duty it considers appropriate.

74. The Minister has the power to either:

- Set a new rate or amount of duty in accordance with section 14(4) of the Act; or
- Terminate the anti-dumping duty, in whole or in part, under section 14(7) of the Act.

4.2 Methods of Imposing Duties

75. The objective of an anti-dumping duty is to remove injury attributable to dumping, and is neither to punish the exporter nor to provide protection to an industry beyond the impact of the dumping. Section 14(4) of the Act prevents the Minister from imposing a duty that exceeds the margin of dumping. Furthermore, section 14(5) of the Act requires that the Minister have regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry. This consideration is known as the “lesser duty rule”.

76. There are many considerations that are taken into account when deciding on the form of the anti-dumping duty. Factors such as the ease of administration, the ability to ensure the dumping margin is not exceeded, the ability to maintain fairness between parties, and the predictability of the duty payable are all important aspects of an anti-dumping duty.

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

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

A Specific Duty Approach

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

79. Some problems with a specific duty approach may occur if there are a wide range of goods involved, or where exchange rates may fluctuate to the extent that the margin of dumping will be exceeded without constant reassessments of the specific amount, or where an exporter manipulates prices so that the duty is either greater than the margin of dumping or less than the margin of dumping previously established.

80. A specific duty, expressed as a monetary amount, can only operate effectively when two conditions are present. The first is that prices and exchange rates are consistent and stable. The second is that the transaction-to-transaction comparison does not result in a range of different dumping margins.

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

Reference Price Duty

82. Under the reference price approach, the duty payable is the difference between the transaction price and a reference price. A reference price can be based on either a normal value or the domestic industry's non-injurious price (NIP). A Normal Value (Value for Duty Equivalent) or NV(VFDE) amount represents the un-dumped value of the goods at the Thai FOB level. A Non-injurious Free-on-Board (NIFOB) is the price at which the imports would not cause injury to the New Zealand industry, calculated at the Free-on-Board (FOB) level. The Ministry prefers to set reference prices in the currency that the reference price calculations have been worked, that being either the currency of the normal value (in the case of NV(VFDE)s) or the currency of the NIP (in the case of NIFOBs).

83. A reference price has advantages in that it is best able to deal with movements in the export price and exchange rates (if expressed in the currency of the normal value), and is particularly appropriate for dealing with situations where a lesser duty is applicable. However, it has been argued that it is more easily evaded than the other forms of duty by overstating the VFD of the goods. Nevertheless, a reference price does have the advantage of clearly signalling to exporters and importers what price is un-dumped or non-injurious. In addition, a reference price duty only collects duty when the goods are priced below the non-injurious or un-dumped reference

price, therefore duty is collected only to the extent necessary to remove injurious dumping.

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

Ad Valorem Rate Duty

85. An *ad valorem* duty is a duty based on the margin of dumping or the margin of injury and is expressed as a percentage of the value for duty (VFD). An *ad valorem* duty is convenient to apply and is unlikely to be substantially affected by exchange rate movements. *Ad valorem* rates are often appropriate where there are a large range of goods or where new models appear, provided that the transaction-to-transaction comparison does not result in a range of different dumping margins. As with the other approaches, there is the possibility of collusion between an exporter and importer to manipulate the invoice value of the goods subject to duty, particularly when similar goods are bundled with the subject goods.

86. Under this approach, a particularly low export price (and therefore a potentially more injurious export price) would result in a lower amount of duty, which may not be sufficient to remove injurious dumping. Conversely, a particularly high export price (and therefore likely to be less injurious), would attract a higher amount of duty, which may be higher than is necessary to remove injurious dumping.

87. An *ad valorem* rate gives an indication of the impact of the duty, but is not as clear an indication of the amount of the impact as the other forms of duty, although the rate can usually be provided to all parties and is therefore very transparent.

4.3 Developing Country Considerations

88. For the purposes of dumping investigations and reviews and the imposition of anti-dumping duties, Thailand is considered to be a developing country and therefore Article 15 of the Anti-dumping Agreement applies. Article 15 requires that special regard must be given by developed country members to the special situation of developing country members when considering the application of anti-dumping measures. The possibility of constructive remedies is to be explored before applying anti-dumping duties where they would affect the essential interests of a developing country member.

89. The Ministry is also aware of Article 5.1.2 of the Thailand – New Zealand Closer Economic Partnership Agreement which states:

> Before either Party applies anti-dumping measures against imports originating from the other Party, the Party initiating the action will be mindful of the provisions relating to constructive remedies under Article 15 of the WTO Agreement on Implementation of Article VI of the GATT 1994.

90. The WTO Dispute Settlement Panel in *European Communities - Cotton-Type Bed Linen from India* was of the view that “the imposition of a “lesser duty” or a price undertaking would constitute “constructive remedies” within the meaning of the Article 15…”[3] Price undertakings offered in relation to an initial investigation are covered in section 15 of the Act but do not explicitly extend to reassessments of current anti-dumping duties that are already in place. In addition, no offers of price undertakings were received from Thai exporters.

91. The Ministry has received no information from the Government of Thailand that would indicate these duties would affect Thailand’s essential interests but in any case considers that its consideration of a lesser duty below fulfils its obligation under Article 15 of the Agreement to give special regard to constructive remedies.

4.4 Present Anti-Dumping Duties

92. In the original investigation the Ministry considered that the most appropriate means of imposing anti-dumping duties was through the use of reference pricing.

93. A NV(VFDE) amount was applied to exports by one exporter and a NIFOB amount was applied on exports by another Thai exporter. If changes in exchange rates caused the NV(VFDE) amount to be lower than the NIFOB then the NV(VFDE) amount applied. An ad valorem duty rate that was equal to the weighted average margin of dumping of all exports from Thailand at that time was imposed on other exporters which was capped by the NV(VFDE) amount.

94. Anti-dumping duties have been in place on rebar from Thailand since March 2004 and the following table illustrates the duties payable.

Table 4.1: Present Levels in Determining Anti-Dumping Duty Payable

NV(VFDE)	Exports by SCT Co. Ltd	THB
NIFOB	Exports by Sanwa Pty Ltd	NZD
NV(VFDE)	Alternative Duty:* exports by Sanwa Pty Ltd	THB
 Ad Valorem NV(VFDE)	Other exporters, the lower of: - *Ad valorem* percentage - cap	 13% THB

*Note: The alternative NV(VFDE) duty rate takes effect when exchange rates are such that the NV(VFDE) is lower than the NIFOB

4.5 Period for Consideration of Anti-Dumping Duty

95. The period used in the review investigation to establish the likelihood of dumping was the year ended 31 December 2008. To address Pacific Steel’s concerns that the pricing of steel products in 2008 was unusual and therefore would not be the best

[3] WT/DS141/R, Appellate Body report, para 6.229.

period representative of the future, the Ministry supplemented its analysis of dumping by including information for the calendar year 2007.

96. The Ministry has considered using information in 2007 and 2008 for setting an anti-dumping duty. The concern with using financial data of 2007 only is that it relates to a period more than a year ago. The financial data for 2008 is not so dated but it includes an unusual price spike which could be considered to be an unreasonable period on which to base an anti-dumping duty in isolation and would likely result in an anti-dumping duty that is higher than would occur if prices had been more stable in that year. To smooth out the price spike of 2008, while at the same time using the most recent information available, the Ministry has combined the data of 2007 with that of 2008 in its calculations of anti-dumping duties.

Pacific Steel's Submission

97. Pacific Steel submits that there is good cause to depart from the use of reference prices for anti-dumping duties on rebar from Thailand as reference prices are:

- Static, in that the information that reference prices are based on represents a snap shot of prices and costs at a particular point in time and if these prices and costs change the reference price becomes outdated and therefore inaccurate;
- Not transparent because reference prices are confidential and therefore Pacific Steel finds it difficult to make informed decisions;
- Not timely because reference prices become inaccurate and unless a reassessment is initiated the reference prices are unlikely to prevent imports entering New Zealand at dumped prices, which would injure Pacific Steel;

98. Pacific Steel also states that an application for a reassessment to update reference prices is burdensome. Pacific Steel states that it can cost a considerable amount of money and there is also a time delay between the application and changes being implemented, which could be injurious to it. Pacific Steel states that it faces difficulty in making use of trade remedy action that is available because of the use of confidentiality orders over New Zealand import statistics. As a result of the confidentiality orders Pacific Steel says it is forced to use statistics from exporting countries, which are often considerably less timely and there may be categorisation difficulties. Pacific Steel considered the application of a specific duty but because of the price and exchange rate fluctuations it did not consider that a specific duty would be suitable.

99. Considering the matters identified above, Pacific Steel is of the opinion that an *ad valorem* duty rate based on the lower of the margin of dumping or the margin of injury should apply as it is convenient to apply and is not substantially affected by exchange rate changes.

4.6 Ministry's Consideration of the Issues

Scenarios

100. To assist the Ministry in assessing the most appropriate form and rate or amount of anti-dumping duty, the Ministry has developed four scenarios to test the effectiveness of the duties in removing injury and to ensure the margin of dumping is not exceeded. The four scenarios are:

- The THB appreciates in value relative to the NZD;
- The THB depreciates in value relative to the NZD;
- Steel prices increase globally;
- Steel prices decrease globally.

101. Any modelling of scenarios necessarily involves simplifying reality and making some general assumptions. The assumptions made in testing the various scenarios are:

- In relation to exchange rate changes, the prices of goods traded in currencies other than the currency of the exporting country (for example, USD rather than THB) are assumed to move in response to exchange rate changes between those two currencies;
- In relation to changes in steel prices, it is assumed that changes in global steel prices will impact equally on both domestic and export prices. This means that if global steel prices increase by a certain percentage, it is assumed that the prices of steel exported from Thailand, steel sold on the domestic market in Thailand and steel sold on the domestic market in New Zealand will all move by the same percentage.

102. These assumptions are generalisations to help us understand how different types of duties will behave. It is easy enough to come up with specific examples of when these assumptions would not apply. The key question to ask is whether, despite the limitations of the modelling and the assumptions that have been made, the modelling allows us to reach a level of understanding that is useful. The Ministry considers that examination of these scenarios under the general assumptions does yield some useful insights.

Specific Duty

103. A specific duty is an amount of duty that is based on the monetary value of a margin of dumping. The margin of dumping from 1 January 2007 to 31 December 2008, as shown in Table 4.4 below, in relation to rebar to all destinations was THB[redacted] per tonne.

104. The advantages of imposing a specific duty amount are that it is easy to apply, difficult to evade by incorrectly stating the value of the goods, and gives certainty

about the amount of anti-dumping duty payable - except where the amount is confidential as would be the case in this reassessment.

105. Disadvantages arising in this case however are due to changes in exchange rates which could result in the specific duty either exceeding the dumping margin or falling short of the injurious dumping margin, depending on the currency in which the specific amount is set. The exchange rate for the past two years, between THB and NZD has fluctuated but in the last three months to 31 December 2008 the THB has appreciated against the NZD.

106. The scenarios modelled by the Ministry show that if the Thai baht were to appreciate against the New Zealand dollar, a specific duty in NZD as a percentage of the dumping margin would fall while duty as a percentage of the 'injury margin'[4] would increase significantly. The injury margin decreases because of the increased FOB/VFD price of the Thai imports in NZD and more duty would be collected by the specific duty than is necessary to remove injury. If the Thai baht were to depreciate in value against the New Zealand dollar, imports would be cheaper in NZD. The specific amount of duty in NZD would then not be sufficient to remove injury, but since the dumping margin in NZD is a lesser amount due to the depreciation of the THB, the amount of the specific duty could risk exceeding the margin of dumping.

107. Another disadvantage is that, as steel prices change, and particularly if they increase, a specific duty may result in the value of the dumped imports falling short of the non-injurious value. Similar effects to those observed when prices in NZD change due to exchange rate changes would be observed.

108. The Ministry is aware that in the calendar year 2008 the price of steel products increased sharply and then decreased substantially. The Ministry has concluded that in the foreseeable future the demand for rebar will decline in New Zealand and therefore it is probable that prices will change in response, namely prices are likely to decline.

109. For all of the reasons above, including the risks that the duty may not be sufficient over time to remove injury or alternatively may be greater than the margin of dumping over time, indicate that it is not appropriate to apply a specific duty to rebar imported from Thailand.

Reference Prices

110. Reference prices are currently used to establish whether or not anti-dumping duty is payable. The reference prices are exporter specific and are either NV(VFDE) or NIFOB amounts capped by the NV(VFDE), to ensure duty does not exceed the margin of dumping. The advantages of using a reference price is that it gives a clear indication to the exporters of the prices that are either un-dumped or non-injurious to the New Zealand industry, however, the amounts are not transparent as in most cases reference prices are confidential because they can be primarily based on financial data provided by those parties to which they apply.

[4] The amount used as representative of an 'injury margin' is the difference between the non-injurious price at the FOB/VFD level and the dumped price at the FOB/VFD level.

111. Anti-dumping duty is imposed by the same method at the same level for five years, unless a reassessment of the rate or amount is sought by an interested party. The Ministry therefore needs to be mindful of the known factors that could impact on the method of imposing anti-dumping duty, such as changes to prices and to costs associated with exporting goods to New Zealand.

112. The Ministry cannot foresee with certainty what may occur in the future. Pacific Steel provided a line graph on rebar world prices from January 2006 to November 2008 that had been sourced from *Steel Business Briefing*. The Ministry observes that the prices have steadily increased with a significant increase in 2008 followed by a significant decrease The Ministry notes that Pacific Steel's and Thai exporters' prices have changed also over recent years and it is likely that they will continue to change over the next five years during which an anti-dumping duty is applied. The Ministry has concluded that in the foreseeable future the demand for rebar will decline in New Zealand therefore it is probable that prices will change in response. It is the extent of those changes that is uncertain and whether any changes would have a significant impact on pricing.

113. In a previous reassessment investigation in 2005, regarding galvanised wire from Malaysia[5], the Ministry considered using a variable element reference price duty that allowed for changes in pricing by applying an index at the time of importation. After considering the potential use of a variable element reference price duty to accommodate fluctuations in the price of galvanised wire, the Ministry considered that the indexes it had considered were not sufficiently representative of the prices of the Malaysian manufacturers to allow a variable element reference price duty to be applied to calculate anti-dumping duties payable. For this reassessment of anti-dumping duties on rebar from Thailand, as a result of the lack of direct information from Thai manufacturers of rebar, the Ministry is not able to make an assessment of whether there are any reliable indexes that it could consider applying when setting a reference price.

114. Rebar has not been exported to New Zealand since October 2006 and the Ministry considers that the decline in imports may be due to factors other than the amount of anti-dumping duties imposed because the pricing of imports from Thailand has been higher than what is required to trigger the imposition of anti-dumping duties. The significant increase in the price of steel in 2008 demonstrates that a reference price can easily become outdated by changes in pricing.

115. The scenarios modelled by the Ministry show that if NIFOB or NV(VFDE) reference prices were to be imposed, steel price increases would dilute the effectiveness of the duty and steel price decreases could result in duty being collected that is greater than that needed to remove injury or greater than the margin of dumping.

---

[5] Reassessment of Galvanised Wire from Malaysia at:
http://www.med.govt.nz/templates/MultipageDocumentTOC____13357.aspx

116. The Ministry considers that it is not appropriate in the case of rebar to impose a static reference price which would normally apply for five years and which could quickly become outdated over that period.

Ad Valorem

117. An alternative method of setting anti-dumping duties is to apply an *ad valorem* duty to imports from all Thai exporters. An *ad valorem* duty is easy to apply, it is transparent and can be set at the margin of dumping or at a margin of injury, whichever is the lesser amount to remove the injurious effects.

118. The *ad valorem* rate does not change over the period to which it applies and is imposed on all imports of rebar from Thailand. The amount of anti-dumping duty payable, however, will change as prices change. If prices increase or decrease the amount of anti-dumping duty payable changes as the VFD changes. In 2008 world steel prices increased significantly from 2007 levels in both export and domestic markets. Any changes to export and domestic sale prices can be assumed to occur at about the same rate.

119. When the VFD in NZD increases due to exchange rate changes or increases in the price of steel, the amount of anti-dumping duty increases. If both normal values and export prices change at the same rate, the percentage margin of dumping will remain the same, so the margin of dumping is not exceeded. If a lesser duty is applied by way of an *ad valorem* rate, the percentage of duty as a proportion of the margin of dumping will also remain the same, ensuring that a lesser duty continues to be collected and is neither diminished nor inflated as prices change.

120. On the basis of the discussion above the Ministry considers that it is appropriate to apply an anti-dumping duty in this case in the form of an *ad valorem* rate. In response to the Interim Reassessment Report Pacific Steel concurred with the Ministry that the most suitable form of anti-dumping duty is an *ad valorem* rate.

4.7 Calculation of Proposed Anti-Dumping Duty

Introduction

121. To establish the appropriate *ad valorem* duty rate to be applied to imports of rebar from Thailand, the Ministry has first considered whether the rate should be set at a lesser rate to remove only the injury likely to be caused by dumping or at a rate representing the full margin of dumping. The duty payable using an *ad valorem* rate is calculated as a proportion of the Customs VFD (usually the transaction value at the FOB level). A comparison of the un-dumped price at the VFD (FOB) point, namely the NV(VFDE) amount, and the non-injurious price at the VFD (FOB) point, namely the NIFOB amount, will show whether the rate of duty at the VFD point should be at the full margin of dumping or at the lesser rate to only remove injury. If the NIFOB amount is lower than the NV(VFDE), a rate at a lesser duty is appropriate. If the NV(VFDE) amount is lower, a rate at the full margin of dumping is appropriate.

122. A comparison of the Ministry's calculation of a dumping margin as a percentage of the FOB price to a calculation of a non-injurious margin as a percentage of the FOB price should also reveal which margin is lower and therefore which rate should

be used as the *ad valorem* duty rate. This conclusion should of course be consistent with that reached when comparing the NV(VFDE) and NIFOB amounts. The following paragraphs outline these calculations.

Calculation of Ex-factory Normal Value and NV(VFDE) Amount

123. The ex-factory normal value per tonne is based on BSBM's total domestic sales volume and total net revenue over the period 1 January 2007 to 31 December 2008, with due allowances made for the difference in costs relating to short length premium and a cost of credit.

124. A NV(VFDE) amount is calculated by adding to the Thai normal value, all costs incurred by the exporter up to the FOB level. The NV(VFDE) therefore represents an un-dumped price at the FOB level.

125. The adjustment for a short length premium is the cost in the original dumping investigation updated to 31 December 2008 by the CPI. The adjustment for cost of credit is based on the Bank of Thailand's average minimum overdraft rate from 1 January 2007 to 31 December 2008 of 7.31 percent over 22.5 days, i.e. simple average of aged debtors of 2007 and 2008**.** The costs between normal value and NV(VFDE) amount are based on original costs updated by the CPI to the year 2008 and evidence provided by Pacific Steel. Table 4.2 below provides details of the Ministry's calculation of an ex-factory normal value and NV(VFDE) amount.

Table 4.2: Ex-Factory Normal Value and NV(VFDE) per Tonne (1 January 2007 to 31 December 2008)

	Volume (Tonnes)	Value (THB)
BSBM (1 Jan – 31 Dec 2007)	78,365	1,751m
BSBM (1 Jan – 31 Dec 2008)	89,489	2,775m
Total Amount	167,854	4,526m
THB per tonne		26,964
Short length premium		[redacted]
Cost of credit at 7.31% for 22.5 days		[redacted]
Ex-factory Normal Value		[redacted]
Plus costs from ex-factory to FOB:		
Inland freight		[redacted]
Terminal handling charge		[redacted]
Container handling charge		[redacted]
Bill of lading		[redacted]

Customs costs		[redacted]
Cost of credit at 7.31% for [redacted] days		[redacted]
Bar marking		[redacted]
NV(VFDE) all exporters		[redacted]
THB:NZD exchange rate		0.0430
NV(VFDE) NZD		[redacted]

Ad Valorem Rate at the Full Margin of Dumping

126. A dumping margin for the purpose of establishing an *ad valorem* duty rate is the difference between the price of rebar on the domestic market in Thailand (normal value) and an export price. The *ad valorem* rate is the dumping margin expressed as a percentage of the FOB value.

Calculation of Ex-Factory Export Price

127. The ex-factory export price per tonne is based on Thai export statistics to all destinations. The Ministry has calculated an amount in USD per tonne, which has been converted to THB using the exchange rate from 1 January 2007 to 31 December 2008, sourced from www.oanda.com, of 32.9015. The THB per tonne figure at the FOB level has then been adjusted by the costs from FOB to ex-works to establish an ex-factory price per tonne as described in paragraph 125 earlier in this report, using adjustments for 2008.

128. Table 4.3 provides details of the Ministry's calculation of the FOB value per tonne and an ex-factory export price.

Table 4.3: Ex-Factory Export Price per Tonne (THB)
(1 January 2007 to 31 December 2008)

	Volume (Tonnes)	Value
All destinations (1 Jan – 31 Dec 2007)	148,357	75,898,000
All destinations (1 Jan – 31 Dec 2008)	114,461	88,863,000
Total Amount	262,818	164,761,000
Base Price USD per tonne		626.90
Exchange rate USD:THB (2007 to 2008)		32.9015
THB per tonne (FOB)		20,626
Cost of transport from the factory to the port		[redacted]

Terminal Handling		[redacted]
Container handling & stuffing		[redacted]
Bill of lading		[redacted]
Customs costs		[redacted]
Bar marking		[redacted]
Cost of credit of 7.31% for [redacted] days		[redacted]
Ex-factory Export Price		[redacted]

129. Table 4.4 shows the dumping margin as a percentage of the FOB value.

Table 4.4 Dumping Margin per Tonne (THB)

Ex-Factory Normal value	[redacted]
Less: Ex-Factory Export price	[redacted]
Dumping margin	[redacted]
FOB Value	20,626
Dumping margin (as % of FOB)	36%

130. An *ad valorem* rate of anti-dumping duty of 36 percent of the Customs value for duty would be required to collect duty at the full margin of dumping.

Calculation of a NIFOB

131. A NIFOB is calculated by deducting from the NIP the costs incurred between the FOB level and the NIP.

Non-Injurious Price (NIP)

132. A NIP is an unsuppressed selling price that is achievable in the absence of competition from dumped product in the New Zealand market.

133. Pacific Steel submits that a NIP for the purposes of applying a lesser duty rule in the form of an *ad valorem* rate should be based on its actual prices over the same or near the same period of time used in the price undercutting analysis in the review investigation. The price undercutting analysis in the review investigation was undertaken over two yearly periods ended 31 December 2007 and 2008.

134. The possible methods for determining a NIP include:

a. the use of current prices;

b. the current cost of production plus industry profits taken at a time when the industry was unaffected by dumped imports;

c. using pre-injury prices scaled up by a relevant index; or

d. determining the lowest priced un-dumped product in the market such as the price of goods originating from Australia or a number of countries.

135. The fourth method described above at "d" was used to calculate the NIP in the original investigation. To remove the price effects of imports of rebar from Thailand, Pacific Steel's NIP was calculated on the basis of the weighted average price of rebar at the ex-wharf level for import prices of rebar from Australia, Indonesia and Singapore and un-dumped ex-wharf prices for rebar from Malaysia and Thailand.

136. The conditions that applied in the original investigation do not apply in the review, as the anti-dumping duties have been imposed since March 2004 and there have been no imports from Thailand since October 2006. Pacific Steel's prices, therefore, have been unaffected by the presence of rebar from Thailand. The Ministry did establish price suppression but this could not be due to the presence of rebar from Thailand and therefore is due to other causes.

137. The following paragraphs discuss the possible methods of calculating Pacific Steel's NIP.

Pacific Steel's Current Prices

138. Pacific Steel's average net revenue per tonne since 2006 is shown in the table below:

Table 4.5: Pacific Steel's Average Prices (Year Ended 30 June)

	2007	2008	2009
Net Revenue per Tonne	[redacted]	[redacted]	[redacted]

139. Pacific Steel's financial year is the year ended 30 June. Its net revenue per tonne shown above in Table 4.5 represents the price that Pacific Steel received in the presence of rebar from countries other than Thailand. In 2009 Pacific Steel's net revenue has [redacted] increased which demonstrates that customers have been prepared to pay the increase which is probably due to the knowledge of an increase in world steel prices in 2008. World steel prices in the second half of the calendar year 2008 have, however, shown a decline down to 2007 levels, therefore it is likely that the net revenue of 2009 will not be maintained. The Ministry does not hold average net revenue per tonne amounts for the period 1 January 2007 to 31 December 2008, but it does hold net revenue per tonne for calendar year 2008 of NZD[redacted] per tonne. A NIP based on actual prices would likely be between NZD[redacted] and NZD[redacted] per tonne.

Current Cost of Production plus Industry Profit

140. As there have been no imports of rebar from Thailand since October 2006, Pacific Steel's current cost of production and industry profit represent its current

prices at a time when it is not injured by the presence of rebar from Thailand. Pacific Steel's current cost of production would be affected by the increase in the world steel prices that occurred in mid-2008 and since these prices have decreased it would not seem reasonable to use current costs to establish a NIP for Pacific Steel.

Pre-Injury Price Scaled up by Relevant Index

141. The NIP in the original investigation was NZD[redacted] per tonne. The relevant index for a producer is the Producer Price Index (PPI) which comprises output indexes that measure changes in prices received by producers. The Ministry notes in the reassessment of anti-dumping duty on galvanised wire from Malaysia in 2005 that the most suitable index was considered to be "C14: sheet and fabricated metal product manufacturing". The Ministry has sourced data on the PPI in respect of this index from March 2004 to 31 December 2008 from Statistics New Zealand website[6].

142. The PPI for the quarter ended March 2004 was 1,073 and average PPI from 1 January 2007 to 31 December 2008 is 1,417 which is an increase of 32.04 percent. By applying the PPI to the NIP established in the original investigation the price per tonne would be NZD[redacted].

Lowest Priced Un-Dumped Product

143. The Ministry has considered the original method of weighting the ex-wharf cost of rebar from Australia, Indonesia, Singapore and an un-dumped ex-wharf cost of rebar from Malaysia and Thailand according to the import volume to determine Pacific Steel's NIP. Pacific Steel has stated in the review investigation that factors that affect prices are the world steel prices and rebar from China, Indonesia, Malaysia, Singapore and Taiwan. In undertaking this exercise the Ministry has therefore extended, in its analysis, the countries that were considered in the original investigation to include the ex-wharf cost of rebar from China and Taiwan.

144. To establish an un-dumped price, the Ministry considers that a price based on 2008 data may be deemed unusually high because of the increase in steel prices. A price based on 2007 data could be deemed more suitable, but the data is not close to the time of the reassessment and 2007 prices would likely have increased. To mitigate these concerns the Ministry has combined data of 2007 and 2008 as this combination would smooth out price variances and would provide a suitable foundation on which to calculate an up-to-date base price.

145. The Ministry has first calculated a likely un-dumped price of rebar originating from Thailand. The un-dumped price of rebar from Thailand is based on the ex-factory normal value with costs added that are incurred from ex-factory to the ex-wharf level in New Zealand.

146. The costs from ex-factory to ex-wharf are based on costs discussed and shown in Table 4.3 of this Report. The exchange rate of NZD0.0430:THB1 is the average rate over the period 1 January 2007 to 31 December 2008, sourced from www.oanda.com. The costs from the port in Thailand to ex-wharf cost in New

[6] www.stats.govt.nz

Zealand are based on evidence provided by Pacific Steel. Pacific Steel's rebar sales are mainly produced using the Micro Alloy (MA) method, which costs more to produce and is sold at a higher price than rebar produced using the quench and tempered (QT) method. All rebar from Thailand is produced using the QT method and therefore in calculating Pacific Steel's NIP based on a normal value in Thailand the Ministry considers it is appropriate to add a cost associated with the difference in production method. Table 4.6 illustrates the value and costs taken into consideration in establishing an un-dumped price of rebar from Thailand at the ex-wharf level.

Table 4.6: Un-dumped Price of Rebar from Thailand (1 January 2007 to 31 December 2008)

	Average Price per Tonne
Ex-factory Normal Value	
Plus costs from ex-factory to wharf in NZ (THB)	
- inland freight	
- terminal handling charge	
- container handling charge	
- bill of lading	
- customs costs	
- cost of credit	
- bar marking	
Sub-total (THB) (FOB)	
THB/NZD Exchange rate (2007 to 2008)	0.0430
Sub-total (NZD) (VFD)	
Plus costs from Port in Thailand to Wharf in NZ	
- insurance	
- freight	
- port clearance fees	
- difference in production method	
Un-dumped Cost to Ex-Wharf (NZD)	

147. The cost to ex-wharf shown above in Table 4.6 has been added to the ex-wharf cost of goods from Australia, China, Indonesia, Malaysia, Singapore and Taiwan which has then been weighted against the import volume to establish an ex-wharf cost per tonne from all sources.

148. The ex-wharf cost of goods from Australia, China, Indonesia, Malaysia, Singapore and Taiwan is the Cost-Insurance-Freight (CIF) figures plus port clearance fees. The CIF figures and import volume were provided to the Ministry by the New Zealand Customs Service and the port clearance fees are based on evidence provided by Pacific Steel. Table 4.7 shows the ex-wharf cost weighted against the import volume. For goods of Thai origin the Ministry has used Pacific Steel's estimate of the likely import volume of 7,306 tonnes.

Table 4.7: Weighted Average Ex-Wharf Cost
(1 January 2007 to 31 December 2008)

	Ex-Wharf Cost per Tonne	**Import volume (Tonnes)**	**Weighted average (NZD)**
Australia	[redacted]	[redacted]	[redacted]
China	[redacted]	[redacted]	[redacted]
Indonesia	[redacted]	[redacted]	[redacted]
Malaysia	[redacted]	[redacted]	[redacted]
Singapore	[redacted]	[redacted]	[redacted]
Taiwan	[redacted]	[redacted]	[redacted]
Thailand	[redacted]	7,306	[redacted]
Total Import Volume		[redacted]	
Weighted Average Cost (NZD) Ex-Wharf			[redacted]

Comparison of Values Calculated Above

149. The following table compares Pacific Steel's net revenue per tonne, original NIP updated by the PPI and the weighted average ex-wharf cost.

Table 4.8: Comparison of Non-Injurious Values (NZD per Tonne)
(1 January 2007 to 31 December 2008)

	Average Values
Pacific Steel's net revenue	[redacted] to [redacted]
Original NIP updated by PPI	[redacted]
Weighted average ex-wharf cost	[redacted]

150. Table 4.8 shows that the overall lowest value is the lowest point in the range for Pacific Steel's net revenue per tonne and the highest overall value is the highest point in that range. The original NIP updated by the average PPI from 1 January 2007 to 31 December 2008 is towards the lower end of Pacific Steel's 2007 and 2008 prices. The weighted average ex-wharf cost is approximately at the mid point of the range of Pacific Steel's net revenue per tonne for 2007 and calendar year 2008.

Conclusion on NIP

151. In the original investigation Pacific Steel's NIP was calculated on the basis of a weighted average ex-wharf cost of rebar from Australia, Indonesia, Malaysia, Singapore and an un-dumped ex-wharf cost of rebar from Malaysia and Thailand as prices prior to initiation of the dumping investigation were affected by the presence of dumped imports from Thailand.

152. There have been no imports of rebar from Thailand since October 2006. Consequently no injury has been caused to Pacific Steel by such imports and therefore its present prices could be considered non-injurious. Pacific Steel has not experienced any price depression but it has experienced price suppression, which is not due to goods of Thai origin, and therefore is caused by other factors, such as the prices of rebar sourced from other countries.

153. Pacific Steel has submitted that the most appropriate NIP is its actual prices used over the period of the price undercutting analysis in the review investigation. The concern in using 2007 or calendar year 2008 actual net revenue per tonne figures used in the price undercutting analysis is the financial periods to which these values relate. The Ministry calculated for the calendar year 2007 an average price based on financial year 2007 and 2008 figures. Financial data was provided to calculate actual net revenue per tonne for the calendar year 2008. If the Ministry were to use the figures of the price undercutting analysis, its decision would be based on net revenue for 2007 (which includes 6 months of 2006), 2008 and the last six months of 2008, which is 2.5 years of data. The Ministry, therefore, considers a value based on 2.5 years of financial data is not a suitable NIP for Pacific Steel. The Ministry, however, considers this information shows that a NIP should be within the range of prices of 2007 and 2008.

154. The other methods considered by the Ministry were to update the original NIP by the changes in the New Zealand's producer price index and a weighted average ex-wharf cost per tonne of rebar from Australia, China, Indonesia, Malaysia, Singapore, Thailand and Taiwan.

155. The Ministry's calculations of all methods showed that the NIP of the original investigation updated by the average PPI falls at the lower end of Pacific Steel's actual net revenue per tonne for 2007 and 2008. The weighted average ex-wharf cost calculated from the export prices of a range of countries is at approximately the mid point between Pacific Steel's actual net revenue per tonne figures for 2007 and the calendar year 2008. Considering the outcome of the methods considered by the Ministry it would seem reasonable to use a weighted average ex-wharf cost from countries [redacted] as it is the goods that originate from these countries that Pacific Steel must compete with in the New Zealand market.

156. To consider this method further the Ministry has compared the weighted average ex-wharf cost per tonne against Pacific Steel's forecast cost of production for 2010. If the weighted average ex-wharf cost of NZD[redacted] calculated by the Ministry was the net revenue per unit achieved by Pacific Steel, gross profit as a percentage of revenue would be [redacted] percent. This is the same percentage gross profit as that experienced by Pacific Steel in [redacted], and therefore would seem to be a reasonable price to use as a non-injurious price for Pacific Steel. The reassessment team has therefore used NZD[redacted] per tonne as the NIP.

Calculation of NIFOB

157. The purpose of the NIFOB is to ensure that the price of the imported product, when considered at the FOB level, is such that when it is sold at the relevant level of trade, the sale price is not lower than the NIP and is therefore not injurious to the New Zealand industry.

158. The calculation of a NIFOB is achieved by deducting from Pacific Steel's NIP all costs that arise after FOB up to the level of trade at which the imported product first competes with Pacific Steel's products. The first point of competition between the imported product and Pacific Steel's product is at the ex-wharf level.

159. The calculation of a NIFOB includes the cost of insurance, overseas freight, port clearance fees and a difference in the production method, which is based on evidence provided by Pacific Steel. The following table illustrates the calculation of a NIFOB.

Table 4.9: NIFOB (NZD per Tonne)
(1 January 2007 to 31 December 2008)

	NZD per Tonne
NIP	[redacted]
Less: costs between ex-wharf and FOB	
insurance	[redacted]
overseas freight	[redacted]
port clearance fees	[redacted]
difference in production method	[redacted]
NIFOB	[redacted]

Lesser Duty Calculated as an Ad Valorem Rate

160. To calculate a lesser duty as an *ad-valorem* duty rate the Ministry has measured the extent that the dumped prices of Thai imports to New Zealand would undercut Pacific Steel's prices at the FOB value if the goods were to be exported from Thailand.

161. The amount by which the dumped FOB must be raised to reach the NIFOB has been calculated by subtracting from the NIFOB amount, shown in Table 4.9 above, the Thai FOB value to all destinations converted to New Zealand dollars, shown in Table 4.4 above. The exchange rate of NZD0.0430:THB1 has been sourced from www.oanda.com over the period 1 January 2007 to 31 December 2008. The difference between the NIFOB amount and FOB value in NZD has been divided by the FOB amount to calculate an *ad valorem* percentage rate.

162. Table 4.10 below sets out the *ad valorem* rate calculation.

Table 4.10: Non-Injurious Margin as Percentage of FOB Value per Tonne (NZD)

NIFOB	[redacted]
Less: FOB Value	[redacted]
Non-Injurious Margin	[redacted]
Non-Injurious Margin (as % of FOB)	28%

Comparison of Amounts and Rates

163. The following table compares the dumping margin as a percentage of FOB value shown at Table 4.4 above and the non-injurious margin as a percentage of the FOB value shown at Table 4.10 above. The Ministry has compared the two values, in its application of a lesser duty rule, to determine whether the ad *valorem* rate should be applied at the full margin of dumping or at a non-injurious level, whichever is the lesser amount to remove injurious effects of imports from Thailand, should imports from Thailand recommence.

Table 4.11: Comparison of Margins at the Full Margin of Dumping or at a Non-Injurious Level

NV(VFDE)	NIFOB
NZD[redacted]	NZD[redacted]
Dumping Margin	**Non-Injurious Margin**
36%	28%

164. The dumping margin and the non-injurious margin, as a percentage of the Thai FOB value, are 36 percent and 28 percent respectively. Application of the *ad valorem* rates to the dumped export prices at the FOB point will raise the FOB value to the NV(VFDE) amount or the NIFOB amount. As the dumping margin is greater than the non-injurious level, the *ad valorem* duty rate would be set at the non-injurious level of 28 percent.

4.8 Proposed Level of Anti-Dumping Duty

165. The Ministry considers that a single *ad valorem* anti-dumping duty rate should be imposed on imports of rebar from all Thai exporters, rather than the present exporter-specific reference prices. The suppliers of rebar involved in the original investigation did not participate in the review investigation and consequently the Ministry has had to use the best available information, which is not exporter-specific.

166. The Ministry prefers to impose the *ad valorem* anti-dumping duty rate because:

- The Ministry is mindful that a duty is normally imposed for five years. The world rebar prices submitted by Pacific Steel, sourced from *Steel Business Briefing* shows a steady increase from January 2006 with a significant increase and decrease in 2008. If this pattern were to occur in the future it is likely that a reference price would soon become outdated and ineffective and would no longer provide the remedy Pacific Steel sought to achieve;

- An *ad valorem* rate is administratively easy to impose and thereby reduces compliance costs and provides certainty to the market that can be built into pricing strategies;

- It is transparent and therefore all parties know of the rate that is to be paid.

4.9 Impact of Anti-Dumping Duty

167. It is difficult to predict the impact the proposed *ad valorem* duty rate of 28 percent will have on likely imports from Thailand or prices in New Zealand. If price and the existence of anti-dumping duties have been major factors influencing importers' decision on whether to import rebar from Thailand, and given there have been no imports from Thailand since October 2006, it is likely that a 28 percent duty will have a trade chilling effect and imports from Thailand will not recur.

168. On the other hand, the transparency of the *ad valorem* duty allows a wider range of importers to assess the price competitiveness of Thai rebar in the New Zealand market and this may mean that some importers will import rebar from Thailand. If imports of rebar from Thailand recommence the purchase price for importers would increase from previous prices but it would be the importers decision as to whether they choose to pass the extra cost on to fabricators, distributors or building supply merchants. As the *ad valorem* duty rate is based on the ex-wharf cost of rebar from a number of countries the duty will ensure that the increase in the price removes any injurious price effects that may be caused to Pacific Steel.

169. Should the *ad valorem* rate of duty be considered by interested parties to be no longer relevant, for example if export prices have increased at a greater rate than normal values, an interested party may apply for a reassessment of the rate of duty by providing evidence justifying the need for a reassessment.

5. Conclusions

170. The Ministry concludes that:

- A single *ad valorem* anti-dumping duty rate of 28 percent should be imposed on the value for duty of imports of rebar from all Thai exporters, rather than the present reference price method being applied on an exporter-specific basis to cooperating exporters and an *ad valorem* rate applying to other exporters;

- The single *ad valorem* rate of 28 percent is based on the difference between the estimated export price and a non-injurious export price and therefore should imports from Thailand recommence, the price of the imported rebar will not injure the New Zealand industry, Pacific Steel; and

- An *ad valorem* rate is easily administered, transparent, provides certainty to market participants and the amount payable moves with changes in value in a way that ensures it remains effective over time.

6. Recommendations

171. It is recommended that the Minister:

a. **Agree** to a new rate of anti-dumping duty on imports of rebar from Thailand, on the basis of the information obtained during the review and reassessment and the analysis outlined in this report;

b. **Sign** the attached Gazette notice, and give notice of the reassessment to interested parties in accordance with sections 9 and 14 of the Act.

7. Appendix One

172. A full copy of the Act and the WTO Agreement on Implementation of Article VI of the GATT 1994 (the Anti-dumping Agreement) can be found at:

- http://www.legislation.govt.nz/act/public/1988/0158/latest/DLM137948.html?search=ts_act_dumping+and+countervailing+duties_resel&p=1&sr=1

- www.wto.org/english/docs_e/legal_e/19-adp.pdf or www.wto.org/english/docs_e/legal_e/19-adp.doc