



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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Dumping Investigation

Non-Confidential Final Report

Diaries from Korea

Dumping and Countervailing Duties Act 1988

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Ministry of Business, Innovation and Employment

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Abbreviations

The following abbreviations are used in this Report:

| | |
|------------------------------|--|
| 2007 Investigation | Dumping Investigation into Diaries from China and Malaysia (concluded in 2007) |
| Act (the) | Dumping and Countervailing Duties Act 1988 |
| Anti-Dumping Agreement (the) | WTO Agreement on Implementation of Article VI of GATT 1994 |
| AUD | Australian dollars |
| CBS | Certain Bound Stationery |
| Chief Executive (the) | Chief Executive of Ministry of Business, Innovation and Employment |
| Collins Debden | Collins Debden Pty Ltd |
| Collector's World | Collector's World Pty Ltd t/a Bartel Publications |
| Croxley | Croxley Stationery Ltd |
| CIF | Cost, Insurance and Freight |
| Customs | New Zealand Customs Service |
| Dats | Dats Pty Ltd |
| EBIT | Earnings Before Interest and Tax |
| EFC | Essential Facts and Conclusions |
| FIS | Free Into Store |
| FOB | Free on Board |
| FTE | Full Time Equivalent |
| Jasco | Jasco Pty (New Zealand) Ltd |
| Korea | The Republic of Korea |
| Kurtovich | K Kurtovich Products Ltd |
| Ministry (the) | Ministry of Business, Innovation and Employment |

| | |
|-------------|---------------------------|
| NGT | NGT (New Zealand) Pty Ltd |
| NZ | New Zealand |
| NZD | New Zealand dollars |
| POI | Period of Investigation |
| Print House | Print House Ltd |
| Tara TPS | Tara TPS Co Ltd |
| TWG | The Warehouse Group |
| TWL | The Warehouse Ltd |
| Ultimo | Ultimo Enterprises Ltd |
| USD | United States dollars |
| VFD | Value for Duty |
| WSL | Warehouse Stationery Ltd |
| WTO | World Trade Organisation |
| Yangjisa | Yangjisa Co Ltd |

Executive Summary

Introduction

1. An investigation into diaries from the Republic of Korea (Korea) was initiated on 11 June 2013, following the receipt of an application for a dumping investigation from Croxley Stationery Ltd (Croxley), the major New Zealand producer of diaries, claiming that diaries from Korea were being imported at dumped prices and causing material injury to it.

Diaries Subject to the Investigation

2. The goods which are the subject of the investigation (the 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 40 and not more than 400

Pages: Not less than 80 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.”

Dumping

3. Due to the large number of exporters of the subject goods over the period of investigation (POI), the Ministry limited its analysis to a selection of exporters that represented the largest percentage of the volume of exports that could reasonably be investigated, as permitted by Article 6.10 of the Anti-Dumping Agreement.

4. Information was requested, but not received or not received in a timely fashion from some interested parties and in those cases findings in relation to those parties were based on facts available.

5. The Ministry did not undertake verification visits to any of the suppliers of the subject goods from Korea in this investigation. The Ministry is satisfied that the information that has been used can be reasonably relied upon. From the information provided, all three manufacturers of diaries selected for investigation were found to be dumping during the year to 31 March 2013.

6. Dumping margins for the manufacturers investigated, and the volume of dumped and non-dumped imports are as follows:

| Manufacturer/Exporter | Dumping Margin as % of Export Price | Volume of Dumped Imports (pieces) | Volume of Non-dumped Imports (pieces) |
|--|-------------------------------------|-----------------------------------|---------------------------------------|
| Artpac | 21% | | - |
| Tara TPS Co Ltd | 41% | | - |
| Yangjisa Co Ltd | 113% | | - |
| Import volume from Selected Korean Exporters | | | - |
| <i>% Dumped/Not Dumped</i> | | 100% | |
| Import volume from Other Korean Exporters | | | |
| Total Imports from Korea | | | |
| Import volume from Other Countries | | | 908,254 |
| Total Volume of Imports | | | |
| <i>Dumped Imports as % of Total Imports</i> | | | 28% |

7. The dumping margins of all three selected manufacturers are more than *de minimis*, and the volume of dumped imports is more than negligible, in terms of Article 5.8 of the Anti-Dumping Agreement.

Injury

8. As the major New Zealand producer of like goods to the subject goods, Croxley constitutes the New Zealand industry in terms of the Act.

9. The Ministry has concluded that:

- There is evidence of an increase in the volume of dumped imports in absolute terms, in relation to production in New Zealand, and in relation to consumption in New Zealand.
- There is evidence of price undercutting by dumped imports, no evidence of price depression over all of the period and some evidence of price suppression.
- There is evidence of an economic impact reflected in declines in profits and likely declines in return on investment and growth. Croxley has also experienced a recent decline in employee numbers, nearly wages and an ability to raise capital and investments, however, these factors do not appear to be related to lost sales volumes.
- Sales volume and sales revenue have increased over the period of investigation. There is no evidence of a decline in market share, productivity, utilisation of production capacity or cash flow. Inventory obsolescence has declined.

- There is evidence that non-dumped imports and a decrease in demand for diaries may have been a cause of injury to Croxley, although this does not appear to be significant.
- The Ministry considers that while there is sufficient evidence of a causal link between the imports of dumped goods and injury to Croxley, the loss of EBIT incurred by Croxley is not large in absolute terms and therefore the injury is not material.
- In terms of a threat of material injury, no change in circumstances exists that would cause foreseen and imminent material injury to the domestic industry unless measures are imposed.

Conclusion

10. The Ministry has concluded that:

- a. Imports of the goods under investigation from all of the selected exporters are being dumped; and
- b. the injury to an industry caused by means of the dumping of goods imported into New Zealand has not been material, and there is no threat of material injury.

1. Introduction

1.1 Application

11. 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 diaries imported from the Republic of Korea (Korea) were being dumped and by reason thereof causing and threatening to cause material injury to the New Zealand industry.

12. On 11 June 2013, the Chief Executive of the Ministry formally initiated an investigation pursuant to section 10 of the Dumping and Countervailing Duties Act 1988 ("the Act"), on being satisfied that sufficient evidence has been provided that:

- diaries imported from Korea are being dumped; and
- by reason thereof material injury to the New Zealand industry has been or is being caused.

13. Croxley claims that as a result of the alleged dumping, material injury is resulting from:

- price undercutting; and
- price depression and suppression,

and is resulting in:

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

14. Croxley particularly noted that imports of allegedly dumped diaries from Korea have been occurring for some time, but significantly increased in volume soon after the Ministry completed a dumping investigation (and imposed anti-dumping duties) on imports of diaries from China and Malaysia, in 2007.

15. It should be noted that the Ministry approaches investigations on the basis that injury and threat of injury are alternatives, i.e. an industry is either injured or threatened with injury, but both cannot apply at the same time, although an investigation may be required to ascertain which is applicable.

16. In accordance with section 10 of the Act, the Ministry's investigation is to determine both the existence and effect of the alleged dumping of diaries from Korea.

1.2 Consideration of Provisional Measures

17. The application from Croxley requested that provisional measures be imposed for the period of investigation to prevent further injury. The basis for this request was that Croxley forecast significant

injury occurring in their 2013 financial year as a result of dumped imports of diaries from Korea in the absence of provisional measures.

18. Provisional anti-dumping duties are only considered when requested by the applicant industry and may be applied at any time after 60 days of an investigation being initiated, when it is necessary to prevent material injury being caused during the investigation. Croxley claimed that Korean diaries are being dumped in NZ and currently causing it injury. Croxley claimed that provisional measures would limit further material injury to it during the remainder of the investigation and restore a level playing field. In particular, Croxley considered provisional measures would deter imports of diaries outside the period of contract negotiations, although it has not quantified what it considers would be the likely volumes of such imports.

19. The Ministry analysed the information collected in the investigation and, in September 2013, made a preliminary determination that most of the diaries imported from Korea are being dumped into New Zealand at margins that are significant and in volumes that are more than negligible. The Ministry further determined on a preliminary basis that the dumped imports were causing injury to Croxley.

20. The Ministry concluded, however, that, given most diary contracts were likely to have already been negotiated, provisional measures (if imposed) would have been unlikely to be effective in preventing injury to the New Zealand diary industry and would likely be merely punitive on those importers whose diaries would have arrived in New Zealand after the duties would have been imposed. On this basis, the Ministry recommended to the Associate Minister of Commerce that provisional measures were not necessary to prevent material injury to the New Zealand industry during the remainder of the period of investigation. On 17 September 2013 the Associate Minister of Commerce decided that provisional measures were not warranted and interested parties were notified of this decision at that time.

1.3 Essential Facts and Conclusions

21. Written advice of the essential facts and conclusions as provided for under Section 10A of the Act was released to interested parties for comment on 1 November 2013. The Ministry received three submissions made by Croxley Stationery Ltd, The Warehouse Group Ltd, and Yangjisa Co Ltd, and some comments from NGT Diaries (New Zealand) Pty Ltd, all of which are discussed in this report.

1.4 Disclosure of Information

22. The Ministry makes available all non-confidential information via the Public File for this investigation. Any interested party is able to request both a list of the documents on this file and copies of the documents.

23. Article 6.6 of the Anti-Dumping Agreement provides as follows:

Except in circumstances provided for in paragraph 8, the authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based.

24. Only Artpac provided information relating to the Korean domestic market. Artpac was able to provide information from its accounting system such that the Ministry was able to satisfy itself as to the accuracy of the information provided.

1.5 Participation in the Investigation

25. Article 6.8 of the Anti-Dumping Agreement provides as follows:

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

26. Information was requested, but not received, from Yangjisa. Tara TPS provided some limited information to the Ministry.

27. In view of the failure to cooperate, information relating to those exporters is based on the facts available.

1.6 Report Details

28. In this report, unless otherwise stated, years are calendar years (1 January – 31 December) and dollar values are New Zealand dollars (NZD). In tables, column totals may differ from individual figures because of rounding. The term VFD refers to value for duty for Customs purposes.

29. The period of investigation for dumping is the year ended 31 March 2013 (POI), while the investigation of injury involves evaluation of data for the period 1 January 2007 to 31 December 2012.

30. All amounts are expressed on a per diary basis unless otherwise stated.

1.7 Exchange Rates

31. Exports to New Zealand were invoiced in US, New Zealand or Australian dollars. There were no actual sales on the Korean domestic market by the exporters that have participated in this investigation, and normal values have therefore been constructed in US dollars. Where the companies provided the invoice dates of their exports to New Zealand, the Ministry has used these dates as the date of sale and applied an exchange rate applicable at that date.

2. Interested Parties

2.1 Exporters

Selection of Exporters

32. There were 27 exporters identified in the New Zealand Customs Service (Customs) data as supplying the subject goods to New Zealand from Korea during the POI.

33. Due to the large number of exporters from Korea over the POI, the Ministry has limited its analysis to a selection of exporters that represented the largest percentage of the volume of exports that could reasonably be investigated, as permitted by Article 6.10 of the Anti-Dumping Agreement.

34. The Ministry selected exporters who represented 93 percent of the volume of imports from Korea over the POI for the tariff item and statistical key under which the subject goods are classified.

35. The following table shows the exporters and manufacturers who have been identified as exporting and/or manufacturing the subject goods and selected for a response:

Table 2.1: Exporters and Manufacturers

| |
|------------------------|
| Artpac |
| Collins Debden Pty Ltd |
| Tara TPS Co Ltd |
| Yangjisa Co Ltd |

36. Information was sought from all 4 companies and the following paragraphs provide a brief synopsis of the activities of these Korean manufacturers and exporters.

Artpac

37. Artpac is a Korean manufacturer and exporter of diaries and other bound book and stationery products, which sells on the international market as business-to-business transactions. It sold a range of A4 and A5 diaries to [REDACTED] over the POI. Artpac provided a detailed manufacturer's questionnaire response to the Ministry.

Collins Debden

38. Collins Debden Pty Ltd (Collins Debden) is an Australian based exporter who exported a range of A4 and A5 diaries to [REDACTED] which were sourced from [REDACTED]. Collins Debden provided an exporter's questionnaire response to the Ministry.

Tara TPS Co Ltd

39. Tara TPS is a Korean manufacturer and exporter of diaries and other printed and bound products. It sold a range of A4, A5 and pocket diaries to [REDACTED] and [REDACTED] and also manufactured [REDACTED] for [REDACTED]. Tara TPS provided a partial questionnaire response to the Ministry.

Yangjisa Co Ltd

40. Yangjisa Co Ltd (Yangjisa) is a Korean manufacturer and exporter of diaries and a range of other stationery products. It sold a wide range of diaries to [REDACTED],

██████████ and ██████████. Yangjisa made a submission on the Essential Facts and Conclusions Report, but did not provide any other information to the Ministry.

2.2 Importers

41. The firms importing from the above exporters and manufacturers are listed in alphabetical order in the table below:

Table 2.2: Importers

| |
|-----------------------------|
| Collector's World Pty Ltd |
| Croxley Stationery Ltd |
| Dats Pty Ltd |
| Jasco Pty (New Zealand) Ltd |
| NGT (New Zealand) Pty Ltd |
| Print House Ltd |
| Ultimo Enterprises Ltd |

42. A brief synopsis of the activities of the importers of diaries from Korea is set out below.

Collector's World Ltd

43. Collector's World (trading as Bartel Publications) imported diaries and calendars from ██████████, and appears to be a distributor or wholesaler. It provided a limited response to the Ministry's importer's questionnaire.

Croxley Stationery Ltd

44. Croxley imported diaries from ██████████. It imports diaries to supplement its domestically produced range. Croxley provided a full response to the Ministry's importer's questionnaire, including invoices relating to its purchases of diaries over the investigation period.

Dats Pty Ltd

45. Dats is an importer and distributor of diaries. Over the POI, they imported A4, A5 and Quarto diaries from ██████████. Dats provided a response to the Ministry's importer's questionnaire.

Jasco Pty (New Zealand) Ltd

46. Jasco is an importer and distributor. Over the POI, it imported a large range of diaries from ██████████. Jasco provided a full response to the Ministry's importer's questionnaire.

NGT (New Zealand) Pty Ltd

47. NGT is an importer and distributor of diaries. Over the POI, it imported a range of A4 and A5 diaries from ██████████. NGT provided a response to the Ministry's importer's questionnaire, and has made other submissions related to the imposition of provisional measures and exclusion of corporate diaries from any duty that may apply.

Print House Ltd

48. Print House is an importer of various print products. Over the POI, it imported the Fonterra Dairy Diary from [REDACTED], a specialised diary for Fonterra's suppliers. Print House provided a response to the Ministry's importer's questionnaire.

Ultimo Enterprises Ltd

49. Ultimo is an importer and distributor of diaries. Over the POI, it imported corporate diaries from [REDACTED]. Ultimo provided invoices to the Ministry, but did not provide a response to the Ministry's importer's questionnaire.

2.3 Other Interested Parties

The Warehouse Group

50. The Warehouse Group is comprised of Warehouse Stationery Ltd and The Warehouse Ltd. Both companies are retailers, with stationery being among their product mix. The Warehouse Group did not directly import diaries from Korea over the POI, but it did source diaries through [REDACTED]. The Warehouse Group completed an importer's questionnaire and has made other submissions on the investigation, including a submission on the Essential Facts and Conclusions Report.

2.4 New Zealand Industry

51. The application for the investigation was submitted by Croxley. Croxley is not the sole producer of diaries in New Zealand. The application was supported in writing by the only other known producer, K. Kurtovich Products Ltd (Kurtovich). In initiating an investigation the Ministry was satisfied that the application was made by or on behalf of the New Zealand industry producing like goods, having met the requirements of sub-section 10(3) of the Act. These requirements are that the collective output of the New Zealand producers providing written support for the application constitute:

- a. Twenty-five percent or more of the total New Zealand production of diaries for sale in New Zealand based on the POI; and
- b. More than 50 percent of the total production of diaries for sale in New Zealand by New Zealand manufacturers who have, in writing, expressed an opinion on the application.

52. "Industry" is defined in section 3A of the Act as:

- 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 (emphasis added).

53. While Kurtovich supported the application for the investigation, once the investigation was initiated it declined to provide any information relating to injury to the New Zealand industry. Croxley was only able to provide an estimate of Kurtovich's production. However, in its recent review of dumping duties on diaries from China and Malaysia, the Ministry obtained production figures for 2012 directly from Kurtovich. This information showed that Croxley's production of like goods diaries represented approximately [REDACTED] percent of total New Zealand production.

54. The Ministry is consequently satisfied in terms of section 3A of the Act that Croxley's output constitutes a major proportion of the New Zealand production of like goods and, therefore, that Croxley can constitute the New Zealand industry for the purpose of this investigation.

3. Subject Goods and Like Goods

3.1 Subject Goods

55. The goods which are the subject of the investigation, 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 40 and not more than 400

Pages: Not less than 80 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.”

56. Over the POI the subject goods exported from Korea covered the entire range of diaries in the description above.

57. The Working Tariff of New Zealand classifies the subject goods under tariff item and statistical key 4820.10.00.02J. Diaries from all countries enter New Zealand free of normal customs duty.

3.2 NGT’s Submission on Exclusion of Corporate Diaries

58. After the investigation was initiated NGT made a submission to the Ministry proposing that the diaries it imports from Korea be exempted from any duty. The company made a further, similar submission after the release of the EFC Report. The Ministry requested comments on the company’s proposal from other interested parties. Only Croxley submitted any comments. Both the submission and Croxley’s response are discussed below.

59. NGT considers itself a niche player in the New Zealand market. NGT only imports corporate diaries. The diaries it sells to its customers are usually not resold, but used as a promotional item. NGT’s diaries are made specifically to a client’s requirements. NGT stated that the diaries it sells are usually used as part of a wider promotional program which utilises a range of merchandise.

60. NGT’s assessment is that it is mostly Croxley’s stock diaries (that is, diaries sold through retail) that appear to be suffering material injury from diaries imported from Korea. NGT specifically pointed out that Croxley had said in its application that Croxley’s production of custom printed diaries “tend to be less affected by imports due to the small order quantities and print requirements”.

61. Custom printed diaries are characterised by uneven production runs, specialised artwork, and shortened delivery times. NGT considers that these factors mean there is an inbuilt advantage to the local manufacturer over an importer.

62. NGT has also stated that the NZ manufacturer has acknowledged that this segment of the market is growing for them, and that imports of corporate diaries are therefore having a minimal

effect on the NZ market. In its application, Croxley stated (at paragraph 11.5.2, being the paragraph NGT referred to) "...the "stock" diaries as a subset of total diaries have seen a more marked decrease in demand (██████ gross) which is masked by market share growth in custom printed diaries which tend to be less affected by imports due to the smaller order quantities and print requirements." The Ministry notes, however, that while the market share of Croxley's corporate diaries grew between 2007 and 2010, since 2010 the share this segment holds of the total diary market has remained static. Further, since 2010, sales value, quantity and EBIT of corporate diaries have declined, although only slightly.

63. NGT considers the description of goods could be amended to exclude corporate diaries described as follows:

"Custom printed diaries containing promotional/advertising material for a business, industry or specific product as specified by the customer to whom the importer has sold the diaries and which:

- (1) Are to be used by that customer for promotional purposes associated with its business; and*
- (2) Are not imported for sale by the importer:*
 - (a) To wholesalers for re-sale to retail outlets in New Zealand for on-sale to the general public in New Zealand; or*
 - (b) Directly to the retail trade in New Zealand for on-sale to the general public in New Zealand."*

64. NGT considers that the inclusion of this description would allow Customs' brokers to make an accurate assessment of the type of diaries being imported. NGT noted that Customs is a self-assessment system based on import entries lodged by Customs' brokers. Import entries are subject to post import verification by Customs. NGT has pointed out that if import entries are incorrect, Customs' brokers could be liable to administrative penalties, which should help ensure that the duty will be appropriately administered.

65. NGT has also said that an exclusion could be made on the basis of the names of the suppliers, but does not consider this to be the preferred approach, as suppliers are likely to supply other types of diaries than corporate diaries.

66. Croxley has submitted its strong objection to NGT's proposal, stating particularly that it has the capacity to manufacture like goods, has done so for some corporate customers, and has lost contracts for other corporate customers to overseas sources.

67. Croxley considers that the inclusion of the NGT proposal would lead to a significant increase in the volume of dumped or subsidised goods, which would impact on Croxley's diary manufacturing operation through price undercutting, actual and potential decline in output, sales, market share, profits, productivity, return on investments and utilisation of production capacity.

68. Croxley considers all diaries to be like products as they contain the same basic structure and content and are reasonably substitutable with each other.

69. Further, Croxley considers that such an exemption would be difficult to administer at the border by NZ Customs, because:

- a. Evidence would need to be produced to show that diaries have been printed to order and that order came from persons other than the importer.
- b. Evidence would need to be produced that such a sale (from importer to corporate customer) had taken place.
- c. It would be unclear how many pages of the diary would need to be 'promotional' to be considered such, as one page could be sufficient to satisfy the requirement of 'containing promotional/advertising material'.

70. Croxley has also said Customs has no control over imported goods once they leave Customs, and thus there is no way for Customs to enforce the requirement in (1) and (2)(a) and (b).

71. Croxley illustrated a situation whereby an importer could simply add up to 4 pages of 'promotional' material to its product, which would incur a minimal uplift to cost of [REDACTED]. This would allow the importer to avoid dumping duty by fitting in to the parameters of NGT's proposed exclusion.

72. Croxley considers that corporate diaries are injuring its business, and if the diaries from Korea are dumped, NZ importers have margin to make changes in a standard diary to allow it to be considered a 'custom printed diary'.

Ministry's Response

73. The Ministry considers that Croxley's diaries are like the diaries that NGT imports. Croxley manufactures its own corporate diaries and tenders for contracts similar to those NGT tenders for. NGT have said that it considers the retail segment is likely to have suffered more material injury caused by any dumped goods than the corporate segment. The Ministry agrees that Croxley's corporate diaries have likely experienced a less significant impact caused by dumped goods, but 'lesser' material injury does not justify an exclusion of the goods from any potential duty. If goods are dumped and causing material injury, they should still be subject to any dumping duty that may be imposed.

74. The Ministry agrees with Croxley's statement that such an exemption would be difficult for Customs to administer. The evidence that would need to be provided and the actions that Customs would need to undertake to verify that diaries are indeed corporate diaries as stated by the importer looks to be administratively burdensome. Furthermore, there is no way for Customs to ensure that goods are being used for their stated purpose once they leave Customs' control. As NGT stated, there are administrative penalties if import entries are found to be incorrect, but it is unclear how effective these might be in this situation. Furthermore, as illustrated by Croxley, an exemption on the basis of the inclusion of promotional or advertising material is relatively simple for an importer to avoid. The Ministry does not consider that an exemption should be made for corporate diaries on the basis outlined above.

3.3 New Zealand Produced Goods (Like Goods)

75. In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into whether injury is occurring, 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.

76. In identifying which goods the New Zealand industry produces which are like the diaries imported from Korea, the Ministry considers physical characteristics, function and usage, pricing structures, marketing and any other relevant considerations, with no one of these factors being necessarily determinative. Croxley produces a number of different types of diaries ranging from hardcover, case-bound diaries where the covers may be plain or have a design/picture embossed on them, to diaries which have gold edging, and ribbon dividers and covers consisting of leather, leatherette, polyvinyl chloride (PVC) or Polypropylene (PP). The diaries may be wire-o, spiral bound, case bound (sewn) or refills on their own.

77. Croxley considered that the diaries it manufactures are differentiated from the other hard covered stationery it produces by the date information printed within, which makes the diary's primary purpose a time keeping journal. Consequently the diary has a combination of days/dates/weeks/times printed on the page or at a minimum, a space for the date to be inserted. A wide range of information can be printed in a diary including calendars, international holidays, global time information, air sectors, time differences, contact numbers, and information on local authorities, airports and shipping.

78. While Croxley does not consider its diaries are like in all respects to the imported diaries, it does consider its diaries have characteristics closely resembling the imported diaries from Korea.

79. Croxley produces a wide range of diaries, and stated that its diaries could be described the same way as the imported subject goods.

80. Croxley has effectively [REDACTED] new products since 2007, as it has [REDACTED] number of Stock Keeping Units (SKUs) which it considers fit within the description of the subject goods. However, the company noted that there has recently been a notable [REDACTED] diaries due to the technology alternatives now available. However, this has been balanced by an increased [REDACTED] diaries through the retail sector. According to the company, many people are now using both technology and standard diaries in tandem. Croxley observed that there had also been [REDACTED] for organisers (which are excluded from the subject goods description) [REDACTED].

81. In the recently-completed sunset review of the anti-dumping duty on diaries from China and Malaysia, the Ministry was satisfied that Croxley produced like goods to imported diaries. The Ministry does not consider the situation has changed since that review. The production methods are similar in terms of the types of machinery required although there is not a high level of technology involved. The age of machinery, the speed and the labour content may vary but the imported and domestically-produced diaries still follow much the same sequence and method of production. The function and usage of a diary is essentially the same no matter what company (imported or local) manufactured it. There are differences in style and design and prices, but the diaries compete directly with each other. There are quite distinct market segments such as the corporate, business and wholesale/retail markets but Croxley compete in all of these segments with imported diaries from abroad.

82. On the basis of the information available, the Ministry considers that the diaries produced by Croxley are goods that closely resemble the subject goods imported from Korea and concludes that the company is producing like goods to the subject goods.

3.4 Imports of Diaries

83. Table 3.1 below shows historical import volumes of diaries into New Zealand (numbers of diaries). The figures have been sourced from NZCS data that covers the goods imported into New Zealand under the tariff item and statistical key shown in paragraph 57 above. Domestic production figures have been included in the table to show the entire domestic market size for diaries and to provide a basis upon which changes in dumped and non-dumped import volumes can be compared with changes in the entire domestic market size for diaries.

Table 3.1: Imports of Diaries (units)

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Dumped imports from Korea | | | | | | |
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | 84,180 | 340,191 | 496,167 | 378,243 | 403,977 | 330,811 |
| Non-dumped imports all sources | 1,362,102 | 1,138,481 | 872,484 | 952,683 | 1,013,120 | 896,415 |
| Total imports | 1,446,282 | 1,478,672 | 1,368,651 | 1,330,926 | 1,417,097 | 1,227,226 |
| Sales of NZ domestic production | | | | | | |
| NZ market | | | | | | |

4. Dumping Analysis

84. Dumping occurs when an exporter sells diaries to New Zealand at a price lower than they are sold for in Korea. The price at which diaries are sold in Korea is referred to as the normal value. In essence dumping is price discrimination between an export and a domestic market.

4.1 Introduction

85. This section of the report explains the method of comparing export prices with normal values and how these prices have been established over the POI, i.e. the year ended 31 March 2013, to determine whether diaries from Korea were imported into New Zealand at dumped prices.

Methodology

86. Over the POI there were a significant number of exporters identified as having exported diaries to New Zealand. In accordance with Article 6.10 of the Anti-Dumping Agreement the Ministry has consequently limited its examination of exporters to those exporting the largest percentage by volume to New Zealand over the POI that could be reasonably investigated. This equates to 93 percent of total imports from Korea. The Ministry invited the selected exporters to participate in the investigation and provide a questionnaire response. The Ministry received questionnaire responses of varying degrees of completeness from Artpac, Collins Debden and Tara TPS. No information was received from Yangjisa.

87. The Ministry has not calculated separate export prices, normal values, or a dumping margin for Collins Debden, as this company has acted only as an exporter, and the Ministry has calculated export prices, normal values, and a dumping margin for the Korean manufacturer it sourced diaries from.

88. The Ministry has undertaken the comparison of export prices and normal values on a transaction-to-transaction basis, due to the large variation in prices of diaries depending on their specifications. This basis of comparison involves selecting an appropriate domestic transaction value (or when no suitable domestic transaction exists, constructing a domestic transaction value) for comparison with each export transaction value.

89. The use of the transaction-to-transaction methodology is in accordance with Article 2.4.2 of the Anti-dumping Agreement which states that the existence of margins of dumping shall normally be established on the basis of either a weighted average-to-weighted average comparison or a transaction-to-transaction comparison.

90. The export price and normal value have been compared at the ex-factory level, which is the preferred point of comparison under Article 2.4 of the Anti-Dumping Agreement, as a comparison at this point removes any differences in downstream costs from the dumping calculation.

91. Deductions have been made from the base export prices to arrive at ex-factory values in order to ensure a fair comparison. Ex-factory normal values have been constructed for each exporter on the assumption that goods sold to New Zealand had been sold for consumption on the home market, as none of the exporters that have participated in this investigation made sales on the Korean domestic market.

92. To calculate an overall dumping margin for each Korean producer, the Ministry has multiplied the export price and normal value of each transaction by the export volume of that transaction. The resulting export price and normal value amounts were separately summed and the total export price

was subtracted from the total normal value and the difference, when calculated as a percentage of the total export price, was the overall dumping margin for each exporter. If the export price was lower than the normal value for a manufacturer, the goods were considered to be dumped.

Information Used

93. The Ministry has used information from the contributing exporters to establish export prices and normal values. For those parties that did not provide information in whole or in part the Ministry has used the best available information to fill in information gaps, which is information provided by other parties. All information that has been supplied to the Ministry has been used in the preparation of this report where it can be reasonably relied upon.

4.2 Submissions on the EFC Report

94. Yangjisa has stated that it considers that diaries sold on the Korean domestic market are not directly comparable with diaries sold to New Zealand. Korean consumers have different preferences, and therefore production costs are different for different markets. Korean diaries could not be sold to New Zealand, just as New Zealand diaries could not be sold in Korea.

95. TWG has disputed the dumping margin established for its Korean supplier, and considers that further adjustments should be made. Firstly, TWG have stated that it considers an adjustment should be made to both Artpac and Yangjisa's export prices for insurance and overseas freight costs, as this is a cost that all exporters would clearly incur, and this adjustment has been made for Tara TPS.

96. TWG also consider that an adjustment needs to be made to export prices for volume, as it considers [REDACTED] is likely to have economies of scale, which would allow it to offer volume discounts.

97. TWG also consider that adjustments need to be made to Yangjisa's normal values to account for differences between Yangjisa's and Artpac's businesses. TWG considers that it is not appropriate to use Artpac's constructed normal values for Yangjisa unless adjustments are made to reflect critical differences between the companies' products and production volumes. One of the differences TWG considers should be accounted for is the difference in the cost of bonded leather and leatherette, as bonded leather costs more to produce. TWG also considers that Artpac's per unit costs of production will be higher than Yangjisa's, as Artpac exports a smaller volume of corporate diaries and Yangjisa exports a larger volume of standard or fashion/designer diaries. TWG also considers that Artpac is likely to incur significantly higher selling and administration costs than Yangjisa, due to the nature of its transactions. Furthermore, TWG have said, Yangjisa's exported products are house brand products which incur fewer marketing and promotion costs than it considers Artpac would have incurred.

98. Yangjisa has stated that on the domestic market, it handles all processes such as market research, promotion, artwork, production, distribution and refunds for unsold diaries (which it also must unpack and dismantle). For the overseas market, it handles only production and FOB costs – all other costs fall to its overseas customer.

Ministry Response

99. Where the product being investigated is physically different between markets, making the domestic product and the export product not directly comparable as Yangjisa has described, the Ministry would normally make a physical difference adjustment. However, in this case, the Ministry has not used any actual sales of diaries on the Korean domestic market. It has instead used

constructed amounts. This methodology presents a hypothetical scenario that the product exported to New Zealand had also been sold on the Korean domestic market, with domestic market expenses (rather than the export expenses that were incurred). The Ministry considers that the comparison in this sense is accurate and any adjustment for physical differences is not necessary.

100. An adjustment for insurance and overseas freight has only been made for Tara TPS because this company's base prices were established on a CIF basis, and the cost of insurance and freight therefore needs to be deducted to remove the effect. Both Artpac and Yangjisa's base prices were established on a FOB basis; that is, before insurance and overseas freight is added to the price. It is unnecessary to deduct these costs because they have already been accounted for by establishing base prices at an earlier stage of the export process. The Ministry would effectively be adjusting for these costs twice if it were to adjust for insurance and overseas freight on the currently established base prices for Artpac and Yangjisa.

101. TWG said in its importer's questionnaire that no discounts are paid or offered – agreed terms or rebates are already in place on its invoices. [REDACTED], TWG's New Zealand importer, have said no discounts exist on its imports of diaries. The Ministry has used invoices provided by the importers to establish base export prices. If volume discounts exist for [REDACTED] exports of diaries, it is likely they are included in the invoice price and thus have already been accounted for. TWG also referred to one of its submissions on the certain bound stationery from Malaysia sunset review, where it also argued that volume discounts should be adjusted for. In that case, the Ministry considered it had already accounted for any volume discount offered on export prices in the same way (i.e. the Ministry had used invoice prices which inherently included any discount). The Ministry also declined to make a volume discount adjustment on normal values, as it did not consider that the market situation existed in Malaysia where such a discount would be offered. In the current case, the Ministry does not have any information that would indicate a volume discount is offered on the Korean domestic market and for which an adjustment should be made.

102. TWG have said that bonded leather and leatherette are not an appropriate comparison, as bonded leather costs more to produce. The Ministry is not aware of what the cost of producing a leatherette cover would be, in order to make any adjustment for this factor. It has aimed to only make transaction-to-transaction comparisons where the diary types match. In this case, the Ministry considers it may be better to omit this comparison as it does not appear to be appropriate without adjustments for which we do not have the information to be able to make.

103. TWG has said that it considers that Artpac has higher costs of production than Yangjisa. TWG's assessment may very well be correct; however, the Ministry has used the best information at its disposal. Yangjisa have not participated in this investigation. It has not provided its own domestic market sales or its costs of production. Accordingly, the Ministry has based assessment of Yangjisa's normal value on the facts available, as allowed for under Article 6.8 of the Agreement. The best information available to do this in this case is Artpac's costs of production.

104. TWG have said that it considers Artpac would incur higher selling and administration costs than Yangjisa. Artpac stated that it incurs very little in the way of selling and administration costs for its export sales. The Ministry has assumed an amount for sales on the domestic market. Again, TWG may be correct in its assessment, but the Ministry does not have any evidence to suggest this and has used the best information available.

105. Finally, TWG has said that it considers Yangjisa have incurred fewer marketing and promotion expenses than Artpac, as Yangjisa sells only house brand product. In fact, Artpac's diaries are often branded with the end customer's logos (i.e the diaries are not Artpac's brand and could be considered 'private label'), and Artpac has said that it does not offer any of this kind of marketing

service for its exports – if this service is offered, that offer is made by the importer. The Ministry has made an assumption that if Artpac were to sell the same diaries in Korea, it would need to offer these services. It does not seem unreasonable to make the same assumption for Yangjisa.

4.3 Export Prices

Introduction

106. Export prices are the prices at which the diaries are exported from the country of export to New Zealand, that are arm's length transactions, other than costs or charges incurred in preparing the goods for shipment additional to those incurred on domestic sales and any other costs, charges and expenses resulting from the exportation of the goods or arising after their shipment from the country of export, as required by section 4 of the Act.

107. The following paragraphs provide an analysis of export prices for each of the selected exporters.

Artpac

Introduction

108. Artpac is a manufacturer and exporter of diaries.

109. Over the POI, Artpac exported to New Zealand A4 and A5 day-to-page diaries, with leather, printed, or paper based vinyl covers. All of the diaries were corporate diaries. Over the POI it exported to New Zealand [REDACTED] diaries at a FOB value of US\$ [REDACTED].

110. Artpac completed a manufacturer's questionnaire and supplied the Ministry with information which allowed the Ministry to satisfy itself as to the accuracy of the information provided.

Export Sales Distribution

111. All of Artpac's exports are made to [REDACTED]. Artpac only produces and exports diaries upon an order being placed.

112. Prices to [REDACTED] are on a FOB basis in USD. Artpac does not offer any discounts or rebates.

Base Prices

113. The information provided by Artpac relating to their exports of the subject goods over the POI was taken from the invoices it issued to the New Zealand importer over the POI.

114. The base price is the invoiced price in USD at the FOB value for each diary type. The base price ranged from \$ [REDACTED] to \$ [REDACTED] per piece.

Adjustments

Inland Freight, and Other Costs Between Ex-factory and FOB

115. Artpac incurs costs for inland freight and for terminal handling, wharfage, and a customs clearance charge. It provided the Ministry with a figure for each of these costs for each shipment.

116. Adjustments were made for the cost of inland transport and for terminal handling, wharfage and customs clearance charges on each shipment as indicated by Artpac. The adjustments ranged

between \$ [REDACTED] and \$ [REDACTED] per piece for inland transport and \$ [REDACTED] and \$ [REDACTED] per piece for terminal handling, wharfage and customs clearance.

Export Prices

117. From the base prices and adjustments outlined above, the Ministry has established ex-factory export prices which ranged between \$ [REDACTED] and \$ [REDACTED].

Tara TPS

Introduction

118. Tara TPS is a manufacturer and exporter of diaries. It is a private company with two subsidiaries – Tara Distribution and Tara Graphics.

119. Over the POI, Tara TPS exported to New Zealand a range of A4, A5 and Pocket diaries. Some of the diaries it exported were corporate diaries, including a diary for [REDACTED] through [REDACTED], and [REDACTED]. Over the POI it exported to New Zealand [REDACTED] diaries at a CIF value of US\$ [REDACTED].

120. Tara TPS provided a manufacturer's questionnaire response; however, it did not provide full information. Where there is an absence of sufficient information from Tara TPS to enable export prices to be ascertained under Section 4 of the Act, the Ministry has had regard to all available information as provided under Section 6(1) of the Act.

Export Sales Distribution

121. Tara TPS exported to [REDACTED]. Tara TPS only produces and exports diaries upon an order being placed.

122. Prices are on a CIF basis in AUD or NZD. Tara TPS does not offer any discounts or rebates.

Base Prices

123. Tara TPS provided the Ministry with invoices for its export sales. The Ministry has used the CIF invoice prices as base prices. The invoice prices have been converted into USD, using the exchange rate on the date of the invoice¹.

124. The base price is the invoiced price in USD at the CIF value for each diary type. The base price ranged from \$ [REDACTED] to \$ [REDACTED] per piece.

Adjustments

Insurance and Overseas Freight

125. Tara TPS did not provide the actual cost of insurance and overseas freight. The Ministry has used information from Customs on these costs in NZD to make an adjustment for these factors on each transaction. Both costs have been converted into USD in order to make the adjustment.

¹ Exchange rates obtained from <http://www.oanda.com>.

Inland Freight, and Other Costs Between Ex-factory and FOB

126. Tara TPS did not provide any information on any costs between ex-factory and FOB. The Ministry has calculated the percentage that inland transport and other costs between ex-factory and FOB represent of the FOB value for Artpac, and applied this percentage amount to the FOB value for Tara TPS in order to make these adjustments.

Export Prices

127. From the base prices and adjustments outlined above, the Ministry has established ex-factory export prices which ranged between \$ [REDACTED] and \$ [REDACTED].

Yangjisa**Introduction**

128. Yangjisa is a manufacturer and exporter of diaries.

129. Over the POI, Yangjisa exported a large range of diaries. All of the diaries appear to be stock or fashion/designer type diaries. Over the POI Yangjisa exported to New Zealand [REDACTED] diaries at a FOB value of US\$ [REDACTED].

130. Yangjisa did not provide a manufacturer's questionnaire response. As such, the Ministry has had regard to all available information as provided under Section 6(1) of the Act.

Export Sales Distribution

131. Yangjisa exported to [REDACTED]. The products imported by [REDACTED] are [REDACTED].

132. Prices are on a FOB basis in USD or AUD. There is no evidence that discounts or rebates are offered by Yangjisa.

Base Prices

133. Base prices have been established from FOB invoice prices, from invoices provided by each importer. The invoices that were in AUD have been converted to USD using the exchange rate (obtained from the same source as that used for Tara TPS) at the date of the invoice.

134. The base price is the invoiced price in USD at the FOB value for each diary type. The base price ranged from \$ [REDACTED] to \$ [REDACTED] per piece

Adjustments*Inland Freight, and Other Costs Between Ex-factory and FOB*

135. In the absence of information from Yangjisa, the Ministry has calculated the percentage that inland transport and other costs between ex-factory and FOB represent of the FOB value for Artpac, and applied this percentage amount to the FOB value for Yangjisa in order to make these adjustments.

Export Prices

136. From the base prices and adjustments outlined above, the Ministry has established ex-factory export prices which ranged between \$ [REDACTED] and \$ [REDACTED].

4.4 Normal Values

Introduction

137. The normal value is usually the price at which the Korean manufacturers sell diaries in the domestic market in Korea. The types of sales that can be used to determine normal values are set out in section 5 of the Act, which can generally be described as arm's length sales of like goods in the ordinary course of trade for home consumption in the country of export, in this case Korea. Where an exporter makes no such sales, sales by other sellers of like goods in Korea can be used to establish normal values.

138. In the absence of relevant and suitable sales in the ordinary course of trade, normal values can be either: (a) constructed on the basis of the sum of cost of production and, on the assumption that the goods had been sold for home consumption in the ordinary course of trade in Korea, reasonable amounts for administrative and selling costs and other costs incurred in the sale, and a rate of profit normally realised on sales of goods of the same general category in the Korean domestic market; or (b) established on the basis of selling prices to a third country.

139. Section 5(3) of the Act requires that in order to effect a fair comparison the normal value and export price shall be compared at the same level of trade, in respect of sales made at nearly the same time and with due allowance for differences that affect price comparability.

Available Information

140. In any investigation, where sufficient information has not been provided by the foreign exporter, or is not available, normal values are determined under section 6(1) of the Act, having regard to all available information. For the exporters that did not provide the Ministry with any information on normal values they have therefore been determined having regard to all available information.

141. The Ministry only received a full questionnaire response from Artpac. Tara TPS did not make any sales on the domestic market and was not able to provide information on costs of production. Yangjisa has not provided any information to the Ministry.

142. Artpac provided the Ministry with evidence in support of the information it supplied to the Ministry. The Ministry is satisfied that the information provided is accurate.

143. The following paragraphs discuss normal values of each of the selected exporters.

Artpac

Introduction

144. Artpac did not make any sales on the Korean domestic market and there is no information available on domestic sales by other sellers of like goods. Artpac was able to provide, however, costs for producing each type of diary it exported to New Zealand. Normal values have therefore been constructed, in accordance section 5(2) of the Act, based on the cost of production of each product type, plus:

- a. An amount for selling and administration expenses that would have been incurred if the product had been sold on the Korean domestic market; and
- b. An amount for profit, having regard to the rate of profit normally realised on sales on the Korean domestic market of the same type of goods.

Base Prices

145. Artpac provided cost of production information for each product type it exported to New Zealand (A4 and A5 day-to-page diaries with bonded leather, printed, or paperbased vinyl covers, and 1, 2, or 3 colour printing). The information Artpac provided covered the cost of materials, direct labour, and overheads. This information was provided in US dollars.

146. Artpac did not make any sales on the Korean domestic market, either of diaries, or in the same general category of goods. As such, it was not able to provide the Ministry with figures for selling and administration costs and profit on the Korean domestic market. The Ministry therefore sourced, from Statistics Korea, information on business performance by industrial classification. This data includes a number of different financial performance indicators by industry on an annual basis. The Ministry calculated the proportion that operating profit and selling and administrative expenses represent of cost of goods sold for the manufacturing industry (the smallest classification available for this data, which 'printing and reproduction of recorded media' falls under) in the 2010 year².

147. The Ministry has constructed normal values using the cost of production for each diary type provided by Artpac, including cost of materials, direct labour, manufacturing overheads, financing costs and packaging costs. The Ministry has then calculated an amount for selling and administration expenses and profit based on the proportion that they represented of the cost of goods sold using the information sourced from Statistics Korea.

148. Base prices are these constructed amounts.

Adjustment for Differences in Sales and Marketing Expenses

149. Artpac has stated that it pays very little in the way of selling and administration expenses for sales to the New Zealand market, and its customer is responsible for these activities in New Zealand. It referred specifically to activities such as distribution to stores, checking stock, returns, or display renewals. While Artpac has not made any sales on the domestic market, it appears reasonable to assume that, were it to make sales on the Korean market, it would need to carry out these and similar sales and marketing type activities itself.

150. As outlined above, the selling and administration expenses included in the constructed normal values were based on information sourced from Statistics Korea for the manufacturing industry as a whole. The Ministry considers it reasonable to assume that this will include the types of expenses itemised by Artpac in the paragraph above.

151. Bearing the above in mind, the Ministry considers it reasonable that an adjustment to the normal values should be made to account for differences in marketing and related expenditure. The Ministry, however, does not have any information on the amount this type of cost would represent in Korea.

152. The Ministry therefore referred to the review it recently completed on the anti-dumping duties on certain bound stationery (CBS) from Malaysia. In this review, the Ministry made an adjustment to the normal value for some marketing related costs, as there were some differences in the costs incurred on sales to New Zealand and those incurred on sales in Malaysia. While this does not

² Available from http://kosis.kr/eng/database/database_001000.jsp?listid=Z. 2010 is the latest available data for this dataset.

concern exactly the same product or country, the product is similar, falling in the same general category of goods, and the market situation also appears to be similar.

153. The Ministry calculated the percentage that the marketing costs it adjusted for in the CBS review represented of the ex-factory normal values in that case. Marketing represented an average [REDACTED] percent of the ex-factory normal value in that case. The Ministry then applied this [REDACTED] percent to the constructed amounts for Artpac to estimate an adjustment for marketing and sales related costs. These amounts were deducted from each constructed normal value to calculate ex-factory normal values.

Normal Values

154. The above calculations resulted in a constructed normal value for each type of diary exported to New Zealand over the POI. The Ministry has calculated ex-factory normal values for each transaction, which ranged between \$ [REDACTED] per piece and \$ [REDACTED] per piece.

Tara TPS

Introduction

155. Tara TPS did not make any sales on the Korean domestic market. It also stated that it was not able to provide costs of production for the products exported to New Zealand because it does not store historical cost information and its estimating system is unable to calculate costs under the subheadings the Ministry requires.

156. In the absence of information from Tara TPS and in the absence of information on domestic sales by other sellers of like goods, the Ministry has where possible constructed normal values in accordance with Section 5(2) of the Act using information provided by Artpac. The Ministry has compared the types of diaries for which a normal value was constructed for Artpac with the diary types exported to New Zealand by Tara TPS and where the diary types matched, has used the appropriate normal value constructed for Artpac to determine a normal value for Tara TPS. If there was no appropriate match, the Ministry has not made a transaction-to-transaction comparison. The transactions where it was possible to make a comparison of the export price with the normal value represented 26 percent of Tara TPS's exports by volume over the POI.

Base Prices

157. The Ministry has used Artpac's constructed normal values where a comparison was possible in order to establish normal values for Tara TPS. The normal values have been constructed as outlined in paragraphs 143 to 146 above.

158. The Ministry has used the normal values constructed for Artpac's A4 and A5 printed cover, sewn, day-to-page, 2-colour printed diaries to establish constructed normal values for Tara TPS's A5 [REDACTED] diaries and A4 and A5 [REDACTED] hard cover diaries.

Adjustment for Differences in Sales and Marketing Expenses

159. Because Tara TPS only exports to New Zealand upon an order being placed, the Ministry considers it likely that there will be a difference in the sales and marketing expenses incurred on its export sales to New Zealand and those likely to be included in the constructed normal values.

160. An adjustment has therefore been made for Tara TPS to account for these differences calculated on the same basis as the adjustment made for Artpac, i.e. at [REDACTED] percent of the constructed normal value. These amounts were deducted from each constructed normal value to calculate ex-factory normal values.

Normal Values

161. The normal values established for Tara TPS on the basis set out above are \$ [REDACTED] for an A5 diary and \$ [REDACTED] for an A4 diary.

Yangjisa**Introduction**

162. In the absence of information from Yangjisa and in the absence of information on domestic sales by other sellers of like goods, the Ministry has where possible constructed normal values in accordance with Section 5(2) of the Act using information provided by Artpac. The Ministry has compared the types of diaries for which a normal value was constructed for Artpac with the diary types exported to New Zealand by Yangjisa and where the diary types matched, has used the appropriate normal value constructed for Artpac to determine a normal value for Yangjisa. If there was no appropriate match, the Ministry has not made a transaction-to-transaction comparison. The Ministry has now excluded the comparison that had been made between diaries with bonded leather covers and those with leatherette covers. This only accounted for three transactions in total. The transactions where it was possible to make a comparison of the export price with the normal value represented 47 percent of Yangjisa's exports by volume over the POI.

Base prices

163. The Ministry has used Artpac's constructed normal values where a comparison was possible in order to establish normal values for Yangjisa. The normal values have been constructed as outlined in paragraphs 143 to 146 above.

164. The Ministry has used the constructed normal values for Artpac's A4 and A5 printed cover, sewn, day-to-page, 2-colour printed diaries to establish normal values for a number of Yangjisa's A4 and A5 diaries..

Adjustment for Differences in Sales and Marketing Expenses

165. On the basis of information provided by importers from Yangjisa, the Ministry considers it reasonable to assume that Yangjisa only exports to New Zealand upon an order being placed. The Ministry therefore considers it likely that there will be a difference in the sales and marketing expenses incurred on its export sales to New Zealand and those likely to be included in the constructed normal values.

166. An adjustment has therefore been made for Yangjisa to account for these differences calculated on the same basis as the adjustment made for Artpac, i.e. at [REDACTED] percent of the constructed normal value. These amounts were deducted from each constructed normal value to calculate ex-factory normal values.

Normal values








167. The normal values established for Yangjisa are \$ [REDACTED] for an A5 diary, and \$ [REDACTED] for an A4 diary.

4.5 Comparison of Export Price and Normal Value

168. The Ministry has compared the export prices and normal values on a transaction-to-transaction basis. This involves matching the comparable export sale to New Zealand with a sale on the Korean domestic market, or when no suitable domestic transaction exists, where possible constructing a domestic transaction value. The Ministry has calculated an overall dumping margin for each manufacturer on the basis set out in paragraph 88 above.

169. The table below shows the dumping margin calculated for each Korean manufacturer/exporter. Table 4.1 below also includes the volume of dumped imports for the year ended 31 March 2013. Import volumes from the Korean manufacturers are based either on information provided in their questionnaire response, or information provided by their importers. Import volumes from other Korean exporters and imports from other countries are based on the import volumes recorded in the Customs data for the year ended 31 March 2013.

Table 4.1: Dumping Margins and Dumped Import Volumes
(1 April 2012 – 31 March 2013)

| Manufacturer/Exporter | Dumping Margin as % of Export Price | Volume of Dumped Imports (pieces) | Volume of Non-dumped Imports (pieces) |
|--|-------------------------------------|--|---|
| Artpac | 21% |  | - |
| Tara TPS Co Ltd | 41% |  | - |
| Yangjisa Co Ltd | 113% |  | - |
| Import volume from Selected Korean Exporters | |  | - |
| % Dumped/Not Dumped | | 100% | |
| Import volume from Other Korean Exporters | |  | |
| Total Imports from Korea | |  | |
| Import volume from Other Countries | | | 908,254 |
| Total Volume of Imports | | |  |
| Dumped Imports as % of Total Imports | | | 28% |

170. Due to the significant number of Korean exporters identified by the Ministry at the beginning of the investigation, the Ministry selected the exporters which accounted for approximately 93 percent of imports during the POI for questionnaire responses. The rationale for taking a selection or sample, as provided for in Article 6.10 of the Anti-Dumping Agreement, is to keep the number of exporters and producers for whom a dumping margin must be determined to a manageable level.

4.6 Volume of Dumped Imports

171. Section 11(1) of the Act provides that where the Minister is satisfied in respect of some or all of the goods under investigation, that there is insufficient evidence of dumping or injury to justify proceeding with the investigation then it shall be terminated. Section 11(2) of the Act provides that evidence of dumping shall be regarded as insufficient if the volume of imports of dumped goods, expressed as a percentage of total imports of like goods into New Zealand is negligible, having regard to New Zealand obligations as a party to the WTO Agreement.

172. Article 5.8 of the Anti-Dumping Agreement provides that volumes of dumped imports are negligible if they are less than three percent of total imports of like goods.

173. The Ministry has found that the volume of dumped imports during the POI made up 28 percent of total imports of like goods, which is more than negligible in terms of Article 5.8 of the Anti-Dumping Agreement. The Ministry concludes that the volume of dumped imports is not negligible.

4.7 Conclusions Relating to Dumping

174. Dumping margins as a percentage of export prices range from 21 percent to 113 percent. The dumping margins of all three companies are more than *de minimis* in terms of Article 5.8 of the Anti-Dumping Agreement.

5. Material Injury Investigation

5.1 Introduction

175. The basis for considering material injury is set out in section 8(1) of the Act:

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

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

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

177. The Act goes on to set out a number of factors and indices which the Chief Executive shall have regard to, although noting that this is without limitation as to the matters the Chief Executive may consider. These factors and indices include:

- the extent to which there has been or is likely to be a significant increase in the volume of dumped goods, either in absolute terms or relative to production or consumption;
- the extent to which the prices of dumped goods represent significant price undercutting in relation to prices in New Zealand;
- the extent to which the effect of the dumped goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have occurred;
- the economic impact of the dumped goods on the industry, including actual or potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; factors affecting domestic prices; and actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

178. In addition, the Chief Executive must have regard to factors other than dumping which may be injuring the industry, since in accordance with Article 3 of the WTO Anti-Dumping Agreement, it must be demonstrated that the dumped imports are, through the effects of dumping, causing material injury. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry must be based on an examination of all relevant evidence before the authorities, who must examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include,

inter alia, the volumes and prices of non-dumped imports of the product in question, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

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

180. As noted in section 2.4 above, the Ministry is satisfied that Croxley's output constitutes a major proportion of the NZ production of like goods, and therefore Croxley can constitute the NZ industry for the purpose of this investigation.

181. Material injury is considered for the industry as a whole, or in the absence of information from all 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.

182. Material injury is assessed by comparing data for an injury factor against the data in a period unaffected by dumping. Croxley stated that the New Zealand industry has been subjected to the impact of dumped diaries from Korea since anti-dumping duties were imposed on imports of diaries from China and Malaysia with effect from February 2008. However, Croxley noted that the injurious effects caused by dumped imports have increased significantly since 2009. The Ministry considers that 2007 represents a suitable starting point for the Ministry's assessment of whether Croxley has been injured by dumped imports.

183. For the purpose of assessing material injury, Croxley provided financial information for its financial years 2007 to 2012 (Croxley's financial year is a calendar year, ending in December).

184. Croxley has in the past imported diaries from abroad, including from Korea. The company noted it has a close working relationship with [REDACTED] from whom it imports diaries which it doesn't have the ability to manufacture itself [REDACTED]. [REDACTED] has manufacturing plants in [REDACTED]. Croxley's imports have been excluded from the injury data below. The injury figures analysed by the Ministry and used in this report are the company's sales of domestically-produced diaries on the New Zealand domestic market. All figures were checked at the verification visit and the Ministry is satisfied the data can be used reliably as an injury indicator.

185. Section 11(1) of the Act provides for the termination of an investigation where the Minister is satisfied in respect of some or all of the goods under investigation, that there is insufficient evidence that material injury to a New Zealand industry has been or is being caused or is threatened by means of dumping of the goods.

5.2 Import Volumes

186. Section 8(2)(a) of the Act directs that consideration shall be given to increases in import volumes relative to the volumes manufactured and consumed in New Zealand.

187. All of the manufacturers selected for investigation have been found to be dumping and are included in the volume of dumped imports used in the analysis of injury. It is assumed that the exporters found to be dumping have been doing so for the entire period under consideration for injury analysis. It has also been assumed that, as all the selected exporters/manufacturers have been found to be dumping, all other Korean exporters have been dumping over all of this period. Non-

dumped imports are all imports from all sources other than Korea. Croxley’s domestic production and its imports of diaries from Korea have been separated for ease of comparison.

188. Import volumes are based on Customs’ data for the relevant year ended 31 December.

Table 5.1: Import Volumes
(Years ended 31 December)

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|-----------|-----------|-----------|-----------|-----------|-----------|
| Dumped imports from Korea | | | | | | |
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | 84,180 | 340,191 | 496,167 | 378,243 | 403,977 | 330,811 |
| Non-dumped imports all sources | 1,362,102 | 1,138,481 | 872,484 | 952,683 | 1,013,120 | 896,415 |
| Total imports | 1,446,282 | 1,478,672 | 1,368,651 | 1,330,926 | 1,417,097 | 1,227,226 |
| Sales of NZ domestic production | | | | | | |
| NZ market | | | | | | |
| <i>As % of Consumption:</i> | | | | | | |
| Dumped imports from Korea | | | | | | |
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | | | | | | |
| Non-dumped imports all sources | | | | | | |
| Sales of NZ domestic production | | | | | | |
| <i>As % of Industry Domestic Production:</i> | | | | | | |
| Dumped imports from Korea | | | | | | |
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | | | | | | |
| Non-dumped imports all sources | | | | | | |
| <i>Change on Previous Year:</i> | | | | | | |
| Dumped imports from Korea | | | | | | |

| | | | | | | |
|---------------------------------|--|----------|----------|----------|--------|----------|
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | | 256,011 | 155,976 | -117,924 | 25,734 | -73,166 |
| Non-dumped imports all sources | | -223,621 | -265,997 | 80,199 | 60,437 | -116,705 |
| Total imports | | 32,390 | -110,021 | -37,725 | 86,171 | -189,871 |
| Sales of NZ domestic production | | | | | | |
| NZ market | | | | | | |
| <i>% Change:</i> | | | | | | |
| Dumped imports from Korea | | | | | | |
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | | 304% | 46% | -24% | 7% | -18% |
| Non-dumped imports all sources | | -16% | -23% | 9% | 6% | -12% |
| Total imports | | 2% | -7% | -3% | 6% | -13% |
| Sales of NZ domestic production | | | | | | |
| NZ market | | | | | | |

189. The volume of dumped imports increased significantly in absolute terms (by 324 percent) over the period, although a significant amount of this increase was between 2007 and 2008, and dumped imports peaked in 2009. There has been a 36 percent decline in the volume of non-dumped imports over the same period. The New Zealand industry's sales have increased only slightly over all of the period (by 2 percent), although its sales have mostly been declining since 2008.

190. Croxley's own imports from Korea (all of which are dumped) have increased significantly over the period (by 304 percent). In absolute terms, there was a significant increase in Croxley's imports from Korea in 2008 and a much larger increase in 2010. Croxley's imports from Korea in 2011 and 2012 were well down on those in 2010, but in 2011 and 2012 were at a similar level to imports in 2009. The increase in 2010 is able to be explained by Croxley's winning of the tender for brand diaries, which it imported from Korea.

191. Relative to consumption, dumped imports have increased over the period, by 2 percentage points, with the peak was in 2009. In 2010, dumped imports declined significantly, but over 2011 and 2012 have again increased. Non-dumped imports have declined relative to consumption, by 16 percentage points over the period. Croxley's own imports from Korea have increased by a minimal amount relative to consumption, by 2 percentage point. The share of total consumption of Croxley's domestic sales has also increased by 2 percentage points.

192. Dumped imports have increased significantly relative to the New Zealand industry's production over all of the period. In 2007 dumped imports represented 10 percent of the New Zealand industry's production and in 2012 they represented 15 percent, an increase of 5 percentage points. However, relative to the NZ industry's production, dumped imports were at their highest point in 2009. Over the same period, non-dumped imports have declined significantly relative to the New Zealand industry's production, declining from 15 percent in 2007 to 10 percent in 2012, a decrease of 5 percentage points. Croxley's imports from Korea have increased slightly relative to production, by 1 percentage points.

Conclusion

193. The Ministry concludes that over the period from 2007 to 2012 there has been a significant increase in the volume of dumped imports in absolute terms, and relative to both consumption and production in New Zealand.

5.3 Price Effects

Price Undercutting

194. Section 8(2)(b) of the Act provides that the Chief Executive 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. 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 the economic impact on the industry. That impact is to be measured in terms of the factors and indices set out in section 8(2)(d) of the Act.

Level of Trade

195. In respect of this investigation, price undercutting refers to the extent to which diaries imported from Korea are sold at prices lower than the diaries produced by the domestic industry at the relevant level of trade. The Ministry will normally seek to compare prices at the domestic producer's ex-factory level and either ex-wharf or ex-importer's store levels for the imported goods, to ensure that the impact of dumping is clearly identified by minimising the effect of differences in distribution costs and margins. Accordingly, the Ministry's position is generally to compare importer's prices, including relevant selling and administration costs, which involves similar cost elements to those in the New Zealand producer's price, but not the cost elements relating to the distribution of goods. With respect to diaries, prices have been compared at the free-into-store (FIS) level because this is the level at which the diaries from Korea first compete in New Zealand with the diaries produced in New Zealand by Croxley.

196. In the present case, there were a large number of different types and sizes (models) of diaries imported into New Zealand over the POI by a large number of importers whose import volumes differed significantly. Furthermore, imports included both standard and designer diaries destined for the retail market and corporate diaries (designed to particular specifications) destined for the corporate market (sometimes referred to as 'custom printed diaries'). To make a price comparison for each model of imported and domestically-produced diary would be a large undertaking because of the large number of models of diaries and in many cases may be inaccurate or not feasible due to (i) the limited detail supplied by some exporters and importers of Korean diaries on their particular models imported; (ii) the fact that Croxley does not necessarily manufacture an identical or similar diary model to that imported; and (iii) the consequent difficulty in matching diaries with like features from the information which has been provided.

197. Because of the above, the Ministry has, where sufficient information has been sourced from the importers, undertaken a price undercutting analysis using prices obtained from each importer for each of the diary models it imported and has matched these models with the identical or most equivalent models produced by the domestic industry (Croxley). The most effective means of undertaking this exercise was by matching the prices at which Croxley competed head-to-head with the importers of Korean diaries for the supply of 2013 edition diaries put out to tender by certain resellers, retailers and corporations. The Ministry has used this methodology in its price undercutting analysis for stock (including designer) diaries and corporate diaries, as explained below.

Stock (including Designer) Diaries

198. In terms of stock diaries, Croxley competes in the New Zealand market against imports made by retailers and resellers. These entities have the choice of importing the goods directly from Korea, importing through a distributor or agent or buying diaries manufactured by Croxley. Imports are often arranged through a distributor/agent so that the reseller doesn't have to deal with the negotiating, sourcing and importing arrangements, which are time-consuming and not part of the reseller's/retailer's core business. An example of this level of competition is where [REDACTED] have the choice between importing from abroad (usually through an agent) or purchasing from Croxley. In fact, often such resellers stock a range of both imported and domestically-produced diaries for sale to the public.

199. Croxley said that for stock diaries it is the importer's (or distributor's) price to the resellers that it competes with in tenders called for by the reseller. The importer will either distribute the diaries themselves to the reseller's distribution centres (from where the diaries are delivered to individual outlets) or directly to individual retail outlets. Similar to the importers, Croxley also sells its stock diaries on a FIS basis.

200. Croxley noted that there has been a noticeable shift from China and Malaysia to Korea as the preferred source of supply which it considers is a direct result of the impositions of anti-dumping duties on Chinese and Malaysian imports in 2007 (with effect from February 2008). Croxley considers that its diaries are now being undercut by imports from Korea which is illustrated by it losing certain tenders to the Korean imports.

201. As evidence of the shift in the source of supply, and more specifically to illustrate the extent of price undercutting for Korea, Croxley noted that, for the last three years running, it had lost the [REDACTED] business to diaries imported from Korea. Croxley said that, in respect of this tender, [REDACTED] Croxley's prices are the main reason it has been unsuccessful. Croxley recently tendered for the 2013 [REDACTED] contract (for 2014 diaries) but was informed again by [REDACTED] that its prices were too high.

202. During the investigation the Ministry sourced information from importers on the price at which they won certain contracts to supply New Zealand resellers and retailers with 2013 edition diaries. The Ministry also sourced, from Croxley, information on the prices at which it tendered for the same contracts. This information has enabled the Ministry to compare prices at which Croxley competed directly with prices of identical diary models imported from Korea and to analyse the extent to which Croxley lost a number of key contracts for the supply of 2013 diaries.

203. Where possible the Ministry also compared importers' prices to their New Zealand customers with the prices Croxley achieved over the POI for identical or equivalent models to those imported (see below). The Croxley price used for these comparisons was an average price obtained over the POI rather than the price at which it tendered for certain contracts. The Ministry considers that this provides an additional test of any price undercutting occurring in the New Zealand market from the Korean imported diaries.

204. The following paragraphs detail for each importer which provided information the extent of any price undercutting when comparing their prices with Croxley’s prices (at the appropriate level of trade) using the methodology explained above.

Jasco Pty (New Zealand) Limited

205. Over the POI Jasco made a number of importations of commercial and designer (stock) diaries which it on-sold to [redacted] ([redacted]) and [redacted]. Jasco provided a detailed questionnaire response which has enabled the Ministry to compare the prices tendered to the above re-sellers for certain models of diaries with Croxley’s tender price for the identical model or its actual selling prices for an equivalent diary type.

206. Where Croxley did not tender for a particular contract, the Ministry has used the average price Croxley achieved over its 2012 financial year for that particular diary model or an equivalent domestically-produced model. Where Croxley did not produce an equivalent model (or where the company intended to supply the tender with imported diaries), this particular diary was excluded from the analysis. Table 5.2 below summarises the results of the above price comparisons.

Table 5.2: Price Undercutting – Jasco (New Zealand) Limited
(Certain Stock Diaries)

| | Croxley Average Tender FIS Price/diary | Korean import Average Tender FIS Price/diary | Range - Undercutting (\$) | Average Undercutting Amount (\$) | Average Undercutting Amount (%) |
|---|---|--|---------------------------------|--|---------------------------------------|
| [redacted] | | | | | |
| [redacted] Brand - Simple Average Price Comparison | | | | | |
| - Standard diaries | \$ [redacted] | \$ [redacted] | \$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |
| - Designer diaries | \$ [redacted] | \$ [redacted] | -\$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |
| [redacted] Brand - Weighted Average Price Comparison | | | | | |
| - Standard diaries | \$ [redacted] | \$ [redacted] | \$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |
| - Designer diaries | \$ [redacted] | \$ [redacted] | -\$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |
| [redacted] Brand - Simple Average Price Comparison | | | | | |
| Designer diaries | \$ [redacted] | \$ [redacted] | \$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |

| Jasco - Other Customers | | | | | |
|--------------------------------|---|---|----------------------------------|--|---|
| | Croxley Simple Average FIS Price/diary | Korean import Simple Average FIS Price/diary | Range - Undercutting (\$) | Simple Average Undercutting Amount (\$) | Simple Average Undercutting Amount (%) |
| Standard diaries | \$ [redacted] | \$ [redacted] | \$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |
| Designer diaries | \$ [redacted] | \$ [redacted] | \$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |
| [redacted] | | | | | |
| Designer diaries | \$ [redacted] | \$ [redacted] | \$ [redacted] - [redacted] | \$ [redacted] | [redacted]% |

207. The table above shows that Croxley’s prices for certain stock diaries were undercut by Korean imports when comparing its prices with Jasco’s prices for 2013-edition [redacted] and [redacted] diaries.

208. As part of the price undercutting analysis, the Ministry also compared Jasco’s average selling prices to its different New Zealand customers for each diary model with Croxley’s average price obtained over the POI for an identical or equivalent diary type (where Croxley manufactured an identical or equivalent diary). The level of trade is Jasco’s selling price vs Croxley’s FIS price. The table below shows the results of this price comparison:

Table 5.3: Price Undercutting – Jasco (New Zealand) Limited v Croxley
(Average Prices Achieved for Certain Stock Diaries)

| Diary Model | Diary Type | Jasco Selling Price (NZ\$/diary) | Croxley Selling Price (NZ\$/diary) | Price Undercutting (\$) | Price Undercutting (%) |
|-------------------------|---------------------------|---|---|--------------------------------|-------------------------------|
| A4 2 Days to Page (DTP) | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A4 2 Pages per Day | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A4 DTP | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A4 WTV | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A5 2 Days to Page | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A5 DTP | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A5 DTP Leatherette | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A5 WTV | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| Indexed DTP PVC (A5) | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A7 WTV PVC | Diary - Standard | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |
| A5 DTP Coloured covers | Diary - Standard/designer | \$ [redacted] | \$ [redacted] | \$ [redacted] | [redacted]% |

| | | | | | |
|-------------------------|---------------------------|---------------|---------------|---------------|-------------|
| A5 WTV Coloured covers | Diary - Standard/designer | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |
| A5 DTP Fashion Flower | Diary - Designer | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |
| A5 WTV Fashion Flower | Diary - Designer | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |
| A6 WTV Fashion Flower | Diary - Designer | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |
| Slim WTV Fashion Flower | Diary - Designer | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |

209. The results of the above exercise shows that, for all of the diary models for which this comparison was possible, Croxley's prices were undercut by the Korean diaries imported by Jasco. Overall, Croxley's prices were undercut by Jasco's prices by [REDACTED] percent (on a simple average basis).

Dats Pty Ltd

210. Over the POI Dats imported limited volumes of commercial (stock) diaries which it on-sold to [REDACTED] and [REDACTED] (now [REDACTED]). While Dats provided only a limited response to the Ministry's importers questionnaire it did include prices at which it on-sold its Korean diaries to its New Zealand customers. However, for all of the diary models imported by Dats, Croxley did not manufacture either an identical or equivalent model. Therefore, the Ministry has been unable to undertake a meaningful comparison of the prices at which Dats sold Korean diaries to its New Zealand customers with Croxley's prices.

Collector's World Pty Ltd (t/a Bartel Publications Pty Ltd)

211. Over the POI Bartel Publications imported limited volumes of designer (stock) diaries which it on-sold in the Australian and New Zealand markets. Bartel Publications provided only a limited response to the Ministry's importers questionnaire and there was only very limited information on the models of diaries imported and the prices at which it on-sold its Korean diaries to its New Zealand customers. Consequently, the Ministry has been unable to undertake a meaningful comparison of the prices at which Bartel Publications sold diaries to its New Zealand customers with Croxley's prices.

Corporate Diaries

212. In terms of corporate diaries, Croxley competes in the New Zealand market against imports made by resellers who then on-sell the diaries to New Zealand firms who either give the diaries to their staff or give them away to their clients. These New Zealand firms have the choice of importing the goods from Korea (through the intermediary reseller) or sourcing them from Croxley. An example of this level of competition is where Croxley will compete against an importer of corporate diaries which may have established suppliers in Korea. Croxley and the reseller will compete to win tenders to supply New Zealand firms with customer-designed (i.e. made to particular specifications) corporate diaries.

213. As with stock diaries, Croxley noted that there had been a shift in sourcing from China and Malaysia to Korea as a direct result of the anti-dumping duties on Chinese and Malaysian imports, which had resulted in pricing undercutting by diaries from Korea.

214. The following paragraphs detail for each importer which provided information, the extent of any price undercutting when comparing their prices with Croxley's prices (at the appropriate level of trade).

Print House Limited

215. Over the POI Print House made one importation of corporate diaries which it on-sold to Fonterra after winning the contract to supply Fonterra with this particular diary. The diary in question is the 2013 A41 (A4 day-to-page) daily “dairy diary” which Fonterra distributed to its suppliers and a limited number of dairy industry stakeholders. Print House provided a detailed questionnaire response which has enabled the Ministry to compare the price tendered by Print House to supply the Fonterra Dairy Diary with the price tendered by Croxley to supply Fonterra for the same contract.

216. Table 5.4 below summarises the results of above price comparison. The level of trade is Print House’s tendered price vs Croxley’s FIS tendered price.

Table 5.4: Price Undercutting - Print House Ltd
(Fonterra Dairy Diary)

| | Croxley Tender Price/diary | Korean Import Price/diary | Undercutting Amount (\$) | Undercutting Amount (%) |
|---|-----------------------------------|----------------------------------|---------------------------------|--------------------------------|
| Fonterra 2012-13 A41 CMYK Diary | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |
| As above but with additional colour pages | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |

217. The table above shows that Croxley’s tendered price for the Fonterra Dairy Diary was undercut by Korean imports when competing with Print House for this particular contract.

NGT Limited

218. Over the POI NGT Limited made a number of importations of 2013-edition corporate diaries which it on-sold to certain customers after winning the contract to supply these firms with diaries. NGT Limited provided a detailed questionnaire response which included the prices at which the company had won the contract to supply these corporate clients with diaries imported from Korea.

219. In undertaking a price comparison between NGT Limited and Croxley’s prices, a direct match up (comparing the price each company tendered for the same corporate contract) was not possible due to (i) the limited number of instances where both companies tendered for the same contract, (ii) the tendered price by Croxley [REDACTED]; and (iii) the final decision by the corporate client to purchase a diary often being dependent on aspects other than price. Therefore, the Ministry compared NGT Limited’s weighted average tender price with Croxley’s weighted average tender price for those corporate contracts which each company had won and supplied with 2013-edition diaries. To make the comparison more meaningful, the information was split into A4 (day to page) diary sales and A5 (day to page) diary sales.

220. Table 5.5 below summarises the results of above price comparison. The level of trade is NGT Limited’s tendered price vs Croxley’s FIS tendered price.

Table 5.5: Price Undercutting – NGT Limited
(A4 and A5 Diaries)

| | Croxley Weighted Average Tender Price/diary | Korean Import Weighted Average Tender Price/diary | Weighted Average Undercutting Amount (\$) | Weighted Average Undercutting Amount (%) |
|--------------------------|--|--|--|---|
| A4 (day-to-page) Diaries | \$ [REDACTED] | \$ [REDACTED] | nil | nil |
| A5 (day-to-page) Diaries | \$ [REDACTED] | \$ [REDACTED] | \$ [REDACTED] | [REDACTED]% |

221. The information in the table above shows that Croxley's prices are being undercut by NGT Limited's prices in respect of A5 (day-to-page) diaries but not for A4 (day-to-page) diaries.

Price Depression

222. 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 made by domestic producers in order to deal with competition from prices of dumped goods. In a dumping investigation, section 8(2)(c) of the Act provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely to significantly depress prices for like goods of New Zealand producers.

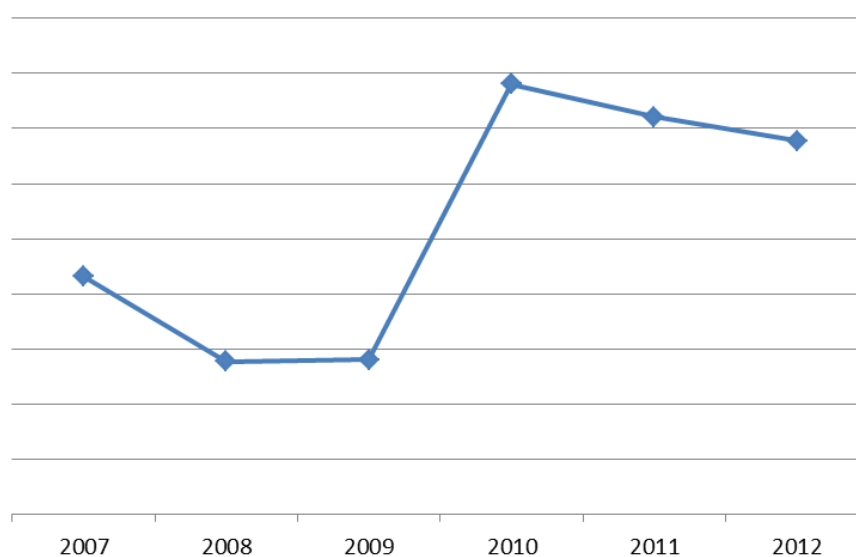
223. Croxley provided financial information to enable the Ministry to assess whether it had suffered price depression during the injury period. The following table shows Croxley's average selling prices for domestically produced diaries (at the ex-factory level) over its 2007 – 2012 financial years. To derive Croxley's average ex-factory selling prices, the Ministry has netted off discounts and rebates.

Table 5.7: Price Depression

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Average price per diary | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| Average price as a % of 2007 | - | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |

224. The graph below charts Croxley's average selling prices since 2007 using the figures in the table above.

Graph 5.1: Price Depression



225. The information shows that Croxley's average selling price for diaries has increased by [REDACTED] percent from 2007 to 2012, although prices have declined slightly since 2010.

226. Prices were at their lowest levels in 2008 and 2009. In 2008, Croxley introduced a "[REDACTED]" range to protect its market share, which was sold to Key Accounts ([REDACTED] diaries are stock diaries with fewer features). Croxley has said that the [REDACTED] range was introduced after it had lost out on a number of tenders to lower priced imports. A [REDACTED] range was needed to win back these sales but the result was [REDACTED] achieved and lower short-term profits.

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227. Yangjisa stated that price depression is just the nature of world trade and, because most end-users prefer to buy a lower priced product, a higher priced product is not as competitive.

Conclusion

228. The data indicates that Croxley has not suffered price depression when prices are considered over the entire injury period, although it has experienced a slight depression of prices between 2010 and 2012.

Price Suppression

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

230. The Ministry has generally based its assessment of price suppression on positive evidence, in particular the extent to which cost increases have not been recovered in prices. Cost increases not recovered in prices will be reflected in increases in costs relative to sales revenue (i.e. costs expressed as a percentage of prices). Where cost savings have been made, the lack of any price increase will not normally be regarded as price suppression.

231. In analysing price suppression, the Ministry has considered Croxley's historical financial information. Croxley provided per unit cost and price information to enable the Ministry to compare

the company's total costs (costs of production and selling, general and administration expenses) as a percentage of sales revenue over its 2007 – 2012 financial years. The results are shown in the table below.

Table 5.8: Price Suppression

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------------------------|------------|------------|------------|------------|------------|------------|
| Average price per diary | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| Total cost per diary | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| Total cost as % of average price | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |

232. The table shows that Croxley's total costs for diaries (as a percentage of revenue) have increased over the injury period by █████ percentage points, with a peak in 2009, indicating that for Croxley's entire range of diaries, prices have been suppressed by a small amount. Costs increased until 2010 and have since remained static, indicating that more recent suppression (i.e. from 2010 to 2012) is a result of a decline in prices, while the earlier suppression is due to an increase in costs.

Conclusion

233. When taken over the entire period, Croxley has suffered some price suppression, which peaked in 2009.

Conclusions on Price Effects

234. Dumped imports are undercutting the price of the equivalent Croxley product by a range of amounts. Croxley has not suffered price depression when taken over the whole period, although it has experienced some from 2010. There is evidence of a small amount of price suppression, which peaked in 2009.

5.4 Economic Impact

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

- actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity
- factors affecting domestic prices
- the magnitude of the margin of dumping
- actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

Output and Sales

236. Movements in sales revenue reflect changes in volumes and prices of goods sold. Dumped imports can affect both of these factors through increased supply of goods to the market and through price competition.

237. Croxley did not provide output figures, but sales volume and output are closely related. Inventories have followed a similar trend to sales volume.

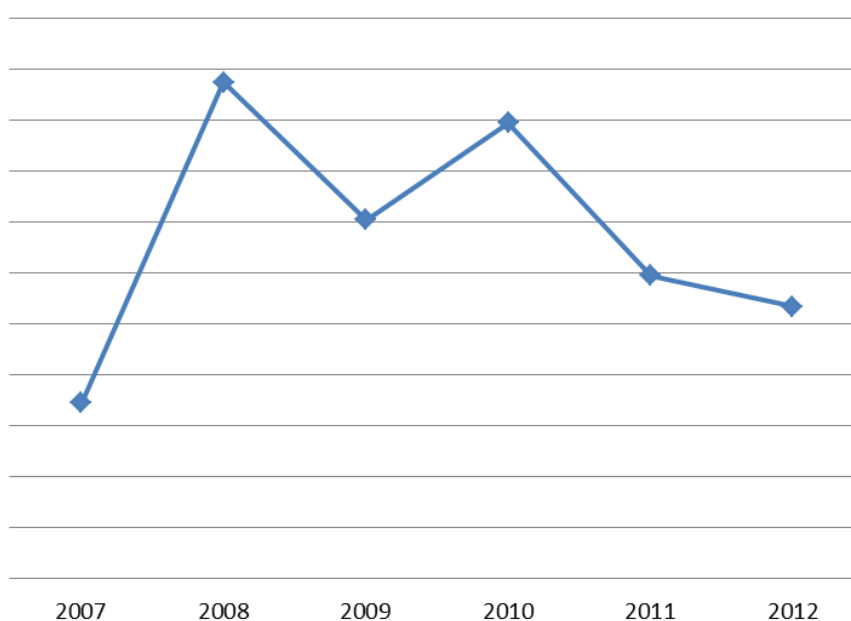
238. The following tables show Croxley’s historical sales volume and revenue figures relating to its entire range of diaries, from 2007 to 2012. The data relates to the company’s domestically produced diaries only, meaning that its imports of diaries are not included in the data.

Table 5.9: Croxley’s Sales Volume (units) and Sales Revenue (NZD)

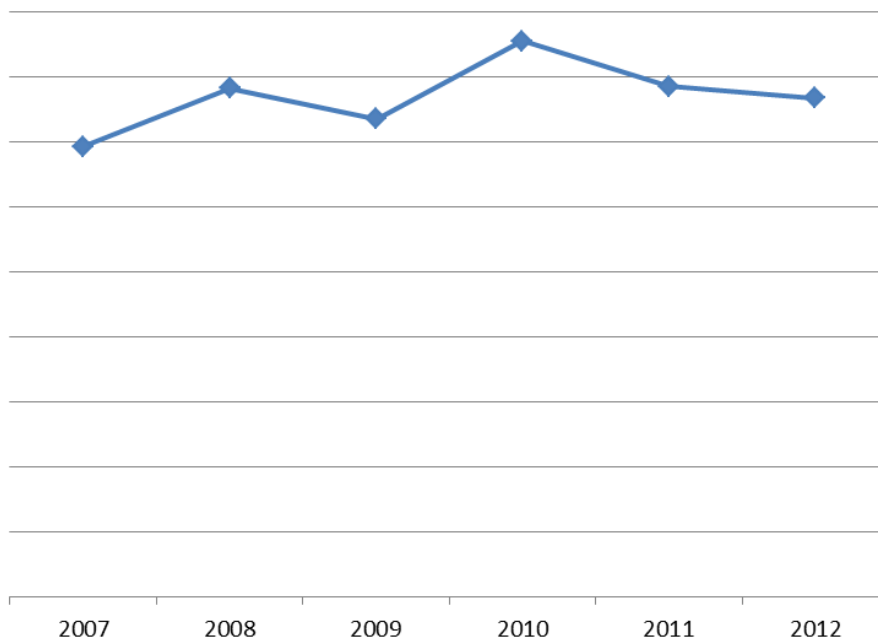
| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|-----------------------------|------------|------------|------------|------------|------------|------------|
| Sales volume (diaries, 000) | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| As % of 2007 | ████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| Sales revenue (\$, 000) | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| As % of 2007 | ████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| Revenue/diary | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| As % of 2007 | ████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |

239. The graphs below chart Croxley’s sales volume and revenue since 2007 using the figures in the table above:

Graph 5.2: Croxley’s Sales Volume (diaries, 000)



Graph 5.3: Croxley’s Sales Revenue (\$, 000)



240. The figures show that 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 [redacted] percent of the volume it achieved in 2007.

241. Croxley’s total sales revenue also increased from 2007 to 2012, but declined slightly from 2010. Croxley’s sales revenue in 2012 was [redacted] percent of that it achieved in 2007.

242. Croxley’s sales revenue per piece has increased by [redacted] percent from 2007 to 2012, although, again, it declined slightly between 2010 and 2012.

Market Share

243. 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 to the domestic industry, particularly if the domestic industry’s sales are also growing. There is no “entitlement” to a particular market share.

244. Dats has stated that it considers the largest segment of the diary market to be corporate diaries (such as banks and government).

245. Jasco has said that Croxley is a significant majority supplier to the market, with Collins being the dominant brand in the commercial category. Most of Jasco’s own range is private label. Jasco commented that the market is declining, but as the commercial segment contracts, the fashion diary segment is growing. It considers that range consolidation will be forced on the market.

246. The following table shows the market share (by volume) of the New Zealand industry compared with dumped imports of the subject goods from Korea and non-dumped imports from all sources. Import volume figures have been compiled on the same basis as outlined in section 5.2.

Table 5.10: Market Share (pieces)

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Dumped imports from Korea | | | | | | |
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | 84,180 | 340,191 | 496,167 | 378,243 | 403,977 | 330,811 |
| Non-dumped imports all sources | 1,362,102 | 1,138,481 | 872,484 | 952,683 | 1,013,120 | 896,415 |
| Sales of NZ domestic production | 1,446,282 | 1,478,672 | 1,368,651 | 1,330,926 | 1,417,097 | 1,227,226 |
| NZ market | | | | | | |
| <i>As % of NZ Market</i> | | | | | | |
| Dumped imports from Korea | | | | | | |
| Imports by Croxley from Korea | | | | | | |
| Total imports from Korea | | | | | | |
| Non-dumped imports all sources | | | | | | |
| Sales of NZ domestic production | | | | | | |

247. Croxley’s market share has increased from 2007 to 2012, by percentage points. The share of the market held by Croxley’s own imports of diaries from Korea have increased by percentage point over the period, although they peaked in 2010 at percent, as this was when Croxley imported diaries from Korea to fulfil the tender it won for diaries.

248. The market share held by dumped imports from Korea increased significantly in 2008 by percentage points, and has fluctuated since that point, reaching a high of percent of the market in 2009. In 2012, dumped imports from Korea held percentage points more of the market than they did in 2007.

249. The market share of non-dumped imports has declined over the period, although it has increased since 2009. The market share held by non-dumped imports is percentage points less in 2012 than it was in 2007.

250. Croxley has not lost any market share. In fact, the only loss in market share that has been experienced is that of non-dumped imports. Croxley, between its sales of domestic production and its own imports from Korea, accounts for around a third of the loss of market share by non-dumped imports, with the remaining share of that loss being taken by dumped imports from Korea.

Profits

251. Changes in net profit reflect changes in prices, sales volumes or costs. Dumped imports can impact on any or all of these. Normally, the extent of any decline in profit will be measured against the level achieved in the period immediately preceding the commencement of dumping.

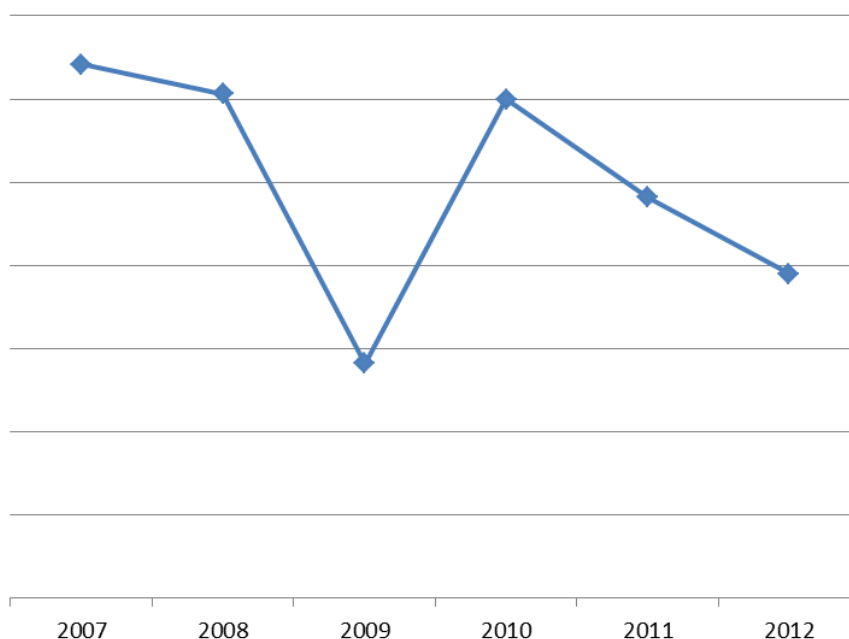
252. Croxley provided the following information on its earnings before interest and tax (EBIT).

Table 5.11: EBIT

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------------------|------------|------------|------------|------------|------------|------------|
| EBIT (\$,000) | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| As % of 2007 | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| EBIT per diary | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| As % of 2007 | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| EBIT as % of Sales Revenue | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |

253. The graph below charts Croxley’s EBIT using the figures in the tables above.

Graph 5.4: EBIT (diaries)



254. The information above shows that EBIT declined in 2008, fell sharply in 2009 to its lowest point, recovered strongly in 2010 (albeit at a level still below that achieved in 2007 and 2008) and then declined in 2011 and 2012. Between 2007 and 2012 total EBIT declined by ██████ percent.

255. EBIT per diary has also fallen significantly over the period, following a similar pattern to total EBIT, with EBIT per diary in 2012 ██████ percent of that achieved in 2007.

256. EBIT as a percent of sales revenue also followed a similar pattern to total EBIT and has almost [REDACTED] over the period. In 2012, EBIT represents [REDACTED] percent of sales revenue, compared to [REDACTED] percent in 2007.

257. Volume and revenue show slight increases on that achieved in 2007 (although they have had some declines through the period), indicating that the reductions in EBIT are due to an increase in costs not being fully recovered in price increases. This reflects Croxley's statement that they have not been able to adequately recover costs, shown in the small amount of price suppression Croxley has experienced.

258. The fall in EBIT per diary reflects the introduction of [REDACTED] range, which is a range intended to combat lower priced diaries, introduced in 2008. Croxley has stated that these products were sold at very low margins and in some cases, [REDACTED]. Croxley's EBIT per diary fell to its lowest level in 2009, and improved in 2010, but has since fallen significantly in 2011 and 2012, reaching a level only \$ [REDACTED] more than the 2009 value. Croxley has said that one of the results of introducing this range was lower short-term profits.

Productivity

259. Productivity is the relationship between the output of goods and the inputs of resources used to produce them. Changes in productivity are affected by output levels and by the level of capacity utilisation.

260. Croxley provided information, by way of bar graphs showing actual output vs. targeted output, for its main equipment at each process step in the production of diaries. The bar graphs covered 2011 and 2012. This information showed that, of the key processes for which information was collected, productivity has generally improved.

261. Overall, [REDACTED] productivity gains have been achieved through a targeted maintenance and preventative maintenance program, an on-going program of continuous improvement and targeted capital spend. Croxley stated that it continued to be focused on improving its productivity/performance and, although the company's output and productivity [REDACTED], it had been unable to pass on operational cost increases due to competition from lower-priced imports.

Return on Investments

262. A decline in return on investments will result from a decline in returns with or without a relative increase in the investment factor being used. Movements in the return on investments affect the ability of the industry to retain and attract investment.

263. Return on investments is normally assessed by looking at trends in EBIT as a percentage of assets or shareholders' funds. Croxley's plant is not dedicated solely to the production of diaries making it difficult to gauge return on investment specifically in relation to diaries; however, it was able to provide an estimate of the likely return on investment for 2012.

264. Croxley estimated the book value of fixed assets that would be employed in relation to the production of diaries at \$ [REDACTED], and added estimates of inventory (\$ [REDACTED], based on [REDACTED] months of Cost of Goods), [REDACTED] months of raw materials at [REDACTED]% of cost (\$ [REDACTED]), and amounts for receivables (\$ [REDACTED]) based on [REDACTED] to [REDACTED] months with an average [REDACTED] day terms, and payables ([REDACTED] \$ [REDACTED]) based on [REDACTED] days on [REDACTED]% of COG's. On this basis, the estimate of the total investment for diaries for 2012 was \$ [REDACTED].

265. The net profit Croxley achieved for 2012 was \$ [REDACTED]. The return on investment against fixed assets is therefore estimated at [REDACTED] percent, and return on total investment at [REDACTED] percent.

266. Croxley did not provide this information for any other period, so it is not possible to measure any movement in return on investments over the POI using this method. However, the Ministry considers it likely, given there has been no significant change in the assets employed to manufacture diaries, that any movement in profits would be mirrored by a corresponding change in the rate of return on investments. EBIT has declined over all of the period between 2007 and 2012, for all types of diaries, so it is likely that return on investments has also declined over the period.

Utilisation of Production Capacity

267. 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.

268. Some of Croxley’s machinery is not dedicated solely to the production of diaries, as Croxley also produces stationery, making it difficult to gauge production utilisation specifically in relation to diaries.

269. Croxley considers that machine hours is the most reliable way to indicate production capacity, rather than number of diaries, as diaries are not a homogenised product and a number of different types are produced on the same machinery. Croxley calculated what it considered to be the production capacity utilisation rate for each year by dividing the number of hours available by the number of planned hours for diary production. The utilisation rates for each piece of machinery are shown in the table below.

Table 5.12: Utilisation of Production Capacity

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|------------------|------------|------------|------------|------------|------------|------------|------------|
| Artwork Creation | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | - |
| Printing | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | - |
| Folding | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | - |
| Gather | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | - |
| Sewing | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | - |
| Casemaking | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | - |
| Kolbus Line | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |

270. The table shows that there has been an increase in utilisation of production capacity for most of Croxley’s lines. Artwork creation and the Kolbus line have decreased in absolute terms, by [REDACTED] percentage points and [REDACTED] percentage points, respectively. Croxley only provided a 2013 figure for its Kolbus line, as this is the only line it has made a significant change to.

271. Croxley has stated that incremental improvement of production capacity is primarily a function of machine speed and the number of shifts operated. On the Kolbus line, Croxley has moved from a [REDACTED] system to a [REDACTED] system, commencing in 2013. It considers it can achieve the same volume in [REDACTED] as it was producing in [REDACTED], therefore improving its efficiency, although

lessening its utilisation rate. This change is reflected in the significant drop in utilisation between 2012 and 2013.

272. Croxley stated that utilisation is a reflection of the demand being processed. If there is an increase in the quantity of imported diaries, there will be a corresponding decrease in domestic output resulting in capacity utilisation declining.

273. Croxley’s available hours have remained static over the entire period on all lines. The gain is an increase in the number of planned hours for diary production. Sales volume for stock diaries has fallen over the period, but improved for corporate diaries. This indicates that Croxley may have made efficiency losses for stock diaries; however this is being offset by improvements in the corporate diary segment.

Factors Affecting Domestic Prices

274. Croxley has not raised any other factors affecting domestic prices in terms of the current performance of the company.

Magnitude of the Margin of Dumping

275. The magnitude of the margin of dumping can be a useful indicator of the extent to which injury can be attributed to dumping, particularly when it is compared with the level of price undercutting.

276. The dumping margins for the manufacturers/exporters found to be dumping are 21, 41, and 113 percent. All manufacturers that were selected for investigation have been found to be dumping.

277. There are a wide range of undercutting margins (outlined in section 5.3), which reflect the large number of models of diary in the market, in both stock and corporate segments. The lowest undercutting margin is [redacted] percent for [redacted], and the highest [redacted] percent for an [redacted] stock diary.

278. The Ministry considers that for the purposes of evaluating the magnitude of the margin of dumping, the dumping margins and undercutting margins can be directly compared. The dumping margins are generally substantially higher than the undercutting margins, indicating that all of the undercutting can be attributed to dumping.

Other Adverse Effects

Cash Flow

279. Croxley provided the following figures on the cash flow of its diary business. The figures start at 2008, as this is expressed as a change in cash flow.

Table 5.13: Change in Net Cash Flow (\$000)

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|------------------------|------------|------------|------------|------------|------------|
| Net Cash Flow (change) | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] |

280. Net cash flow deteriorated significantly in 2009, improved sharply in 2010, declined significantly in 2011, but improved in 2012 to a level that was better than that achieved in 2008 (although still [redacted]).

Inventories

281. Production of diaries is generated by sales demand and under Croxley's [REDACTED] inventory management system stock is held and released to the market in line with specific customer requirements and agreements. Inventory is managed down to the SKU level. Under this inventory management system inventory records are up-dated in real time.

282. Diaries are unique in relation to normal stock carrying trends because diaries become obsolete part way into the year for which they were produced. Any stock not sold is therefore destroyed in about [REDACTED] each year. The inventory level is consequently reduced to about zero every [REDACTED] and then built up for the next diary season.

283. Croxley provided its annual diary obsolescence write-off from 2009 to June 2013, as below. It did not provide information for 2007 and 2008.

Table 5.14: Annual Diary Obsolescence

| | \$NZ |
|----------------|------------|
| 2009 | [REDACTED] |
| 2010 | [REDACTED] |
| 2011 | [REDACTED] |
| 2012 | [REDACTED] |
| 2013 (to June) | [REDACTED] |

284. Croxley's inventory levels have generally been declining, reaching their lowest level in 2012. This indicates that no injury has occurred over the period, as Croxley have been able to sell most of their stock, and have not had to stockpile inventory, or more accurately, write off a large amount of stock that will not be able to be sold. In the year to June 2013, inventory has [REDACTED] from what it was in 2012, that is, Croxley has had to write off [REDACTED] the amount of diaries from what it had to write off the previous year. This indicates that there may have been more injury caused to Croxley recently, in relation to this injury indicator, although the level of the write off was still less than that in 2009.

Employment and Wages

285. Croxley provided monthly headcount figures for 2009 to 2013, from which the Ministry has taken the number at the beginning of each year to represent the number of staff employed for that year. However, these figures include temporary and non-full time staff, so to better account for employment, Croxley provided a list of full time and part time staff (direct and indirect labour) from 2009, which were then converted into full-time equivalents (FTE's). Croxley also provided information on the direct cost of labour for 2009 to 2012.

286. The figures for 2009 to 2013 are outlined below.

Table 5.15: Employment and Wages

| Year | No. of FTE | Direct Labour Cost (\$000) |
|------|------------|----------------------------|
| 2009 | ██████████ | ██████████ |
| 2010 | ██████████ | ██████████ |
| 2011 | ██████████ | ██████████ |
| 2012 | ██████████ | ██████████ |
| 2013 | ██████████ | ██████████ |

287. The table shows that the number of FTE's has been stable until 2012. The recent loss in FTE's for 2013 is because Croxley has reduced its Kolbus line from a ██████████ system to ██████████, resulting in ██████████. The change to ██████████, however, appears to be driven by the need to improve efficiency rather than in response to declines in sales volumes.

288. Croxley's direct labour cost is tied to its cost of sales. The cost of direct labour has therefore followed the trend of billed sales – it increased in 2010 because Croxley increased sales in that year, but it has declined since then. It therefore does not represent changes in actual wage rates. Croxley has stated that declining sales would likely result in staff numbers declining further.

289. Croxley has provided information showing that it has not been able to keep up with increases in wage rates. The FMCG Remuneration Survey covering warehousing, logistics, manufacturing sales and marketing shows market wage increases of 3 percent each year between 2007 and 2010, and 3.5 percent in 2011 and 2012. Croxley has provided information showing that its wage increases have remained nearly ██████████, at only ███ percent each year. Croxley has stated that the reason for ██████████ is that it has been unable to pass on reasonable increased costs due to market pressure caused by dumped goods.

Submissions on EFC Report

290. Yangjisa stated that it is in a similar predicament to Croxley in that it has not been able to increase wages due to decreased sales volume and profits for diaries.

Growth

291. Croxley noted that through its program of continuous productivity improvements, it remains committed to reducing operational costs and working towards growing its diary production. It believes its biggest opportunity is in ██████████, particularly ██████████.

292. Croxley claims it has lost a number of tenders for diaries. It considers that the tender it lost for ██████████ brand diaries provides an indication of the significant negative impact of dumped imports on its business. Croxley valued the loss of this contract at \$ ██████████ or ██████████ units.

Ability to Raise Capital and Investments

293. Major capital expenditure is approved by Croxley's parent company in the US, which determines the required return on capital before it is approved.

294. Croxley has stated that over time it has invested heavily in skills and equipment in order to produce diaries. It has had to shelve a major capital investment it was considering undertaking, involving the [REDACTED], and said it would have to consider a different way to engage with [REDACTED].

295. Croxley considers it would be difficult to justify capital investments in the manufacturing area if there were declining production volumes as a direct result of increasing volumes of dumped imports.

Submissions on EFC Report

296. Yangjisa stated that it was intending to make an investment in both a rotary press machine and a custom-made production print machine, but is holding off this investment after considering recent market trends (i.e. that the diary market is declining).

297. After the release of the EFC Report, Croxley stated that the risk in the absence of anti-dumping duties being imposed on Korean imports meant that it will now [REDACTED] its capital plans to [REDACTED]. This issue has been addressed in more detail below, under “threat of material injury”.

5.5 Other Causes of Injury

298. Sections 8(2)(e) and (f) of the Act provide that the Chief Executive shall have regard to factors other than the dumped goods which have injured, or are injuring, the industry, including:

- a. the volume and prices of goods that are not sold at dumped prices
- b. contraction in demand or changes in the patterns of consumption
- c. restrictive trade practices of, and competition between, overseas and New Zealand producers
- d. developments in technology
- e. export performance and productivity of the New Zealand producers
- f. the nature and extent of importations of dumped goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

Non-dumped Imports

299. Imports that are not dumped also have the potential to cause injury to the New Zealand industry.

300. Korea is currently the major source of imports of diaries. In 2012, imports from Korea represented 28 percent of total imports. China and Malaysia are also major sources of imports of diaries; however, diaries from both countries have had anti-dumping duties applying to them since 2007. Singapore and Australia are also large sources of diaries.

301. The price undercutting analysis below shows that all imports of diaries are undercutting Croxley by some amount; however, imports from Korea are undercutting Croxley by the most significant amount.

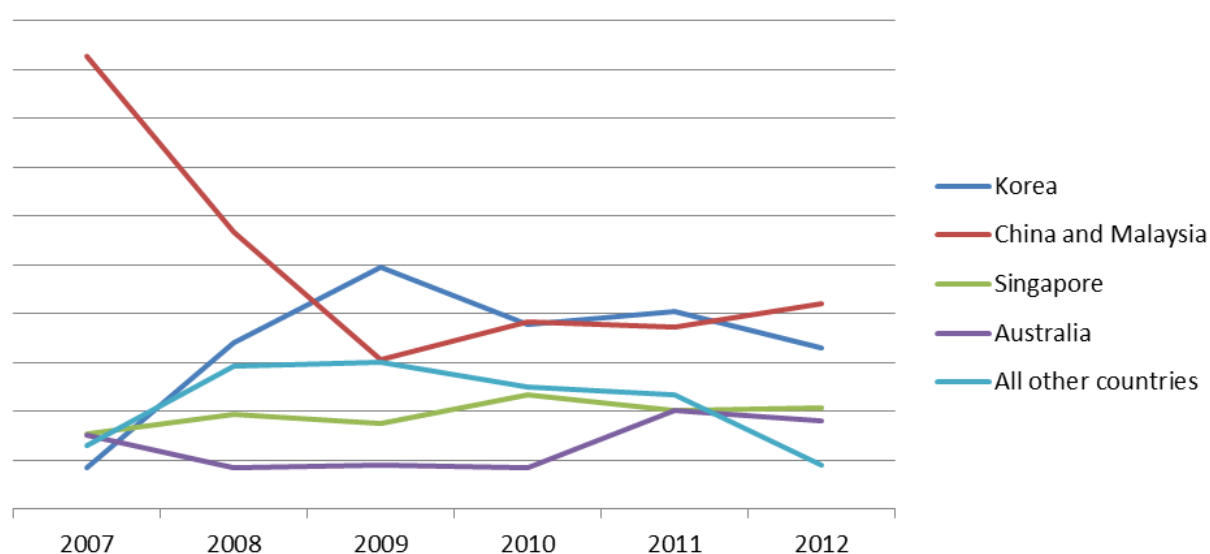
Volume and prices of goods that are not sold at dumped prices

302. 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 was completed earlier in the year and concluded the duties should remain in place.

Volume of imports from other countries

303. As noted above, the main sources of diaries, other than Korea, are China, Malaysia, Singapore and Australia. Graph 5.2 below shows the volume of imports of diaries into New Zealand from these countries and from “all other countries” from 2007 to 2012 for years ended December.

Graph 5.5: Volume of Imports from Other Sources (units)



304. Imports from China and Malaysia dropped drastically (by approximately [redacted] units) between 2007 and 2008, with a further significant decline in 2009. Imports from Korea increased significantly over the same period. Diary imports from China and Malaysia had anti-dumping duties imposed on them in 2007, with effect from early 2008. The trend in graph 5.5 indicates that instead of importing diaries from these sources, importers switched their main source to Korea. Since 2009, imports from China and Malaysia have increased, but in 2012 volumes were still well below those achieved in 2007. Imports from Korea have declined since 2009, but in 2012 volumes were still well above those achieved in 2007. Diaries from China and Malaysia, as a combined source, represented slightly more of total imports in 2012 than imports from Korea. Overall, the trend for imports from China and Malaysia has been negative, while the trend for imports from Korea has been positive.

305. Imports from Singapore have remained relatively steady, with slight growth over the entire period. Imports from Australia fell slightly between 2007 and 2008, and remained stable until 2011, when they increased significantly. However, Australia still remains one of the smaller sources of supply, representing 15 percent of total imports in 2012.

306. Imports of diaries from all other countries increased until 2009, and have fallen drastically since then, representing even less of total imports in 2012 than they did in 2007. The trend for imports from all other countries is overwhelmingly negative.

307. Croxley has experienced declines in sales volume since 2008, and declines in sales revenue and EBIT since 2010. Its market share has generally increased over the period, and this increase in Croxley's market share appears to be taken from non-dumped imports where their volumes have

declined. The downward trend in import volumes of non-dumped goods and their corresponding loss of market share, and the replacement of that lost market share in part by Croxley’s sales, indicates that import volume effects from non-dumped imports have not been a cause of injury to Croxley.

Prices of imported diaries from other countries

308. Table 5.16 below compares Croxley’s FIS price (including freight into its customer’s store) against the into-store price per unit of imported diaries from other countries. The Ministry calculated the average per unit FOB value for imports from Australia, China, Malaysia, Singapore, and all other countries from Customs data for the year ended 31 December 2012. China and Malaysia have been combined, as both countries have anti-dumping duties applying to diaries imported from them. 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 and Jasco both provided costs for port clearance and cartage for their imports of diaries. The Ministry has calculated these amounts as a percentage of the FOB price (as combined values) and applied that percentage amount to the FOB prices for each country that has been examined. Croxley’s FIS selling price relates to its 2012 financial year.

309. Imports from Korea have also been included in this table, to provide a comparison of the relative levels of price undercutting by dumped and non-dumped imports. The into-store prices for Korea in this table have been calculated based on Customs’ data, as outlined in the paragraph above for other countries.

Table 5.16: Price Undercutting from Other Imports (NZD)

| | Korea | China and Malaysia | Singapore | Australia | All other countries |
|-----------------------------|------------|--------------------|------------|------------|---------------------|
| Imported Into Store Price | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| Croxley's FIS Selling Price | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| Amount of Undercutting | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| Percentage of Undercutting | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |

310. Table 5.16 shows diaries from all sources in the table undercut Croxley by a significant amount in 2012.

311. Imports of diaries from China and Malaysia are currently subject to anti-dumping duties. Imports from China and Malaysia are still undercutting Croxley, indicating that not all of the undercutting is caused by dumping. Imports from Australia are undercutting Croxley by a significant amount. Imports from Singapore and all other countries are also undercutting Croxley by a lesser amount. Imports from Korea, however, are undercutting Croxley’s prices by a greater margin than the imports from any other source.

312. 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 other price undercutting margins shown in the table above. Import volumes from most countries other than Korea have also declined since 2007 while those from Korea have increased over the same period (albeit that import volumes from Korea peaked in 2009). Only China and Malaysia, combined, represent a higher volume of imports than imports from Korea, but diaries from these countries are

already subject to anti-dumping duties. Consequently, the Ministry considers it likely that imports of diaries from Korea are a larger cause of injury than non-dumped imports.

Submissions on EFC Report

313. TWG considers that Croxley has been injured by non-dumped imports to a more significant extent than concluded by the Ministry, considering that imports from sources other than Korea represent 73 percent of imports of diaries, and every source examined was undercutting Croxley to some extent. TWG considers that the Ministry should examine the combined effect by all of the other sources of imports, not just the effect caused by the country with the highest individual estimated undercutting margin.

Ministry Response

314. If all sources of imports are considered (excluding diaries from Korea), the undercutting margin is [REDACTED] percent. Korea is still undercutting Croxley by a more significant amount than all other imports. The Ministry's earlier conclusion that non-dumped imports may be a cause of injury, but that the injury caused by imports from Korea is larger, holds.

Contraction in demand or changes in the patterns of consumption

315. Changes in the pattern of consumption or a reduction in demand can also be a potential cause of material injury to the New Zealand industry producing diaries.

316. Croxley said it is seeing a decline in sales of [REDACTED] type diaries due to technology, but there is increasing demand for [REDACTED] diaries, particularly on an exclusive basis for its Key Accounts. However, Croxley considered that the decline in sales of [REDACTED] diaries was only in the order of [REDACTED] or [REDACTED] percent.

317. TWG stated that the growth outlook of the total market for paper based diaries is flat to declining. The introduction of technology is resulting in the market declining as consumers no longer require a paper based diary, as technology use is replacing traditional paper based diary products. TWG said it expects this penetration to increase each year, reducing demand, although the speed of the contraction is difficult to estimate, and will largely be led by the willingness of consumers to rely solely on electronic diaries and devices.

318. Jasco has also stated that technology has greatly reduced the demand in the diary market, as more consumers rely on technology to manage schedules and timetables.

319. Print House stated that key factors to the decline in the market include: competition from other forms of media, competition from offshore suppliers, government reductions in print related spending, and environmental perception regarding the use of paper.

320. In the EFC Report the Ministry noted that the diary market in New Zealand seemed to be generally declining, as demand for diaries is declining with an increased uptake of technology such as portable personal devices. The Ministry also noted that the market looks to be shifting towards more [REDACTED] type diaries (rather than [REDACTED] diaries).

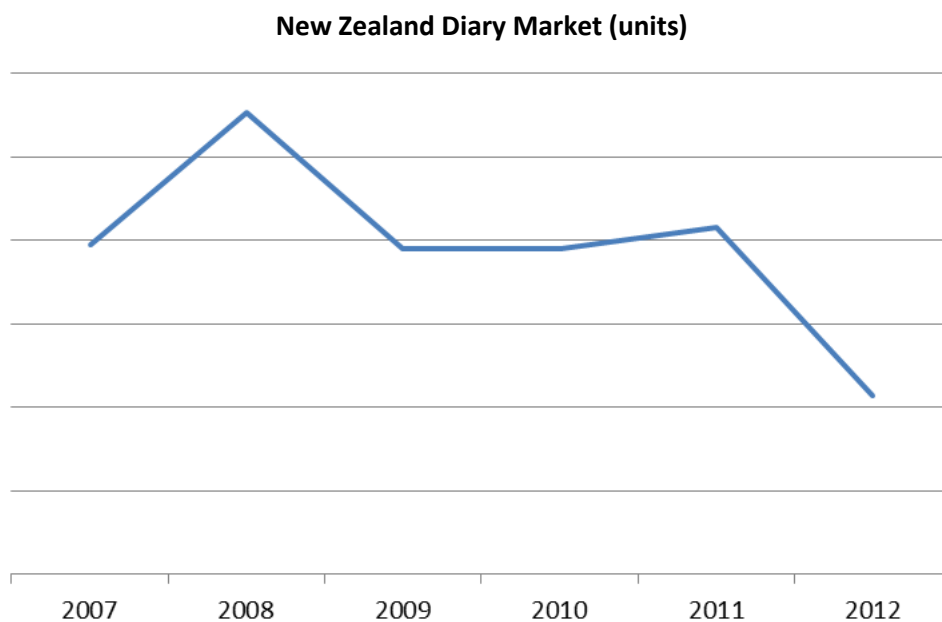
Submissions on EFC Report

321. TWG stated, in its submission on the EFC Report, that it considers there has been a notable contraction of demand during the POI. It also said that between 2011 and 2012, there has been an [REDACTED] percent decline in demand in standard diaries and a [REDACTED] percent increase in demand for fashion or designer diaries. The change in demand was even more notable in 2010.

322. Yangjisa stated that Croxley's prices are not competitive enough to win tenders, and this is exacerbated by developments in electronic devices causing a decline in demand for paper diaries.

Ministry Response

323. The Ministry considers there has been a contraction in demand over the POI. As noted above, this decline is not particularly large when taken over the entire injury period. The graph below illustrates the entire New Zealand diary market.



324. When taken over the whole period the percentage decline of the market is not particularly large at █ percent. However, it can be noted from the graph above that a significant proportion of this decline has occurred between 2011 and 2012. The market declined by █ percent between 2011 and 2012. Based on import volume figures for 2013 through to October (i.e. for 10 months of the year), it appears likely that there will be a similar decline in the market between 2012 and 2013. Notably, when measured in percentage terms, the largest decline between 2011 and 2012 was by dumped imports from Korea. Non-dumped imports also declined by a significant amount, while Croxley's domestic production declined by a small amount and its imports from Korea grew.

325. The Ministry notes that there also appears to be a shift from one segment of the market to another, as a number of parties have indicated. More specifically, there appears to be a shift towards more █ type diaries (rather than █ diaries). However, the Ministry must examine the market as a whole, as Croxley does produce diaries across all segments. Furthermore, while the Ministry has some information to distinguish different types of diaries imported from some sources, it is not possible to do this for all sources of supply and establish whether this shift is in fact occurring for the whole diary market.

Restrictive Trade Practices and Competition

326. Restrictive trade practices of overseas or New Zealand producers, such as price ceilings, other statutory measures, or exclusive dealer arrangements, can negatively affect the financial position of New Zealand manufacturers when they are not the beneficiaries of the restrictions. Competition between overseas and New Zealand producers of diaries can be a cause of material injury independent of any dumping. For example, the existence of a price war or the constant threat of new competitors to the New Zealand market can cause a fiercely competitive environment where it is difficult for a New Zealand manufacturer to make a positive return.

327. Croxley has said that it is not aware of any restrictive trade practices occurring.

328. TWG stated that it considers that Croxley's behaviour in submitting three anti-dumping complaints relating to the stationery industry is unjustified and anti-competitive on Croxley's part.

329. The Ministry does not consider an anti-dumping complaint to be anti-competitive in and of itself. A New Zealand industry is entitled to make an application for an anti-dumping investigation or review in order to ensure it is competing in a fair marketplace. The Ministry also notes that two of the complaints to which TWG refers are, in fact, reviews of anti-dumping duties that had been in place since 2007, and one of these reviews resulted in the termination of the duty (relating to bound stationery rather than to diaries).

Developments in Technology

330. Print House stated that, like all print media, demand for diaries will decline with the uptake of personal portable device technology.

331. TWG made a similar statement to Print House, saying that technology is playing an ever increasing role in the market, and developments in technology have led to and will continue to prompt a decline in diary sales in NZ. TWG's own sales of smart phones, tablets and notebooks have increased significantly in the last year.

332. Jasco also said that advances and penetration of technology has recently significantly affected diary volumes; greatly reducing demand (for diaries).

333. Regarding equipment technology used to produce diaries, Croxley stated that the vast majority of producers around the world have been using the same type of technology for many years. Croxley said the opportunity at present is more efficient equipment, rather than new technology as such. Croxley stated that it has focused on small but important upgrades to equipment to maintain and grow efficiencies.

334. As stated in paragraph 320 it appears reasonable to assume that demand for diaries is declining with an increased uptake of technology, although it remains to be seen how quickly this decline will occur. While it appears that the decline has not been significant over the entire POI (i.e. the total NZ market for diaries declined by only a relatively small amount from 2007 to 2012), more recent information suggests there has been a more rapid decline in the market (and therefore demand) since 2011. This indicates to the Ministry that there has been a greater uptake in new technology (such as personal portable devices) recently.

Export Performance and Productivity of New Zealand Producers

335. Export performance and productivity of the New Zealand industry can be a cause of injury if its export performance is at the expense of its domestic performance.

336. Croxley views the export market as an opportunity to grow sales and revenue. It exports mainly to [REDACTED], and has done so over many years. In 2012 diary exports represented [REDACTED] percent of Croxley's total diary sales.

337. Croxley tailors goods specifically for [REDACTED], but the goods sold to [REDACTED] are the same as those sold in New Zealand. Export costs and sales have been excluded from the data used in other injury factors. Croxley's diary exports have also been falling in sales volume, sales revenue and profit measures, however, these sales are still being made at a profit. The reason for these declines is not clear.

338. The Ministry considers that the export performance and productivity of the New Zealand industry is not a factor other than the dumped goods which has injured, or is injuring, the industry.

Imports by the Industry

339. The Ministry is required to assess the nature and extent of importation of dumped goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

340. Croxley imports diaries from a number of sources, including Korea. Croxley’s imports from Korea have been excluded from injury data. Some of Croxley’s imports are sourced through [redacted]. Croxley includes some [redacted] diaries in its stock range as they are products that Croxley does not have the ability to manufacture, or [redacted].

341. Croxley won the tender by [redacted] for the supply of [redacted] brand diaries in 2010, which it sourced from Korea. Subsequent to this, [redacted] have cited Croxley’s prices as being too high compared to other sources, and Croxley have lost out on the tender each year.

Table 5.17: Domestic Industry’s Import Volume

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|------------|------------|------------|------------|------------|------------|
| Imports by Croxley from Korea | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] |
| As % of 2007 | | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] |
| As % of 2008 | | | [redacted] | [redacted] | [redacted] | [redacted] |
| As % of Croxley's total domestic sales | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] |

342. The figures in the table show that Croxley’s imports from Korea have increased significantly since 2007. Imports in 2012 represent [redacted] percent of the import volume 2007. However, if 2007 is taken out of the equation, Croxley’s imports in 2012 are less than its imports in 2008, representing [redacted] percent. Croxley’s imports peaked significantly in 2010, representing [redacted] percent of its imports in 2007, or [redacted] percent of its imports in 2008. However, this was the time when Croxley won the [redacted] tender, as discussed above, which was supplied by imported diaries. Croxley have not been successful in this tender since.

343. Croxley’s own imports generally represent a small percentage of its domestic production, although this percentage has increased since 2007, by [redacted] percentage points. This measure also peaked in 2010, when Croxley imported diaries for the [redacted] tender.

344. Croxley’s sales volume was reasonably high in 2010, and its revenue peaked to the highest point over the period examined in that year. It also held one of its higher percentages of market share, and its profit levels were close to the highest it has achieved over the 6 year period that has been examined. Croxley’s higher level of imports in 2010 therefore appear to be additional to its domestic production, rather than replacing any of its domestic production.

345. Croxley has stated that it imports goods that it cannot competitively manufacture in New Zealand. The Ministry considers it is unlikely that Croxley’s own imports are currently causing it material injury.

Submissions on the EFC Report

346. Yangjisa highlighted that Croxley has not been producing [REDACTED] diaries domestically and that even when they won the tender in 2010 (to supply 2011-edition diaries), the diaries were imported from [REDACTED]. Thus, according to the company, there can be no direct negative effect on Croxley's factory if [REDACTED] sources its diaries from overseas. Yangjisa also stated that, if anti-dumping duties were to be imposed, [REDACTED] would likely source from another country rather than returning to Croxley.

347. [REDACTED] also stated that Croxley has made its own prices uncompetitive through its past behaviour. [REDACTED] provided information showing that [REDACTED] average price for an A4 day-to-page hardcover diary declined by [REDACTED] percent from 2009 to 2010 (the year for which Croxley was its New Zealand customer providing the [REDACTED] brand tender). [REDACTED] has been importing the [REDACTED] brand since 2011, at similarly low prices, although [REDACTED] has been able to gradually increase its prices every year since 2010. [REDACTED] average price for this diary type increased [REDACTED] percent between 2010 and 2013.

Ministry's Response

348. Croxley imports diaries that it cannot competitively manufacture in New Zealand, although the company's own imports generally represent a small percentage of its domestic production. This percentage peaked in 2010 when Croxley won the [REDACTED] Brand tender (the diaries were sourced from [REDACTED]). However, this particular tender was for 2011-edition diaries and the Ministry considers it unlikely that Croxley's own imports are currently causing it material injury.

Exchange Rates

349. TWG also stated that the appreciating NZ dollar may have affected Croxley's performance. Appreciation allows importers to import product relatively cheaply, and makes local product comparatively more expensive.

350. The main currencies connected with this investigation are USD and AUD. A comparison of the trends in the NZD/USD and NZD/AUD exchange rates over the injury period (2007 to 2012) shows that the NZD depreciated against both currencies until 2009, and has appreciated since then. Croxley's sales volume has been declining since 2008, and its revenue since 2010.

351. A strong dollar does in general have a negative effect on a company's competitive position compared to imports. However, the information in the paragraph above does not indicate a strong association between an appreciation of the New Zealand dollar and a decline in some measures of Croxley's performance. If there was some correlation or causation between the factors, one would normally expect to see a change in exchange rates and then a corresponding change in the injury factors measured. Furthermore, the NZD has been strong against currencies other than those examined here. Imports of diaries from other sources have declined overall, indicating that the appreciation of the NZD has not had a significant effect on imports of diaries from these countries. It is possible that the strong dollar has had some effect on the New Zealand industry's productivity; however, the effect is not clear and does not appear to be significant.

Submissions on the EFC Report

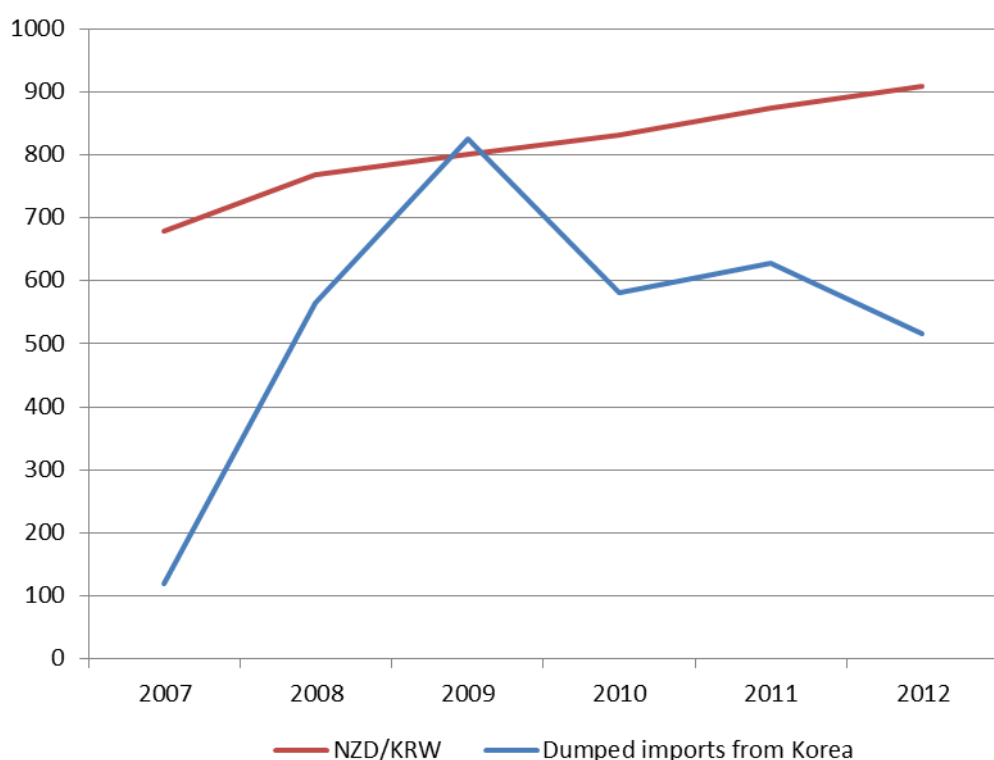
352. In its submission on the EFC Report, TWG has reiterated that it thinks the strong New Zealand dollar was a factor causing material injury to Croxley over the injury period. TWG considers that the Ministry should have focused its analysis on the NZD/KRW exchange rate, as, while USD, AUD, or NZD were used to invoice exports of diaries to New Zealand, those currencies were only used as a medium to transfer payment. TWG considers that export prices are set in KRW and then converted into the appropriate currency to facilitate payment.

353. TWG have gone on to state, with supporting information sourced from Oanda³, that Korean exporters became incrementally more price competitive compared to New Zealand manufacturers over the period, and their price competitiveness peaked in 2009. At the same time, Korean exporters gained market share incrementally throughout the period and market share also peaked in 2009.

Ministry's Response

354. The Ministry agrees that the Korean Won compared to other currencies shown in TWG's submission (Chinese Yuan, Singapore Dollar, Malaysian Ringgit, Australian Dollar) has been incrementally more competitive, peaking in 2009, when all the other currencies depreciated. However, this competitiveness has not shown in exports of diaries from Korea to New Zealand.

Graph 5.6: Exchange Rate Comparison (KRW and units)*



*right hand axis is confidential; left hand axis refers only to exchange rate levels

355. Graph 5.6 shows that that the NZD has appreciated against the KRW steadily over the period. Import volumes from Korea, however, have declined since 2009. This supports TWG's assertion that the price competitiveness and market share of Korean exporters peaked in 2009. However, if the KRW exchange rate was driving the changes in import volumes, one would expect import volumes to continue increasing in line with the appreciation of the NZD against the KRW, which has not occurred. The Ministry does not consider that appreciation of the New Zealand dollar has had a significant effect on Croxley's competitive position.

Other issues

356. Jasco has stated that if anti-dumping duties were imposed, suppliers other than Croxley would be forced out of the price sensitive commercial diary market. The market currently consists of Collins

³ <http://www.oanda.com>

as the premium range and private label as the competitive option. Jasco considers that duties would remove this tiered pricing and force one of the brands/options out of the market.

357. Print House said that prior to it winning the tender for the Fonterra Dairy Diary, it was produced in NZ, and its understanding is that the NZ supplier was unable to deliver the project within the time frame available, implying that Croxley is unable to compete effectively. Jasco has said that Croxley may have been affected by its own production and distribution performance, but did not provide any further detail.

358. TWG, Jasco, and Print House have all listed a number of other factors that they consider may have affected Croxley's profitability and output. These factors include a declining market, falling consumer demand and a subdued economy generally, as well as increased competition, including competition from offshore suppliers and from other forms of media.

359. Print House mentioned that environmental perception regarding the use of paper may have also had an effect on Croxley's sales of diaries, which is tied into falling consumer demand.

360. In its EFC Report the Ministry noted that consumer demand and the influence of technology were possible other causes of injury. The Ministry also considered it possible that Croxley has experienced some injury from legitimate competition. The section on non-dumped imports shows that imports from all sources are undercutting Croxley, and thus may have had an effect on Croxley's sales.

Submissions on EFC Report

361. In its response to the Ministry's EFC Report, TWG commented that Croxley lost the 2012 and 2013 tenders for its business due to: uncompetitive prices; quality issues in 2011, which took TWG a significant amount of time and resource to resolve; and Croxley's failure to meet agreed deadlines, which resulted in a loss of TWG sales and profit margin. Furthermore, TWG claims that Croxley's bids were based on a plan to import the diaries it needed from Korea, and thus TWG considers that Croxley's bids could never have been more competitive than those of a Korean supplier.

Ministry Response

362. The Ministry has sourced pricing information indicating that (for 2013-edition diaries) price was a key driver in the decision by TWG not to award Croxley the Impact brand tender. However, it is reasonable to assume that price is not the sole reason for awarding a tender of this nature, but rather one of a number of contributing factors. The Ministry is aware that Croxley [REDACTED] for the supply of diaries, [REDACTED]. In terms of the tender for the supply of 2013-edition [REDACTED] Brand diaries, the Ministry is aware that Croxley's intention was to manufacture [REDACTED], for certain lines, it intended [REDACTED].

5.6 Causal Link

363. 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 other factors also being a cause of material injury. This reflects the requirements of Paragraph 2 of Article 5 of the Anti-Dumping Agreement.

364. 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 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.

365. 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

366. There is evidence of a significant increase (of 324 percent) in the volume of dumped imports from 2007 to 2012 in absolute terms although they peaked in 2009. Relative to New Zealand production, dumped imports increased by █ percentage points between 2007 and 2012, although this measure also peaked in 2009. Relative to total New Zealand consumption, dumped imports increased by █ percentage points over the same period, but again peaked in 2009. The New Zealand market as a whole has declined by a relatively small amount between 2007 and 2012. However, the increase in dumped imports and their consequent gain in market share has been at the expense of a decline in market share held by non-dumped imports. Croxley’s share of the market has increased slightly (by █ percentage points) which was also at the expense of a decline in the market share held by non-dumped imports.

367. There is evidence of a varying range of price undercutting of Croxley’s prices by dumped imports. At the same time there is also evidence that non-dumped imports from countries other than Korea are undercutting Croxley’s prices when taken across the entire range of product, although not to the same extent as imports from Korea. There is no evidence of price depression from 2007 to 2012 although prices have declined from 2010 to 2012, albeit to levels still above those in 2007. There is evidence of a small amount of price suppression over the entire 2007 to 2012 period but the greatest amount of price suppression occurred in 2009.

368. The volume of dumped imports reached a peak in 2009, declined significantly in 2010, followed by a significant increase in 2011, and a less significant decline in 2012, to a level still well above that in 2007. The pattern of import volumes largely corresponds with the trends in price suppression and in EBIT. At the same time Croxley’s sales volume and revenue increased between 2007 and 2012 although both measures declined in 2009 followed by significant rebounds in 2010 and less significant declines thereafter. The declines in sales volume and revenue in 2009 and the significant increase in 2010 correspond to the increase in dumped import volumes in 2009 and the decline in dumped import volumes in 2010. The increase in dumped import volumes in 2011 is reflected to a much lesser degree by a decline in Croxley’s sales volume and revenue in 2011. In 2012 the changes in dumped import volumes and Croxley’s sales volume and revenue do not correspond as both the volume of dumped imports and Croxley’s sales volume declined with the decline in dumped import volumes being more significant than the decline in Croxley’s sales volume.

369. While there is a significant degree of correspondence between the changes in the volume of dumped imports and changes in Croxley’s sales volume and revenue, the market share analysis shows that Croxley was able to maintain or increase its market share each year (except for 2011 when its market share declined slightly) and that over all of the period Croxley increased its market share by a small amount. Croxley’s changes in sales volume have therefore largely reflected the changes in the size of the New Zealand market over the period under review. This indicates that there has not been any significant adverse impact on Croxley’s sales volume and revenue and that the adverse impact on Croxley’s profitability has resulted from price effects from those dumped imports. While there is evidence of price undercutting this has not resulted in Croxley having to depress its prices over all of the period and has resulted in only a small amount of price suppression.

370. Croxley has experienced a decline in its employment (FTE's) recently, and wages have remained nearly [REDACTED]. Croxley has experienced likely declines in return on investments, growth and ability to raise capital and investments. Its inventory obsolescence has declined until a recent increase for 2013. Croxley has not lost any market share, and has had gains in productivity and utilisation of production capacity. It has slightly improved its cash flow.

371. The Ministry considers there is an inference that the price effects resulting from dumped Korean imports and the consequent economic impact in some measures can be attributed to dumped imports from Korea.

Second Causal Link Limb

372. The dumping investigation has found that imports of subject goods by all of the selected Korean manufacturers are dumped. These exporters represent 93 percent of imports of diaries from Korea over the POI. Korea is the most significant source of supply of diaries, and imports of diaries from Korea over the POI represented 28 percent of total imports. Dumped imports are consequently an important factor in the New Zealand market, representing [REDACTED] percent of the total market in 2012. However, sales of New Zealand domestic production of diaries represent significantly more than this amount, claiming [REDACTED] percent of the total market in 2012.

373. There has been a significant increase in the volume of dumped imports (by 324 percent) from 2007 to 2012, although imports have declined between 2009 and 2012 (but still represent a significantly higher volume in 2012 than they did in 2007). The market share held by dumped imports has also increased by [REDACTED] percentage points, although this gain was obtained from a loss in market share of non-dumped imports.

374. There is evidence that dumped imports have undercut the prices of equivalent Croxley product. Prices of diaries from those exporters found to be dumping are also significantly lower than prices of diaries from non-dumped sources. Prices of diaries from non-dumped sources are undercutting Croxley's prices, to a lesser degree than the undercutting by dumped imports from Korea. The evidence suggests that the prices of dumped imports are exerting a greater pricing pressure on Croxley than any other source of imports.

375. There has been an [REDACTED] percent contraction in demand of the diary market in New Zealand, between 2007 and 2012. This contraction appears to be caused by an increased uptake of technology by consumers. This uptake of technology appears to coincide with the more pronounced decrease in the market size for diaries since 2011 which in itself indicates a greater uptake in new technology recently. Any further decline in the size of the market (and the demand for diaries) will depend on how willing consumers are to further uptake technology. At the same time, Croxley's market share has improved, so changes in demand do not appear to have had a significant negative effect on Croxley (as far as maintaining its market share is concerned).

376. One of the other issues brought up was the effect of the strong New Zealand dollar. There does not appear to be a strong correlation between the trends in the New Zealand dollar exchange rate against major currencies and dumped import volumes. This does not appear to be a factor causing material injury to Croxley.

377. When the evidence presented above is considered, the Ministry concludes that the injury to Croxley can be attributed to dumped imports, although that injury was more significant in 2009 than in subsequent years. Price undercutting by non-dumped imports and a contraction in demand for diaries brought about by an increased uptake in technology may also be causing some injury to Croxley. However, the Ministry does not consider that these effects are significant enough to break the inferred causal link between dumped imports and the injury Croxley has experienced. Whether

the consequent economic impact can be considered to constitute material injury is considered below in the conclusion on injury.

378. Neither the Act nor the Anti-Dumping Agreement require that dumped imports must be the sole cause of material injury. The Ministry considers there is sufficient evidence of a causal link between the import of dumped goods and the injury to Croxley. The Ministry therefore considers the inferred causal link under the first limb referred to above can be sustained in light of the evidence.

5.7 Conclusions on Historical Injury

Import Volumes

379. There is evidence of a significant increase in the volume of dumped imports in absolute terms and in relation to production and consumption in New Zealand.

Price Effects

380. There is evidence of significant price undercutting by dumped imports. There is no evidence of price depression between 2007 and 2012 although prices were reduced in 2010 and 2012. There is evidence of a small amount of price suppression.

Economic Impact

381. There is evidence that the New Zealand industry has suffered the following adverse effects:

- A decline in profits.
- A decline in employment recently, and nearly static wages.
- The deferment of capital expenditure on new plant.

382. There is evidence that indicates the industry may have suffered:

- A decline in return on investments.
- A decline in growth.

383. There is insufficient or no evidence of injury in relation to the following injury factors:

- There has been an increase in sales volume and revenue over all of the period from 2007 to 2012, although both volume and revenue have declined since 2010.
- There is no evidence of a decline in market share.
- There is no evidence of a decline in productivity, or utilisation of production capacity.
- There is no evidence of a decline in cash flow over all of the period.
- Inventory obsolescence has declined until 2012.

Other Causes of Injury

384. Korea is the greatest single source of supply of diaries; however, China, Malaysia, Singapore and Australia are also significant sources of supply of diaries. Imports from China and Malaysia have

fallen overall, while imports from Singapore have had a slight growth, and imports from Australia have grown slightly more. Imports from all other sources taken together have declined considerably. The market share held by non-dumped imports has fallen significantly. Non-dumped imports have undercut the prices of the equivalent product produced by Croxley.

385. Evidence suggests that there has been a general decline in demand for diaries caused by an increased uptake of technology. While the decline has not been significant over the entire POI, more recent information suggests there has been a more rapid decline in demand since 2011, indicating a greater uptake in new technology recently.

386. Croxley's export performance does not appear to be causing injury to Croxley. Croxley's imports appear to be additional to its domestic production and therefore do not appear to be causing injury. There is no strong association between the appreciation of the New Zealand dollar and Croxley's injury.

387. The Ministry consequently concludes that there is some evidence that factors other than the dumped imports have been a cause of material injury to Croxley but that these factors are not significant enough to break the causal link between dumped imports and the injury Croxley has experienced.

Conclusions

388. As noted above under causal link, the Ministry considers there is evidence that the injury caused to Croxley can be largely attributed to dumped imports from Korea. What is less clear is whether that injury can be considered to be "material".

389. Material injury is not defined in either the Act or the Anti-Dumping Agreement although it is clearly injury that must be significant or substantial. While the most significant injury to Croxley occurred in 2009, the Ministry considers it must examine the trends in injury factors over all of the period from 2007 to 2012.

390. Significant injury factors which indicate that Croxley has not suffered material injury as a result of dumped imports are an increase in its sales volume and revenue over all of the period under review and an increase in its market share. Significant injury factors which indicate Croxley has experienced material injury are a decline in profits and a likely corresponding decline in return on investments. While there are other indicators of injury related to employment, wages, growth and capital investment, this does not appear to be related to lost sales volumes as such, and thus the Ministry does not consider these factors on their own would constitute material injury.

391. Profitability is a significant indicator of injury and over the period from 2007 to 2012, EBIT declined [REDACTED] percent, reaching its lowest point in 2009. While the decline in EBIT over this period is significant in percentage terms this partly reflects the fact that EBIT is relatively small in dollar terms, such that relatively small changes in the dollar amount of EBIT can translate into relatively large percentage changes. In dollar terms the EBIT declined between 2007 and 2012 by \$ [REDACTED] and largely reflects the relatively small extent to which Croxley's prices have been suppressed. The \$ [REDACTED] reduction in EBIT represented only [REDACTED] percent of Croxley's revenue in 2012. At the same time, the Ministry notes that profitability has also declined significantly when measured in terms of EBIT per diary and EBIT as a percentage of revenue. In 2012 EBIT per diary was [REDACTED] per diary while in 2007 the figure was [REDACTED]. In 2012 EBIT, as a percentage of revenue, was [REDACTED] percent while in 2007 this figure was [REDACTED] percent.

392. As a further gauge of the materiality of the EBIT decrease over the POI, the Ministry compared the decrease in Croxley's EBIT over the POI (2007 – 2012) with that incurred by Croxley in the 2007

dumping investigation into imports of diaries from China and Malaysia. In that dumping investigation Croxley also incurred a drop in EBIT over the period in which the Ministry analysed the extent of injury to Croxley from the dumping of diaries from China and Malaysia (the period being from 2003 to 2007). In that investigation Croxley's EBIT decreased from [REDACTED] (in 2003) to less than [REDACTED] (in 2006), a decline of [REDACTED] over four years. The company's EBIT, as a percentage of revenue, decreased from [REDACTED] percent (in 2003) to less than [REDACTED] percent (in 2006). The Ministry considers the decline in EBIT in the 2007 investigation to be much more significant than the decline in EBIT in the present investigation, both absolutely (in dollar terms) and in percentage terms. Furthermore, although the Ministry concluded in the 2007 investigation that Croxley had suffered material injury (due to dumped imports from China and Malaysia), this decision was based not only on a decrease in EBIT but also on declines in sales revenue, sales volume, market share, and productivity. The company's inventory levels and investment had also been adversely impacted by dumping. In the present investigation the company has experienced increases in its sales revenue, sales volume and market share and there is no evidence of an increase in inventory levels or declines in productivity, utilisation of production capacity and cash flow over the POI.

393. Not all of the injury factors are required to show injury has occurred before a finding can be made of material injury, and different trends in those factors can reflect the way in which an industry responds to competition from dumped imports. In this case Croxley has increased its sales volume, sales revenue, and market share and the main adverse impact has been on its profitability through the relatively small amount by which its prices have been suppressed. As noted above, while the decline in Croxley's total EBIT has been significant in percentage terms, the decline in EBIT in dollar terms has not been particularly large relative to revenue and the EBIT decline in the 2007 investigation. When compared with the decline in EBIT incurred by Croxley in the 2007 investigation into dumped imports from China and Malaysia (a case in which material injury was determined), the EBIT decline in the 2007 investigation is noticeably more severe.

394. In this case the determination of whether the injury to Croxley is material is finely balanced, but nevertheless, the statutory requirement dictates that injury experienced by the industry must be material in order to warrant the imposition of anti-dumping duties. Bearing in mind that the loss of EBIT is not large in absolute terms, especially when compared with the EBIT decline in the 2007 investigation, and has largely resulted from a relatively small amount of price suppression; there has been an increase in sales volume and revenue and market share; and that other indicators of injury to not appear to be related to lost sales volumes as such, the Ministry concludes that Croxley has not suffered material injury as a result of dumped imports from Korea.

Croxley's Submissions on EFC Report

395. In its response to the Ministry's EFC Report, Croxley noted the following in relation to the Ministry's determination that the company was not experiencing material injury:

- (i) The EFC Report places too much weight on loss of EBIT incurred by Croxley when determining "material injury" and insufficient weight on factors such as employment and wage levels, ability to raise capital, and growth.
- (ii) In addition, Croxley claims that simply evaluating the change in EBIT (over time) is not the relevant measure. According to the company, the Ministry's measurement of EBIT (as an injury indicator) does not reflect the change in 'direct EBIT' or cash flow and the flow on effect to underutilisation of plant. More specifically, Croxley claims that when calculating EBIT for diaries (in isolation from other goods), allocating indirect overheads (including fixed costs) is simply an accounting exercise and does not reflect the economic or cash flow reality of the activity being measured. The cost of goods sold

(COGS) also includes an element of unavoidable overhead costs within the factory such as rent and the effect of depreciation.

- (iii) The EFC Report, Croxley considers, contradicts another recent report under the Act regarding a sunset review of Diaries from China and Malaysia, which found that if anti-dumping duties were terminated, Croxley was likely to experience material injury. Croxley considers that it is simply not logical that the importation of dumped diaries from China and Malaysia (which in terms of volume over the past 3-4 years has been similar to the volume of diaries imported from Korea) will give rise to material injury, but the continuation of dumped diaries from Korea does not and will not.
- (iv) The Ministry has failed to adequately explain the reasons for shifting from a preliminary view that “dumped imports have resulted in material injury to the domestic industry” to a view (in its EFC Report) that “the injury is not material”. The Ministry has simply referred to “further analysis of the factors involved” and “an in depth analysis of the relevant factors” both of which Croxley considers are vague and unconvincing.
- (v) The EFC Report determines that any link between employment, wages, growth and capital investment and material injury is tenuous. According to Croxley, this directly contradicts the finding in the Sunset Review Report that “employment and wage levels, ability to raise capital and growth are likely to be materially affected as a direct consequence of the company suffering decreases in its profit levels”. The EFC Report accepts that Croxley has suffered a decline in profits, however in the space of eight months, Croxley considers that the Ministry has reversed its position on whether there is a connection between these factors and material injury.

Ministry Response

396. The Ministry’s response to each of these claims (in the order they have been noted above) is as follows:

- (i) Under the Act, the Ministry has an obligation to examine those factors outlined under section 8(2), which relate to the economic impact of the dumped goods on the industry. However, there is no obligation to place a particular weighting on any one factor. Also, changes in sales volume, sales revenue, profits and market share are generally likely to cause changes in factors such as employment and wages, ability to raise capital and growth. In undertaking its injury determination, the Ministry considers it has placed sufficient weighting on each of the factors it examined (and the relationship between certain factors) in analysing the economic impact of the dumped goods on the industry.
- (ii) In analysing injury, the Ministry’s practice, in accordance with the Act, is to analyse changes in certain economic factors (such as profit) over the POI. Where possible, the Ministry examines the industry’s current and past performance (in respect of a particular factor) and bench-marks this performance against a year prior to when the dumped imports became problematic. This provides the Ministry with a gauge on whether or not the industry is experiencing injury and if so, whether the injury can be attributable to the dumped goods or some other factor. In assessing the extent to which a particular injury factor has changed over the POI, the Ministry will consider the change in both percentage terms and absolute terms (e.g. units or dollars). In terms of analysing profit (as an economic factor), the Ministry’s preference is to analyse profit at the earnings before interest and tax (EBIT) level, as changes in financing structures and taxation liability can have a significant impact on net profit for reasons unrelated to dumping. This involves calculating an EBIT figure for the domestic industry’s production

of “like goods” to those imported. However, often the industry produces a range of products other than the “like goods” which necessitates assigning factory overhead costs and selling, general and administration expenses to the goods in question, in an appropriate manner. The end result is a manufactured (but reliable) EBIT figure the domestic industry is achieving on sales of its “like goods” to those imported. The Ministry does not examine any impact of the dumped goods on a domestic industry’s non “like goods” or assign non-related factory overheads to the “like goods” when calculating an EBIT figure. In the current case, Croxley produces products other than diaries which necessitated calculating an EBIT figure for diaries (for each year over the POI) in the above manner. This enabled the Ministry to analyse in a fair and reasonable manner the extent to which the company’s EBIT (for diaries) had changed since 2007. While Croxley claims that this approach is simply an accounting exercise and does not reflect the economic or cash flow reality of the activity being measured, the Ministry considers it provides a reliable indication of how the company has performed in terms of profits achieved on sales of diaries over the POI. In terms of the company’s claim that the Ministry’s measurement of EBIT does not reflect the change in cash flow and the flow on effect to underutilisation of plant, the Ministry considers that cash flow and the utilisation of production capacity are separate injury factors which it has analysed in this report, in the appropriate manner.

- (iii) The Ministry does not consider its injury findings contradict those in the recently-completed sunset review of diaries from China and Malaysia. In the sunset review, the Ministry found that, in general, the current duties on imports from Malaysia and China were acting in the manner intended by allowing the domestic industry to regain the competitiveness it had lost as a result of having to compete with the dumped imports from Malaysia and China. The Ministry found no evidence that Croxley had incurred historical material injury caused by dumped imports from China and Malaysia with the duties currently in place. The investigation into imports from Korea reinforced the findings of the sunset review in that the domestic industry had not experienced historical material injury over the period of investigation. In the sunset review, the focus was on whether material injury would likely recur if the current duties on Chinese and Malaysian imports were removed, which the Ministry found was the case and thus recommended the continued imposition of duties.
- (iv) The focus of the Ministry’s Provisional Measures report was the effectiveness of imposing provisional measures on diaries imported from Korea in preventing material injury to the domestic industry through to the completion of the investigation. It was concluded that, because most diary contracts were likely to have already been negotiated at the time provisional measures would apply, provisional measures would be unlikely to be effective in preventing injury to the New Zealand industry. At the time of the release of the Provisional Measures report, the Ministry had not collected all necessary information and had undertaken little analysis of the information which had been collected. What little analysis the Ministry had undertaken did indicate that the industry was suffering material injury. However, once the Ministry had collected further information supplied by both the New Zealand industry and various New Zealand importers, and examined the totality of the information collected in a more robust manner, it became clear that the injury experienced by the industry did not constitute “material” injury.
- (v) As noted in (i) above, the Ministry has an obligation to examine those factors outlined under section 8(2) of the Act, which relate to the economic impact of the dumped goods on the industry, however, there is no obligation to place a particular weighting on

any one factor. In the course of the Ministry's examination of the specific injury factors listed under section 8(2), it became clear that some factors had been adversely impacted more than others, while some factors had not been impacted at all. For instance, significant injury factors which indicate that Croxley has not suffered material injury are increases in its sales volume, revenue and market share over the entire POI. Furthermore, other indicators of injury such as employment, wages, growth and capital investment did not appear to be related to lost sales volumes, and thus, the Ministry did not consider there was a strong link between these factors and dumping. While the Ministry accepts that the company's ability to raise capital and growth are likely to be affected as a result the company suffering decreases in its profit levels, this does not detract from the Ministry's finding that the [REDACTED] reduction in EBIT since 2007 is not large in dollar terms, especially relative to revenue and the EBIT decline in the 2007 investigation.

Ministry's Conclusion on Historical Injury

397. The Ministry's conclusion on the materiality of the injury experienced by Croxley since the release of the EFC report has not changed. As noted above, significant injury factors which indicate that Croxley has not suffered material injury are an increase in its sales volume and revenue over the POI and an increase in its market share. Significant injury factors which indicate Croxley has experienced material injury are a decline in profits and a likely corresponding decline in return on investments. While there are other indicators of injury related to employment, wages, growth and capital investment, these do not appear to be related to lost sales volumes caused by dumping as such, and thus the Ministry does not consider these factors on their own would constitute material injury.

398. While profitability is a significant indicator of injury, and EBIT declined by [REDACTED] percent over the POI, the decline was \$ [REDACTED] in dollar terms and largely reflects the relatively small extent to which Croxley's prices have been suppressed. The \$ [REDACTED] reduction in EBIT is not particularly large relative to revenue and the EBIT decline experienced by Croxley in the 2007 investigation. Due to these factors, in conjunction with the company's increase in sales volume, revenue and market share and the fact that other indicators of injury do not appear to be related to lost sales volumes as such, the Ministry concludes that Croxley has not suffered material injury as a result of dumped imports from Korea.

6. Threat of Material Injury

399. In cases where the Ministry makes a determination that a domestic industry has not incurred material injury due to the dumped goods, it also examines whether there is a threat of material injury from the dumped goods. In the present case the Ministry has determined that Croxley is not suffering from material injury caused by dumped imports from Korea, therefore the Ministry must now consider whether the dumping is threatening to cause material injury to the industry.

400. The need to examine whether there is a threat of injury is reinforced by footnote 9 of the Anti-Dumping Agreement which states that “the term ‘injury’ shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry, or material retardation of the establishment of such an industry”.

401. In relation to the types of injury describe in footnote 9 of the Anti-Dumping Agreement, the World Trade Organisation Dispute Settlement Panel Report *United States – Investigation of the International Trade Commission in Softwood Lumber from Canada*⁴ (*Softwood Lumber VI*) noted at paragraph 7.56 that:

It seems clear to us that these three concepts describe different types of injury, occurring at different times and potentially in different ways. [Footnote omitted]. Thus, the focus of Article 3.7..., in the context of Article 3... as a whole, is the determination of one of these three types of injury, threat of material injury. The factors set out in Article 3.7... are elements that should be considered in making a determination of threat of material injury.

6.1 The Ministry’s Approach to Threat of Injury Investigations

Introduction

402. Article 3.7 of the Anti-dumping Agreement requires that threat of material injury shall be based on facts and not on allegation, conjecture or remote possibility. It also states that the change in circumstances which would create a situation in which dumping would cause injury must be clearly foreseen and imminent. Article 3.7 further states that the authorities should consider factors such as:

- the rate of increase in dumped imports and to what extent the rate of increase indicates the likelihood of substantially increased future importations;
- the extent to which foreign exporters have the capacity to substantially increase dumped imports to the importing Member’s market;
- whether imports are entering at prices that have a significant depressing or suppressing effect on domestic prices; and
- inventories of the product being investigated.

⁴ Report of the Panel – United States – Investigation of the International Trade Commission in Softwood Lumber from Canada – WT/DS277/R – Adopted 26 March 2004.

403. In interpreting Article 3.7 the Ministry has regard to the WTO Panel decision in *Egypt – Definitive Anti-dumping Measures on Steel Rebar from Turkey*⁵. In that case, the Panel clarified that “the text of this provision makes explicit that in a threat of injury investigation, the central question is whether there will be a ‘change in circumstances’ that would cause the dumping to begin to injure the domestic industry”.

Change in Circumstances

404. The Panel Report in *Softwood Lumber VI* (paragraph 7.54) refers to footnote 10 of the Agreement as containing “[t]he sole example given of a ‘change of circumstances’ in the text is that there will be substantially increased importation of the product at dumped prices”. The Panel Report also states at paragraph 7.55 that “while the change in circumstances must be clearly foreseen and imminent, the text does not clearly require the identification of a single event as the relevant change in circumstances. Thus, the text does not give us clear guidance as to the nature of the change in circumstances, or the degree of specificity with which it must be identified”. Further, at paragraph 7.57 the Panel notes “we consider that the relevant ‘change in circumstances’ referred to in Article 3.7 . . . is one element to be considered in making a determination of threat of material injury. . . . in our view, the change in circumstances that would give rise to a situation in which injury would occur encompasses a single event, or a series of events, or developments in the situation of the industry, and/or concerning the dumped...imports, which lead to the conclusion that injury which has not yet occurred can be predicted to occur imminently”.

405. In terms of a change in circumstances, the Panel Report in *Softwood Lumber VI* (paragraph 7.58) concludes by noting that “[W]hat is critical, however, is that it be clear from the determination that the investigation authority has evaluated how the future will be different from the immediate past, such that the situation of no present material injury will change in the imminent future to a situation of material injury, in the absence of measures”.

406. In respect of the facts of the *Softwood Lumber VI* case, the Panel noted that the United States had identified a “progression” of circumstances that would create a situation in which material injury would occur in the near future. The Panel found that the US had “[c]onsidered these various elements in concluding that the continuation of the trends in the situation of the domestic industry, coupled with predicted substantially increased imports, would result in an imminent change in circumstances such that injury would occur.” As a result, the Panel concluded that the United States ITC had, in fact, “considered whether there would be a change in circumstances such that the dumped ... imports would cause injury,” as required under Article 3.7 of the AD Agreement (paragraph 7.60).⁶

407. However, while the Panel in *Softwood Lumber VI* concluded that the US had considered whether there would be a change in circumstances such that the dumped imports would cause injury, the issue of whether the overall determination of threat, based on the totality of the factors considered was consistent with the Agreement, still needed to be answered. In this respect, the Panel noted that while a consideration of each of the factors listed in article 3.7 is not mandatory,

⁵ Report of the Panel – *Egypt – Definitive Anti-dumping Measures on Steel Rebar from Turkey* – WT/DS211/R – Adopted 8 August 2002.

⁶ More specifically, the US ITC determined in the investigation that while the volume of dumped (and subsidised) goods was significant, those imports had not yet caused material injury, however, the condition of the industry had deteriorated and was vulnerable and the imports were likely to have significant price effects in the near future, supporting a finding of threat of material injury.

that no one factor can necessarily give decisive guidance and that the investigating authorities are not required to make an explicit ‘finding’ or ‘determination’ with respect to the factors considered, “[t]he totality of the factors considered must lead to the conclusion regarding threat of material injury” (paragraph 7.69). In this respect, the Panel examined separately each of the factors considered by the USITC in its threat of injury determination in order that it could decide whether or not the USITC’s decision in light of the totality of the factors considered and its reasoning was “ ... one which could have been reached by an objective and unbiased investigating authority” (paragraph 7.96).

Special Care

408. Article 3.8 of the Agreement states:

With respect to cases where injury is threatened by dumped imports, the application of anti-dumping measures shall be considered and decided with special care.

409. The Panel Report in *Softwood Lumber VI*, at paragraph 7.33, noted that this provision is part of Article 3 covering the overall determination of injury, including threat of material injury. The Panel considered that the Article 3.8 provisions of special care “reinforce the fundamental obligation” in Article 3.7 “[t]hat investigating authorities shall base a determination of threat of material injury on facts and not allegation, conjecture or remote possibility”.

Summary of Ministry’s Approach

410. Mindful of the different factors involved in each case, the Ministry approaches all anti-dumping investigations on a case-by-case basis. However, based on its interpretation of the AD Agreement and taking guidance from the WTO decisions referred to above, the Ministry adopts the following general principles in considering the threat of injury determination:

- Any threat of injury determination must be based on facts and not merely on allegation, conjecture or remote possibility and any application of anti-dumping measures shall be decided with special care.
- The Ministry is required to establish a change in circumstances which would create a situation in which injury would occur due to dumping, one example being that there is convincing reason to believe that there will be, in the near future, substantially increased importations of the product at dumped prices.
- The change in circumstances that would give rise to a situation in which injury would occur may encompass a single event, or a series of events, or developments in the situation of industry, and/or concerning the dumped imports, which leads to the conclusion that injury which has not yet occurred can be predicted to occur imminently.
- The test applied in determining whether the change in circumstances will result in material injury is a positive one, i.e., the Ministry needs to be satisfied, based on positive evidence, that certain events are likely to occur, and that those events will materially injure the industry in the absence of anti-dumping duty.
- The consideration of each of the factors listed in Article 3.7 (i) to (iv) of the Agreement is not mandatory, no one factor can necessarily give decisive guidance and the Ministry is not required to make an explicit ‘finding’ or ‘determination’ with respect to each of the factors considered. However, the totality of the factors considered in Article 3.7 (i) to (iv)

must lead to the conclusion that further dumped exports are imminent and that unless protective action is taken, material injury will occur.

- The factors listed in Article 3.7 (i) to (iv) of the Agreement are not exhaustive.
- Both the change of circumstances and further dumped goods must be imminent and the likelihood of substantially increased imports (Article 3.7(i)) is both a relevant change of circumstances *and* a factor to be considered in determining the existence of a threat of injury.
- Interpretation of the word “likelihood” (in Article 3.7(i) and (ii)) and the term “would be likely” (in Article 3.7(iii)) is guided by a New Zealand Court of Appeal judgement referring to “a real and substantial risk..., a risk that might well eventuate”.⁷ Further guidance on the threshold required to meet the “likelihood” or “would be likely” test (in Article 3.7), can be gained from WTO jurisprudence, e.g. *United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina*.⁸
- In considering whether material injury will occur in the absence of measures in a threat of injury determination, the Ministry considers whether that injury will occur in the near future. The extent to which the Ministry is able to make judgements on events occurring in the near future will depend on the circumstances of each case.

6.2 The Case for a Threat of Injury Determination in the Present Case

411. In its EFC Report, the Ministry analysed the information it had collected at that stage of the investigation and made a determination that a change in circumstances did not exist in which dumping that is occurring would cause foreseen and imminent injury unless anti-dumping duties are imposed. The Ministry considered that the New Zealand industry has competed with the imported goods at current import levels and prices without incurring material injury and there was no evidence to suggest that import volumes from Korea would be likely to increase substantially and imminently at lower prices than they are currently entering at without the imposition of anti-dumping duties. On that basis the Ministry concluded that a threat of material injury to the domestic industry, resulting from dumped goods from Korea, does not currently exist.

412. After the release of the EFC Report, Croxley provided further information which, according to it, indicated a threat of material injury to the company existed. In particular, Croxley provided correspondence from two major customers (██████████ and ██████████) which, according to the company, indicates the likely loss of key diary lines that were previously supplied by Croxley, to

⁷ *Commissioner of Police vs Ombudsman [1988] 1 NZLR 385.*

⁸ Report of the Panel – *United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina* – WT/DS268/R – Circulated 16 July, 2004. Report of the Appellate Body – WT/DS268/AB/R – Adopted 17 December, 2004. The Appellate Body reaffirmed its own determination in *United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan*, that an affirmative likelihood determination may be made only if the evidence demonstrates that dumping would be *probable* if the duty were terminated - and not simply if the evidence suggests that such a result might be possible or plausible.

imports from Korea. Croxley considers that, in the absence of anti-dumping duties, there will be a similar response from all other New Zealand customers, making it clear (in Croxley's opinion) that imports from Korea are certain to increase significantly in the event that anti-dumping duties are not imposed. Croxley stated that such an increase in import volumes will have a direct impact on its sales volume and profitability leading to [REDACTED] of its dairy manufacturing facilities in New Zealand.

413. Croxley also provided the Ministry with forecasts of the expected financial impact on the company. Croxley considers that, where an assessment of whether there is existing material injury is finely balanced (as was noted by the Ministry in its EFC report) and where there is compelling evidence that injury to the New Zealand industry will increase in the event anti-dumping duties are not imposed, the threat of material injury will be established and anti-dumping duties must be imposed.

414. In view of the Ministry's approach to threat of injury determinations (outlined above), and in view of submissions (including further information) received on the Ministry's EFC report, the Ministry has undertaken the following analysis in terms of whether a change in circumstances exists in the present case in which the dumping would cause foreseen and imminent injury, and the extent to which the factors listed in Article 3.7 indicate material injury will eventuate, unless measures are imposed.

A Change in Circumstances

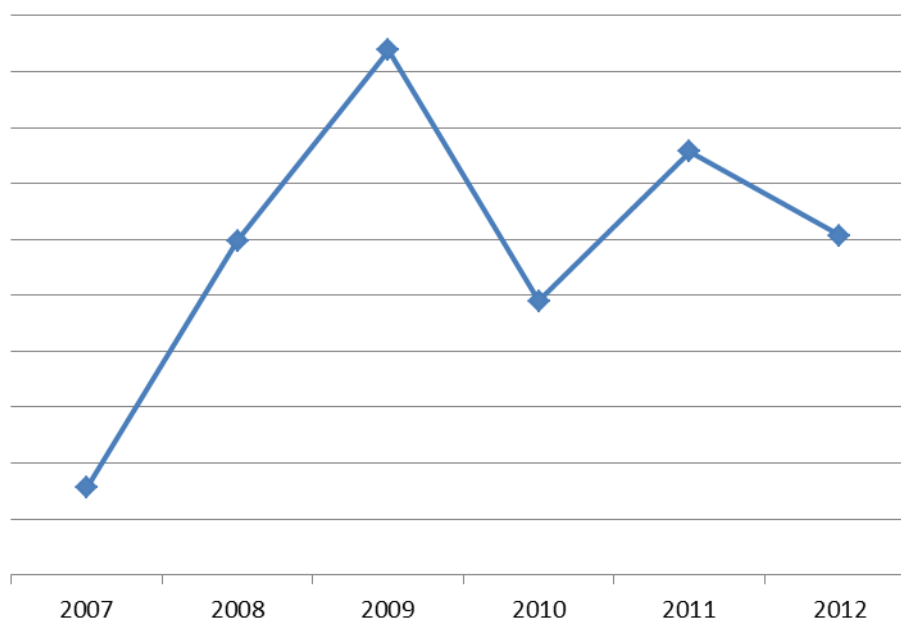
415. In considering whether there is a change in circumstances in the present case which can be clearly foreseen and imminent that would create a situation in which the dumping would cause material injury, the Ministry has considered the factors listed in Article 3.7, as set out below.

Rate of Increase of Dumped Imports

416. In order to measure the rate of increase in dumped imports from Korea the Ministry examined historical import volumes since 2007 and, more recently, since 2009.

417. Section 5.2 of this report provides a table showing import volumes from Korea, since 2007. Under that section of the report the Ministry found that, over the period from 2007 to 2012, there has been a significant increase in the volume of dumped imports in absolute terms, and relative to both consumption and production in New Zealand. However, the Ministry also found that a significant amount of this increase was between 2007 and 2008, and dumped imports peaked in 2009. Since 2009 Korean imports have decreased by [REDACTED] percent and in 2012 represented just over [REDACTED] percent of their 2009 peak.

418. The graph below illustrates the extent of the absolute increase in import volumes from Korea since 2007:

Graph 6.1: Import Volumes from Korea**Conclusion**

419. If the figures are analysed over the entire POI the trend in the data shows there has been a significant increase in import volumes from Korea since 2007. However, since 2009 there has been a decreasing rate of import volumes of diaries from Korea. Recent import data indicates that the downward trend of import volumes from Korea is continuing.⁹ On this basis, the Ministry concludes that the recent rate of increase in dumped imports does not indicate the likelihood of substantially increased importations.

Foreign Exporter's Capacity

420. Artpac stated that it has production capacity of [REDACTED] diaries per month, and it does not plan to increase capacity. Tara TPS has capacity of [REDACTED] diaries per month, with an assumption that all of its resources are attributed to the production of diaries. However, it commented that its major production lines go to catalogues, magazines, calendars and textbooks, and it is currently producing at capacity.

421. Yangjisa stated that it has 3 case-in machines, to fulfil both domestic and overseas orders; however, over the last few years, its utilisation has fallen because worldwide demand for diaries has fallen. According to the company, Yangjisa's overseas sales have fallen by [REDACTED] over the last two financial years (overseas sales represented [REDACTED] in its financial year ended June 2012, and [REDACTED] in the year ended June 2013).

Conclusion

422. All three of the Korean manufacturers have spare capacity to manufacture diaries for the New Zealand market if they wish to do so. However, the volume of diaries produced by the Korean

⁹ Latest import statistics to October 2013 show that 2013 volumes from Korea have dropped below 2012 levels.

exporters is demand-driven; that is, exporters only produce what is ordered by their New Zealand customers. While the exporters have spare capacity, the extent to which this will result in substantially increased dumped imports is dependent on the volume demanded by their New Zealand importers.

Price Effects of Imports

423. The Ministry has noted above that diaries from Korea undercut the domestic New Zealand industry's prices in 2012, and additionally, was the lowest priced source of diaries. Croxley has suffered a small amount of price depression since 2010 and a small amount of price suppression between 2007 and 2012.

424. Korea has consistently been the lowest priced source of diaries since 2007. While the price has had some variation over this period, it has increased by [REDACTED] percentage points between 2007 and 2012, when taken at an into-store level¹⁰. For the 2013 year to October, the into-store price has increased a further [REDACTED] percent, making the increase from 2007 to 2013 [REDACTED] percentage points. When taken at the FOB level, the FOB price has increased by [REDACTED] percentage points between 2007 and 2013¹¹.

Conclusion

425. Korea has consistently been a low-priced source of diaries, and while Croxley has suffered some injury, the Ministry has not considered this historical injury to be material. It is unlikely that the price of diaries from Korea will drop substantially in the immediate future and cause further, material, price depression or suppression to the New Zealand industry.

Inventories

426. Both Artpac and Tara TPS commented that their company only produces diaries for the New Zealand market on customer demand, and therefore do not keep any stock in inventory.

427. Diaries made for the New Zealand market are specially manufactured. They contain New Zealand specific information in them, and are sometimes branded with the importer's or end-user's logo, and may have other requirements to make them saleable in the New Zealand market. Diaries are also not able to be sold once the period of time they are for has passed. The Korean manufacturers do not gain any benefit from keeping inventory of product intended for New Zealand.

Conclusion

428. There is no evidence that any Korean manufacturer keeps any inventory of diaries intended for sale in New Zealand.

Likelihood of Substantially Increased Importation

429. WTO jurisprudence states that in order to make a threat of injury determination, investigating authorities are required to establish a change in circumstances which would create a situation in which injury would occur due to dumping. Footnote 10 to Article 3.7 of the Anti-dumping Agreement states that "[o]ne example, though not an exclusive one, is that there is convincing reason to believe

¹⁰ Calculated on the same basis as the price undercutting in the 'non-dumped imports' section.

¹¹ From Custom's import data.

that there will be, in the near future, substantially increased importations of the product at dumped prices”.

430. It is difficult to measure whether and to what extent there will likely be substantially increased imports of diaries from Korea imminently because any projection of future events is a forward-looking exercise dependent on a number of events and variables. However, the Ministry examined the recent historical rate of increase of dumped imports from Korea (see above) and concluded that the recent rate of dumped imports into New Zealand does not indicate the likelihood of substantially increased importations in the future.

431. The analysis below examines other factors and information collected in the investigation on where there is convincing reason to believe that there will be, in the near future, substantially increased importations of diaries from Korea at dumped prices.

432. Artpac and Collins Debden (exporters of Korean diaries) both stated in their questionnaire replies that they had contracts in place with their New Zealand customers for orders of 2014-edition diaries, which had not yet arrived in New Zealand at the time of the provisional measures report (September 2013). Both shipments have now eventuated. The volume exported by Collins Debden to [REDACTED] was the volume Collins Debden had indicated of [REDACTED] diaries, which arrived in [REDACTED] 2013. Artpac had orders of [REDACTED] diaries to be exported to [REDACTED] in August and September 2013. It exported a larger volume of [REDACTED] (to [REDACTED]), arriving in [REDACTED] 2013. The Ministry is not aware of any other forward orders of Korean diaries by other exporters.

433. Tara TPS (another exporter of Korean diaries) stated that it had no intention to actively pursue the New Zealand market, and its exports to New Zealand were purely driven by customer demand. However, the company also stated that it would be able to cope with increased demand should that eventuate.

434. In the provisional measures report, the Ministry forecast the likely trend of imports throughout the remainder of the year. At the time, the Ministry forecast diary imports from Korea to peak in August, with significant volumes in September and October and declining significantly in November and December. Volumes instead peaked in July, with significant but lower volumes in August and October, and a very low volume in September. At that stage of the investigation it appeared likely that volumes would continue to decline for the remainder of the year. More recent import data sourced by the Ministry indicates this to be the case.

Croxley's Submission on the EFC Report

435. In its response to the EFC Report Croxley provided email correspondence from two key New Zealand customers ([REDACTED] and [REDACTED]) which, according to the company, indicate the likely loss of key diary lines previously supplied by Croxley to imports from Korea. Croxley considers that, in the absence of anti-dumping duty, there will likely be a similar response from all other New Zealand customers, making it clear that imports from Korea are certain to increase significantly in the event that anti-dumping duties are not imposed.

436. The first email provided by Croxley (from [REDACTED]) was dated 15 November 2013 (two weeks after the release of the EFC Report and 4 days before Croxley provided its submission on the EFC Report). [REDACTED] currently has a contract to purchase 2014-edition diaries from Croxley. The email notes that [REDACTED] contracted with Croxley rather than source from Korea for 2014-edition diaries because Croxley was pursuing an anti-dumping case against imports from Korea and [REDACTED] did not want to risk what could have been a significant price increase if duties were applied mid-season. The email also notes that [REDACTED] intends to source pricing information from Korea (for [REDACTED] diaries) and that Croxley will need to submit pricing significantly

less than it submitted for its 2014-edition diaries (particularly for its [REDACTED] diary range) otherwise it would be at risk of losing its current business with [REDACTED].

437. Croxley did not state the number of diaries it would lose if it lost the [REDACTED] contract although it did provide a Cash Flow Impact table showing that the loss of this contract would result in lost sales revenue of [REDACTED] and a direct EBIT loss of [REDACTED] (with a total cash impact loss of [REDACTED]).

Ministry's Comments on the First Email

438. The Ministry notes the following in respect of the email from [REDACTED] to Croxley:

- The contents (and date) of the email indicate that the email was pre-empted by a conversation with Croxley after the release of the EFC report, however, this does not detract from its contents.
- Croxley considers the email is evidence of the “likely” loss of the [REDACTED] contract. Footnote 10 to Article 3.7 of the Anti-dumping Agreement states that, in respect of a change in circumstances which would create a situation in which the dumping would cause injury and be clearly foreseen and imminent, “[o]ne example, though not an exclusive one, is that there is *convincing reason* [emphasis added] to believe that there will be, in the near future, substantially increased importation of the product at dumped prices.”
- The email does not indicate that [REDACTED] will cancel all Croxley diary lines. [REDACTED] acknowledges that Croxley will need to submit more competitive prices for its [REDACTED] range of “[REDACTED] diaries”. There is no specific mention of [REDACTED] cancelling other diary requirements from Croxley, including [REDACTED] diaries. [REDACTED] diaries make up a reasonable proportion of the New Zealand diary market and this proportion is growing.
- If the loss of the [REDACTED] contract eventuates this will not be the first time that [REDACTED] has substituted domestically-produced diaries with imported diaries. From 2008 - 2009 Croxley lost significant [REDACTED] sales, of key A51, A52 and A53 diaries, which were instead imported. As recently as 2012, [REDACTED] sourced a range of 2013-edition [REDACTED] diaries from Korea for which Croxley did not produce equivalent models.

439. The second email provided by Croxley (from [REDACTED]) was dated 18 November 2013 (one day before Croxley provided its submission on the EFC Report). [REDACTED] currently has a contract in place to purchase [REDACTED] diaries from Croxley but the company has also secured Korean manufactured diaries as part of its [REDACTED] range of diaries. Historically, these [REDACTED] diaries were purchased from Croxley. [REDACTED] stated in its email to Croxley that while Korean imports currently make up only [REDACTED] percent of its [REDACTED] “[REDACTED]” range, if the pricing remains compelling, it is highly likely that further lines will be sourced from Korea (rather than from Croxley) for its [REDACTED] range of diaries. [REDACTED] concluded its email by noting that it would prefer to buy New Zealand-made diaries, however the commercial case from Croxley will need to be stronger to compete with the Korean product and price.

440. Croxley did not state the number of diaries it would lose if it lost the [REDACTED] contract although it did provide a Cash Flow Impact table showing the loss of this contract would result in lost

sales revenue of [REDACTED] and a direct EBIT loss of [REDACTED] (with a total cash impact loss of [REDACTED]).

Ministry's Comments on the Second Email

441. The Ministry notes the following in respect of the email from [REDACTED] to Croxley:

- The contents (and date) of the email indicate that it was pre-empted by a conversation with Croxley after the release of the EFC report, however, this does not detract from its contents.
- [REDACTED]
- [REDACTED] Croxley considers the email is evidence of the “likely” loss of the [REDACTED] contract. Footnote 10 to Article 3.7 of the Anti-dumping Agreement states that, in respect of a change in circumstances which would create a situation in which the dumping would cause injury and be clearly foreseen and imminent, “[o]ne example, though not an exclusive one, is that there is *convincing reason* [emphasis added] to believe that there will be, in the near future, substantially increased importation of the product at dumped prices.”
- The email does not indicate that [REDACTED] will cancel all Croxley [REDACTED] diary lines. [REDACTED] notes that it has currently secured Korean manufactured diaries as part of its “[REDACTED]” [REDACTED] range of diaries (which it has historically sourced from Croxley) and that it is highly likely that further lines will be sourced from Korea for its [REDACTED] range of diaries. Korean imports will represent only [REDACTED] percent of [REDACTED] range of diaries. It appears that Croxley will supply the remainder.
- [REDACTED] indicates that Croxley will need to submit more competitive prices for its [REDACTED] range of “[REDACTED]” diaries, however, there is no specific mention of [REDACTED] cancelling other diary requirements from Croxley.
- If the loss of the [REDACTED] contract eventuates this will not be the first time that [REDACTED] has sourced imports from Korea. As recently as 2010 – 2011 Croxley lost the [REDACTED] contract to diaries imported from Korea (the contract was regained in 2012 with the exception of [REDACTED] diaries).

Summary – Email Correspondence from [REDACTED] and [REDACTED]

442. Article 3.7 of the Anti-dumping Agreement requires that threat of material injury shall be based on facts and not on allegation, conjecture or remote possibility. The Ministry considers that the emails provided by [REDACTED] and [REDACTED] are more than allegation, conjecture or remote possibility. The issue, however, is the extent to which they contribute to the argument that there is convincing reason to believe that there will be, in the near future, substantially increased

importations of diaries at dumped prices. The Ministry considers that the likelihood of substantially increased importation of diaries is, in itself, dependent on the factors listed in Article 3.7 of the Anti-dumping Agreement. This issue is addressed below, by the Ministry, under “Ministry’s Conclusion on the Likelihood of Substantially Increased Importations”.

Ministry’s Conclusion on the Likelihood of Substantially Increased Importations

443. Croxley has provided evidence which indicates (to it) that, in the absence of anti-dumping duties on imports of diaries from Korea, importers will look to substitute their purchases from Croxley with imports from Korea. The evidence (in the form of email correspondence from two key customers) suggests strongly that these two customers will look closely at sourcing certain diary lines from Korea if Croxley is unable to offer more competitive product. However, the extent to which these two customers will change their source of supply (i.e. the number of diary lines, models and brands they will choose to source from Korea, rather than from Croxley) and over what timeframe, is contestable. Also contestable is the extent to which Croxley’s other customers will look to follow suit and change their source of supply from Croxley to Korea.

444. Croxley claims that the correspondence from [REDACTED] and [REDACTED] is evidence that both companies have confirmed their intention to import Korean diaries for the 2014/15 season (in the absence of anti-dumping duties), a similar response is likely from all other customers and that, as a result, imports from Korea are certain to increase significantly if anti-dumping duties are not imposed. The company also noted that, while a shift in source of supply (after anti-dumping duties are imposed) may not always be immediate, it is inevitable that imports from Korea will significantly increase if anti-dumping duties are not imposed.

445. A close examination of the emails from both [REDACTED] and [REDACTED] suggests that the emphasis on price competitiveness is not in relation to all diary types, models, and brands held by these companies. For instance, [REDACTED] emphasises the need for price competitiveness for [REDACTED] diaries rather than other diary types, such as [REDACTED] diaries. [REDACTED] refers to the compelling nature of Korean prices for its [REDACTED] range (specifically [REDACTED] products) and that further lines (presumably [REDACTED] lines) will “highly likely” be added to the Korean sourced products. This suggests that even if these companies do decide to import certain diaries lines and models from Korea, they will still look to purchase a range of diary models and brands from Croxley.

446. Croxley has projected it will lose \$[REDACTED] revenue in sales to [REDACTED] and [REDACTED]. In comparison with Croxley’s sales revenue to [REDACTED] and [REDACTED] in previous years, sales revenue of [REDACTED] represents approximately [REDACTED] percent of its sales to these two accounts, combined. Decreased sales revenue of this magnitude would represent a substantial decrease in sales to these customers.

447. The Ministry considers it doubtful that [REDACTED] and [REDACTED] (and other resellers and retailers of diaries) will look to source such a large proportion of their total diary requirements from abroad and even more doubtful that they will look to source totally from Korea, in the absence of anti-dumping duties. Other countries remain a reliable and affordable supply source, including China and Malaysia. While there are anti-dumping duties on imports from China and Malaysia, imports from these two countries combined continue to enter New Zealand in similar (if not larger) volumes than Korea. This in itself casts doubt on Croxley’s claim that [REDACTED], [REDACTED] and other resellers and retailers of diaries will look to source such a substantial proportion of their diary requirements from Korea, in the absence of measures. In fact, [REDACTED] noted in its email of 15 November 2013 that while it will look to source pricing from Korea, it has in the past sourced pricing information from [REDACTED]. Furthermore, most retailers and re-sellers of diaries (including [REDACTED] and [REDACTED]) aim to stock a wide range of diary types, models

and brands to cater for different consumer and commercial tastes. The “Collins” brand diary, for example, continues to represent a significant proportion of Croxley’s sales of diaries to its New Zealand customers (including [REDACTED] and [REDACTED]) and Croxley acknowledges there is strong consumer loyalty and demand for this particular brand, especially the fact that it is designed and produced in New Zealand for New Zealanders.

448. One factor in determining if there will be, in the near future, substantially increased importations of dumped goods, is to examine whether there has been a significant rate of increase of dumped imports into New Zealand. In this respect, the Ministry concluded above that while import volumes of diaries from Korea have increased significantly since 2007, there has been a decrease in volumes since 2009 (the year when the volume of dumped imports peaked). Since 2009 Korean imports have decreased by [REDACTED] percent and in 2012 represented just over [REDACTED] percent of their 2009 peak. Latest import statistics to October 2013 show that 2013 volumes from Korea have dropped even further.

449. The argument could be made that 2013 volumes have decreased (from 2012 levels) because importers deliberately held off importing their 2014-edition requirements due to uncertainty in the market over the possible dumping investigation into Korean imports. Diaries are a seasonal product, with most imports occurring between July and October each year. Ordinarily contracts between importers and exporters are negotiated long before imports enter the country. [REDACTED] noted in its email to Croxley (dated 15 November 2013) that at the time it was negotiating its 2014-edition diary requirements it was aware that Croxley was pursuing an anti-dumping case against Korean imports. The company stated that it was for this reason it did not risk sourcing diaries from Korea. It is possible that once the Ministry confirms that anti-dumping duties are not warranted, importers will be more aggressive in sourcing from Korea.

450. The alternative argument, however, is that Korean diaries have been entering New Zealand in reasonably large volumes since the Ministry imposed anti-dumping duties on imports from China and Malaysia, in February 2008. Since that time, both [REDACTED] and [REDACTED] (and other importers) have had ample opportunity to change their supply source from Croxley to Korea.

451. On the basis of the totality of information sourced during the investigation the Ministry concludes that while there is convincing reason to believe there will be increased import volumes of diaries from Korea at dumped prices, in the near future, it is not convinced there will be substantially increased volumes. The Ministry has examined below the degree to which it considers any increased volumes of diaries from Korea, into New Zealand, will impact on the domestic industry.

Impact of Future Importations of Korean Diaries on the New Zealand Industry

Croxley’s Submission on Likely Effect of Future Import Volumes on its Sales, Profitability, Capital Plans and Staff

452. Croxley provided the following information in the event that substantially increased volumes of diaries enter New Zealand in the near future.

Sales and Profitability

453. Croxley provided what it considered were projections of the loss of sales volume and revenue the company would incur to the end of 2013 (full year), 2014 and 2015 if anti-dumping duties are not imposed on Korean imports. In terms of sales volume and revenue the company projected a drop in sales of approximately [REDACTED] percent over the full 2013 year and further (and more significant) sales decreases in 2014F and 2015F. The company’s sales projections were driven by the company’s claims that it would lose key diaries to [REDACTED] and [REDACTED] and that the loss of these two key

accounts is indicative of the losses the company would experience from other customers. Croxley has forecasted revenue losses of [REDACTED] to these two accounts.

454. Croxley also provided what it considered were projections of the loss of profitability the company would incur if anti-dumping duties are not imposed on Korean imports. The company projected a drop in direct EBIT of [REDACTED] percent in 2014 (from that achieved in 2012). If non-avoidable overhead costs are included in the calculations the company considers that this drop in direct EBIT will reach [REDACTED] percent over the same period. Croxley has predicted further (and more significant) EBIT losses in 2015. As with the company's sales projections, the company's EBIT projections were driven by its claim that it would lose key diaries to [REDACTED] and [REDACTED] and that losses of these two key accounts is indicative of the losses the company would experience from other customers. Croxley has forecasted EBIT losses of [REDACTED] to these two key accounts.

Ministry's Response

455. As noted above, it is difficult to measure the extent to which a domestic industry will be impacted by future importations from abroad because any projection of future events is a forward-looking exercise dependent on a number of events and variables. However, Croxley has provided projections on how it considers it will be negatively impacted in the foreseeable future by dumped diaries from Korea and the Ministry has analysed the information provided.

456. Croxley's projections appear to be based on the company not only losing the [REDACTED] and [REDACTED] accounts but other accounts, also. However, in terms of the impact of losing the [REDACTED] and [REDACTED] accounts specifically, according to the company, a revenue loss of [REDACTED] and a direct EBIT loss of [REDACTED] represent [REDACTED] percent of gross sales and [REDACTED] percent of direct EBIT.

457. It is particularly difficult to substantiate EBIT projections because EBIT is not only dependent on sales volume and revenue but on selling prices and costs. Sales revenue projections, on the other hand, are dependent on sales volumes and prices only. In 2012 Croxley achieved billed sales of just over [REDACTED]. Therefore, if Croxley was to incur a [REDACTED] loss in revenue this would constitute a significant drop in revenue (from 2012 levels). However, as noted above, the Ministry considers it doubtful that [REDACTED] and [REDACTED] (and other resellers and retailers of diaries) will look to source their diary requirements from Korea to the extent suggested by Croxley (in the absence of measures). On this basis, the Ministry does not consider a [REDACTED] [REDACTED] loss in revenue is a reasonable forecast of Croxley's likely loss of revenue and the injury it would incur.

458. The Ministry examined whether Croxley had lost past contracts to supply [REDACTED] and [REDACTED] and if so, what affect these lost sales had on Croxley's economic performance, bearing in mind the proportion of Croxley's domestic sales that these particular customers represent. The Ministry notes the following in this respect:

- From 2010 – 2011 Croxley lost the [REDACTED] (or [REDACTED]) tender to diaries imported from Korea. The [REDACTED] tender was lost to [REDACTED] who Croxley believe sourced the diaries from Korea. While Croxley regained the [REDACTED] tender in 2012 (for 2013-edition diaries), the [REDACTED] diaries continued to be sourced from Korea.
- From 2008 - 2009 Croxley lost significant sales to [REDACTED], of key A51, A52 and A53 diaries, which were instead imported. In 2010 Croxley regained this business by manufacturing a "[REDACTED]" option. As recently as 2012, [REDACTED] sourced a range of 2013-edition [REDACTED] diaries from Korea for which Croxley did not produce equivalent models.

- Both [REDACTED] and [REDACTED] have historically been [REDACTED] of Croxley's and their purchases from Croxley have represented a [REDACTED] of Croxley's sales to all domestic customers.

459. The Ministry considers that one indication of if, and to what extent, Croxley would incur injury if it lost sales of key diary lines for key accounts (such as [REDACTED] or [REDACTED]) is to examine how the company performed from 2008 - 2011. During this period Croxley lost the [REDACTED] business and also lost significant sales of key A51, A52 and A53 diaries from its contract with [REDACTED]. The sales that Croxley lost were imported.

460. An analysis of Croxley's economic performance over the period 2008 - 2011 shows that while the company experienced some price suppression, its average price increased by [REDACTED] percent over the period (and by [REDACTED] percent from its average 2007 price). Over the same period the company experienced a healthy increase in sales revenue (from that achieved in 2007) which peaked in 2010 when the company experienced a [REDACTED] percent increase in revenue over that achieved in 2007. In terms of net profit from 2008 - 2011, Croxley incurred a [REDACTED] percent drop in EBIT over the period. Its 2011 EBIT represented [REDACTED] percent of that achieved in 2007. In dollar terms the drop in profit was [REDACTED] which is [REDACTED] less than the drop in profit the company experienced over the entire POI. In terms of market share, imports from Korea increased by [REDACTED] percentage points over the period 2008 - 2011, and by 2011 were [REDACTED] percentage points higher than in 2007. Croxley's share of the market stayed reasonably static from 2007 - 2011.

461. An analysis of Croxley's performance over the 4-year period (2008 - 2012) in which it lost the [REDACTED] business and also lost significant sales of key A51, A52 and A53 diaries from its contract with [REDACTED] shows that the company remained competitive and unlikely experienced material injury as a result of these lost sales.

462. Croxley also claim that it is highly likely that its losses in diaries, which are considered "like goods" to the imported diaries, will also result in sales reductions in diaries which are not considered "like goods". In respect of this claim, it is important to note that the Ministry does not consider the wider impact of dumped goods on the domestic industry. In other words, and as has been noted elsewhere in this report, the Ministry does not examine any impact of the dumped goods on a domestic industry's sales of non "like goods". The Act and the Anti-dumping Agreement make it clear that in determining whether or not any material injury to an industry has been or is being caused or threatened by means of the dumping, the term "industry" in relation to any goods means the domestic producers of "like goods". In this case, the "like goods" have been clearly defined as particular diaries and the Ministry can only examine the extent, if any, the dumped goods have materially impacted on Croxley's sales of these goods.

Capital Plans

463. Croxley stated that the risk it will experience in the absence of anti-dumping duties being imposed on Korean imports means that it will now [REDACTED] its capital plans to [REDACTED]. At the time of the Ministry's verification visit to Croxley's premises (in July 2013) the company noted that a major capital project had been shelved but that it would begin to explore other ways of [REDACTED] which it sees as an important element if the company is to maintain a viable and successful manufacturing operation.

464. Croxley also noted that the [REDACTED] and that Croxley is preparing plans for the future [REDACTED]. The company considers that the decision by the Ministry to impose or decline the application of anti-dumping duties on imports from Korea will materially change the probability of [REDACTED]

Staff

465. Croxley claims that it has received confirmation from [REDACTED] in light of its forecasted loss of output during 2014/5. The company provided details of [REDACTED] ([REDACTED] in total) and the associated costs to Croxley. Croxley stated that it is now planning for [REDACTED].

466. The information provided by Croxley suggests that [REDACTED] will relate to its diary plant. The Ministry notes, however, that much of the machinery used to produce diaries is also used to produce certain bound stationery products and indeed diaries which fall outside of the ambit of “like goods” to the Korean diaries (such as organisers). Information sourced from Croxley shows that the company employs approximately [REDACTED] staff in its stationery plant (which includes the production of diaries, certain bound stationery, receipt books etc).

Ministry’s Response

467. Croxley, in its reply to the EFC Report, did not directly link its [REDACTED] to competition from cheaper, dumped, imports of diaries from Korea. In terms of the company [REDACTED] its capital investment plans in [REDACTED], however, it did note that this was due to the risk of the Ministry not imposing anti-dumping duties on Korean imports.

468. As noted above, Croxley does not produce only diaries at its Avondale facilities. The company also produces certain bound stationery products and diaries which fall outside of the ambit of “like goods” to the Korean imports. As has been noted above, when undertaking an injury analysis the Ministry does not consider the wider impact of dumped goods on the domestic industry’s sales of non “like goods”. The Act and the Anti-dumping Agreement make it clear that in determining whether or not any material injury to an industry has been or is threatened by means of the dumping, the term “industry” in relation to any goods means the domestic producers of “like goods”. In this case, the “like goods” have been clearly defined as particular diaries and the Ministry must concentrate on the extent to which, if any, the dumped goods have materially impacted on Croxley’s sales of these goods.

469. The Ministry notes that Croxley has been undertaking a program of continuous productivity improvements and efficiency gains. On the Kolbus line (which is used to manufacture both diaries and hard-covered exercise books), Croxley recently moved from a [REDACTED] system to a [REDACTED] system, commencing in 2013. It considers it can achieve the same volume in [REDACTED] as it was producing in [REDACTED], therefore improving its efficiency and saving costs. This has, however, resulted in [REDACTED].

470. The Ministry has noted elsewhere in this report that consumer demand and the influence of technology are possible other causes of injury. On this basis an argument could be made that efficiency and productivity changes of the nature undertaken by Croxley have, to some extent, been driven by the recent decline in demand for diaries and the need to downsize in order to remain profitable. Evidence suggests that there has been a general decline in demand for diaries caused by an increased uptake of technology and that this decline has become more apparent over the last couple of years. The decline in the market for diaries coincides to a large extent with the domestic industry’s drop in sales volumes (the Ministry has previously drawn the link between Croxley’s changes in sales volume and changes in the size of the New Zealand market) although it remains to be seen whether the decline in the market (and therefore demand) will become even more significant in the longer term.

Conclusion - Impact of Future Importations of Korean Diaries on the New Zealand Industry

471. It is difficult to measure the extent to which a domestic industry will be impacted by future importations from abroad because any projection of future events is a forward-looking exercise dependent on a number of events and variables. Also, as noted above, there is the issue of isolating any potential impact of dumping to the company's sales of "like goods" rather than its sales of non "like goods". On the basis of the totality of information sourced during the investigation, the Ministry concludes that while the industry will likely be negatively impacted to some degree (in terms of its sales, profitability, capital plans and staff [REDACTED]) as a result of any increased volumes of diaries from Korea, the negative impact will not constitute material injury to an industry producing "like goods", under the Act.

6.3 Conclusion on Threat of Injury

472. Article 3.7 of the Anti-dumping Agreement provides for a number of factors which investigating authorities should consider when making a threat of material injury determination. These include whether past import volumes indicate the likelihood of substantially increased future importations; the extent to which foreign exporters have the capacity to substantially increase dumped imports to the importing Member's market; whether imports are entering at prices that have a significant depressing or suppressing effect on domestic prices; and inventories of the product being investigated.

473. Article 3.7 also provides that the change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. Footnote 10 provides an example of a change in circumstances which would create a situation in which the dumping would cause injury. That being where there is convincing reason to believe that there will be, in the near future, substantially increased importation of the product at dumped prices.

474. While Croxley has provided evidence and information which, in its opinion, make it clear that imports from Korea are certain to increase significantly in the absence of anti-dumping duties, the Ministry is not convinced. Import volumes from Korea show that there has been, since 2009, a decreasing rate of importations, not an increasing rate, without the imposition of duties. Also, imports have been entering New Zealand at higher prices than previously and recent import data indicates that 2013 volumes from Korea have dropped below 2012 levels and import prices have increased further.

475. Furthermore, such a "change in circumstances" would need to result in material injury to the domestic industry. However, the information provided by Croxley suggests that the company has over-emphasised the extent to which its customers will switch sources of supply from Croxley to Korea and the extent to which these lost sales will impact negatively on the company. Croxley has in the past lost key contracts (such as the tender to supply [REDACTED] with [REDACTED] diaries and the tender to supply key A51, A52 and A53 diaries to [REDACTED]). An analysis of Croxley's performance over the period when these losses were incurred (2008 – 2011) indicates that it did not suffer material injury even after losing key lines to these key customers.

476. In general, the full injury analysis undertaken by the Ministry shows that imports of diaries from Korea peaked in 2008 and 2009 (after anti-dumping duties were imposed on imports from China and Malaysia) but have since decreased. While the information shows that the goods hold a price advantage over the New Zealand industry's prices and that Korean manufacturers have spare capacity to manufacture diaries for the New Zealand market, the injury analysis shows that the industry has competed with the imported goods at these import levels and prices without incurring material injury.

477. The Ministry has no information to suggest there could be other changes in circumstances (in the absence of anti-dumping duties) that would cause foreseen and imminent material injury to the domestic industry, unless measures are imposed. In view of the above and also noting the requirement under Article 3.8 of the Anti-dumping Agreement, that applying anti-dumping duties in cases where injury is threatened shall be considered and decided with special care, the Ministry concludes that a change in circumstances does not exist in the present case in which the dumping that is occurring would cause material injury unless anti-dumping duties are imposed.

478. On this basis, the Ministry concludes that a threat of material injury to the domestic industry, resulting from dumped goods from Korea, does not exist.

7. Overall Conclusion on Injury

479. The Ministry concludes that material injury to the New Zealand industry has not been caused and is not threatened by means of the dumping of goods imported or intended to be imported into New Zealand.

8. Conclusions

480. On the basis of the information available, it is concluded that:

- a. Imports of the goods under investigation from all of the selected exporters are being dumped; but
- b. the injury to an industry caused by means of the dumping of goods imported into New Zealand has not been material, and there is no threat of material injury.

9. Recommendations

481. It is recommended on the basis of the information obtained during the course of the investigation into the dumping of diaries from Korea:

- (a) That the Minister terminate the investigation pursuant to section 11 of the Act because there is insufficient evidence that material injury to a New Zealand industry has been or is being caused or is threatened.
- (b) That the Minister sign the attached *Gazette* notice, and give notice of the termination to interested parties in accordance with section 11 of the Act.

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Investigating Team

Trade Remedies Unit