



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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Diaries from the Republic of Korea Non-Confidential Initiation Report

Dumping and Countervailing Duties Act 1988

Dumping Application

Ministry of Business, Innovation and Employment

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Table of Contents

TABLE OF CONTENTS	3
ABBREVIATIONS	4
EXECUTIVE SUMMARY	5
1. INTRODUCTION	9
1.1 Application.....	9
1.2 Investigation Period.....	9
1.3 Date for Submissions	10
2. INTERESTED PARTIES	11
2.1 Basis for the Application	11
2.2 Imported Goods.....	11
2.3 Interested Parties	11
3. NEW ZEALAND INDUSTRY	13
3.1 Like Goods.....	13
3.2 New Zealand Industry Support for the Application	15
4. EVIDENCE OF DUMPING	17
4.1 Export Prices	17
4.2 Normal Values.....	17
4.3 Comparison of Export Price and Normal Value	18
4.4 Conclusion.....	18
4.5 Import Volumes	19
5. EVIDENCE OF INJURY	20
5.1 Material Injury	20
5.2 Import Volume Effects.....	21
5.3 Price Effects	22
5.4 Economic Impact	25
5.5 Other Causes of Injury	30
5.6 Conclusions Relating to Injury	34
5.7 Causal Link	35
5.8 Overall Conclusion on Injury.....	37
6. CONCLUSIONS AND RECOMMENDATION.....	39
7. RECOMMENDATIONS.....	41

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
CIF	Cost, Insurance and Freight
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Tax
FOB	Free on Board
gsm	grams per square metre
Korea	the Republic of Korea
KRW	Korean Won
Ministry (the)	Ministry of Business, Innovation and Employment
mm	millimetre
NZD	New Zealand Dollar
Review (the)	Sunset Review of Diaries from China and Malaysia
VFD	Value for Duty
WTO	World Trade Organisation

Executive Summary

Introduction

1. On 28 February 2013 the Ministry of Business, Innovation and Employment (the Ministry) accepted a properly documented application for a dumping investigation from Croxley Stationery Limited (Croxley). Croxley claimed that imports of diaries from the Republic of Korea (Korea) are being dumped and have caused material injury to the New Zealand industry.

2. The initiation of an investigation is provided for in section 10 of the Dumping and Countervailing Duties Act 1988 (the Act). Section 10(1) of the Act provides as follows:

Subject to this section, on receipt of a properly documented application made by or on behalf of New Zealand producers of like goods and on being satisfied that sufficient evidence has been provided that—

(a) goods imported or intended to be imported into New Zealand 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,—

the [Chief Executive] may initiate an investigation to determine both the existence and the effect of any alleged dumping or subsidisation of any goods.

3. Section 10(2) of the Act sets out the evidence and information that must be included in a properly documented application, while section 10(3) details the level of support an application must have from New Zealand producers of like goods before an investigation can be initiated.

4. This report therefore assesses the accuracy and adequacy of the evidence provided in terms of the criteria in section 10 of the Act to establish whether there is sufficient evidence to justify the initiation of an investigation. The existence and effect of the alleged dumping can only be determined by an investigation.

Goods Subject to the Application

5. The imported goods covered by the application are:

“Diaries, with or without covers, containing a written record of daily/weekly/yearly events, appointments, reference material and observations, having the following specifications:

Height: Not less than 100mm and not more than 305mm

Width: Not less than 74mm and not more than 220mm

Leaf: Not less than 6 and not more than 400

Pages: Not less than 12 and not more than 800

Paper weight: Not less than 45gsm and not more than 200gsm

Binding: Stapled, sewn, glued or wire bound

Excluding dayplanner organisers with steel ringbinders.”

Standing to make an Application

6. The application was made by Croxley and supported by the only other known New Zealand producer of diaries, K Kurtovich Products. The Ministry is satisfied that the application has the necessary level of support required under section 10(3) of the Act.

Dumping

7. The Ministry is satisfied that Croxley has provided sufficient evidence of dumping for the purpose of initiating an investigation. Based on the evidence provided in the application, the dumping margin is 293 percent for an A4 diary and 274 percent for an A5 diary, expressed as a percentage of the export price.

Injury

8. Import volumes of the subject goods have increased in absolute terms and relative to production and consumption in New Zealand. There is evidence that Croxley's average prices have been undercut by the average price of diaries from Korea. There is some evidence of price depression with average prices declining in 2008, 2011 and 2012 when compared with the preceding year, although over all of the period from 2007 to 2012 there was a small increase in average prices. There is some evidence that prices have been suppressed.

9. There is no evidence that Croxley has been injured in relation to sales volume, sales revenue or the market share held by Croxley's domestically produced products. However, the Ministry notes that much of the indicated increases in these factors occurred between 2007 and 2010 and volume, revenue and market share have declined between 2010 and 2012. Croxley's profits have declined significantly overall but have fluctuated significantly between 2007 and 2012, reaching their lowest point in 2009.

10. There is no evidence to show that Croxley's productivity or utilisation of production capacity has been adversely affected by dumped imports from Korea. Croxley's inventories have fluctuated, although Croxley does not consider inventory to be an indicator of injury. Return on investments is likely to have been adversely affected due to the decline in profits.

11. Employee numbers have remained static until recently. Wages have also remained static. Cash flow has declined. There is some evidence to suggest that Croxley's growth is likely to have been adversely affected by loss of business to Korea. There is little evidence to suggest that Croxley's ability to raise capital and investments have been impacted.

12. There is evidence that Croxley may have been injured by imports from other sources, but the Ministry does not consider that such injury is sufficient to break the evidence of an inferred causal link between the allegedly dumped imports from Korea and injury to Croxley. The Ministry is satisfied Croxley has provided sufficient evidence showing that imports of the subject goods are causing material injury to the New Zealand industry for the purpose of initiating an investigation.

Request for Provisional Measures

13. Croxley is seeking the imposition of provisional anti-dumping duties. Provisional measures may be applied if certain conditions are met at any time after 60 days from the date on which an investigation has been initiated in order to prevent material injury being caused during the period of investigation.

Conclusion

14. Based on the information reasonably available to Croxley, the Ministry is satisfied that sufficient evidence of dumping and injury has been provided in terms of section 10 of the Act for the purpose of initiating an investigation.

Recommendation

15. This report recommends that the Principal Advisor of Register Integrity and Trade Remedies, acting under delegated authority from the Chief Executive, initiate an investigation to determine the existence and effect of any alleged dumping of diaries from Korea.

1. Introduction

1.1 Application

16. On 28 February 2013 the Ministry of Business, Innovation and Employment (the Ministry) accepted a properly documented application from Croxley Stationery Limited (Croxley), alleging that dumped imports of diaries from the Republic of Korea (Korea) are causing material injury to the New Zealand industry.

17. In accordance with section 10 of the Dumping and Countervailing Duties Act 1988 (the Act), the Ministry's Chief Executive may initiate an investigation to determine both the existence and effect of any alleged dumping of any goods on being satisfied that sufficient evidence has been provided that the goods are being dumped and, by reason thereof, material injury to an industry has been or is being caused or is threatened.

18. The New Zealand legal case *Kerry (NZ) Ltd v Taylor*¹ determined that in order to initiate an investigation, there must be evidence beyond a mere assertion and of a nature and extent that indicate a likelihood of dumping and material injury, requiring investigation. The Court stated the application should be assessed with due scepticism, bearing in mind the commercial context, but emphasised that the assessment is one of sufficiency of evidence, not of dumping and material injury.

19. This report assesses the present application against the requirements of the Act to determine if sufficient evidence has been presented to justify the initiation of an anti-dumping investigation.

20. Dumping is defined in sub-section 3(1) of the Act and is essentially price discrimination between markets. Dumping occurs when an exporter sells goods to New Zealand (export price) at a price less than the price charged in its domestic market (normal value). Adjustments are made to ensure that the comparison of these prices is fair.

1.2 Investigation Period

21. This report recommends that an investigation be initiated. Diaries are a seasonal product with most imports occurring in the period around August to October. To ensure the investigation focuses primarily on diaries for use in 2013 it is recommended that the period used to determine claims of dumping (the period of investigation) be the year ended March. This period is in accordance with New Zealand's preferred period for assessing dumping of twelve months.²

22. Any final determination of whether or not goods are dumped and causing injury can be made only after a full investigation has been carried out in accordance with the Act and the World Trade Organisation (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Agreement).

¹ (1991) 2 PRNZ 393

² Recommendation adopted by the World Trade Organisation Committee on Anti-Dumping Practices on 5 May 2000 (G/ADP/6)

1.3 Date for Submissions

23. Exporters and importers will be directly invited to make submissions and provide responses to questionnaires. Importers will be given 30 days and exporters and manufacturers will be given 37 days to respond to questionnaires.

24. All interested parties are entitled to make submissions in the investigation and it is recommended that submissions are made by no later than **13 September 2013** so that they can be considered in the Ministry's report on the essential facts and conclusions of this investigation. Submissions can be made to: Register Integrity and Trade Remedies, Ministry of Business, Innovation and Employment, PO Box 1473, Wellington 6011, New Zealand, or by email at traderem@mbie.govt.nz.

2. Interested Parties

2.1 Basis for the Application

25. Croxley claims that the alleged dumping of diaries from Korea is causing material injury through:

- price undercutting, and
- price depression and suppression;

resulting in:

- a decline in output and sales;
- a decline in market share;
- a decline in profits; and
- adverse effects upon return on investments, employment and wages, utilisation of production capacity, cash flow and growth.

2.2 Imported Goods

26. The goods which are the subject of the application, hereinafter referred to as “subject goods”, are:

“Diaries, with or without covers, containing a written record of daily/weekly/yearly events, appointments, reference material and observations, having the following specifications:

Height: Not less than 100mm and not more than 305mm

Width: Not less than 74mm and not more than 220mm

Leaf: Not less than 6 and not more than 400

Pages: Not less than 12 and not more than 800

Paper weight: Not less than 45gsm and not more than 200gsm

Binding: Stapled, sewn, glued or wire bound

Excluding dayplanner organisers with steel ringbinders.”

27. The diaries subject to investigation are classified under tariff item and statistical key 4820.10.00.02J.

2.3 Interested Parties

New Zealand Industry

28. The application for an anti-dumping investigation was made by Croxley which has stated it is the major producer in New Zealand of diaries. The only other known producer, K Kurtovich Products, has provided written support for the application.

Exporters

29. Croxley advised that it considers the allegedly dumped goods to be supplied by [REDACTED].

30. The Customs data shows that in the year ended 31 March 2013 there were 25 firms supplying goods originating from Korea that entered under tariff item and statistical key 4820.10.00.02J.

Importers

31. Croxley identified [REDACTED] as importing diaries from [REDACTED]. Customs data shows that in the year ended 31 March 2013, 36 firms imported goods classified under tariff item and statistical key 4820.10.00.02J which originated from Korea.

Selection of Exporters

32. The Ministry is likely to restrict its analysis to a selection of the largest exporters if an investigation is initiated due to the large number of exporters of diaries from Korea. Article 6.10 of the Agreement states that a selection may be limited to the largest percentage of the volume of exports that can reasonably be investigated.

3. New Zealand Industry

33. Section 3a of the Act provides the definition of “industry”:

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

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

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

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

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

3.1 Like Goods

34. In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into injury, and having identified the subject goods, it is necessary to determine whether there are New Zealand producers of goods which are like those goods in all respects or have characteristics which closely resemble the subject goods.

35. The subject goods have been described in section 3.2 above.

Like Goods Analysis

36. Section 3 of the Act provides that like goods are goods that are either like the imported goods in all respects or have characteristics that closely resemble those goods. To determine whether the goods produced in New Zealand are like goods to the subject goods, the Ministry normally considers physical characteristics, function and usage, pricing structures, marketing and any other relevant considerations, with no one of these factors being necessarily determinative.

37. Croxley provided an analysis of like goods issues in its application. Croxley’s analysis and the Ministry’s comments and assessment of like goods are contained under the relevant headings below.

Physical Characteristics

38. Assessing the physical characteristics involves looking at the appearance, size and dimensions, composition of the product and the production methods and technology utilised to create it.

39. Croxley has stated that the physical characteristics of its diaries are practically identical to the imported diaries, in that they contain provision for written records of daily/weekly/yearly events, appointments, reference material and observations.

40. Croxley said that the category of goods under which its diaries fall can be described in the same way as the subject goods.

41. Croxley considers its method of manufacturing diaries to be very similar to that in Korea. The process involves the following principal functions:

- printing or blocking covers;
- printing paper with dates and/or days, weeks, months, years;
- cutting into sheets;
- folding into sections;
- stacking to desired sequence;
- sewing, stapling or gluing; and
- binding and packing.

Function and Usage

42. Function and usage covers consumer perceptions, expectations, and end use, which can assist in reaching conclusions regarding substitutability where relevant.

43. Croxley stated that both its own diaries and the imported diaries are intended for a written record of daily/weekly/yearly events, appointments, reference material and observations.

Pricing Structures

44. Some goods are differentiated by the level at which they are priced to end users, by the costs that are built into the pricing structure or the way in which prices are set.

45. Croxley did not comment on whether its pricing structures are the same as the imported product. Any investigation will need to obtain more information concerning pricing structures.

Marketing

46. Marketing considerations include: the distribution channels used; customers (both actual and targeted); branding and advertising.

47. Croxley commented that the distribution channels in New Zealand would be similar for both the imported and New Zealand product, and would include stationery retailers, contract suppliers, and corporate customers for individual products.

Conclusion Relating to Like Goods

48. Croxley provided information regarding the subject goods and compared the characteristics of the subject goods with the diaries it produces. Croxley has considered physical characteristics, function and usage and distribution systems. Croxley considers that its diaries possess characteristics that closely resemble the subject goods and are therefore like goods within the terms of the Act.

49. For the purpose of initiation of an investigation, the Ministry concludes that there is sufficient evidence that the diaries produced by Croxley have characteristics that closely resemble the subject goods and are therefore like goods to the subject goods.

3.2 New Zealand Industry Support for the Application

50. The requirements of section 10(3) of the Act must be met before an investigation can be initiated. This includes a requirement that an application is supported by New Zealand manufacturers representing at least 25 per cent of the production of like goods. In addition at least half of the New Zealand manufacturers (by production volume) that have provided written support for or opposition to the application must be in support of the application.

51. The application was submitted by Croxley which stated it is the major producer of like goods in New Zealand. It obtained support for the application from the only other producer of diaries in New Zealand, K Kurtovich Products. Croxley was only able to provide an estimate of Kurtovich's production; however, in its review of dumping duties on diaries from China and Malaysia, the Ministry obtained production figures for 2012 directly from Kurtovich. Having regard to this information, the Ministry is satisfied that the application is supported by the majority of New Zealand producers of diaries and therefore meets the requirements of section 10(3) of the Act.

4. Evidence of Dumping

52. Section 10 of the Act outlines the evidence of dumping which is required in a properly documented application for an investigation. The Ministry uses sections 4 and 5 of the Act, which set out in detail the export price and normal value information that must be examined in an investigation to establish if dumping exists, as guidance to determine whether sufficient evidence of dumping has been provided in terms of section 10 of the Act.

4.1 Export Prices

Base Price

53. Croxley obtained a quote from [REDACTED] in February 2012 for a 2013 A4 diary and A5 diary. The quote was on a free on board (FOB) basis, with a price per diary in United States dollars (USD).

54. Croxley was quoted US\$ [REDACTED] for an A4 size diary and US\$ [REDACTED] for an A5 size diary. It converted these prices at an exchange rate of 1 USD: 1,061.91 KRW, which was the exchange rate on 3 January 2013, obtained from <http://www.oanda.com>. The average exchange rate for February 2012 was 1 USD: 1,122.04 KRW³, which the Ministry considers is more appropriate as it covers the period in which the export price quote was obtained.

Adjustments

55. Croxley made a downward adjustment for “internal freight costs”. It obtained a quote from [REDACTED] for a shipment of diaries from Busan to Auckland. The cost includes charges from ex-factory to FOB and covers haulage, wharfage, handling, Customs clearance, a document fee, seal and port charges, and equated to US\$ [REDACTED], or KRW [REDACTED]⁴ for a 20’ container. Based on its own knowledge of the number of diaries that would fit in a 20’ container, Croxley calculated an amount for internal freight per piece of KRW [REDACTED] for an A4 and KRW [REDACTED] for an A5. Using the exchange rate for February 2012 gives values of internal freight per piece of KRW [REDACTED] for an A4 and KRW [REDACTED] for an A5.

Export Price

56. The ex-factory export price calculated by Croxley is KRW [REDACTED] per piece for an A4 and KRW [REDACTED] for an A5 size diary. Using the February 2012 exchange rate figures results in KRW [REDACTED] per piece for an A4 and KRW [REDACTED] for an A5. The Ministry has used the latter figures to calculate a dumping margin.

4.2 Normal Values

Base Price

57. Croxley obtained retail selling prices for similar types of diaries sold on the Korean domestic market, a “Go Do Planner Diary” and a “Management k8 Diary”. Both diaries were purchased in December 2012. Croxley provided receipts for the purchases. The Go Do diary (equivalent to A5)

³ Obtained by the Ministry from <http://www.oanda.com>.

⁴ Using the exchange rate obtained by the Ministry.

retailed for KRW [REDACTED], whilst the Management diary (equivalent to A4) retailed for KRW [REDACTED].

58. The Ministry notes that although the quote used for export prices is from much earlier in the year, both the export price calculations and the normal value calculations relate to 2013 diaries.

Adjustments

59. Croxley made a downward adjustment for a retailer's margin. It obtained a quote from [REDACTED] for various possible retail margins in Korea, one of which was [REDACTED] percent for large chain stores and mass retailers. Croxley has applied an average margin of [REDACTED] percent. This equates to KRW [REDACTED] for the Go Do diary and KRW [REDACTED] for the Management diary.

60. Croxley also made an adjustment for cost differences, as Croxley considers that both the Korean domestic diaries are different in specification to the equivalent types exported to New Zealand. Both the Korean domestic diaries have a leather cover, while the diaries exported to New Zealand do not. Croxley calculated this adjustment by detailing a Bill of Materials showing costs to manufacture an equivalent to each of the Korean diaries, including the leather cover. It then calculated the difference between these costs and its standard cost for an A4 and an A5 diary. The adjustment equates to KRW [REDACTED] for the Go Do diary and KRW [REDACTED] for the Management diary.

Normal Value

61. The ex-factory normal value was KRW [REDACTED] for the Go Do diary and KRW [REDACTED] for the Management diary.

4.3 Comparison of Export Price and Normal Value

62. The following table compares the export prices and normal values calculated in section 4 above.

Table 4.1: Dumping Margin Calculation

Goods	Export Price	Normal Value	Dumping Margin	Dumping Margin as % of the Export Price
A4/ Management k8 Diary	[REDACTED]	[REDACTED]	[REDACTED]	293%
A5/ Go Do Planner Diary	[REDACTED]	[REDACTED]	[REDACTED]	274%

4.4 Conclusion

63. Croxley has provided evidence of estimated export prices and normal values based on information that was reasonably available. The Ministry considers that the exchange rates, the export price and normal value information, and relevant assumptions and adjustments have been made on a reasonable basis.

64. Based on the information contained in the application and obtained by the Ministry, the Ministry concludes that there is sufficient evidence for the purpose of initiating an investigation in

terms of section 10 of the Act that diaries from Korea are being exported to New Zealand at dumped prices.

4.5 Import Volumes

65. Article 5.8 of the Agreement requires that an application shall be rejected and an investigation shall be terminated promptly as soon as the authorities are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. Article 5.8 further states there shall be immediate termination in cases where the authorities determine, *inter alia*, that the volume of dumped imports, actual or potential, is negligible. Article 5.8 also states that the volume of dumped imports shall normally be regarded as negligible if the volume of imports from a particular country is found to account for less than 3 percent of total imports.

66. When considering the volume of imports, the Ministry normally uses the proposed period of investigation to assess whether the import volumes are negligible.⁵ If an investigation is initiated the period of investigation will likely be the year ended 31 March 2013. Customs data for the tariff item and statistical key covering the subject goods for the year ended 31 March 2013 is shown in the table below.

**Table 4.2: Import Volumes of Diaries
(Year to 31 March 2013)**

	Units	% of Total
Imports from Korea	328,740	27%
Other imports	908,254	73%
Total	1,236,994	

67. Imports from Korea made up 27 percent of total imports in the year ended 31 March 2013 and are therefore clearly above the 3 percent negligibility threshold in Article 5.8 of the Agreement.

Conclusion on Import Volumes

68. Based on the information available, the volume of imports from Korea is not negligible.

⁵ Recommendation adopted by the World Trade Organisation Committee on Anti-Dumping Practices on 27 November 2002 (G/ADP/10).

5. Evidence of Injury

5.1 Material Injury

69. Under sections 10(1) and 10(2) of the Act a properly documented application must contain evidence of injury to a New Zealand industry caused by allegedly dumped imports before an investigation may be initiated. Material injury is considered for the industry as a whole or, in the absence of information from all domestic producers, in relation to those producers that constitute a major proportion of the New Zealand industry, regardless of whether an application has been supported by all producers.

70. Croxley has not provided injury information relating to Kurtovich. As noted in paragraph 51, Croxley on its own is considered to meet the 'standing' requirement of section 10(3) of the Act. Section 10(1) of the Act, however, also requires that there must be sufficient evidence of material injury to an 'industry' caused by dumped imports. 'Industry' is defined in section 3A of the Act to mean either the New Zealand producers of like goods or such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods.

71. Information provided by Kurtovich in a recently completed review indicates, when taken together with information from Croxley, that Croxley represents approximately 10 percent of the total New Zealand production of like goods. The Ministry is satisfied that Croxley's production of like goods represents a 'major proportion' of the total New Zealand production of like goods in terms of section 3A of the Act and can therefore be considered to constitute the New Zealand industry for the purpose of considering whether there is sufficient evidence of material injury caused by dumped imports to warrant initiation of an investigation. Any investigation will however need to establish to the extent possible the injury caused by subject goods to both Croxley and Kurtovich during the injury period.

72. Section 8 of the Act sets out in detail the matters that must be examined in any investigation to establish if material injury exists. In determining whether the evidence provided by Croxley is sufficient in terms of section 10, the Ministry therefore takes guidance from the provisions of section 8 of the Act.

Financial information provided by Croxley

73. The financial information provided by Croxley relates only to diaries produced in New Zealand and sold on the New Zealand domestic market. Croxley provided financial information covering its financial years 2007 to 2012 (Croxley's financial year ends December).

74. When determining whether the New Zealand industry has suffered material injury, the Ministry normally assesses a series of data starting from a financial year which was not affected by dumped imports through until the most recent financial year. Croxley stated that dumping has been occurring since at least 2007; however it noted that when the Ministry investigated dumping of diaries from China, Hong Kong, Korea and Malaysia in 2007, the volume of diary imports from Korea was negligible and therefore had little effect on Croxley. It considers that when duties were imposed on diaries from China and Malaysia (with effect from February 2008), the preferred source of supply for diaries shifted to Korea and effects commenced in 2009. The Ministry has assessed injury over Croxley's financial years 2007 to 2012.

5.2 Import Volume Effects

75. The following table shows imports of diaries and sales of domestically produced diaries by Croxley. The imports of diaries relate to the Tariff Item and Statistical Key identified in paragraph 27. Both the imports and the sales of domestically produced diaries are for years ended December.

Table 5.1: Import Volumes (Units)

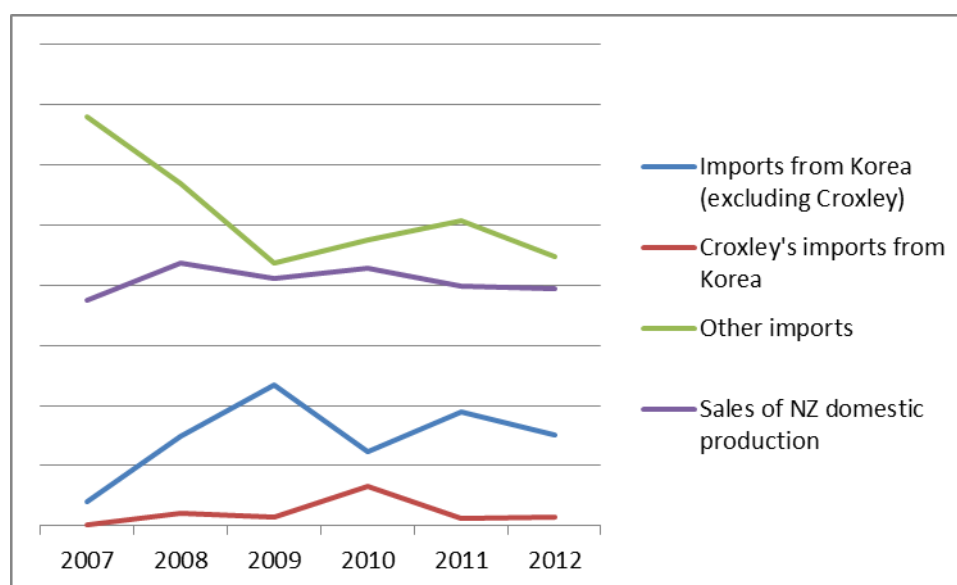
	2007	2008	2009	2010	2011	2012
Imports from Korea ⁶						
Croxley's imports from Korea						
Other imports	1,362,102	1,138,481	872,484	952,683	1,013,144	896,415
Sales of NZ domestic production						
NZ market						
<i>Change on previous year:</i>						
Imports from Korea						
Croxley's imports from Korea						
Other imports		-223,622	-265,997	80,199	60,461	-16,729
Sales of NZ domestic production						
NZ market						
<i>Percentage change:</i>						
Imports from Korea						
Croxley's imports from Korea						
Other imports		-16%	-23%	9%	6%	-12%
Sales of NZ domestic production						
NZ market						
<i>Imports from Korea as percentage of:</i>						
Sales of NZ domestic production						
NZ market						

⁶ Excludes Croxley's imports from Korea.

76. In absolute terms, imports from Korea have increased 324 percent between 2007 and 2012, although import volumes have fluctuated over the period with large increases in 2008 and 2009 (when import volumes peaked), followed by a significant decline in 2010, a recovery in volume in 2011, and a smaller decline in 2012. This could indicate importers switching their source of supply subsequent to the imposition of duties on diaries from China and Malaysia which were effective from February 2008. Relative to New Zealand production, imports from Korea represent 10 percentage points more in 2012 than they did in 2007. As a percentage of the NZ market, imports from Korea represent 10 percentage points more in 2012 than they did in 2007.

77. In absolute terms, imports from other sources declined by 36 percent between 2007 and 2012. The NZ market for diaries has declined in absolute terms by 10 percent between 2007 and 2012.

Graph 5.1: Import Volumes (Units)



78. Graph 5.1 illustrates the New Zealand market for diaries. It is evident from the graph that while all sources of diaries other than Korea have either declined or remained relatively steady, imports of diaries from Korea have increased significantly from 2007 to 2012.

Conclusion on Import Volume Effects

79. The allegedly dumped imports of diaries from Korea increased significantly in absolute terms between 2007 and 2012. Dumped imports from Korea also increased significantly relative to New Zealand production and consumption over the period.

5.3 Price Effects

Price Undercutting

80. In its application Croxley said the first point of competition between domestically produced and imported subject goods is its ex-warehouse price versus the into-store price for imported diaries. Croxley considers this to be a fair and equitable comparison. The Ministry notes that a New Zealand industry's ex-warehouse price would normally be compared to either the ex-wharf or ex-store price of the imported product. Any investigation will need to consider the appropriate level of trade at which prices should be compared.

Constructed Importers' Prices Based on Import Data

81. In its application Croxley has calculated from import statistics an average per unit FOB price for each year from 2007 to 2012.

82. To estimate the importer's into-store price, upward adjustments were made by Croxley for landing (█%) and an importer's profit margin of (█%). Croxley calculated a price of NZ\$ █ per unit for 2012 for diaries exported from Korea.

83. However, the Ministry considers that an into-store price level should be exclusive of profit. The Ministry has therefore calculated from Customs data for each year from 2009 to 2012 an average CIF price, i.e. a price exclusive of an importer's profit.

New Zealand Industry's Ex-factory Prices

84. As part of its application in the price undercutting section, Croxley provided separate ex-warehouse net sell prices for A4 and A5 diaries and for 'other' diaries. However, because the average import prices relate to all diary types, the Ministry has calculated Croxley's average selling price for all diary types for each year from 2009 to 2012. These prices have been adjusted to an ex-warehouse level using information on freight costs from the review of diaries from China and Malaysia.

Price Undercutting Comparison

85. The following table compares the average into-store selling prices of diary imports from Korea with Croxley's average ex-warehouse prices to assess the extent of any price undercutting. The undercutting is measured as a percentage of Croxley's average ex-warehouse price for each calendar year from 2009 to 2012.

Table 5.2: Price Undercutting (NZD per unit)

	2009	2010	2011	2012
Croxley's ex-warehouse price	█	█	█	█
Into-store imported price	█	█	█	█
Amount of undercutting	█	█	█	█
Undercutting as % of industry's price	█	█	█	█

86. Table 5.2 above shows prima facie evidence of significant undercutting of Croxley's average selling prices by the average prices of diaries from Korea.

87. This comparison of prices, however, relates to average prices across all types of imported diaries and all types of diaries produced by Croxley. To the extent possible, any investigation will need to compare prices for similar diary types.

Price Depression

88. Price depression occurs where prices achieved by the New Zealand manufacturers are lower than those achieved in a period unaffected by dumped goods.

89. Croxley has provided financial information to enable the Ministry to assess whether it has suffered price depression. The following table shows Croxley's average selling prices from 2007 to 2012, for all types of diaries.

**Table 5.3: Price Depression
(NZD per unit)**

	2007	2008	2009	2010	2011	2012
Average selling price	██████████	██████████	██████████	██████████	██████████	██████████
As % of 2007		██████████	██████████	██████████	██████████	██████████

90. Table 5.3 shows that Croxley's average selling price increased over the entire period but has also fluctuated over the period. Croxley's average selling price declined in 2008, stayed at the same level in 2009, increased ██████ percent on the 2007 price in 2010, and has declined by ██████ percent between 2010 and 2012.

Price Suppression

91. Croxley has said that it has been unable to pass on reasonable increased costs due to market pressure resulting from dumped goods.

92. The Ministry has compared Croxley's total costs as a percentage of sales revenue from 2007 to 2012. The following table shows the resulting calculations.

**Table 5.4: Price Suppression
(NZD per unit)**

	2007	2008	2009	2010	2011	2012
Average Selling Price	██████████	██████████	██████████	██████████	██████████	██████████
Total Costs	██████████	██████████	██████████	██████████	██████████	██████████
Total Costs as % of Selling Price	██████████	██████████	██████████	██████████	██████████	██████████

93. Table 5.4 shows that total costs as a percentage of average sales revenue was highest in 2009 and has increased by ██████ percentage points in 2012 from the percentage in 2007.

Conclusion on Price Effects

94. There is evidence that the average price of imports from Korea are significantly undercutting Croxley's average selling prices.

95. Croxley's selling prices increased overall between 2007 and 2010, but have decreased between 2010 and 2012. Total costs as a percentage of sales revenue have increased from 2007 to 2012. There is evidence that Croxley may have suffered some price depression and suppression.

96. The Ministry notes that these price effects are not of themselves a measure of injury. Injury caused to the New Zealand industry is assessed in terms of the economic impact in the following section of the report.

5.4 Economic Impact

Output and Sales

97. Croxley provided financial information for sales volume and sales revenue from 2007 to 2012. This information covers all types of diaries.

98. The following table provides the sales volume and sales revenue information over the injury period.

Table 5.5: Sales Volume (000 units) and Sales Revenue (\$000, NZD)

	2007	2008	2009	2010	2011	2012
Sales Volume	████████	████████	████████	████████	████████	████████
As % of 2007		████████	████████	████████	████████	████████
Sales Revenue	████████	████████	████████	████████	████████	████████
As % of 2007		████████	████████	████████	████████	████████
Revenue/unit	████████	████████	████████	████████	████████	████████
As % of 2007		████████	████████	████████	████████	████████

99. Croxley's total sales volume has increased slightly overall from 2007 to 2012, although it has declined since 2008. Croxley's sales volume in 2012 was ██████ percent of the volume it achieved in 2007.

100. Croxley's total sales revenue has increased from 2007 to 2012, but declined slightly from 2010. Croxley's sales revenue in 2012 was ██████ percent of what it achieved in 2007.

101. Croxley's revenue per unit has increased by ███ percent from 2007 to 2012, although, again, it declined slightly between 2010 and 2012.

Market Share

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

103. Croxley claimed that it has lost sales to dumped imports from Korea.

104. The following table provides the market share information from 2007 to 2012. Croxley has imported diaries from Korea and from other sources, so for the purpose of market share analysis, the Ministry has separately identified Croxley's imported diaries. All information is for the year ended December.

Table 5.6: Market Share (Units)

	2007	2008	2009	2010	2011	2012
Imports from Korea (all other importers)						
Croxley's imports from Korea						
Total imports from Korea	84,180	340,191	496,167	378,243	403,977	330,811
Croxley's other imports						
Other imports						
Sales of NZ domestic production						
NZ market						
<i>Change on previous year:</i>						
Imports from Korea (all other importers)						
Croxley's imports from Korea						
Total imports from Korea		256,011	155,976	-117,924	25,734	-73,166
Croxley's other imports						
Other imports						
Sales of NZ domestic production						
NZ market						
<i>Percentage share held by:</i>						
Imports from Korea (all other importers)						
Croxley's imports from Korea						
Total imports from Korea						
Croxley's other imports						
Other imports						
Sales of NZ domestic production						

105. Table 5.6 shows that the market share of sales of NZ domestic production increased by \square percentage points from 2007 to 2012.

106. The market share held by diaries imported from Korea by importers other than Croxley increased by █ percentage points from 2007 to 2012. Compared to 2007, imports from other sources have decreased by 27 percentage points over the entire period.

107. Croxley's gain in market share appears to have mainly been at the expense of imports from other sources, which have declined significantly. Imports from Korea have also gained market share at the expense of imports from other sources.

Profits

108. Dumped imports can affect gross profit and net profit via the impact on sales prices and volumes.

109. The following table shows Croxley's earnings before interest and tax (EBIT) figures from 2007 to 2012.

Table 5.7: EBIT (\$'000 NZD)

	2007	2008	2009	2010	2011	2012
EBIT	█	█	█	█	█	█
As % of 2007		█	█	█	█	█
EBIT per unit	█	█	█	█	█	█
As % of 2007		█	█	█	█	█
EBIT as a % of sales revenue	█	█	█	█	█	█
As % of 2007		█	█	█	█	█

110. Total EBIT has declined significantly over the period although it has also fluctuated significantly, declining in 2008, dropping significantly in 2009 (to its lowest point), followed by a significant increase in 2010 and declines in 2011 and 2012. EBIT in 2012 represents █ percent of the EBIT Croxley achieved in 2007.

111. EBIT per unit has followed a similar pattern and has declined significantly over the period, with EBIT per unit in 2012 representing █ percent of 2007.

112. Croxley's EBIT as a percentage of sales revenue achieved in 2012 represents only █ percent of that it achieved in 2007, and has fluctuated over the period in a similar way to total EBIT.

113. Croxley has stated that "stock" diaries as a subset of total diaries have seen a more marked decrease in demand, which has been masked by custom print diaries. Croxley said stock diaries therefore would have a greater decline in profit than that shown for diaries overall. This statement is consistent with the introduction of Croxley's █ range for which they would not be making as much profit. The Ministry notes, however, that injury must be assessed in relation to Croxley's production and sale of all like goods, not just a subset of those goods.

Productivity

114. Productivity is the relationship between goods produced and the inputs required to manufacture them. Productivity is affected by output and capacity utilisation levels.

115. Croxley provided information showing that its productivity has improved. Croxley stated that productivity improvements have been attained through targeted maintenance and preventative maintenance programs, an on-going program of continuous improvement and targeted capital spend.

Return on Investments

116. Return on investments measures profit against the value of the investment in a business. Changes in the return on investments may impact the ability to retain current investment or attract new investment. Declines in return on investments can result from a decline in profit or an increase in the level of investment within the business.

117. In calculating the return on investments, the Ministry would normally seek to compare net profit figures against the average assets used in the production of diaries intended for sale on the domestic market. However, Croxley was not able to provide the value of assets employed in the production of diaries because the company's plant is not dedicated solely to the production of diaries and it is therefore difficult to separate the data out specifically for diaries.

Utilisation of Production Capacity

118. The utilisation of production capacity reflects changes in production volumes or changes in capacity. A decline in production volumes will normally lead to a higher cost per unit due to increased fixed overheads per unit. This will lead to a decrease in profit level, unless offsetting savings are found elsewhere.

119. Croxley provided information on available hours for each of the [REDACTED] steps of the process of making diaries. This covers hours the machines are available for all production, that is, production for both stationery and diaries.

120. Croxley has stated that if duties were not imposed and the volume of imported diaries from Korea increased, the effect on its manufacturing operations would likely involve a reduction in output on the most cost sensitive products. Croxley submitted that degradation would then spread across the whole range as it fights to recover overheads and fixed costs.

121. Croxley has recently reduced its hardcover production line, the Kolbus, to [REDACTED] instead of [REDACTED], as it needed to cut costs and reduce overheads. This will have effects on its production and utilisation of production capacity in future.

Other Adverse Effects

Cash Flow

122. Croxley has provided figures for the change in cash flow from 2007 to 2012. Croxley estimates that stock diary cash flow has reduced at least -\$[REDACTED] over this period. Croxley has calculated cash flow based on the change in its revenue and costs, so the cash flow information follows the trend of revenue and EBIT. The change in cash flow for all types of diaries from 2008 to 2012 is shown in the table below.

Growth, Investments, and Ability to Raise Capital

129. Croxley has stated that it has lost a contract for 2013 [REDACTED] brand diaries to lower priced diaries ex-Korea, which it had previously secured for 2012 diaries. The value of this contract was \$ [REDACTED] or [REDACTED] units. It has not provided any evidence to substantiate this claim.

130. Croxley stated that this contract loss is an indicator of the size of potential loss of growth resulting from the difference between costs ex-Korea and Croxley's domestic costs.

131. Croxley is actively trying to grow its business. Croxley said any gains made by Korean dumped imports would reduce its ability to compete.

132. Croxley commented that it would be difficult to justify any capital expenditure if it were not able to compete effectively and it would not be able to continue with any capital investment program.

5.5 Other Causes of Injury

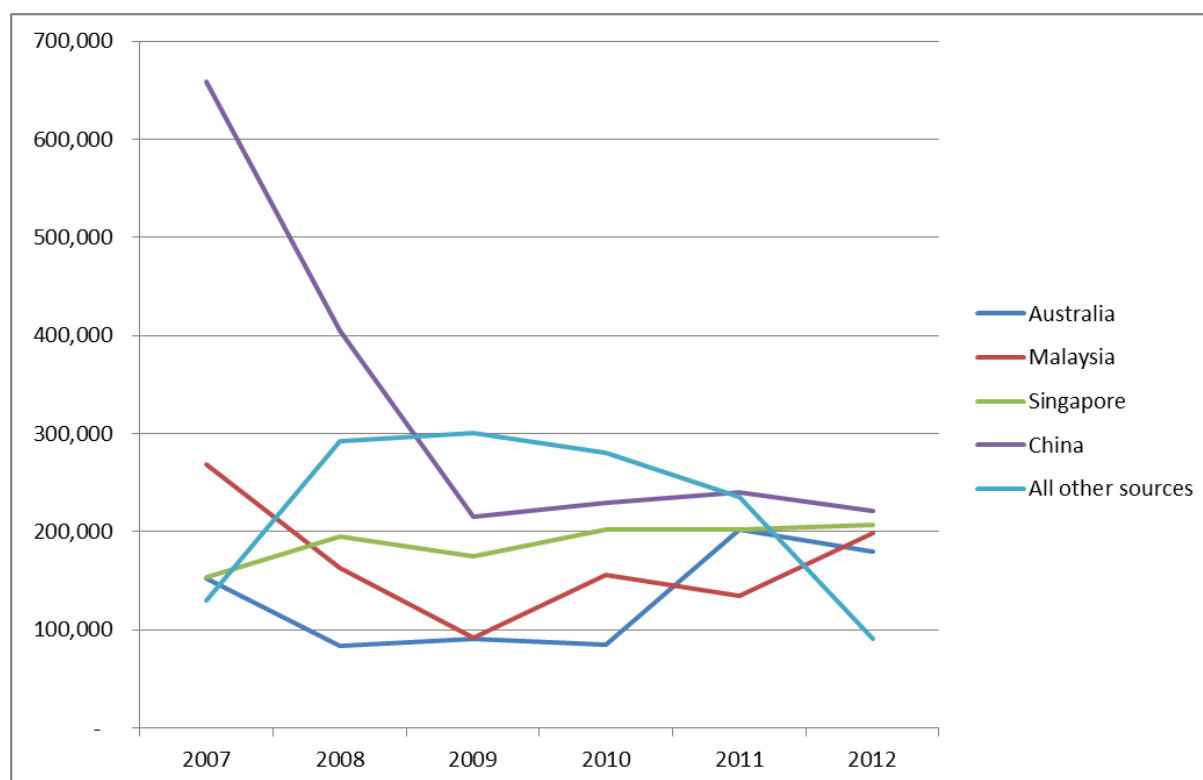
Volume and prices of goods that are not sold at dumped prices

133. Croxley did not make any comments on the volume and prices of goods from other sources. The Ministry notes that a sunset review of the anti-dumping duty on diaries from China and Malaysia has recently been completed, which concluded the duty should remain in place.

Volume of imports from other countries

134. From the Custom's data, the Ministry identified the main sources of diaries, other than Korea, as China, Singapore, Malaysia and Australia. Graph 5.2 below shows the volume of imports of diaries into New Zealand from China, Singapore, Malaysia, Australia and "all other countries"⁷ from 2007 to 2012 for years ended December.

⁷ Excludes Korea

Graph 5.2: Volume of Imports from Other Sources (units)

135. Imports from Australia and Singapore have grown over the period, although imports from Australia dropped slightly in 2012. In 2012, imports from Australia represent 18% percentage points more of the New Zealand market than they did in 2007, and imports from Singapore represent 21% percentage points more. Imports from China and Malaysia dropped significantly between 2007 and 2009. Since 2009, imports from China have remained steady but represent 22% percentage points less of the New Zealand market in 2012 than they did in 2007.

136. While imports from Malaysia have grown since 2009 they represent 20% percentage points less of the New Zealand market in 2012 than they did in 2007. The imports from all other sources (that is, imports excluding Korea, Australia, China, Malaysia and Singapore) increased until 2009 and have since dropped drastically. They represent 9% percentage points less of the New Zealand market in 2012 than they did in 2007.

137. Taken together, imports from countries other than Korea (excluding such imports by Croxley) have decreased significantly between 2007 and 2012, declining from 66% percent to 22% percent of the New Zealand market over this period.

Imported price of diaries from other countries

138. Table 5.11 below compares Croxley's ex-factory price against the CIF price per unit of imported diaries from other countries. The Ministry calculated the average per unit FOB value for imports from Australia, Malaysia, Singapore, China and all other countries from Customs data for the year ended 31 December 2012. The Ministry made upward adjustments for overseas freight, insurance and dumping duty (for China and Malaysia) based on the actual amounts recorded in the Customs data. Croxley's ex-factory selling price relates to its 2012 financial year.

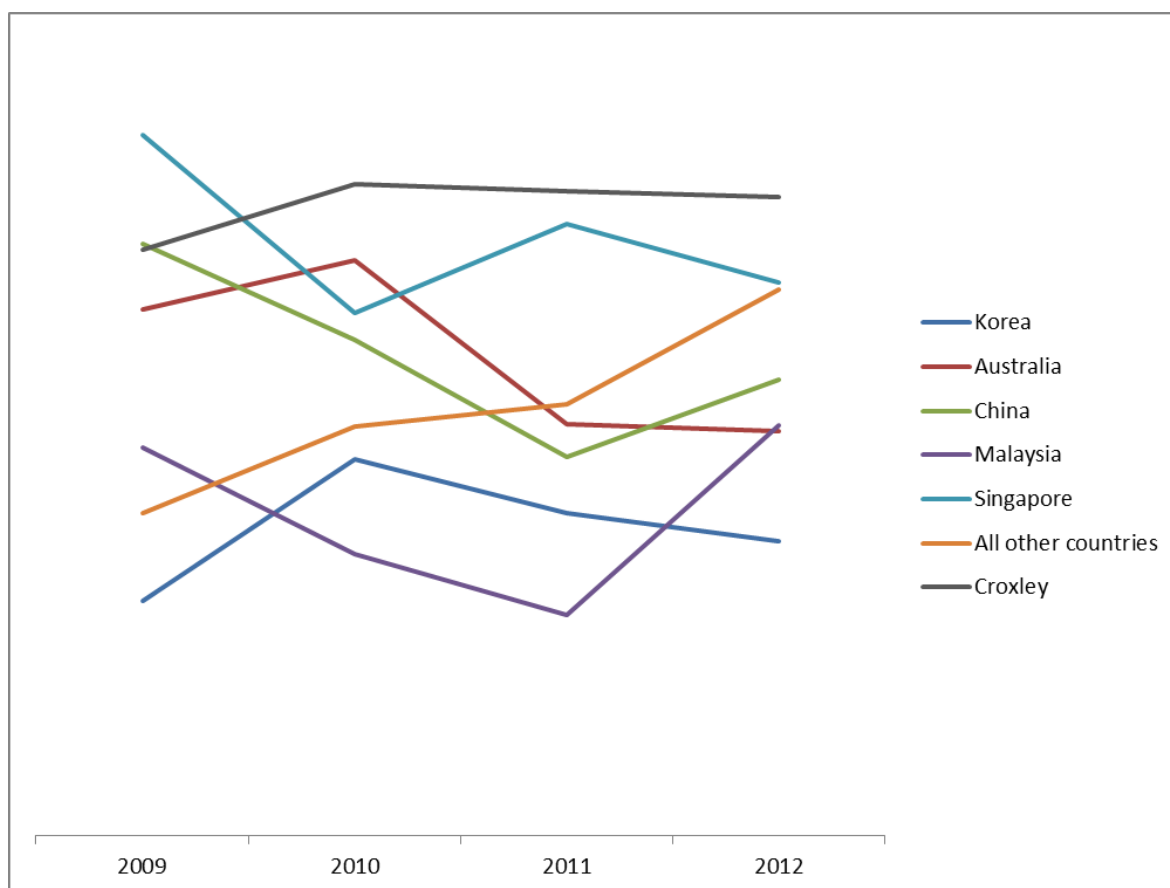
Table 5.11: Price Undercutting from Other Imports (NZD)

	Australia	Malaysia	Singapore	China	All other countries
Imported CIF Price	3.05	3.09	4.17	3.44	4.12
Croxley's Selling Price	██████████	██████████	██████████	██████████	██████████
Amount of Undercutting	██████████	██████████	██████████	██████████	██████████
Percentage of Undercutting	██████████	██████████	██████████	██████████	██████████

139. Table 5.11 shows diaries from all sources in the table undercut Croxley by a significant amount in 2012.

140. Imports of diaries from China and Malaysia are currently subject to anti-dumping duties. A recently completed review has concluded that duties should remain in place. Imports from these sources are still undercutting Croxley, indicating that not all of the undercutting is caused by dumping.

Graph 5.3: Average Prices of Diaries (NZD/unit)



141. The graph above shows average prices of diaries from 2009 to 2012, calculated on the same basis as the prices in the table. Diaries from Australia, Malaysia, Korea and all other countries have consistently undercut Croxley since 2009. Diaries from Singapore and China have undercut Croxley since 2010 (they were not undercutting in 2009). Korea has consistently been one of the lowest priced sources of diaries.

142. Based on the volume and price information above, the Ministry considers it is possible that imports from countries other than Korea are a cause of injury to Croxley. The margin of price undercutting estimated for imports from Korea is, however, greater than any of the price undercutting margins shown in the table above. In addition the countries with the next largest undercutting margins (China and Malaysia) are subject to anti-dumping duties. Import volumes from countries other than Korea have also declined significantly since 2007 while those from Korea have increased significantly over the same period, although other imports still hold about double the market share of that held by imports from Korea.

Contraction in Demand or Changes in the Patterns of Consumption

143. Croxley has not commented on any changes in consumption in its application for investigation.

144. However, in the recently completed review, Croxley noted that there had recently been a notable [REDACTED] diaries due to the technology alternatives now available. However, the company also noted that the recent [REDACTED] diaries has been balanced by an increased [REDACTED] diaries through the retail sector. According to the company, many people are now using both electronic and standard diaries in tandem.

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

145. Croxley has only commented on restrictive trade practices and competition to say that it is purely price related. Croxley is not aware of any restrictive trade practices.

Developments in Technology

146. Croxley stated that it is not aware of any developments in technology that have affected the New Zealand industry.

Export Performance of the New Zealand Producers

147. Croxley mainly exports to [REDACTED] and [REDACTED] and achieves a profit when selling diaries to these markets. The company believes its biggest opportunity for growth is in export markets, specifically [REDACTED], and that any negative impact caused by removing the anti-dumping duties will include its ability to compete internationally. Diary exports represented [REDACTED] percent of Croxley's total diary sales in 2012.

Imports by the Industry

148. Croxley imports diaries from Korea through [REDACTED]. Croxley said that these are products it cannot make in New Zealand, which include features such as [REDACTED]. Croxley also imports diaries from other sources.

Table 5.12: Croxley's Imports from Korea (units)

	2007	2008	2009	2010	2011	2012
Croxley's Imports from Korea	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
As a % of 2007		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

149. The figures in the table show a significant increase in Croxley's imports from Korea since 2007. The largest increase is in 2010, which represents [REDACTED] percent of Croxley's 2007 imports. Croxley's imports have declined in 2011, and in 2012 were at 2009 levels. It is not clear why there was such a surge in 2010; this will need to be discussed in more detail if an investigation is initiated.

150. All import figures have been excluded from the financial information provided to the Ministry. There is no evidence that Croxley's imports have had an injurious effect on its operations.

Conclusion on Other Causes of Injury

151. Based on the available information, there is evidence to suggest that Croxley may have been injured by imports from other sources. However, Croxley does not appear to have been injured by any other potential cause of injury. Any investigation will need to consider these factors in more detail, including any evidence provided by parties other than Croxley.

5.6 Conclusions Relating to Injury

Volume Effects

152. Import data shows import volumes of diaries from Korea have increased significantly in absolute terms and as a percentage of New Zealand domestic production and relative to total New Zealand consumption from 2007 to 2012.

Price Effects

153. Croxley has provided evidence of the effects of the imports of the subject goods on its selling prices. The information shows that the average price of diaries imported from Korea significantly undercut Croxley's average selling price in 2012. Croxley has experienced some price depression in 2008 and since 2010. There is evidence that Croxley's prices have been suppressed over all of the period, with the greatest suppression occurring in 2009.

Economic Impact

154. The evidence provided shows Croxley's sales volume and sales revenue of domestically produced goods increased overall from 2007 to 2012. However, both measures have declined since 2010.

155. The evidence provided shows Croxley's total EBIT and EBIT per unit decreased significantly between 2007 and 2012, although EBIT has fluctuated significantly over that period, reaching its lowest point in 2009.

156. The evidence shows that Croxley gained market share from 2007 to 2012. Imports from Korea also gained market share over this period. The gain in market share by Croxley and imports from Korea were at the expense of market share losses by imports from other countries. The Ministry also notes that the market share held by Croxley's imports from Korea increased in 2010, but has declined back to 2009 levels in 2012.

Other Adverse Effects

157. Croxley's productivity has improved over the injury period. There is no evidence to show that Croxley's productivity or utilisation of production capacity have been adversely affected by dumped imports from Korea.

158. There is no evidence to suggest that Croxley's return on investments has been negatively affected, although as profits are declining, it is likely that return on investments has also been declining.

159. Inventories have fluctuated, although Croxley does not consider it has been injured due to the way it manages inventory. Headcount has remained static until recently, and wages have also remained static.

160. Croxley's cash flow has declined overall, with the decline being more significant for stock diaries. Croxley has lost the [REDACTED] diary business to Korea, which it considers a potential loss of growth. There is little evidence to suggest Croxley's ability to raise capital and investments have been adversely affected.

Other Causes of Injury

161. There is evidence that injury may have been caused by non-dumped imports, in particular through price undercutting, although price undercutting by imports from Korea is more significant than by imports from other countries.

5.7 Causal Link

162. Section 10(1) of the Act requires that sufficient evidence be provided that material injury is caused by the dumped goods. This does not preclude another factor(s) also being a cause of material injury. This reflects the requirements of Paragraph 2 of Article 5 of the Agreement.

163. The Ministry adopts a two-limb test to assess causality. The first limb focuses on the dumped imports, asking whether there has been material injury by applying the criteria in sub-sections 8(1) and 8(2) of the Act. This test accepts that there is an inference that where material injury occurs, it is caused by dumping.

164. The second limb examines whether there are any known factors apart from the dumped imports that are also materially injuring the industry. If other factors are identified, it must be established whether the material injury caused by other factors breaks the inferred "causal link" established under the first limb. If there is no manifest cause of material injury, apart from the dumped goods, then the inferred causal link under the first limb is confirmed.

First Causal Link Limb

165. There is evidence that the volume of allegedly dumped imports from Korea has increased significantly from 2007 to 2012 in absolute terms, recording an increase of 324 percent. There has also been a significant increase in such imports relative to production and consumption. Korea is the largest individual source for diaries except for Croxley's domestic production.

166. There is evidence that the average prices of the allegedly dumped imports from Korea are significantly undercutting the average prices of the New Zealand industry's diaries. Overall, the New Zealand industry's average selling prices have increased; however, the industry's average selling prices in 2012 have declined below those achieved in 2010. This indicates some recent price depression. There is evidence of some price suppression, in that the percentage total costs represent of sales revenue in 2012 is higher than it was in 2007.

167. From 2009, as imports of diaries from Korea have increased, Croxley's domestic sales volume has declined, except for 2010, when imports from Korea declined and Croxley's domestic sales volume increased. Croxley's sales revenue and profits have followed the same trend, declining each

year between 2009 and 2012, except for in 2010, when both revenue and profits increased. There appears to be some correlation between the imports from Korea and Croxley's sales volume, revenue and profits. Cash flow has also followed this trend.

168. At the same time Croxley's market share has increased over the 2007 to 2012 period, although a large part of this increase can be attributed to Croxley maintaining its sales volume in the face of a decline in the total New Zealand market. This is, however, consistent with Croxley suppressing its price increases to maintain sales volumes which as a result has adversely impacted on its profit. The introduction of Croxley's [REDACTED] range is consistent with this trend, as this range has allowed the company to maintain volume, but not prices.

169. Wages have remained static, as Croxley have not been able to recover costs which Croxley claims is due to dumped imports. Employment has also remained static until early 2013, when diary production lost staff as Croxley has reduced its production time due to declining volume.

170. Productivity, utilisation of production capacity, and inventories have not been demonstrated to have been adversely affected. Return on investments, growth and ability to raise capital have not been obviously affected either, however these factors are likely to have been adversely affected due to reductions in profit and a declining ability to compete. It is not evident that any of these factors have had a negative change caused by dumped imports from Korea.

171. It appears likely that when anti-dumping duties were placed on diaries from China and Malaysia (effective in February 2008), importers switched their source of supply to Korea, with this shift peaking in 2009. In 2010, imports from Korea declined, while both Croxley's own imports from Korea and its domestic production increased, suggesting perhaps that customers bought from Croxley in this year rather than importing their own supply. Croxley's domestic production has then continued to decline, while imports from Korea increased in 2011, but declined in 2012 (although they were still well above imports in 2010).

172. In 2012, imports of diaries from all sources have declined, except for Croxley's own imports from Korea. The reason for this is not clear.

173. The Ministry considers that an inference can be drawn from the evidence that the increase in the volume of allegedly dumped goods, the price effects and the consequent economic impact outlined in the paragraphs above could be attributed to dumped imports from Korea.

Second Causal Link Limb

174. Imports from sources other than Korea represented 73 percent of total imports of diaries and [REDACTED] percent of the total market in 2012 and are therefore a significant factor in the New Zealand market.

175. However, only imports from Australia and Singapore have grown. Imports from China, Malaysia, and all other sources represent a smaller percentage of the New Zealand market in 2012 than they did in 2007. Imports from Korea have gained most of the lost market share, although Croxley's domestic production has gained some market share as well. There is evidence of price undercutting by imports from other sources. The margin of price undercutting estimated for imports from Korea is, however, greater than the margins for imports from other sources. In addition the countries with the largest undercutting margins (China and Malaysia) are currently subject to anti-dumping duties. It is possible that some of these imports are also injuring Croxley.

176. Croxley does not appear to have been injured by any other factors.

177. Dumped imports must be a cause of material injury for a finding of material injury to be sustained. The Ministry does not consider that the Act or Agreement provides that dumped imports must be the sole cause of material injury.

178. While there is evidence that non-dumped imports have likely caused some injury to the New Zealand industry, the Ministry is satisfied that it is not sufficient to break the inferred causal link that dumped imports from Korea have caused material injury to the New Zealand industry.

179. Any investigation will need to establish whether there is a causal link between dumping and material injury, however, the Ministry considers that there is sufficient evidence of a causal link between the dumping of the subject goods and the material injury suffered by the New Zealand industry for the purpose of initiation.

5.8 Overall Conclusion on Injury

180. Mindful of the test set out in *Kerry (NZ) Ltd v Taylor*,⁸ the Ministry is satisfied that Croxley has provided sufficient evidence of material injury caused by allegedly dumped imports from Korea to warrant the initiation of an investigation.

⁸ (1991) 2 PRNZ 393

6. Conclusions and Recommendation

181. On the basis of the information available and for the purposes of initiating an investigation, the Ministry concludes that:

- a. sufficient evidence has been provided that indicates diaries from Korea are being dumped;
- b. sufficient evidence has been provided that indicates the New Zealand industry is currently suffering material injury; and
- c. sufficient evidence has been provided that indicates the imports of diaries from Korea may be the cause of material injury and an investigation should be initiated to determine both the existence and effect of any alleged dumping.

7. Recommendations

182. Based on the above conclusions, the Ministry recommends that the Principal Advisor, Register Integrity and Trade Remedies, acting under delegated authority from the Chief Executive, initiate a dumping investigation into diaries from Korea.

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Amy Van Ossenbruggen
Register Integrity and Trade Remedies

Agree/Not Agree

Robin Hill
Principal Advisor
Register Integrity and Trade Remedies
Business Integrity Services