PUBLIC VERSION

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Director Operations 2
Anti-Dumping Commission
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Investigation into A4 Copy Paper exported from Brazil

Dear Director,

This submission is made on behalf of Jackaroo Paper Pty Ltd (Jackaroo) in response to the Anti-Dumping Commission's (the Commission) recent decision to initiate an investigation into the alleged dumping of A4 copy paper exported from Brazil.

At the outset we'd make the point that, in reading the application for the imposition of dumping duties, it's apparent that the applicant appears to be mainly targeting imports from the largest exporting countries (China, Indonesia & Thailand). Between them, they represent combined volume of 105,624 mt or 89% of total imports.

It is apparent then, based on the lack of evidence relevant to Brazil in the application, that the inclusion of Brazil's small volume of [redacted] mt (not the 6,000 claimed by the applicant) is entirely aimed at creating a trade chilling effect through the disruption of market supply.

Largely as a result of this uniform approach, the application, in relation to supply from Brazil, is inconsistent, inaccurate, contains erroneous statements and claims and, importantly, overlooks important facts.

In its application, the applicant on numerous occasions refers to exports of A4 copy paper from Brazil as contributing to its material injury claims on the basis of increasing import volumes since 2012. The applicant goes on to claim that the increase in import volumes in 2015 are likely explained by the result of the recent US dumping investigation into uncoated paper.

Finally, the applicant attempts to directly link the imports from Brazil to its material injury claims by identifying levels of undercutting.

In this submission, Jackaroo does two things. Firstly, comprehensively challenges and disagrees with the main assertions made by the applicant. Providing the Commission with additional information and supporting documentation which clearly demonstrates that the application itself was deficient in supporting grounds to initiate an investigation against Brazil imports.

Secondly, and importantly, assists the Commission by outlining the particular and very specific circumstances by which supply was made.

In combination, overall, it's Jackaroo's contention that the evidence presented clearly demonstrates that imports from Brazil did not and could not have contributed to the injury being claimed by the applicant. These are major issues given that the Applicant is requesting the imposition of interim dumping duties – which would have potentially catastrophic implications to an Australian owned business.

1. Background

By way of background, International Paper do Brasil Ltda. (IP Brasil) is a subsidiary of US based International Paper (International Paper). International Paper is one of the leading global manufacturers of pulp, paper & board.

Jackaroo Pty. Ltd, is an Australian privately owned company [redacted]. Jackaroo generally purchases products from IP Brasil for distribution on a [redacted] basis and on sells in various market segments.

In the case of this particular product and this inquiry, [redacted]% of the copy paper in question was sold to [redacted]. In 2014, Jackaroo participated and won the [redacted] for the supply of their private label (also called customer own brand), "[redacted]" ([redacted]). The first orders relating to this [redacted] were delivered to [redacted] in [redacted].

[redacted]. [Description of customer's activities and operations]

[redacted] does not sell to retailers or the general public and their product pricing is not publically disclosed.

The B to B market has become increasing international and consolidated over the last decade. The last Penfolds Research Market Overview (see Confidential Appendix A) breaks this category up as follows:

- [redacted] - [redacted]%;
- [redacted]%;
- [redacted]%;

[redacted] - [redacted]%;
[B 2 B / contract overview from Penfolds Research Market Overview]

2. Evidentiary standard for initiation

We consider it important to firstly highlight the evidentiary standards required of an application prior to an investigation being able to be initiated.

Subsection 269TC(1) of the Act requires the Commissioner to reject an application if he is not satisfied that it provides 'reasonable grounds' for the publication of the a dumping duty notice. The Commission's own guidelines for the examination of a formally lodged application[1], highlights that '*[t]he Commissioner needs to be satisfied that there is sufficient evidence to enable the initiation of an investigation. During the investigation phase the veracity of that evidence supporting the claims made in the application is tested.*'

Those guidelines go on to explain:

> *It is also the responsibility of an applicant to gather and submit sufficient evidence to demonstrate that:*
>
> > *there is, or is likely to be established, an Australian Industry in respect of the goods;*
> > *there appear to be reasonable grounds for the publication of a dumping and/or countervailing duty notice, within the terms set out in s. 269TC(1)(c).*
>
> *However, an applicant does not need to prove its entire case when making an application. It is not necessary that an applicant supplies all information available to it – the purpose of the application form is to provide an evidentiary basis for the initiation of an investigative process. An applicant need only supply sufficient information that is reasonably available and necessary to substantiate its claims of dumping/subsidisation, injury and causality.* [emphasis added]

Finally, the guidelines identify the Commissioner's obligations as:

> *… being satisfied that the evidence supplied is adequate and accurate, that it supports the application being made and is sufficient to justify the initiation of an investigation. While the evidence is not verified during the examination process, the delegate will not accept the information in the application at face value. Examples where information could not be accepted would be where:*
>
> > *the information is not internally consistent;*
> > *the information is not accurate;*
> > *to accept the information would not allow a fair comparison between export price and normal value*

This obligation and standard is reflected in the corresponding articles of the WTO Anti-Dumping Agreement, with Article 5.2 requiring that the application contain sufficient evidence on dumping, injury and causation, while Article 5.3 requires the investigating authority to satisfy itself as to the accuracy and adequacy of the evidence to determine that it is sufficient to justify initiation.

[1] Examination of a formally lodged application, December 2015, Page 9.

Therefore, as found by the Panel in Guatemala – Cement II:

> *Clearly, the accuracy and adequacy of the evidence is relevant to the investigating authorities' determination whether there is sufficient evidence to justify the initiation of an investigation. It is however the sufficiency of the evidence, and not its adequacy and accuracy per se, which represents the legal standard to be applied in the case of a determination whether to initiate an investigation.*

As demonstrated later in this submission, there can be no doubt that the application that resulted in the initiation of this investigation, contained neither sufficient evidence or evidence which is accurate and adequate, with respect to the material injury and causal link claims as they apply to imports of the subject goods from Brazil.

3. Volume of imports

The applicant makes a sweeping point that "*there has been a significant increase in import volumes from Brazil in 2015 (albeit from a lower base in 2104) and this is considered to be of a consequence of the recent anti-dumping petition taken by the US Uncoated Industry against imports from a number of countries including Brazil*"[2]. This suggestion, where it relates to Brazil, is both incorrect & highly misleading of the Commission.

The US dumping investigation was commenced on January 21, 2015 (see Non-Confidential Appendix B). To be clear, Jackaroo had [redacted], which represents [redacted]% of the copy paper in question (refer Point 2.2 of this submission for details in relation to the [redacted]), in [redacted] and was awarded the business in [redacted]. The first orders to service this business arrived in [redacted], prior to the investigation having been announced. To suggest, as the applicant does, that the supply had something to do with an, as yet unannounced, investigation is false.

The US investigation actually included 75,800 mt of product supplied to the US in 2014 by the Applicant (See Non-Confidential Appendix C). Given the Applicant made the decision not to participate in the US inquiry, from February 2105 they would have been reasonably certain of a negative finding (which came on August 20, 2105). Jackaroo suggests that the fact of having to reallocate 75,800 mt of exports to the US is what's led to this current inquiry.

Despite the timing issues crippling the Applicant's argument, it's worth noting some other points in regard to this claim. The dumping petitioners in the US were a range of unions and, on the paper manufacturing side - Domtar Corporation, Finch Paper, & Glatfelter Company. International Paper were not part of the application. The product supplied from IP Brasil to the US was all shipped to Miami for onward distribution to Central and Latin America. None of it was sold in the US, where International Paper is the largest local producer. As a result of the finding, the shipments are now being made via a combination

[2] Application for the publication of dumping and/or countervailing duty notices. White Uncoated A4 Copy (Cut Sheet) Paper Exported from The Federal Republic of Brazil, the People's Republic of China, the Republic of Indonesia and the Kingdom of Thailand. February 2006, page 30.

of US bonded warehouse & shipments to locations outside the US. The overall volume has remained largely unchanged (See Non-Confidential Appendix D).

In its application[3] the applicant, on numerous occasions, refers to exports of A4 copy paper from Brazil as contributing to its material injury claims on the basis of increasing import volumes since 2012. In doing so, the applicant has conveniently grouped the import volumes from Brazil with import volumes from the other nominated countries under investigation.

It doesn't appear to be fair, reasonable, sensible or appropriate to simply consolidate the volume effects of all the nominated countries under investigation without having properly assessed and considered whether grounds exist to cumulate their effects. As explained below, Jackaroo submits that imports from Brazil ought not to be cumulated with the other nominated countries as the required conditions of competition did not exist during the investigation period.

The applicant makes the blanket assertion that imports of A4 copy paper from Brazil have increased in volume, "relative to 2010 volumes". While accurate on the face of it, such an assertion doesn't paint the true picture.

The table below provides total import volumes from Brazil from 2009 through to the 2015 investigation period, and shows that volumes have fluctuated year on year between 2010 and 2014 with no increasing trend as claimed by the applicant. When compared to the applicant's estimated total import volumes during this period, imports from Brazil were below the 3% negligible levels in 2011, 2012, 2013 and 2014, and only marginally above 3% in 2010[4]. Therefore, the facts clearly disprove that imports of A4 copy paper from Brazil displayed increasing volumes from 2010.

[CONFIDENTIAL CHART REMOVED]

With respect to the investigation period, the table does show that volumes increased in 2015. However, as noted by the applicant, this increase is "*from a lower base in 2014*". Notwithstanding the modest increase in 2015, imports of A4 copy paper remained very low relative to the other export sources and the applicant's sales, with volumes in 2015 still only representing approximately [redacted]% of total imports and [redacted]% of the total Australian market. It is incorrect to suggest that the import volumes from Brazil have experienced steady or sharp increases since 2010, and as such, misleading to combine imports from Brazil with imports from the other nominated countries under investigation.

The spike in 2015 also coincided with the start-up supply from Brazil following the [redacted]. The volume year to date in 2016 [redacted]. [Description of volume trends]

[3] EPR 341, Record no. 001, pages 27, 30, 31, 32 and 33.
[4] Based on total Australian market published in Industry Edge.

The blue line shows the volume that would have been imported from Brazil without the [redacted]. This balance ([redacted]mt) would have represented less than [redacted]% of the total import for the investigation period.

4. Material injury

4.1 Approach to causal link assessment

Jackaroo wishes to remind the Commission of its obligations in examining and assessing whether the subject goods have caused material injury to the Australian industry producing like goods.

Subsection 269TAE(1) of the *Customs Act 1901* (the Act) sets out a non-exhaustive list of matters that the Minister may have regard to in assessing and determining whether material injury to the Australian industry is being caused by dumped exports. Determinations under subsection 269TAE(1) of the Act is subject to subsection (2AA) of the Act, which requires that the material injury determination "*must be based on facts and not merely on allegations, conjecture or remote possibilities*". [emphasis added]

This provision is reflected in Article 3.1 of the WTO Anti-Dumping Agreement (ADA) which states:

> A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products. [emphasis added]

Therefore it is without doubt that to reach the necessary level of satisfaction required by subsection 269TG(2), the Minister's determination is required to be based on positive evidence and an objective examination.

In *Mexico – Anti-Dumping Duties on Rice*[5], the Appellate Body observed that assumptions by an investigating authority should be based on positive evidence:

> *An investigating authority enjoys a certain discretion in adopting a methodology to guide its injury analysis. Within the bounds of this discretion, it may be expected that an investigating authority might have to rely on reasonable assumptions or draw inferences. In doing so, however, the investigating authority must ensure that its determinations are based on 'positive evidence'. Thus, when, in an investigating authority's methodology, a determination rests upon assumptions, these assumptions should be derived as reasonable inferences from a credible basis of facts, and should be sufficiently explained so that their objectivity and credibility can be verified.*

[5] Appellate Body Report, Mexico – Definitive Anti-Dumping Measures on Beef and Rice, WT/DS295/AB/R, para 204; Page 69.

Further, the Minister's material injury determination is subject to subsection 269TAE(2A) of the Act which requires that injury caused by factors other than dumping not be attributed to the dumped goods.

The obligation to ensure non-attribution is found in Article 3.5 of the ADA and has been interpreted by the Appellate Body in *US – Hot rolled steel*[6], which ruled:

> *The non-attribution language in Article 3.5 of the Anti-Dumping Agreement applies solely in situations where dumped imports and other known factors are causing injury to the domestic industry at the same time. In order that investigating authorities, applying Article 3.5, are able to ensure that the injurious effects of the other known factors are not 'attributed' to dumped imports, they must appropriately assess the injurious effects of those other factors. Logically, such an assessment must involve separating and distinguishing the injurious effects of the other factors from the injurious effects of the dumped imports. If the injurious effects of the dumped imports are not appropriately separated and distinguished from the injurious effects of the other factors, the authorities will be unable to conclude that the injury they ascribe to dumped imports is actually caused by those imports, rather than by the other factors. Thus, in the absence of such separation and distinction of the different injurious effects, the investigating authorities would have no rational basis to conclude that the dumped imports are indeed causing the injury which, under the Anti-Dumping Agreement, justifies the imposition of anti-dumping duties.*
>
> *We emphasize that the particular methods and approaches by which WTO Members choose to carry out the process of separating and distinguishing the injurious effects of dumped imports from the injurious effects of the other known causal factors are not prescribed by the Anti-Dumping Agreement. What the Agreement requires is simply that the obligations in Article 3.5 be respected when a determination of injury is made.*

The Appellate Body added[7]:

> *[A]lthough this process may not be easy, this is precisely what is envisaged by the non-attribution language. If the injurious effects of the dumped imports and the other known factors remain lumped together and indistinguishable, there is simply no means of knowing whether injury ascribed to dumped imports was, in reality, caused by other factors. Article 3.5, therefore, requires investigating authorities to undertake the process of assessing appropriately, and separating and distinguishing, the injurious effects of dumped imports from those of other known causal factors.*

Jackaroo considers it important to highlight these key requirements of the material injury determination - particularly given the lack of evidence, false allegations and general

[6] Appellate Body Report, US – Anti-Dumping Measures on certain Hot-Rolled Steel products from Japan, WT/DS184/AB/R, para 223; pages 74-75.
[7] Ibid., para 228, page 76.

conjecture presented in the application attributing injury to Brazil imports. Instead, as explained below, the evidence and facts demonstrate that imports of A4 copy paper from Brazil did not cause material damage to the applicant.

Some [redacted]% of the A4 copy paper from Brazil was supplied specifically to a [redacted] B to B customer of Jackaroo's, namely [redacted]. They operate exclusively in the B to B area. The balance of the sales amount to a total of [redacted] MT over the full year – on this basis the submission focuses solely on the supply to [redacted].

4.2 [redacted] to supply awarded prior to investigation period

It is common practice and well understood that all B to B businesses offer their 'own brand', also called 'private label', a few examples shown below.

In this area, it's well known and acknowledged that the applicant is closely aligned with the major B to B supplier, [redacted], with 100% of their virgin private brand product. Over many years in the industry, Jackaroo can't identify a single instance where the applicant has supplied private label virgin copy paper to a B to B direct competitor of [redacted]. On the other side of that, [redacted] have always made it clear they'd only purchase virgin private label from the applicant.

[redacted] has always offered customers their own private label – [redacted]. It's never been supplied by the applicant. Prior to their last [redacted] it was being supplied from [redacted].

In [redacted] invited parties to submit offers for the supply of [redacted]. The estimated annual volume was [redacted] mt / per annum.

[CONFIDENTIAL INFORMATION REMOVED]

Various suppliers including Jackaroo [redacted] by [redacted] of their intention to submit a proposal. These were requested by [redacted]. A copy of the [redacted] document outlining the product specifications, terms and conditions attached (see Confidential Appendix E).

As confirmed by [redacted] (see Confidential Appendix F), [redacted]. [Confidential details of supply terms and conditions]. This is consistent with the industry's understanding that the applicant does not supply private label virgin copy paper to [redacted] competitors.

This decision by the applicant is critically important to the Commission's assessment of the material injury claims being made. To be clear, this business constitutes [redacted]% of Jackaroo / IP Brasil's volume through the investigation period [redacted]. [redacted]. Jackaroo won the business from a [redacted] importer. [redacted].

On [redacted], Jackaroo submitted its original supply proposal for consideration by [redacted] (See Confidential Appendix G). A revised supply proposal was [redacted] on [redacted] (see Confidential Appendix H).

As is apparent from Jackaroo's proposal, it sought to distinguish the [redacted] manufactured by IP Brasil, from other market participants in a variety of ways.

Differentiation included IP Brasil's high environmental and ethical benchmarks in addition to the breadth of IP's speciality papers range. The product offered was FSC certified, carbon neutral and included a [redacted] recyclable wrapper made from BOPP (Number 5). Jackaroo believes the inclusion of a BOPP wrapper [redacted] to the Australian market as it's the [redacted] recyclable wrapper available. Jackaroo's strategy was to enable [redacted] to distinguish itself from competing products.

By contrast, the poly-paper wrappers on alternative A4 copy paper on offer in Australia, including those produced by the applicant, are not fully recyclable and may not be recyclable at all. For example, on the webpage of the applicant's Reflex brand of copy paper[8], the following response is provided to whether its ream wrappers are recyclable:

> *ARE AUSTRALIAN PAPER'S GLOSS REAM WRAPPERS RECYCLABLE?*
>
> *The ream wrappers Australian Paper uses for our office papers are constructed using a 60gsm paper base with a thin 15.9 gsm layer of plastic on the outside. The gloss plastic layer acts as a barrier to protect the quality of the paper inside. Paper will readily absorb moisture from the surrounding air. Our office papers contain a moisture content of around 4.5% and this needs to remain constant for consistent performance through the feeding paths and high temperatures of office printers. The exterior glossy layer also provides additional strength to keep the ream intact and protected.*
>
> *Regarding the recycling of the paper component of the wrapper, our advice from Australia's longest recycling providers is that their ability to partly recycle ream wrappers varies by recycling facility. For more information, please contact your paper recycling service provider. Overall, the ream wrapper represents less than 1% of the total weight of the product, which means that 99% of each ream of office paper is fully recyclable.*

As confirmed in the attached [redacted], this factor was one of several important to the decision by [redacted] to award the business to Jackaroo and IP Brasil (See Confidential Appendix F).

On the basis of this [redacted], the wrapper artwork was developed during [redacted], production orders were then placed for first order arrival in [redacted]. The increased sales in 2015 are [redacted] to this [redacted]. In fact, without this business, Jackaroo's volume in the investigation period

[8] http://www.reflex.com.au/perfect-paper/faqs/

would have been a total of [redacted] mt over the full year, or [redacted]% of the import market and a negligible % of the total market.

The awarding of the [redacted] in [redacted] is particularly relevant to the assessment of material injury. As noted in the Commission's Dumping and Subsidy Manual[9] and consistent with its practice:

> *In understanding causation there will be a focus on injury indicators in the dumping investigation period. It is the Commission's view that s. 269T(2AD) allows the examination of material injury indicators before the investigation period, but it cannot support an inference or presumption that material injury identified as occurring before the investigation period can be attributed to dumped imports.*
>
> *A causal link between dumped imports and material injury may be established only in circumstances where indicators of material injury are identified as being present during an investigation period in which dumped goods are found have been exported to Australia. There can be no presumption that goods exported to Australia before the commencement of the investigation period are dumped goods.*

Therefore, in the circumstances involving the supply of [redacted] product from A4 copy paper imported from Brazil, the Commission must not:

a) intermingle the awarding of the [redacted] in [redacted] with material injury found to have occurred during the 2015 investigation period – for example, it is unreasonable for the applicant to claim and the Commission to find, that lost sales volume occurred in 2015 as a result of imports from Brazil, when those imports are linked to a [redacted] for agreed supply of product. That is, the sales of [redacted] made in 2015 cannot be sales lost by the applicant to Brazil imports as the applicant made the decision in [redacted]; and
b) link dumped imports during the 2015 investigation period to the awarding of the [redacted] in [redacted].

To reiterate the key point, the applicant [redacted], and [redacted]. Therefore, there can be no injury as a result of the successful [redacted] by Jackaroo. The applicant cannot now speculate on the possible outcomes of the [redacted] in the hypothetical scenario [redacted]. Any views now by the applicant on the possible outcomes of the [redacted] would be mere conjecture and undoubtedly inconsistent with the obligation for material injury findings to be based on positive evidence.

4.3 Decision of the applicant

In seeking to answer the question whether imports from Brazil caused material injury to the applicant, it is important for the Commission to understand the applicant's decision [redacted]

[9] ADC Dumping & Subsidy Manual, November 2015, page 121.

[redacted] private label product. Jackaroo considers that to a large extent, this would explain the nature and degree of competition in the Australian A4 copy paper market.

It is well understood and accepted in the Australian industry that the applicant and the [redacted], have an [redacted] arrangement for supply of virgin paper private label copy paper. [redacted], is beside the point. In effect, [redacted] prevents the applicant from [redacted] private label products for offer in the Australian market for direct competitors to [redacted] in the B to B channel.

This is confirmed [redacted] (see Confidential Appendix F), where the applicant has [redacted] to produce virgin fibre private label products and [redacted]. In these circumstances, it's illogical for the applicant to then claim that it '*has experienced lost sales volumes and market share*' to imports from Brazil, [redacted] private label product.

4.4 Price undercutting

The applicant seeks to demonstrate a link between its claimed price depression and suppression injury indicators and the subject imports through the effects of price undercutting. Much of the information is redacted, however it seems clear that, of the six examples of competitive price offers in its application, five (examples 1-4 and 6) relate specifically to advertised or in-store promotions with apparent quoted prices.

So 1-4 & 6 of these 'Examples' have no relationship to Brazil / Jackaroo supply to [redacted]. This must be the case because [redacted] for the various products that it sells and [redacted]. Therefore, Jackaroo infers that, in seeking to make their argument against Brazil the applicant has submitted 'example' 5, below:

> **Example 5 – [*Name*] (*Country* copy paper)**
>
> Imported *name* Premium A4 80gsm paper sourced from [*Country*] and is predominantly sold into Corporate, Local and State government (this makes it difficult to source competitive offers for [*Country*] paper when one source). FOB export prices for [*Country*] A4 copy paper are at the low end of import prices from nominated countries.

It's clear from this that the applicant has been unable to identify or establish <u>any</u> such competitive price offers for A4 copy paper by [redacted]. This is extraordinary given that this entire process relies on the applicant proving damage, which they've clearly not done.

Given the requirement and obligation of demonstrating material injury on the basis of positive evidence, the applicant states that it is '*unable to identify competitive offers of imported paper from Brazil as it is predominantly sold into corporate, local and state government*'. So the applicant has been unable to provide a single example or any supporting evidence to support its case against Brazil. This is without doubt, a clear example of the mere conjecture

that Australia's domestic legislation and the WTO Anti-Dumping Agreement aims to prevent.

The applicant does agree with Jackaroo on the point that none of the Brazil product is in retail – where their real issues appear to be.

The totality of the information provided by the applicant in the absence of any pricing information was to assert that '*FOB export prices for [Country] A4 copy paper are at the low end of import prices from nominated countries*'. It's apparent then that the applicant has provided no evidence of any price undercutting by imports from Brazil and as such, no evidence linking those imports to any claimed or actual price related injury.

In the case of Jackaroo, as distinct from the larger importers sourcing product from the other nominated countries under investigation, it is a private company [redacted]. The more telling issue in relation to damage isn't the Brazil FOB price but their selling price to (in this case to [redacted]) as Jackaroo's customer [redacted].

In any case, Jackaroo is concerned by the applicant's apparent view that price comparisons and any price undercutting analysis ought to be undertaken at the point of the office supply resellers. Prices at this level of trade are irrelevant to understanding whether the applicant's prices have been undercut by imports. This is confirmed by the Commission's Dumping and Subsidy Manual which states:

> *The Commission will undertake a price undercutting analysis that focuses on data that covers transactions made during the investigation period. This analysis compares the price of the imported goods with the sales price of the locally produced goods, ensuring that the transactions are made under the same conditions (e.g. timing, volume, discounts, delivery, credit, same customer etc.)*

This is again particularly relevant in the case of imported paper from Brazil by Jackaroo, given that its sales and selling prices were subject of a [redacted]. Therefore, it is not possible to compare prices of subject imports from Brazil with the applicant's prices, and consequently not possible to find that the subject imports undercut the applicant's prices.

Finally, there is very little detail in the application on the approach adopted by the applicant to ensuring that its price undercutting involves a proper price comparison across the various product categories and distribution channels. For example, it would be inappropriate to include the applicant's selling prices of its Reflex proprietary brand to retailers in any comparison with prices of private label brands to [redacted].

4.5 Price trends

The applicant claims that:

> *Since 2010 import prices have lead the market down, with resellers and buying groups applying pressure to all suppliers to match or better the low import prices*

> *available from alternative sources, without regard to whether these prices are 'fair'. Weakening of the AUD has caused a small increase in the Import price in the 2nd half of 2015, however, price increases were not proportional to the change in exchange rate*

Jackaroo refutes these claims with respect to the subject imports from Brazil. The chart below shows the movement in Jackaroo's monthly selling prices over the investigation period and is based on sales information provided to the Commission in Part C of the importer questionnaire. It shows that Jackaroo's selling prices [redacted]) of [redacted] product [redacted].

When converted into Australian dollars, [redacted] to the applicants claim above, selling prices of [redacted] displayed [redacted].

The price trends shown in the chart below are consistent with FOB export prices over the investigation period.

[CONFIDENTIAL CHART REMOVED]

Source: Jackaroo sales information – Part C of importer questionnaire.

4.6 Australian market trends

The applicant provides its estimate and views on the size of the Australian market and observed trend since 2010. It identifies that the overall annual volumes have remained flat since 2010, with a slight decrease in the 2015 calendar year. The applicant claims that *[t]he lack of growth in this market creates a situation where competing for market share with competitors is the only way to increase sales volumes;"*

Jackaroo again questions the reliability of the applicant's estimates and assessment of the size and trend in the Australian market. For example, the comprehensive analysis of the pulp and paper industry in 2015 by IndustryEdge, a highly reputable publication and leading source within the industry, provides that the total Australian market for uncoated wood-free cut reams increased in 2015 by 7% over the previous year to 221.1 kilo tonnes per annum.

Indeed, during the investigation period, the applicant's sales actually increased by 17% compared to 2014. This wholly contradicts their argument in relation to lost market share as they appear to have actually gained market share over the investigation period. See below table extracted from The IndustryEdge 2015 Strategic Review.

[TABLE REMOVED]

Source: IndustryEdge 2015 Strategic Review

4.7 Conclusion

It is therefore abundantly clear from the supporting evidence gathered by Jackaroo and presented in this submission, that the applicant was unable to gather and present any

evidence that would reasonably support a view that imports from Brazil had contributed to its material injury position. Instead, it appears that the applicant has simply opted to include Brazil in its application with the sole purpose of causing maximum disruption to the supply of a [redacted].

Given then that the application did not contain the sufficient evidence required by the Act or the WTO ADA, it is clear that the legal standard for initiation has not been met and the Commission has erred in finding that there were reasonable grounds to initiate the investigation, in so far as it applies to Brazil. Whilst it is accepted and understood that the Commission will undertake its assessment and consideration of the application on the basis of limited relevant information, the Commission is however compelled to examine the reliability of the information presented.

Importantly, statements of conclusion unsubstantiated by facts do not constitute evidence of the type required by Article 5.2.[10] It is our view that the application as it relates to Brazil, contains nothing more than flawed conclusions stemming from inaccurate information and unreliable assumptions.

Notwithstanding the view that the application itself was critically deficient of supporting evidence with respect to Brazil, and that the Commission ought to have rejected the application as it applied to Brazil, we contend that the relevant information contained in this submission and the supporting documentation attached to it, provides ample evidence to disprove the baseless assertions made by the applicant.

The supporting documentation also provides the Commission with sufficient evidence to be satisfied that imports from Brazil did not cause injury to the Australian industry producing like goods. At the very least, this submission and the attached supporting documentation provides a strong basis for the Commissioner to not be satisfied that there will be sufficient grounds for the publication of a dumping duty notice in respect of Brazil, and as such not make a preliminary affirmative determination.

Finally, we wish to reiterate the key points of the submission which plainly contradicts the assertions made by the applicant:

> [redacted]% of Jackaroo's sales are made to a [redacted] customer, [redacted], which was the subject to a [redacted] that occurred and was awarded in [redacted];
> The [redacted] was won from a [redacted] supplier, not the applicant;
> Jackaroo's [redacted] reflected a unique product in the Australian market in terms of its environmental and ethical standards;
> the applicant [redacted] private label;
> due to the applicant's [redacted], there can be no suggestion that Jackaroo's prices undercut the applicant's prices or that the applicant lost sales as a result of Jackaroo being awarded [redacted];

[10] Panel Report, Guatemala – Cement II, WT/DS156/R, para 8.53.

- import volumes from Brazil have been negligible across the entire injury period when compared with both total import volumes and total Australian market size; and
- rather than providing examples of undercutting, as required - the applicant can only say '*we have been unable to identify competitive offers of imported papers from Brasil'*

On that basis, Jackaroo urges the Commission to have regard to the positive evidence attached to this submission which would support a finding that material injury suffered by the applicant is not attributable to imports from Brazil. In that circumstance, Jackaroo requests the Commission to terminate the investigation as soon as practicable following a finding of no causal link between imports from Brazil and injury experienced by the Australian industry producing like goods.

Confidential
Appendix A

Penfold Research Pty Ltd 2014

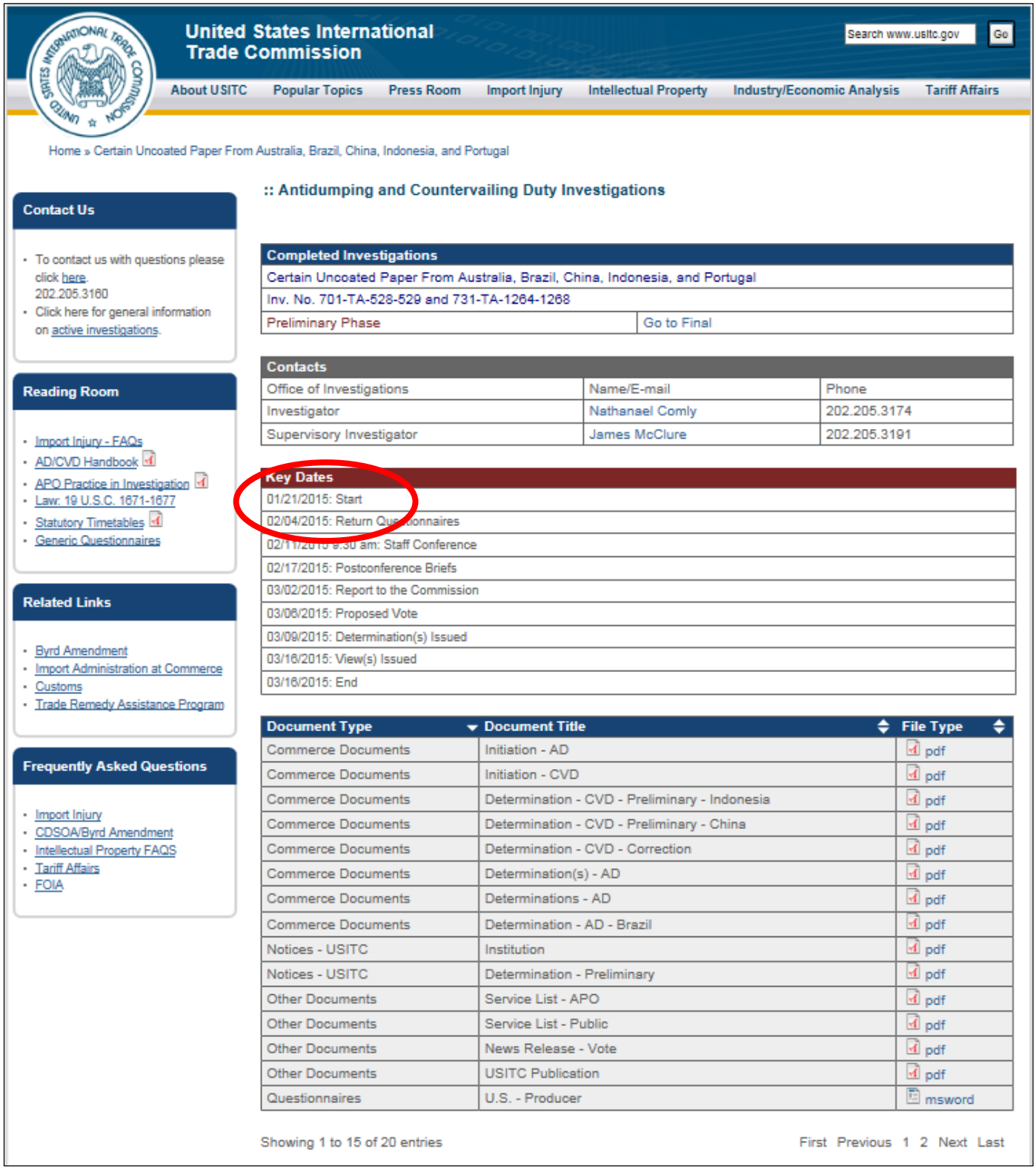
Office Products in Australia, 2014-2016

Non-confidential Appendix B

United States International Trade Commission

Antidumping and Countervailing Duty Investigations

Certain Uncoated Paper from Australia, Brazil, China, Indonesia and Portugal



United States International Trade Commission

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- Click here for general information on active investigations.

Reading Room

- Import Injury - FAQs
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- APO Practice in Investigation
- Law: 19 U.S.C. 1671-1677
- Statutory Timetables
- Generic Questionnaires

Related Links

- Byrd Amendment
- Import Administration at Commerce
- Customs
- Trade Remedy Assistance Program

Frequently Asked Questions

- Import Injury
- CDSOA/Byrd Amendment
- Intellectual Property FAQS
- Tariff Affairs
- FOIA

Completed Investigations	
Certain Uncoated Paper From Australia, Brazil, China, Indonesia, and Portugal	
Inv. No. 701-TA-528-529 and 731-TA-1264-1268	
Preliminary Phase	Go to Final

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Key Dates
01/21/2015: Start
02/04/2015: Return Questionnaires
02/11/2015 8:30 am: Staff Conference
02/17/2015: Postconference Briefs
03/02/2015: Report to the Commission
03/06/2015: Proposed Vote
03/09/2015: Determination(s) Issued
03/16/2015: View(s) Issued
03/16/2015: End

Document Type	Document Title	File Type
Commerce Documents	Initiation - AD	pdf
Commerce Documents	Initiation - CVD	pdf
Commerce Documents	Determination - CVD - Preliminary - Indonesia	pdf
Commerce Documents	Determination - CVD - Preliminary - China	pdf
Commerce Documents	Determination - CVD - Correction	pdf
Commerce Documents	Determination(s) - AD	pdf
Commerce Documents	Determinations - AD	pdf
Commerce Documents	Determination - AD - Brazil	pdf
Notices - USITC	Institution	pdf
Notices - USITC	Determination - Preliminary	pdf
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Questionnaires	U.S. - Producer	msword

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https://www.usitc.gov/investigations/701731/2015/certain_uncoated_paper_australia_brazil_china/preliminary.htm

Non-confidential Appendix C

International Trade Administration

Fact Sheet

Commerce Preliminarily Finds Dumping of Imports of Certain Uncoated Paper from Australia, Brazil, China, Indonesia and Portugal

INTERNATIONAL TRADE ADMINISTRATION

FACT SHEET

Commerce Preliminarily Finds Dumping of Imports of Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal

- On August 20, 2015, the Department of Commerce (Commerce) announced its affirmative preliminary determinations in the antidumping duty (AD) investigations of imports of certain uncoated paper from Australia, Brazil, China, Indonesia, and Portugal.

- The AD law provides U.S. businesses and workers with a transparent and internationally accepted mechanism to seek relief from the market distorting effects caused by injurious dumping of imports into the United States, establishing an opportunity to compete on a level playing field.

- For the purpose of AD investigations, dumping occurs when a foreign company sells a product in the United States at less than its fair value.

- In the Australia investigation, mandatory respondent Paper Australia Pty. Ltd. received a preliminary dumping margin of 40.65 percent. All other producers/exporters in Australia received a preliminary dumping margin of 40.65 percent.

- In the Brazil investigation, mandatory respondent International Paper do Brasil Ltda. and International Paper Exportadora Ltda. (collectively "International Paper")[1] received a preliminary dumping margin of 42.42 percent and mandatory respondent Suzano Papel e Celulose S.A. received a preliminary dumping margin of 33.09 percent. All other producers/exporters in Brazil received a preliminary dumping margin of 37.76 percent.

- In the China investigation, mandatory respondent Asia Symbol (Guangdong) Paper Co., Ltd. (AS Guangdong), Asia Symbol (Shandong) Pulp and Paper Co., Ltd., (AS Shandong), and Greenpoint Global Trading (Macao Commercial Offshore) Ltd. (Greenpoint), (collectively, Asia Symbol)[2] received a preliminary dumping margin of 97.48 percent. Mandatory respondents Shandong Sun Paper Industry Joint Stock Co., Inc. and UPM (China) Co. Ltd., each notified Commerce that they would not participate in this investigation. As a result, they failed to demonstrate eligibility for a separate rate and are preliminarily considered to be part of the China-wide entity. The rate for the China-wide entity is 193.30 percent.

- In the Indonesia investigation, mandatory respondent April Fine Paper Macao Commercial/PT Anugerah Kertas Utama/PT Riau Andalan Kertas (collectively, APRIL) received a preliminary dumping margin of 0.00 percent. Mandatory respondents Great Champ Trading Limited and Indah Kiat Pulp & Paper TBK/Pabrik Kertas Tjiwi Kimia/PT. Pindo Deli Pulp and Paper Mills

[1] In the Brazil investigation, we preliminarily collapsed several companies with International Paper.
[2] In the China investigation, we preliminarily collapsed AS Guangdong, AS Shandong, and Greenpoint.

(collectively, APP/SMG)[3] notified Commerce that they would not participate in this investigation. As a result, Commerce assigned these companies a preliminary dumping margin of 51.75 percent, based on adverse facts available. All other producers/exporters in Indonesia received a preliminary dumping margin of 34.50 percent.

- In the Portugal investigation, mandatory respondent Portucel S.A. received a preliminary dumping margin of 29.53 percent. All other producers/exporters in Portugal received a preliminary dumping margin of 29.53 percent.

- As a result of the preliminary affirmative determinations, Commerce will instruct U.S. Customs and Border Protection to require cash deposits based on these preliminary rates.

- The petitioners for these investigations are the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (PA); Domtar Corporation (SC); Finch Paper LLC (NY); Packaging Corporation of America (IL); and P.H. Glatfelter Company (PA).

- The merchandise covered by these investigations includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness[4] level of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

  Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated groundwood paper produced from bleached chemi-thermo-mechanical pulp that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

  Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes.

  Imports of the subject merchandise are provided for under HTSUS categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and

[3] In the Indonesia investigation, we preliminarily collapsed April Fine Paper Macao Commercial/PT Anugerah Kertas Utama/PT Riau Andalan Kertas. We also preliminarily collapsed Indah Kiat Pulp & Paper TBK, Pabrik Kertas Tjiwi Kimia, and PT. Pindo Deli Pulp and Paper Mills.

[4] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. "Colored paper" as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

- In 2014, imports of uncoated paper from Australia, Brazil, China, Indonesia, and Portugal were valued at an estimated $61 million, $211 million, $54 million, $200 million, and $164 million, respectively.

NEXT STEPS

- Commerce is scheduled to announce its final determinations on or about January 7, 2015.
- If Commerce makes affirmative final AD determinations, and the U.S. International Trade Commission (ITC) makes affirmative final determinations that imports of certain uncoated paper from Australia, Brazil, China, Indonesia, and/or Portugal materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD orders. If either Commerce's or the ITC's final determinations are negative, no AD orders will be issued. The ITC is currently scheduled to make its final injury determinations in February 2016.

PRELIMINARY DUMPING RATES:

COUNTRY	EXPORTER/PRODUCER	DUMPING MARGINS
Australia	Paper Australia Pty. Ltd.	40.65%
	All Others	40.65%

COUNTRY	EXPORTER/PRODUCER	DUMPING MARGINS
Brazil	Suzano Papel e Celulose S.A.	33.09%
	International Paper do Brasil Ltda.	42.42%
	All Others	37.76%

COUNTRY	EXPORTER	PRODUCER	DUMPING MARGINS	CASH DEPOSITS
China	Greenpoint Global Trading (Macao Commercial Offshore) Ltd.	Asia Symbol (Guangdong) Paper Co., Ltd., Asia Symbol (Shandong) Pulp and Paper Co., Ltd.	97.48%	97.35%
	China-Wide Rate		193.30%	193.17%

NOTE: The cash deposit rates are adjusted to account for the applicable export subsidy rate of 0.13 percent for Asia Symbol and for the China-Wide rate.

COUNTRY	EXPORTER/PRODUCER	DUMPING MARGINS
Indonesia	April Fine Paper Macao Commercial/PT Anugerah Kertas Utama/PT Riau Andalan Kertas	0.00%
	Great Champ Trading Limited	51.75%
	Indah Kiat Pulp & Paper TBK/Pabrik Kertas Tjiwi Kimia/PT. Pindo Deli Pulp and Paper Mills (APP/SMG)	51.75%
	All Others	34.50%

COUNTRY	EXPORTER/PRODUCER	DUMPING MARGINS
Portugal	Portucel S.A.	29.53%
	All Others	29.53%

CASE CALENDAR:

EVENT	DATE
Petitions Filed	**January 21, 2015**
DOC Initiation Date	**February 10, 2015**
ITC Preliminary Determination	**March 9, 2015**
DOC Preliminary Determination	**August 19, 2015**
DOC Final Determination	**January 6, 2016**
ITC Final Determination*	**February 20, 2016**
Issuance of Order**	**February 27, 2016**

NOTE: Commerce preliminary and final determination deadlines are governed by statute. For AD investigations, the deadlines are set forth in sections 733(b) and 735(a) of the Tariff Act of 1930, as amended. These deadlines may be extended under certain circumstances.
*This will take place only in the event of final affirmative determinations by Commerce.
**This will take place only in the event of final affirmative determinations by Commerce and the ITC.

IMPORT STATISTICS:

AUSTRALIA	2012	2013	2014
Volume (metric tons)	46,300	48,700	75,800
Value (USD)	37,164,000	38,994,000	61,359,000

BRAZIL	2012	2013	2014
Volume (metric tons)	139,000	197,600	218,500
Value (USD)	139,215,000	189,328,000	210,472,000

CHINA	2012	2013	2014
Volume (metric tons)	23,600	37,000	62,400
Value (USD)	22,140,000	32,035,000	54,081,000

INDONESIA	2012	2013	2014
Volume (metric tons)	105,600	116,200	230,600
Value (USD)	99,457,000	104,103,000	200,321,000

PORTUGAL	2012	2013	2014
Volume (metric tons)	141,600	160,200	157,300
Value (USD)	146,180,000	164,297,000	163,593,000

Source: U.S. Census Bureau, accessed through Global Trade Atlas. (HTSUS 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000.)

Imports of certain uncoated paper may also enter under HTSUS subheadings 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. However, these HTSUS subheadings may cover significant amounts of non-subject merchandise. Therefore, these HTSUS subheadings have not been used for purposes of reporting import statistics.

Non-confidential Appendix D

IP Brazil clarification on export to USA

UWF producers to pay 22-41% tax on cutsize paper exports to USA

SAO PAULO, 19 January 2016 (PPI Latin America) - The US Department of Commerce (DOC) on Jan. 11 announced its affirmative final determinations in the antidumping duty (AD) investigations of imports of certain uncoated paper from Australia, Brazil, China, Indonesia, and Portugal, and the countervailing duty (CVD) investigations of imports of certain uncoated paper from China and Indonesia.

In the Brazil AD investigation, mandatory respondent International Paper do Brasil Ltda. and International Paper Exportadora Ltda. (collectively "International Paper") received a final dumping margin of 41.39%, and mandatory respondent Suzano Papel e Celulose S.A. received a final dumping margin of 22.16%, according to DOC. All other producers/exporters in Brazil received a final dumping margin of 26.95%.

The International Trade Commission (ITC) is scheduled to make its final injury determination on or about February 22, 2016. "If the ITC makes affirmative final determinations that imports of uncoated paper from Australia, Brazil, China, Indonesia, and/or Portugal materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD and CVD orders. If the ITC makes negative determinations of injury, the investigations will be terminated," the DOC explained.

The DOC stated that US imports of uncoated paper from Brazil were valued at an estimated $211 million in 2014. In volume, Brazil exported 218,500 tonnes to the USA in the same year, according to the DOC. The Brazilian government's trade system Aliceweb show that the country uncoated paper exports to the USA declined 14% between 2014 and 2015.

In an official statement, Suzano said that "regardless of the ITC decision, the company can request the reviews provided for by the applicable legislation."

International Paper (IP) Brazil also pronounced on the DOC announcement, stating that the tax would bring little or no impact to the company. According to IP, Brazil's volumes are almost entirely shipped to the USA and then re-exported to customers in the Caribbean and Central America. "In 2014, we did ship products through the United States to reach customers in Central America and the Caribbean, where different market conditions exist. Going forward, this dumping duty, applicable to IP Brazil, will not apply to our shipments to Central America and the Caribbean. We have made arrangements to make those shipments to our customers directly or through a bonded warehouse in Miami," the company explained.

IP produces over 1 million tonnes/yr of uncoated freesheet paper at three mills in Brazil. Suzano also makes about 1 million tonnes/yr of uncoated woodfree paper at four mills in the country.

As reported by *Pulp & Paper Week*, most US market contacts expect the duties, if finalized, will knock out at least a third of the 600,000 tons of imports from Australia, Brazil, China, Indonesia, and Portugal in 2015. The duties impact four Top 10 global UFS producers: Asia Pulp & Paper (APP), APRIL, Portucel, and Shandong Chenming. The main losers were expected to be producers in Australia, China, and Indonesia, excluding APRIL. Portucel and Suzano were envisioned to remain with their well-established office/copy paper positions. The key for Suzano will be currency rates, the contacts said.

Through November last year (vs in 2014 through November), imports from Indonesia were down 37.1%, Australia's were down 38%, Brazil's were down 45%, and China/Hong Kong's were down 70%. Overall imports declined 24%. Portugal's imports actually increased last year, by almost 11%, based on US DOC and Bureau of Census figures.

The DOC determination on antidumping duties is based on if cutsize paper imports are sold at less than fair value and the countervailing ones pertain to if a local government provides financial assistance, which is considered a subsidy.

Confidential Appendix E

[redacted]

[redacted]

Copy Paper Supply [redacted]

Confidential Appendix F

[redacted]

12th May 2016

Confidential
Appendix G

[redacted]

Copy Paper Supply [redacted]

[redacted]

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Appendix H

[redacted]

[redacted]

[redacted]