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18 December 2013

Received 8 January 2014

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Ms M Gibson
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commercial+international

By email

Dear Michelle

APRIL Fine Paper Trading Pte Ltd Investigation concerning copy paper from China – margin calculation

A Background

We write on behalf of our client APRIL Fine Paper Trading Pte Ltd (“APRIL Singapore”), and its related companies:

- AP Enterprises (Macao) Commercial Offshore Ltd and Greenpoint Global Trading (Macao Commercial Offshore) Ltd (collectively “APRIL Macao”); and
- Asia Symbol (Guangdong) Paper Co., Ltd (“APRIL China”).

In this letter, individual companies will be referred to where it is necessary, and the group will be referred to collectively as APRIL, in the same manner as was adopted in APRIL Singapore’s Exporter Questionnaire (“EQ”) response.

APRIL submitted its response to the EQ on 9 December 2013. Comprehensive answers and data were provided in the response.

We note that the earliest date for a preliminary affirmative determination (“PAD”), being 9 December 2013, has passed. Section 269TD of the *Customs Act 1901* (“the Act”) provides that the Commissioner of the Anti-Dumping Commission (“ADC”) may, at any time not earlier than 60 days after the date of initiation of an anti-dumping investigation, make a preliminary determination, if satisfied:

- (a) *that there appears to be sufficient grounds for the publication of [a dumping duty notice];*
or
- (b) *that it appears that there will be sufficient grounds for the publication of [a dumping notice] subsequent to the importation into Australia of such goods;*

The Commissioner must consider the making of a PAD in accordance with the same legislative obligations and criteria as those required for the making of a final recommendation to the Minister regarding the publication of a dumping duty notice. Therefore the same care and the same methodology must be applied, in working out a dumping margin for the purpose of a preliminary determination, as is

the case for a final dumping margin determination.

B Methodologies and issues to be considered for margin calculation

As indicated in APRIL's EQ response, the circumstances of APRIL's exportations of the goods under consideration ("GUC") to Australia involve [CONFIDENTIAL TEXT DELETED – corporate arrangement of the exporter]. The relationships and arrangements between the APRIL companies are to be characterised, in the context of this anti-dumping investigation, as [CONFIDENTIAL TEXT DELETED – corporate arrangements of the exporter]. Careful consideration is required to fully understand these arrangements and to arrive at a correct margin calculation.

Therefore, we would like to draw your attention again to some of the important "features" of APRIL's Australian and domestic sales arrangements which must be taken into account for margin calculation purpose as follows:

1 Export price

As explained in the EQ response, the exporter seller of the GUC to Australia is APRIL Singapore. APRIL Singapore [CONFIDENTIAL TEXT DELETED – details relating to the corporate and internal commercial arrangement of the exporter].

Accordingly, the export price of the Australian sales should be established by reference to the prices negotiated by APRIL Singapore and its Australian customers. This is reported at [CONFIDENTIAL TEXT DELETED – details of confidential EQ responses] at EQ Attachment 14 – Australian Sales.

2 Normal value

As advised in the EQ, APRIL China undertakes the full functions of a manufacturer and seller in relation to the Chinese domestic market.[CONFIDENTIAL TEXT DELETED – details of corporate arrangement].

Further, APRIL advised in Section C of its EQ response that, during the POI, [CONFIDENTIAL TEXT DELETED – details relating to exported goods and like goods comparison]. Please see EQ Attachment 18 – Like Goods

[CONFIDENTIAL TEXT DELETED – details relating to domestic sales and normal value calculation]

3 Adjustment

There are a number of adjustments required to account for such differences so as to ensure a fair comparison in accordance with the requirements of the Act. As discussed in Section E of EQ response, [CONFIDENTIAL TEXT DELETED – details relating to adjustment factors], we draw your attention to other selling expenses based adjustments, including:

- [CONFIDENTIAL TEXT DELETED – details relating to adjustment factors];
- [CONFIDENTIAL TEXT DELETED – details relating to adjustment factors];
- [CONFIDENTIAL TEXT DELETED – details relating to adjustment factors];
- [CONFIDENTIAL TEXT DELETED – details relating to adjustment factors];
- [CONFIDENTIAL TEXT DELETED – details relating to adjustment factors]

C Conclusion

In other recent anti-dumping investigations we have observed that **[CONFIDENTIAL TEXT DELETED – observation relating to margin calculation method in other investigations]**.

With respect, we disagree with that kind of approach. The dumping margin calculation must be undertaken in a correct and proper manner, whether it is for the purpose of a PAD or for the purpose of making a final recommendation to the Minister.

We respectfully request the ADC to correctly approach the task of working out whether any actionable dumping margin applies to APRIL's exports of the GUC during the POI. This task is made possible by the information advised in APRIL's EQ response, and by the guidance provided by this letter. A PAD which ignored this information and guidance, and which did not comply with the calculation rules under the Act, would be incorrect and unsafe.

Yours sincerely



Charles Zhan
Solicitor