

Subject: **Anti-dumping investigation. A4 Copy Paper. Australia.**

1. The Government of the Federative Republic of Brazil wishes to thank the Government of Australia for the opportunity to present its initial comments on the Australian anti-dumping investigation initiated on April 12, 2016, against the exports of A4 Copy Paper (uncoated white paper of a type used for writing, printing or other graphic purposes, in the nominal basis weight range of 70 to 100 gsm and cut to sheets of metric size A4 210mm x 297mm), usually classified under item 4802.56.10/03 of the Australian Tariff Code, originating in Brazil, China, Indonesia and Thailand.

I. Volume of imports from Brazil

2. According to the **Anti-Dumping Commission Consideration Report No. 341**, during the injury examination period, the import duty rate applied on A4 copy paper from Brazil was of 5%; no duty was applied on imports from Indonesia and Thailand; and the rate of duty applicable to imports from China was progressively reduced from 5% to 4% and 3%.

3. After analyzing Paper Australia Pty Ltd Petition and the Department of Immigration and Border Protection (DIBP) import data, the Australian investigating authority found that the imports from Brazil represented less than 3% of the total volume of A4 copy paper imported by Australia during the investigation period:

Based on the information in the application, the imports of A4 copy paper from each of the countries named in the application represented more than 3% of the total volume of A4 copy paper imported during the investigation period. However, after considering DIBP import data, the Commission determined the import volume for Brazil to be below the 3% threshold.

This would ordinarily be determined to be negligible under subsection 269TDA(4). However, the applicant has provided information from TradeData identifying that the import volume from Brazil was clearly above 3%. The Commission has analysed this data and considers it reasonable. The applicant also provided evidence showing that A4 copy paper clearly marked "Made in Brazil" was available for sale in Australia. Further analysis regarding the veracity of this data will be undertaken during the investigation phase.

4. Instead of excluding Brazil from the investigation in compliance with Article 5.8 of the WTO Anti-Dumping Agreement, the Australian investigating authority opted for including it based on TradeData information submitted by the petitioner. It did not mention, however, the total volume of Australian imports, the volume of imports from Brazil, the methodology used for calculating these amounts, the period or the tariff item researched on TradeData. On the other hand, the Australian investigating authority stated that it could exclude non-like products from the other origins, further refining, thus, the DIBP database.

5. According to the methodology proposed by the petitioner and apparently accepted by the investigating authority, the volume and the price of imports from Brazil were calculated differently from the other origins:

- The volume of imports from Brazil was calculated based on TradeData Brazilian export data, whereas the imports from the other origins were calculated based on DIBP database.
- The imports from Brazil were calculated under a broader tariff item, including products out of the scope of the investigation and non-like products, since DIBP database contains imports under 10-digit tariff items. Moreover, at TradeData the investigating authority is unable to verify entries of non-like products, whereas at DIBP database the investigating authority was able to refine the imports from the other origins.

- The volume of imports from Brazil was not calculated within the same period as the other imports. For the other countries, the investigating authority considered the date of entry of the product in Australia, whereas for Brazil, apparently, it considered the date of exit of the product from the export country. It is not clear from the methodology whether it considered the period of transport of the product from Brazil to Australia. Therefore, it may have included Brazilian exports that entered the Australian market after the injury examination period.

6. With respect to the total volume of imports of the like product and the share of imports originated in Brazil, the methodology used for calculating these amounts is not clear in the ADC Consideration Report. There are, thus, two possibilities: (i) the total volume was calculated based on DIBP database or (ii) the total volume was calculated based on the sum of TradeData Brazilian exports and DIPB imports from the other origins. Neither of those methods seems fair for assessing the share of Brazilian exports, since they use (i) a broader tariff code than the one used for calculating the total volume of imports or (ii) different and not simultaneous databases.

7. Moreover, the ADC Consideration Report does not clarify which methodology was used for analyzing the relative and absolute increase of investigated imports or for calculating the size of the Australian A4 copy paper market.

8. The Brazilian Government, therefore, respectfully requests that the Australian investigating authority disclose the methodology used for calculating the imports from Brazil (tariff code and period) and the total volume of imports during the injury examination period. We also request the review of the methodology used for calculating the volume of imports in a way that the DIBP database is also considered for determining imports from Brazil or that the TradeData statistics are used for all the other countries. We finally request that the analysis of the increase in relative and absolute volume of investigated imports and of the size of the Australian market be changed accordingly, as set forth in Article 3.2 of the Anti-Dumping Agreement.

9. After the review of the calculation of the volume of imports and of the share of imports originating in Brazil, if an amount below 3% is found, the Brazilian Government requests the exclusion of Brazil from the investigation, according to Article 5.8 of the Anti-Dumping Agreement:

*5.8 An application under paragraph 1 shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is de minimis, or that the volume of dumped imports, actual or potential, or the injury, is negligible. The margin of dumping shall be considered to be de minimis if this margin is less than 2 per cent, expressed as a percentage of the export price. **The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member.***

II. Brazilian export price, margin of dumping and CIF price

10. In the Petition, Paper Australia Pty Ltd suggested calculating the Brazilian export price differently from the other origins:

Basis of estimate: *The price determined having regard to all the circumstances of the exportation – subsection 269TAB(1)(c). The Applicant has utilised ABS (Australian Bureau of Statistics) import data for export price. Information was obtained for both China and Indonesia. However, no information was available for Brazil (from 2010 onwards) and for Thailand from 2014 onwards). For this reason, the Applicant has utilised export data sourced from TradeData as the basis of export price for both Brazil and Thailand*

Details: *The applicant considers that the published ABS import data (and applicable TradeData export data) accurately reflects the declared free on board (FOB) prices for the exported goods.*

The Applicant believes that ‘off-invoice’ rebates provided to importers by manufacturers or exporters have not been included in the declared export prices, and can be 10% or more of the invoice value.

11. The Australian investigating authority partially agreed with the methodology suggested by the petitioner and decided to recalculate the export prices:

The Commission examined the calculations and supporting evidence provided by Australian Paper. To verify the reliability of the export price calculated by Australian Paper, the Commission compared the export price calculated by Australian Paper to export prices from DIBP data.

After removing entries that appear to be entered incorrectly, the Commission identified only a small variance between the applicant’s estimated average FOB export price and the DIBP data weighted average FOB export price for imports of A4 copy paper from, Indonesia and Thailand. The Commission does not consider that the variance is material. There was a greater variance between the applicant’s estimated export price and the DIBP data weighted average FOB export price for imports of A4 copy paper from Brazil and China. This variance will be addressed during the investigation stage.

The Commission accepts that an applicant can only provide information in its application that is reasonably available to it. Accordingly, the Commission considers that Australian Paper’s use of the methodology outlined above to estimate the export prices of A4 copy paper exported from Brazil, China, Indonesia and Thailand is reasonable for the purposes of the application.”

12. The investigating authority used a contradictory methodology by considering valid the DIBP statistics for calculating the Brazilian export price, but not considering it valid for calculating the volume of imports. Besides, it is not clear whether the 10% price reduction claimed by the petitioner was considered in the export price, which is confidential.

13. The same methodology was used for calculating the CIF price and the effect on price and price undercutting in the injury analysis.

14. The normal value for Brazil was calculated based on the methodology (suggested by the petitioner) that used the RISI list of monthly prices for 2015. The investigating authority thus found the following margins of dumping:

Country	The Applicant’s estimate	The Commission’s estimate
Brazil	18.89%	46.97%
China	20.26%	50.10%
Indonesia	63.65%	72.72%
Thailand	15.85%	15.35%

15. Therefore, the Brazilian Government respectfully requests that the Australian investigating authority (i) disclose the methodology used for calculating the export price, thus ensuring Brazil's right of defense; (ii) not consider price reductions based on unproven claims; and (iii) review the calculation of the margin of dumping for Brazil.

III. Other issues

16. Article 3.5 of the Anti-Dumping Agreement prevents the investigating authorities from attributing to the investigated imports injuries caused by other factors:

*3.5 It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. **The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports.** Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, **contraction in demand** or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.*

17. Considering that the ADC Consideration Report indicates a market contraction, the Brazilian Government requests that the Australian investigating authority examine the other factors and distinguish the effects caused by the decrease in demand from the decrease in the import duty rate for China and the other factors in the injury indicators presented by the petitioner.

IV. Conclusion

18. The Brazilian Government hopes the arguments presented herein will be taken into account by the Australian investigating, in particular the request for review of the volume of imports originated in Brazil and exclusion of the country from the investigation. We understand that the other items of Article 3.4 of the Anti-Dumping Agreement should be examined before the preliminary determination and that the volume of imports and the calculation methodology should be disclosed so as to ensure Brazil's right of defense.

19. The Brazilian Government also requests that, in case an anti-dumping duty is applied to Brazilian exports, the lesser duty rule be followed by the Australian investigating authority.

20. We are confident that the WTO rules will be observed in the course of the present investigation and that the Australian authorities will be guided by an objective analysis of all relevant issues.