



**Ministry of Business,
Innovation & Employment**

2013 Anti-dumping Duty Reassessment

Diaries from China and Malaysia

Non-Confidential Final Report

Dumping and Countervailing Duties Act 1988

July 2013

Ministry of Business, Innovation and Employment

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ABBREVIATIONS

The following abbreviations are used in this Report:

Act	Dumping and Countervailing Duties Act 1988 (and its subsequent amendments)
Anti-dumping Agreement	World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
Customs NZ	New Zealand Customs Service
China	The People's Republic of China
Chief Executive	Chief Executive of the Ministry of Business, Innovation and Employment
CNY	Chinese Yuan Renminbi
CIF	Cost, Insurance, Freight
Croxley	Croxley Stationery Ltd
DTP	Day to page
EBIT	Earnings Before Interest and Tax
FOB	Free on Board
kg	kilograms
Ministry (the)	Ministry of Business, Innovation and Employment
Minister (the)	Minister of Commerce
MYR	Malaysian Ringgit
NIFOB	Non-injurious Free-on-Board
NIP	Non-injurious price
NZD	New Zealand Dollars
NV(VFDE)	Normal value (value for duty equivalent)
Oanda	www.oanda.com/converter/classic
OECD	Organisation for Economic Co-operation and Development
POR(D)	Period of Review for Dumping
POR(I)	Period of Review for Injury
USD	United States Dollar
VAT	Value Added Tax
VFD	Value for Duty
WTO	World Trade Organisation
WTV	Week to view

Executive Summary

Introduction

1. The Ministry of Business, Innovation and Employment (the Ministry) completed a review of the anti-dumping duties which currently apply to imports of diaries from China and Malaysia on 19 April 2013.

2. Immediately following the completion of the review, the Ministry initiated a reassessment of the anti-dumping duties to consider the appropriate form and level of duties that should apply.

3. The goods that are subject to reassessment are described as:

Diaries, with or without covers, excluding: diaries with steel ring binders; and wallplanners.

4. Anti-dumping duties have been in place on diaries from China and Malaysia since 2007, when an investigation into dumping of the goods was completed.

2007 Investigation

5. As a result of the 2007 investigation a number of Chinese and Malaysian exporters were assigned anti-dumping duty rates. Since 2007, the Minister has established separate rates of duty for a number of Chinese exporters after receiving requests supported by sufficient evidence from these exporters for a separate rate to be set.

6. *Ad valorem* (percentage) rates of duty are applied on the New Zealand Customs Service (Customs NZ) value for duty (VFD) of the goods. The current rates of anti-dumping duty are shown in table 2.1 in this report. They range from 0 to 164 percent for the Chinese exporters and from 12 to 39 percent for the Malaysia exporters.

2013 Review

7. The 2013 review found that both Malaysian exporters investigated and five of the six Chinese exporters investigated, were dumping and were likely to continue should the anti-dumping duty be removed. The remaining exporter, Everbest Printing Co. Ltd (Everbest), was found not to be dumping, nor likely to begin dumping, and will therefore be assigned a zero anti-dumping duty rate. The dumped goods were also found to be undercutting Croxley (the domestic producer).

2013 Reassessment

8. The focus of this reassessment, therefore, is whether the exporters found to be dumping should still be subject to an *ad valorem* rate of duty, rather than another form of duty, and if so, what the rate of duty should be.

9. The Ministry also examined the possibility of imposing a price ceiling (or non-injurious price) on imports of diaries from China and Malaysia which would aim to exclude from the imposition of anti-dumping duty diaries entering New Zealand above this non-injurious value. Such a price ceiling would aim to capture fashion or high-end diaries which are unlikely to be causing injury to Croxley. However, the nature of the product (diaries) and possible price changes over time suggest to the Ministry that such a price ceiling is unworkable and impractical. On this basis, and after considering alternative forms of duty, the Ministry considers that the imposition of anti-dumping duties on diaries from China and Malaysia be based on *ad valorem* (or percentage based) rates, and that a price ceiling is not adopted.

10. The Ministry recommends the imposition of *ad valorem* rates at the full margin of dumping for both Malaysian exporters and five of six Chinese exporters which were found to be dumping in the 2013 review. The *ad valorem* rates of duty proposed for these exporters are listed in table 2.7 in this report. Separate *residual rates* for China and Malaysia, for any other exporters of Chinese and Malaysian diaries, should also apply. These residual rates have been based on the weighted average dumping margins of the exporters for which individual rates were established and are also shown in table 2.7.

11. The Ministry recommends a zero percent *ad valorem* rate for imports of diaries from Everbest.

Dates from which Duties should Apply

12. The recommended reassessed rates of duty are higher than the current rates for one Malaysian exporter. The residual rate recommended for Malaysia is also higher than the current rate. All other recommended rates, including the residual rate for China, are lower than the current rates.

13. The Ministry is recommending, for those rates which will increase, that the reassessed rate of duty come into effect from 1 February 2014. The reason for this is that the increased rate of duty is unlikely to have an effect on the prices of 2014 diaries. The Ministry is further recommending, for those rates which will decrease, that the reassessed rates take effect from the day after the date the Minister determines the reassessed rates of duty.

14. The dates from which the Ministry is recommending the reassessed rates of duty take effect are summarised in table 2.9.

1. Background to the Reassessment

1.1 Introduction

15. Anti-dumping duties on diaries from Malaysia were first imposed under the Dumping and Countervailing Duties Act 1988 (the Act) by the Minister of Commerce in 2007.

16. These duties were scheduled to expire on 8 October 2012. However, the New Zealand industry, Croxley Stationery Ltd (Croxley), which is the major producer of diaries in New Zealand, made an application for the continuation of the duties beyond the expiry date (as it is able to do under the Act).

17. Dumping is defined in section 3(1) of the Act and occurs when an exporter sells goods to New Zealand at a price lower than it sells the same or similar goods for in its own country. In essence dumping is price discrimination between an export and a domestic market. It is not illegal but injurious dumping can be remedied by the imposition of anti-dumping duties at the border to level the playing field.

18. It is important to note that dumping does not always cause material injury to the domestic industry. Material injury occurs when dumped goods are imported in sufficient quantity to cause a decline in factors such as output or profits as a result of exports undercutting, depressing or suppressing the domestic industry's prices. Injury may also be caused in a number of other ways. Dumped imports can also threaten to cause material injury.

19. In its application for the continuation of anti-dumping duties, Croxley claimed that their removal would allow Chinese and Malaysian diaries to continue to be imported into New Zealand at dumped prices, causing a recurrence of material injury to the domestic industry.

20. A review was initiated by the Ministry of Business, Innovation and Employment (the Ministry) on 7 October 2012 (prior to the expiry of the duties) as it was satisfied that positive evidence had been provided by Croxley justifying the need for a review (as required by the Act).

21. The Ministry completed the review on 19 April 2013 and concluded that the subject goods were dumped (except for one Chinese exporter) and there was likely to be a continuation of that dumping should the duty be removed which was likely cause a recurrence of material injury to the New Zealand industry.

22. The Act allows the Minister of Commerce to determine a new rate or amount of anti-dumping duty, following the completion of a review, including any changes in the formula used to establish an anti-dumping duty. However, section 14(6) of the Act requires firstly that a reassessment of the current form and level of the anti-dumping duties is undertaken.

23. This reassessment of the anti-dumping duty was initiated on 19 April 2013 (on the day the review was completed). The reassessment addresses whether it is

appropriate for the form and rate of the anti-dumping duties to remain unchanged, or whether they should be changed to reflect the new dumping and injury margins determined in the review as well as the current pricing and selling arrangements between the Malaysian exporters and the New Zealand importers.

24. An initial interim reassessment report was released to interested parties for their comment on 16 May 2013. Comments on the Ministry's findings were requested by 31 May 2013.

25. As a result of a submission made on the initial interim report by NGT Diaries NZ Ltd, which argued that the reassessed rates of duty should be deferred until the end of the selling season for 2014 diaries, a second interim report was issued on 17 June 2013 and comments were requested by 21 June 2013. This report proposed that those rates which will increase should be not take effect until 1 February 2014 and those rates which will decrease or remain the same should take effect from the day after the date of the Minister's determination. No substantive comments were received.

1.2 Imported Goods

26. The imported (or subject) goods covered by this reassessment are described as:

Diaries, with or without covers, excluding: diaries with steel ring binders; and wallplanners.

27. The above description includes diary refills including those which could replace the pages of a diary in a steel ring binder, which is normally referred to as a day planner or organiser.

28. The diaries subject to review are classified under tariff item and statistical key 4820.10.00 02J. Diaries from China and Malaysia enter New Zealand free of Custom's duty.

1.3 Interested Parties

New Zealand Industry

29. Croxley is the major manufacturer of diaries in New Zealand and constitutes the New Zealand industry.

Exporters and Manufacturers

30. In the 2013 review, a large number of companies were identified as exporting diaries to New Zealand from China and Malaysia during the period over which dumping was analysed (known as the period of review for dumping). This period was from 1 July 2011 to 30 June 2012. The Ministry limited its analysis to a selection of the largest exporters, which were considered interested parties in the review and in this reassessment.

31. The selected Malaysian exporters were UPP Paper Industries Sdn. Bhd/UP International Sdn Bhd and UPA Press Sdn. Bhd. The selected Chinese exporters were Wenzhou Gangcheng Foreign Trade Co Ltd, Shenzhen Sunled Stationery & Gifts Co Ltd, Willing Horse Limited (exporting through [REDACTED]) and an unknown Chinese exporter (exporting via Artwrap Pty Ltd, Australia). The Malaysian exporters represented [REDACTED] percent of Malaysian diary exports for the year ending 30 June 2012 while the Chinese exporters represented [REDACTED] percent of Chinese diary exports over the same period. During the 2013 review the Ministry received partial cooperation from UPP Paper Industries Sdn. Bhd/UP International Sdn Bhd and the Ministry has used its information in this reassessment.

32. Two other Chinese exporters were included in the review because the Ministry was provided with enough information from their New Zealand importers to establish separate dumping margins for these exporters. These exporters were Sintex Link Ltd and Everbest Printing Co. Limited.

33. In the 2013 review separate dumping margins were calculated for each of the above companies based on information gathered in the review. The Ministry has reassessed the form and rate of anti-dumping duty for each of the above companies. However, as Everbest was found not to be dumping, and not likely to dump should the duty be removed, it is proposed that a zero rate of duty be set for this company.

Importers

34. In the review, the Ministry identified six New Zealand companies which were importing from the six Chinese and two Malaysian exporters identified above; RD1 Limited, NGT Diaries NZ Ltd, The 123 Mart Ltd, Kimbyr Investments Ltd, Cotton On Clothing (New Zealand) Ltd, Vipet Holdings Ltd and McCormack Studio Gallery. Each of these importers is considered an interested party. During the 2013 review the Ministry received cooperation from NGT Diaries NZ Ltd and McCormack Studio Gallery and the Ministry has used their information in this reassessment. The Ministry has not received any cooperation from any other importer.

1.4 Export Price, Normal Value and Dumping Margin

35. In the 2013 review of diaries, the Ministry determined that both Malaysian exporters, and five of the six Chinese exporters investigated, were dumping. The Ministry also concluded that dumping by these exporters was likely to continue if the duty was removed. The remaining exporter, Everbest, was found not to be dumping, nor likely to resume dumping if the duty was removed.

36. The Ministry used the transaction-to-transaction methodology in the 2013 review to calculate dumping margins. The overall dumping margin for each exporter was determined by multiplying 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 summed and the total export price was subtracted from the total normal value. The difference when calculated as a percentage of the total export price was the overall dumping margin.

37. This exercise was done at the ex-factory level (this is the preferred point of comparison under Article 2.4 of the Anti-Dumping Agreement). In calculating ex-factory values, the Ministry made a number of deductions (or adjustments) from the base normal values and export prices to ensure a fair comparison at the ex-factory level between sales of diaries for domestic consumption in China and Malaysia and sales to New Zealand.

38. Because the export price was lower than the normal value for seven of the eight companies investigated, exports to New Zealand from these companies were considered dumped. Table 1.1 below provides a summary of the Ministry's 2013 review findings on dumping. More information, including an explanation of the adjustments made, can be found in Section 3 of the Final Review Report.

Table 1.1: 2013 Review: Dumping Summary

Country and Exporter	Export Price (per diary)	Normal Value (per diary)	Overall dumping margin (as % of export price)
Malaysia			
UPP Paper Industries Sdn Bhd/ UP International Sdn Bhd.	MYR [REDACTED]	MYR [REDACTED]	26%
UPA Press Sdn. Bhd.	MYR [REDACTED] -	MYR [REDACTED] -	37%
China			
Sintex Link Ltd	CNY [REDACTED] -	CNY [REDACTED] -	20%
Wenzhou Gangcheng Foreign Trade Co Ltd.	CNY [REDACTED] -	CNY [REDACTED] -	20%
Shenzhen Sunled Stationery & Gifts Co. Ltd.	CNY [REDACTED] -	CNY [REDACTED] -	20%
Willing Horse Ltd.	CNY [REDACTED] -	CNY [REDACTED] -	20%
Artwrap Pty Ltd.	CNY [REDACTED] -	CNY [REDACTED] -	20%
Everbest Printing Ltd.	CNY [REDACTED]	CNY [REDACTED]	nil

1.5 Disclosure of Information

39. The Ministry makes available all non-confidential information to interested parties through its public file system, in accordance with the requirements of section 10 of the Act and Article 6 of the Anti-dumping Agreement. Non-confidential versions of all submissions made by an interested party in this reassessment have been placed on the public file. Interested parties are entitled to request the non-confidential submissions, if they wish.

2. Reassessment of Anti-Dumping Duties

2.1 Methods of Imposing Duties

40. Anti-dumping duties are intended to alleviate injury attributable to dumping, not to punish an exporter or provide a domestic industry with protection beyond the impact of the dumping. For this reason, the duty should only remedy the amount of injury attributable to dumping.

41. Considerations taken into account in deciding an appropriate form of the anti-dumping duty include ease of administration at the border, the ability to ensure a dumping margin is not exceeded, the ability to maintain fairness between parties, and predictability of the duties payable. These considerations are discussed in more detail in box 2.1 below.

42. There are three forms of anti-dumping duty:

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

43. A specific duty is a set amount of duty payable per unit imported. It is based on the monetary value of a margin of dumping.

44. An *ad valorem* duty is based on the margin of dumping or the margin of injury as a percentage of the value for duty.

45. The reference price approach relates to the difference between the transaction price and a benchmark price. The amount of the difference is the duty payable. A reference price can be based on either a domestic price (in the exporting country) or the domestic industry's non-injurious price.

Box 2.1: The Pros and Cons of the Three Methods of Imposing Anti-dumping Measures

A Specific Duty Approach

A specific duty is convenient to apply, impossible to evade by incorrectly stating the value for duty, and the amount of duty payable is clear. However, problems may arise when dealing with a wide range of goods or where exchange rates fluctuate to the extent that margins of dumping will be exceeded without constant reassessments of the specific amount. Additionally, there is potential for an exporter to manipulate prices so that duty is either greater or lesser than the margin of dumping previously established. A specific duty expressed as a monetary amount will operate effectively when prices and exchange rates are consistent and stable enabling the dumping remedy to remain relevant to the margin of dumping.

Ad Valorem Rate Duty

Ad valorem duty rates can be provided to all parties, and therefore are transparent. They are also convenient to apply and are unlikely to be substantially affected by exchange rate movements. They are appropriate where a large range of goods exist or where new models appear.

As with other approaches, the possibility exists for collusion between exporter and importer to manipulate invoice values of goods subject to duty, particularly if imported in conjunction with similar goods. Under this approach, a particularly low, and potentially more injurious, export price would result in a lower duty, which may be insufficient to remove injurious dumping. Conversely, a particularly high, and less injurious export price, would attract a higher duty, perhaps higher than is necessary to remove injurious dumping.

Reference Price Duty

Reference prices are most suitable when dealing with movements in export price and exchange rates (if expressed in the currency of the normal value). They are particularly useful for dealing with situations where a lesser duty is applicable, that is, a duty set at less than the margin of dumping but at a level that would still not be injurious to the industry.

Reference price duties have the advantage of clearly signalling to exporters and importers what un-dumped or non-injurious prices are. Additionally they are collected only when goods are priced below the reference price. Therefore, duty is only collected to the extent necessary to remove injurious dumping.

Reference price duties are claimed to be more easily evaded than other forms of duty by overstating the VFD of the goods. Another drawback is that they are set at a fixed level based on a snapshot of price and cost, which obviously change over time and so may become less accurate. Significant changes which may occur over time in prices and exchange rates can be addressed by a reassessment of reference prices.

Also, reference prices are not suited to goods where there is a wide range of individual types of models, as is the case with diaries. When there is a large range of types of goods it requires that individual reference price mechanisms are set, which can lead to difficulties with importation and delay the free flow of goods over the border. An alternate approach to resolve the problems that an extensive list of reference prices creates is to place the reference price on an aggregated group of the goods in question. An aggregated group reference price, however, dampens the attractiveness of the transaction-based component of a reference price mechanism as it aggregates individual products and becomes a proportionate duty, similar to the specific or *ad valorem* methodologies.

2.2 2007 Investigation

Ad valorem rates of duty

46. Historically, the Ministry's preference has been to impose duties through a reference price mechanism for the reasons set out in box 2.1 above. However, in the 2007 investigation, there were no easily identifiable categories into which diaries could be grouped for which a reference price could easily be established. The lack of information about the types of diaries exported by many of the exporters meant that even if such categories could have been identified, it would have been impossible to establish separate rates of duty for those categories for most exporters.

47. The Ministry therefore decided that it was not practical to establish reference prices for individual types of diaries, given the very wide range of products and the frequency with which product offerings change. Instead, the Ministry imposed duties by means of an *ad valorem* (or percentage) duty as it is a practical method of imposing duties against a product of this nature.

48. An *ad valorem* duty is appropriate when there is a large range of goods and the goods are of a nature that the number of types may increase or decrease, e.g. due to changes in consumer demands or obsolescence. An *ad valorem* duty is easy to administer at the border and the rate can be disclosed as its disclosure does not reveal any confidential information that has been provided by any party in the investigation.

Consideration of the Lesser Duty

49. Section 14(5) of the Act requires that the Minister has regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry. To this end, in the 2007 investigation, the Ministry sought to determine if a lesser duty was applicable by comparing the extent to which Croxley's non-injurious price (NIP) had been undercut by the dumped exports from each exporter to which their weighted average dumping margins were added.

50. After conducting the above exercise, the Ministry concluded that for all exporters anti-dumping duties should be applied (to the value for duty of the goods) at the full margin of dumping. *Ad valorem* rates of duty were imposed for each exporter separately on each of their total range of diaries.

Current Rates of Anti-dumping Duty

51. The following table lists the current rates of anti-dumping duty applying to exporters of diaries from China and Malaysia:

Table 2.1: Current *Ad valorem* Anti-dumping duty rates

Company	Rate of Duty
<i>Diaries Originating from China:</i>	
Alco International Co. Ltd	30%
Beijing Light Stationery Manufacturing Co. Ltd.	28%
Dragon Boat Ltd	59%
Everbest Printing Co Ltd	0%
Haier Fung Choi Printing Ltd	59%
Kin Tai Printing Co. Ltd	31%
Ningbo Guangbo Import & Export Co. Ltd	59%
Olympia Diary Guangzhou Ltd	53%
Richgrade Ltd	164%
Sintex Link Ltd*	36%
Texsun Ltd	48%
WKT Co. Ltd	38%
Yang Yang (China) Ltd	24%
Residual rate of duty (all other exporters)	53%
<i>Diaries Originating from Malaysia:</i>	
Chee Wah Corporation Berhad	12%
Ginhau Psn Printing (M) Sdn Bhd	30%
Olympia Diary (M) Sdn Bhd	39%
UPA Press Sdn Bhd	25%
Residual rate of duty (all other exporters)	34%

Residual Rate

52. Where a selection has been made, Article 9.4 of the Anti-dumping Agreement requires that any anti-dumping duty applied to imports from exporters or producers not included in the examination must not exceed the weighted average margin of dumping established with respect to the selected exporters or producers. The residual rate in 2007 was calculated on this basis. More specifically, a residual rate of anti-dumping duty for imports from China was based on the weighted average dumping margin for the one exporter which provided information on its export prices and normal values, and for Malaysia, the two exporters which provided full information on their export prices and normal values.

2.3 Proposed Methods of Imposing Anti-dumping Duty in the 2013 Reassessment

53. The Ministry's practice is to consider the suitability of all methods of imposing anti-dumping duties in the circumstances of each dumping investigation.

54. During the 2013 review it was determined that the two Malaysian exporters in the selection were continuing to dump diaries into the New Zealand market and were likely to continue dumping if the duty was removed. The 2013 review also found that five of the six Chinese exporters examined were dumping diaries into the New Zealand market and were likely to continue dumping if the duty was removed.

55. It was also determined that Croxley would likely experience material injury if the duties were removed.

56. Because it was determined that Everbest was not dumping, the Ministry considers that Everbest should be subject to a zero rate of duty, exempting this company from any calculated rate of duty that applies.

57. In respect of the Malaysian and Chinese exporters who were found to be dumping, the focus is on whether their exports should be subject to an *ad valorem* anti-dumping duty, rather than another form of duty, and what rate should apply.

58. The duties currently applying to diaries are imposed on a product-wide basis, that is, there is a rate of duty for each exporter of diaries covering their total range of exported diaries. This is in conformance with recent WTO dispute settlement body decisions on the calculation of dumping margins. The development of the jurisprudence in this area means that to be consistent with WTO obligations in respect of calculating dumping margins, they should be calculated for the "product as a whole" not for individual models¹. This means that any duty that applies to diaries will need to continue to apply to each exporter separately and for their total range of diaries rather than a separate rate for each type and size of diary exported to New Zealand.

59. The Ministry considers that the use of an *ad valorem* duty is likely to be the most effective and fairest means of setting anti-dumping duty for diaries. Diaries have a large range of product types and sizes and a corresponding variance in the range of costs and selling prices for each type and size of diary. The Ministry considers that an *ad valorem* duty is the most practical method and best able to be enforced at the border.

¹ WT/DS322 & related Appellate Body decisions "US Measures Relating to Zeroing".

2.4 Calculation of Proposed Anti-dumping Duties

Introduction

60. To establish the appropriate *ad valorem* duty rate to be applied to imports of diaries from China and Malaysia, the Ministry needs to consider whether the rate should be set at either a lesser rate if that is sufficient to remove the injury likely to be caused by dumping or at a rate representing the full margin of dumping.

61. Section 14(5) of the Act requires that the Minister has regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry. To this end, the Ministry's usual practice is to use either one of two methods to determine whether a lesser duty should apply.

62. The first involves the calculation of non-injurious free on board (NIFOB) amounts and normal value (value for duty equivalent) (NV(VFDE)) amounts. If the NIFOB is less than the NV(VFDE) this normally indicates that a lesser duty should apply. If the NIFOB is more than the NV(VFDE) this normally indicates that duty should apply at the full margin of dumping.

63. NIFOB's are calculated by deducting from the industry's non-injurious price (NIP) the costs arising after FOB up to the level of trade at which the imported product first competes with the New Zealand industry's product. NV(VFDE) amounts are calculated by adding to normal values the costs incurred between the ex-factory and the FOB level in the country of origin.

64. The second method is adding back the margin of dumping to the export price (established for each exporter) and comparing this price to the industry's NIP. If there is still price undercutting then this normally indicates that an anti-dumping duty should be imposed at the full margin of dumping and if there is no price undercutting this normally indicates that a lesser anti-dumping duty should apply.

65. It has been concluded above that a percentage *ad valorem* duty should apply rather than a reference price or specific duty. The NIFOB/NV(VFDE) approach to deciding if a lesser duty should apply requires the establishment of reference prices which, as has been noted in box 2.1 above, are not suited to goods where there is a wide range of individual types and sizes, such as diaries. On this basis, the Ministry has decided that the best method in deciding whether a lesser duty should apply is to compare each exporter's export price (with the margin of dumping added) to the industry's NIP (see below).

Ad Valorem Rate at the Full Margin of Dumping

66. A dumping margin for the purpose of establishing an *ad valorem* duty rate is the difference between the price of diaries on the domestic markets in China and Malaysia (normal value) and an export price. The *ad valorem* rate is the dumping margin expressed as a percentage of the FOB value.

67. In the 2013 review, dumping margins were calculated by using the normal values and export prices established for each exporter. Table 1.1 above contains

the dumping margins, expressed as a percentage of the export price, for each exporter.

68. Table 2.2 below shows the dumping margin *ad valorem* rate calculation as a percentage of the FOB price (for each exporter).

Table 2.2: Dumping Margins

Country and Exporter	Overall dumping margin (as % of FOB)
Malaysia	
UPP Paper Industries Sdn Bhd/ UP International Sdn Bhd.	25%
UPA Press Sdn. Bhd.	37%
China	
Sintex Link Ltd	20%
Wenzhou Gangcheng Foreign Trade Co Ltd.	20%
Shenzhen Sunled Stationery & Gifts Co. Ltd.	20%
Willing Horse Ltd.	20%
Artwrap Pty Ltd.	20%
Everbest Printing Ltd.	nil

Non-Injurious Price (NIP)

69. A NIP is an unsuppressed selling price at which a domestic producer can sell its products. An unsuppressed selling price is one that is achievable in the absence of competition from dumped product in the New Zealand market. It was concluded in the 2013 review Final Report that Croxley's prices, if analysed over the entire injury period, have not been depressed or suppressed. On this basis, the Ministry considers that Croxley's present prices are unsuppressed.

70. Croxley provided its sales volume and sales revenue figures for its full 2012 financial year. Croxley's sales revenue figures are before the deduction of inland freight and rebates. The Ministry calculated average selling prices for diaries net of rebates. Croxley's NIP's, covering its full range of diaries, are listed in the table below:

Table 2.3: Croxley's NIPs (NZD/diary)

Stock diaries	
Corporate diaries	
Total diaries	

Consideration of Lesser Duty

71. To establish whether a lesser duty should apply the Ministry has compared the extent to which Croxley's NIPs have been undercut by the dumped exports to which the weighted average dumping margin has been added. Where this shows there is still price undercutting, it indicates that a duty at the full margin of dumping should be imposed. Where this shows there is no price undercutting, it indicates that a duty at less than the margin of dumping should be imposed.

72. To calculate prices for each exporter, the prices of dumped exports have been calculated on a weighted average basis at the same level of trade at which the price undercutting comparison was conducted. The relevant levels of trade are shown in the Final Report for the 2013 review. The weighted average margin of dumping for each exporter has been converted from MYR to NZD and CNY to NZD at the average exchange rate over the period 1 July 2011 to 30 June 2012². The following tables shows the result of the comparison:

**Table 2.4: Price Undercutting Inclusive of Dumping Margin (NZD/diary)
Malaysia**

Exporter	Croxley's NIP*	Weight. Ave Export Price Inclusive of Dumping Margin	Undercutting Margin	% Undercutting
UPP Paper Industries				%
UPA Press				%

**Table 2.5: Price Undercutting Inclusive of Dumping Margin (NZD/diary)
China**

Exporter	Croxley's NIP*	Weight. Ave Export Price Inclusive of Dumping Margin	Undercutting Margin	% Undercutting
Sintex Link Ltd				%
Wenzhou.				%
Shenzhen Sunled.				%
Willing Horse Ltd.				%
Artwrap Pty Ltd.				%

* Based on the NIP (unsuppressed selling price) for the nearest Croxley equivalent diary category to that exported by the Malaysian or Chinese exporter in question.

² 1 MYR = 0.4024 NZD and 1 CNY = 0.1955 NZD (obtained from www.oanda.com).

73. The above comparison shows that there is still price undercutting for each of the Malaysian and Chinese exporters. The Ministry therefore concludes that an anti-dumping duty should be imposed at the full margin of dumping for each of the exporters.

2.5 Exclusion of Certain Diaries from the Imposition of Anti-dumping duties

Introduction

74. In the 2013 review, the Ministry considered whether there were certain types of diaries that should be excluded from the description of goods subject to the duty. This was on the basis that anti-dumping duties should not be imposed on imports if they were clearly not causing injury to the domestic industry. Certain types of designer or fashion diaries such as those designed on the basis of a particular theme and usually sold at the high-end of the market were mentioned in this context because of the particular market they were aimed at or the price point at which they were sold.

A further exclusion for 'promotional' diaries

75. NGT Diaries NZ Ltd, a New Zealand importer of Chinese and Malaysian diaries, noted that 'promotional' diaries should also be included in this category. The company stated that these are diaries made to order, for companies in New Zealand, for use as promotional tools. They are specifically designed with special covers and information/advertising pages unique to the particular company/industry to which they are sold.

76. According to NGT Diaries NZ Ltd, these diaries, unlike the rest of the diaries in the New Zealand market, are not destined for the retail sector, but are given away to staff or customers to promote sales and/or loyalty to a particular company. Also, unlike diaries destined for the retail sector (which are produced 'on spec'), promotional diaries are made to the specifications and in the volumes specified by the particular company. In other words, each production run is costed on the customer's specific requirements, the price is quoted accordingly and then the diaries are 'made to order'.

77. NGT Diaries NZ Ltd also claimed that promotional diaries would be much easier for NZ Customs to identify at the border, than it would be for designer and fashion diaries. The company provided photographs of promotional diaries to illustrate the 'customisation' involved in producing them; that they are specifically designed to meet the customer's requirements; and that it would not be difficult for NZ Customs to create a code into which these duties would fall for duty purposes.

78. In the 2013 review, Croxley stated that it did not support the exclusions proposed by the Ministry in view of the fact that NZ Customs presently did not appear to be experiencing difficulties in the classification of diaries and that it would be extremely difficult for NZ Customs to monitor the goods at the border, if certain diaries were excluded from the imposition of measures.

79. K Kurtovich (the other domestic producer) expressed concern that excluding certain diaries from the imposition of anti-dumping duties would allow companies to muddy the water by importing diaries which have been deliberately manufactured to include a feature which would bring the diary outside the goods description but which still compete directly with, and cause injury, to the domestic producers. According to the company, this would be a threat to the entire diary manufacturing industry in New Zealand.

The 2013 review conclusion

80. The Ministry concluded in the 2013 review Final Report that excluding such goods from the goods definition (so that they would be exempt from the payment of anti-dumping duty) would likely be problematic. For instance, the wording of any exclusion would need to be not so wide as to exclude diaries which shouldn't be excluded and not so narrow as to make it ineffective. The exclusion would also need to be sufficiently precise as to be capable of being enforced at the border by New Zealand Customs. While NGT Diaries NZ Ltd has suggested that, in its opinion, it would not be difficult for NZ Customs to create a code into which promotional duties would fall for duty purposes, the Ministry has doubts about this possibility and specifically whether NZ Customs could enforce anti-dumping duties if they were applied to a limited range of diaries only, within the current goods description.

81. In any event, the exclusion could only relate to those diaries which are not competing with and causing injury to the domestic industry. In this respect, the promotional diaries referred to by NGT Diaries NZ Ltd serve the same function and usage as the corporate diaries produced by the New Zealand industry and which the New Zealand industry claims will be adversely affected if the current anti-dumping duties are removed. This fact alone indicates to the Ministry that the promotional diaries referred to by NGT Diaries NZ Ltd, while not necessarily being identical in form and appearance to the corporate diaries produced by the New Zealand industry, are nevertheless "like" goods and therefore should not be exempt for anti-dumping duties.

2.6 The Calculation of a Price Ceiling (or Non-Injurious Price)

Introduction

82. For the reasons set out above, the Ministry considered in the 2013 review that an exclusion for certain types of fashion or designer diaries would be unworkable. However, the Ministry stated that in any reassessment of the duties it would give consideration to setting an anti-dumping mechanism which would prevent the collection of duties on imports of diaries above a certain bench-mark or threshold value.

83. In this respect, the Ministry has looked at the possibility of imposing some type of price ceiling which would aim to exclude from the imposition of anti-dumping duty diaries entering New Zealand above a certain threshold value. Such a price ceiling would aim to capture fashion or high-end diaries which are unlikely to be causing

injury to Croxley. It would act in the same manner as a non-injurious price (NIP) mechanism which the Ministry has imposed in past cases to ensure that anti-dumping duty is not collected on imports of dumped goods entering the country above a certain price (on the basis that goods which are priced above a certain level are unlikely to be causing injury to the domestic industry).

Croxley's comments on a possible price ceiling

84. In an email to the Ministry (after the initiation of this reassessment) Croxley stated that, if an appropriate ceiling price could be developed, the company would see an advantage in the process. However, Croxley highlighted the following problems with the concept: (i) the price ceiling set would not reflect increases in domestic prices over time due to "market changes/influences" and (ii) if the Ministry calculated the price ceiling using an average price, it would not account for the highs and lows within the average.

85. To illustrate the extent of second issue, Croxley provided examples of selling prices for a number of its A4 and A5 stock diaries which are individually much higher than the average price for Croxley's total range of both stock and corporate (or custom) diaries. According to Croxley, this illustrates the risk of setting a price ceiling (or non-injurious price) at a level which would enable the payment of anti-dumping duty on most diaries it would aim to include but at the same time would allow other high-end diaries to escape the payment of anti-dumping duty even though they were competing with (and injuring) Croxley's equivalent domestic models.

Ministry's conclusion on setting a price ceiling in the present case

86. Croxley has highlighted the difficulty in setting a single price ceiling (or non-injurious price) on a single product which varies in characteristics (e.g. type and size) to such a large extent. If diaries were a more homogeneous product, or the different types and sizes of diaries were able to be described so as to be clearly differentiated, then a price ceiling, might work (if a price ceiling was established for each category of diary). Unfortunately, defining clearly the different categories of diaries (so that they might be distinguished at the border) has always been a problematic issue with diaries. One type of diary tends to merge into another type which causes a problem in differentiating and categorising diaries.

87. In setting a single price ceiling, covering imports of diaries in general, the issue is finding an appropriate pricing level. The Ministry would not want to impose a price ceiling which is set too low so that it excludes from the duty diaries imported from China and Malaysia which are clearly a concern to Croxley because they compete directly with equivalent models which Croxley produces. However, if a price ceiling is set too high it would cover most diaries which are clearly a concern to Croxley but be ineffective in achieving its desired aim of excluding other "high-end" diaries which clearly do not compete with (and are injuring) the domestic industry if these diaries are being imported below the price ceiling but are not in competition with Croxley's equivalent models.

88. A complication arises because there are certain higher-priced Croxley diaries which are being materially affected by the dumped imports from China and Malaysia, even though they are stock and corporate diaries rather than fashion or design diaries. Even setting a reasonably high price ceiling would possibly allow Chinese and Malaysian imports which compete against these particular Croxley stock and corporate diaries to escape the payment of anti-dumping duty even though they compete directly with these diaries.

89. This illustrates the difficulty in setting a price ceiling at a level which aims to include these particular high-end stock and corporate diaries but exclude fashion and designer diaries which may be priced lower than the higher-end stock and corporate diaries. The Ministry consequently considers that the imposition of anti-dumping duties on diaries from China and Malaysia be based on *ad valorem* (or percentage based) rates and that no price ceiling is adopted.

2.7 Proposed Rates of Anti-dumping Duty

Duty Rates for Exporters for whom a Dumping Margin was calculated

90. The Ministry considers that the *ad valorem* anti-dumping duty rates listed in table 2.2 above should be imposed on imports of Chinese and Malaysian diaries from the five Chinese and two Malaysian exporters found to be dumping in the 2013 review. The *ad valorem* rates are expressed as a percentage of the FOB value of the goods.

91. The duty is to be imposed at the full margin of dumping, to be applied to the value for duty (or FOB value) of the goods. The rate of duty is equal to the margin of dumping established for the Chinese and Malaysian exporters.

Residual Rates of Duty

92. It is necessary to establish a residual anti-dumping duty for both China and Malaysia that will apply to exporters not investigated in this investigation, as the rates set out in table 2.2 above are specific to these companies. The Ministry has investigated a selection of exporters and producers, under Article 6.10 of the Anti-dumping Agreement, representing the largest percentage of the exports from each country under investigation that could reasonably be investigated.

93. As a consequence, the provisions of Article 9.4 of the Agreement apply in setting a residual duty. That is, a residual rate is not to exceed the weighted average margin of dumping of the selected exporters and producers and the Ministry is to disregard any zero and *de minimis* margins and margins established upon the facts available.

94. Because the margins of dumping for each of the exporters examined was based partially, and in some cases fully, on the facts available, the Ministry was unable to disregard these dumping margins when calculating a residual rate for China and one for Malaysia. If all such margins were disregarded in the calculation of the residual rates, there would be no margins at all which could be used to calculate the residual rates.

95. The Ministry therefore considers the most reasonable way to calculate both residual duty rates is to establish *ad valorem* percentage rates of duty equal to the weighted average dumping margin established for the investigated Chinese and Malaysian producers (separately) excluding the one Chinese exporter for which a zero dumping margin was calculated, albeit that the dumping margins for these producers were all calculated on the basis of the facts available. On this basis, the Ministry recommends a residual rate of 36 percent for 'all other' exporters of diaries from Malaysia and 20 percent for 'all other' exporters of diaries from China.

96. On this basis the rates of duty would be as follows:

Table 2.6: Duty Rates

Country and Exporter	Anti-dumping duty rates (as % of FOB)
China	
Sintex Link Ltd	20%
Wenzhou Gangcheng Foreign Trade Co Ltd.	20%
Shenzhen Sunled Stationery & Gifts Co. Ltd.	20%
Willing Horse Ltd.	20%
Artwrap Pty Ltd.	20%
Everbest Printing Ltd.	0%
Residual rate of duty (all other exporters)	20%
Malaysia	
UPP Paper Industries Sdn Bhd/ UP International Sdn Bhd.	25%
UPA Press Sdn. Bhd.	37%
Residual rate of duty (all other exporters)	36%

97. Because the proposed rates of duty for all of the Chinese exporters, except Everbest are the same and are also equal to the residual rate, the Ministry considers that only Everbest needs to have a separate rate and that all other Chinese exporters can be covered by the residual rate.

Proposed Rates of Anti-dumping Duty for all Chinese and Malaysian Exporters

98. On the basis of the above considerations, the following table lists the proposed rates of anti-dumping duty for all Chinese and Malaysian exporters (including residual rates):

Table 2.7: Anti-dumping Duty Rates

Country and Exporter	Anti-dumping duty rates (as % of VFD)
China	
Everbest Printing Ltd.	0%
Residual rate of duty (all other exporters)	20%
Malaysia	
UPP Paper Industries Sdn Bhd/ UP International Sdn Bhd.	25%
UPA Press Sdn. Bhd.	37%
Residual rate of duty (all other exporters)	36%

Date from which Reassessed Rates of Duties should Apply

99. In response to the first Interim Reassessment Report, NGT Diaries NZ Ltd submitted that by this time of the year importers have largely placed orders with off shore suppliers. NGT Diaries NZ Ltd said that importers have either already contracted to sell diaries to their New Zealand customers, or are in the process of doing so, at prices which factor in the current rates of anti-dumping duty. NGT Diaries NZ Ltd submitted that it would therefore be unfair on those importers who would have to pay a higher rate of duty under the proposed new rates if the new rates came into effect the day after the Minister determines the new rates of duty.

100. In support of its submission NGT Diaries NZ Ltd

Diaries NZ Ltd advised that

101. NGT Diaries NZ Ltd has consequently submitted that the reassessed rates of duty should not come into effect until the end of the selling season for 2014 diaries, which would mean deferring the duty until about the beginning of February 2014. NGT Diaries New Zealand Ltd has also pointed out that when the anti-dumping duty was first imposed in October 2007 the duty did not take effect until 1 February 2008 to avoid this problem.

102. NGT Diaries NZ Ltd is a importer of diaries from China and Malaysia. In the year ended December 2012 its imports from China and Malaysia represented percent of the total quantity of diaries from these countries and percent by value. While NGT Diaries NZ Ltd's imports from China would benefit from the proposed reduction in the rate of duty, over the year to December 2012 were made from Malaysia suppliers

103. In its final report of October 2007 on the investigation on the diaries investigation, in considering the effective date from which the duty should take effect, the Ministry stated in relevant part (starting at paragraph 749) as follows:

Diaries are a highly seasonal product. An analysis of the pattern of imports over the POI shows that imports peaked in the August to October period with the greatest volumes arriving in October. When imports from all countries are considered, 88 percent of all imports over the POI had arrived by the end of October, with 37 percent of all imports occurring in October. Imports from China and Malaysia over the POI followed a similar pattern with 91 percent of imports arriving by the end of October and 44 percent being imported in October. Approximately half of all imports had arrived by the end of September.

It is likely that the Minister will make a final determination on this investigation in early October and if duties were to apply from the day after the date of the final determination, then they would potentially apply to a little less than half of the imports of 2008 diaries.

The evidence from NGT is that pre-selling of diaries can begin as early as February for diaries relating to the following year. Incentives 2 advised that its diaries are sold in the first half of the year. Croxley advised during the verification visit that it presents its diary range to customers in February and requires firm orders by May for diaries relating to the following year.

There is consequently a significant degree of doubt about whether the immediate imposition of duties would be effective given the evidence that the diaries still to be imported have already been sold at prices that cannot be renegotiated to recover any anti-dumping duty that is paid by importers. This is likely to mean that the imposition of duties will only have a very limited impact on the import of 2008 diaries from China and Malaysia and on the prices at which those diaries sell in the New Zealand market. The immediate imposition of duties therefore runs the risk of being merely punitive on those importers whose diaries arrive in New Zealand after duties are imposed. The Ministry also notes that the New Zealand industry did not make a submission on this issue despite being given an explicit opportunity to do so.

The Ministry considers that the likelihood of duties not providing an effective remedy for imports of 2008 diaries provides the most compelling reason for deferring the imposition of duties until the 2009 diary season. While the immediate imposition of duties has the potential to introduce an element of unfairness between companies for the 2008 diary season which import before and after duties are imposed, this potential exists to some degree in all cases where anti-dumping duties are imposed and would not on its own necessarily provide a reason for deferring the imposition of duties.

On balance, the Ministry concludes that anti-dumping duties should be imposed from a date such that only diaries imported for the 2009 diary season are subject to the duty. Based on the evidence from interested parties, the pattern of imports, and the need to ensure that 2009 diaries cannot be imported before the

duties take effect, it is proposed that duties be imposed with effect from 1 February 2008.


104. The Ministry considers that a deferment of the date from which the reassessed rates of duty take effect is only a relevant consideration for those firms importing from exporters whose proposed reassessed rates are higher than the current rates of duty.


105. For those firms importing from exporters whose proposed reassessed rates are lower than the current rates of duty postponing the date from which the duties take effect would unnecessarily penalise those importers, although, under section 14(10) of the Act, the Minister can approve the refund of any excess duty paid when duty is reassessed to a lower rate with effect from the date the review was initiated. This would, however, still require importers to pay the higher rate and then seek a refund of the excess duty paid which would impose an unnecessary administrative and cash flow burden on importers.

106. In this reassessment in the majority of cases the proposed reassessed rates of duty are lower than the current rates. The following table compares the current rates of duty with the proposed reassessed rates of duty to illustrate the proposed change in the duty rates:

Table 2.8: Current and Proposed Rates of Duty

	Current Rates	Proposed new rates		Increase/ Decrease in Rate	% Change in Rate
China			China		
Alco International Ltd	30%	20%	Residual rate will apply	Decrease	-33%
Beijing Light Stationery Manufacturing Co. Ltd	28%	20%	Residual rate will apply	Decrease	-29%
Dragon Boat Ltd	59%	20%	Residual rate will apply	Decrease	-66%
Everbest Printing Co Ltd	0%	0%	Everbest Printing Co Ltd	No change	No change
Haier Fung Choi Printing Ltd	59%	20%	Residual rate will apply	Decrease	-66%
Kin Tai Printing Co. Ltd	31%	20%	Residual rate will apply	Decrease	-35%
Ningbo Guangbo Import & Export Co. Ltd	59%	20%	Residual rate will apply	Decrease	-66%
Olympia Diary Guangzhou Ltd	53%	20%	Residual rate will apply	Decrease	-62%
Richgrade Ltd	164%	20%	Residual rate will apply	Decrease	-88%
Sintex Link Ltd	36%	20%	Sintex Link Ltd	Decrease	-44%
Texsun Ltd	48%	20%	Residual rate will apply	Decrease	-58%
WKT Co. Ltd	38%	20%	Residual rate will apply	Decrease	-47%
Yang Yang (China) Ltd	24%	20%	Residual rate will apply	Decrease	-17%
Residual rate currently applies	53%	20%	Artwrap Pty Ltd	Decrease	-62%
Residual rate currently applies	53%	20%	Shenzhen Sunled Stationery & Gifts Co.	Decrease	-62%
Residual rate currently applies	53%	20%	Wenzhou Gangcheng Foreign Trade Co Ltd	Decrease	-62%
Residual rate currently applies	53%	20%	Willing Horse Ltd	Decrease	-62%
Residual rate of duty (all other exporters)	53%	20%	Residual rate of duty (all other exporters)	Decrease	-62%
Malaysia			Malaysia		
Chee Wah Corporation Berhad	12%	36%	Residual rate will apply	Increase	200%
Ginhau Psn Printing (M) Sdn Bhd	30%	36%	Residual rate will apply	Increase	20%
Olympia Diary (M) Sdn Bhd	39%	36%	Residual rate will apply	Decrease	-8%
UPA Press Sdn Bhd	25%	37%	UPA Press Sdn Bhd	Increase	48%
Residual rate currently applies	34%	25%	UPP Paper Industries Sdn Bhd/UP International Sdn Bhd	Decrease	-26%
Residual rate of duty (all other exporters)	34%	36%	Residual rate of duty (all other exporters)	Increase	6%

107. Those exporters whose rate will decrease (either through a change in their specific rate or through the application of the residual rate) represent  percent of

total imports of diaries by value over the period of investigation for dumping (the year ended 30 June 2012). Conversely, those exporters whose rate will increase represent  percent of the total imports of diaries by value over the same period.

108. As noted in the 2007 final report quoted above, diaries are a highly seasonal product. An analysis of the pattern of imports over the year ended December 2012 shows that for China 79 percent of imports had arrived by October and 94 percent by November, with the largest amount being imported in September when 28 percent of diaries were imported. For China, only very small quantities were imported in January when 0.8 percent of diaries were imported. Small quantities were also imported from China in February and March when 0.9 and 1.5 percent respectively of diaries were imported.

109. The pattern of imports from Malaysia over this period is similar with 96 percent of imports arriving by October with the largest amount being imported in September when 57 percent of diaries were imported. Only very small quantities were imported from Malaysia in January and February when respectively 0.4 and 0.02 percent of diaries were imported (there were no imports in March).

110. It is not possible to determine from the data whether the diaries imported in January to March were 2013 or 2014 diaries but the Ministry considers it most likely that those imported in January 2012 were predominantly 2012 diaries while those imported after January were predominantly 2013 diaries.

111. The evidence from the 2007 investigation and in this reassessment indicates that for those exporters for whom the rates of duty are proposed to increase, that the increase in the duty is unlikely to be effective because most of the contracts for the supply of 2014 diaries to New Zealand customers will already have been concluded by the time the Minister makes a determination on this reassessment (likely to be in late June).

112. At the same time the Ministry is aware that, in those cases where the proposed reassessed rates are lower than current rates and sales have been contracted to New Zealand customers on the basis of current rates, the importer may gain a benefit from the reduction in the rates if they do not pass those benefits onto their customers. The Ministry does not consider this constitutes a reason for not lowering these rates as soon as possible as those importers should benefit from the lower rates as soon as this is possible. In addition, as noted in paragraph 105 above, importers would, if the Minister so approves, be entitled to a refund of excess duty paid from the date the review was initiated.

113. The evidence from both the 2007 investigation and this reassessment also indicates that the date from which the increased rates should apply is 1 February 2014 as this date is most likely to ensure that imports of 2014 diaries will not be subject to the increased rates while at the same time ensuring that imports of 2015 diaries will be subject to the increased rates.

114. Section 17(c) of the Act provides that the date on and from which reassessed rates of duty are payable is:

- (i) The day after the date of a reassessment determination by the Minister under section 14(6) of the Act; or
- (ii) A specified day after the above date.

115. The Act therefore clearly allows the Minister to specify that reassessed rates of duty take effect from a future date. In the circumstances of this reassessment where most rates decrease but some rates increase, the Ministry considers, for the reasons canvassed above, that:

- (a) For those rates which are proposed to decrease, they should take effect from the day after the date of the Minister's reassessment determination in accordance with section 17(c) (i) of the Act; and
- (b) For those rates which are proposed to increase, they should take effect from 1 February 2014 in accordance with section 17(c)(ii) of the Act.

116. The dates from which the reassessed rates are proposed to take effect are therefore as follows:

Table 2.9: Dates from which Reassessed Rates of Duty should Apply

Country and Exporter	Anti-dumping duty rates (as % of FOB)
Reassessed Rates to take effect from day after date of Minister's Reassessment Determination:	
China	
Everbest Printing Ltd.	0%
Residual rate of duty (all other exporters)	20%
Malaysia	
UPP Paper Industries Sdn Bhd/ UP International Sdn Bhd.	25%
Reassessed Rates to take effect from 1 February 2014:	
Malaysia	
UPA Press Sdn. Bhd.	37%
Residual rate of duty (all other exporters)	36%

2.8 Impact of Reassessed Duties

117. As noted above, the proposed reassessed rates are lower than the current rates for the majority of exporters. As stated in paragraph 107 above, those exporters whose rate will decrease (either through a change in their specific rate or

through the application of the residual rate) represent 10 percent of total imports of diaries by value over the period of investigation for dumping (the year ended 30 June 2012), while those exporters whose rate will increase represent 10 percent of the total imports of diaries by value.

118. The percentage changes in the rates for specified exporters and for the residual rates are shown in Table 2.7 above. The declines in the rates for exporters from China are significant in most cases. The increases for specified Malaysian exporters are also significant but the residual rate for Malaysia only increases by a small amount.

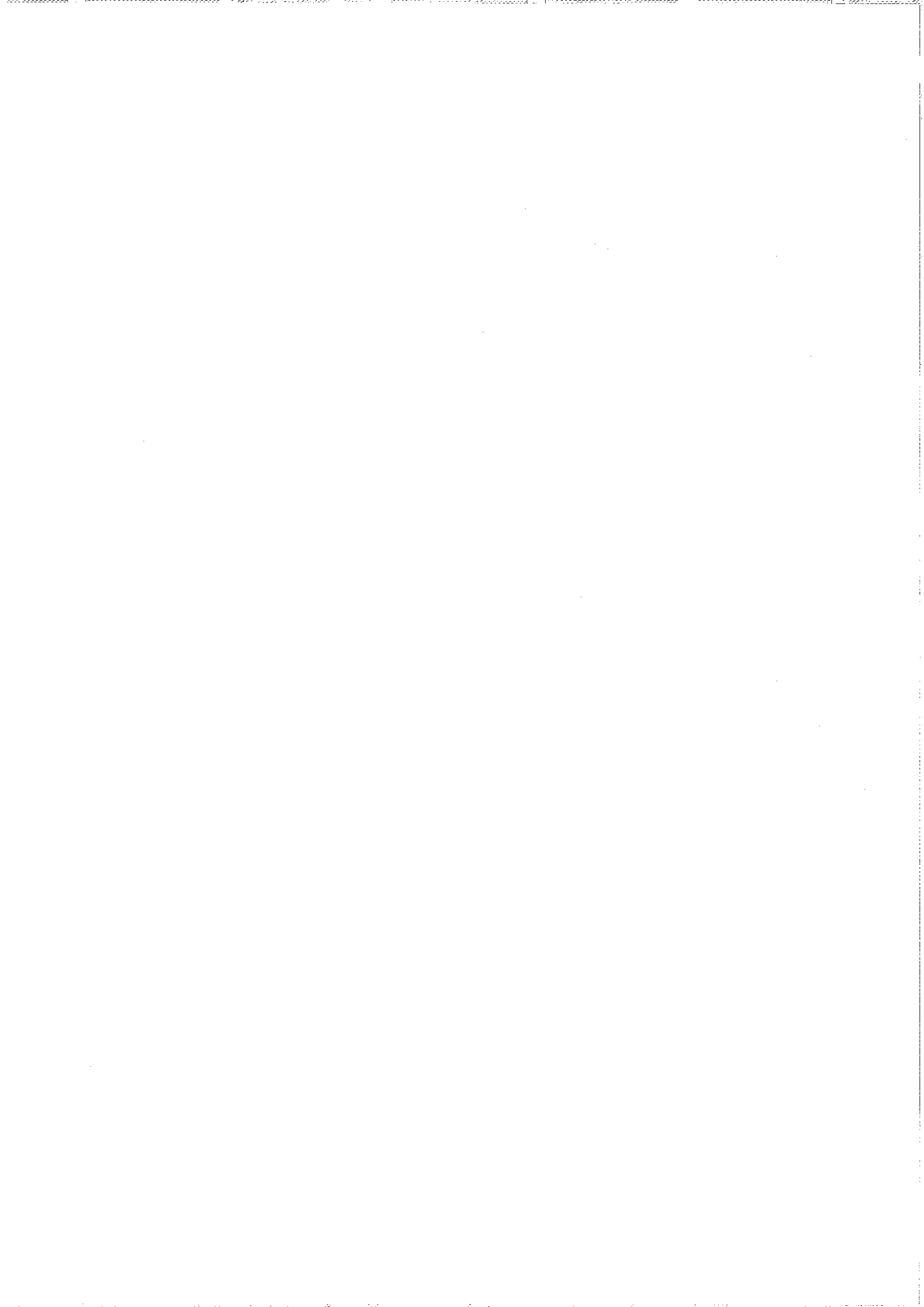
119. To gauge the extent to which rates will likely decrease overall for China and increase overall for Malaysia, the Ministry has for the year ended June 2012 calculated what anti-dumping duty would have been payable had the proposed new rates been in place over this period and compared it to the actual amount of anti-dumping duty paid over this period. For China this shows the total duty collected would decline by 10 percent while for Malaysia the total duty collected would increase by 10 percent. When China and Malaysia are taken together, the total duty collected would decline by 10 percent. The proposed reassessed rates of duty therefore represent a significant reduction in the overall level of the duty.

120. The overall reduction in the duty for exports from China and the overall increase in the duty for exports from Malaysia may provide an incentive for importers to switch from Malaysian to Chinese suppliers. However, any switch in the source of supply will depend on the actual and perceived quality differences in the diaries sourced from Malaysia as opposed to those sourced from China, as well as the service provided. The overall reduction in the duty is also likely to place increased competitive pressure on the New Zealand industry. The proposed new rates of duty are however at the full margin of dumping which is the maximum level of duty permitted under the Act.

3. Refunds of Anti-Dumping Duty

121. Section 14(10) of the Act provides that if a reassessment results in a lower duty being imposed the Ministry may require the New Zealand Customs Service to refund, with effect from the date of initiation of the review, the difference between the duty paid and the lower duty. However, if the reverse situation applies the shortfall is not required to be paid.

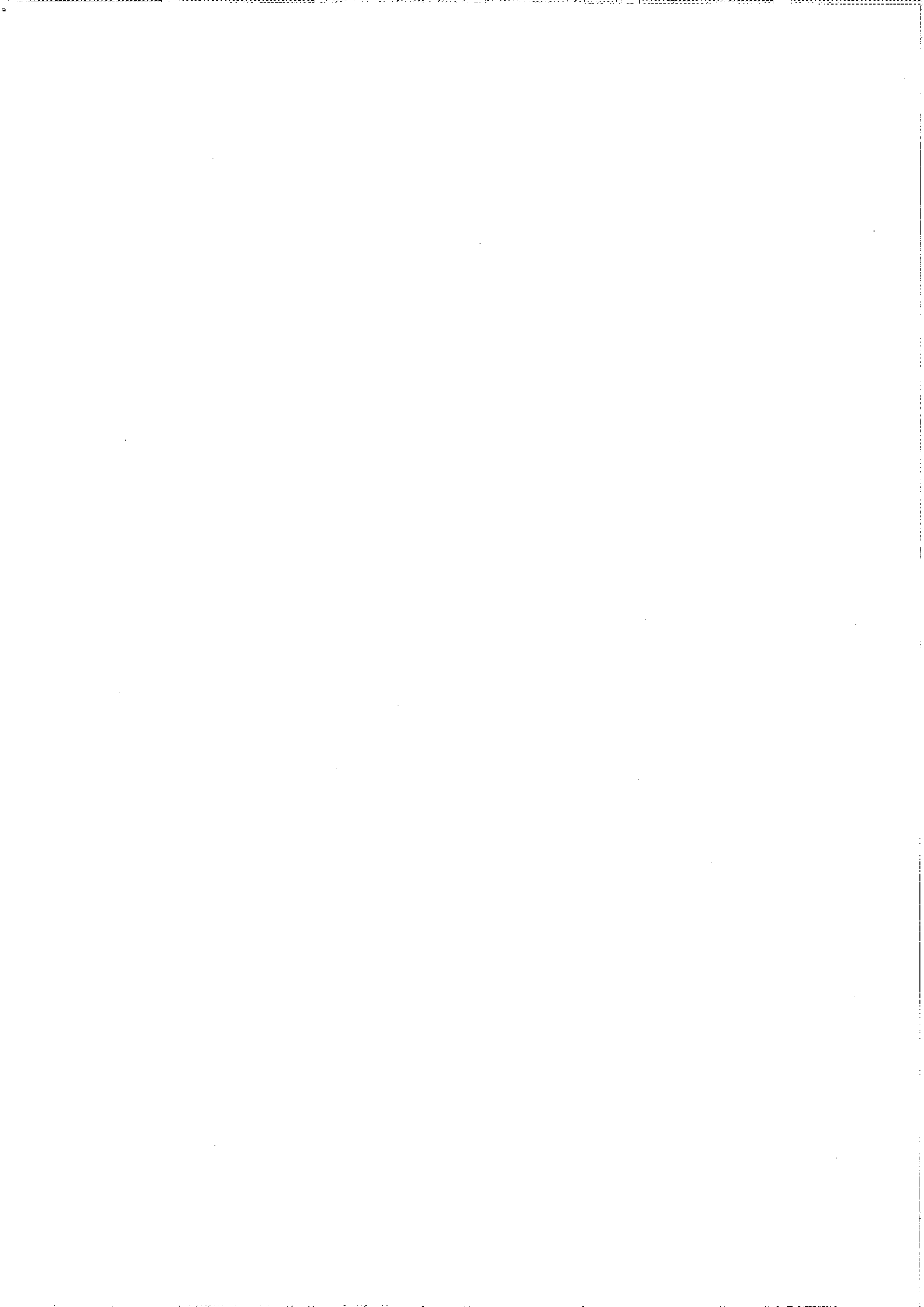
122. The Ministry recommends that the Minister approve the refund of duty if the application for refund meets the conditions outlined in the paragraph above.



4. Recommendations

123. It is recommended that the Minister:

- a. Determine new rates of anti-dumping duty as set out in Table 2.7 above.
- b. Agree that the new rates of anti-dumping duty shall apply from the dates set out in Table 2.9 above in accordance with section 17(c) of the Act.
- c. Approve the refund of any anti-dumping duty paid in excess of the reassessed rates of anti-dumping duty in the period from 7 October 2012 to the date the new rate is determined.
- d. Sign the attached Gazette notice publically notifying the above decisions.



Appendix 1

(c) A full copy of the Anti-Dumping Agreement on the Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement) can be found at:

www.wto.org/english/ress_e/booksp_e/analytic_index_e/anti_dumping_05_e.htm

(d) A full copy of the Dumping and Countervailing duties Act can be found at:

www.legislation.govt.nz/act/public/1988/0158/latest/DLM137948.html?search=ts_act_dumping+and+countervailing_resel&p=1&sr=1