



**INVESTIGATION 242**

**ALLEGED DUMPING OF NEWSPRINT  
EXPORTED FROM FRANCE AND THE REPUBLIC OF KOREA**

**VISIT REPORT - IMPORTER**

**NEWS Limited**

<p><b>THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION</b></p>
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**June 2014**

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**ABBREVIATIONS**

\$	Australian dollars
ADN	Australian Dumping Notice
ADN	Anti-Dumping Notice
CFR	Cost and freight
COGS	Cost of goods sold
Commission	Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
DDU	Delivery, duty unpaid
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortisation
FOB	Free On Board
GAAP	Generally accepted accounting principles
Jeonju	Jeonju Paper Corporation
NEWS	News Limited
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
The Act	<i>Customs Act 1901</i>
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry
USP	Unsuppressed Selling Price

## **1 BACKGROUND AND PURPOSE**

### **1.1 Background**

On 24 March 2014, an application was lodged by Norske Skog Industries Australia Limited (NSIA) requesting that the Parliamentary Secretary to the Ministry for Industry (Parliamentary Secretary) publish a dumping duty notice in respect of newsprint exported to Australia from the French Republic (France) and the Republic of Korea (Korea).

NSIA allege that the Australian industry has suffered material injury caused by newsprint exported to Australia from France and Korea at dumped prices.

NSIA claim that material injury in respect of newsprint began in the 2013/14 financial year. The applicant identified the injurious effect as:

- Lost sales volumes;
- Price undercutting;
- Price depression;
- Price suppression;
- Reduced profit and profitability; and
- Reduced revenues.

Public notification of initiation of the investigation was made on 22 April 2014 in The Australian newspaper and Australian Dumping Notice No. 2014/34.

As part of its investigation, the Commission has identified News Limited as a significant importer of newsprint from Korea.

### **1.2 Purpose of visit**

The purpose of the visit was to:

- Confirm that News Limited (NEWS) is the importer of newsprint attributed to it within the commercial database and obtain information to assist in establishing the identity of the exporter(s) of this newsprint
- verify information on imports of newsprint to assist in the determination of export prices;
- establish whether the purchases of newsprint were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for newsprint; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

## PUBLIC RECORD

### 1.3 Meeting details

Company	News Limited
Dates of visit	02 June 2014

The following were present at various stages of the meetings.

News Limited	James Buchanan – General Manager - Newsprint and Commercial Printing
the Commission	Tom O'Connor – Assistant Director – Operations 2 Joseph Crowley – Senior Investigator – Operations 2

### 1.4 Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- The Commission will examine imports from France and Korea during the period 1 April 2013 to 31 March 2014 (the investigation period) to determine whether dumping of newsprint has occurred.
- The injury analysis period is from 1 April 2010 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (23 June 2014) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

The Commission will not make a PAD until (and if) it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice.

This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 11 August 2014, or such later date as the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) allows under s.269ZHI of *the Customs Act 1901* (the Act).
- The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Parliamentary Secretary, and will invite interested parties to respond, within 20 days, to the issues raised therein.
- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Parliamentary Secretary.

This final report is due no later than 24 September 2014, unless an extension to the SEF is approved by the Parliamentary Secretary.

### **Newsprint – Importer Visit Report – News Limited**

## **PUBLIC RECORD**

### **1.5 Visit report**

We explained to the company that we would prepare a report of our visit (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We explained that, in consultation with the company, we would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

## **2 THE GOODS**

### **2.1 Description**

The goods the subject of the application (the goods) are:

*Newsprint in roll or sheet form having a weight within the range 40 grams per square meter (gsm) to 46 gsm (inclusive) and brightness below a measure of 70 ISO.*

### **2.2 Tariff classification**

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

The application states that newsprint is classified to:

- tariff subheading 4801.00.20 with statistical code 02;
- tariff subheading 4801.00.31 with statistical code 04; and
- tariff subheading 4801.00.39 with statistical code 19.

Goods classified to tariff subheading 4801.00.31, statistical code 04, must have the following characteristics:

- weigh more than 57gsm; or
- have ash content by weight of more than 8 per cent.

The applicant advised that it is aware that some of the imported newsprint from Korea has an ash content more than 8 per cent.

The Australian Customs and Border Protection Service (ACBPS) has provided tariff advice that in order for the goods to be correctly classified to the above tariff subheadings they also must comply with the requirements of Notes 3, 4 and 8 of the tariff Chapter 48.

The general rate of duty applied to goods exported from France and Korea are:

- goods classified under 4801.00.20 and 4801.00.31, a duty rate of 5% applies; and
- goods classified under 4801.00.39, statistical code 19, goods are duty free.

### 3 COMPANY DETAILS

#### 3.1 Company Background

NEWS is one of the largest media companies operating in the Australian market, with interests in newspaper and magazine publishing, internet based news services, and broadcasting. The company was initially established in 1923.

The company sells approximately 10.4 million<sup>1</sup> newspapers per week and is the largest Australian producer of newspapers, with 68.8 per cent<sup>2</sup> of the weekday newspaper readership. As such, NEWS is also the single largest buyer of newsprint in the Australian market.

NEWS is a wholly owned subsidiary of News Corporation, a publicly listed company on the NASDAQ Stock Market. The Company Headquarters are based in New York City.

#### 3.2 Relationship with suppliers and customers

NEWS stated that it does not own or partly own NSIA or Jeonju Paper Corporation (Jeonju). Furthermore, NEWS indicated that its relationship is no more than commercial of buyer and seller.

We were informed that NEWS considers itself to be NSIA's largest domestic customer and, the two companies have a long business relationship. NSIA has been the primary supplier of newsprint to NEWS, typically sourcing in excess of 90 per cent of its newsprint from NSIA.

Apart from NSIA, NEWS noted that the only imported newsprint it sources is from Jeonju.

#### 3.3 Like goods

NEWS advised the Commission that it considers newsprint from NSIA to be 'like goods' with imported newsprint from Korea and France, in terms of *physical likeness*, *commercial likeness*, *functional likeness* (product used in similar ways), and *production likeness* (method of manufacture). NEWS broadly considers the imported products as interchangeable with domestically produced newsprint.

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<sup>1</sup> News Corp Australia

<sup>2</sup> Roy Morgan



## **4 AUSTRALIAN MARKET**

According to NEWS Australia, sales of printed media have been in decline for a number of years, in particular circulations of newspapers have been trending downward. As such, aggregate demand for newsprint has been steadily falling. However, given the large capital requirements and costs associated with newsprint plant closures, the supply of newsprint is not declining as fast as the rate of demand. NEWS suggests that oversupply of newsprint (considered a globally traded commodity) has led to declining prices worldwide (**Confidential Attachment 1**).

We were informed that following a senior management change approximately three years ago NEWS changed supply strategies and considered that a second supplier of newsprint essential to mitigate the risk of supply chain disruptions. NEWS also noted that it is common practice to have more than one supplier of newsprint to mitigate against shortages. Given that NSIA is the only domestic producer, importing newsprint is the only option for NEWS to diversify its supply of newsprint.

### **4.1 Distribution and Selling**

NEWS does not sell newsprint. It uses all newsprint as inputs for newspaper publishing and other related publishing activities.

NEWS typically stores between four to eight weeks' worth of newsprint in their inventory.

## **5 IMPORTS**

### **5.1 Ordering**

NEWS has two methods in which the goods are purchased. It has either entered into long term contracts with the supplier where the price is fixed and or varies in terms of the contract. The other method is spot purchases. Spot purchases are generally a fixed price for twelve months. In terms of Jeonju orders, all purchases were under spot purchase arrangements.

Orders of newsprint are made through Bong Yong International, an agent working on behalf of Jeonju. Products are then shipped by Jeonju directly to NEWS and payment is made by NEWS directly to Jeonju.

NEWS has only sourced 42gsm newsprint from Jeonju.

### **5.2 Volume of trade**

From March 2014 to May 2014, NEWS imported [REDACTED] tonnes of newsprint from Jeonju.

### **5.3 Forward orders**

NEWS provided a listing of its forward orders for newsprint as part of its importer questionnaire response, which were due to arrive in Australia between 20 June 2014 and 4 July 2014. The quantity of forward orders is [REDACTED] of 42gsm newsprint (**Confidential Appendix 1**).

### **5.4 Verification of imports**

#### **5.4.1 Supplier invoice details**

Prior to the visit, the Commission selected five shipments from the import listing and asked NEWS to complete a spread sheet providing import details on each. As part of the supporting documentation NEWS provided the following documents for each shipment: (**Confidential Attachment 2**).

- Commercial invoice
- Packing declaration
- Bill of lading
- Packing list
- Evidence of payment

NEWS places its order with an agent (Bong-Yong) of Jeonju located in Sydney, advising us that it does not make any payment to the agent in any form. NEWS indicated the agent works on behalf of Jeonju.

Following the examination of the commercial documents in general we found that all purchases of the goods were in AUD expressed on a per tonne basis. All goods were shipped by sea and stuffed into 40 foot containers.

## **PUBLIC RECORD**

For each invoice selected, NEWS provided evidence of payment confirming that the invoice price is the price paid with payment terms [REDACTED].

NEWS informed us that 42gsm newsprint is slightly more expensive but due to the benefits of additional square metres of newsprint per one tonne roll, there is a slight yield benefit to buying the thinner product. Additional benefits are also associated with logistics – greater amount of newspapers per tonne. This translates to more papers per bundle.

### **5.4.2 Shipment costs**

Due to the terms of trade being DDU, the Commission was not able to determine the cost of ocean freight.

### **5.4.3 Importation costs**

Due to the terms of trade, the Commission was not able to determine the importation and into store costs.

## **5.5 Selling, general and administrative (SG&A) costs**

The Commission did not examine the selling and general and administrative costs as the goods are converted into newspapers and not sold as is. Consequently, the Commission considers that determining these costs and profitability for the purposes of an arm's length test irrelevant.

## **5.6 Export prices for selected shipments**

The Commission found that Jeonju exports the goods to NEWS at [REDACTED]. Details are provided at **Confidential Attachment 1**.

## **6 WHO IS THE IMPORTER AND EXPORTER**

### **6.1 Who is the importer?**

We reviewed the documents provided in respect of the selected shipments. We note that:

- the goods are ordered by NEWS;
- an invoice is raised by the overseas supplier. During the investigation period the overseas supplier was Jeonju (Korea).
- the overseas supplier appears as the shipper on the bill of lading and NEWS appears as the consignee;
- NEWS pays the overseas supplier directly

We consider NEWS to be the beneficial owner of the goods at the time of importation, and therefore the importer.

### **6.2 Who is the exporter?**

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

It is common for traders and other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation, conducting price negotiations, arrange contacts with the producer, etc.

In such cases, the trader typically acts as an intermediary who, although one of the principals, is essentially a facilitator in the sale and shipment of the goods on behalf of the manufacturer. Typically the manufacturer as a principal who knowingly sent the goods for export to any destination will be the exporter.

Therefore, depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.

Subject to further inquiries, we are satisfied that Jeonju can be considered exporter of newsprint imported by NEWS. To our knowledge, these entities are principles in the country of export, which manufacture the goods and gave up the goods for shipment directly to NEWS.

## **7 ARMS LENGTH**

In determining export prices under s.269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arm's length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Parliamentary Secretary, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We reviewed the documentation for the selected shipments and did not find any evidence, in respect of the purchase of newsprint, that:

- there is any consideration payable for or in respect of the goods other than price;
- the price was influenced by a commercial or other relationship between NEWS and Jeonju Paper Corporation, and its suppliers or an associate of the supplier; and/or
- NEWS or an associate of NEWS was not directly or indirectly reimbursed, compensated or otherwise received a benefit for or in respect of the whole or any part of the price.

We are satisfied that import transactions between NEWS and its suppliers are at arm's length in terms of s. 269TAA.

## **8 GENERAL COMMENTS**

NEWS provided the following general comments.

- Newsprint pricing, worldwide, has been on the decline for a number of years. This trend is the result of a number of structural changes underway in the newspaper publishing industry, including changing demographics and increased uptake of digital news products. While demand for newsprint has been declining, supply of newsprint has not declined proportionally, leading to increased excess supply, and hence price depression.
- NEWS considers the use of multiple suppliers of newsprint to be fundamental in mitigating supply chain disruptions. As there is only one Australian producer, imported newsprint is inevitable. However, NEWS considers the existence and viability of an Australian producer to be of benefit to NEWS ongoing operations.

## **9 RECOMMENDATIONS**

From our investigations, we are of the opinion that, for the goods imported by NEWS from Jeonju:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporters; and
- the purchases of the goods by the importer were arm's length transactions.

Subject to further inquiries with these exporters, we recommend that the export price for newsprint imported by NEWS from Jeonju can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the FOB level as required.

**PUBLIC RECORD**

## 10 APPENDICES AND ATTACHMENTS

[illegible]