

Oil Filters from the USA: Final Review Report

Status:Archived

Dumping and Countervailing Duties Act 1988

Table of Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Agreement (the)	WTO Agreement on Implementation of Article VI of the GATT 1994
ArvinMeritor	ArvinMeritor Inc [Previously Purolator Products Co Ltd]
ANDPL	Australian National Distributor Pricelist
B & T	Brake and Transmission (NZ) Ltd
BFC's	Beyond Factory Costs
Champion	Champion Laboratories Inc
Chief Executive	Chief Executive of the Ministry of Economic Development
CIF	Cost, Insurance and Freight
EBIT	Earnings Before Interest and Tax
Fleetguard AU	Fleetguard Australia
Fleetguard	Fleetguard Inc
FOB	Free on Board
GUD	GUD (NZ) Ltd
GUR	Goods Under Review
Honeywell	Honeywell Consumer Products [Previously AlliedSignal Inc]
LDC	Less Developed Countries
LLDC	Least Developed Countries
Ministry (the)	Ministry of Economic Development
NZCS	New Zealand Customs Service
Pac	Forum Island Members of the South Pacific Regional Trade and Economic Co-operation Agreement
Pioneer	Pioneer Equipment Ltd (T/A Pioneer Autoparts)
PL	Private Label
PX	Post Exchange
Repco	Repco Merchants Ltd
Sphinx	Sphinx Manufacturing Ltd
VFD	Value for Duty
WD	Warehouse Distributor
WTO	World Trade Organisation
YEM	Year ended May
<hr/>	Confidential Information (in text)
CONFIDENTIAL	Confidential Information (in tables)

1. Proceedings

1.1 PROCEEDINGS

On , the Minister of Commerce imposed anti-dumping duties on from imported into New Zealand, because an investigation had established that the goods were being dumped and by reason thereof causing and threatening to cause material injury to the New Zealand industry.

The anti-dumping duties imposed were based on the full margin of dumping found during the investigation and were in the form of supplier specific schedules of model specific reference prices plus generic weighted average rates for suppliers and filter models not so specified.

On 8 April 1996, following the completion of a review investigation the Minister of Commerce determined that anti-dumping duties on the subject goods were still necessary to prevent the continuation or recurrence of material injury to the New Zealand industry. The Minister also reassessed the anti-dumping duties payable in respect of those goods.

Anti-dumping duties remained at the full margin of dumping that had been found in the review and subsequent reassessment but were at lower rates than had applied in the earlier period.

It should be noted that the 1995/96 review was initiated on the Secretary's own initiative and that its initiation predated the adoption of the specific "sunset" provisions arising from the Uruguay Round of Multilateral Trade Negotiations.

Whereas three reference price schedules were established following the original investigation, subsequent "new shipper reassessments" have resulted in the establishment of a further eleven schedules to date. Appendix 1 of this Report lists the current reference price schedule holders and the effective date of each schedule.

On , the Chief Executive of the Ministry of Economic Development (Chief Executive) initiated a review of the continued need for the imposition of the anti-dumping duties, pursuant to section 14(8) of the Dumping and Countervailing Duties Act 1988 ("the Act"), on the basis of positive evidence submitted by GUD (NZ) Ltd on behalf of the New Zealand industry justifying the need for the review.

In accordance with Article 11 of the WTO Anti-Dumping Agreement, the purpose of the Ministry's review was to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

Anti-Dumping Duty Collected

The New Zealand Customs Service (NZCS) has been able to provide information covering the period 1 April 1996 to 31 May 2000 showing that over that period a total amount of \$_____ in anti-dumping duty has been collected on ____ import entry lines relating to the subject goods.

These figures represent a total of _____ oil filters with a value of \$_____, being ___ percent of total imports by volume over the period and ___ percent of imports by value. The anti-dumping duty collected represents ___ percent of the total value of imports over the period.

During the period under specific review, 1 June 1999 to 31 May 2000 (YEM), a total of \$_____ in anti-dumping duty was charged on _____ oil filters with a declared value for duty of \$_____. The volume of oil filters on which anti-dumping duty was collected represents 44 percent of total subject goods imported over the stated period. Anti-dumping duty was paid on subject goods supplied by a total of 86 exporters.

The review team further analysed the anti-dumping duty figures for the review period and it was found that \$_____ or ___ percent of the total anti-dumping duty paid during this period had been paid on filters supplied by current reference price holders. Of these, the largest totals were paid on goods supplied by Fleetguard Australia (\$_____), Baldwin Filters (Aust) Pty Ltd (\$_____) and Champion Luber-Finer (\$_____). These companies represented _____ and ___ percent respectively of total subject goods imported over the review period.

The largest non schedule-holder total of anti-dumping duty was paid by Case Corporation Pty Ltd, which paid \$_____. Exports to New Zealand by this company represented ___ percent of total subject goods imported during the review period.

It is noted that for the most part the reference prices and ad valorem rates on which anti-dumping duty is currently collected date back to April 1996 and the last review.

It is also noted that of the nine companies which paid the largest proportion (___%) of anti-dumping duty during the review period, six are primarily suppliers of heavy duty filters, a high proportion of which may possibly fall outside the parameters of the proposed amended goods description which is discussed elsewhere in this report.

1.2 REVIEW

Section 14(8) of the Act states:

The Chief Executive of the Ministry of Economic Development may, on his or her own initiative, and shall, where requested to do so by an interested party that submits positive evidence justifying the need for a review, initiate a review of the imposition of anti-dumping duty or countervailing duty in relation to goods and shall complete that review within 180 days of its initiation.

Section 14(9) of the Act states:

Anti-dumping duty or countervailing duty applying to any goods shall cease to be payable on those goods from the date that is five years after –

- a. The date of the final determination made under section 13 of this Act in relation to those goods; or

- b. The date of notice of any reassessment of duty given under subsection (6) of this section, following a review carried out under subsection (8) of this section –

whichever is the later, unless, at that date, the goods are subject to review under subsection (8) of this section

In terms of section 14(9)(b) of the Act anti-dumping duties relating to the subject goods would, in the absence of a review, cease to apply as from 8 April 2001.

The provisions of section 14(9) of the Act give specific effect to Article 11 of the Agreement which provides additional guidance as follows:

An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.

The authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti-dumping duty is no longer warranted, it shall be terminated immediately.

Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date no later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The duty may remain in force pending the outcome of such a review.

The provisions of article 6 regarding evidence and procedure shall apply to any review carried out under this article. Any such review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review.

On 19 June 2000, being satisfied that positive evidence justifying the need for a review had been provided, the Chief Executive initiated a review. A notice to this effect was published in the New Zealand Gazette of 22 June 2000. The existing anti-dumping duties will continue to apply pending the outcome of this review and any reassessment that may follow it.

Interested parties to the original investigation and the previous review were advised of the initiation of this review in writing and provided with the opportunity to make written submissions to the review team. (Refer to section 1.3 of this Report regarding specific requests for information made to a sample of exporters and importers.)

The purpose of this Report is to provide a summary of the matters established by the review team as a basis for a determination to be made under section 14(8) of the Act as to whether the expiry of the current anti-dumping duty would be likely to lead to the continuation or recurrence of dumping or injury. It should be noted that this Report provides a summary only of the information, analysis and conclusions relevant to this investigation, and should not be accorded any status beyond that.

Section 10a of the Dumping and Countervailing Duties Act 1988 ("the Act") requires that, within 150 days of the initiation of an investigation, interested parties be given written advice of the essential facts and conclusions that will likely form the basis of any final determination. While this section does not apply in the case of reviews, the Ministry endeavours to the extent possible to follow investigation practice.

In the case of this review, "written advice of the essential facts and conclusions" in the form of an Interim Summary was released to all known interested parties on 16 November 2000 and an Interim Report, identical in format and content to that which would have been required had section 10a applied, was released on 17 November 2000. These dates were respectively 150 and 151 days after initiation of the review.

The only comments on the Interim Report received were from GUD. These comments have, as appropriate been incorporated into this Final Review Report.

Donaldson Australasia Pty Ltd advised the Ministry that it did not have any comments to make on the Interim Report.

Grounds for Review

The review is to establish whether the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and consequent injury.

The New Zealand industry in its submissions claims that it is threatened with material injury should the dumped goods be imported into New Zealand without adequate anti-dumping duties. The industry claims that the imports of the dumped goods are certain to significantly increase in volume with the removal of anti-dumping duties and that material injury to the industry is threatened through:

- price suppression and depression
- declining output
- loss of market share
- loss of profits
- loss of sales
 - negligible return on investments
 - severe constraints on new investment.

As a result, the industry claims the effects of dumped imports will in the absence of anti-dumping duties lead to the demise, or a major contraction of, the industry.

Reassessment of Anti-dumping Duties

If the outcome of this review indicates that anti-dumping duties should continue to be applied, then the rate or amount of duty can be reassessed in accordance with section 14(6) of the Act.

Information from the US suppliers specifically investigated in this review and which relates to the reassessment of anti-dumping duties for those companies has been collected and verified as part of the review.

Information necessary for the reassessment of anti-dumping duties applicable to other known US suppliers would need to be sought.

1.3 INTERESTED PARTIES

New Zealand Industry

The original application was submitted by (GUD). GUD is the larger of the two New Zealand producers of oil filters that comprise the New Zealand industry. The second producer, Sphinx Manufacturing Co Ltd (Sphinx), provided written support for the review application.

GUD (NZ) Ltd

GUD, which is located in Auckland, is a wholly owned subsidiary of GUD Holdings Ltd of Australia and is a manufacturer of automotive oil filters, as well as other filter equipment. GUD's range of New Zealand manufactured oil filters is supplemented by imports from its parent company in Australia as well as imports from the U.S.A. and other international sources. In addition to its initial application for review, GUD has provided documentary evidence requested by the Ministry and has met with the review team at various times during the review investigation.

Sphinx Manufacturing Co Ltd

Sphinx is a privately owned New Zealand company located in Auckland where it manufactures and distributes automotive oil filters and other automotive filter equipment throughout New Zealand.

Prior to this review and at the time of its initiation the manufacturing and importing arms of Sphinx were one and the same company. At the time this review was initiated Sphinx was the New Zealand licensee for the FRAM brand in New Zealand. In this capacity, Sphinx imported a range of FRAM oil filters that it supplemented by local production of other FRAM branded filters under licence. Imports of FRAM brand filters from Honeywell Consumer Products Group in the USA by Sphinx have represented the largest single source of subject goods throughout the term of the current anti-dumping duties. During the period examined in this review, YEM, these imports represented approximately ___ percent of total subject goods.

At a late stage of the review, the licensee agreement between Honeywell Consumer Products Group and Sphinx was terminated. At the same time as this occurred, the manufacturing arm of Sphinx was separated from the remainder of the company and now operates as a stand alone filter manufacturer. The manufacturing arm, which forms part of the New Zealand industry is now known as Sphinx Engineering Ltd, and the distribution arm has remained as Sphinx Manufacturing Co Ltd.

Throughout the review, Sphinx has co-operated and has provided documentary evidence relating to both its imports and domestic production and has met with the review team at various times.

Exporters and Importers

Exporters

The application made by the industry identified several specific exporters of the goods under review. Also, due to the nature of the existing anti-dumping duties and their reliance on supplier specific reference price schedules established in terms of section 14(6) of the Act, the Ministry is aware of a number of other exporters of the subject goods during the review period.

Using import information provided by the New Zealand Customs Service (NZCS) the review team identified 146 exporters of the subject goods during the 12-month period ending 31 May 2000.

Article 6.10 of the Agreement permits the use of a representative sample of exporters where it is impractical to examine in detail all known exporters. One of the means specified in that article for the selection of a representative sample is "the largest percentage of the volume of exports from the country in question which can reasonably be investigated".

On the basis of a descending share of the exports during the YEM 2000 the Ministry identified the largest suppliers whose combined exports represented the majority and has specifically investigated these suppliers. The suppliers specifically investigated in this review were;

- Honeywell Consumer Products [previously Allied Signal]
- Fleetguard Inc [including Fleetguard Australia]
- ArvinMeritor Inc [Previously Purolator Products Inc]

In total, exports by these three companies accounted for in excess of __ percent of the subject goods imported into New Zealand during the year ended 31 May 2000. These are the same companies that were specifically investigated in both the original investigation and the previous review.

A fourth company, Champion Laboratories, was specifically identified in the industry application, and on this basis was initially selected for specific investigation. Champion represented __ percent of relevant imports during the review period.

Prior to the arrangement of verification visits it became clear that necessary information relating to Champion was not likely to be made available. This was mainly due to logistical

difficulties within the company. It was also clear to the ministry that verification of any submissions made would be extremely difficult to arrange and may be of limited value to the review. On these bases, and with the agreement of the company, Champion was not further investigated.

A full alphabetical list of the suppliers identified from the NZCS information covering the YEM 2000 is given in appendix 2 of this Report.

Honeywell Consumer Products Group

The Honeywell Consumer Products Group (hereinafter referred to as Honeywell) is an operating division of Honeywell Inc. and is headquartered in Danbury, Connecticut, USA. During the period under review, Honeywell exported automotive filter parts, partially finished and fully finished products to its New Zealand licensee, Sphinx (see paragraphs 1.3.4 and 1.3.5 above). Exports to New Zealand by Honeywell represented approximately ___ percent of the total subject goods during the review period.

The review team received a full submission from Honeywell, which also answered further requests for information.

The review team conducted a verification visit at Honeywell's premises in Danbury Connecticut, USA as part of the review investigation.

During its verification visit, the review team was advised that Honeywell Inc was for sale _____ . Late in the review process, the review team was advised that Honeywell Inc had been sold to the General Electric Corporation and _____ .

A draft of the Ministry's verification report and preliminary calculations were provided to Honeywell some time prior to the completion of this report. No comments on the draft were received and its content and the results of the calculations made are reflected in section 3 of this report.

Fleetguard Inc

Fleetguard Inc. (hereinafter referred to as Fleetguard) is a wholly owned subsidiary of Cummins Engine Company of the USA. Fleetguard manufactures out of two plants in the USA and sells automotive filters as original equipment (OE) to vehicle manufacturers, and as after market replacement parts to franchise vehicle dealers and independent distributors. Fleetguard also has a number of joint venture manufacturing plants in Mexico, parts of Asia and Europe.

Fleetguard International Corp., trading as Fleetguard Australia (hereinafter referred to as Fleetguard AU), is a wholly owned subsidiary of Fleetguard. Fleetguard AU has a responsibility to market Fleetguard product in Australia, New Zealand, Papua New Guinea and the South Pacific region. A regional manager is based in New Zealand to carry out these responsibilities.

Fleetguard product is shipped to Cummins Diesel Sales and Service (NZ) Ltd, (hereinafter referred to as Cummins) both direct from the USA and from Australia. Submissions were

provided by both Fleetguard and Fleetguard AU and both have supplied further information when requested. The review team conducted verification visits to Fleetguard in Cookeville, Tennessee, USA and Fleetguard AU in Melbourne, Australia. Fleetguard exports, whether direct from the United States or through Fleetguard AU represented approximately ___ percent of subject goods during the review period.

A draft of the Ministry's verification report and preliminary calculations were provided to both Fleetguard Australia and Fleetguard US some time prior to the completion of this report. Comments have been received on the draft verification report from Fleetguard Australia and these are reflected in this report. No comments on the Fleetguard US draft have been received to date and its content and the results of the calculations made are reflected in section 3 of this report.

ArvinMeritor Inc

The business of Purolator Products Inc., a participant in both the original investigation and the last review, was taken over by the replacement parts division of Arvin Industries Inc in early 1999. Arvin Industries Inc became ArvinMeritor Inc (hereinafter referred to as ArvinMeritor) on 1 July 2000 following a merger. ArvinMeritor is a multinational company headquartered in Troy, Michigan, USA, and its replacement parts division is located in Nashville, Tennessee, USA. ArvinMeritor has manufacturing facilities in North Carolina, Utah, Missouri, Tennessee and Michigan. ArvinMeritor provided a full submission together with additional information as requested. The review team conducted a verification visit at ArvinMeritor's premises in Nashville as part of the review investigation.

Purolator brand oil filters are imported into New Zealand from ArvinMeritor, primarily by Pioneer Equipment Ltd direct from the U.S.A. Purolator brand filters are also imported by various third parties. Exports to New Zealand by ArvinMeritor represented approximately ___ percent of the total subject goods exported to New Zealand during the review period.

A draft of the Ministry's verification report and preliminary calculations were provided to ArvinMeritor some time prior to the completion of this report. Comments made in response to those drafts have been incorporated into the relevant parts of section 3 of this report.

Importers

The industry application identified several importers of the subject goods. Once again, due to the nature of the existing anti-dumping regime on oil filters from the U.S.A., the Ministry is also aware of other relevant importers.

Using the NZCS sourced import information, 111 importers of the subject goods into New Zealand over the 12-months ended 31 May 2000 could be identified. A full alphabetical listing of the importers identified from the NZCS information is given at Appendix 3 to this Report.

Based on the exporters selected for specific investigation during the review, the Ministry requested written submissions from the five importers being supplied by the selected exporters. These importers were;

- Cummins Diesel Sales and Service (NZ) Ltd

- International Truck Australia Ltd
- DaimlerChrysler New Zealand Ltd
- Pioneer Equipment Ltd
- Sphinx Manufacturing Ltd

Cummins Diesel Sales and Service (NZ) Ltd

Cummins imports and distributes automotive oil filters and other automotive and machinery parts for distribution to dealers, fleet operators, and the forestry and mining sectors. Cummins is the primary New Zealand distributor of Fleetguard products and is supplied the bulk of its requirements direct from the U.S.A. with specialist and low volume filters being supplied via Fleetguard AU. Cummins did not provide the review team with a submission.

Since January 1995, Cummins has been owned by the Cummins Engine company, parent to Fleetguard. This relationship is not believed to affect the arm's length trading relationship with Fleetguard.

Fleetguard oil filters are also imported into New Zealand via various third party suppliers in the U.S.A., but these shipments are not included in the sample examined.

International Truck Australia

No further details of this company are known and no submission was provided.

DaimlerChrysler New Zealand Ltd

No further details of this company are known and no submission was provided.

Pioneer Equipment Ltd

Pioneer Equipment Ltd (hereinafter referred to as Pioneer) trading as Pioneer Auto Parts, is a private company located in Auckland. Pioneer supplies automotive parts to the New Zealand market mainly at the wholesale level. Pioneer imports oil filters from three U.S.A suppliers, Purolator (now ArvinMeritor), K & N Engineering and System One Filtration. The latter two companies are current reference price schedule holders but did not fall within the sample selected. Pioneer's imports from the U.S.A. are in relatively small quantities and are therefore consolidated by a third party, Mid America Overseas Inc.

Pioneer provided a partial submission and the company was willing to provide additional specific information to the review team if required. No verification visit was made to Pioneer's premises.

Sphinx Manufacturing Ltd

Sphinx's company and submission details are noted above in the section dealing with the New Zealand industry. During the period under review Sphinx imported oil filters from Honeywell and was that company's licensee in New Zealand. Please refer to paragraph 1.3.5 above regarding changes in the relationship between Sphinx and Honeywell.

1.4 IMPORTED GOODS

The goods which are currently subject to anti-dumping duty and therefore subject to this review, hereinafter referred to as , or "subject goods", are:

Automotive oil filters for use on internal combustion engines exceeding 20 horse power (HP)

As part of this review, the Ministry has taken the opportunity to discuss with interested parties, a proposal for the amendment of the above description. The proposed amendment was designed to clarify the intended coverage of the anti-dumping determination should anti-dumping duties continue to be applicable following the review.

Had the outcome of this review been a decision that there was a continued need for the imposition of anti-dumping duties on the subject goods this aspect would have been fully canvassed in this report and the new description promulgated by the Minister of Commerce as an amendment to the determination. The findings of the review indicate that anti-dumping duties need not continue to be imposed on the subject goods therefore no further action has been taken in respect of the goods description. The amended goods description that had been proposed is given as appendix 4 to this report.

The NZCS has stated that enter under the following tariff classifications:

8421		Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases:
8421.23.00	- -	Oil or petrol filters for internal combustion engines
	01B ...	Oil

Currently applicable duty rates are:

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

In this report, unless otherwise stated, years are years and dollar values are NZ\$. In tables, column totals may differ from individual figures because of rounding. The term VFD refers to value for duty for Customs purposes.

The period covered by this review is from 1 April 1996 to the present. The period of investigation for establishing dumping is the year from 1 June 1999 to 31 May 2000.

1.5 EXCHANGE RATES

Article 2.4.1 of the 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 sale⁸, 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.

In respect of the exchange rates used in sections three and four of this Report, the review team has, in the absence of other rates being available referred to an on-line exchange rate service (www.Oanda.com). The review team has used that service's Historical Currency Table feature to obtain an average interbank exchange rate over the periods specified in section three.

1.6 DISCLOSURE OF INFORMATION

The Ministry of Economic Development makes available all non-confidential information to any interested party through its Public File system.

Article 6.7 of the Agreement provides as follows:

In order to verify information provided or to obtain further details, the authorities may carry out investigations in the territory of other Members as required, provided they obtain the agreement of the firms concerned and notify the representatives of the government of the Member in question, and unless that Member objects to the investigation. The procedures described in Annex I shall apply to investigations carried out in the territory of other Members. Subject to the requirement to protect confidential information, the authorities shall make the results of any such investigations available, or shall provide disclosure thereof pursuant to paragraph 9, to the firms to which they pertain and may make such results available to the applicants.

Verification visits were carried out in respect of the submissions made by:

- Honeywell, Consumer Products Group
- Fleetguard Inc. (including Fleetguard Australia)
- ArvinMeritor Inc.

Draft verification reports were provided to each of the above companies prior to the preparation of the Interim Report. As at the date of completing this Final Report, specific comments on those drafts had been received only from ArvinMeritor and Fleetguard Australia.

In respect of the New Zealand industry, a number of visits were made both prior to and during the course of this review. Information provided by the industry (both GUD and Sphinx) covered both the present review and a concurrent investigation relating to oil filters from a range of Asian sources. The latter investigation has now been terminated.

To the extent possible, comments made by GUD on a draft verification report covering both all of the visits made and both investigations have been incorporated into this report.

During the course of its investigation, the review team also visited one of Sphinx's major customers to gain a further perspective of the New Zealand market and factors currently affecting it.

Information and comments arising from these visits is included, as appropriate, within this report.

Article 6.8 of the 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.

As noted in paragraphs 1.3.32 and 1.3.33 above, information regarding relevant imports was requested but not received from, International Truck Australia and DaimlerChrysler Ltd. Information contained in this Report in relation to those importers is based on the facts available.

2. NEW ZEALAND INDUSTRY

Section 3a provides the definition of "industry":

3a. Meaning of "industry"—For the purposes of this Act, the term 'industry', in relation to any goods, means—

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

"Like goods" is defined in section 3 of the Act:

"Like goods', in relation to any goods, means—

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

2.1 LIKE GOODS

In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into injury, and having identified the subject goods, it is necessary to

determine whether there are New Zealand producers of goods which are like those goods in all respects, and if not, whether there are New Zealand producers of other goods which have characteristics closely resembling the subject goods.

In the original investigation, like goods were identified as:

Automotive oil filters for use on internal combustion engines exceeding 20 horse power (HP)

The Ministry had no reason to change this description for the purposes of this review, however as noted in paragraph 1.4.2 above, the review did incorporate consideration of an amended goods description to be promulgated had it been decided that there was a need for the continued imposition of anti-dumping duty on these goods.

New Zealand Production

The original investigation determined that was manufacturing like goods to those being imported from the U.S.A. This determination was reiterated in the review completed in April 1996 and the Ministry has no reason to believe that this situation has changed in the interim. Further comment regarding the makeup of the New Zealand industry, for the purposes of the current review is made in section 2.2 below.

Imports

In the original investigation and the previous review, imports in the sample of oil filters subject to investigation/review were scrutinised using NZCS import data and those for which there was no New Zealand produced equivalent were excluded from consideration of dumping.

Specific filter models were excluded on the basis of the existence of a normal tariff concession allowing duty free entry at the time of importation. Such concessions are granted, by the Ministry of Economic Development, Tariff Concessions Unit, following the vetting of applications by both GUD and Sphinx. Where New Zealand-made equivalents exist, the application for a concession in respect of those filters is declined.

Exclusion from consideration of dumping on this basis was possible only due to the fact that normal tariff concessions are issued on a model specific basis, which has allowed the identification of those filters for which a New Zealand equivalent is not made.

Anti-dumping duties have also, to the extent possible taken account of the existence of a normal tariff concession on specific filter types. This has been by way of the reference price schedules, which, for the fourteen current schedule holders identify as "No Duty" those listed filter types for which a concession was known to exist at the time of establishing the schedule.

Maintaining the "currency" of the schedules is the responsibility of the supplier or exporter concerned who must provide updated information, including evidence of the granting of normal tariff concessions, to the Ministry in order for amendments to be made. Few of the current schedules have been updated in this manner, particularly with respect to concessions. Some anti-dumping duty has therefore been collected on specified filters, which are subject to normal tariff concessions.

For those suppliers and exporters whose products are not subject to a specific reference price schedule, it has not been possible to provide exemption from the payment of anti-dumping duty. This aspect has been the subject of considerable correspondence between the Ministry and several regular importers.

It was intended, as part of the present review, to clarify the relationship between the existence of a normal tariff concession and liability for anti-dumping duty. In selecting the sample of imports (see paragraph 1.3.9 above) for the present review, imports of oil filters subject to concessionary entry were included and have been subject to investigation to determine whether or not they have been dumped. Concessionary imports comprise approximately 17 percent of total subject imports during the period examined.

Advice regarding the treatment under the Act of goods [including oil filters] imported into New Zealand under normal tariff concessions has been sought from the Ministry's legal section. This is a complex issue and is therefore still under consideration. In the present review, concessionary imports have been examined for the presence or absence of dumping on the basis that the NZ industry while not producing identical models does produce goods with characteristics closely resembling imported goods subject to concession.

2.2 NEW ZEALAND INDUSTRY

In the original investigation, the complaint was submitted by GUD while Sphinx declined to support the application but did provide information in respect of industry matters.

Sphinx similarly provided relevant information to the Ministry in the context of the 1996 review and has stated its support for the present review.

Information was sought from both GUD and Sphinx in respect of the existence or likelihood of material injury and of importations of subject goods that both companies had made during the review period.

Sphinx

Although during the period under review Sphinx did manufacture a range of oil filters in New Zealand it was also an importer of the goods under review (GUR) from Honeywell [previously Allied Signal] in the U.S.A.

At the time of the original investigation, the Act included at section 3a(2), a provision whereby a domestic producer who was also an importer of the subject goods was required to seek determination as a specified importer before they could be considered part of the domestic industry for injury purposes. Sphinx did not seek to be so determined and was therefore not deemed to be part of the New Zealand industry for the purposes of considering injury.

This same provision was still in effect at the time of the initiation of the previous review and as Sphinx once again did not seek to be determined as a specified importer it was likewise excluded in the consideration of the existence or likelihood of recurrence of material injury due to dumped imports in the absence of anti-dumping duties.

The "specified importer" provisions of the Act were repealed in the Dumping and Countervailing Duties Act Amendment Act 1994 and Sphinx has been considered in the current review as part of the New Zealand industry for the purposes of any assessment of potential material injury arising from dumped imports due to the termination of anti-dumping duties.

Sphinx has previously stated that it would be difficult for the company to be injured by imports of oil filters from the U.S.A. provided all such imports were made under the same conditions. During the review period Sphinx had an inbuilt flexibility which meant that it had the option of either manufacturing oil filters in its New Zealand plant, importing the filters Completely Built Up (CBU) or importing a generic filter and finishing and packing it for sale in the New Zealand market. The option taken in respect of each part number depended on commercial factors such as _____. This flexibility of sourcing meant that its range of imports and manufactured goods was constantly liable to change and the effects of prices of imports of U.S.A. filters by other market participants did not necessarily impact directly on the company's local production.

As noted in paragraph 1.3.5 above, Sphinx no longer holds the Honeywell licence and has therefore lost the flexibility that it previously enjoyed. Also, as noted above the manufacturing arm of Sphinx is now a separate legal entity that is currently involved only in the domestic production of filtration products.

During a visit to Sphinx in the latter stages of the review, the review team was advised by the CEO of the manufacturing operation that he _____ the retention of anti-dumping duties on oil filters from the United States.

GUD

GUD manufactures a variety of oil filters for the New Zealand automotive market. These range in application from passenger vehicles to the commercial and industrial vehicle markets. There are two types of oil filters manufactured and used in New Zealand; spin-on and cartridge or element types with the majority of sales being of the spin-on type.

At the time of the original investigation, GUD manufactured its entire requirements in New Zealand and due to the effect of (then) section 3a(2) of the Act on Sphinx was therefore deemed to be the New Zealand industry for the purposes of the investigation.

Prior to the initiation of the previous review GUD began importing subject goods from the U.S.A. The company was therefore required to and did seek determination as a specified importer before being considered as the New Zealand industry for the purposes of the 1995/6 review.

As noted above, GUD continues to be an importer of the subject goods from the U.S.A., however due to the repeal of the "specified importer" provisions it was not necessary to consider whether not the company should be treated as a New Zealand producer for the purposes of the current review.

New Zealand Industry

For the purposes of the investigation into the existence or likely recurrence of material injury due to dumped imports of the subject goods should anti-dumping duties be removed, it is considered that the New Zealand industry comprises both GUD and Sphinx.

2.3 IMPORTS OF OIL FILTERS

Import volumes of the GUR and like goods from other countries were obtained from New Zealand Statistics, INFOS data. The data used related to the tariff item and statistical key specified in 1.4.4 above. The table below shows the imports of oil filters, based on the information provided.

Table 2.1: Import Volumes
(Units)

Country	95/96	96/97	97/98	98/99	99/00
Australia	154,838	186,419	197,235	248,561	245,873
Subject Goods (US Origin)	532,358	626,422	433,535	455,699	441,651
Other Sources	809,717	903,552	938,341	1,021,077	1,065,532
Total Imports	1,496,913	1,716,393	1,569,111	1,725,337	1,753,056

Source: Statistics New Zealand INFOS Data

These figures indicate that imports of subject goods since the last review peaked in the 1996/97 year and have, overall, fallen since that time. Total subject goods imported in the review period (the 99/00 year) are significantly below those in the 1995/96-year. The review team also notes that the declining trend in subject goods imports shown in this table follows on from that found in the previous review.

The table above also indicates the growth in imports of oil filters from other sources, including Australia, since the last review. This trend is also a continuation of that which was noted in the previous review.

2.4 NEW ZEALAND MARKET

The New Zealand market for oil filters is made up of sales of New Zealand produced goods, imports of the GUR and imports from other sources including Australia.

The table below shows the total New Zealand market over the review period and is made up of the INFOS data referred to above and domestic production figures provided by the New Zealand industry. Australian imports are shown, as this is the major non-subject source of supply of oil filters into New Zealand.

Table 2.2: New Zealand Market
(Units)

1996/97	1997/98	1998/99	1999/00
---------	---------	---------	---------

GUD	CONFIDENTIAL			
Sphinx	CONFIDENTIAL			
Total NZ Production	Increase		Decrease	Increase
Imports				
- Subject Goods	626,422	433,535	455,699	441,651
- Australia	186,419	197,235	248,561	245,878
- Other Sources	903,552	938,341	1,021,077	1,065,527
- Total Imports	1,716,393	1,569,111	1,725,337	1,753,056
Total Market	Increasing			

3. REVIEW OF DUMPING

Section 3(1) of the Act states:

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

3.1 FINDINGS OF THE ORIGINAL INVESTIGATION

The original investigation established average dumping margins of 7 to 45 percent of export price, as follows:

Table 3.1: Original Dumping Margins
(Percent of Export Price)

	Allied	Fleetguard	Purolator	Total
Lines Dumped	133	157	36	326
Weighted Average Margin	7%	45%	22%	17%
Range	2 - 75%	2 - 196%	4 - 81%	2 - 196%
Volume Dumped	CONFIDENTIAL			

3.2 FINDINGS OF THE PREVIOUS REVIEW

The review completed in April 1996 found that overall the incidence of dumping had reduced in the interim and established the following margins:

Table 3.2: Margins established in Previous Review

	Honeywell	Fleetguard	ArvinMeritor	Total
- Lines Dumped	17	45	27	89

- Weighted Average Margin	7.50%	10.60%	13.10%	9.60%
- Range of Margins	2% to 59%	2% to 106%	3% to 35%	2% to 106%
- Volume Dumped	CONFIDENTIAL			

3.3 PURPOSE OF REVIEW OF DUMPING

The Ministry's "sunset" reviews are intended to determine whether the removal of the existing anti-dumping duties after the five year period would be likely to lead to the continuation or recurrence of dumping and of injury. Reviews are intended to establish whether there is a continued need for the imposition of anti-dumping duties. Questions to be asked are whether the goods under review continue to be dumped, the extent of that dumping and, where imports of the goods subject to anti-dumping duty have ceased, the likelihood of imports being made at dumped prices and thereby causing injury if anti-dumping duty is removed. The likelihood of dumped imports is considered in section 4.

3.4 EXPORT PRICES

Export prices are determined in accordance with section 4 of the Act which provides as follows:

(1) Subject to this section, for the purposes of this Act, the export price of any goods imported or intended to be imported into New Zealand which have been purchased by the importer from the exporter shall be —

(a) Where the purchase of the goods by the importer was an arm's length transaction, the price paid or payable for the goods by the importer other than any part of that price that represents—

(i) 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; and

(ii) Any other costs, charges, and expenses resulting from the exportation of the goods, or arising after their shipment from the country of export; or

(b) Where the purchase of the goods by the importer was not an arm's length transaction, and the goods are subsequently sold by the importer in the condition in which they were imported to a person who is not related to the importer, the price at which the goods were sold by the importer to that person less the sum of the following amounts:

(i) The amount of any duties and taxes imposed under any Act; and

(ii) The amount of any costs, charges, or expenses arising in relation to the goods after exportation; and

(iii) The amount of the profit, if any, on the sale by the importer or, where the Chief Executive of the Ministry of Economic Development so directs, an amount calculated in accordance with such rate as the Chief Executive of the Ministry of Economic Development

determines as the rate of profit on the sale by the importer having regard to the rate of profit that would normally be realised on sales of goods of the same category by the importer where such sales exist; or

(c) Where the purchase of the goods by the importer was not an arm's length transaction, and the goods are subsequently sold by the importer in a condition different from the condition in which they were imported, a reasonable price determined by the Chief Executive of the Ministry of Economic Development in the circumstances of the case.

Introduction

For the purposes of the review, the review team has established export prices on the basis of actual transaction values where these were available, with any adjustments required under section 4(1) of the Act made on the basis of actual values to the extent possible.

Sample

The sample established for the purposes of establishing the presence or otherwise of dumping during the review period included all oil filters exported to New Zealand during the year ending 31 May 2000 by Honeywell (Consumer Products Group), Fleetguard Inc. (including Fleetguard Australia) and ArvinMeritor Inc. The sample was established from all shipments entering New Zealand under tariff item and statistical key 8421.23.00 01b during the specified period irrespective of whether the goods entered under concession or not (further discussion of this point appears in section 2 of this report). The sample selected represents in excess of ___ percent of imports (by volume) during the review period.

Honeywell Consumer Products Group

Export Sales Distribution

During the review period all export sales to New Zealand by Honeywell were made to Sphinx Manufacturing Co. (Sphinx), Honeywell's licensee in New Zealand. The licensee agreement provided for the transfer of Honeywell manufacturing technology and expertise to Sphinx, and for the use of the FRAM brand trademark in the licensee territory of New Zealand and the Pacific Islands.

In addition to generic "unbranded" filters that were exported to Sphinx in bulk for subsequent finishing and labelling, the brands sold into New Zealand during the review period were FRAM and Defense. All the branded filters sold into New Zealand during the review period were identical to those sold in the U.S.A. domestic market. The unbranded filters, were the same as certain models of FRAM filters sold in the domestic (U.S.A.) market except for minor differences in the filter media used.

During the verification visit to Honeywell, the investigating team was advised that due to _____ the licensee agreement with Sphinx had been terminated with effect from early September. It has not as yet been settled as to how future sales to New Zealand will be carried out. One possible scenario is that Honeywell's Australian subsidiary, Holt Lloyd, will become responsible for the New Zealand market and that filter products will either be supplied direct from the U.S.A. or from Australian stocks depending on

order/shipping volumes. This is the distribution pattern followed by several other U.S.A. filter producers when selling into New Zealand.

Exports to New Zealand by Honeywell during the review period were subject to anti-dumping duty according to a comparison between the invoice price and a model specific schedule of reference prices established following the last review.

Base Prices

Export prices to Sphinx during the review period were based on an export price list (international distributor net prices) last amended in 1992, with prices expressed in US\$ FOB factory. Inland freight is prepaid to the point at which overseas shipment starts (based on landbridge operations whereby the ocean freight covers rail from the FOB point to Los Angeles and ocean freight from there to New Zealand). Some filters are subject to a specific "Sphinx" price list that has been negotiated between the parties. Carton volumes are in cubic feet and carton weights in pounds. Prices apply to standard carton quantities or multiples thereof.

As noted above, Sphinx purchases both "FRAM" and "Defense" branded filters and bulk unbranded filters from Honeywell. The latter filters are finished in New Zealand with various house brands and part numbers. No pricing distinction is drawn between branded and generic filters.

Prices to Sphinx are made up of the export price list less a brand specific discount of between ___ and ___ percent, representing both a 'bracket' and 'licensee' discount. The applicable discount rates are shown below. No discount is given on sales of bulk unbranded filters. Payment terms are _____ of Lading and shipping terms are _____.

Type/Brand	Discount
Defense	CONFIDENTIAL
Extra Guard	CONFIDENTIAL
Heavy Duty	CONFIDENTIAL
Racing	CONFIDENTIAL

Adjustments

Preparation for Export

Packaging

Export packaging differs between FRAM/Defense branded filters, which are individually shipped in an inner box and packed by the dozen in an outer carton, and bulk filters, which use the same outers but are packed by the dozen in 'egg carton' packaging.

The differences in packaging between FRAM/Defense branded and housebrand sales do not relate to export only, since similar packaging is used for sales to domestic customers. Any adjustment is therefore better dealt with as a due allowance under normal value.

Inland Freight

No adjustments were necessary for inland freight on sales to New Zealand. Overseas freight is paid from Cincinnati for Greenville shipments and the cost of trucking from the plant was considered to be negligible.

Credit Terms

Terms of sale to Sphinx are _____ whilst standard domestic terms are net _____. On the basis of the average prime rate (as provided by the Chase Bank) for the sample period of __%, the net adjustment factor to export price is ____% representing the difference in cost of credit.

Other Export Costs

As prices are FOB port of export, no further adjustments are required.

Fleetguard Inc

Export Sales Distribution

The main New Zealand importer, Cummins, places all orders through Fleetguard Australia. The bulk of these orders are made up of product supplied direct from the U.S.A. with small quantities being sent ex-store from Australia. Cummins has, since January 1995, been owned by the Cummins Engine Company (parent company of Fleetguard Inc). This relationship has not affected the nature of the trading relationship between Fleetguard Australia and Cummins.

Sales were also made during the review period to other New Zealand customers, International Trucks Australia Ltd and DaimlerChrysler NZ Ltd. Ordering and sales processes to these customers are the same as those used in relation to Cummins.

All invoicing and administrative functions in respect of the sales made to New Zealand are carried out by Fleetguard Australia. No commissions or other payments are made to Fleetguard Australia in respect of the sales to New Zealand. A Fleetguard manager located in New Zealand is responsible for product training, pricing and market development.

Base Prices

Fleetguard Australia primarily sells filters in New Zealand through Cummins, which is its "official" distributor and to several specific customers with whom it has a selling relationship in Australia. Some product also finds its way into New Zealand through other New Zealand importers sourcing from Fleetguard Australia's domestic customers.

The relationship between Cummins and Fleetguard Australia is based on normal commercial practice and transactions are made at arm's length. This is confirmed by the pricing to other New Zealand customers, which is the same as that to Cummins. Cummins is charged at prices taken from the Australian National Distributor Price List (ANDPL). This list is derived from the Fleetguard USA Distributor / Jobber Price sheets. Terms are strictly

_____. Fleetguard invoices on an FOB basis (in \$A) and all ex-factory and post-FOB costs are borne by the customer

Copies of Fleetguard USA Distributor / Jobber Price sheets covering the review period were supplied by Fleetguard USA.

The ANDPL represents an approximately ___% discount off the US distributor price list and takes account of the costs incurred in Fleetguard's selling arrangements. The ANDPL, which is expressed in Australian dollars, covering the review period was provided to the review team. For the purpose of establishing export prices, this list, converted to US\$ at the rate used by Fleetguard Australia in its establishment, has been taken as the base price. The use of these prices, throughout the review period, has been verified against a selection of invoices provided by Fleetguard for sales to New Zealand.

In calculating export prices, no distinction has been drawn between those goods shipped direct from the United States and those shipped from Australia. This was due to the use of the ANDPL prices, which take account of all relevant costs, as base prices and the relatively low number of filter types supplied from Australian stocks.

Adjustments

Preparation for Export

No adjustments have been made.

Other Export Costs

Fleetguard Australia supplied the review team with details of the costs, for each type of filter, for sea freight from the U.S.A. to Australia and other costs, referred to as "beyond factory costs" (BFCs). BFCs include; all customs agents' charges, inland freight, handling, storage, and administration incurred in transactions between the U.S.A. and Australia.

Both sea freight costs and BFCs are calculated on a standard cost system which is updated annually using actual costs from the previous 12 months as a base. The verified BFC amount was ___% of the transfer price to Fleetguard Australia and freight during the review period was at a standard rate of US\$___ per M3.

Adjustments have been made for each of these amounts. Freight has been allocated according to the cubic volume of each individual filter type.

No other adjustments have been made.

ArvinMeritor Inc

Export Sales Distribution

ArvinMeritor sells automotive oil filters in the New Zealand aftermarket through Pioneer Auto Parts (Pioneer) of Auckland. Filters sold to Pioneer are shipped to Mid America Overseas, Inc., a freight-forwarding agency located in Los Angeles for consolidation with product sourced from other suppliers.

There is no relationship between ArvinMeritor and Pioneer apart from that of exporter and importer.

Base Prices

Pioneer purchases off a special net price list that took effect in 1998. Pricing shown on this list has remained unchanged since 1995 and incorporates various distributor discounts previously given from ArvinMeritor's standard export price list. No adjustment, for this aspect is therefore required in the present review. The Pioneer price list provided by ArvinMeritor in its submission was cross-checked with Pioneer invoices for the review period.

Base prices used are those shown on the ArvinMeritor export price list, which in the case of sales to Pioneer are inclusive of the inland freight costs to Los Angeles.

Adjustments

Preparation for Export

Inland Freight

Export prices to Pioneer are inclusive of freight to its consolidator in Los Angeles. Comparative domestic sales are also made at a freight inclusive price and ArvinMeritor was unable to provide details that may have allowed an adjustment for differences between these two costs. Both export prices and normal values for ArvinMeritor have therefore been established at the freight inclusive level.

Credit/Cost of Credit

Pricing to Pioneer is on 60-90 day terms. The first half of the invoice amount is due within 60 days of the date of the invoice and the second half is payable within 90 days. The difference in cost of credit between the New Zealand importer and domestic customer has been accounted for as a due allowance in establishing comparative normal values.

No other adjustments have been made.

Other Export Costs

As invoice prices to Pioneer are net of all discounts, costs charges and expenses, no adjustments are necessary under this provision.

3.5 NORMAL VALUES

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

(1) Subject to this section, for the purposes of this Act, the normal value of any goods imported or intended to be imported into New Zealand shall be the price paid for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

Introduction

For the purposes of the review, normal values have been established on the basis of actual transaction values where these were available, with any adjustments required under section (5)(4) of the Act made on the basis of actual values to the extent possible.

Honeywell Consumer Products Group

Domestic Sales Distribution

Honeywell sells through various distribution channels, including Warehouse Distributors (WD), Warehouse (Government), Special Markets, Private Label (PL) and Retail. Warehouse Distributors sell to jobbers who on-sell to retailers and garages and the like; Warehouse (Government) is for sales to Government agencies; Special markets are principally the armed forces Post Exchanges (PX's), which are subject to a three year contract; Private Label sales are to customers for which Honeywell produces an own label or house brand.

Honeywell has no relationship other than that of a seller with any of its customers, and prices are based on arms-length transactions.

Base Prices

In the original investigation and in the previous (1995/6) review, an Allied Signal PL customer, Quaker State, was used for comparative purposes. This was on the basis that filters purchased by Quaker State were identical to FRAM branded filters except that they were printed with a Quaker State owned brand. Also, at that time the majority of exports by Allied Signal to Sphinx were of housebrand filters.

Quaker State is no longer a Honeywell customer, however the company had proposed that its major retail level customer, Pennzoil, be used for comparative purposes in this review. Pennzoil purchases both Honeywell branded filters (FRAM/Defense) and a line of own brand filters which are identical to the Honeywell brand filters in all respects other than the external painting and printing.

Details of the pricing and terms and conditions of sale to Pennzoil were provided to the investigating team. This included details of volume based incentives, growth and product transfer incentives and co-operative advertising funds.

The investigating team examined the basis upon which the Sphinx pricing, which except in respect of a few specific part numbers had not changed since April 1992, had been set. Although it was not possible to obtain corroboration, it appeared that the pricing and discount regime applicable to Sphinx had been based on an examination of market conditions in New Zealand and on either purchase volumes at that time or a projection of likely purchase volumes. Import volumes in the review period were significantly lower than those that were achieved at the time the current pricing and selling terms had been set.

The investigating team queried Honeywell as to the pricing levels that would likely be offered to a US domestic customer purchasing a similar volume of filters to Sphinx's current levels. It was found that these volumes would place such a customer at the lower levels (in terms of initial volume based discounts) of the existing Honeywell pricing policy whereas the

discount levels actually enjoyed by Sphinx are in the higher levels of that regime. Discount breaks are currently given at average order levels of \$1,500, \$3,000, \$6,000, \$12,000 and \$25,000. Sphinx's average order levels at the time its pricing was set averaged \$_____.

The proportion of branded filters exported to Sphinx is now far greater than the volume of unbranded filters indicating that it is more appropriate to compare Sphinx to a domestic customer in the WD category. Information relating to Honeywell WD customers whose volumes were broadly equivalent to those achieved by Sphinx at the time its current pricing was set (see 3.5.2.6 and 3.5.2.7 above) was therefore sought.

This showed that at Sphinx's 1992 import volumes they would be comparable to a "bracket 4" customer (annual sales in excess of US\$12,000). Honeywell provided details of 3 of these customers (_____.) Pricing to these customers was used as a basis for the dumping comparison.

Unbranded, bulk filters of the kind sold to Sphinx are not sold on the US domestic market, Honeywell has however provided information showing the equivalent FRAM brand filter for comparative purposes. Some physical adjustment for these filters is required.

Adjustments

Differences in Level of Trade

Base prices are at the same level of trade for both export price and normal value, so no further adjustment is required.

Differences in Terms and Conditions of Sale

Volume Discounts

Honeywell's domestic customers are accorded a percentage discount from published price sheets based on sales volumes that are in turn based on historical ordering patterns. These discounts relate only to branded products and differ depending on the brand concerned. In the case of a "bracket 4" customer, these discounts are:

- FRAM Extra Guard Oil Filters **CONFIDENTIAL%**
- FRAM Premium Filters* **CONFIDENTIAL%**
- All other FRAM Filters** **CONFIDENTIAL%**
- DEFENSE Filters **CONFIDENTIAL%**

* includes, Double Guard, Tough Guard and Racing filters

** Heavy Duty Oil

These discount rates have been applied as adjustments to the base prices used. Subsequent adjustments have been made on prices net of these discounts.

Domestic Freight

An adjustment of ___ cents per filter has been made for domestic freight from the distribution centres in Greenville Ohio and Clearfield Utah. This amount is based on the total average freight costs for all Honeywell products over the review period. A sample of the actual freight costs to some outlets was examined, however it was considered that since the customers being used for comparative purposes were widely dispersed, a total average cost of inland freight should be used.

Returns and Credits

A due allowance of ___% has been made for Honeywell's warranty programmes. These programmes, which form part of the standard Honeywell contract to this level of trade allow for a given annual percentage of returns to be reimbursed to the customer and as such form part of the selling price. Details of actual returns over the review period were provided to the review team.

This provision is not made on export sales to Sphinx therefore it represents a difference in terms and conditions which affects price comparability between the two markets. The due allowance made has been based on the proportion of total domestic sales value represented by the value of actual returns over the period of investigation.

Differences in Taxation

No adjustment was necessary in this respect.

Other Differences

Differences in Packaging

As noted above, the packaging of bulk packs differs from that of branded filters. Allowance was made in both the original investigation and, at a substantially reduced rate, the previous review, for the cost differences that this represents. After discussion with Honeywell during the verification visit it was agreed that in the present review the cost difference between the "egg carton" used for bulk packs and the individual packaging used for branded products was negligible and no adjustment was therefore required.

Promotional Assistance

The Honeywell standard terms and conditions include an accrued co-operative promotional fund calculated at ___% of purchase value on FRAM branded product only. For FRAM branded heavy-duty filters the rate of accrual is ___%. No accrual is allowed on Defense brand filters.

Although this assistance is not a direct debit from invoice prices, it has been allowed as the level of actual benefit is directly related to sales volumes of subject goods. Due allowance has been made according to product type.

Bulk Filter Equivalents; Physical Differences

Some physical differences do exist in respect of the unbranded filters sold to Sphinx as compared to their domestic equivalents. These differences relate to the filter media used and to external finishing (paint, labels etc). It has not however been possible to ascertain the specific cost differences in all cases. Where comparative cost information is available due allowance has been made.

Fleetguard Inc

Domestic Sales Distribution

Fleetguard Inc sells aftermarket filters primarily through distributors (Cummins Engine Company and independents), and through OEM dealers. For the purposes of the review, the distributors are considered to be at the same level of trade as the New Zealand importer. Orders are shipped to the distributor or in some cases direct to major customers such as fleets or mines, but the invoicing is through the distributor, this equates to the situation with Fleetguard Australia and Cummins in New Zealand. As noted in the export price section, Cummins, the New Zealand importer is owned by Fleetguard's parent company. A similarly owned domestic distributor, Cummins Diesel Sales and Service of Arlington, Texas (Cummins TX) was selected for comparison purposes. In neither case does the ownership influence the nature of the transaction or pricing.

Base Prices

Prices to domestic distributors are based on US Cost Schedules, copies of which have been provided with effective dates of, 4 August 1997, 4 January 1999, and 3 January 2000. The latter two of these documents cover the review period. The US Cost Schedule includes three price levels dependent on the volume of sales. The first level applies to orders up to \$5,999, the second level applies to orders of \$6,000-\$9,999, and the third level to sales over \$10,000.

Shipments to New Zealand are typically greater than \$_____, the sample invoices provided show shipments of \$_____ to \$_____, and the third level prices are therefore the appropriate level for comparison with export prices. Third level prices are those charged to Cummings TX.

A ___ percent volume discount is given on sales to Cummins TX (and to other similar sized customers) and base prices have been reduced by this amount. Adjustment calculations have been based on prices net of this discount. Both prices and the discount were confirmed from invoices.

Adjustments

Differences in Level of Trade

There are no variations in the cost schedule for levels of trade other than the basic three price levels for which adjustment has already been made; no further adjustment is therefore necessary.

Differences in Terms and Conditions of Sale

Credit

Invoice examples show payment terms are net 30 days from invoice, although for orders valued at over \$30,000, payment terms of 30-60-90 days are provided. For the purposes of the comparison, the terms have been taken as 30 days. Because the payment terms for export sales are also 30 days, no adjustment is necessary.

Differences in Taxation

No adjustments are required to take account of differences in taxation.

Other Differences

Inland Freight

Inland freight charges in the US are prepaid on orders of 300 lbs or more, with freight from Fleetguard's Distribution Centre to the customer covered by the arrangement. Fleetguard provided documents showing the average cost of freight for national sales as ____% of sales and an adjustment of this amount has been made.

Promotional Expenditure

In order for a due allowance to be made for promotional expenditure, it must be demonstrated that the cost incurred is directly related to the price of the sale or sales under consideration and must be known to the purchaser at the time of sale.

Fleetguard runs seasonal promotional programmes in spring, summer and autumn, under which discounts are offered on certain filter models. Each programme runs for a specified period. During the review period, programmes of this type were run in summer 1999, spring and summer 2000, discounts of _% were offered on 8 filter models under each programme. The level of discount has been verified from invoices. The criteria outlined in paragraph 3.5.3.9 above are therefore met.

An allowance of .____% has been made on the prices of those filters covered by the programmes to reflect the impact of this discount. This has been calculated by annualising the discount rate then calculating the percentage represented by the number of days each programme ran.

ArvinMeritor Inc.

Domestic Sales Distribution

ArvinMeritor sells to warehouse distributors and national accounts. The sales to national accounts are to large retail store chains, which purchase from ArvinMeritor for their own company-owned retail outlets. This channel comprises the major part of ArvinMeritor's sales of oil filters. ArvinMeritor also sells to the OEM market sector.

None of the warehouse distributors or national accounts has associations with ArvinMeritor, and the review team is satisfied that the transactions are at arm's length.

Base Prices

The warehouse distributor channel is considered to be the most appropriate for the purposes of the comparison between normal values and export prices. Invoices for sales to Thompson Warehouse (Thompson), a warehouse distributor located in New Jersey, for the sample period, together with copies of its distributor agreement with ArvinMeritor were provided to the review team. Thompson had been used in both the original investigation and the previous review for the purpose of comparison.

During the last review, it was noted that the volumes of filters sold to Thompson were greater than those sold to Pioneer. However, on the basis of similarity of function, and in the absence of a more exact "match" in volume terms, Thompson was accepted as an appropriate basis for comparison. Substantial adjustments were made to ensure a fair comparison. The disparity of volumes between Thompson and Pioneer is even greater during the current review period.

The review team did attempt to identify a more appropriate comparison customer in the warehouse distributor level in terms of volume, however as noted above a limited amount of information was available. Consequently, Thompson has once again been used for comparative purposes in this review.

Sales to the warehouse distributor level of trade and subsequently to Thompson are based on a standard Domestic Warehouse Distributor Price list. Sales to Thompson are on a Free-into-store (FIS) basis. Copies of this list were provided to the review team, and have been used, together with invoices for sales to Thompson, at or close to the same time as export sales made to Pioneer as the basis for establishing normal values.

Adjustments

Differences in Level of Trade

As stated above, the warehouse distributor level was established as being the appropriate level of comparison with Pioneer, based mainly on functional criteria. No adjustments were necessary to take account of level of trade and adjustments have been made for volumes below.

Differences in Terms and Conditions

Volume Discounts

ArvinMeritor provides Thompson a volume discount of ___% on Purolator brand automotive product and ___% on Purolator brand heavy-duty products. In both cases the qualifying level for these discounts is an order of 500 units or more. A volume discount of ___% is allowed on Group 7 products. Group 7 and Purolator orders can be combined to qualify for the respective discounts. The take up of these discounts was verified from the Thompson invoices.

Pioneer orders over the review period were consistently above the 500 units which would have been required to qualify, had they been a domestic customer. Due allowance has therefore been made at the levels noted above according to brand.

Inland Freight

Export prices have been calculated at point to which freight is prepaid (Los Angeles). Normal values are based on FIS prices. Inland freight costs have not been provided to allow

adjustments for either domestic or export prices. Comparative normal values are therefore inclusive of inland freight to, in the case of Thompson, New Jersey.

Cash Discount

Thompson is provided with a cash discount of _% of net sales value for equal payments made on a 30-60-90 day basis. This was accepted as a standard adjustment provided to all domestic customers and laid out in the standard terms and conditions of sale. A due allowance to take account of these terms has been made.

Cost of Credit

The credit terms for export sales to Pioneer are effectively 60 days from date of invoice. Information provided to the review team on current rates of corporate borrowing in the United States showed an average prime rate of ____%. On that basis, a due allowance of ____% of net invoice price has been given to account for the difference (30 days) between the export terms and the terms of sale noted above.

Returns

ArvinMeritor allows Thompson returns up to the value of _% of previous year's sales. Returns could reflect over-ordering or inventory rationalising by a distributor. Returns must be in saleable condition, and the policy applies to Purolator brand only.

The original investigation included an allowance of _% for this programme and a ____% allowance was made in the previous review. In both cases, these rates of allowance were based on verified information regarding actual costs to the producer under this scheme. In the current review, information to enable the calculation of the amounts actually paid to Thompson Warehouse during the review period under this programme was not available. The review team was however satisfied that such payments had been made and an allowance of _%, being the lower of those which had been previously given based on verified information has been made.

Inspect & Destroy

ArvinMeritor operates an Inspect and Destroy (I&D) programme for both brands of oil filters. This programme covers, for example, filters that may be defective or damaged in transit.

In the last review, an allowance of ____% was made on the basis of actual verified values of I & D goods for Thompson in the sample period. In the current review, ArvinMeritor provided the review team with information on oil filters inspected and destroyed for the month of September 1999. The review team was able to verify this amount and a credit memo showing this payment was uplifted from ArvinMeritor.

The review team is satisfied that payments were made to Thompson under the I&D programme during the current review period, but in the absence of information relating to the total volume of sales and complete evidence of inspected and destroyed oil filters, the review team has reverted to the verified allowance given in the last review.

Differences in Taxation

No allowance is necessary to take account of differences in taxation.

Other Differences

Sales Commissions

Domestically, ArvinMeritor operates through manufacturer's agents, who take orders and help customers manage their inventories and generally liaise with customers. The agents are paid on a commission basis of ___% for Purolator brand and ___% for Group 7 oil filters. Adjustments at these rates have been allowed following verification of payments made. The review team also uplifted a copy of the commission report, which provided proof of payments made to agents during the review period. Due allowance has been made at the rates specified.

New Store Allowance

ArvinMeritor allows Thompson a % discount on two orders per year of Purolator brand to support all new stores, warehouses, and other miscellaneous events. A Purolator brand order receiving the % discount is limited to \$_____. Requests for this allowance must be submitted with the order and any request made after an order is shipped will not be honoured. The payment is made as a credit against specific Purolator part numbers, and is not available for Group 7 products ArvinMeritor provided evidence of actual payments made to Thompson under this scheme and a due allowance has been made.

Government Sales

A claim was made for an incentive programme for sales to government agencies. This adjustment is known to the purchaser at the time of purchase and has a direct effect on the purchase price of the goods.

ArvinMeritor provided the review team with information on government rebates paid to Thompson for the month of March 2000. The review team was able to verify this amount and a credit memo showing this payment was uplifted from ArvinMeritor.

The review team is satisfied that payments under this programme were made to Thompson during the review period, however, in the absence of information relating to the total volume of sales and the total of payments made under this programme during the current review period, the review team has reverted to the verified due allowance rate of ___% given in the previous review.

Lifts

During the course of the verification visit, ArvinMeritor claimed a further due allowance for the costs associated with the purchase of competitor products where this is necessary to enable its wholesale customers to obtain new retail clients. This amount, which has a direct effect on the actual purchase price of goods is known to the purchaser at the time of purchase and is therefore accepted. The first \$100,000 of the warehouse lift is paid to distributors such as Thompson, in the form of a cheque and the balance in the form of credit

In conjunction with the warehouse lift, ArvinMeritor provides distributors with a free goods order valued at \$100,000 based on current warehouse distributor prices and consisting of Purolator brand oil filter models; L10111, L10241, L20123, L20173, L30001 and L34631. The review team uplifted a credit memo relating to a lift payment for the month of May 2000.

The review team is satisfied that payments were made to Thompson under the warehouse lift programme during the review period, however, in the absence of information relating to total sales volumes to Thompson and of total payments made under this programme, the review team has reverted to the verified due allowance rate of ____% given in the previous review.

Disallowed Adjustments

ArvinMeritor requested due allowance for various items which had been given in the previous review but which have been disallowed in the current review. These were;

- Incentive Marketing Allowance (Group 7 products) - no evidence was offered showing the current applicability of this allowance
- Jobber Incentive Allowance - no evidence was offered showing the current applicability of this allowance

2-4-6 Promotion Allowance - no evidence was offered showing payments made to Thompson Warehouse under this programme during the review period

3.6 COMPARISON OF EXPORT PRICE AND NORMAL VALUE

In order to establish whether or not dumping has been present during the review period and the extent of any such dumping, a comparison of the export prices as established in section 3.4 of this report and the normal values established in section 3.5 has been made.

The range of dumping margins established for each of the suppliers specifically investigated in this review was:

Table 3.3: Margins established

	Honeywell	Fleetguard	ArvinMeritor	Total
Current Review				
- Lines Dumped	75	37	19	131
- Weighted Average Margin	53.79%	14.76%	7.13%	39.33%
- Range of Margins	2% to 104%	2% to 213%	2% to 61%	2% to 213%
- Volume Dumped	CONFIDENTIAL			

Weighted average dumping margins established were:

Honeywell	53.79%
Fleetguard	14.76%
ArvinMeritor	7.13%
Overall	39.33%

3.7 CONCLUSIONS RELATING TO DUMPING

The review team concludes that automotive oil filters from the United States continue to be dumped. In all, 48 percent (by volume) of filters imported into New Zealand from the United States during the review period were found to have been dumped. This represents a decrease of seven percent in the proportion of dumped goods since the last review.

Comparison of the results of the current review as shown above to those of the previous review shows that the overall incidence of dumping, as measured by the number of dumped lines, has increased over the review period. Individually, the incidence of dumping for Fleetguard and ArvinMeritor has decreased, while Honeywell has shown a significant increase. A table showing the comparison of the above results to those of the previous review and the original investigation is given below.

Overall weighted average dumping margins have likewise increased over the review period with only ArvinMeritor showing a decrease in this aspect. The range of dumping margins has increased across the board.

The overall volume of dumped goods has reduced some 15 percent since the last review and is now at a level that is approximately 54 percent of the last full year examined in the original investigation. Of the three suppliers specifically investigated, only ArvinMeritor shows a significant decrease in volume of dumped goods since the previous review whilst Fleetguard has increased slightly and Honeywell has shown a significant increase.

The caveat noted in section 1 of this report regarding the status of draft verification reports and dumping calculations is however noted. In the absence of specific feedback from the suppliers concerned, the results outlined above and summarised in the table below, which were contained in the Interim Report released to all parties have been confirmed.

Table 3.4: Comparison of Current Review Results to Previous Results

	Honeywell	Fleetguard	ArvinMeritor	Total
Current Review				
- Lines Dumped	75	37	19	131
- Weighted Average Margin	53.79%	14.76%	7.13%	39.33%
- Range of Margins	2% to 104%	2% to 213%	2% to 61%	2% to 213%
- Volume Dumped	Increased	Increased	Decreased	Decreased
Original Investigation				
- Lines Dumped	133	157	36	326
- Weighted Average Margin	7%	45%	22%	17%
- Range of Margins	2% to 75%	2% to 196%	4% to 81%	2% to 196%
- Volume Dumped	Decreased	Decrease	Increase	Increase
Previous Review				
- Lines Dumped	17	45	27	89

- Weighted Average Margin	7.50%	10.60%	13.10%	9.60%
- Range of Margins	2% to 59%	2% to 106%	3% to 35%	2% to 106%
- Volume Dumped	Increased	Increase	Decrease	Decrease

4. INJURY INVESTIGATION

4.1 FINDINGS OF ORIGINAL INVESTIGATION

The original investigation into the dumping of oil filters from the U.S.A, finalised on 27 November 1992, found:

- that the import volumes of the dumped goods had increased significantly in both absolute terms and in relation to production and consumption in New Zealand;
- that the dumped goods had undercut prices of domestic producers and had contributed to price suppression; and

that the dumped goods had consequently contributed to declines in output, sales, market share, gross profits and utilisation of production capacity in the industry.

4.2 FINDINGS OF PREVIOUS REVIEW

The previous review of the continued need for the imposition of anti-dumping duties, completed on 16 April 1996, found:

- the volume of dumped imports had decreased in absolute terms and relative to consumption and production in New Zealand;
- dumped imports may have been undercutting GUD's prices but the evidence was not conclusive;
- GUD's prices had been neither depressed nor suppressed;
- the volume of sales by GUD had declined but had remained virtually static in value terms, but that this was not due to dumped imports;
- GUD's market share had decreased but this was attributable to imports from other sources and to an overall increase in the market size;
- profits achieved by GUD's manufacturing operation had decreased but this was not due to dumped imports;
- GUD's utilisation of capacity had declined slightly but this was not due to dumped imports, and
- there had been no injurious factors relating to GUD's return on investments, employment levels or inventories.

In respect to the threat of a recurrence of injury should anti-dumping duties be removed, the review found:

- there was a likelihood of a significant increase in volumes of lower priced, dumped US imports;

- such imports would be likely to result in price depression and suppression as well as further compounding the probability of price undercutting, leading to an increase in demand for further imports;
- increased imports of lower priced US filters would be likely to bring about a decrease in output and sales volume, profit and market share;
- the likely decreases in profit arising from the effects of increased imports would be such as to call into doubt the continued future of GUD, and

the industry would likely suffer decreases in capacity utilisation and return on investments, and adverse effects on employment levels

4.3 INJURY FOR THE PURPOSES OF A REVIEW

Section 8 of the Act deals with injury to industry and states:

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

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

(2) Without limiting the generality of subsection (1) of this section, and without limiting the matters that the Chief Executive of the Ministry of Economic Development may consider, the Chief Executive of the Ministry of Economic Development shall have regard to the following matters:

- (a) The extent to which there has been or is likely to be a significant increase in the volume of imports of dumped or subsidised goods either in absolute terms or in relation to production or consumption in New Zealand:
- (b) The extent to which the prices of the dumped or subsidised goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers:
- (c) The extent to which the effect of the dumped or subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have been likely to have occurred:
- (d) The economic impact of the dumped or subsidised goods on the industry, including—

(i) Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and

(ii) Factors affecting domestic prices; and

(iii) The magnitude of the margin of dumping; and

(iv) Actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments

The Ministry interprets these provisions to mean that injury is to be considered in the context of the impact on the industry arising from the volume of the dumped goods and their effect on prices. This is consistent with Article 3 of the Agreement.

Section 13 of the Act provides:

... the Minister shall make a final determination as to whether or not, in relation to the importation or intended importation of goods into New Zealand, —

(a) The goods are being dumped or subsidised; and

(b) By reason thereof material injury to an industry has been or is being caused or is threatened or the establishment of an industry has been or is being materially retarded.

Although this section relates specifically to investigations rather than reviews, its meaning, i.e. that any material injury or threat thereof found must be caused by reason of the dumping of goods, is also applicable to reviews.

Threat of Injury

The provisions of Articles 11.2 and 11.3 of the Agreement which, respectively, relate to reviews generally and to "sunset reviews" specifically are set out in paragraph 1.2.3 above.

In considering injury in the context of a review, account must be taken of the fact that the intention of the imposition of anti-dumping duties is to remove the injury resulting from the dumping of goods. Thus, the investigation of injury in a "sunset" review looks at the situation that could be expected to apply should anti-dumping duties be removed. This necessarily results in considering the threat of injury. Article 3.7 of the Agreement states in part:

A determination of threat of injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent¹⁰

¹⁰ One example, though not an exclusive one, is that there is convincing reason to believe that there will be, in the near future, substantially increased importation of the product at dumped prices.

An analysis of the likelihood of the continuation or recurrence of injury requires a similar level of evidence and care as is required in determining threat of injury; i.e. it should be based on facts and not merely on allegation, conjecture or remote possibility

The present review is for the most part being undertaken due to the application of section 14(9) of the Act and the effect of the additional clarification provided by Article 11.3 of the Agreement. It is therefore differentiated from the previous review in so far as Article 11.3 infers a necessity to clearly demonstrate that, "... the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury" [emphasis added]. Some guidance regarding the interpretation of the phrase "would be likely" has been provided by the New Zealand Court of Appeal which interpreted the phrase to mean "a real and substantial risk..., a risk that might well eventuate" (Commissioner of Police Vs Ombudsman [1988] 1 NZLR 385). The Ministry considers that this adds a further dimension to the situation envisaged by Article 3.7.

In addition to the factors set out in paragraph 4.3.1 above, and in the context of Articles 3.7 and 11.3 of the Agreement, the review team also noted the additional guidelines accepted by the GATT Anti-Dumping Committee, as laid out in Article 3.7, viz.:

In making a determination regarding the existence of a threat of material injury, the authorities should consider, inter alia, such factors as:

- (i) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;
- (ii) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the importing Member's market, taking into account the availability of other export markets to absorb any additional exports;
- (iii) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- (iv) inventories of the product being investigated.

No one of these factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further dumped exports are imminent and that, unless protective action is taken, material injury would occur.

Where information was available on these matters they are discussed under the appropriate headings in the report.

The review team also notes that the test to be applied in respect of the likelihood of material injury is a positive one, i.e. whether material injury caused by dumping is likely (refer paragraph 4.3.8 above) to continue or recur in the absence of anti-dumping duties. The continuation of an anti-dumping remedy cannot be recommended on the basis that the Ministry is not satisfied that these events will not occur (i.e. a negative test).

Basis of Consideration of Material Injury

It should be noted that the Ministry bases its consideration of material injury on the effects of the various indices on the total New Zealand industry. In the case of a review, the

consideration of the likelihood of material injury should anti-dumping duties be removed is made on the same basis.

In this particular review, the comments made above (refer paragraphs 2.2.4 to 2.2.7) regarding the current makeup of the New Zealand industry as compared to its makeup in the original investigation or the previous review are relevant. The effect of the inclusion of Sphinx as a full industry participant will impact on the Ministry's consideration of the likelihood of a recurrence of material injury.

4.4 IMPORT VOLUMES

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

The figures for the volume of dumped goods considered in this section of the report are based on the proportion of subject goods identified as dumped in section 3.7. In that section it was noted that 48 percent of imports of the subject goods during the YEM 2000, were dumped.

The following table sets out the volume of imports of dumped subject goods over the review period together with New Zealand production and consumption volumes.

Table 4.1: Import Volumes
(000 units)

	1996/97	1997/98	1998/99	1999/00
Dumped Imports	292,286	202,286	212,627	206,073
Other Imports	1,424,107	1,366,825	1,512,710	1,546,983
NZ Production		Increase	Decrease	Increase
Total NZ Market		Increasing		
Change in				
- Dumped Imports	-	-90,000	10,342	-6,555
- Other Imports	-	-57,282	145,884	34,274
- NZ Production	-	Increase	Decrease	Increase
- Total NZ Market	-	Increasing		
Dumped Imports as % of:				
- NZ Production	-	Decrease	Static	
- NZ Consumption	-	Decrease	Static	

Final anti-dumping duties were imposed on imports of the GUR in November 1992. Since then the volume of dumped subject goods has decreased significantly and for the year ended

May 2000 the overall volume of dumped imports was 85 percent of those found to be dumped at the time of the previous review.

In relation to production and consumption in New Zealand, the volume of dumped imports has shown a significant decrease. For the 1999/00 year, dumped subject goods represented only ___ percent of New Zealand production, compared with the ___ percent found in the previous review. In the 1999/00 year, dumped subject goods represented _ percent of New Zealand consumption as compared to _ percent at the conclusion of the 1995/96 review.

Volume Effects Should Duties be Removed

GUD, in its initial submission on behalf of the New Zealand industry stated that if the current anti-dumping duties were to be removed from imports of US oil filters imports of these goods would increase by between 30 and 45 percent. With the overall New Zealand market for oil filters unlikely to increase dramatically in the near future, any such increase would, GUD claimed, impact adversely on domestic production.

GUD has been unable to specifically support this contention, other than with comment and market information in respect of the present situation relating to the importation and distribution of Honeywell's FRAM brand products in New Zealand, reference to the situation in the market prior to the imposition of anti-dumping duties and to recent changes in the importing and distribution practices of several of the smaller US suppliers.

Honeywell/FRAM

The effects of the circumstances relating to Honeywell and the FRAM brand in New Zealand are discussed elsewhere in this report and it cannot be denied that this is a major factor impacting on the New Zealand market.

Much of the information provided to the review team by GUD was anecdotal in nature and whilst account has been taken of it, the review team has also had the opportunity to obtain comment from other parties more directly related to the present situation.

Two aspects which GUD did raise with the review team once the termination of Sphinx's relationship with Honeywell became known to them, were the possibility of transfer-pricing between Honeywell and its Australian subsidiary, Holt-Lloyd and the possibility of the distribution of FRAM branded product throughout New Zealand by either

_____ or _____.

Whilst the possibility of transfer pricing cannot be discounted, the review team has no information regarding the likely pricing structure of any sales which might occur between Honeywell and Holt-Lloyd. It is also noted that as discussed elsewhere in this report, it is likely to be some time in the future before any final decisions are made by either Honeywell or Holt-Lloyd regarding the future servicing of the New Zealand market. It would therefore be inappropriate to base any conclusions on such temporary arrangements as may have been made at present.

Comment is made below regarding the possibility of distribution of FRAM brand products by either _____ or _____.

Pre-Dumping Duty Situation

The review team does not consider that a comparison to the situation existing prior to the original imposition of anti-dumping duties is valid due to the significant changes that have occurred both in the New Zealand economy generally and the oil filter market in particular. These changes have been highlighted in previous investigations into oil filters and other automotive products (tyres, batteries) and include; inter alia the closure of motor vehicle assembly facilities in New Zealand and increased volumes of used vehicles, the combination of which has significantly altered the nature of the New Zealand vehicle fleet and consequently the oil filter market.

Also, as noted elsewhere in this report, the structure of the New Zealand industry, has itself altered with the inclusion as an industry participant in this review of Sphinx for the first time. Looking forward, in this respect the more recent alterations to Sphinx's position will result in further, as yet unknown, changes to both industry and market dynamics.

Importing and Distribution Practices

GUD has noted the establishment of distribution facilities in Australia by Donaldson Filters and its request for the granting of a large number of normal tariff concessions as indicating that company's preparedness to increase its New Zealand presence. Likewise, Champion has been identified by GUD as being an aggressive market participant.

Donaldson is currently a strong participant in the heavy-duty sector of the New Zealand market using both U.S.A sourced filters and filters produced in a joint venture facility in Indonesia. GUD is of the opinion that were anti-dumping duties to be removed, Donaldson would become "another player in the light category market".

This may well be the case, but it is noted that the purpose of anti-dumping duties is to prevent material injury due to dumped imports rather than to prevent imports themselves. Comment is made later in this section regarding ease of access to the New Zealand market and although Donaldson is an established supplier to the heavy-duty sector it would face the same difficulties as are noted elsewhere in entering another, and more price sensitive sector of the New Zealand market.

GUD considers that the trade level pricing of Champion filters is indicative of an aggressive market participant and one which would seek to capitalise on changes arising from the removal of anti-dumping duties by an increased level of imports.

Market pricing of Champion product is commented on in paragraphs 4.5.6 and 4.5.7 below. Although it cannot be verified, the tenor of the submission made by Diesel Services, indicates that although it is seeking market growth it sees this as limited by both the market size and the segment of that market which it currently operates in.

In its submissions, Sphinx has identified market changes with respect to a number of its customers who previously sourced their entire requirements from either domestic production or from established importers but who are now involved in direct importation. These "new" importers are however sourcing product from Asian or European sources rather than the U.S.A.

Sphinx considers that this demonstrates a move in the market away from purchasing on the basis of known (mainly U.S.A.) brands to a more price driven purchasing pattern. If this is the case then US filters that traditionally command a brand-based premium will become less attractive to purchasers.

Other factors identified by the New Zealand Industry

In more recent discussions, both GUD and Sphinx have highlighted factors other than dumping in respect of US import volumes and have hypothesised that these factors may in fact mitigate against any increase arising from the termination of the existing duties. The other factors identified by the industry are in respect of the effect of "cheap" imports from other sources and the present \$US/\$NZ exchange rate. Imports from other sources are commented on in section 4.7 of this report however the exchange rate issue is briefly covered in the paragraphs below.

In assessing the threat of injury and the possibility of increased volumes of U.S.A sourced imports should anti-dumping duties be removed, the following factors should be taken into account:

- Whether there is sufficient freely disposable capacity of manufacturers and exporters of US oil filters to substantially increase exports to New Zealand, if demand were to increase;
- Whether the main importers of US oil filters in the local market are well established and have distribution networks throughout the country that could easily cope with increased volumes of dumped goods;
- Whether an importer can easily enter the local market and add to the competition already existing.

The existence of these factors would indicate that there is both the availability of supply and the distribution systems in place to cater for any significant increase in the volume of imports from the U.S.A entering the market, should this occur.

Capacity of US Manufacturers and Exporters

The industry application indicated that the capacity of the US oil filter industry is huge. The review team was not provided with any specific information regarding disposable capacity in the US industry but was informed by each of the producers visited that they would have no difficulty in meeting any New Zealand orders. The size of the New Zealand market in relation to the production of the US plants ensured this.

These comments also relate to the question of inventory. From the information made available to the review team by US suppliers, they, like the New Zealand producers do not manufacture large quantities of filters for inventory purposes but instead are in effect contract manufacturers.

Obviously, both the US producers and the New Zealand industry are able to forecast sales to some extent and subsequently do hold some stocks of popular filter types in order to maintain short lead times for their customers. This means that for the most part, inventory is not held which might be made available to the New Zealand market at short notice. As noted above

and elsewhere in this report, product is available for export but would be subject to normal lead-times.

Based on the information made available, the review team considers that there is sufficient freely disposable capacity for US oil filter manufacturers and exporters to substantially increase exports to New Zealand.

Ability of Current Importers to Handle Increased Imports

The value and quality of the major brands of US produced oil filters is well established with consumers in the New Zealand market. The main New Zealand importers of those brands are likewise well established and have distribution networks throughout the country that could easily cope with increased volumes of US imports, should demand for these oil filters increase.

Honeywell

As previously noted, throughout the review period and since the original investigation and imposition of anti-dumping duties, Honeywell (previously AlliedSignal) has been the major supplier of US produced oil filters. The termination of the licensee relationship between Honeywell and Sphinx and the difficulties leading up to that termination has disrupted the New Zealand market and created to some extent a "supply vacuum" which is unlikely to be filled in the immediate future.

The options available to Honeywell, which were discussed with the review team during its verification visit to Danbury, are detailed elsewhere in this report, but one prerequisite for the continued or increased presence of the FRAM brand in New Zealand is the availability of an established countrywide distribution system. In this respect, the New Zealand market is seen by most participants spoken to as "mature" with little opportunity being available for a new distributor to become established.

There are at present three major distributors of oil filters in New Zealand. These are Repco Merchants Ltd, Diesel Services Auckland and Brake and Transmission NZ Ltd. In addition to these three major distributors, the New Zealand market is serviced through a number of other, smaller distributors such as Partmaster and Pioneer Equipment Ltd and through the distribution networks of the larger motor vehicle companies such as Ford, Holden and Nissan.

Repco Merchants Ltd

Repco is a division of Pacific Dunlop Holdings (NZ) Ltd, and has, for some time been the major customer of GUD. As such in the main the filters distributed and sold by Repco are of New Zealand manufacture. The review team was informed, at a late stage in the review process, that _____.

In these circumstances, it is not unlikely that some pressure could be brought to bear on Repco to seek distribution rights for the FRAM brand in New Zealand.

Brake and Transmission NZ Ltd

B&T was for the majority of the review period, Sphinx's major customer and distributed FRAM brand filters, which as previously noted could be either NZ or U.S.A. produced. With the demise of Sphinx as Honeywells' licensee, and the desirability of Honeywell maintaining the high visibility of its FRAM brand in New Zealand, one of the options available is for B&T to begin direct importation and distribution of the brand.

Diesel Services Auckland Ltd

Diesel Services Auckland Ltd (DSL) is the primary New Zealand importer and distributor of U.S.A produced Champion Luber-Finer brand oil filters, and is therefore unlikely to seek the distribution rights for FRAM.

Partmaster

Partmaster has in the past imported Purolator brand product through third parties and these imports were, arguably, one of the drivers of the original investigation into oil filters from the U.S.A. The company was not an interested party to the present review but did make a submission to the now terminated investigation into the dumping of oil filters from Asian sources. The information contained in that submission indicates that _____.

Other Distributors

Comment is made elsewhere regarding Pioneer's current circumstances with respect to its importation and sale of US sourced oil filters. Pioneer did make a submission to the review regarding its current US imports and once again,

_____.

Submissions were made to the Asian investigation by one of the major motor companies, Nissan, however, they were not approached for comment in respect of the present review.

_____.

Fleetguard

As noted in the dumping section of this report, Fleetguard's main customer in New Zealand is Cummins, which has a well-established specialist distribution system that could easily cope with increased demand, should it arise. Fleetguard also makes sales on a fairly regular basis to International Truck Australia Ltd and to DaimlerChrysler New Zealand Ltd. Fleetguard has advised the review team that it is unlikely to seek additional distributors in New Zealand.

ArvinMeritor

ArvinMeritor sourced oil filters are "officially" sold only to Pioneer, and import volumes have declined steadily since the imposition of anti-dumping duties in November 1992. Pioneer has advised the review team that although it would like to increase its imports of US oil filters (from all three of its suppliers) the realities of the New Zealand market (see comments in section 4.7 regarding imports from other sources) are such that this would be extremely difficult.

As noted elsewhere, parallel imports of ArvinMeritor filters into New Zealand have in the past also been made via third parties in what the company describes as a "grey market". During the review period, this does not appear to have been the case.

Conclusion

The above factors indicate that in general terms, there is both the availability of supply and the distribution systems in place to cope with a large increase in oil filter imports of U.S.A origin into New Zealand, should anti-dumping duties be removed and imports increase substantially as a result. In addition, the review investigation has confirmed that dumping of oil filters by US suppliers is continuing.

What is not clear, is the situation regarding exports in the near or medium term future by Honeywell, traditionally the largest supplier of filters to New Zealand from the U.S.A.

Ease of Entry into the Market

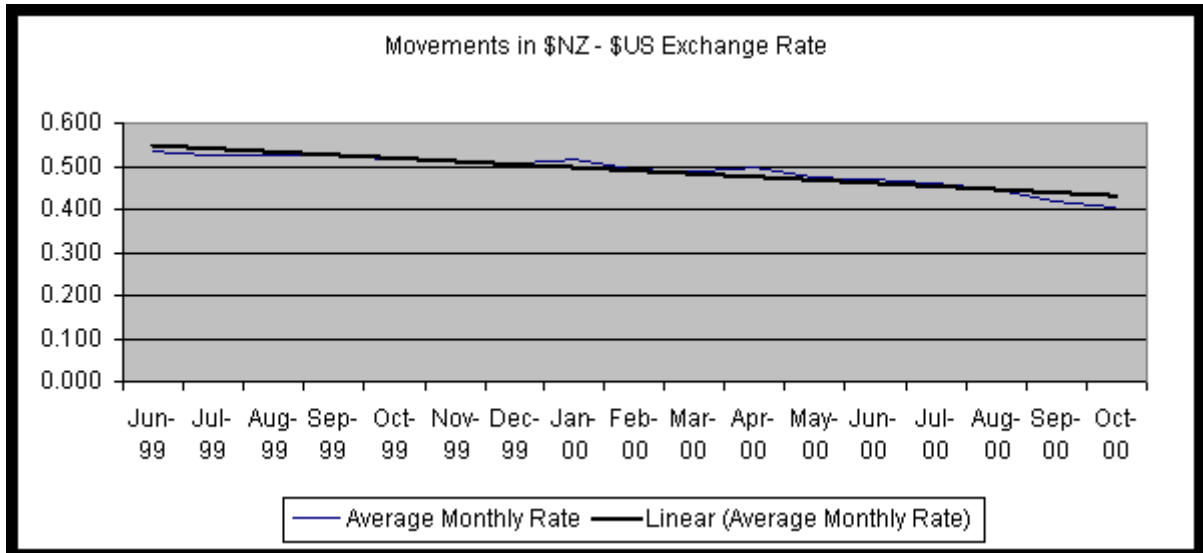
As noted above in paragraph 4.4.27, the major brands of US oil filters are well established and well accepted in the New Zealand market. However, as noted in paragraph 4.4.29, the market is seen as being "mature" in respect of national distributors and the likelihood is that a new entrant would find it difficult to establish a viable distribution network for filters from less well known sources.

The New Zealand market itself also provides a degree of "protection" from new entrants. Due to the small size of the New Zealand market, any intending supplier must be able to offer a full range of filtration products covering the diversity and proliferation of vehicle types in the New Zealand vehicle fleet. For the most part, individual U.S based vendors are unable to meet this requirement.

US\$ – NZ\$ Exchange Rate

A further consideration in respect of the assessment of the likelihood of an increase in import volumes of dumped subject goods from the U.S.A. in the absence of the current anti-dumping duties is the level of the exchange rate between the US and New Zealand dollars. At present levels, the sourcing of product from the U.S.A is not an attractive option for New Zealand importers.

The following table based on Oanda interbank exchange rates over the review period and through to the end of October 2000, shows the declining value of the New Zealand against the US dollar. Since June 1999 the average of the monthly interbank exchange rates has declined from 0.534 to 0.402. In these circumstances, with oil filters being sold and invoiced in \$US the cost of imports from this source has risen significantly.



As a demonstration of the effect of the declining exchange rate on import levels, exchange rate is noted in paragraph 2.2.8 as one aspect taken into consideration by Sphinx when deciding whether to import or manufacture a particular filter type. As exchange rates have worsened, the mix of imports vs. domestic manufacture has, to the extent possible due to production limitations, moved in favour of the latter. The adverse exchange rate is also an aspect that was identified by GUD as possibly mitigating against any increase in US imports.

Similarly, Pioneer and other importers identified exchange rate as a major reason for reduced levels of current imports and it was commented upon in the same vein by each of the three US suppliers to which verification visits were made. Pioneer stated in its submission that it had been _____.

_____.

_____.

_____.

_____.

Whilst it is not possible for the review team to predict future exchange rate trends, current rates plus the pattern of orders combined with the lead times for supply of oil filters tends to indicate that at least in the foreseeable future, import volumes are unlikely to increase whether or not anti-dumping duties are continued.

Conclusion on Import Volumes

On the basis of the information in Table 4.1 above, and the information contained in the final report on the previous review, the review team notes that overall since the imposition of anti-dumping duties in November 1992, there has been a decrease in the volume of imports of the subject goods. The review team is satisfied that over the period since the last review, imports of oil filters from the U.S.A have decreased absolutely.

In respect of dumped imports from the U.S.A, the decreasing trend found in the previous review regarding the proportion of dumped goods has continued. Volumes of both dumped

US oil filters and total US imports have declined in both absolute and relative terms over the same period. This suggests that the existing anti-dumping duties have had an effect on the volume of imports.

As to the likelihood of increased imports of dumped subject goods should anti-dumping duties be removed, the Ministry considers that particularly with respect to Honeywell, the situation is insufficiently clear to arrive at a definitive conclusion.

There is clear evidence that there is both an availability of supply and distribution systems in place to cope with any change in demand for oil filters from any source. At the same time, adverse exchange rates are noted as being a significant disincentive to the increased importation of the subject goods in the short to medium term.

The combination of the ongoing difficulties related to the distribution of Honeywell products in New Zealand, adverse exchange rates and increasing competition from other sources, (see section 4.7 of this report for further specific discussion of this aspect), tends to indicate that the volume decreases noted in each of the investigations/reviews related to US filters will be sustained in the foreseeable future.

Article 3.7 of the Agreement requires that a threat of material injury be both clearly foreseen and imminent. As noted previously, the Ministry considers that this requirement should be assiduously applied in review situations. In the present case, should anti-dumping duties be removed, the likelihood of increased imports of dumped goods is neither clearly foreseen nor imminent.

4.5 PRICE EFFECTS

Price Undercutting

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

Price undercutting reflects the extent to which prices for the imported goods are lower than those of domestic products. In considering price undercutting, the Ministry will normally seek to compare prices at the ex-factory and ex-importers' store levels, to ensure that differences in distribution costs and margins do not confuse the impact of dumping.

Accordingly, the prices of dumped imports and domestic production are compared at the point of first competition in New Zealand, i.e. the first point of sale in the New Zealand market. These will normally be the ex-factory price for goods produced in New Zealand and the importers' ex-store price for imports. This approach ensures that differences in distribution costs and margins do not confuse the impact of dumping, and recognises the levels of advantage which will occur irrespective of dumping if imports enter the New Zealand market at a different level of trade from that of the domestic product. This approach therefore compares importers prices, including relevant selling and administration costs, which involve similar cost elements to those in the New Zealand manufacturers' selling price, but not including cost elements relating to the distribution of goods.

The purpose of the price undercutting comparison is to establish whether or not there is price undercutting attributable to dumping. It should be noted that the determination that price undercutting exists is not by itself a determination of the extent of injury, i.e. the margin of price undercutting is not a measure of the extent of economic impact on the industry. This impact is to be measured in terms of the factors and indices set out in s.8 (2)(d) of the Act, including any actual or potential decline in output, sales, market share, profits, productivity, return on investments and utilisation of production capacity.

The nature of the product concerned in this review is such that a full, product to product price undercutting comparison would be extremely difficult to complete and the results would be of limited value in evaluating injury or potential injury to the industry as a whole. The importers who have provided submissions have taken this same position and none has provided sufficient detail to enable such a comparison to be made even for the limited number of filter models that have been found to be dumped.

This was also a factor commented on in both the original investigation and the previous review. The outcome of the gross comparison that was made in the 1995/6 review was a possible undercutting margin of _ percent. Due to its basis, however, this result was considered to be inconclusive.

In its application, GUD referred to market intelligence which suggested that prices of oil filters imported from Champion Luber-Finer by DSL were being sold into the trade level at prices which were undercutting GUD's prices for equivalent products. The claims made by GUD were supported with wholesale pricelists and an estimate of a pricing build-up from importation.

The submission received from DSL did not contain sufficient detail to enable a valid comparison to be made between the estimates made by GUD and actual data provided by DSL. The submission did however indicate that

_____ those hypothesised by GUD. Similarly, an estimate of ex-store prices based on the landed costs provided by DSL indicates that

As was the case in the previous review, Sphinx was the only importer that provided sufficient information for the purpose of an undercutting comparison. While the company also manufactures oil filters in New Zealand, and its production arm now constitutes a full part of the New Zealand industry, it also represents the usual situation outlined above, where buyers at the next level of trade (i.e. the trade level) have the choice between purchasing imported (U.S sourced) oil filters ex-store from Sphinx or domestically produced filters ex-factory from GUD.

A comparison has been made between the average ex-factory unit prices provided by both GUD and Sphinx for its domestic produced lines and the average ex-store price provided by Sphinx for several of its imported lines. A comparison has also been drawn between the average ex-factory price for Sphinx's domestically produced cartridge and spin-on types and the imported equivalent, these comparisons are shown in table 4.2 below.

Table 4.2: Price Undercutting Comparison
1999/00

	All Types	Spin-On	Cartridge
GUD Average Price		CONFIDENTIAL	
Sphinx Average Domestic Price		CONFIDENTIAL	
Industry Average		CONFIDENTIAL	
Sphinx Average Import Price		CONFIDENTIAL	
Undercutting amount		CONFIDENTIAL	
Undercutting %	-	-	CONFIDENTIAL

This information shows that in the 1999/00 YEM, prices of Sphinx's US imports did not undercut either GUD's, its own or the industry average prices when the comparison is made across the total ranges in all cases. The information does show undercutting of some _ percent in respect of cartridge type filters, once again when the comparison is made at this gross level.

Considerable caution is required in drawing any conclusions from this comparison. Available information is extremely limited in respect of both industry and import pricing information, the selling prices and dumping margins found on individual filter types vary considerably, there are many models of oil filters involved in the trade, and the range of domestic filters sold may not be fully equivalent to that of imports.

Conclusion

From the limited information provided by importers of the goods subject to review, the review team considers that there is an indication that prices of domestically produced oil filters may, on an individual model basis, be being undercut by the subject goods. However, the existing anti-dumping remedy has the effect of removing injury due to the dumping of oil filters from the U.S.A, and accordingly any price undercutting cannot necessarily be attributed to dumping, although the caveats referred to in paragraph 4.5.11 also apply to this conclusion.

Price Depression

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

Price depression occurs when prices are lower than those in a market unaffected by dumping, usually in a previous period and refers to reductions in prices that have been made by domestic producers in order to deal with competition from prices of dumped goods.

In the case of a review, the assumption made is that the existence of a remedy has had the effect of removing injury due to dumping. On this basis, a period covered by anti-dumping duties meets the general requirement of being a market unaffected by dumping.

The previous review, which used this methodology, found that GUD's average prices had increased by _ percent since the imposition of anti-dumping duties. As Sphinx was not considered to be part of the New Zealand industry at that time, no analysis of price depression was done on its prices.

In the present review, both GUD and Sphinx have provided information to enable the calculation of average prices over the period since the last review. The same caveats that are noted above regarding averaging across the full filter range apply to these calculations and to the conclusions drawn.

The following table shows the gross average price information provided by GUD and Sphinx together with an industry average.

Table 4.3: Average Selling Price Per Unit
(\$/Unit)

	1997/98	1998/99	1999/00
GUD	Increasing		
As % of 1997/98	Increasing		
Sphinx	Increase		Decrease
As % of 1997/98	Increase		Decrease
Industry Average	Increase		Decrease
As % of 1997/98	Increase		Decrease

The figures given in table 4.3 show that for GUD, average prices have increased steadily over the majority of the review period. For Sphinx, a _ percent reduction in average selling price is indicated in the 1999/00 year as compared to the previous year. The Sphinx price shown for the 1999/00 year is however _ percent higher than that achieved in the 1997/98 year.

On an industry wide basis, average prices have increased overall since the 1997/98-year.

In response to the Interim Report, which contained table 4.3 above, GUD made the following comments.

To compare the Average Selling price per unit across the years ignores the effect of product mix and price variation between certain types of filters depending on their construction and complexity.

We wish to point out that through the years under consideration, certain filters (e.g. Z334, Z313) have grown in popularity as the New Zealand car park has changed. Note that the Domestic Oil Filter Sales sheets (from which table 4.3 was developed) show those filters which were "new on list". Specifically, these filters fit lighter diesel vehicles and there is no doubt that the numbers of smaller (Japanese) diesel cars and light commercial vehicles on New Zealand roads has increased over the last 3 – 5 years. Added to this is the effect of price, in that these filters contain two elements and are effectively two filters in one. This makes them more costly to produce and they consequently sell at significantly higher prices.

So, including these filters in increasing numbers has artificially lifted the average selling price of oil filters sold by GUD and creates the impression which is shown in the draft report that GUD has been able to ___ its average selling prices for oil filters.

A more accurate and realistic analysis is obtained by comparing prices over the years of a consistent selection of filters.

GUD has provided tables showing sales details of a selection of 13 filter types over the period from 1997/98 to 1999/2000 (years ending May). This information has been used to prepare the comparison shown in table 4.4 below.

Table 4.4: Average Revenue; Selected Filters
\$/Unit

Filter Type	1997/8	1998/9	1999/00
Z9			
Z79			
Z191A			
Z142A			
Z101			
Z148X			
Z115			
Z56B			
Z130			
Z101			
Z125			
Z335			
Z30			
Average			
Average as % of 1997/98			

CONFIDENTIAL

This comparison shows almost the same trend as was found in table 4.3 using the gross figures albeit at lower pricing levels. Average sales revenue for individual filter types has fluctuated but in most cases the trend is _____ from 1997/98 and _____ in the following two years. The overall average for the 13 filter types shown is similarly _____ from 1997/98 and _____ between 1998/99 and 1999/2000.

Applying the figures from table 4.4 to the calculation used to produce the industry average shown in table 4.3 has little effect on those results.

As noted above, where remedies are in place, price depression arising from dumping of the goods under review would not be expected unless for some reason the conditions had changed and the remedy was no longer effective. In this case the effect of the remedy is to remove the element of dumping from US imports and, *ceteris paribus*, no price effect would be expected.

Conclusion

On an industry basis, the average selling price for domestically produced oil filters shows no evidence of price depression.

GUD has demonstrated some degree of price depression on certain filter types but the average for the range selected does not reflect this.

Average prices for Sphinx, show some price depression in the 1999/00 year but, given the existence of anti-dumping measures on US filters, the review team concludes that this reduction in average price is due to other factors.

Price Suppression

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

Price suppression occurs when price increases for the domestic product that would have otherwise occurred, are prevented due to the dumped imports. Such price increases could be in response to increases in costs, or changes in supply or demand for a product.

The previous review found that over the period examined GUD experienced a ___ percent increase in its gross margin per unit, for oil filters but that it also experienced a slight drop in gross margin as a percentage of sales over the same period.

The current review has been able to examine trends in the pricing and costs of both GUD and Sphinx over the review period. Table 4.5 below shows average selling prices, gross margins and gross margin as a percentage of sales on a per unit basis as well as changes in each of these indices for GUD, Sphinx and the overall industry.

The information shows that GUD's gross margin per unit has _____ throughout the period, _____ the trend noted in the previous review. Sphinx, which was not part of the previous review (in respect of injury), has experienced a _____ in gross margin per unit since a strong growth in 1997/98. The combined effect of this has been an industry wide reduction in gross margins per unit.

The table also shows a similar pattern in respect of gross margin as a percentage of sales.

Costs of production figures show that both GUD's and Sphinx's costs have _____ over the period leading to an overall rise for the industry.

Average selling prices are shown as having increased overall throughout the period, although Sphinx has experienced a small reduction in the 1999/00 year, which is reflected in the industry average.

Table 4.5: Gross Margins
(\$/Unit)

	1997/98	1998/99	1999/00
Average Selling Prices			
- GUD			

CONFIDENTIAL

- Sphinx		CONFIDENTIAL
- Industry	Increase	Decrease

As % of 1997/98

- GUD	-	CONFIDENTIAL
- Sphinx	-	CONFIDENTIAL
- Industry	-	Decrease

Cost of Production

- GUD		CONFIDENTIAL
- Sphinx		CONFIDENTIAL
- Industry		Increasing

As % of 1997/98

- GUD	-	CONFIDENTIAL
- Sphinx	-	CONFIDENTIAL
- Industry	-	Increasing

Gross Margin/Unit

- GUD		CONFIDENTIAL
- Sphinx		CONFIDENTIAL
- Industry		Decreasing

As % of 1997/98

- GUD	-	CONFIDENTIAL
- Sphinx	-	CONFIDENTIAL
- Industry	-	Increasing

Gross Margin as % of Sales

- GUD		CONFIDENTIAL
- Sphinx		CONFIDENTIAL
- Industry		Decreasing

As % of 1997/98

- GUD		CONFIDENTIAL
- Sphinx		CONFIDENTIAL
- Industry		Decreasing

In response to the Interim Report, in which GUD was shown to have experienced an _____ in gross margin and gross margin per unit, in addition to providing the (unverified) amended figures now shown in table 4.5 above, GUD has noted,

...we believe the analysis of GUD's gross margin and gross margin/sales is also _____.

The reported _____ in GUD's gross margin and gross margin to sales percentage is more a function of product mix than anything else. Coupled with this, the added effect of production rationalisation also complicates the analysis of gross margin. An example of this can be seen in filters Z334 and Z313 which we once imported but which have progressively begun to be manufactured in-house as the period under review has progressed.

As these filters have also significantly increased as a proportion of the total, so the gross margin can be expected to change.

On this basis, we believe that the statement " _____ ", is _____.

Using the information provided by GUD in its response to the Interim Report, the review team has prepared the following table showing the gross margin % (Net Sales Revenue less Direct Costs over Net Revenue) for the 13 filter types specified by GUD.

Table 4.6: Gross Margins for Selected Filters
% of Revenue

Filter Type	1997/8	1998/9	1999/00
Z9	CONFIDENTIAL		
Z79			
Z191A			
Z142A			
Z101			
Z148X			
Z115			
Z56B			
Z130			
Z101			
Z125			
Z335			
Z30			
Average			

\$ per Unit

Filter Type	1997/8	1998/9	1999/00
Z9	CONFIDENTIAL		
Z79			
Z191A			
Z142A			
Z101			
Z148X			
Z115			

Z56B
 Z130
 Z101
 Z125
 Z335
 Z30
 Average



Once again, although the values are lower, as would be expected from the basis used, the trend shown is essentially the same as that indicated by the gross figures.

Applying the GUD average unit values shown in table 4.6 to the comparison shown in table 4.5 has little effect on the industry results.

In respect of the comment regarding its costs of production which is noted in paragraph 4.5.33 above, GUD's post Interim Report comments were as follows.

Regarding costs of production, we would suggest that various factors will have impacted so that the statement " over the " requires clarification, if the reader is not to be misled.

In particular due consideration needs to be taken of the diesel filters which were originally imported but which have been rationalised to in-house manufacture. As stated above the higher costs of these more complex filters in greater numbers considerably distorts the picture

Taking the "Direct Costs" (which GUD has defined as being "Direct Material and Direct Labour only") information provided to the review team by GUD as part of its comments on the Interim Report and calculating it to a per unit basis using the "Units Sold" figures also provided shows the following.

Table 4.7: Direct Costs per Unit for Selected Filters

Filter Type	1997/8	1998/9	1999/00
Z9			
Z79			
Z191A			
Z142A			
Z101			
Z148X			
Z115			
Z56B			
Z130			
Z101			
Z125			
Z335			
Z30			



Average

By and large, this information indicates that for most of the selected filters the direct costs have _____ over the period since 1997/98. One filter, the _____, shows a _____ that has resulted in the overall average for those filters included showing a _____.

Applying the average figure shown in table 4.7 to the comparisons shown in table 4.5 does not alter the trend of the industry results.

Conclusion

As noted previously, in a market where a remedy is in place it is assumed that injury due to dumped imports will not occur. The outcome of the previous review reflected this. The current review has shown some price suppression both for the individual producers and for the industry overall during the review period reversing the trend indicated by the last review. With anti-dumping duties in place the trends noted are considered to be due to factors other than the dumping of oil filters from the U.S.A., some of these factors have been identified by the industry itself.

Likelihood of Price Effects Should Duties be Removed

In assessing the threat of injury should duties be removed from US imports, consideration should be given to:

- the possibility of imports entering New Zealand at prices that would have a significant depressing or suppressing effect on domestic prices, and would be likely to increase demand for further imports

In the present review the industry has provided very little detail regarding the potential consequences of the removal of the existing anti-dumping duties on prices.

In its application and subsequent correspondence the industry (primarily GUD) has made general statements to the effect that the removal of anti-dumping duties would result in increased imports, which would in turn result in lower prices across the market. In making these statements, GUD has referred to pricing behaviour in the period preceding the original imposition of anti-dumping duties and to "market information" regarding the pricing behaviour of one importer.

The comments made at paragraphs 4.4.7 to 4.4.11 and at 4.5.6 above in respect of the market information provided by GUD in support of its claims are relevant here also. The pricelists and pricing build-ups provided by GUD in respect of Champion/Luber Finer and DSL did not reflect the situation shown by the submission made by DSL itself. The industry has agreed that the primary driver of market pricing in New Zealand at present is oil filters imported from Asian sources.

The conclusions reached in section 4.4 above are that there is both the availability of supply from the U.S.A. and existing distribution networks in New Zealand that are able to handle any increase in exports. The conclusion is also reached that due to the ongoing uncertainty regarding Honeywell the situation is insufficiently clear to arrive at a definitive conclusion

regarding the likelihood of increased imports. Current US –NZ exchange rates are noted as being a substantive disincentive to imports in the near or medium term future.

In the course of both the previous and current reviews it has been found that the pricing of exports to New Zealand is largely determined by the prices achieved in the major export markets that the US producers supply. Exports to New Zealand are peripheral in price setting principally because of the small size of sales to the market. In a general sense it is reasonable to expect that dumping will continue and price changes which could affect the level of dumping or otherwise will be decided by market forces in major US export markets and the US domestic market.

Should the cost of exporting to New Zealand change as a result of the removal of anti-dumping duties, it is considered unlikely that export prices reflecting the reduced costs of importation would follow, at least in the foreseeable future.

In so far as importers are concerned, any reduction in the costs of importation which might arise from the termination of the existing anti-dumping duties would be likely to be retained in order to recover losses in margin which it is claimed have been brought about by competition from other sources.

This is supported by the submissions made by Pioneer who stated
_____. Pioneer has provided details of its profits etc
_____.

Conclusion on Price Effects

The review team concludes that while imports from the US may be undercutting GUD's prices the information is not conclusive. No evidence of price depression has been found and the limited degree of price suppression is considered to have been caused by factors other than the dumping of oil filters from the U.S.A.

In regard to the likely outcome should the anti-dumping remedies be removed, the Ministry concludes that, at least in the short to medium term future, there are unlikely to be increased volumes of dumped imports.

In the absence of clear evidence of the likelihood of increased imports of dumped goods and in view of continuing reductions both in the proportion of dumped goods and the overall volumes of U.S.A sourced filters found in successive reviews it cannot be concluded that a recurrence of the adverse price effects last identified in 1992 would result from the removal of anti-dumping duties from US oil filters.

4.6 ECONOMIC IMPACT

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

(i) Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and

(ii) Factors affecting domestic prices; and

(iii) The magnitude of the margin of dumping; and

(iv) Actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

Output and Sales

The previous review found that GUD's sales volume had declined by _____ percent and that in value terms it had remained relatively static. The review also found that the loss of volume was due to factors other than dumped US imports, namely changes in the makeup of the New Zealand vehicle fleet and increased imports of non-dumped goods.

In the present review it has been possible to examine the output (for domestic sale) and sales of both GUD and Sphinx. The following table shows these figures together with those for the total industry.

Table 4.8: Domestic Sales

	1997/98	1998/99	1999/00
Units (000)			
- GUD	CONFIDENTIAL		
- Sphinx	CONFIDENTIAL		
- Industry Total	Decrease	Increase	
Change on Previous Year			
- GUD	-	CONFIDENTIAL	
- Sphinx	-	CONFIDENTIAL	
- Industry Total	-	Decrease	Increase
\$000			
- GUD	CONFIDENTIAL		
- Sphinx	CONFIDENTIAL		
- Industry Total	Increasing		
Change on Previous Year			
- GUD	-	CONFIDENTIAL	
- Sphinx	-	CONFIDENTIAL	
- Industry Total	-	Increasing	

These figures show that over the review period, GUD has once again experienced a small decrease in sales and output in volume terms while remaining relatively static in value terms. Sphinx, over the same period has shown strong growth in both volume and value. The almost

static nature of the total industry volume figures reflects the combined results of the industry participants whilst the overall increase in value terms shows the effect of Sphinx's growth on the industry.

Movement in Output and Sales Should Duties be Removed

As noted elsewhere in this report, GUD's output has been affected over the review period by rationalisation between this country and Australia and its sales have been affected by increased competition from low cost Asian sources.

Sphinx at the same time has experienced growth in both sales and output. This growth will, in the short to medium term be affected by the loss of its relationship with Honeywell and consequently of the sales of those FRAM branded filters, which it previously manufactured in New Zealand.

In these circumstances it would be unreasonable to assume that overall, output and sales by the New Zealand industry may remain static or decline. However, given the findings made regarding the likelihood of increased imports and the fact that volume increases have not occurred whilst anti-dumping duties have been in place it would be equally unreasonable to assume that this situation would be adversely affected by the removal of those duties.

In its response to the Interim Report, GUD makes the following comment, which tends to further support the thrust of the statements made above and which introduces the aspect of a changing product mix.

Where as some consideration has been given in the report to the effect that product rationalisation has had on GUD's output, the effect of change in filter popularity by part number seems to be overlooked. Specifically many of the oil filters we have listed in our "Domestic Oil Filter Sales" summaries are in market _____ due to the fact that they fit older model vehicles, and are being superseded by filters which we predominantly source from Australia.

It is our belief that the equivalents of these newer part numbers (which we source from Australia) are made by _____ and this would account (at least to some extent) for their _____ over the period.

When our imports of these filters from Australia are added into our sales volumes the reported fall off in GUD's domestic sales shown in table 4.5 (now table 4.8) is effectively nullified.

In reporting these comments the review team notes that the analysis of output and sales for the purposes of the assessment of material injury and the threat or likelihood thereof relates only to goods produced in New Zealand for domestic sale and any "switch" to overseas sourcing is in fact indicative of an "other factor" affecting the New Zealand industry.

Conclusion on Output and Sales

The New Zealand industry has continued to experience reductions in overall volume output in a market "protected" from the effects of dumped US imports. Sales revenue has at the same time shown a modest increase. In view of the lack of volume and price effects of dumped imports, it is considered that imports of oil filters from the U.S.A are not currently causing any decline in output or sales.

The review team considers that it is likely that if the industry in the medium term experiences some degree of reduction in output and sales this will be due to pressure from other imports (see 4.7.1 to 4.7.16) and recent changes in the makeup of the New Zealand industry.

The review team also notes the statements made by GUD regarding the impact of rationalisation, product mix and market developments as indicating factors other than dumping which have and will continue to affect output and sales by the New Zealand industry.

It is, however, also considered likely that, at least in the short term, demand for domestic products arising from the uncertainty which currently exists in respect of the future distribution arrangements for Honeywell, traditionally the largest US supplier of oil filters into New Zealand, and the effects of adverse exchange rates for importers of US goods, may improve the position of the domestic industry.

Market Share

The analysis of market share must take account of changes in the growth of the market as a whole. A decline in the share of the market held by the domestic industry in a situation where the market as a whole is growing will not necessarily indicate that injury is being caused or is threatened to the domestic industry, particularly if the domestic industry's sales are also growing.

In this particular case the factors identified in paragraphs 4.3.11 and 4.3.12 regarding the makeup of the New Zealand industry and in paragraph 4.6.8 regarding the basis of industry analyses should be borne in mind.

The previous review found that the total New Zealand market had increased substantially over the review period and that GUD's share of the market as well as that held by dumped imports had decreased significantly over the same time. Market share held by imports from other sources were found to have increased markedly.

The following table shows movements in market share over the last three years:

Table 4.9: Market Share
(000 Units)

	1997/98	1998/99	1999/00
Dumped Imports	202	213	206
Other Imports	1,367	1,513	1,547
GUD Production	CONFIDENTIAL		
Sphinx Production	CONFIDENTIAL		
Total NZ Market	Increasing		

Change in
Volume:

- Dumped Imports	-	10	-7
- Other Imports	-	146	34
- GUD Production	-	CONFIDENTIAL	
- Sphinx Production	-	CONFIDENTIAL	
- Total NZ Market	-	Increasing	

Percent Share Held By:

- Dumped Imports	Static	
- Other Imports	Increase	Static
- GUD Production	CONFIDENTIAL	
- Sphinx Production	CONFIDENTIAL	
- Total NZ Production	Decrease	Static

This shows that the New Zealand market has continued to grow since the last review albeit at a slower rate. As noted in respect of output and sales, GUD’s production has continued to fall whilst Sphinx’s’ production has increased.

On an industry basis, market share has reduced over the review period, indicating that it has not benefited from market expansion.

Movement in Market Share Should Anti-Dumping Duties Be Removed

Neither GUD nor Sphinx has provided any detailed forecast of the effect of the removal of existing anti-dumping duties on future market shares. GUD has however commented that it feels that there is little growth left in the market and any increase in imports from any source would be at the expense of domestic production.

The review team has found that for various reasons increased imports of US filters, whether dumped or otherwise, are neither clearly foreseen nor imminent. Any increase in import volumes is therefore more likely to be from other sources and therefore unaffected by the continued imposition of the existing anti-dumping duties.

Conclusion on Market Share

The New Zealand industry has experienced a decrease in market share during the review period. The market share of the goods subject to review has remained static over this period albeit at a considerably lower level than was the case in the previous review, continuing the trends that have been found since the original imposition of anti-dumping duties. The

decrease in market share experienced by the industry and the dumped goods since 1992 has been in the context of a rising market and coincides with the increased market share gained by imports from other countries. The review team concludes that dumped goods are not currently causing any decline in the market share held by the New Zealand industry.

The review team considers that the removal of the current anti-dumping duties would not lead to an increase in US imports and that any continued reduction in the market share held by the New Zealand industry is likely to be due to undumped imports.

Profits

The previous review found that GUD's EBIT for manufactured oil filters has decreased steadily since 1993 both on a per unit basis and as a percentage of revenue.

The current review has examined profit information provided by both GUD and Sphinx covering the review period. The information provided by the industry is shown in table 4.10 below.

The table shows that GUD's profit levels _____ markedly in the 1998/99 year and has _____ in the 1999/2000 year. Sphinx's results in this area have _____ over the review period. This is the case in both per unit and percentage of revenue terms.

The comments made in the preceding paragraph should be treated with some caution due to the figures shown in table 4.10 below having been based on the gross figures provided by GUD and Sphinx. The same caveat as is noted in relation to average prices above is applicable here to the extent that profits realised on particular part numbers vary greatly both at present and historically over the currency of the existing anti-dumping duties.

The effect of these individual results is shown as being an overall decrease in profit levels across the industry.

Following release of the Interim Report, and as noted previously, GUD provided the Ministry with amended financial result figures to those used in preparing the net profits table shown in that report. These amended but unverified figures have altered some aspects of the table and of the comments made.

Table 4.10: Net Profits Before Interest and Tax
(June Years, \$000)

	1997/98	1998/99	1999/00
GUD			
- Revenue			
- Net Profit			
- Percent of Revenue			
- Net Profit per Unit			
- Net Profit as % of 1997/98	-		
Sphinx			

CONFIDENTIAL

CONFIDENTIAL

- Revenue		
- Net Profit		
- Percent of Revenue		
- Net Profit per Unit		
- Net Profit as % of 1997/98	-	CONFIDENTIAL
Total Industry		
- Revenue		Increasing
- Net Profit	Increase	Decrease
- Percent of Revenue	Increase	Decrease
- Net Profit per Unit		Decreasing
- Net Profit as % of 1997/98	-	Decrease

Movement in Profits Should Duties be Removed

Other than generalised comments, neither of the industry participants provided a forecast of their likely financial performance should duties be removed.

GUD did state that its present financial performance was heavily dependent on its export sales to associated companies in Australia, which currently constitute some ___ percent of its volume. The continuation of this activity is however predicated on the continued viability of the company as a producer on the domestic market. GUD goes on to note that were domestic sales to be further reduced, its parent company may review "the need for its investment and therefore the logic of having any physical presence in New Zealand". These same types of comments were noted in the previous review.

The review team has no basis on which to hypothesise in respect of the likely future financial performance of Sphinx (Engineering) following the structural and other changes which that company has recently undergone.

Conclusion on Profits

The review team has found that profit levels enjoyed by GUD _____ in the 1998/99 year and have _____ in the 1999/2000-year. The results indicated for Sphinx show a similar pattern.

On an overall industry basis, a decrease of some ___ percent in net profit levels has been noted between the 1997/98 and 1999/2000 years. Per unit profit levels have shown a similar decrease on this basis.

Although these results are significant, in view of the lack of either volume or price effects due to dumped imports, it cannot be concluded that dumped imports have caused any decline in profit levels.

Applying a positive test, the review team concludes that no evidence has been produced or found indicating that any further reduction in industry profit levels following removal of anti-dumping duties could be attributed to dumped US imports.

Productivity

No information was provided by the New Zealand industry regarding its productivity, either at present or in the absence of anti-dumping duties.

Return on Investments

The previous review found that GUD's return on investment (ROI) over the period since the imposition of anti-dumping duties had been reasonably static but that the removal of anti-dumping duties would likely lead to a reduction in profit levels and consequently ROI.

In the present review no specific information relating to ROI was provided by the New Zealand industry. GUD did however, in addition to the comment reported in paragraph 4.6.3.6 above, note that its current performance was "assisted by export volume".

Conclusion on Return on Investments

The review team has no current information on which to base a determination relating to ROI either in terms of the performance of the New Zealand industry over the review period or in terms of the likely effect of the removal of existing anti-dumping duties.

Utilisation of Production Capacity

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

The production capacity of both the participants in the New Zealand industry is to a large extent determined by the capacity of the _____ in the production line. Capacity can however be "increased" by process improvements and streamlining. The previous review, which essentially related only to GUD, found that since the imposition of anti-dumping duties, capacity utilisation had declined some _ percent.

In the present review, specific information relating to production capacity has been provided by GUD. This information shows that its capacity has increased over the review period by some _ percent a year, _____.

Sphinx has provided only an estimated utilisation figure of __ percent across the entire review period.

In the case of both companies, utilisation of production capacity must, of necessity include production for export. The table below shows the information provided by GUD regarding its reported capacity utilisation both for domestic and export sales. A comparison is also shown indexed against GUD's reported 1997/98 capacity which is _____ increase on the capacity reported in the previous review.

These figures show that GUD's production capacity has increased over the review period whilst overall production levels have remained virtually static. The effect of this, in terms of utilisation, has been a continuation of the decline in percentage utilisation. When referenced to the 1997/98 capacity, the figures indicate a "switch" of approximately _ percent between production for domestic and export sale.

Table 4.11: Utilisation of Capacity
(Units, 000)

	1997/98	1998/99	1999/00
GUD Only (Inc Export Production)			
- Capacity	Increasing		
- % Change in Capacity	-	CONFIDENTIAL	
- Production			
- - For Domestic Sale			
- - - Utilisation Rate			
- - For Export Sale	CONFIDENTIAL		
- - - Utilisation Rate			
- - Total			
- Overall Utilisation Rate	Decreasing		
At 1997/98 Capacity			
- Total	Decrease	Increase	
- Domestic	Static	Decrease	
- Export	Decrease	Increase	

Specific details of capacity for Sphinx were not available, however, as noted above, it has estimated that its utilisation rate has remained consistent throughout the review period.

Movement in Capacity Utilisation Should Duties be Removed

The industry has not specifically projected the likely movement in its utilisation rate should anti-dumping duties be removed from imports of US oil filters. As it projected a decrease in its output should duties be removed, it is likely the result would also be a decrease in its capacity utilisation rate.

Conclusion on Utilisation of Production Capacity

The review team concludes that since the imposition of anti-dumping duties in 1992, utilisation of production capacity has declined. Over the current review period there has been an increase in industry production capacity due to improvements on manufacturing processes, while GUD's production for domestic consumption has declined, its production for export has increased resulting in a relatively static level of overall production.

Given the findings made regarding the likelihood of volume effects in the absence of anti-dumping duties, the review team cannot conclude that any further reduction in capacity utilisation rates by the New Zealand industry is likely to arise due to dumped US oil filters.

Other Adverse Effects

Cash Flow

No specific information on cash flow either currently or in the absence of anti-dumping duties was provided by the industry.

Inventories

GUD did provide the Ministry with inventory figures covering the review period however they noted that to some extent the figures provided for the latest year were not a true reflection of inventory levels.

GUD has also noted that the changes it has made to _____.
These changes include _____.

GUD has advised the Ministry that _____. The net effect of the changes made is that over time and more particularly recently, GUD's _____, but this is not attributable to the effects or likely effects of US oil filters.

No information regarding inventories or inventory management was provided by Sphinx.

Movement in Inventory Levels Should Duties be Removed

The information provided by GUD suggests that the removal of the existing anti-dumping duties would have no effect on its inventory levels as these are now "driven" by its customer relationships and order patterns.

In the absence of relevant information, no conclusions can be drawn in respect of Sphinx's inventories.

Employment

The previous review found that since the imposition of anti-dumping duties, employment levels in the industry (GUD only) had remained static but that should the adverse effects claimed at that time come to pass, there was a possibility of the closure of the plant and subsequent reductions in employment levels.

The following information on this aspect was provided by GUD in the present review. The review team does not have any information regarding Sphinx's employee numbers.

Employment and Wages

Financial Years (Jul-Jun)	97/98	98/99	99/00
---------------------------	-------	-------	-------

Total Number of Employees	CONFIDENTIAL		
Employees on Filter Making Lines:			
Spin-on Elements & Packing			
Assembly			
Total Spin-on Cartridge			
Air Filter Line			
Heavy Duty Air Line			
Total Filter Production Line			
Total Spin-on & cartridge			
Total Attributable to Oil Filter Production			
For Domestic Market(approx)	CONFIDENTIAL		
For Export Market (approx)			

These figures show that employee numbers, both in general and in respect of oil filters, have increased since the last review.

GUD has made general comments in the same vein as those noted in the previous paragraph regarding the possibility of adverse effects on employment numbers should anti-dumping duty be removed.

Movement in Employment Levels Should Duties be Removed

In the current review GUD has noted in respect of its general comments regarding economic effects that it currently employs ___ staff at its Avondale plant and that were the economic viability of that plant to be reduced, these numbers would be directly affected. It is noted that the staff numbers reported here represent an increase on those reported in the previous review.

Conclusion on Employment

The review team concludes from the information available that there has been no adverse effect on employment in the industry over the review period.

Given the findings made regarding the likelihood of increased import volumes of US sourced filters, whether dumped or not, the review team considers that any adverse effects on employment in the industry which may arise in the foreseeable future will be due to factors other than the removal of anti-dumping duties should this occur.

Growth, Ability to Raise Capital, Investments

Other than to the general extent already commented upon, the industry provided no information in these areas.

4.7 OTHER CAUSES OF INJURY

Article 3.5 of the Agreement relates to the determination of whether injury is caused by dumped imports and whether other factors may be having an injurious effect. Article 3.5 states:

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.

These provisions are reflected in sections 8(2)(e) and (f) of the Act, which states:

e) Factors other than the dumped or subsidised goods that have injured, or are injuring, the industry, including--

(i) The volume and prices of goods that are not sold at dumped prices or that are not subsidised; and

(ii) Contraction in demand or changes in the patterns of consumption; and

(iii) Restrictive trade practices of, and competition between, overseas and New Zealand producers; and

(iv) Developments in technology; and

(v) The export performance and productivity of the New Zealand producers:

(f) The nature and extent of importations of dumped or subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importations

During the course of the review, other possible causes of injury were identified and examined. Of the "other factors" identified in Article 3.5 of the Agreement, or section 8(2)(e) and (f) of the Act, the volume and prices of non-dumped imports and imports by the industry have been found to be of relevance.

Volume and Prices of Non-Dumped Imports

The volumes and prices of non-dumped imports from the U.S.A have been addressed in the dumping section of this report. This section therefore relates to non-dumped imports from other sources.

As has been noted elsewhere in this report, the main area of growth in the New Zealand oil filter market has occurred in imports from sources other than the U.S.A. Specifically, imports from Australia and from Asian sources have shown strong growth throughout not only the current review period but also that examined in the previous review.

Australia

As part of ongoing internal restructuring of its manufacturing operations, GUD Holdings, of which GUD is a wholly owned subsidiary, has rationalised the production of its oil filter range between its New Zealand and Australian plants.

The New Zealand plant, GUD, is now manufacturing the bulk of the element type oil filters contained in the range and is servicing both the New Zealand and Australian markets for these products. Conversely, as its product mix changes according to the popularity of various models, newer spin-on type filters in the range are increasingly being obtained from Australia. As the range develops, it is to be expected that it will become viable for GUD to produce some of these models in New Zealand.

The effect of this rationalisation has been a continued increase in imports from Australia and has contributed to some extent to the reduction in production volumes by GUD in New Zealand.

Pricing of oil filters imported from Australia has not been specifically examined in this review and even if injurious dumping was occurring with respect to these imports, action could not be taken due to the effect of the ANZCERTA agreement which prohibits the taking of anti-dumping action between New Zealand and Australia.

Asia

A consistent theme running throughout both this and the previous review has been the impact of the increasing availability in the New Zealand market of oil filters sourced from Asian producers. These filters are sold into the market place at prices that are generally lower than those for filters of New Zealand, Australian or US manufacture.

An anti-dumping investigation into these imports was carried out concurrently with the previous review and found that dumping was (depending on source) either not occurring or was at levels and volumes which are considered, in terms of the Agreement, to be non injurious.

An investigation concerning imports of oil filters from the three largest Asian sources, Indonesia, Korea and Thailand was initiated concurrently with this review. That investigation was recently terminated following the withdrawal of the application by the New Zealand industry. Prior to the termination of the investigation, the investigating team had reached preliminary conclusions regarding dumping for the bulk of the imports concerned.

The preliminary conclusions that had been reached mirrored those of the previous investigation in that there was no dumping of the imports from Thailand and minimal levels of dumping from both Indonesia and Korea. The preliminary volumes of dumped goods were below the minimum threshold of negligibility specified in Article 5.8 of the Agreement.

On a preliminary basis, the filter types on which dumping was found included all of the oil filters imported by GUD from Korea.

As noted in paragraph 4.4.21 above, both participants in the New Zealand industry have identified the impact of the increased availability of "cheap" Asian sourced filters as a potential factor mitigating against the likelihood of increased imports from the U.S.A.. The industry has also tacitly recognised that it is these filters and not those originating in the U.S.A. which are currently setting pricing levels in the New Zealand market. It is to be expected that this will be the case well into the foreseeable future.

In each of the anti-dumping investigations that have been carried out in respect of oil filters, a significant proportion of the New Zealand market has been identified as being primarily price driven. This sector of the market is also where the majority of those filter types that are characterised, by the industry, as "fast movers" and which constitute up to 80 percent of its production volume are sold. It is at this "lower end" of the market that filters of Asian origin have impacted to the greatest extent.

A concrete example of the effect of Asian sourced filters on the New Zealand industry and in the New Zealand market is the amount by which GUD was required to alter its selling practices and relationship with its major customers in order to retain them as its customer in the face of pressure for that company to alter its main sourcing to an Asian supplier.

Similarly, each of the US suppliers who were visited during the verification phase of this review has identified Asian filters; particularly those from the countries identified in paragraph 4.7.9 above, as a major competitive pressure in all export markets.

As noted in paragraph 2.2.10 above, in discussion with the Managing Director of Sphinx (Engineering) at a late stage of the review he noted

Conclusion

The review team concludes that imports from sources other than the U.S.A. have contributed to the New Zealand industry's current situation. Since these imports are not, for the most part dumped, their impact relates to the international competitiveness of the New Zealand industry and not to any cause that can be remedied through the imposition or retention of anti-dumping duties.

It is also noted that a large proportion of the imports from Australia and some of those from Korea that were preliminarily found to be dumped were made by the industry itself.

The review team also concludes that the continued and increasing availability of undumped filters from sources other than the U.S.A. at prices which are extremely competitive in comparison to either domestically produced or US sourced filters would, in the price sensitive portion of the New Zealand market, tend to reduce any demand for US filters which might arise from the termination of anti-dumping duties.

Imports by the Industry

GUD

Since the imposition of anti-dumping duties in November 1992, GUD has been increasingly active as an importer of filters from the U.S.A.. These imports have been made, according to GUD, on the basis that it is uneconomic for it to produce the filters concerned in New Zealand and that they supplement GUD's New Zealand produced range. On this basis, imports by GUD, even if dumped, could not be considered to be injurious to GUD.

Certain of the filters imported by GUD are however of types that are produced and sold in New Zealand by Sphinx and may have contributed to the injury claimed by Sphinx.

A significant proportion of the imports made by GUD are of heavy duty filters which would, if anti-dumping duties are continued, fall outside of the amended goods description on the grounds of their dimensions.

Sphinx

In contrast to the circumstances of the original investigation and of the previous review, Sphinx forms part of the New Zealand industry for the purposes of this review. As previously noted, throughout the period since the imposition of anti-dumping duties and until a late stage in the process of this review Sphinx has also been responsible for the largest single proportion of US imports into New Zealand through its licensee arrangement with Honeywell. A high proportion of these imports have been found to have been dumped.

Competition between Sphinx and GUD on the New Zealand market is intense and many of the filter types imported by Sphinx, on the bases outlined in paragraph 2.2.8, were of types manufactured and sold in New Zealand by GUD and were therefore in direct competition with the domestic product and may have contributed to the injury claimed by GUD.

Some of the filters imported by Sphinx were types that may, if anti-dumping duties are continued, fall outside of the amended goods description.

Conclusion

The review team concludes that imports of subject goods by both GUD and Sphinx may, by means of "cross-competition" have contributed to industry injury indices.

4.7 CONCLUSIONS RELATING TO INJURY

From information made available during the review, the review team has reached the following conclusions in relation to material injury suffered by the New Zealand industry since the completion of the last review in April 1996:

Volume and Price Effects

- The volume of dumped imports has decreased relative to New Zealand production and consumption and as a proportion of total US imports.
- In absolute terms, the volume of dumped imports has decreased significantly from the last review but has remained relatively static throughout the review period.
- Dumped imports may be undercutting domestic industry prices but the evidence is inconclusive.
- Domestic industry prices are not being depressed.
- Some evidence of price suppression has been found but it is considered that this is due to other market and industry factors.

Economic Impact

- Domestic industry sales volumes have shown a small decrease over the review period whilst sales values consistently increased. These effects are not attributable to dumped imports.
- Market share held by the domestic industry has decreased whilst overall market size has increased, due to increased volumes of imports from sources other than the U.S.A..
- Industry profit levels have decreased. These effects are not attributable to dumped imports.
- Utilisation of production capacity within the New Zealand industry has decreased but this is not due to dumped US imports.
- No positive evidence has been provided that shows any injurious effects on cashflow, inventories, employment, growth, and ability to raise capital or investments.

The review team concludes that there is no current material injury that is attributable to dumped imports from the U.S.A..

Likelihood of Injury in the Absence of Anti-Dumping Duties

In considering injury to the industry in a review, the threat of recurrence of injury that was prevented by the remedies in place is also considered. Where the dumping element has been removed, as in this case, a review would not be expected to conclude that the industry continued to suffer material injury.

As noted in section 4 of this report, at paragraph 4.3.6. a determination of threat of injury must be based on facts and not merely on allegation, conjecture or remote possibility. These criteria need to be considered with particular care in a case such as oil filters where anti-dumping duties have been in place for a significant period of time during which considerable change has occurred in both the domestic and overseas markets and in the New Zealand industry itself.

Similarly, paragraph 4.3.10 notes that the test to be applied in respect of the likelihood of material injury in the absence of continued anti-dumping duties, is a positive one.

A third factor, which has also been discussed previously in this report is that any assessment of the likelihood of the recurrence of material injury in the absence of anti-dumping duties must be made in respect of the domestic industry as a whole.

Bearing these factors in mind, with regard to the likelihood of a recurrence of material injury should anti-dumping duties be removed, the review team considers that:

- There is no clearly foreseen or imminent likelihood that the removal of existing anti-dumping duties would bring about an increase in dumped imports.
- In the absence of an increase in dumped imports, there is little likelihood of a recurrence of price depression or increased price suppression due to such imports from the U.S.A..
- Any further decrease in industry output or sales is likely to be due to factors other than dumped US imports
- Any further reduction in the market share held by the domestic industry is likely to be due to the effects of factors other than dumped US imports.
- No evidence has been adduced which indicates that injury to the New Zealand industry in the areas of utilisation of capacity utilisation, return in investments, adverse effects on employment, inventories or cashflow, due to dumped imports from the U.S.A. would recur in the absence of anti-dumping duties.

On the basis of these considerations, the review team concludes that if anti-dumping duties were to be removed, material injury to the New Zealand industry due to dumped imports of US oil filters would be unlikely to recur.

5. CONCLUSIONS

From the information available, the review team has found that some oil filters from the United States continue to be dumped.

Because the injury to a New Zealand industry attributable to dumping has been removed through the imposition of anti-dumping duties, a review would not be expected to find that the industry has continued to suffer material injury from dumping while anti-dumping duties have been applied. This position has largely been confirmed by the review, which has therefore focussed on threat of injury should the anti-dumping duties be removed.

The review team has established from the information made available during the review, including information submitted by interested parties, that there is no clearly foreseen and

imminent likelihood that the removal of the present anti-dumping duty on oil filters from the United States would bring about a recurrence of material injury to the New Zealand industry due to dumped imports.

Accordingly, the review team concludes that there is no longer a need for the continued imposition of anti-dumping duties on imports of oil filters from the United States.

6. TERMINATION OF ANTI-DUMPING DUTIES

The provision of the Act relating to the termination of anti-dumping duties is section 14(7), which is set out below:

(7) The Minister may, by notice, terminate, in whole or in part, the imposition of any anti-dumping or countervailing duty imposed under this section, with effect from the date specified in the notice, which date may be prior to the date of the notice.

Basis for Termination

The review team has concluded that there is no evidence that the expiry of the current anti-dumping duty would be likely to lead to the recurrence of material injury to a New Zealand industry due to the dumping of the subject goods.

Section 14(9) of the Act states:

Anti-dumping duty or countervailing duty applying to any goods shall cease to be payable on those goods from the date that is five years after —

- a. The date of the final determination made under section 13 of this Act in relation to those goods; or
- b. The date of notice of any reassessment of duty given under subsection (6) of this section, following a review carried out under subsection (8) of this section —

Whichever is the later, unless, at that date, the goods are subject to review under subsection (8) of this section.

The provisions of section 14(9) of the Act give specific effect to Article 11 of the Anti-Dumping Agreement. Article 11.3 of the Anti-Dumping Agreement states as follows:

Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date no later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The duty may remain in force pending the outcome of such a review.

In the absence of this or any other review, the existing anti-dumping duties on oil filters from the U.S.A would cease to apply as of 8 April 2001.

Under Article 11.3 above, the Ministry is under an obligation to terminate any definitive anti-dumping duty which has been continued as a result of a previous review, five years after the completion date of that previous review, unless it determines in a subsequent review initiated before the five year period elapses, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

The present review was initiated and has been completed before the five years "sunset" date arising from the completion date of the previous (1996) review. The conclusion reached in the present review is that the removal of the existing anti-dumping duty would be unlikely to lead to a recurrence of material injury due to dumping of oil filters from the U.S.A. In these circumstances, in the absence of an earlier termination the anti-dumping duties remain in force until 8 April 2001.

Article 11.1 of the Agreement states:

An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury

The findings of this review indicate that anti-dumping duty is no longer necessary to counteract dumping which is causing injury, therefore, the Ministry is obliged to recommend the termination of the existing anti-dumping duties in accordance with the provisions of section 14(7) of the Act and Article 11.1 of the Agreement.

Accordingly, rather than allowing the anti-dumping duties to expire on 8 April 2001, it is considered that the anti-dumping duties should be terminated as of the date of completion of this review.

Impact of Termination of Anti-dumping Duties

New Zealand Industry

For the New Zealand industry, the main impact of the removal of anti-dumping duties from imports of oil filters from the U.S.A will be a potential increase in direct competition in the New Zealand market from U.S oil filters.

This probability is however mitigated by inter alia the considerations set out in sections 4.4 and 4.7 of this report. These are:

- The uncertainty surrounding the future importation and distribution of oil filters produced by Honeywell,
- The ongoing effects of adverse exchange rates between US and New Zealand currencies,
- The volumes and prices of non-dumped imports, including those sources from Australia and various Asian countries, and

- "Cross-competition" within the New Zealand industry arising from imports made by the industry participants.

Should dumped imports of oil filters from the U.S.A. increase substantially following the removal of anti-dumping duties, to a point at which they become materially injurious to the New Zealand industry, the provisions of section 17 of the Act may allow for consideration of the retrospective imposition of anti-dumping duties in the event that a new investigation were initiated following receipt of a properly documented application by the New Zealand industry.

Such duties may be applied in limited circumstances, which are specified in the Act, to imports made up to 60 days prior to the imposition of provisional duties.

Importers and Resellers

For importers and resellers any impact arising from the removal of the existing anti-dumping duties will be affected by the same factors as are noted in paragraph 6.11 above. Although the possibility of an increased choice of suppliers, including those located in the United States, will exist, the likelihood of increased imports from that source or of reduced prices is low.

As noted in paragraphs 4.5.52 and 4.5.53 above, the reduction in costs of importation arising from the removal of anti-dumping duties will most likely be retained by importers in order to recover losses in margin which have been brought about by competition from other sources.

End-Users

The Ministry considers that the effect of the removal of the existing anti-dumping duties on end-users will be minimal. The current availability of US sourced products should be unaffected.

Clearly, the situation in relation to the availability of Honeywell products is currently unknown but this is unrelated to the existence or otherwise of anti-dumping measures.

Due to the competitive pressures already present in the market from the diverse range of filters available, it is considered that any cost reductions arising from the removal of the anti-dumping duties will be retained at the reseller/wholesaler level and that end-user prices will be largely unaffected.

7. RECOMMENDATIONS

It is recommended:

1. That the Chief Executive complete the review by agreeing that:
 - The continued imposition of anti-dumping duties in respect of automotive oil filters for use on internal combustion engines exceeding 20 horsepower (HP) is not necessary to prevent the continuation or recurrence of material injury to the New Zealand industry producing like goods.

2. That the Chief Executive recommend to the Minister of Commerce that he:
- Terminate anti-dumping duties imposed on automotive oil filters from the United States for use on internal combustion engines exceeding 20 horsepower (HP) with effect from the date of completion of this review; and
 - Sign the attached Gazette Notice giving notice of the termination of anti-dumping duties to interested parties in accordance with sections 9 and 14(7) of the Act.

Appendix 1

Listing of Current Reference Price Schedule Holders

Supplier Name	Schedule No	Effective Date
Allied Signal Inc. (Now Honeywell Consumer Products Ltd)	1	1 April 1996
Fleetguard Inc (Including Fleetguard Australia)	2	1 April 1996
Purolator Products Inc	3	1 April 1996
System One Filtration	4	1 April 1996
K & N Engineering	5	1 April 1996
Baldwin Filters	6	1 April 1996
Reliable Industries	7	1 April 1996
Roclun International	8	1 April 1996
Champion Laboratories / Luber Finer	9	1 September 1999
Perf-Form Products Inc	10	1 January 2000
Detroit Engine and Turbine	11	1 April 1996
Caterpillar (Including Caterpillar Australia)	12	1 April 1996
Mustang Manufacturing Co Ltd	13	1 April 1996
Donaldson Co Inc (Including Donaldson Australasia)	14	1 March 2000

Appendix 2

Listing of US Suppliers identified from NZCS Import Information

AAR Cooper Aviation	International Trucks Australia Ltd
AB Volvo Penta	Jacobsen Div Of Textron
Adam Opel	John Deere Ltd
Aircraft Parts Corp	K & N Engineering Inc
Aircraft Parts International	Kamp Implement Co

Allied Signal Inc	Kawasaki Motors Corp USA
Amsoil TN Corp	Kohler Co
Ansett Airlines Australia	Komatsu Singapore Pty Ltd
ARC Services Inc	M & J Diesel Locomotive Filter
ATP Components Pty Ltd	Mancini Racing Enterprises Inc., US
Automotion	Marine Power International
Baldwin Filters (Aust) Pty Ltd	Marine Power International Pty Ltd
Bell Equipment Australia Pty Ltd	Mastercraft Boat Co
Bell Equipment Pty Ltd	May Auto Perf
Bowler Geoff	May Automotive Performance, US
Briggs & Stratton	Mid USA Motorcycle Parts
Byron Equipment Co	Mid-America Overseas Inc
California Automotive Export Co	Midwest Motorcycle Supply Distributors Corp
Cal-State Auto Parts Inc	Mitsubishi Caterpillar Forklift Asia Pty Ltd
Canton Racing Products	Motor State Distributing
Carfel Incorporated	Nacco Material Handling Group Pty Ltd
Carrier Refrigeration Operations	National Marine Suppliers
Carter And Gruenewald Co Inc	National Parts Pty Ltd
Case Corporation Pty Ltd	Nautical Structures
Cat Pump Co	Navistar Int Transportation Corp
Caterpillar Of Australia Ltd	New Holland North America Inc
Caterpillar Of Australia	Niehaus Cycle Sales Inc
Caterpillar Tractor Co	Nordberg Australia Pty Ltd
Central Dodge	NS Komatsu Pty Ltd
Cessna Aircraft Co	Outboard Marine Pty
Champion Laboratories	Overseas Purchasing
Champion Road Machinery Ltd	Paccar Parts
Champion Spark Plug Co	Pacific Auto Access
Chrome Specialities Inc	Pacific Auto Imports
Chrysler Corp	Pacific Pump Co
Clark Equipment Australia Ltd	Pep Boys
Clark Filter	Perf Form Products Inc
Coleman Machines Incorporated	Performance Imports
Cooper Aviation International Inc	Phillips Gasket International Inc
Creg International	Polaris Australia Pty Ltd
Cummins Australia Pty Ltd	Polaris Industries
Custom Chrome	Polaris Sales Australia Pty Ltd
DAF Trucks	Polaris Sales Inc
Daimler Chrysler New Zealand Ltd	Pooler Auto Body

Dana Australia Pty Ltd / Spicer Drivetrain Div	Precision International, US
Dana Canada Inc	Pro Racers Supply
Dana Corporation	Purolator Products Inc
Deere & Co	Quaker State Oil Refining Corporation
Delco Cleaning Services	R&R Products Co
Delphi Energy And Engine Flint East Complex	Ransomes Jacodsen, UK
Detroit Diesel Asia Pte Ltd	Reliable Industries
Detroit Diesel Overseas Distribution Corp	Roc Lun Intl Inc
Donaldson Australasia Pty Ltd	Rotary Corp
Donaldson Australia P/L	S&G Machinery Co
Dr Ing Hcf Porsche AG	Scott Drake Mustang Parts
Dresser-Rand	Selman Chevrolet Company
Earls Performance Products, Us	Sigma Tek
Emgo International Ltd	Solar Turbines Incorp
Ensco Offshore Co, US	Sol-Cal Performance, US
Esslinger Engineering	Southern Illinois Honda Kawasaki Polaris
Exports	Speed And Customs Warehouse
Exports International	Speedway Engineering
Federal Manufacturing Co	Speedway Motors Inc
Federal Mogul Pty Ltd	Standard Motor Products Inc
Fleetguard Australia	Stroker Inc
Fleetguard Inc	Svedala Compaction Equipment AB
Flightline Aviation Ltd	System One Filtration
Ford New Holland	Tapco International, US
Freightliner Corp	Tecumseh Products Co
Fresno Equipment Co	Teledyne Continental Motors
Fusick Automotive Products Inc	Tennant & Company
General Motors Corp	Textron Lycoming
General Motors Holdens Automotive Ltd	Thermo King Corporation
General Motors Overseas Distribution Corp	Timberjack Corp
GUD Manufacturing Co Pty Ltd	Timberjack Inc
H&H Distributors	Toro Company
Harley Davidson Motor Co Inc	Toromont Process Systems
Hawker Pacific Pty Ltd	Unipart Exports Ltd
Heavy Duty Air Pty Ltd	Unison Trading Inc, Us
Helimart Inc	Vermeer Manufacturing Co
Helmar Inc	Vintage Power Wagons

Heytrack P/L	Volvo Construction Equipment Group
Hitachi Construction Machinery Pte Ltd	Volvo Gm Heavy Truck Corp
Honeywell Consumer Products, US	Volvo Truck Australia Pty Ltd, Aust
Hotline Motor Spares, Fiji	Wacker Corp
House Of Harley Davidson Inc. Greenfield. Wisconsin	Waukesha Engine Division Dresser Ind Inc
Hyster Australia Pty Ltd	Western Star Trucks Australia Pty Ltd
IAP West Inc	Western Star Trucks Inc
Industrial Power And Service Inc	Western Star Trucks Pty Ltd, Aust
International Aircraft Support	Young's Equipment Inc
International Aviation Support	

Appendix 3

Listing of New Zealand Importers Identified From NZCS Information

103 Perfectly Ltd	Holden NZ Ltd
Advanced Four Wheel Equipment Ltd	Holmes Auto Imports Ltd
Aeromotive Ltd	Independent Technology Ltd
Air Liquide New Zealand Ltd	International Truck Australia Ltd
Air New Zealand Ltd	J.K Racing Konz Bernard T/A
All Makes Wholesale Parts Ltd	John Deere Ltd
Allied Products Company Ltd	Kerrick Industries Ltd
Alloy Yachts International Ltd	Marine Power International Ltd
American Auto Imports	Matamata Industrial Machinery Imports Ltd
Amsoil New Zealand Ltd	Mike Ramsey Motorcycles Limited
APPCO - A Div. Pacific Dunlop (NZ) Ltd	Morgan & Wacker Pty Ltd
ATP New Zealand Ltd	Motor Holdings Komatsu Ltd
Autolines Np Ltd	Motorsport Dunedin Ltd
Automatic Transparts NZ Ltd	Nordberg Australia Pty Ltd
Brake And Transmission NZ Ltd	Northern Accessories Ltd
Brennan Automotive Specialists	Outboard Marine Corporation New Zealand
Briggs & Stratton NZ Ltd	Pacific Aerospace Corporation Ltd
British American Imports Ltd	Parkland Products Ltd
Bunce & Curtis	Pioneer Equipment Ltd
C B Norwood Distributors Ltd	Polaris Sales Australia Pty Ltd
Cableprice (NZ) Ltd	Power Farming Wholesale Co Ltd
Camson Hoist Hire Ltd	Pro Action Marketing Ltd
Carter & Stalker Carter,Pa & Stalker,At T/A	R S P Supplies Ltd

Case Corporation Pty Ltd	Repco Merchants
Cashmore Machinery	Road & Sport Motorcycles Ltd
Centra Forklifts Ltd	Seaview Machinery Repairs Ltd
Collins Brian	Segedins Auto Spares Of Dominion Rd
Combined Industrial Services Ltd	Shaft Motorcycles
Cummins Engine Company Ltd	Shell Todd Oil Services Ltd
Daewoo Automotive NZ	Simpson Charles Robert
DaimlerChrysler New Zealand Ltd	Skysales Aviation
Deutz Australia Pty Ltd	South Auckland Powered Equipment
DHL Intl Ltd -New System Code	Southpac Trucks Ltd
Diesel Services Auckland Ltd	Sphinx Manufacturing Co Ltd
Direction Automotive Engineering Ltd	Stichbury Paul Jeremy
Dold International	Sydenham Park Chev Spares Ltd (Ch133069)
Downing Alfred Leonard	T.Q.P Audio Quinn Christopher John T/A
Eagle Automotive Ltd	Tennant NZ Ltd
Eagle Spares Ltd	The Auto Bahn
Ensco Oceanics Company	Thermo King Holdings NZ Ltd
Entec Services Ltd	Titan Plant Services Ltd
Eric Jepson Engineering Ltd	Trackweld-Timberjack Ltd
Eric Wood Motorcycles Ltd	Tractor And Industrial
European Motor Distributors Ltd	Transmissions & Diesel
Fastmaster Enterprises Ltd	Transmissions And Diesel Ltd
Flightline Aviation Ltd	Tranz Rail Ltd
Fulepp Aleksandar	Truck Centre Bay Of Plenty Ltd
G R Engineering	Truckstops Ltd
Gough Gough & Hamer Ltd	Unigas Systems Ltd T/A Transgas Services
Greenlane Speed Shop Ltd	Universal Motorcycles Ltd
GUD NZ Ltd	Volpower NZ Ltd
H E Cooper & Co Ltd	W E Gander & Sons Ltd
Haldene Christopher	Wacker Machinery NZ Ltd
Hansen Products Ltd	Wellington Motorcycle Centre Ltd
Harley Speed & Custom	

Appendix 4

Proposed amended goods description

Note: This description is a proposal only and will only be proceeded with only if the outcome of the current review indicates that there is a continued need for the imposition of anti-

dumping duties on these goods. Should this be the case, it is possible that further amendments to the description shown below will be made prior to its promulgation.

Notes relating to original definition:

8 June 2000 (from March 2000 notes)

Examination of the original investigation file shows that the current goods description arose from a combination of the tariff item description and the tariff concession description then in place. (Since superseded several times)

In the initiation process specific comparisons were made between the industry catalogue in force at the time & invoices for import shipments. Comparison was on the basis of model codes within generic product groups and covered both spin on "cans" and elements

Model codes (on both sides) have been superseded & altered a number of times since this time & do not provide a basis for description as they are liable to alteration at any time (catalogues are released {on average} every 6 months).

Product groups in which specific comparisons were made;

- Passenger motor vehicles
- Light trucks
- 4 wheel drive vehicles
- light commercial vehicles
- Heavy duty & industrial vehicles

All products compared were in respect of oil filtration in internal combustion engines (hydraulic, transmission and diesel oil filters were not included) for automotive applications (automotive = concerned with motor vehicles, i.e. self propelled, motile...)

No comparison (or claim) for filters for IC engines of less than 20 HP

No comparison (or claim) for air, water or fuel filters

At that time (& for the most part now) the industry did not manufacture filters specific to (by fitment or specification);

- Stationary Engines
- Motor cycles
- Marine engines
- Aircraft engines

"Crossover" and "dual use" filters were however of concern & included in the model by model comparison carried out (e.g. Mazda 323, Honda Civic etc and V8 engines)

Manufacturing equipment then available to the domestic industry for length & diameter of filters imposed physical limits. This aspect although considered in the process of defining the like goods was not specifically reflected in the establishment of the existing goods description.

Suggested amended/clarified goods description:

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

excluding:

Lubricating oil filters (including elements) solely manufactured (see note below) for use on;

- internal combustion engines of less than 20 horsepower
- stationary engines (internal combustion types)
- *motorcycles*
- *aircraft*
- *marine engines*

and

- cartridge/element type filters having dimensions greater than 467mm in length or 400mm in outside diameter
- Spin-on type filters having dimensions greater than 300mm in length or 123mm in outside diameter.

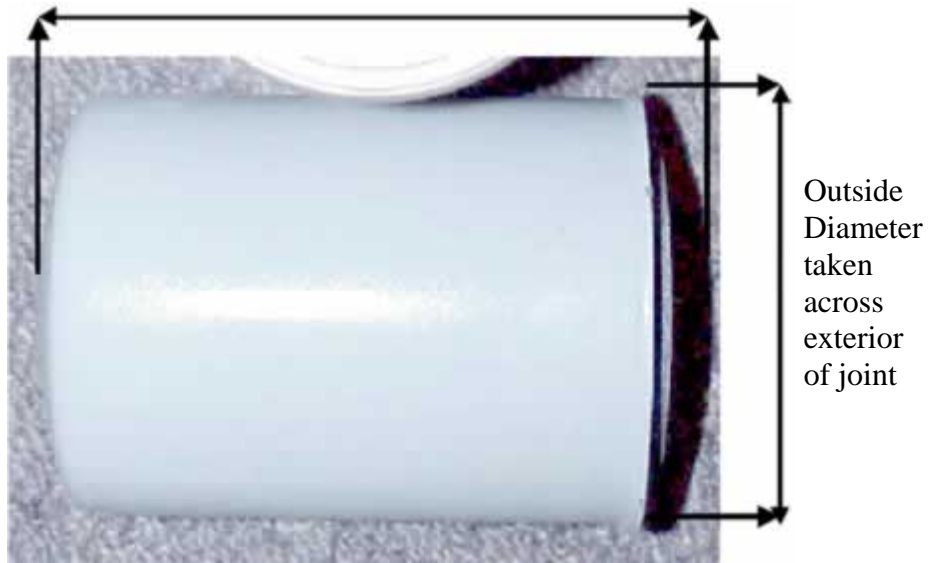
(Photographs showing the measurement of typical (generic) filters of the two types cited above are given below)

NOTE: Claims of exemption/exclusion from liability for dumping duty on these grounds must be supported with evidence showing that the filters concerned cannot (due to manufacturing or specification reasons) be used on engines other than those described. Declared "end use" at the time of importation does not satisfy this requirement.

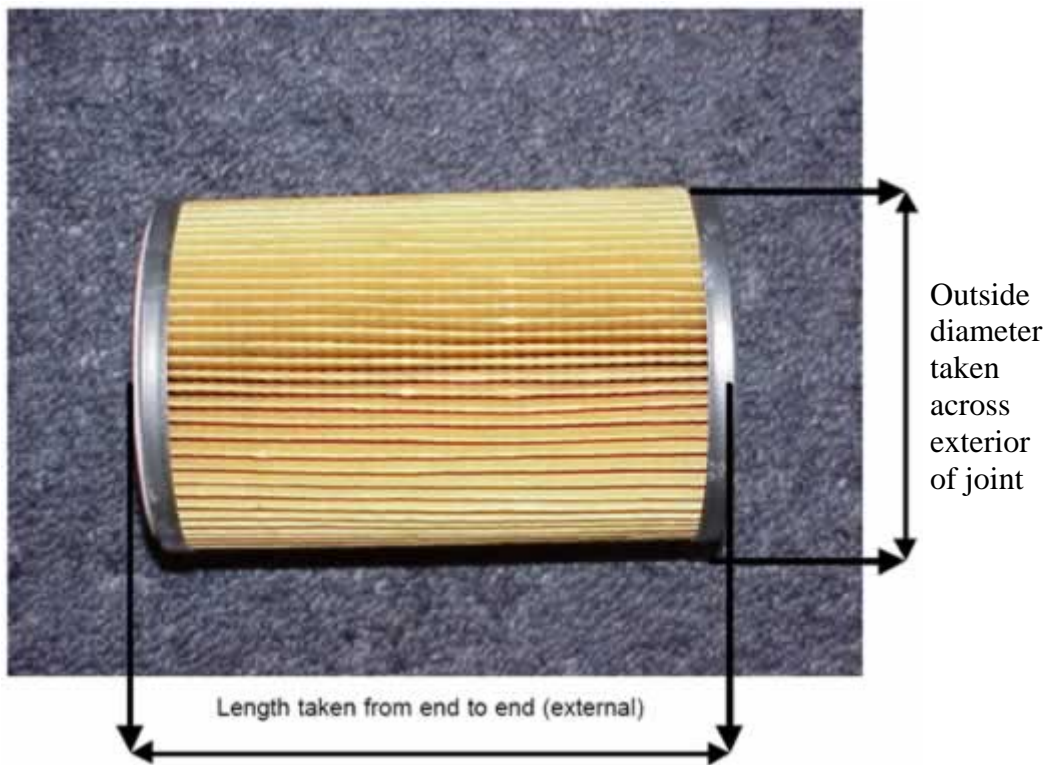
Exclusions shown above in italics are possibilities only and may be subject to further discussion and clarification.

Measurement of Spin-on Type Filter

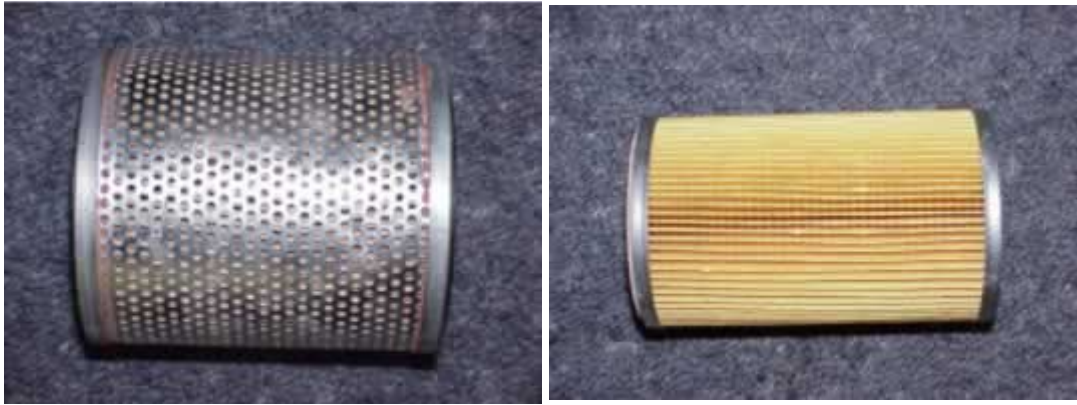
Length taken from top of filter (element) to bottom of base seal



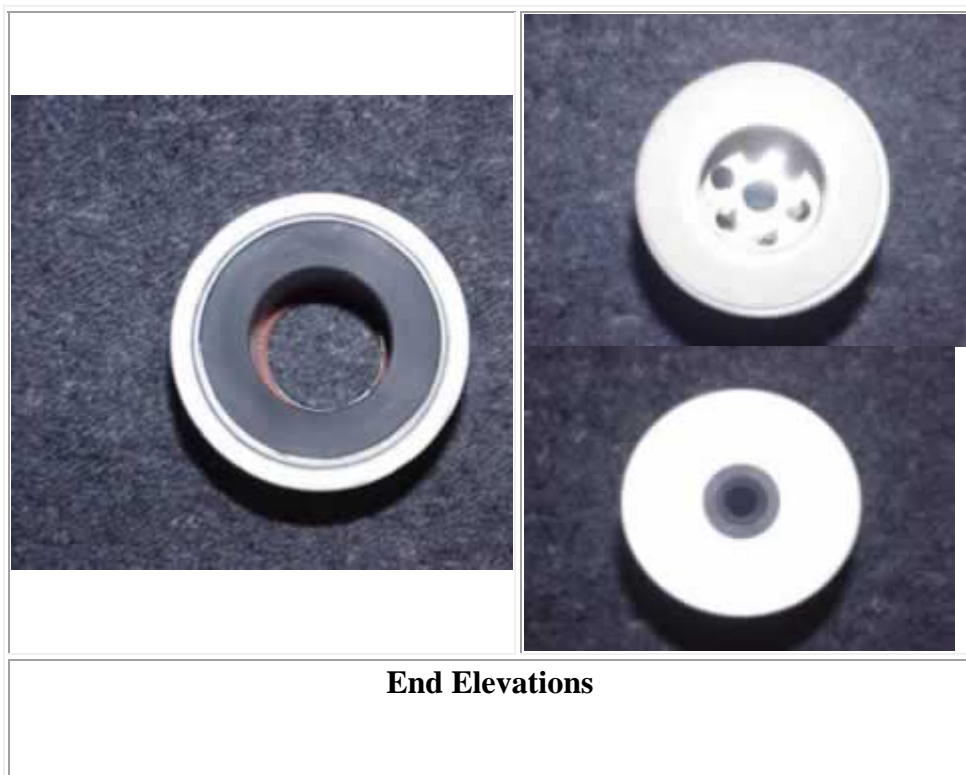
Measurement of Cartridge (Element) Type Filters



Typical Cartridge (Element) type Oil Filters



Side Elevations (also see notes below)



End Elevations

Note: As illustrated above, cartridge (element) type oil filters may be either open (above right) or enclosed (above left). Where the cartridge (element) is of the enclosed type, the material used for the perforated external "screen" may be of a variety of materials. Light metal and card or paperboard are the most common but other materials may be used.

Typical Spin-on type filter



Side Elevation

End Elevation

[Signed by the Manager, Trade Remedies on 15 December 2000]