



CUSTOMS ACT 1901 - PART XVB

# **FINAL REPORT REP 242**

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

**23 March 2015**

# PUBLIC RECORD

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### ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
APN	APN News and Media Ltd
Bowater	Bowater Korea Ltd
ADA	Anti-Dumping Agreement
the Commission	The Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	Cost to make & sell
FOB	Free On Board
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
gsm	grams per square metre
Jeonju	Jeonju Paper Corporation
Korea	Republic of Korea
the Minister	the Minister for Industry and Science
NIP	Non-injurious price
NSIA	Norske Skog Industries Australia Limited
PAD	Preliminary Affirmative Determination
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science
SEF	Statement of Essential Facts
UPM	UPM France S.A.S.
USP	Unsuppressed Selling Price
WAN	West Australian Newspapers Ltd
ACBPS	Australian Customs and Border Protection Service

## **1 SUMMARY AND RECOMMENDATIONS**

### **1.1 Introduction**

This investigation has been conducted in response to an application by Norske Skog Industries Australia Limited (NSIA) in relation to its allegation that dumped newsprint exported to Australia from France and the Republic of Korea (Korea) caused material injury to the Australian industry producing like goods.

This report (REP 242) sets out the Commissioner of the Anti-Dumping Commission's (the Commissioner) recommendation to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary) in relation to the investigation.<sup>1</sup>

### **1.2 Recommendation**

The Commissioner recommends to the Parliamentary Secretary that a dumping duty notice be published in respect of newsprint exported to Australia from France.

If the Parliamentary Secretary accepts this recommendation, to give effect to the decision, the Parliamentary Secretary must sign the relevant notices and schedules under subsection 269TG(1) and subsection 269TG(2) of the *Customs Act 1901*,<sup>2</sup> and section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

### **1.3 Application of law to facts**

#### **1.3.1 Authority to make decision**

Division 2 of Part XVB sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application.

#### **1.3.2 Application**

On 24 March 2014, NSIA lodged an application for the publication of a dumping duty notice in respect of newsprint exported to Australia from France and Korea. The Commissioner was satisfied that the application was made in the prescribed manner by a person entitled to make the application.<sup>3</sup>

#### **1.3.3 Initiation of investigation**

After examining the application, the Commissioner was satisfied that:

- there is an Australian industry in respect of like goods; and

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<sup>1</sup> The Minister for Industry and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker for this investigation.

<sup>2</sup> Unless stated otherwise, a reference to a part or section is a reference to a part or section of the *Customs Act 1901*.

<sup>3</sup> Section 269TB

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- there appears to be reasonable grounds for the publication of a dumping duty notice in respect of goods the subject of the application, or for the publication of such notices upon the importation into Australia of such goods.<sup>4</sup>

The Commissioner decided not to reject the application, and notice of the initiation of this investigation was published on 22 April 2014.<sup>5</sup>

### 1.3.4 Statement of essential facts and preliminary affirmative determination

The statement of essential facts (SEF) and the preliminary affirmative determination (PAD) for this investigation was placed on the Public Record on 30 January 2015.<sup>6</sup> In preparing SEF 242 and PAD 242 the Commissioner had regard to the application concerned, any submissions concerning publication of the notice that were received by the Commission within 40 days after the date of initiation of the investigation and any other matters considered relevant.

SEF 242 and PAD 242 should be read in conjunction with this report.

SEF 242 and PAD 242 are combined in one report that is available on the Commission's website at <http://www.adcommission.gov.au>.

Further details of SEF 242 and PAD 242 are contained in section 2.1 of this report.

### 1.3.5 Submissions received from interested parties

The Commission received numerous submissions from interested parties during the course of the investigation. Each submission has been considered by the Commission. The submissions received prior to publication of SEF 242 and PAD 242 are listed in **Non-Confidential Attachment 1**.

After the publication of SEF 242 and PAD 242, the Commission received submissions from interested parties which were taken into account in preparing this report. The submissions received after the publication of SEF 242 and PAD 242 are listed in **Non-Confidential Attachment 2**.

Non-confidential versions of all submissions received are available on the Public Record for this investigation on the Commission's website at <http://www.adcommission.gov.au>.

### 1.3.6 Termination of part of the investigation

The Commissioner terminated the investigation in respect of Korea on 20 March 2015.

*Termination Report 242* (TER 242) sets out the reasons for the termination and is available on the Public Record.

## 1.4 Findings and conclusions

The Commission has made the following findings and conclusions based on available information.

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<sup>4</sup> Subsection 269TC(1)

<sup>5</sup> Subsection 269TC(4)

<sup>6</sup> The PAD was relevant to newsprint exported to Australia from France only.

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### **1.4.1 The goods and like goods (Chapter 3)**

Locally produced newsprint is like to the goods the subject of the application.

### **1.4.2 Australian industry (Chapter 4)**

There is an Australian industry producing like goods, comprising of one Australian producer of newsprint, that being NSIA.

### **1.4.3 Australian market (Chapter 5)**

The Australian market for newsprint is predominately supplied by locally produced newsprint and imports from France, Korea and Indonesia with a small volume of imports from other countries.

### **1.4.4 Dumping (Chapter 6)**

The Commission has assessed that during the investigation period:

- newsprint exported to Australia from France was at dumped prices, the dumping margin was not negligible and the volume of dumped goods was not negligible;
- newsprint exported to Australia from Korea by Jeonju was not at dumped prices;
- newsprint exported to Australia from Korea by all exporters other than Jeonju was at dumped prices and the dumping margins were not negligible; and
- the volume of dumped goods exported to Australia from Korea was not negligible.

The Commission's assessment of dumping margins for newsprint exported from France and Korea is outlined below:

**Table 1- Dumping margins – France and Korea**

<b>Country</b>	<b>Exporter / Manufacturer</b>	<b>Dumping margin</b>
France	All exporters	5.1%
Korea	Bowater Korea Ltd	14.4%
	Jeonju Paper Corporation	-1.3%
	All other Korean exporters	20.0%

### **1.4.5 Economic condition of the Australian industry (Chapter 7)**

The Commissioner is satisfied that the Australian industry producing like goods experienced injury in the form of:

- reduced sales volumes;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced revenue.

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### **1.4.6 Has dumping caused material injury? (Chapter 8)**

The Commissioner is satisfied that the Australian industry suffered material injury as a result of dumped exports from France.

The Commissioner is satisfied that the injury, if any, to the Australian industry caused by dumped exports from Korea was negligible.

### **1.4.7 Will dumping and material injury continue? (Chapter 9)**

The Commissioner is satisfied that dumping and material injury will continue if interim dumping duties are not imposed in relation to newsprint exported to Australia from France.

### **1.4.8 Non-injurious price (Chapter 10)**

The Commission has calculated a non-injurious price (NIP) for exports of newsprint from France that is considered to be the minimum export price necessary to prevent the injury, or a recurrence of the injury, caused by the dumped goods.

The Commission has found that the NIP is higher than the level of the normal values for UPM France S.A.S. (UPM).

### **1.4.9 Recommended measures (Chapter 11)**

The Commissioner recommends that dumping duties be applied to all exporters from France and take the form of a fixed amount of duty (calculated as a percentage of the FOB export price or the ascertained export price whichever is higher) plus a variable amount of duty if the actual export price per tonne is below the ascertained export price per tonne.

The Commissioner's recommended rate for the fixed amount of duty for newsprint exported from France is outlined below:

**Table 2- Fixed amount of interim dumping duty – France**

<b>Country</b>	<b>Exporter / Manufacturer</b>	<b>Dumping margin</b>
France	All exporters	5.1%

## **2 BACKGROUND**

### **2.1 Initiation**

On 24 March 2014, NSIA lodged an application for the publication of a dumping duty notice in respect of newsprint exported to Australia from France and Korea.

Following consideration of the application, the Commissioner decided not to reject the application and the Commission initiated an investigation on 22 April 2014. Public notification of initiation of the investigation (public notice) was made in *The Australian* newspaper on that day.

Anti-Dumping Notice (ADN) No. 2014/34 provides further details of the investigation and is available on the Commission's website at <http://www.adcommission.gov.au>.

In respect of the investigation:

- the investigation period for the purpose of assessing dumping is 1 April 2013 to 31 March 2014 (2013/14);<sup>7</sup> and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 April 2010.

### **2.1 Statement of essential facts (SEF) and preliminary affirmative determination (PAD)**

#### **2.1.1 Extensions of time for the SEF**

The public notice of the initiation advised that the SEF for the investigation would be placed on the public record by 11 August 2014.

On 8 August 2014 the Parliamentary Secretary approved an extension of 80 days to the date for the publication of the SEF.

On 22 October 2014, the Parliamentary Secretary approved the Commission's request to further extend the publication date of the SEF by 50 days.

On 16 December 2014, the Parliamentary Secretary approved the Commission's request to further extend the publication date of the SEF by 50 days.

On 30 January 2015, the Commission published SEF 242 and PAD 242. SEF 242 and PAD 242 are combined in one report that is available on the Commission's website at <http://www.adcommission.gov.au>.

#### **2.1.2 SEF 242**

In SEF 242, the Commissioner:

- proposed to recommend to the Minister that a dumping duty notice be published in respect of newsprint exported from France; and
- indicated that he would terminate the investigation in respect of Korea.

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<sup>7</sup> Annual periods referred to in this report are from 1 April to 31 March in the following year unless otherwise stated.

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Interested parties were invited to make submissions to the Commission in response to the SEF within 20 days of it being placed on the public record. The Commissioner is not obliged to have regard to a submission made in response to the SEF received after 19 February 2015, if to do so, in the Commissioner's opinion, would prevent the timely preparation of the final report.

### **2.1.3 PAD 242 - France**

In PAD 242, the Commissioner made a preliminary affirmative determination that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of newsprint exported from France.

Accordingly, on 30 January 2015, the Commission published ADN 2015/12 and a public notice in *The Australian* newspaper. ADN 2015/12 is available on the Commission's website at <http://www.adcommission.gov.au>.

## **2.1 Submissions received from interested parties**

After the publication of SEF 242 and PAD 242, the Commission received submissions from NSIA, Bowater Korea Ltd (Bowater), UPM France S.A.S. (UPM) and West Australian Newspapers Ltd (WAN). These submissions were taken into account in preparing this report. The submissions received after the publication of SEF 242 and PAD 242 are listed in **Non-Confidential Attachment 2**.

## **2.2 Termination 242**

The Commissioner was satisfied that during the investigation period, exports of newsprint by Jeonju were not dumped and that newsprint exported to Australia from Korea by all exporters other than Jeonju was at dumped prices during the investigation period but the injury, if any, to the Australian industry caused by those dumped exports was negligible. Accordingly, the Commissioner terminated the investigation in respect of Korea on 20 March 2015.

TER 242 sets out the reasons for the termination and is available on the Commission's website at <http://www.adcommission.gov.au>.

## **2.3 Report 242**

Within 155 days after initiation of an investigation, or such a longer period as the Minister allows, the Commissioner must give the Parliamentary Secretary a Final Report in respect of the goods the subject of the application (this report).

In preparing this report to the Parliamentary Secretary, the Commissioner has had regard to:

- the application by NSIA;
- all submissions concerning publication of the notice to which the Commissioner has had regard for the purpose of preparing SEF 242;
- the combined *Statement of Essential Facts Report 242* (SEF 242) and *Preliminary Affirmative Determination Report 242* (PAD);
- all submissions in response to SEF 242 received by the Commission within 20 days after the day that statement was placed on the Public Record;

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- all submissions in response to SEF 242 received by the Commission which did not affect the timely publication of REP 242;
- *Termination of Part of Investigation Report 242* (TER 242); and
- any other matters considered relevant.<sup>8</sup>

### **2.4 Public record**

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The public record is available on the Commission's website at <http://www.adcommission.gov.au>.

Physical copies can be also viewed by request at the Commission's Melbourne office (phone 1300 884 159 to make an appointment).

Documents on the public record should be read in conjunction with this report.

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<sup>8</sup> Subsection 269TEA(3)

## **3 THE GOODS AND LIKE GOODS**

### **3.1 The Commission's findings**

The Commission has found that locally produced newsprint is like to the goods the subject of the application (the goods).

### **3.2 The goods**

The goods the subject of the application are:

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

NSIA had submitted that the brightness measure is applicable to non-coloured white newsprint and that it does not consider that coloured newsprint meets the description of the goods.<sup>9</sup> The Commission considers that brightness can be measured for both coloured and white newsprint and, as such, the description of the goods is such that coloured newsprint cannot be excluded.

The Commission considered whether newsprint that is of relatively low quality and is imported for end-uses such as wrapping food products meets the description of the goods. In its submission in response to SEF 242 and PAD 242, Bowater asked the Commission to exclude such low quality newsprint from consideration because it is not suitable for newspaper printing.<sup>10</sup> The Commission did not find any evidence that supported the identification of such specific qualities or end-uses of the imported newsprint. The Commission was unable to conclude whether any imported newsprint is unsuitable for printing and would thereby possibly warrant further consideration of whether such newsprint meets the description of the goods. The Commission did not exclude newsprint on the basis of its end use or quality in the calculation of dumping margins.

### **3.3 Tariff classification**

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

- 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.

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<sup>9</sup> Submission by NSIA at item number 25 on the public record.

<sup>10</sup> Submission by Bowater at item number 47 on the public record and see the discussion at section 6.6.6 of this report.

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The Australian Customs and Border Protection Service (ACBPS) has provided 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 per cent applies; and
- goods classified under 4801.00.39, statistical code 19, goods are duty free.

### **3.3.1 Tariff Concession Orders**

There are no Tariff Concession Orders in place for the nominated goods.

### **3.3.2 By- Laws**

There is a number of Policy By-Laws applicable to paper that may be used by importers of newsprint. The by-laws have been operational since the reductions in import duties from the late 1980s.

Imported newsprint may qualify for concessional entry under Customs By-law No. 1303878. The by-law states that:

- *the by-law shall take effect on and from 1 March 2013;*
- *for the purposes of item 48 of Schedule 4 of the Customs Tariff Act 1995, paper classified under headings 4801 or 4802 of Schedule 3 of the Customs Tariff Act 1995, is prescribed; and*
- *the application of item 48 to the goods in paragraph 3 is subject to the condition that the paper is for use in the production of newspapers, periodicals, posters and other printed matter of a kind that, if imported, would be classified within Chapter 49 in Schedule 3 to the Customs Tariff Act 1995, under security.*

In addition to the conditions specified in paragraph 4 of By-law No. 1303878, condition 5 requires that the paper must:

- (a) contain more than 55 per cent mechanical pulp and weigh less than 34 gsm;
- (b) contain more than 55 per cent mechanical pulp, weigh less than 48 gsm but more than 40 gsm and have a water absorbency when tested by the one min Cobb method of not less than 45 gsm;
- (c) contain more than 25 per cent mechanical pulp, contain no bleached chemical pulp and have a weight not exceeding 205 gsm; or
- (d) contain not less than 70 per cent mechanical pulp; have a weight not exceeding 205 gsm and a water absorbency when tested by the one min Cobb method of not less than 45 gsm.

Newsprint imported that is the subject of the application may fall under any of criteria (b) to (d) of the above.

### **3.4 Like goods**

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, *inter alia*, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

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In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are 'like' to the imported goods. Subsection 269T(1) defines like goods as:

*Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are 'like' to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

### **3.4.1 Claims by interested parties**

Three exporters and one importer made submissions to the Commission in relation to the content of recycled material in newsprint.

The submissions included claims that imported newsprint is made from a high proportion of recycled paper that results in various benefits and differences to newsprint made by NSIA.

The Commission examined the submissions and evidence gathered from the applicant, importers and exporters.

The Commission confirmed that:

- newsprint manufactured by NSIA in its Boyer mill has zero recycled paper content;
- newsprint manufactured by NSIA in its Albury mill has up to 40 per cent recycled paper content; and
- newsprint from France and Korea has a high proportion (over 90 per cent) of recycled paper content.

The Commission found:

- all major Australian newspaper publishers have made requests to NSIA to provide supply proposals in competition with suppliers of newsprint made from a high proportion of recycled paper;
- all major Australian newspaper publishers currently use, or have previously used, newsprint made by NSIA;
- requests for proposals to supply newsprint from major newspaper publishers in Australia do not explicitly specify that only newsprint made from a high proportion, or totally, of recycled paper is suitable to meet their needs;
- requests for proposals to supply newsprint from all major newspaper publishers in Australia have been provided to NSIA with the knowledge that NSIA does not produce newsprint made from a high proportion of recycled paper and thereby support the

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claim made by NSIA that its newsprint is suitable for use by any newspaper publisher in Australia;

- evidence that has been provided to the Commission on cost savings is limited to a single newspaper publisher and, as such, conclusions cannot be drawn from it that relate to other newspaper publishers or printers;
- no evidence in relation to any significant differences in printing performance in terms of wear and tear to printing presses, ink and water usage, loose cover slippage, keyhole shape or front page curl;
- specification sheets that major newspaper publishers provide to potential or current newsprint suppliers do not include references to the recycled content of newsprint; and
- the production processes of NSIA and exporters of newsprint are similar.

The Commission considers that claims of relative benefits and differences of newsprint made from a high proportion of recycled paper are not supported by the evidence that it has been provided.

Based on the verified information, the Commission is satisfied that the Australian industry produces like goods to the goods the subject of the application, as defined in section 269(T) and notes the following:

- Physical likeness:
  - the primary physical characteristics of the goods and locally produced goods are similar;
- Commercial likeness:
  - the goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- Functional likeness:
  - the goods and locally produced goods are functionally alike as they have a similar range of end-uses; and
- Production likeness:
  - the goods and locally produced goods are manufactured in a similar manner.

## **4 THE AUSTRALIAN INDUSTRY**

### **4.1 The Commission's findings**

The Commission has found that:

- there is an Australian industry producing like goods in Australia, consisting of NSIA; and
- the like goods are wholly manufactured in Australia.

### **4.2 Legislative framework**

The Commission must be satisfied that like goods are produced in Australia. Subsection 269T(2) specifies that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia.

### **4.3 Australian industry**

#### **4.3.1 Corporate, organisational and ownership structure**

NSIA is an Australian public company, limited by shares, and registered in Australia in 1989. Publically available shareholder information indicates that NSIA is 100 per cent owned by a foreign-owned holding company, Norske Skog Overseas Holdings AG (Switzerland), which is ultimately wholly owned (via intermediary holding companies) by a Norwegian publically listed company, Norske Skogindustrier ASA.

Publically available corporate information indicates that NSIA is the principle corporate limb of Norske Skogindustrier ASA in the Australasian region. Norske Skogindustrier ASA also operates a similar affiliated operative network in Europe, and previously operated in a similar manner in South America, Asia and Canada.

NSIA itself wholly owns a number of affiliated subsidiary companies, separately registered in Australia and New Zealand. Information provided by NSIA relating to the company's corporate network reflects that NSIA wholly owns:

- Norske Skog Paper Mills (Australia) Ltd (NSPMA), (owner and operator of the Boyer Paper Mill and the Albury Paper Mill);
- Norske Skog (Australasia) (the separately registered Australian sales limb of NSIA); and
- Norske Skog Tasman Ltd NZ (a manufacturer of the goods registered and operating in New Zealand).

#### **4.3.2 Manufacturing facilities**

NSIA operates the only two newsprint manufacturing facilities in Australia: one in Albury, New South Wales; and one in Boyer, Tasmania. The Albury mill has one paper machine used solely for manufacturing newsprint from plantation timber and recycled paper. The Boyer mill has two paper machines. Both of these machines only make paper from plantation timber. Both were previously used solely for manufacturing newsprint, but one machine has been converted to make lightweight coated grades of paper from early 2014.

For the purposes of this anti-dumping inquiry, NSIA has excluded the sales and costs associated with regard to Norske Skog Tasman Ltd in New Zealand.

### **4.3.3 Product range**

NSIA sells two main types of standard newsprint grades in the Australian market:

- *NWH 420* – 42 gsm
- *NWH 450* – 45 gsm.

## **4.4 Production process**

In August 2014, the Commission visited NSIA's manufacturing facility in Albury. The purpose of this visit was to gain an understanding of the production process prior to undertaking verification visits to exporters in France and Korea.

NSIA produces newsprint on a continuous cycle, 24 hours a day, seven days a week, using large machines located in two mills. Newsprint is made in the Albury mill from varying combinations of recycled paper (to a maximum content of around 40 per cent) and thermo mechanical pulp (TMP). Recycled paper cannot be used in the Boyer mill where only TMP is used.

TMP is made by NSIA by removing bark obtained from forest thinnings, as opposed to logs, from the harvesting of plantation radiata pine forests, processing it into wood chips and then mechanically grinding it into pulp. The process is energy intensive and requires a large quantity of water. Various chemicals and water are added to the pulp to prepare a slurry referred to as the 'furnish'.

The furnish, which includes approximately 99 per cent water, is sprayed onto *machine clothing* which is a fabric screen rotating at high speed. It then enters a process of pressing and drying until its water content is around 9 per cent. It is then wound onto a large spool from which it is subsequently sliced and re-wound onto cores to make rolls of newsprint of certain widths as required by end users. Cores are tubes made of cardboard or, in some cases, steel, around which the newsprint is wound.

Based on the above, the Commission is satisfied that newsprint is wholly manufactured in Australia.

## **5 AUSTRALIAN MARKET**

### **5.1 The Commission's findings**

The Commission found that there is an Australian market for newsprint which comprised sales of around 340,000 tonnes during the investigation period. The market is supplied by NSIA and by importers of newsprint from France, Korea, and to a lesser degree, Indonesia as well as other countries.

### **5.2 Background**

The Australian market for newsprint is dominated by four major newspaper publishing groups that use over 95 per cent of the total volume of newsprint sold in Australia. They are:

- News Limited;
- Fairfax Media Ltd;
- WAN; and
- APN News and Media Ltd (APN).

These major end users of both the locally produced and imported goods are publishers of daily, weekly and weekend newspapers that are produced and sold in major metropolitan cities as well as many regional cities and towns.

A relatively small amount of newsprint is sold to regional newspaper publishers as well as to commercial printers and packaging companies that use newsprint for book or catalogue printing, or for wrapping paper.

Demand for newsprint is driven by the amount of newspapers sold and the number of pages per newspaper. In recent years, the rise of digital media has caused newspaper sales to fall. The rise of digital advertising services has also caused a decline in the volume of advertising in each newspaper resulting in fewer pages per newspaper.

Newspaper publishers are able to use paper of various grades to print newspaper. Rolls of 42 gsm newsprint are equal to 45 gsm newsprint in weight and diameter. However, 42 gsm newsprint is generally thinner than the 45 gsm variant. As such, 42 gsm newsprint is in a roll of greater length and greater area and, as such, more newspaper pages can be produced per roll. Although slightly more expensive per tonne, using 42 gsm newsprint may result in lower paper costs per page for publishers.

In recent years, the sales mix in Australia has substantially changed from 45 gsm having been the dominant grade in 2010/11 to 42 gsm being the dominant grade in 2013/14.

### **5.3 Supply arrangements**

In Australia, most newsprint is sold directly to newspaper publishers under long term agreements that vary from periods of around one year to long term arrangements of around seven years. The prices of newsprint in these agreements are influenced by a number of factors which include newsprint manufacturing costs and world newsprint prices.

The terms of respective agreements vary, but generally, an agreement will guarantee a certain supplier to provide a major portion of the newspaper publisher's needs at an

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agreed price. The agreements may also address any issues related to different locations of printing facilities which may result in delivery surcharges or varying proportions of supply to respective locations.

The remaining requirements of newspaper publishers are provided under shorter term arrangements under which customers will tender and negotiate prices for the remainder of their needs. These arrangements may be referred to as 'off contract sales'. The newspaper publisher may request proposals from any party to meet these requirements, including the major supplier, to supply the remaining portion.

It is therefore possible that a newsprint supplier could supply 100 per cent of the requirements of a newspaper publisher, but it is not guaranteed in any case.

A third selling method is 'spot sales'. These sales are negotiated for individual orders on *one-off* arrangements. The Commission has found that these sales are generally made to customers who are not newspaper publishers. For NSIA, these sales are a minor part of its business.

### 5.4 Market structure

#### 5.4.1 Market size

In its application, NSIA submitted its estimates of the size of the Australian newsprint market from 2010 to 2013. Following a visit by the Commission, NSIA provided updated sales data. The Commission subsequently combined this data with information from the ACBPS import data base that has been adjusted to address any data entry errors.

After further investigation, the Commission estimates that in the year from April 2010 to March 2011 the size of the Australian market for 42 gsm and 45 gsm newsprint was approximately 540,000 tonnes and declined to approximately 340,000 tonnes in the year from April 2013 to March 2014.

Details of the Australian newsprint market are at **Confidential Appendix 1**.

#### 5.4.2 Suppliers

The Australian market is predominantly supplied by newsprint produced by NSIA, imports by NSIA from a related company in New Zealand, and by imports from a number of countries. Most of the newsprint that is imported is used by the major newspaper publishers.

The main source of imported newsprint in the investigation period was Korea. Exports of newsprint from Korea were mainly by Jeonju, followed by Bowater. There were two other minor exporters in Korea.

The second most significant source of imported newsprint in the investigation period was France. UPM was the only exporter from France.

Newsprint was also imported from other countries, of which Indonesia counted for the highest volume in the investigation period.

The Commission visited NSIA, UPM and Jeonju. Reports of these visits are available on the Commission's website at <http://www.adcommission.gov.au>.

## **6 DUMPING INVESTIGATION**

### **6.1 Introduction**

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under section 269TAB and section 269TAC respectively.

### **6.2 The Commission’s findings**

The Commission has found that during the investigation period:

- newsprint exported to Australia from France was at dumped prices, the dumping margin was not negligible and the volume of dumped goods was not negligible;
- newsprint exported to Australia from Korea by Jeonju was not at dumped prices;
- newsprint exported to Australia from Korea by all exporters other than Jeonju was at dumped prices and the dumping margins were not negligible; and
- the volume of dumped goods exported to Australia from Korea was not negligible.

Dumping margins are summarised in the following table:

**Table 3- Dumping margins – France and Korea**

Country	Exporter / Manufacturer	Dumping margin
France	All exporters	5.1%
Korea	Bowater	14.4%
	Jeonju	-1.3%
	All other Korean exporters	20.0%

### **6.3 Exporters**

At the commencement of the investigation, the Commission contacted all exporters of the goods within the relevant tariff subheading as identified in the ACBPS import database. Questionnaires were forwarded to all known exporters from the nominated countries, with a view to investigating their exports.

The Commission received questionnaire responses from UPM, Jeonju and Bowater that were assessed as being substantially complete.

The Commission conducted verification visits for UPM and Jeonju, and prepared a *Dumping Margin Calculation Report* for Bowater. Individual dumping margins were calculated based on the verified information from each of the cooperating exporters.

The verification visit reports for UPM and Jeonju and the *Dumping Margin Calculation Report* for Bowater are available on the Commission’s website at <http://www.adcommission.gov.au> and provide additional detail to what is discussed in this chapter.<sup>11</sup>

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<sup>11</sup> Verification Reports for UPM, Bowater and Jeonju at items numbered 30, 32 and 34 respectively on the public record.

## **6.4 France - UPM**

### **6.4.1 Export price**

The Commission found that there is a close relationship between various entities that are owned by UPM Kymmene Corporation, which is based in Finland, and, that these entities each play significant roles in the transactions relating to exports of newsprint to Australia from France.

The goods are manufactured by UPM in France. They are then transferred to UPM Sales OY, a sales entity based in Finland. Sales are then made to Australia by Singapore based UPM AP after a further related-company transfer. All these entities are owned by UPM Kymmene Corporation. As such, the Commission has treated UPM France, UPM Sales OY and UPM AP as a single entity and as the 'exporter' for the purpose of calculating a dumping margin.

The Commission found that UPM AP is the beneficial owner of the goods at the time of importation, and therefore the importer. At the verification visit, UPM France indicated that it agrees that UPM AP is the beneficial owner of the goods until they are paid for in full.

As the goods have *not* been exported to Australia otherwise than by the importer, the Commission considers that the export price cannot be determined under subsections 269TAB(1)(a) or (b).

The Commission has determined export prices under subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. Specifically, export prices have been determined using the price paid or payable by the Australian customer to UPM AP, other than any part of the price that represents a charge in respect of the transport of the goods after exportation, or in respect of any other matter arising after exportation.

### **6.4.2 Normal value**

Normal values were established in accordance with subsection 269TAC(1), using UPM's quarterly weighted average domestic invoice prices by model, for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions.

### **6.4.3 Submission in response to SEF 242 and PAD 242**

After the publication of SEF 242 and PAD 242, UPM restated the contention it made in an earlier submission that it did not agree that its export price is lower than the normal value of like goods sold in France.<sup>12</sup> UPM did not provide any reasons or evidence in either submission to support this contention. The Commission was therefore unable to further examine or revise its calculations related to the export price and normal value in respect of sales by UPM.

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<sup>12</sup> Submissions by UPM at items numbered 43 and 49 on the public record.

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### 6.4.4 Adjustments

The following adjustments were made to domestic selling prices in accordance with subsection 269TAC(8) to ensure they were comparable with export prices to Australia:

**Table 3 – Summary of adjustments for UPM**

<b>Adjustment type</b>	<b>Description</b>
Credit terms	Deduct an amount for domestic credit. Add an amount for export credit.
Inland transport and insurance	Deduct an amount for domestic inland transport and insurance where applicable. Add the cost of export inland transport.
Terminal handling and other export port costs	Add an amount for export handling charges and port fees.
Commission	Add an amount for export commission.
Timing adjustment	The normal value for one model was adjusted in a quarter where no domestic sales were made of that model by basing this normal value on the previous quarter and adjusting for differences in costs plus the gross margin.

### 6.4.5 Dumping margin

The dumping margin for UPM was established in accordance with subsection 269TACB(2)(a), by comparing the weighted average export prices to the weighted average corresponding normal values for the investigation period. The dumping margin for UPM is **5.1 per cent**.

Details of the dumping margin calculations for UPM are at **Confidential Appendix 2**.

### 6.4.6 France – All other exporters

The Commission recommends that an ‘all other exporters’ dumping margin be applied to any other exporters from France in future. The Commission recommends that the dumping margin be the same as that calculated for UPM.

## 6.5 Korea – Jeonju

### 6.5.1 Export price

Export prices for newsprint exported by Jeonju in the investigation period were established under subsection 269TAB(1)(a) using the price paid or payable by importers other than any part of the price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

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### 6.5.2 Normal value

Normal values were established in accordance with subsection 269TAC(1), using Jeonju's quarterly weighted average domestic invoice prices by model, for like goods sold in the ordinary course of trade for home consumption in Korea, the country of export in sales that are arm's length transactions by Jeonju.

### 6.5.3 Adjustments

The following adjustments were made to domestic selling prices in accordance with subsection 269TAC(8) to ensure they were comparable with export prices to Australia:

**Table 4 – Summary of adjustments for Jeonju**

<b>Adjustment type</b>	<b>Description</b>
Packaging	Deduct an amount for domestic packaging. Add an amount for export packaging.
Inland freight	Deduct an amount for domestic inland freight. Add an amount for export inland freight.
Commissions and advertising expenses (discounts and rebates)	Deduct an amount for domestic commission and advertising charges. Add an amount for export commission.
Export handling charges	Add an amount for export handling charges
Credit terms	Deduct an amount for domestic credit. Add an amount for export credit.
Physical differences	Add an amount for differences in the production costs between export and domestic models, inclusive of a mark-up for gross margin.

The adjustments outlined in the table above differ from those applied in the verification report for Jeonju as follows:

- the negative adjustment for domestic inventory carrying costs has been removed - the evidence available indicates that the adjustment was based only on domestic inventory carrying costs without consideration given to any difference that may exist between those costs and similar costs for the goods exported; and
- different adjustments in respect of physical differences between export and domestic models are warranted – the Commission has based the Jeonju normal value on its domestic sales of 46 gsm (rather than 45gsm) and it has made the adjustments for physical differences accordingly.

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### 6.5.4 Submission by NSIA on the dumping margin calculation

NSIA submitted a request that the Commission give further consideration to various matters related to the dumping margin calculation for Jeonju.<sup>13</sup> These include:

- the inclusion of coloured newsprint in calculations;
- adjustments for physical differences between domestic and exported goods;
- adjustments related to commission on export sales;
- adjustments for advertising expenses; and
- adjustments for domestic inventory carrying costs.

The Commission has considered these matters and has:

- noted that no further adjustments related to coloured newsprint are required;
- made further adjustments for physical differences between domestic and exported goods;
- noted that no alteration to the adjustments related to commission on export sales is required;
- noted that no alteration to the adjustments for commission and advertising expenses is required; and
- removed adjustments for domestic inventory carrying costs.

In respect of coloured newsprint, the Commission noted in section 3.2 of this report that coloured newsprint is included in the goods the subject the application. The Commission notes that if the dumping margin is recalculated with coloured newsprint excluded there is no material difference to the dumping margin.

In respect of physical differences between domestic and exported goods, the Commission indicated in the verification visit report for Jeonju that it would consider whether 46 gsm newsprint, or both 45 gsm and 46 gsm newsprint, were preferable matches to exported products for normal value purposes instead of using the sales of 45 gsm only. Having regard to the relative volumes of sales, and the nature and number of domestic customers, the Commission considers the Jeonju domestic sales of 46 gsm provide a more representative basis upon which to establish normal value. The Commission therefore considers that different adjustments are warranted to achieve a better comparison between goods sold on the domestic market in Korea and goods sold to Australia.

In respect of the adjustment for commission and advertising expenses, the Commission notes that in the verification visit report for Jeonju, it had included the phrase 'discounts and rebates' in its description of this adjustment to domestic prices. The Commission has confirmed that the description is appropriate and reflects the nature of the adjustment and how it relates to domestic sales made by Jeonju. The Commission considers that *Commission and Advertising Expenses (discounts and rebates)* is an appropriate adjustment to ensure proper comparison with export prices.

### 6.5.5 Submission in response to SEF 242 and PAD 242

In response to SEF 242 and PAD 242, NSIA submitted that an upward adjustment is required to the normal value for Jeonju for export commission that is included in the

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<sup>13</sup> Submission by NSIA at item number 38 on the public record.

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selling price to Australia.<sup>14</sup> This matter had been addressed by the Commission in the calculation of the dumping margin for Jeonju and was referred to in the verification visit report. An upward adjustment for export commission was applied in calculating normal value.

In its submission, NSIA also requested that the Commission take full account of the costs associated with an adjustment for physical differences between different grades of paper. This matter had been addressed by the Commission in the calculation of the dumping margin for Jeonju and was referred to in the verification visit report. An upward adjustment for physical differences was applied in calculating normal value.

The Commission therefore did not revise its calculations related to the export price and normal value in respect of Jeonju.

### 6.5.6 Dumping margin

The dumping margin for Jeonju was established in accordance with subsection 269TACB(2)(a), by comparing the weighted average export prices to the weighted average corresponding normal values for the investigation period. The Commission has found a dumping margin of **-1.3 per cent** for exports of newsprint by Jeonju in the investigation period. As such, exports of newsprint by Jeonju were not dumped.

Details of the dumping margin calculations for Jeonju are at **Confidential Appendix 3**.

## 6.6 Korea - Bowater Korea

### 6.6.1 Export price

The Commission considers that Bowater is the importer of the goods. Therefore, the Commission has found that the goods were not exported to Australia otherwise than by the importer and that the export price cannot be determined under subsections 269TAB(1)(a) or (b). The export price has been determined under subsection 269TAB(1)(c) having regard to all circumstances of the exportation. Specifically, the export price has been calculated using the price paid or payable by the importer other than any part of the price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

### 6.6.2 Normal value

Normal values were established in accordance with subsection 269TAC(1), using Bowater's quarterly weighted average domestic invoice prices by model, for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that were arm's length transactions.

### 6.6.3 Adjustments

The following adjustments were made to domestic selling prices in accordance with subsection 269TAC(8), to ensure they were comparable with export prices to Australia:

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<sup>14</sup> Submission by NSIA at item number 48 on the public record.

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Table 5 – Summary of adjustments for Bowater

Adjustment type	Description
Credit terms	Deduct an amount for domestic credit. Add an amount for export credit.
Inland transport	Deduct an amount for domestic inland transport. Add an amount for export inland freight.
Differences in core type	Deduct an amount for differences in the core type.
Commissions	Deduct an amount for domestic commissions. Add an amount for export commissions.
Export handling	Add an amount for export handling.
Export packaging	Add an amount for export packaging.

### 6.6.4 Dumping margin

The dumping margin for Bowater was established in accordance with subsection 269TACB(2)(a), by comparing the weighted average export prices to the weighted average corresponding normal values for the investigation period. The dumping margin for Bowater is **14.4 per cent**.

Details of the dumping margin calculations for Bowater are at **Confidential Appendix 4**.

### 6.6.5 Submission by Bowater on the dumping margin calculation

Bowater submitted that the Commission has not correctly selected appropriate model matches and thereby failed to make a fair comparison between the export price and normal value.<sup>15</sup> Bowater's submission states that not only basis weight (ie. gsm) determines the price of newsprint; but that characteristics such as roll width, roll diameter and core type must be taken into consideration.

The Commission has not found any evidence that indicates newsprint costs and pricing are generally calculated other than according to basis weight. Rather, the Commission has found that sales of newsprint of respective basis weights are negotiated and quoted by the tonne.

The Commission has found that basis weight is the major determinant of newsprint prices. Roll width and diameter do not change the fundamental characteristics of newsprint. The Commission has examined cost and sales information from Bowater, other newsprint manufacturers and newspaper publishers and has not found evidence that supports the claim that newsprint prices are based on roll width and diameter. Rather, the Commission has found that roll width and diameter do not affect the price per tonne.

In respect of differences in core type, the Commission agrees that this may affect costing and pricing of newsprint and has made adjustments accordingly.

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<sup>15</sup> Submission by Bowater at item numbered 36 on the public record.

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### **6.6.6 Submission in response to SEF 242 and PAD 242**

In response to SEF 242 and PAD 242, Bowater submitted that certain sales of newsprint to Australia were for uses other than newspaper printing because the quality did not meet the strict requirements of newspaper publishers.<sup>16</sup> As such, Bowater submits, these newsprint sales should be excluded from consideration and the Commission should reconsider whether the remaining volume of newsprint exported to Australia from Korea is negligible. Bowater also submitted that if the Commission did not exclude such newsprint, it should make an appropriate adjustment to normal value to account for the difference in quality. Bowater provided a confidential declaration to this effect by Mr Cho, the President and Representative Director of Bowater, as evidence to support its submission.

In SEF 242 and PAD 242, the Commission indicated that it had not found evidence to indicate whether any imported newsprint is unsuitable for printing and would thereby warrant further consideration of whether it meets the description of the goods. The Commission did not attempt to exclude newsprint on the basis of its quality and end use in the calculation of dumping margins.

The Commission acknowledges that newspaper printers have certain specifications and that products that do not meet them may be judged to be of lower quality. The documentary evidence provided by Bowater to the Commission in relation to its exports of newsprint to Australia do not have any reference to product quality requirements or any reference to reduced prices or special consideration on the basis of factors that relate to quality. The Commission accepts that the declaration by Mr Cho has been provided in good faith, but does not consider that it constitutes evidence that would require the Commission to remove the newsprint in question from consideration, nor to make the adjustments that Bowater has submitted are necessary.

### **6.7 Korea – All other exporters**

The Commission considers that all other exporters of newsprint to Australia from Korea other than Jeonju and Bowater are uncooperative exporters in terms of subsection 269T(1).

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. The Act specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3) and normal values are to be calculated under subsection 269TAC(6).

#### **6.7.1 Export Price**

Export prices were determined for uncooperative Korean exporters under subsection 269TAB(3) having regard to all relevant information. Specifically, the Commission used the export price established in relation to Bowater in the investigation period.

#### **6.7.2 Normal Value**

Normal values were determined for uncooperative Korean exporters under subsection 269TAC(6) having regard to all relevant verified information. Specifically, the

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<sup>16</sup> Submission by Bowater at item number 47 on the public record.

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Commission used the normal value for Bowater without the application of the negative adjustments discussed in section 6.6.3 of this report. The Commission has not applied the negative adjustments because, in the absence of cooperation from other exporters, it has no evidence to warrant those adjustments.

### 6.7.3 Dumping Margin

Dumping margins for uncooperative exporters from Korea were established in accordance with subsection 269TACB(2)(a) by comparing the weighted average export price under subsection 269TAB(3) and weighted average normal value under subsection 269TAC(6). The dumping margin for uncooperative exporters from Korea is **20.0 per cent**.

Details of the dumping margin calculations for all other Korean exporters are at **Confidential Appendix 5**.

### 6.8 Volumes

Pursuant to subsection 269TDA(3), the Commissioner must terminate an investigation if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as 3 per cent of the total volume of goods imported into Australia over the investigation period.

As outlined in section 5.4 of this report, the Commission estimated the size of the Australian market.

Based on this information, the Commission is satisfied that, when expressed as a percentage of the total imported volume of the goods, the volume of allegedly dumped goods from each country was greater than 3 per cent and therefore not negligible.

## **7 ECONOMIC CONDITION OF THE INDUSTRY**

### **7.1 The Commission's findings**

Based on an analysis of the information contained in the application and information obtained and verified during this investigation, the Commission considers that the Australian industry has experienced injury in the form of:

- reduced sales volumes;
- price depression;
- price suppression;
- reduced profits and profitability; and
- reduced revenues.

### **7.2 Approach to injury analysis**

The injury analysis detailed in this section is based on financial information submitted by NSIA, and import data from the ACBPS import database. Submissions provided by exporters and importers as well as verification conducted by the Commission were also considered.

This analysis relates to the sale of 42 gsm and 45 gsm newsprint in the Australian market and does not include any effects of other products manufactured by NSIA and sold in Australian or export markets. The data provided by NSIA was also checked to ensure it did not include the effects of imports by NSIA from its related entity in New Zealand.

NSIA provided production, cost and sales data for newsprint. The data was provided on a quarterly basis for the period from April 2010 to March 2014 for the newsprint domestic market and the export market.

The NSIA data for its production and sales of newsprint in the Australian newsprint market has been used for the purpose of assessing the overall economic condition of the Australian industry as discussed below.

The injury analysis period for the purpose of determining whether the Australian industry has experienced injury is from 1 April 2010.

### **7.3 Volume effects**

The Commission found that by 2013/14:

- Korea had become the largest source of newsprint imports to Australia;
- France was the second largest source of newsprint imports to Australia;
- Indonesia was the third largest source of newsprint imports to Australia;
- newsprint imports from New Zealand had declined significantly; and
- newsprint was also imported from various other countries.

The Commission notes that newsprint from New Zealand was imported by NSIA from a related company.

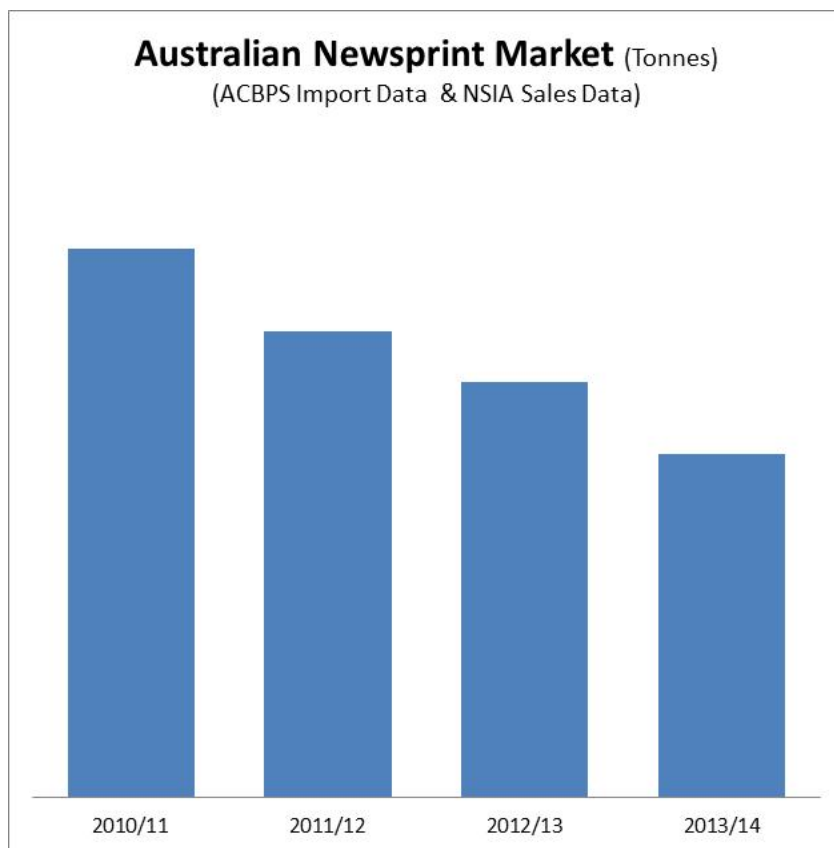
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### 7.3.1 Sales volume

Figure 1 shows that the size of the Australian newsprint market in volume terms has fallen since 2010/11. Since that time:

- annual sales in the market fell from around 540,000 tonnes to around 340,000 tonnes – a decline of around 37 per cent;
- the volume of annual sales by NSIA (excluding sales of its own imports from New Zealand) fell by around 25 per cent;
- annual sales by NSIA of newsprint from New Zealand has decreased significantly;
- annual sales of newsprint from Korea decreased by around 26 per cent;
- annual sales of newsprint from France increased by around 45 per cent; and
- annual sales of newsprint from other countries combined increased from a very small base to around 21,000 tonnes in 2013/14.

**Figure 1 - Newsprint market on an annual basis (Source: NSIA and ACBPS Data)**



### 7.3.2 Market share

Since 2010/11:

- market share achieved by NSIA from sales of its Australian production has increased;
- market share of imports by NSIA from New Zealand has declined significantly;
- market share of imports from France doubled;
- market share of imports from Korea has remained relatively constant; and
- market share of imports from other countries has increased.

Details of the Australian newsprint market are at **Confidential Appendix 1**.

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### 7.3.3 Volume effects – Commission conclusion

The evidence outlined above supports the NSIA claim that it has experienced injury in the form of reduced sales volume for newsprint in the Australian market since 2010/11. NSIA did not claim injury in the form of reduced market share and the evidence demonstrates that its market share has improved over the course of the injury analysis period.

## 7.4 Price and profit effects

### 7.4.1 Price depression and price suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Figure 2: NSIA's unit price and unit CTMS: 2010/11 - 2013/14

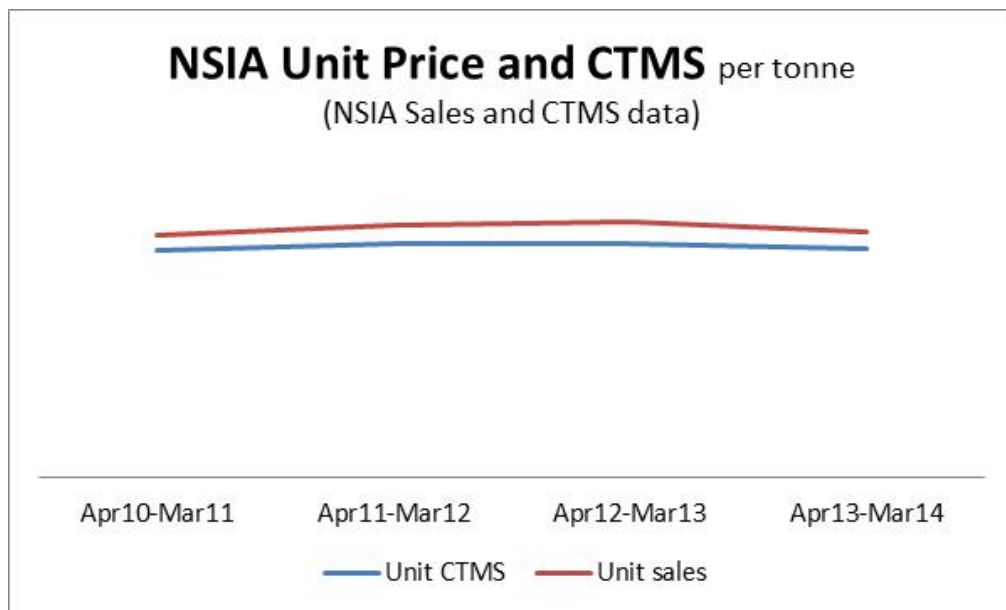
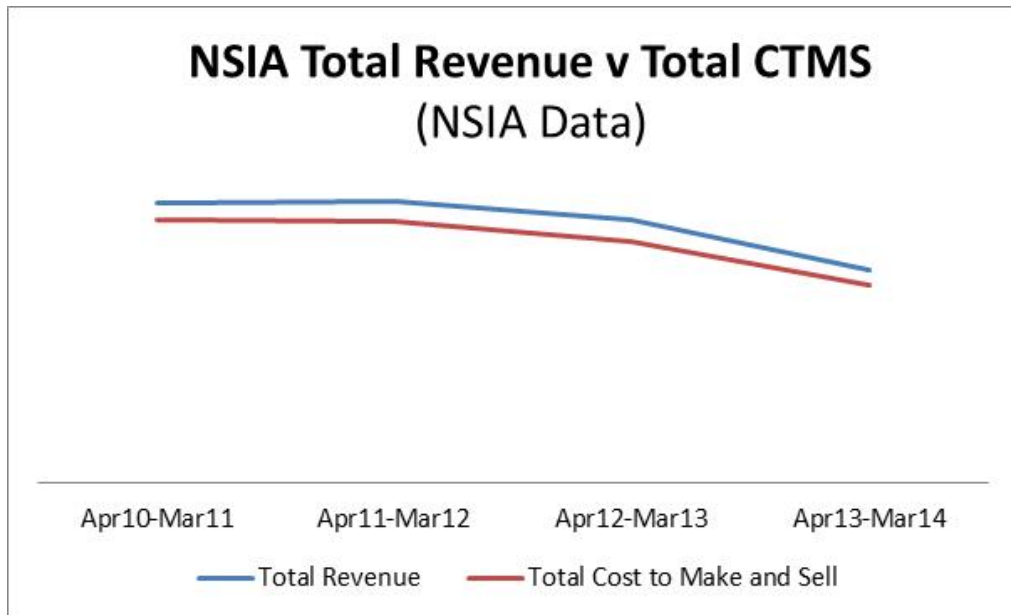


Figure 2 shows the movements and relationships of NSIA's unit price and its unit cost to make and sell (CTMS) from 2010/11 to 2013/14. In Figure 2 it is evident that unit price has decreased in the 2013/14 period but it remains at a level above 2010/11. The unit CTMS has also decreased, but less so than the unit prices, and it too is at a level above that of 2010/11.

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Figure 3 indicates that the total revenue and total CTMS has been declining with the margin between revenue and costs decreasing. The decreasing trend in both indicators in Figure 3 reflects the significant decrease in sales volume.

Figure 3: NSIA's total revenue v total costs: 2010/11 - 2013/14



### 7.4.2 Price effects – Commission conclusion

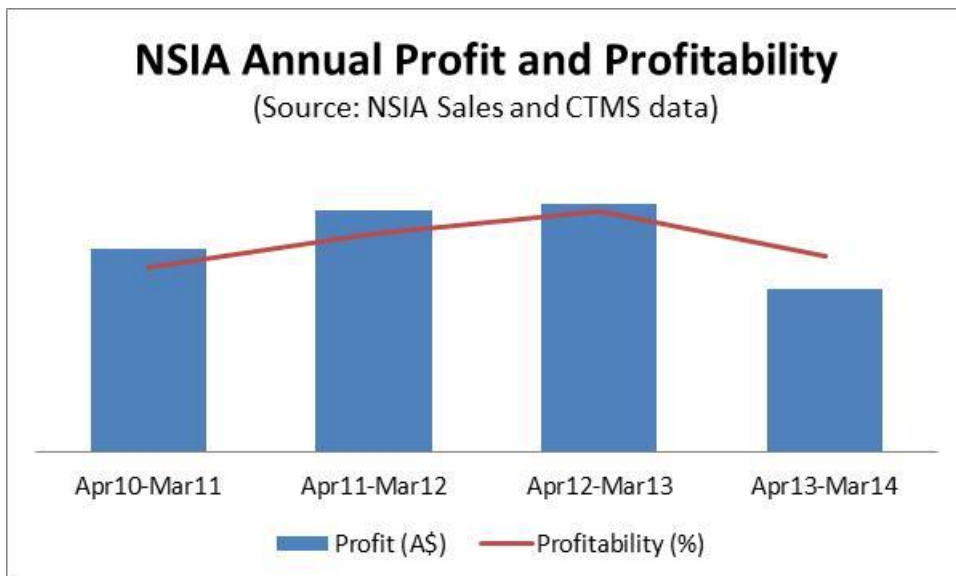
Based on the analysis outlined above, the Commission has found that the Australian industry has experienced injury in the form of price depression, price suppression, and reduced sales revenue.

Details of the price effects are at **Confidential Appendix 6**.

### 7.4.3 Profits and profitability

Figure 4 shows movements in NSIA's total profit and unit profitability (unit profit measured as a percentage of unit price) for newsprint from 2010/11 to 2013/14.

Figure 4: NSIA's annual profit and profitability: 2010/11 - 2013/14



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Figure 4 indicates that NSIA had achieved profit growth until 2012/13 but it fell in 2013/14 to a level below that achieved in 2010/11. Profitability was also growing until it fell in the 2013/14 period, but remains slightly higher than that achieved in 2010/11.

Details of the profit and profitability effects are also at **Confidential Appendix 6**.

### **7.4.4 Profit and profitability effects – Commission conclusion**

Based on the analysis outlined above, the Commission has found that the Australian industry has experienced injury in the form of reduced profits and reduced profitability.

## **7.5 Other relevant economic factors**

The other relevant economic factors discussed below relate to the production of like goods.

Details of other relevant economic factors are at **Confidential Appendix 7**.

### **7.5.1 Assets**

The value of NSIA's assets related to the production of newsprint has fallen since 2010/11.

### **7.5.2 Capital investment**

The value of NSIA's capital investment related to the production of newsprint has fallen since 2010/11.

### **7.5.3 Capacity utilisation**

NSIA's capacity utilisation related to the production of newsprint has declined since 2010/11.

### **7.5.4 Employment**

Employment related to the production of newsprint and sales staff allocated by sales revenue at NSIA has declined since 2010/11.

### **7.5.5 Wages**

NSIA's wage bill related to the production of newsprint has declined since 2010/11. The average wage related to the production of newsprint has increased since 2010/11.

### **7.5.6 Production**

NSIA's volume of production of like goods has fallen since 2010/11.

### **7.5.7 Other relevant economic factors – Commission conclusion**

Based on the analysis outlined above, the Commission has found that the Australian industry has experienced injury in the form of reduced:

- value of assets;
- value of capital investment;
- capacity utilisation;

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- employment; and
- production.

## **8 HAS DUMPING CAUSED MATERIAL INJURY?**

### **8.1 Introduction**

The Commission has found that, during the period of investigation, exports of newsprint to Australia from France and Korea were dumped and that the Australian industry has suffered injury.

Section 269TAE outlines the factors that the Minister may take into account in determining whether, for the purposes of 269TG, material injury to an Australian industry has been, or is being caused or threatened.

This chapter examines whether the exports of newsprint to Australia from France and Korea at dumped prices have caused material injury to the Australian industry producing like goods.

### **8.2 The Commission's findings**

The Commission has found that newsprint exported to Australia from France at dumped prices has caused material injury to the Australian industry producing like goods.

The Commission has analysed and assessed causation factors and submissions by interested parties, and has determined that NSIA has suffered injury caused by dumped imports from France in the form of:

- reduced sales volume;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced revenue.

The Commission has found that the volume of dumped goods exported to Australia from Korea in the investigation period was not negligible, but the injury, if any, to the Australian industry caused by those dumped exports was negligible.

### **8.3 Dumping**

The Commission has found that newsprint exported to Australia by UPM was dumped with a dumping margin of 5.1 per cent. The Commission has also found that during the investigation period, the volume of dumped imports from France was not negligible.

The Commission found that newsprint exported to Australia by Bowater from Korea was dumped with a dumping margin of 14.4 per cent, and newsprint exported to Australia by other Korean exporters was 20.0 per cent. The Commission found that during the investigation period, the volume of dumped imports from Bowater was not negligible in relation to all newsprint imports, but was negligible in relation to the size of the total Australian newsprint market.

## **8.4 Cumulative effects of exportations**

Subsection 269TAE(2C) sets out the requirements for assessing the cumulative effects of exports of goods to Australia from different countries. Where exports from more than one country are simultaneously the subject of an anti-dumping investigation, the Minister may cumulatively assess the effects of such imports if:

- the margin of dumping established for exporters in each country is not negligible;
- the volume of imports from each country is not negligible; and
- cumulative assessment is appropriate in light of the conditions of competition as between the imported goods and between the imported goods and the like domestic goods.

The margins of dumping established for UPM and for Korean exporters other than Jeonju are not negligible. The volume of goods exported to Australia from France at dumped prices was not negligible, and the volume of goods exported to Australia from Korea at dumped prices was not negligible.

The Commission is satisfied that domestic and imported newsprint are like goods and have similar end-uses. Generally, the conditions of competition between imported newsprint and between imported and domestically produced newsprint are similar. The Commission considers that domestically produced newsprint can be substituted with imported newsprint.

The Commission established that Jeonju, UPM and NSIA compete for the same requests for tender and that all are selling goods into the same markets. However, the Commission has found no evidence that NSIA competes with Bowater in any significant way.

Sales in the Australian newsprint market are predominantly to newspaper publishers. The Commission has established that it is not practical for newspaper publishers to source newsprint in small volumes. Almost all of NSIA's sales are to newspaper publishers who require large volumes of newsprint and for it to be supplied on a regular, if not daily, basis. NSIA's sales to other types of customers are relatively *ad hoc* and are a minor part of its business.

The quantity of imports from all Korean exporters other than Jeonju in the investigation period represents more than three per cent of all Australian imports of newsprint, but less than one per cent of the entire Australian newsprint market in the investigation period. This quantity of paper is insignificant in comparison to the amount of newsprint used by newspaper publishers.

The Commission considers that the small volume of dumped imports of newsprint from Bowater that is sold in a relatively minor market segment, and in volumes that are not sufficient to meet the needs of newspaper publishers, renders the conditions of competition to be significantly different between Bowater and the major suppliers in the Australian market – NSIA, Jeonju and UPM. Further, the Commission considers that competition from dumped imports of newsprint from Bowater has had a negligible effect, if any, on injury suffered by the Australian industry.

The Commission has found that the volume of exports from Korea other than by Jeonju and Bowater was insignificant and has not found evidence to suggest those exports were supplied to newspaper publishers in Australia.

## **PUBLIC RECORD**

The Commission considers the conditions of competition are such that it is not appropriate to consider the cumulative injurious effects of dumped exports from France and from Korea.

### **8.5 Volume effects**

As discussed in Chapter 7 of this report, the Australian industry has experienced diminished sales volume, but has not experienced a decline in market share over the injury period.

#### **8.5.1 Korea**

The Commission has found that the goods exported by Jeonju in the investigation period were not dumped.

Imports of newsprint from Bowater and exporters from Korea other than Jeonju are sold in a relatively minor segment of the Australian newsprint market that does not include the major newspaper publishers. As such, these imports have not had any significant influence on volumes of newsprint sold by NSIA.

The Commission considers that competition from dumped imports of newsprint from Bowater and exporters from Korea other than Jeonju has had a negligible effect, if any, on injury in the form of volume effects suffered by the Australian industry.

#### **8.5.2 France: sales volume**

In the investigation period, import volumes from UPM, as well as sales volumes by NSIA, were lower than in the previous year. UPM has submitted that its contract with WAN represents sales that are an insignificant proportion of the Australian newsprint market.<sup>17</sup> The decline in sales volume by NSIA was much greater than the decline of imports from UPM. The Commission has found that sales by UPM to WAN were at dumped prices.

The Commission considers that in the absence of dumping, NSIA would have been in a stronger position to achieve sales to WAN because the UPM price offer would have been less competitive. The Commission considers that NSIA has suffered injury in the form of reduced sales volume due to dumped imports of newsprint from France.

#### **8.5.3 France: market share**

It may be expected that in a declining market, injury for the Australian industry, in terms of volume effects, would be reflected as a greater decline in market share relative to dumped imports. Further, it may be expected that dumped imports would also gain a disproportionate increase in market share relative to other imports.

It is apparent that NSIA has increased its market share over the injury period. This has occurred, to some extent, due to NSIA being able to make sales from its Australian manufacturing operations to replace most of its own imports from New Zealand.

In the injury analysis period, the market share of imports from France increased, but from a small base.

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<sup>17</sup> Submission by UPM at item number 43 on the public record.

## **PUBLIC RECORD**

The Commission considers that NSIA has not suffered injury in the form of reduced market share due to dumped imports of newsprint from France.

### **8.6 Price effects**

#### **8.6.1 Pricing and contract negotiation in the Australian newsprint market**

As described in Chapter 5 of this report, the Australian newsprint market is dominated by four newspaper publishers that enter long term agreements with suppliers to provide a major portion of their needs at an agreed price. These long term agreements provide security of supply arrangements and predictable costs for newspaper publishers. Most of the newsprint sold in Australia is under these agreements. As such, prices for most newsprint sold in the Australian newsprint market are established in the negotiation of these agreements.

Newspaper publishers negotiate proposals for the remaining portion of their needs with NSIA as well as with newsprint exporters. Despite this being a relatively small part of the total market, these negotiations expose NSIA to competition from exporters and impact the market by informing it of prevailing newsprint prices, including those that pertain to goods exported from France at dumped prices.

The Commission confirmed that, during the injury analysis period, certain major newspaper publishers sought to either establish new agreements to supply newsprint, or to renegotiate existing agreements. This resulted in various new agreements being established during the investigation period.

In respect of requests for proposals for new contracts for newsprint supply, the Commission confirmed that NSIA was successful in achieving a contract for partial supply to one of these newspaper publishers. In respect of another newspaper publisher, NSIA has submitted that its proposal was unsuccessful and that the only issue was the final price.<sup>18</sup>

Certain major customers of NSIA had long term contracts in place and requested NSIA to renegotiate details of these contracts before they expired. The Commission has confirmed that NSIA secured supply at reduced prices and reduced volumes in the renegotiation of existing agreements.

It is apparent that quotations that were being provided in these negotiation processes were prepared in the context of a market influenced by the prices of imported newsprint. The evidence gathered in relation to the competition for supply of newsprint at major newspaper publishers during the investigation period shows that NSIA reduced its prices or quoted prices that were lower than those that prevailed in the two years prior to the investigation period. The Commission also found that the decline in prices and volumes achieved by NSIA coincided with the negotiation and subsequent granting of contracts to supply newsprint. This is examined further in **Confidential Appendix 1**.

#### **8.6.2 Korea**

The Commission has found that imports from Jeonju were not at dumped prices.

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<sup>18</sup> Submissions by NSIA at items numbered 21 and 31 on the public record.

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Imports of newsprint from Bowater and exporters from Korea other than Jeonju are sold in a relatively minor segment of the Australian newsprint market that does not include the major newspaper publishers. As such, these imports have not had any significant influence on prices of newsprint sold by NSIA.

The Commission considers that dumped imports of newsprint from Korea have had a negligible effect, if any, on injury in the form of price effects suffered by the Australian industry.

### **8.6.3 France**

The newsprint from UPM was exported at dumped prices in the investigation period. UPM has submitted that its contract with WAN represents sales that are an insignificant proportion of the Australian newsprint market and, as such, a claim that UPM's pricing has caused reduced pricing in that market is unsustainable.<sup>19</sup> As stated in section 7.3 of this report, by 2013/14, the Commission has found that France was the second largest source of newsprint imports to Australia.

It is reasonable to consider that those goods were offered at prices in Australia that were lower than they otherwise would have been in the absence of dumping. In a price sensitive market, this competitive advantage allowed UPM to secure sales when competing directly with NSIA. It is also reasonable to conclude that NSIA's prices in other contracts were influenced by the competition with these dumped imports from France.

The Commission concludes that there is a link between UPM's dumped prices and the adverse price effects experienced by NSIA in the investigation period. In particular, the Commission considers that the Australian industry has, as a result of the dumping of newsprint from UPM, experienced injury in the form of price depression, price suppression and lost sales revenue.

## **8.7 Profit effects**

### **8.7.1 Reduced profit and profitability**

As described in section 7.5 of this report, NSIA has suffered deterioration in its profit and profitability.

### **8.7.2 Korea**

The Commission has found that imports from Jeonju were not at dumped prices.

As stated in sections 8.5.1 and 8.6.2 of this report, the Commission considers that competition from dumped imports of newsprint from Bowater and exporters from Korea other than Jeonju have had a negligible effect, if any, on injury in the form of price and volume effects suffered by the Australian industry. The Commission considers that it follows that dumped imports of newsprint from Bowater and exporters from Korea other than Jeonju have had a negligible effect, if any, on injury in the form of profit effects suffered by the Australian industry.

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<sup>19</sup> Submission by UPM at item number 43 on the public record.

### **8.7.3 France**

The Commission has established that the dumped imports from France have caused injury in the form of adverse price effects for NSIA, particularly in terms of price depression and price suppression. The Commission has also established that NSIA has experienced reduced sales volume as a result of dumping from France.

The price suppression caused by dumping, which has been demonstrated by the lower margin between unit prices and unit costs, has resulted in lower profitability for NSIA. The lower profitability and reduced sales volume has resulted in reduced profits for NSIA.

The Commission considers that NSIA has suffered injury in the form of reduced profit and profitability due to dumped imports of newsprint from France.

## **8.8 Other possible causes of injury**

Subsection 269TAE(2A) requires consideration of whether injury to an industry is being caused or threatened by a factor other than dumped imports.

### **8.8.1 Un-dumped goods**

Under subsection 269TAE(2A)(a), consideration may be given to whether un-dumped goods were also a cause of injury to the Australian industry.

The Commission has found that imports from Jeonju were not at dumped prices.

The Commission considers that the volume of imports of newsprint and the prices achieved by Jeonju are such that they have had an impact on the Australian market. The volume of sales by Jeonju has taken market share from other suppliers, including NSIA. The prices achieved or quoted have been a factor influencing prices across the Australian market.

The Commission considers that these impacts can be linked to injury in terms of volume, price and profit effects suffered by the Australian industry. However, the Commission has not attributed such injurious effects to dumping.

### **8.8.2 Effect of imports from other countries**

One of the major newspaper publishers sourced newsprint from an Indonesian exporter that was not subject to this investigation.

The Commission has found that the volume of imports from Indonesia has increased over the injury period but fell slightly in 2013/14. The Commission has not verified details of imports from Indonesia. The Commission considers that it is possible that the price of newsprint from Indonesia has been a factor influencing prices in the Australian newsprint market.

The Commission considers that, while it is possible that imports from Indonesia may have contributed to injury experienced by NSIA, it does not detract from the assessment that injury caused by dumped newsprint from France was, of itself, material.

### **8.8.3 Contractions in demand and changes in patterns of consumption**

Under subsection 269TAE(2A)(c), consideration may be given to contractions in demand or changes in patterns of consumption.

### **8.8.3.1 Contractions in demand**

In NSIA's application, and in all submissions received by the Commission, the Australian industry and other parties said that demand for newsprint in Australia is falling. This is largely due to competition from electronic media. Electronic media has affected the newsprint market in two ways. First, it has caused a reduction in newspaper circulation by providing an alternative way for readers to access daily news. Second, it has provided advertisers in classified and other newspaper sections with alternative ways of advertising resulting in reduced pages per copy.

NSIA has acknowledged that declining demand for newsprint may have affected its business.<sup>20</sup> However, NSIA states that any injury it may have suffered from these factors is exacerbated by dumped imports.

The Commission considers that NSIA has suffered injury from contractions in demand in the Australian newsprint market.

### **8.8.3.2 Changes in patterns of consumption**

#### ***Newsprint made from a high proportion of recycled paper***

It has been submitted to the Commission that sales of newsprint made from recycled paper have increased due to its relatively superior qualities and environmental benefits.

It has also been submitted that the imported goods are superior to NSIA's products because newsprint from France and Korea are made from recycled paper.<sup>21</sup> NSIA only uses up to 40 per cent recycled paper at its Albury plant and the Boyer plant does not use any. Specifically, interested parties have asserted that newsprint made from a high proportion of recycled paper is superior in terms of:

- cost savings from greater printing efficiency; and
- higher newspaper quality from less 'cover-slippage', better 'keyhole shape', and less front page curling.

It has been submitted to the Commission by UPM that NSIA has failed to meet the requirement by WAN to supply newsprint produced entirely from recycled paper.<sup>22</sup>

NSIA has responded to these claims by stating that its newsprint has been used by all major newspaper publishers in Australia where it has performed as well, if not better, than newsprint made from recycled paper.<sup>23</sup>

The Commission has found that some newspaper publishers have not indicated any preference for newsprint made from a high proportion of recycled paper.<sup>24</sup> The Commission has examined requests for proposals to supply newsprint, the terms of contracts, and specification sheets and has not found any specific requirements that the newsprint to be supplied to WAN must be produced entirely from recycled paper. The

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<sup>20</sup> Application by NSIA at item number 1 and submission by NSIA at item number 15 on the public record.

<sup>21</sup> Submission by Jeonju at item number 9 on the public record. Submissions by Seven West Media, the owner of WAN, at items numbered 12 and 33 on the public record.

<sup>22</sup> Submission by UPM at item number 43 on the public record.

<sup>23</sup> Submission by NSIA at item number 31 on the public record.

<sup>24</sup> Verification Report for News Corp at item number 16 on the public record.

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Commission has also found that newspaper publishers may use both types of paper at some sites.<sup>25</sup>

The evidence that the Commission has analysed provides no basis for concluding that newsprint made from a high proportion of recycled paper is superior to newsprint made with little or no recycled paper. The Commission also considers that the lack of explicit requests for newsprint to be produced entirely from recycled paper in proposal requests and product specification requirements, as well as the practice where newspaper publishers may use both types of paper at some sites, leads the Commission to conclude that injury suffered by NSIA has not been caused by requirements to supply newsprint made from a high proportion of recycled paper.

### ***New purchasing policies***

It has been submitted that major newspaper publishers have adopted new purchasing policies that require more than one source of newsprint.<sup>26</sup> One reason for doing so is to mitigate potential supply chain disruptions.<sup>27</sup> Another reason is to achieve benefits from greater flexibility and the prospect of lower costs.<sup>28</sup>

The Commission found that some newspaper publishers have adopted new purchasing policies that require more than one source of newsprint. As NSIA is the only Australian producer of newsprint, alternative supply can only be sourced through imports.

The Commission considers that NSIA has suffered injury from changes in purchasing policies by newspaper publishers in the Australian newsprint market. However, the Commission considers that price is an important factor considered by newspaper publishers when choosing either single, or multiple, suppliers.

### **8.8.3.3 The Commission's assessment**

The Commission considers that NSIA has suffered injury from contractions in demand and changes in patterns of consumption in the Australian newsprint market.

### **8.8.4 Restrictive trade practices of, and competition between, foreign and Australian producers of like goods**

Under subsection 269TAE(2A)(d), consideration may be given to restrictive trade practices of, and competition between, foreign and Australian producers of like goods.

Jeonju submitted that a method of materials handling referred to as the 'skate' system' that is employed by NSIA and some of its customers effectively restricts competition in the major cities on the east coast of Australia where the largest newsprint customers are located.<sup>29</sup>

NSIA submitted: that the skate system is not its property; that skate compatible vehicles are owned by private transport companies that any company can employ; and that newsprint can be delivered to any site in conventional ways. NSIA has further indicated

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<sup>25</sup> Verification Report for APN at item number 18 and the Note for File related to News Ltd and the Commission at item number 40 on the public record.

<sup>26</sup> Submission by Jeonju at item number 9 on the public record.

<sup>27</sup> Verification Report for News Corp at item number 16 on the public record.

<sup>28</sup> Submission by Jeonju at item number 9 on the public record.

<sup>29</sup> Submission by Jeonju at item number 9 on the public record.

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that there were originally only five sites in Australia that used the skate system, but that number has fallen.<sup>30</sup>

The Commission has observed the skate system as well as conventional materials handling systems in operation and considers that the skate system is preferred by newspaper publishers where it is in place. The Commission considers that the skate system does not prevent other companies from supplying newsprint to those publishers and is not a restrictive trade practice.

The Commission has not found any evidence of restrictive trade practices in the Australian newsprint industry.

### 8.8.5 Export performance of the Australian industry

Under subsection 269TAE(2A)(f), consideration may be given to the export performance and productivity of the Australian industry.

The Commission has found that NSIA has maintained its production levels by exporting newsprint to various countries. In its analysis of injury, the Commission has not included any impacts on profit, sales volumes or pricing that may be affected by NSIA's exports. As such, the Commission has not attributed any injury suffered by NSIA to its export activity.

### 8.9 Submissions received from interested parties

Prior to the publication of SEF 242 and PAD 242, UPM submitted that NSIA's performance in terms of increased market share and 'broadly maintained' costs, prices, production volumes, production utilisation and employment in a context of global industry decline is one of comparative profitability and resilience and, as such, NSIA cannot be described as suffering material injury.<sup>31</sup>

After the publication of SEF 242 and PAD 242, the Commission received submissions from NSIA, UPM and WAN in relation to whether NSIA has suffered injury caused by dumped imports from France. These submissions, as well as submissions received prior to the publication of SEF 242 and PAD 242 were taken into account in preparing this report. The submissions received after the publication SEF 242 and PAD 242 are listed in **Non-Confidential Attachment 2**.

UPM has submitted that in SEF 242 and PAD 242, the Commission's conclusions on the cause of material injury rely upon its characterisation of UPM as a *price setter* in the Australian market and that there is no necessary correlation between prices at free on board level and price setting because Australian buyers purchase on the basis of prices that include delivery.<sup>32</sup> UPM also submitted that analysis of prices on a delivered basis indicates that UPM has never been the *under bidder* in the Australian tenders in which it has participated. Further, UPM claims that its relatively low market share compared to Korean and Indonesian exporters further prevents it from setting prices in the Australian market.

UPM further submitted that the Commission's 'assertion' in SEF 242 and PAD 242 that NSIA was forced to suppress its prices in response to tenders by UPM in various tenders

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<sup>30</sup> Submissions by NSIA at items numbered 21 and 31 on the public record.

<sup>31</sup> Submission by UPM at item number 43 on the public record.

<sup>32</sup> Submission by UPM at item number 49 on the public record.

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in which UPM may, or may not, have participated, is a 'major failure' by the Commission to meet its obligations under Article 3.1 of the World Trade Organisation *Anti-Dumping Agreement* (ADA). UPM supports this claim referring to various bids made by UPM as 'positive evidence' and claims that these bids did not impact on NSIA and, as such, do not constitute 'objective examination' as required by Article 3.1 of the ADA.

WAN submitted that the Commission did not give sufficient consideration to the condition of the Australian newsprint market in its assessment of material injury and the causal link between material injury and the presence of dumped goods.<sup>33</sup> WAN also submitted that reduced sales and revenue are not indicative of injury in a contracting market environment and that the profit decline suffered by NSIA in 2013/14 was the result of the removal of 'insulation' from market forces when certain long term contracts came to an end.

WAN further submitted that in responses to its invitation to submit newsprint supply proposals, on a three year weighted average basis, NSIA's prices were below those of the 'un-dumped market price'. WAN stated in its submission that market prices are a product of demand and are not driven by import prices.

### 8.9.1 The Commission's assessment

The Commission's analysis of material injury is based on consideration of verified evidence related to whether injury is suffered by the Australian industry. The Commission has not examined, nor verified, the performance of newsprint industries in other countries.

In SEF 242 and PAD 242, the Commission did not describe UPM, or any other company, as a *price setter*. Rather, the Commission has found that the Australian newsprint market is a price sensitive one in which prices are influenced by various factors, including dumping.

The Commission considers that the relative size of UPM's market share does not necessarily prevent it from influencing prices. The processes of price setting in the Australian newsprint market include requests for tender by newspaper publishers, responses to these requests and subsequent negotiations between newsprint suppliers and newspaper publishers. These processes occur at times dictated by newspaper publishers and require newsprint suppliers to quote prices based on their understanding of prevailing and future prices.

In its dumping analysis, the Commission made appropriate adjustments to the export price and normal value to ensure that comparisons were made correctly, including whether prices were quoted on a delivered into store basis. However, the Commission compared delivered prices to publishers when assessing the competition between imports and NSIA bids.

The Commission has based its analysis on positive evidence by considering the prices in respective bids made by newsprint suppliers over the entire supply period as requested by newspaper publishers, the details of both successful and failed offers, as well as the context in which the tender process was conducted. This consideration involved an objective examination of both the volume of the dumped imports and their effect on domestic prices, as well as the consequent impact of dumped imports on NSIA. As such, the Commission has met its obligations under Article 3.1 of the ADA.

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<sup>33</sup> In the submission by Seven West Media, the owner of WAN at item number 50 on the public record.

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In this analysis, the Commission examined evidence provided by both WAN and NSIA as well as copies of contracts between UPM and WAN. An analysis of this information is provided at **Confidential Appendix 9**. In its analysis, the Commission found that newspaper publishers have requested bids to supply various proportions of their requirements over periods ranging from three to seven years. The Commission has also found that newspaper publishers evaluate bids on the basis of the total cost of supply over the entire period to which the tender pertains, not only on the first year of that period. Both NSIA and UPM have made bids to supply newsprint over periods longer than one year. The Commission has analysed details of both successful and failed bids and contracts over the entire periods that are relevant. The Commission has determined which newsprint suppliers were the highest and lowest bidders and referred to this analysis of confidential information in its consideration on whether dumping has caused material injury.

WAN has submitted that insufficient consideration was given to the condition of the Australian newsprint market in its assessment of material injury and causal link. The Commission notes that in SEF 242 and PAD 242, and in this report, it states that other factors including un-dumped goods, contractions in demand and changes in patterns of consumption may have contributed to the injury suffered by the Australian injury. The Commission also stated that these other possible causes of injury do not detract from the assessment that dumping of itself has caused material injury to the Australian industry.

In respect of WAN's submissions in relation to injury suffered by NSIA being the result of the removal of 'insulation' from market forces when certain long term contracts came to an end, the Commission has stated in section 8.6.1 of this report, as well as in SEF 242 and PAD 242, that certain major customers of NSIA had long term contracts in place and requested NSIA to renegotiate details of these contracts before they expired. The Commission considers that such requests do not support claims that existing contracts provided NSIA with 'insulation' from market forces. Rather, market forces were such that NSIA was required to reduce prices and, with increased off contract sales, be further exposed to competition in the future. Further, these negotiations were conducted in a market environment that was influenced by several factors, including the supply of newsprint at dumped prices.

In respect of WAN's submissions that market prices are a product of demand and are not driven by import prices, the Commission considers that prices are a product of supply as well as demand. The Commission also considers that there is a range of factors that influence supply and demand such as changing market practices and new technology and that these have been considered SEF 242 and PAD 242 as well as in this report.

### 8.10 Conclusion

The Commission notes that other factors including un-dumped goods, contractions in demand and changes in patterns of consumption may have contributed to the injury suffered by the Australian injury. However, the Commission considers that these other possible causes of injury do not detract from the assessment that dumping of itself has caused material injury to the Australian industry.

The Commissioner has assessed that exports of newsprint at dumped prices from France have caused material injury to the Australian industry.

Under subsection 269TDA(1)(b)(i), if the Commissioner is satisfied that there has been no dumping by an exporter, the Commissioner must terminate the investigation so far as it relates to that exporter. The Commissioner is satisfied that the goods exported by Jeonju

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in the investigation period were not dumped.. Therefore, the Commissioner must terminate the investigation so far as it relates to newsprint exported by Jeonju.

Under subsection 269TDA(13), if the Commissioner is satisfied that there has been dumping by an exporter, but the injury, if any, to the Australian industry caused by those dumped exports was negligible, the Commissioner must terminate the investigation so far as it relates to that exporter.

The Commissioner found that newsprint exported to Australia by Bowater from Korea was dumped with a dumping margin of 14.4 per cent, and newsprint exported to Australia by other Korean exporters was 20.0 per cent. The Commissioner also found that the injury, if any, to the Australian industry caused by dumped newsprint exported to Australia by Bowater and exporters other than Jeonju from Korea in the investigation period was negligible. Therefore, the Commissioner must terminate the investigation so far as it relates to newsprint exported by Bowater and exporters other than Jeonju from Korea.

## **9 WILL DUMPING AND MATERIAL INJURY CONTINUE?**

### **9.1 Introduction**

Under subsection 269TG(2), when the Minister is satisfied that material injury to an Australian industry has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Minister is satisfied that the dumping and material injury may continue.

### **9.2 The Commission's findings**

The Commission finds that exports of newsprint from France in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

### **9.3 The Commission's assessment**

#### **9.3.1 Will dumping continue?**

The Commission's dumping analysis found that newsprint exported from France during the investigation period was at dumped prices, with a dumping margin of 5.1 per cent.

The Commission has found that UPM has an agreement in place to supply newsprint at certain prices to a major newspaper publisher. The Commission considers that exports at dumped prices will continue if anti-dumping measures are not imposed.

As described in section 5.3 of this report, contracts that are in place for some major newspaper publishers include a guaranteed proportion of their needs to be supplied by NSIA. Supplying the remaining proportion is open to exporters. The Commission considers that this will allow exports at dumped prices to continue if anti-dumping measures are not imposed.

The Commission has found that some agreements that are in place are for three year terms and, as such, may be best described as being of medium term, rather than long term, agreements. The Commission has also found that some long term agreements that have been in place have been terminated and replaced with new agreements. As such, the Commission considers that further opportunities to supply newsprint will be present and that this will allow exports at dumped prices to continue if anti-dumping measures are not imposed.

#### **9.3.2 Will material injury continue?**

The Commission has made a finding that exports of newsprint from France at dumped prices have caused material injury to the Australian industry.

The Commission understands that UPM has contracts in place that will allow it to continue to provide newsprint to Australian customers. The Commission considers that further opportunities to supply newsprint to newspaper publishers will be provided in the future.

The Commission concludes that exports of newsprint from France in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

## 10 NON-INJURIOUS PRICE

### 10.1 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Minister cannot exceed the dumping margins, but the Minister must have regard to the desirability of fixing a lesser amount of duty if it is sufficient to remove injury.<sup>34</sup> This mechanism is commonly referred to as the lesser duty rule.<sup>35</sup>

The lesser duty rule is given effect through the calculation of a NIP. The NIP is the minimum price necessary to remove the injury or a recurrence of the injury caused to the Australian industry by dumping.<sup>36</sup>

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

Anti-dumping measures are based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms to compare to the country of export.

Having calculated the USP, the Commission then calculates an NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

### 10.2 The Commission's assessment of non-injurious price (NIP)

The Commission has not received any submissions in relation to the USP or the NIP.

The Commission's preferred approach (as outlined in the *Dumping and Subsidy Manual*) is to establish a USP according to the following hierarchy:

- Australian industry weighted average selling prices at a time unaffected by dumping;
- constructed industry prices - industry CTMS plus profit; or
- selling prices of un-dumped imports.

The Commission notes that NSIA, in its application, stated that:

*NSIA considers that it began to experience material injury from the dumped newsprint exports from France and Korea during 2013/14.*

In line with its preferred hierarchy, the Commission considers that the NIP in respect of exports of newsprint from France can be determined by establishing a USP equal to the Australian industry's weighted average selling price for a period unaffected by dumping, and deducting post exportation expenses. The Commission has selected 2012/13 as the

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<sup>34</sup> Section 8(5B) of the *Dumping Duty Act*

<sup>35</sup> The requirement for the Minister to have regard to the desirability of fixing a lesser amount of duty has changed for applications lodged with the Commission after 1 January 2014. The Minister is no longer required to have mandatory consideration of the lesser duty rule where the Minister is satisfied that certain circumstances exist.

<sup>36</sup> Section 269TACA(a)

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period unaffected by dumping. 2012/13 is the year immediately prior to the investigation period.

The Commission has deducted from the USP amounts for Australian into-store costs, overseas freight, and marine insurance, which were based on data verified in the visit to UPM.

The Commission has found that the NIP is higher than the level of the normal values for France.

The Commission's calculations in respect of the NIP are at **Confidential Appendix 8**.

## 11 ANTI-DUMPING MEASURES

### 11.1 Introduction

The forms of interim dumping duty the Minister may apply are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- Combination of fixed and variable duty method;
- Floor price duty method;
- Fixed duty method (\$X per tonne); and
- Ad valorem duty method (i.e. a percentage of the export price).<sup>37</sup>

### 11.2 Submissions to SEF 242 and PAD 242

The Commission has not received any submissions related to proposed measures.

### 11.3 Recommended measures

The Commission recommends that interim dumping duties be calculated using a combination method. The combination method is suitable where there are complex company structures involving related parties. This is the case for the UPM group of companies.

The lesser duty rule can only reduce the amount of interim dumping duty where the NIP is lower than the ascertained normal value (the export price plus the dumping margin). The Commission has found that the NIP is significantly higher than the level of the normal values for UPM. This means that the lesser duty rule does not come into effect and the recommended measures are linked to the full margin of dumping.

### 11.4 Retrospective measures

When considering the publication of a dumping duty notice, the Minister may, pursuant to subsection 269TN(3), issue a retrospective notice if:

- within 90 days after the entry of the goods for home consumption security has been taken under section 42; or
- within these 90 days the ACBPS had the right to require and take securities.

In this case, the Minister must consider that material injury, arising from dumping, has been caused to Australian industry by the importation during a short period of large quantities of goods of the same kind, and that publication of a retrospective notice is necessary to prevent the serious undermining of the remedial effect of the dumping duty that will become payable upon publication of the dumping duty notice.

In applying subsection 269TN(3) to the goods, the Commission has considered whether:

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<sup>37</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*

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- the importer knew, or ought to have known, that the amount of the export price of the goods was less than the normal value of the goods and that by reason thereof material injury would be caused to an Australian industry; or
- the goods are of a kind the exportation of which to Australia on a number of occasions has caused, or, but for the publication of a notice under section 269TG in respect of goods of that kind, would have caused, material injury to an Australian industry by reason of the amount of the export price of the goods exported being less than the normal value of the goods exported.

The Commission has not found any evidence to indicate that either of these grounds existed in relation to newsprint exported to Australia from France. The Commissioner does not recommend that a retrospective notice be applied in respect of newsprint.

**12 RECOMMENDATIONS**

The Commissioner is satisfied that the dumping of newsprint exported to Australia from France has caused material injury to the Australian industry producing like goods.

**The Commissioner recommends that the Parliamentary Secretary impose:**

- interim dumping duties to all exporters from France and take the form of a fixed amount of duty (calculated as a percentage of the FOB export price or the ascertained export price whichever is higher, at the rate specified in the table below) plus a variable amount of duty if the actual export price per tonne is below the ascertained export price per tonne. The effective rate of duties for all exporters from France is shown below:

**Table 6 - Recommended measures – France**

Country	Exporter / Manufacturer	Recommended Rate of Interim Dumping Duties (Fixed Component)	Duty Method
France	All exporters	5.1%	Fixed and variable

**The Commissioner recommends that the Parliamentary Secretary be satisfied:**

- in accordance with subsection 269TAE(2C), it is not appropriate to consider the cumulative effect of the exportations of newsprint to Australia from France and the Republic of Korea having regard to:
  - the conditions of competition between those goods; and
  - the conditions of competition between those goods and like goods that are domestically produced;
- in accordance with subsection 269TG(1), the amount of the export price of the goods exported to Australia from France is less than the amount of the normal value of like goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused;
- in accordance with subsection 269TG(2), the amount of the export price of like goods that have already been exported to Australia from France is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia from France in the future may be less than the normal value of like goods, and because of that, material injury to the Australian industry producing like goods has been, or is being caused.

**The Commissioner recommends that the Parliamentary Secretary determine:**

- in accordance with subsection 269TAB(1)(c) the export prices for newsprint exported to Australia from France be calculated having regard to all the circumstances of the exportation;
- in accordance with subsection 269TACB(1) by comparison of:

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- export prices of newsprint exported to Australia from France which have been established under section 269TAB during the investigation period;
  - with corresponding normal values of like goods which have been established under section 269TAC during that period,
- the exports of newsprint exported to Australia from France were dumped;

**The Commissioner recommends that the Parliamentary Secretary compare:**

- in accordance with subsection 269TACB(2)(a), the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

**The Commissioner recommends that the Parliamentary Secretary direct:**

- in accordance with subsection 269TAC(8), the price paid or payable for like goods sold in France be taken to be such a price adjusted for differences between domestic and export sales in respect of terms or circumstances or the times that sales occurred to ensure a fair comparison.

**The Commissioner recommends that the Parliamentary Secretary declare:**

- in accordance with subsection 269TG(1), by public notice, that section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (Anti-Dumping Act) applies to:
  - newsprint exported by all exporters from France to the extent permitted by section 269TN; and
  - goods that were exported to Australia by all exporters from France, after the Commissioner made a preliminary affirmative determination under section 269TD in respect of the goods on 30 January 2015, but before publication of the notice, to the extent permitted by section 269TN; and
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Anti-Dumping Act applies to like goods that are exported to Australia by all exporters from France after the date of publication of the notice.

**The Commissioner recommends that the Parliamentary Secretary have regard to:**

- in accordance with subsection 8(5) of the Anti-Dumping Act, the desirability of fixing a lesser amount of duty than the dumping margins found, where the imposition of that lesser amount is adequate to remove injury. This includes that the sum of the following does not exceed the non-injurious price:
  - the export price of goods of that kind as so ascertained or last so ascertained;
  - the interim dumping duty payable on the goods the subject of the notice.

**13 APPENDICES AND ATTACHMENTS**

<b>Confidential Appendix 1</b>	The Australian Newsprint Market
<b>Confidential Appendix 2</b>	UPM France: Dumping Margin Calculation
<b>Confidential Appendix 3</b>	Jeonju: Dumping Margin Calculation
<b>Confidential Appendix 4</b>	Bowater: Dumping Margin Calculation
<b>Confidential Appendix 5</b>	Other Korea: Dumping Margin Calculation
<b>Confidential Appendix 6</b>	NSIA Profit and Profitability
<b>Confidential Appendix 7</b>	Other Relevant Economic Factors
<b>Confidential Appendix 8</b>	NIP Calculation
<b>Confidential Appendix 9</b>	Analysis of proposals to supply West Australian Newspapers
<b>Non-Confidential Attachment 1</b>	List of Interested Party Submissions and Relevant Documents Received Prior to Publication of SEF 242 and PAD 242
<b>Non-Confidential Attachment 2</b>	List of Interested Party Submissions and Relevant Documents Received After Publication of SEF 242 and PAD 242

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**ATTACHMENT 1 – INTERESTED PARTY SUBMISSIONS AND RELEVANT DOCUMENTS RECEIVED PRIOR TO PUBLICATION OF SEF 242 and PAD 242**

<b>Electronic Public Record No.</b>	<b>Title of Submission or Document</b>	<b>Party Making Submission</b>	<b>Date Received</b>	<b>Document Type</b>
9	Alleged material injury to the Australian newsprint industry, and its causation	Jeonju Paper Korea	7/07/2014	Submission
10	Newsprint Product Injury Brief	Jeonju Paper Korea	9/07/2014	Submission
11	Meeting with Jeonju Paper Corporation (Korea)	Jeonju Paper Korea	15/07/2014	Note for file
12	Seven West Media Injury Submission	Western Australian Newspapers	3/07/2014	Submission
14	Preliminary Submission By Bowater Korea As To Alleged Injury	Bowater	18/07/2014	Submission
15	Re: Investigation No. 242 - Newsprint exported from France and Korea	NSIA	15/07/2014	Submission
20	First Supplementary Submission By Bowater Korea As To Alleged Injury	Bowater	22/08/2014	Submission
21	Norske Skog Industries (Australia) Limited comments re Public File documents	NSIA	20/08/2014	Submission
23	Newsprint exported from France and Korea: Jeonju Paper Corporation, Korea	NSIA	24/09/2014	Submission
24	Newsprint exported from France and Korea: UPM Chapelle Darblay, France	NSIA	24/09/2014	Submission
25	RE: Public Record [On coloured newsprint...]	NSIA	23/09/2014	Submission
26	Second Supplementary Submission By Bowater Korea As To Alleged Injury	Bowater	13/10/2014	Submission
27	Alleged dumping of newsprint from Korea and France:	Jeonju Paper Korea	21/10/2014	Submission

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	Comments on submission by Norske Skog			
29	Meeting with Norske Skog Industries Australia	NSIA	30/10/2014	Note for file
31	Comments following discussions of 5 November 2014	Norske Skog	5/12/2014	Letter
33	Newsprint exported from Korea and France: Seven West Media Injury Submission	Western Australian Newspapers	10/12/2014	Submission
35	Investigation into the alleged dumping of newsprint exported to Australia from France and Korea	Bowater	16/12/2014	Note for file
36	Submission On The Dumping Margin Calculation For Bowater Korea And Desk Assessment Report	Bowater	16/12/2014	Submission
38	Investigation No. 242 - Newsprint exported from France and Korea - Jeonju Exporter Visit Report	Norske Skog	5/01/2015	Submission
39	Supplemental Submission On The Dumping Margin Calculation For Bowater Korea And Desk Assessment Report	Bowater	6/01/2015	Submission
40	Note For File – Telephone Meeting With News Ltd	News Ltd	6/01/2015	Note for file
41	Response to Commission’s email of 17 November 2014	Bowater	14/1/15	Submission
42	Submission on like goods	Bowater	16/1/15	Submission
43	Newsprint from France – Material Injury Issues	UPM	21/1/2015	Submission

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**ATTACHMENT 2 – INTERESTED PARTY SUBMISSIONS AND RELEVANT DOCUMENTS RECEIVED AFTER PUBLICATION OF SEF 242 and PAD 242**

<b>Electronic Public Record No.</b>	<b>Title of Submission or Document</b>	<b>Party Making Submission</b>	<b>Date Received</b>	<b>Document Type</b>
46	Investigation No. 242 - Newsprint exported from France and Korea - Comments on submission by UPM France SAS	NSIA	30/1/2015	Submission
47	Submission on the Statement of Essential Facts	Bowater	18/2/2015	Submission
48	Investigation No. 242 - Newsprint exported from France and Korea – Limited response to Statement of Essential Facts and Preliminary Affirmative Determination	NSIA	19/2/2015	Submission
49	Newsprint from France - Statement of Essential Facts No.242	UPM	19/2/2015	Submission
50	Investigation 242 - Newsprint exported from France and Korea – Seven West Media response to SEF	Western Australian Newspapers	19/2/2015	Submission
51	Investigation No. 242 - Newsprint exported from France and Korea - Comments on submission by UPM France and Seven West Media	NSIA	5/3/2015	Submission